

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 4
1130 North Westcott Road, Schenectady, NY 12306-2014
P: (518) 357-2048 | F: (518) 357-2087
www.dec.ny.gov

CERTIFIED - RETURN RECEIPT REQUESTED
7016 0340 0000 4616 7885

December 6, 2016

Prince Knight III
Norlite LLC
628 South Saratoga Street
Cohoes, New York 12047

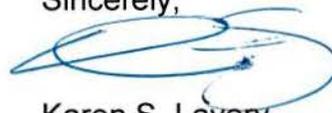
Re: Order on Consent
R4-2016-1028-148

Dear Mr. Knight:

Enclosed please find a copy of the fully executed Order on Consent referenced above.

This will also acknowledge receipt of \$7,620 the civil penalty pursuant to Paragraph I.

Sincerely,



Karen S. Lavery
Assistant Regional Attorney
Region 4

Enclosure

ec: H. Brezner



Department of
Environmental
Conservation

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of Article 27,
Title 9 of the Environmental Conservation Law;

-by-

ORDER ON CONSENT
File No. R4-2016-1028-148

Norlite, LLC
628 South Saratoga Street
Cohoes, New York 12047

Respondent

WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for regulation of hazardous waste management pursuant to Article 27, Title 9 of the Environmental Conservation Law (the "ECL").
2. On September 20, 2016, Department staff performed an inspection ("inspection") of Norlite, LLC located at 628 South Saratoga Street, Cohoes, New York ("facility"). The facility has EPA Identification Number NYD080469935.

First Violation

3. Regulations at 6 NYCRR § 372.2(a)(2) requires a person who generates a solid waste, to determine if that waste is a hazardous waste.
4. At the time of the inspection, there was one aerosol can, containing some product, in the garbage pile in the maintenance garage, in violation of regulations at 6 NYCRR § 372.2(a)(2)

Second Violation

5. Regulations at 6 NYCRR §372.2(b)(2)(ii) provide that “for each hazardous waste listed in Item 9 of the manifest, confirm with the designated facility what the ultimate disposal method will be for that waste. If the receiving TSD facility is not providing a hazardous waste management code in item 19 that reflects the ultimate disposal method for the hazardous waste, the generator must provide a State waste code in Item 13 of the manifest to designate the ultimate disposal method of the hazardous waste using one of following state codes:

L = Landfill

B = Incineration, heat recovery, burning

T = Chemical, physical, or biological treatment

R = Material recovery of more than 75 percent of the total material

6. At the time of the inspection, half of the 13 outgoing manifests from Norlite did not have the ultimate disposal method indicated in Box 13 despite Box 19 having a H141 code, which is in violation of regulations at 6 NYCRR §372.2(b)(2)(ii).

Third Violation

7. Regulations at 6 NYCRR § 373-2.4(e) and Condition K.1 of Module 1 of the Part 373 permit require that the contingency plan be reviewed, and immediately amended, if necessary, whenever... the list of emergency coordinators changes.

8. At the time of the inspection, three of the four emergency coordinators listed in the contingency plan no longer worked for Norlite. Norlite had failed to amend their plan to remove these people from their contingency plan which is in violation of regulations at 6 NYCRR § 373-2.4(e) and Condition K.1 of Module 1 of the Part 373 permit.

Fourth Violation

9. Regulations at 6 NYCRR §373-2.3(f) Condition K.2 of Module I of the Part 373 permit and Condition D.3 of Module III of the Part 373 permit require that the owner or operator maintain aisle space to allow the unobstructed movement of personnel fire protection equipment, spill control equipment and decontamination equipment to any are of the facility operation in an emergency.

10. Norlite is required to maintain at least 2 feet of aisle space between rows of drums and between rows of drums and the wall. At the time of the inspection, there was less than 2 feet of aisle space between a row of drums and the west wall of the container storage building. There was also less than 2 feet of aisle space between a row of drums in unloading area 1 and drums on the berm next to unloading area 1, in violation of regulations at 6 NYCRR §373-2.3(f) Condition K.2 of Module I of the Part 373 permit and Condition D.3 of Module III of the Part 373 permit.

