



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG-011
2008 JUN 25 AM 11:00
REGIONAL HEARING
CLERK

JUN 25 2008

Certified Mail Return Receipt Requested

Mr. Kevin Young
Young, Sommer . . . LLC
Executive Woods
Five Palisades Drive
Albany, New York 12205

Re: Norlite Corporation.
Docket No. EPCRA-02-2008-4209

Dear Mr. Young:

Enclosed is a copy of the Consent Agreement and Final Order ("CA/FO") in the above referenced proceeding signed by the Regional Administrator of the U.S. Environmental Protection Agency.

Please note that payment is due within forty-five (45) days of signature of the Final Order by the Regional Administrator. Please arrange for payment of this penalty according to the instructions given in that Order.

If you have any questions, please contact me at 212-637-3195.

Sincerely yours,

Gary H. Nurkin
Assistant Regional Counsel

cc: Susanne Wither, NYDEC

bcc: Linda Hall, 2DECA-PTSB
Mary Mears, 2CD-PAT
Blake Edwards, FIN-CINN
Dan Kraft, 2DECA-PTSB
Mary Kowalski, 2DECA-PTSB
Coles Phinizy, 2ORC-WTS
Gary Nurkin, 2ORC-WTS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11

2008 JUN 25 AM 11:00

REGIONAL HEARING
ORDER

In The Matter of:

NORLITE CORPORATION,

Respondent

Proceeding under Section 325(c) of
Title III of the Superfund Amendments
and Reauthorization Act

**CONSENT AGREEMENT
AND
FINAL ORDER**

Docket Number: EPCRA-02-2008-4209

PRELIMINARY STATEMENT

This is a civil administrative proceeding instituted pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11001 *et seq.* [also known as the Emergency Planning and Community Right-to-Know Act of 1986 (hereinafter, "EPCRA")].

Section 325(c)(1), 42 U.S.C. § 11045(c)(1), authorizes the Administrator to enforce violations of the Act and the regulations promulgated or authorized pursuant to it. The Respondent Norlite Corporation ("Norlite") maintains a facility located at 628 South Saratoga Street, Cohoes, New York 12047. EPA inspected Norlite on or about December 1 - 3, 2004 and concluded that Norlite may have violated Section 313 of EPCRA, 42 U.S.C. § 11023 and the regulations pursuant to that Section, 40 C.F.R. Part 372. EPA representatives alleged that Respondent failed to submit, in a timely manner, to the Administrator and to the State of New York complete and correct Toxic Chemical Release Inventory Form A or R reports for the calendar years 2000 - 2003.

EPA and Norlite have subsequently engaged in settlement discussions with respect to the alleged violations that EPA discovered during the course of its inspection of Norlite and have agreed to address the issues without the need for EPA to issue a formal Complaint. Pursuant to 40 C.F.R. § 22.13(b), where parties agree to settlement of one or more causes of action before the filing of a Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order ("CA/FO") pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Both the EPA and Norlite have agreed that entering into this CA/FO is an appropriate means of resolving the alleged noncompliance with EPCRA requirements that EPA believes existed at the Norlite facility without further litigation or other administrative action.

This CA/FO is being issued pursuant to, and under the authority of, 40 C.F.R. § 22.18(b). No adjudicated finding of fact or conclusions of law have been made. Respondent neither admits nor denies EPA's Findings of Fact or Conclusions of Law set forth below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Respondent is Norlite.
2. Respondent is a corporation duly existing under, and organized pursuant to the laws of the State of Massachusetts.
3. At all times relevant hereto, Respondent has owned and operated a facility located at 628 South Saratoga Street, Cohoes, New York 12047 (hereinafter, "Respondent's facility").
4. Respondent is a "person" within the meaning of Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
5. Respondent is an owner or operator of a "facility" as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and by 40 C.F.R. § 372.3.
6. Respondent's facility is subject to the requirements of EPCRA, Section 313(b), 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22.
7. On or about December 1 - 3, 2004, an authorized representative of EPA conducted a data quality inspection of Respondent's facility to determine whether Respondent was in compliance with the Toxic Chemical Release Reporting requirements (hereinafter, "the Inspection").
8. As a result of the Inspection, EPA representatives alleged that Respondent failed to submit, in a timely manner, complete and correct Form R reports for the calendar years 2000 - 2003 to the Administrator and to the State of New York for the following chemicals:

CAS No.	YEAR	CHEMICAL	SYNONYMS
108-10-1	2000	Methyl Isobutyl Ketone	(4-Methyl-2-Pentanone) (MIBK)
108-10-1	2001	Methyl Isobutyl Ketone	(4-Methyl-2-Pentanone) (MIBK)

108-10-1	2002	Methyl Isobutyl Ketone	(4-Methyl-2-Pentanone) (MIBK)
75-05-8	2000	Acetonitrile	
75-05-8	2001	Acetonitrile	
75-05-8	2002	Acetonitrile	
100-41-4	2000	Ethylbenzene	
67-56-1	2000	Methanol	
67-56-1	2001	Methanol	
67-56-1	2002	Methanol	
78-93-3	2000	Methyl Ethyl Ketone	(2 -Butanone) (MEK)
78-93-3	2001	Methyl Ethyl Ketone	(2 -Butanone) (MEK)
78-93-3	2002	Methyl Ethyl Ketone	(2 -Butanone) (MEK)
1643-04-4	2001	Methyl Tert-Butyl Ether	
1643-04-4	2002	Methyl Tert-Butyl Ether	
110-54-3	2000	n-Hexane	
110-54-3	2001	n-Hexane	
110-54-3	2002	n-Hexane	
108-95-2	2000	Phenol	
108-95-2	2001	Phenol	
108-95-2	2002	Phenol	
127-18-4	2000	Tetrachloroethylene	(Perchloroethylene)
127-18-4	2001	Tetrachloroethylene	(Perchloroethylene)
79-01-06	2000	Trichloroethylene	
79-01-06	2001	Trichloroethylene	
1330-20-7	2001	xylene (mixed isomers)	
1330-20-7	2002	xylene (mixed isomers)	
1330-20-7	2003	xylene (mixed isomers)	

9. Norlite has subsequently informed EPA that it will be submitting to the Administrator and to the State of New York complete and correct Form R reports for the chemicals EPA alleges Norlite failed to submit.

CONSENT AGREEMENT

Based upon the foregoing, and pursuant to Section 325(c) of EPCRA, and 40 C.F.R. § 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, it is hereby agreed by and between Complainant EPA and Respondent Norlite, and voluntarily and knowingly accepted by Norlite, that Norlite for purposes of this Consent Agreement and in the interest of settling this

matter expeditiously: (a) admits that EPA has jurisdiction over this matter as recited in the Preliminary Statement of the CA/FO; (b) neither admits nor denies the Findings of Fact or Conclusions of Law stated above; (c) consents to the assessment of the civil penalty and stipulated penalties as set forth below; (d) consents to the issuance of the Final Order incorporating this Consent Agreement; and (e) waives its right to contest or appeal that Final Order.

It is further hereby agreed by and between Complainant and Norlite, and voluntarily and knowingly accepted by Norlite, that the Respondent shall comply with the following terms and conditions:

1. Except as noted below, to the best of its knowledge, Respondent hereby certifies, at the time of its signature to this document, that it is in compliance with all applicable EPCRA regulations relating to the EPA Toxic Chemical Release Inventory Forms that are submitted to the EPA Administrator and to the State of New York. If Norlite is not in compliance with any of the aforementioned applicable EPCRA regulations relating to the EPA Toxic Chemical Release Inventory Forms at the time that Norlite signs the document, Norlite shall provide, within thirty (30) days of the date of signature of the final order, a list of the EPA Toxic Chemical Release Inventory Forms it still must submit and an expeditious schedule (not to exceed 90 days) by which such Forms will be submitted.
2. This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable provisions of Section 313 of EPCRA.
3. Nothing in this document is intended, nor shall it be construed, to waive, prejudice or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy, sanction or penalty prescribed by law against Norlite if it is determined that Norlite has made any material misrepresentations or that Norlite has provided materially false information in any document submitted to EPA in this proceeding.
4. Norlite shall remit payment by cashier's or certified check to EPA of a civil penalty, in the total amount of **FIFTY-NINE THOUSAND THIRTY-FOUR (\$59,034) DOLLARS**. Payment shall be made payable to the "**Treasurer, United States of America,**" and shall be mailed to the "**US Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, PO Box 979077, St. Louis, MO 63197-9000.**" The instrument of payment shall be identified with a notation thereon listing the following: *NORLITE CORPORATION*, and shall bear thereon the Docket Number *EPCRA-02-2008-4209*.

Payment of the penalty must be *received* at the above address on or before forty-five (45) calendar days after the date this Final Order is signed (the "due date"). Respondent shall also send a copy of the check to:

Gary H. Nurkin, Esq.
Assistant Regional Counsel
Environmental Protection Agency, Region 2
290 Broadway, Room 1623
New York, New York 10007-1866

Kenneth S. Stoller, P.E., QEP, DEE, Chief
Pesticides and Toxic Substances Branch
U.S. Environmental Protection Agency - Region 2
2890 Woodbridge Avenue, Bldg. 10, MS-105
Edison, NJ 08837

and

Karen Maples, Regional Hearing Clerk
Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

- a. Failure to pay the amount in full within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
 - b. Further, if the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.
 - c. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. § 162(f).
5. Respondent agrees to undertake the following Supplemental Environmental Project ("SEP"), to be completed within three years from the date this Agreement is ratified by the Regional Administrator, which the parties agree is intended to secure significant environmental or public health protection. The SEP provides

that Norlite will utilize an enhanced sampling and analysis protocol to identify chemicals that need to be reported pursuant to EPCRA. The SEP calls for Norlite to obtain and analyze samples of hazardous waste received on-site for TRI listed chemicals. The results of these analyses will be considered together with "readily available" data contained in waste profile sheets, hazardous waste manifests and other existing documents (e.g. prior years TRI submittals) to estimate whether the quantities of chemicals "otherwise used" on-site exceed the reporting thresholds under the Toxic Release Inventory (TRI) program. A copy of the SEP Standard Operating Procedure is attached as Exhibit A and incorporated into this CAFO.

6. The total expenditure for the SEP shall not be less than \$277,288. Respondent shall provide EPA with documentation of the expenditures made in connection with the SEP on a yearly basis from the date the Final Order is signed by the Regional Administrator for the duration of the SEP, and shall provide EPA with documentation of the costs made in connection with this SEP in each SEP Progress Report more fully described in paragraph "7" below. EPA will review expenditures and determine whether they can be counted toward the required SEP expenditure which determination shall be reasonably made.
7. Respondent shall submit a yearly SEP Progress Report to: Kenneth S. Stoller, P.E., QEP, DEE, Chief, Pesticides and Toxic Substances Branch, Division of Enforcement and Compliance Assistance, U.S. Environmental Protection Agency - Region 2, 2890 Woodbridge Avenue, Edison, New Jersey 08837. The first SEP Progress Report shall be submitted March 1, 2009; subsequent reports, **with the exception of the SEP Completion Report**, shall be submitted at 12 month intervals thereafter. The final SEP Progress Report shall be deemed the SEP Completion Report and shall be submitted within 90 days of the completion of the SEP. Each SEP Progress Report shall contain at least the following information:
 - (i) a detailed description of the SEP as implemented;
 - (ii) itemized costs, documented by copies of purchase orders and receipts or canceled checks; and
 - (iii) a description of any operating problems encountered and the solutions thereto.
8. In all documents or reports Respondent submits to EPA pursuant to the terms and conditions of this Consent Agreement, including the SEP Progress Reports and the SEP Completion Report, Respondent shall, by an appropriate official sign and submit to EPA a certification under penalty of law that the information contained

in such document or report is true, accurate and correct by signing the following statement:

“I certify that, to the best of my knowledge and belief, the information contained in or accompanying this document is true, accurate, and complete. In making this statement, I have not made an independent review of all statements contained therein and have relied in good faith on information furnished to me by employees or contractors of Norlite. Based upon my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

9. Respondent agrees that EPA may inspect its facility at any time in order to confirm that the SEP is being performed properly and is in conformity with the representations made herein.
10. Respondent shall maintain in one central location legible copies of documentation concerning the development, implementation and financing of the SEP, and documentation supporting information in reports submitted to EPA pursuant to this CA/FO. Respondent shall grant EPA and its authorized representatives access to such documentation and shall provide copies of such documentation to EPA within twenty (20) calendar days of Respondent's receipt of a request by EPA for such information or within such additional time as approved by EPA, in writing. The provisions of this paragraph shall remain in effect for five (5) years from the effective date of this CA/FO or two (2) years from the satisfactory completion of the SEP, whichever is later.
11. In the event that Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the submittal of the Form R reports as described in paragraph “1” above, submittal of yearly Progress Reports and a Completion Report as described in paragraphs “7” and “8” above, and the performance of the SEP described in paragraph “5” above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:
 - (i) If the SEP is not undertaken, Respondent shall pay a stipulated penalty to the United States in the amount of \$177,101.

(ii) If the SEP is satisfactorily completed, and Respondent spent at least 90 percent of the amount of money which was required to be spent on the SEP, Respondent shall not pay any stipulated penalty.

(iii) If the SEP is satisfactorily completed, but Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States. Such penalty shall be calculated according to the following method:

$$\text{Stipulated Penalty} = [1 - (\frac{\text{amount SEP Cost expended}}{\$277,288})] \times \$177,101$$

(iv) If the SEP is not completed satisfactorily, but Respondent can document that it made good faith and timely efforts to undertake the project; and (b) certifies with supporting documentation, that at least 90 percent of the amount of money that was required to be spent was expended, Respondent shall not pay any stipulated penalty.

(v) For failure to submit any SEP Progress Report required by paragraph "7" above, Respondent shall pay a stipulated penalty in the amount of \$50.00 for each day until the report is submitted.

(vi) For failure to submit each Form R report required by paragraph "1" above, Respondent shall pay a stipulated penalty in the amount of \$100.00 for each day until the report is submitted.

Stipulated penalties above shall begin to accrue on the day after performance is due ("stipulated penalty due date"), and shall continue to accrue through the final day of the completion of the activity. Unless Respondent provides EPA with a writing pursuant to paragraph "12", below, all stipulated penalties are due and payable within thirty (30) days of the Respondent's receipt from EPA of a written demand for payment of the penalties. Respondent agrees that such demand may be mailed to Respondent. The method of payment shall be in accordance with the provisions of paragraph "4" above. Interest and a late payment handling charge will be assessed in the same manner and in the same amounts as

specified in paragraph "4" above. Penalties shall accrue as provided above regardless of whether EPA has notified the Respondent of the violation or made a demand for payment, but need only be paid upon demand.

