

**New York State Department of Environmental Conservation**

**Division of Materials Management, Region 9**

270 Michigan Ave, Buffalo, New York 14203-2915

Phone: (716) 851-7220 Fax: 716-851-7226

Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joe Martens  
Commissioner

June 20, 2012

Mr. Dan Kirsch  
Hillcrest Industries, Inc.  
40 Favor Street  
Attica, New York 14011

Dear Mr. Kirsch:

**NOTICE OF VIOLATION  
Hillcrest Industries, Inc.**

The Region 9 Division of Air received a complaint of noxious odors in the Village of Attica on October 31, 2011. Staff investigated the complaint on November 4, 2011 and determined that Hillcrest Industries was the source of the odors. You acknowledged on November 4 that incoming recyclables (cullet mixed with other material) stored and processed on the Hillcrest property were odorous. In response to DEC's direction, you committed to mitigating the odors. While Hillcrest attempted to address the odors, this office continued to receive numerous complaints of noxious odors in the village. On May 24, 2012, staff visited the site and confirmed that the large pile of recyclables in the southwest section of the property, along with other material piles, continue to be sources of odor affecting the community.

I am writing this as a follow up to the Department's letter to you dated May 10, 2012. We appreciate the updates that Peter Tarnawskyj, LTP Services, has been emailing to us, but a number of issues noted in our letter have not been addressed. Recently, we have had many discussions regarding ongoing operations at Hillcrest Industries and have found the facility to be in multiple violations of Department Regulations.

**PLEASE TAKE NOTICE THAT YOU ARE IN VIOLATION OF** Article 17 of the New York State Environmental Conservation Law ("ECL"), and applicable regulations as set forth herein, as follows:

- Division of Water Multi-Sector General Storm Water Permit is required.

**PLEASE TAKE NOTICE THAT YOU ARE IN VIOLATION OF** Article 19, of the New York State Environmental Conservation Law ("ECL"), and applicable regulations as set forth herein, as follows:

- Excessive nuisance odors from the property are adversely impacting the local community. This is a violation of 6NYCRR Part 211.1, which prohibits air emissions and odors that unreasonably interfere with the comfortable enjoyment of life and property.

**PLEASE TAKE NOTICE THAT YOU ARE IN VIOLATION OF** Article 27, of the New York State Environmental Conservation Law (“ECL”), and applicable regulations as set forth herein, as follows:

- Operating a solid waste management facility without a permit. This a violation of 360-1.7(a)(1)(i).
- Waste from recyclable handling and recovery facilities has been spread approximately 1-2 feet thick throughout the site. This is considered disposal and a violation of 360-1.5(a)(2).
- In the rear of the facility, near the state-regulated Freshwater Wetland AT-6, bales of plastic were being used as a fence. This is an unacceptable use of baled plastic that is able to be recycled. This is considered disposal and a violation of 360-1.5(a)(2).

**PLEASE TAKE NOTICE THAT YOU ARE IN VIOLATION OF** Article 24, of the New York State Environmental Conservation Law (“ECL”), and applicable regulations as set forth herein, as follows:

- Certain activities within Wetland AT-6 or its regulated 100-foot adjacent area require a permit from this Department, including but not limited to filling, clearing vegetation, draining, and construction. A letter dated August 25, 2008 and map were sent to Hillcrest via certified mail to document the delineation and to identify the need for an Article 24 Freshwater Wetlands permit for any activity within 100 feet of the wetland. The waste that has been spread throughout the site extends as much as 30 feet into this regulated 100-foot adjacent area and is therefore in violation of Article 24 of the ECL and 6NYCRR Part 663.4(d)(20).

**PLEASE TAKE FURTHER NOTICE THAT** the Department is reviewing its options regarding the appropriate enforcement actions, assessment of additional penalties, fines and injunctive relief for the violations which have already occurred. Compliance with this **NOTICE** by immediately correcting the violations shall not relieve you of any liability for penalties or appropriate sanctions for the past violations. However, failure to immediately comply with this **NOTICE** by correcting the violations could result in a larger penalty than would otherwise be assessed, should you be adjudged to be in violation of the ECL.