Fifth Violation

11. Regulations at 6 NYCRR §374-3.2(d)(4)(i) require that the handler must place universal waste lamps in a container that is closed, structurally sound, adequate to prevent breakage, compatible with the contents, and must lack evidence of leakage, spillage, or damage.
12. At the time of the inspection, there were four compact light bulbs that were not in a closed, structurally sound container which is in violation of regulations at 6 NYCRR §374-3.2(d)(4)(i).

Sixth Violation

13. Regulations at 6 NYCRR §374-3.2(e)(5) require that each lamp or containers or package containing lamps are clearly marked with any one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."
14. At the time of the inspection, there were four compact light bulbs that were not in a closed, structurally sound container and were not labeled appropriately which is in violation of regulations at 6 NYCRR §374-3.2(e)(5).

Seventh Violation

15. Regulations at 6 NYCRR §374-3.2(f)(3) requires that a handler must be able to demonstrate the length of time that the universal waste has been accumulated by marking the date, maintaining an inventory, or any other method.
16. At the time of the inspection, Department staff observed four compact light bulbs that were not in a closed, structurally sound containers and were not marked with an accumulation start date, in violation of regulations at 6 NYCRR §374-2.3 (c)(8)(i).

Eighth Violation

17. Condition F.1 of Schedule 1 of Module 1 and Condition A.1 of Exhibit A of Schedule 1 of Module 1 of the Part 373 permit: Norlite is required within 7 days of the local fire department inspection, to submit a report on the inspection.
18. At the time of the inspection, Department staff determined that Respondent did not support a report of the local fire department inspection, within 7 days of the inspection, in violation of Condition F.1 of Schedule 1 of Module 1 and Condition A.1 of Exhibit A of Schedule 1 of Module 1 of the Part 373 permit.

Ninth Violation

19. Condition J of Module IV of the Part 373 permit: Norlite is required to comply with Part 373.2.27, 28 and 29. Part 373-3.28(a)(3) requires each piece of equipment covered by Part 373-2.28 to be marked in such a manner that it can be distinguished readily from other pieces of equipment. Norlite uses two drawings to address this issue. One drawing dealt with the fuel feed lines. The other drawing dealt with the vent lines. The drawing for the vent lines had no problems. This is a repeat violation. However, the drawing for the fuel feed lines had the following problems, all of which are in violation of Condition J of Module IV of the Part 373 permit:

- The flanges and valve leading to pressure gauge 20530 were not on the drawing;
- The flange before the branch that led to flange 20333 was not on the drawing;
- The drawing indicated that there was a flange on the main line leading to kiln that was actually not there;
- The top line on the left side of Tank 200C on the drawing had a flange (20933) and a blind flange. In actuality there was no blind flange;
- The second line from the bottom on the left side of Tank 200C on the drawing had a flange and a cap. In actuality there was not cap.

Tenth Violation

20. Regulations at 6 NYCRR §613.4.1 (b)(1)(ii) require that every Aboveground Storage Tank must have a surface coating designed to prevent corrosion and deterioration.

21. At the time of inspection, Department staff observed that Tank R-2 had a large area (2-feet in diameter) that had no paint on the steel, thus this area had no corrosion protection which is in violation of regulation of 6 NYCRR §613.4.1 (b)(1)(ii).

Civil Penalties

22. ECL Section 71-2705(1) provides for a maximum civil penalty of \$37,500 for the first day of a violation and each day thereafter of a regulation promulgated under Title 13 of ECL Article 27.

Waiver of Hearing

23. The Respondent hereby consents to the issuance and entry of the foregoing Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.

NOW, being duly advised and having considered this matter, **IT IS HEREBY ORDERED THAT:**

I. Civil Penalty

With respect to the aforesaid alleged violation, a civil penalty in the amount of TWELVE THOUSAND SEVEN HUNDRED DOLLARS (\$12,700) is hereby assessed against the Respondent of which SEVEN THOUSAND SIX HUNDRED TWENTY DOLLARS (\$7,620) shall be payable to the New York State Department of Environmental Conservation by money order, or certified check at the time this Order is signed, notarized and returned to the Department.

The balance FIVE THOUSAND EIGHTY DOLLARS (\$5,080) shall be suspended so long as Respondent shall comply with the Schedule of Compliance.