12. The Director of the Division of Enforcement and Compliance Assistance, Region 2 ("DECA"), or her representative, may grant an extension of the date of performance established in this CA/FO with regard to the SEP and/or the SEP Progress Reports, if good cause exists for such extension. If Respondent submits a request for extension, such request shall be accompanied by supporting documentation and be submitted to EPA no later than fourteen (14) calendar days prior to any due date set forth in this Consent Agreement, or other deadline established pursuant to this Consent Agreement. Such extension, if any, shall be approved in writing and shall not unreasonably be withheld or delayed.
13. The determination of whether the SEP as described in paragraph "5" above, and/or the SEP Progress Reports as described in paragraphs "6" through "8" above, have each been satisfactorily completed, whether the Respondent has made a good faith, timely effort to implement the SEP, whether the Respondent has complied with all the terms of the CA/FO and whether costs are creditable to the SEP shall be in the sole discretion of EPA, such discretion to be reasonably and in good faith exercised. Should EPA have any concerns about the satisfactory completion of the SEP and/or the SEP Progress Reports, EPA will communicate those concerns to Respondent and provide it with an opportunity to respond. If EPA makes a determination that the SEP has been satisfactorily completed, it will provide Respondent with written confirmation of the determination within a reasonable amount of time. Such determination by EPA shall not be unreasonably withheld or delayed.
14. After receipt of a demand from EPA for stipulated penalties pursuant to paragraph "11" above, Respondent shall have twenty (20) calendar days in which to provide Complainant with a written explanation of why it believes that a stipulated penalty is not appropriate for the cited violation(s) of this Consent Agreement (including any technical, financial or other information that Respondent deems relevant).
15. The Director of DECA, Region 2 may, in her sole discretion, reduce or eliminate any stipulated penalty due if Respondent has in writing demonstrated to EPA's satisfaction good cause for such action, such discretion to be reasonably and in good faith exercised. If, after review of Respondent's submission pursuant to the preceding paragraph, Complainant determines that Respondent has failed to comply with the provisions of this Consent Agreement, and Complainant does not, in her sole discretion, eliminate the stipulated penalties demanded by EPA, Complainant will notify Respondent, in writing, that either the full stipulated

penalty or a reduced stipulated penalty must be paid by Respondent. Respondent shall pay the stipulated penalty amount indicated in EPA's notice within thirty (30) calendar days of receipt.

16. Failure of Respondent to pay any stipulated penalty demanded by EPA pursuant to this Consent Agreement may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
17. Respondent certifies that it has not received and is not presently negotiating to receive, credit in any other enforcement action for the aforementioned SEP, and that Respondent in good faith believes that the SEP is in accordance with EPA's 1998 Final Supplemental Environmental Projects policy set forth at 63 *Federal Register* 24796 (May 5, 1998).
18. For Federal Income Tax purposes, Norlite agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.
19. Respondent further certifies that, as of the date of its signature on this Consent Agreement, it is not required to implement or complete the aforementioned SEP pursuant to any federal, state, or local law, regulation or other requirement; and that with the exception of this Consent Agreement, Respondent is not required to implement or complete the SEP described in this document by any agreement, grant, or as injunctive relief in any other case.
20. Any public statement, oral or written, made by Respondent Norlite making reference to the SEP shall include the following language, "this project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for the EPCRA Section 313 reporting violations."
21. If in the future EPA believes that any of the information certified to, pursuant to paragraphs "8" and "17" and/or "19" above, is inaccurate, EPA will so advise the Respondent of its belief and its basis, and will afford Respondent an opportunity to submit comments to EPA. If EPA then determines (such discretion to be reasonably and in good faith exercised) that a certification was inaccurate and the inaccuracy was material, Respondent shall pay an additional penalty in the amount of \$5,000 within 60 days of receipt of EPA's determination and demand for payment. This payment shall not preclude EPA from initiating a separate criminal investigation pursuant to 18 U.S.C. § 1001 *et seq.*, or any other applicable law.