**PLEASE TAKE FURTHER NOTICE THAT ECL 71-1929** provides that any person who violates any of the provisions of, or who fails to perform any duty imposed by Titles 1-11 and Title 19 of ECL Article 17, or any rule or regulation promulgated pursuant thereto, or any

Mr. Dan Kirsch  
Notice of Violation  
June 20, 2012  
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determination or order of the commissioner made pursuant to this title, shall be liable for a civil penalty not to exceed \$25,000 (Twenty Five Thousand Dollars) per day for each violation.

**PLEASE TAKE FURTHER NOTICE THAT ECL 71-2103** provides that any person who violates any of the provisions of, or who fails to perform any duty imposed by ECL Article 19, or any rule or regulation promulgated pursuant thereto, or any determination or order of the commissioner made pursuant to this title, shall be liable for a civil penalty not to exceed \$18,000 (Eighteen Thousand Dollars) for each such violation and an additional penalty of not more than \$15,000 (Fifteen Thousand Dollars) for each day during which such violation continues.

**PLEASE TAKE FURTHER NOTICE THAT ECL 71-2303** provides that any person who violates any of the provisions of, or who fails to perform any duty imposed by ECL Article 24, or any rule or regulation promulgated pursuant thereto, or any permit or order of the commissioner made pursuant to this title, shall be liable for a civil penalty not to exceed \$11,000 (Eleven Thousand Dollars) for every such violation.

**PLEASE TAKE FURTHER NOTICE THAT ECL 71-2703** provides that any person who violates any of the provisions of, or who fails to perform any duty imposed by Title 7 of ECL Article 27, or any rule or regulation promulgated pursuant thereto, or any determination or order of the commissioner made pursuant to this title, shall be liable for a civil penalty not to exceed \$7,500 (Seven Thousand Five Hundred Dollars) for each such violation and an additional penalty of not more than \$1,500 (One Thousand Five Hundred Dollars) for each day during which such violation continues.

**PLEASE TAKE FURTHER NOTICE THAT** you may submit information or evidence to the Department relevant to your compliance record, the nature of the violations, or any mitigating circumstances. Any such information or evidence may be used in a civil enforcement proceeding or criminal action. In the event that formal enforcement proceedings are initiated or criminal charges filed against you, you will have the right to a hearing. **You are requested to contact the Department to schedule an informal conference to discuss this NOTICE and the events to which it relates.** Any inquires, submissions, and requests relating to this NOTICE should be directed to the undersigned.

Mr. Dan Kirsch  
Notice of Violation  
June 20, 2012  
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Please call Ms. Efrat Forgette of my staff at (716) 851-7220 if you have any questions.

Sincerely,

\s\

Mark J. Hans, P.E.  
Regional Materials Management Engineer

MJH:dcg  
hans\kirsch-nov-jun1.ltr

cc: ECO Jim Hunt, Law Enforcement, Buffalo  
Efrat Scharf Forgette, P.E., Division of Materials Management  
Richard Rink, P.E., Division of Water  
Michael Emery, P.E., Division of Air Resources  
Mr. Chuck Rosenburg, Division of Fish, Wildlife & Marine Resources  
Mr. Peter Tarnawskyj, LTP Services  
Mr. Doug Post, Village of Attica Administrator

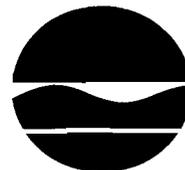
**New York State Department of Environmental Conservation**

**Division of Air, Region 9**

270 Michigan Avenue, Buffalo, New York, 14203-2915

Phone: (716) 851-7130 • Fax: (716) 851-7009

Website: www.dec.ny.gov



Joe Martens  
Commissioner

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

July 27, 2012

Mr. Daniel Kirsch  
Hillcrest Industries, Inc.  
40 Favor Street  
Attica, New York 14011

Dear Mr. Kirsch:

**Notice of Violation  
Particulate Emissions**

On July 10, 2012 staff visited Hillcrest Industries Inc. and observed excessive particulate emissions from the clear glass grinding, the grit (slag and colored glass) grinding, and glass bead furnace #1 processes. The excessive particulate emissions observed are considered violations of New York State Code of Rules and Regulations as explained in the attached Notice of Violation.