In the event that Respondent fails to comply with the requirements of this Order the entire suspended portion of the penalty shall become due and payable upon written notice to Respondent without prejudicing the Department from seeking further appropriate penalties for violations of this Order by the Respondent.

II. Indemnification

Respondent shall indemnify and hold harmless New York State, DEC, and any of their representatives, employees or contractors for all claims, actions, damages, and costs of any name and description arising out of or resulting from the fulfillment or attempted fulfillment of the provisions of this Order by Respondent, their employees, contractors, servants, agents, successors or assigns.

III. Other Remedies

Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting the following: (1) any legal, administrative or equitable rights or claims, actions, suits, causes of action or demands whatsoever that DEC may have against anyone other than Respondent; (2) DEC's right to enforce, administratively or otherwise, the terms, provisions and conditions of this Order against Respondent, its employees, servants, agents, successors and assigns in the event that Respondent shall be in breach of the provisions hereof, and to subject Respondent to penalties for such violations, or for other violations of the ECL; and (3) the Respondent's right to challenge any such action by the Department, whether by administrative hearing or otherwise, to the extent otherwise permitted by law or this Order on Consent.

IV. Entire Agreement; Modification

This Order constitutes the entire agreement of the parties, and no provision of the agreement shall be deemed waived or otherwise modified except as is specifically set forth in a writing executed by the Commissioner or Regional Director of DEC indicating an intent to modify this Order.

V. Effective Date

The effective date of this Order shall be the date it is signed by the Regional Director.

VI. Binding Effect

The provisions of this Order shall be deemed to bind Respondent, its officers, directors, agents, employees, contractors, successors and assigns, and all persons, firms and corporations acting under or for it.

VII. Reports

All reports and submissions herein required shall be made to the Region 4 Headquarters, New York State Department of Environmental Conservation, 1130 North Westcott Road Schenectady, New York, 12306, Att: Regional Hazardous Waste Engineer.

VIII. Inspections

For the purpose of insuring compliance with this Order, duly authorized representatives of this Department shall be permitted access to the site in question during reasonable hours, in order to inspect and/or require such tests as may be deemed necessary to determine the status of the Respondents compliance with this Order.

IX. Summary Abatement

The terms of this Order shall not be construed to prohibit the Commissioner of his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

X. Schedule of Compliance

Respondent shall comply with the attached Schedule of Compliance which is incorporated into this Order.

Dated: Dec 15, 2016
Rotterdam, NY

Basil Seggos
Commissioner
New York State Department of
Environmental Conservation

BY:


Keith Goertz
Regional Director
Region 4

Schedule of Compliance

1. Within 10 days of the effective date of this Order, Norlite must submit a SOP outlining how Norlite will ensure that if the receiving facility does not provide a hazardous waste management code in Box 10 of the manifest that reflects the ultimate disposal method for the hazardous waste, then Norlite will provide a State waste code in Box 13 of the manifest to designate the ultimate disposal method of the hazardous waste using one of the following state codes:
 - L= Landfill
 - B= Incineration, heat recovery, burning
 - T= Chemical, physical, or biological treatment
 - R= Material recovery of more than 75 percent of the total material

2. Within 10 days of the effective date of this Order, Norlite must submit a request to the Department, for a minor modification to update the list of emergency coordinators in Norlite's contingency plan. Within 5 days after the Department approves this modification request, Norlite must submit the updated contingency plan to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

3. Within 30 days of the effective date of this Order, Norlite must paint lines on the floor of the container storage building indicating where rows of pallets holding containers will be placed to ensure that there is at least a 2-foot aisle space between rows of pallets and between rows of pallets and the walls.

4. Within 10 days of the effective date of this Order, Norlite must submit to the Department, a SOP outlining how Norlite will ensure that, after a local fire department inspection, Norlite will submit to the Department either a copy of the report from this inspection or a letter outlining the findings from this inspection.

5. Within 10 days of the effective date of this Order, Respondent shall submit to the Department, updated drawings which include every piece of equipment covered by Part 373-2.28 and not include any piece of equipment that is not actually present at Norlite. The drawings must readily distinguish each piece of equipment covered by Part 373-2.28 from other pieces of equipment.