As discussed with staff at the meeting on July 18, 2012, the Department is preparing an Order on Consent that will include a schedule of compliance to address the size of the pile of glass and the operational issues. If you have any questions, please contact me or Mr. Michael Emery at (716) 851-7130.

Sincerely,

Al Carlacci, P.E.  
Regional Air Pollution Control Engineer

ME/ed

ecc: Maureen Brady, Esq., NYSDEC  
Mark Hans, NYSDEC  
Robert Knoer, Esq., Knoer Group  
Peter Tarnawskyj, LTP Services, Inc.



**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

**Date : 07/27/2012**

**NOTICE OF VIOLATION**

**Owner :** HILLCREST INDUSTRIES INC  
1176 MINKEL RD  
STRYKERSVILLE, NY 14145-9520

**Facility :** HILLCREST INDUSTRIES INC  
40 FAVOR ST  
ATTICA, NY 14011

**PLEASE TAKE NOTICE THAT YOU ARE IN VIOLATION OF NEW YORK STATE AIR POLLUTION CONTROL LAW,** Article 19 of the Environmental Conservation Law ('ECL'), and applicable regulations as set forth herein, in connection with operation of the above named Facility.

**Compliance Status Determined On :** 07/10/2012 5:00 PM

**Compliance Status Determined By :** MICHAEL EMERY  
NYSDEC  
270 MICHIGAN AVE  
BUFFALO, NY 14203-2915

**Basis for Determination :** Response To Complaint



**Comments :**

On July 10, 2012 I visited Hillcrest Industries and Hillcrest Coatings to collect samples of slag, glass and sand during different stages of process operations. At that time I identified the following violations:

1.) Glass Bead Furnace #1, emission point 00005 – While furnace #1 was operating I observed material fallout and visible emissions of approximately 5% opacity from the furnace exhaust. Glass bead furnace #1 is in violation of 6NYCRR Part 200.7 which requires an emission control device operate in a satisfactory state of maintenance and repair in accordance with ordinary and necessary practices, standards and procedures, inclusive of manufacture's specifications, required to operate such device effectively. Emission point 000005 may also be in violation of 6NYCRR Part 212, which limits emissions to no more than 0.050 grains per dry standard cubic foot of air. This source may also be contributing to the fallout problem in the community.

2.) Glass Feed to Furnace #1 - I observed glass leaking from the glass conveying pipes and splitters that feed glass to bead furnace #1. A bucket elevator carries cullet up to a primary splitter which sends half the cullet to one side of the furnace and half to the other side in enclosed pipes. On each side, the cullet goes through a secondary splitter which splits the cullet into eight pipes which feed the cullet into the furnace. Based on my observations, the leaking cullet feed system is in violation of 6NYCRR Part 200.7 which requires an emission control device operate in a satisfactory state of maintenance and repair in accordance with ordinary and necessary practices, standards and procedures, inclusive of manufacture's specifications, required to operate such device effectively. This source may also be contributing to the fallout problem in the community.

3.) Rotary Dryer Baghouse, emission point 00001 – I observed 10-15% opacity from the exhaust of this baghouse. I observed a 3 inch by 1 inch hole in the cyclone but no emissions from the hole because it is under negative pressure. About 30-40 bags are sealed off in this baghouse because Hillcrest doesn't have the necessary hardware to install new ones. This means about 11% of the bags are out of service. The baghouse and cyclone system are in violation of 6NYCRR Part 200.7 for not being properly maintained and operated. Emission point 000001 may also be in violation of 6NYCRR Part 212, which limits emissions to no more than 0.050 grains per dry standard cubic foot of air. This source may also be contributing to the fallout problem in the community.

4.) Bucket Elevator for Grit Sizing Process – Several pipes connect to the top of the bucket elevator that feeds the grit (slag or colored glass) sizing line. These pipes are emitting grit material near the top of the elevator. A replacement bucket elevator is on site and waiting to be installed. The elevator system has not been maintained in a way to minimize dust emissions so it is in violation of 6NYCRR Part 200.7. This source may also be contributing to the fallout problem in the community.

5.) Cartridge Filter for Grit Sizing Process – The cartridge filter unit at the east end of the slag and glass sizing equipment collects dust from some of the sizing equipment and exhausts inside the building. Both glass and slag are processed through the grinders and screens. I observed visible emissions from the exhaust of the cartridge filter which is inside the building. Although eight of the approximately 32 cartridges were replaced 2-3 months ago, the filter is not operating properly. This pollution control device is in violation of Part 200.7 for not maintaining the dust collector so it operates effectively.

6.) Grit Sizing Process – The grit sizing system crushes slag and glass down to the needed sizes. It consists of drying, grinding and sizing operations. Dust is collected by a variety of baghouses and a cartridge filter. The dryer and some of the crushing and screening process exhaust outside after controls, and approximately three particulate control units exhaust inside. The dust in this work environment is excessive and must be collected better so it is not exhausted outside by the general ventilation system. This is a of violation of 6NYCRR Part 200.7 which requires an emission control device operate in a satisfactory state of maintenance and repair in accordance with ordinary and necessary practices, standards and procedures, inclusive of manufacture's specifications, required to operate such device effectively.

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7.) General Room Ventilation in Sizing Area – Fugitive dust from the sizing process and particulates exhausted from the cartridge filter discussed in items 5 and 6 above, are vented by the large general room ventilation fan in the south east corner of the main building. This 3-4 foot diameter fan has furnace filters on the inside of the building but still exhausted a visible plume of particulates. This fan is approximately 15 feet from the exhaust of the cartridge filter discussed above. This fan is in violation of 6NYCRR Part 200.7 for not maintaining appropriate control of particulate emissions. The whole dust collection system should be evaluated for the appropriate sizing/capacity, dust collection efficiency, material movement systems, and particulate controls, so that the process operates effectively to minimize fugitive emissions. This source may also be contributing to the fallout problem in the community.

The Department requests you address all of the above items promptly. These violations will also be forwarded to our Office of General Council for resolution.

**PLEASE TAKE FURTHER NOTICE THAT** ECL §71-2103 provides that any person who violates ECL Article 19 or any rule or regulation promulgated pursuant thereto shall be liable for a civil penalty of up to \$18,000, plus an additional penalty not to exceed \$15,000 for each day that the violation continues and that such person may be enjoined from continuing such violation.

**PLEASE TAKE FURTHER NOTICE THAT** in addition, failure to comply with this NOTICE could subject you to criminal charges. ECL §71-2105 provides that any person who willfully violates any provision of ECL Article 19 or any rule or regulation promulgated pursuant thereto shall be guilty of a misdemeanor and, upon conviction, punished by a fine not to exceed \$18,000 for each separate violation or by imprisonment for a term of not more than one year, or both fine and imprisonment.

**PLEASE TAKE FURTHER NOTICE THAT** the Department is reviewing its options regarding the appropriate enforcement actions, including assessment of penalties, fines and injunctive relief for the violations which have already occurred. Compliance with this NOTICE shall not relieve you of any liability for penalties or other appropriate sanctions for the referenced violations. However, failure to immediately comply could result in a larger penalty than would otherwise be assessed, should you be adjudged to be in violation of the ECL.

**PLEASE TAKE FURTHER NOTICE THAT** you may submit information or evidence to the Department relevant to your compliance record, the nature of the violations, or any mitigating circumstances. Any such information or evidence may be used in a civil enforcement proceeding or criminal action. In the event that formal enforcement proceedings are initiated or criminal charges filed against you, you will have the right to a hearing. You may also request an informal conference to discuss this NOTICE and the events to which it relates. Any inquiries, submissions, and requests relating to this NOTICE should be directed to the New York State Department of Environmental Conservation.

*Al Carlacci P.E.*

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ALFRED CARLACCI  
REGIONAL AIR POLLUTION CONTROL ENGINEER  
NYSDEC  
270 MICHIGAN AVE  
BUFFALO, NY 14203-2915



**COMPLIANCE STATUS - VIOLATIONS**

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**Regulation Determinations (Violations) :**

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**Regulation :** 6 NYCRR 200.7

**Period :** 07/10/2012 5:00 PM

**Program :** SIP