22. Nothing in this Consent Agreement shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or other applicable law.
23. This Consent Agreement is being voluntarily and knowingly entered into by the parties to resolve (conditional upon full payment of the civil penalty herein and upon the accuracy of Respondent's certifications in this proceeding) the civil and administrative claims resulting from the alleged failures described in paragraph "8" of the Findings of Fact and Conclusions of Law which were identified in the Inspection. Nothing herein shall be read to preclude EPA or the United States, however, from pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of the settlement are set forth herein.
24. The provisions of this Consent Agreement shall be binding upon both EPA and Norlite along with their authorized representatives and successors or assigns.
25. Norlite explicitly waives its right to request or to seek any Hearing on the terms and conditions set forth in the Consent Agreement and its accompanying Final Order and/or the Findings of Fact and Conclusions of Law, above.
26. Norlite waives any rights it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with, and to reply to any memorandum or communication addressed to, the Regional Administrator or the Deputy Regional Administrator, where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.
27. The undersigned signatories for Norlite and EPA each certify that he or she is duly and fully authorized to enter into this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
28. Norlite consents to the service of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.
29. The effective date of this Consent Agreement and Final Order shall be the date that it is filed with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

30. Each party hereto agrees to bear its own costs and fees in this matter.

RESPONDENT: NORLITE CORPORATION,

BY: William Morris
Authorized Signature

NAME: William Morris
(PLEASE PRINT)

TITLE: V.P. Envr. Affairs

DATE: 5/29/08

COMPLAINANT:

[Signature]
Dore LaPosta, Director
Division of Enforcement
and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, NY 10007

*Program Director
For DL*

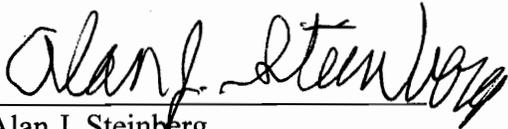
DATE: JUNE 10, 2008

In the Matter of Norlite Corporation,
Docket No. EPCRA-02-2008-4209

FINAL ORDER

The Regional Administrator of EPA, Region 2 concurs in the foregoing Consent Agreement (including Exhibit A) in the case of *In the Matter of Norlite Corporation*, bearing Docket No. EPCRA-02-2008-4209. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified, incorporated into and issued as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. § 22.31(b). This Final Order is being entered pursuant to the authority of 40 C.F.R. §§ 22.13(b) and 22.18(b)(3) and shall constitute an order issued under authority of Section 325(c) of EPCRA 42 U.S.C. § 11045(c).

DATED: 6-23-08
New York, New York


Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency -
Region 2
290 Broadway
New York, New York 10007-1866

In the Matter of Norlite Corporation
Docket No. EPCRA-02-2008-4209

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy

By Hand:

Regional Hearing Clerk
U.S. Environmental Protection
Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Certified Mail,
Return Receipt Requested:

Kevin Young, Esq.
Young, Sommer . . . L.L.C.
Executive Woods
5 Palisades Drive
Albany, New York 12205

Mildred N. Bag

Dated: JUN 25 2008,
New York, New York

EXHIBIT A

Norlite Corporation

Laboratory

TRI (SARA 313) - Sampling, Analysis and Review

SOP#04-050

Revision #1a

Date Prepared: 01/18/07

Effective Date: 02/01/07

Released Date: 02/06/07

Prepare by: Prince Knight

Approved by: _____

Document Letter: A

1.0 Scope

As a Treatment, Storage and Disposal Facility (TSDF) and as a facility handling potentially hazardous chemicals, Norlite Corporation is required to submit data on those chemicals which fall under the Toxic Release Inventory (TRI) under the Emergency Planning and Community Right to Know Act (EPCRA), Superfund Amendments and Reauthorization Act (SARA) section 313. This data is required on an annual basis under the reporting requirements. This Standard Operating Procedure (SOP) is provided to guide personnel in the preparation of the data by identifying those chemicals which require reporting under the Tier III requirements. This SOP does not provide procedures for the completion of the forms and submission to EPA.

2.0 Summary

A comparison will be made between TRI 313 chemicals identified by two distinct methods. The first will be an actual analysis of a representative composite samples of LGF loads received at the facility. The second will be a profile and manifest review of the incoming loads and evaluating their chemical constituents and estimated quantities. These methods will then be evaluated for each possible TRI 313 chemical and the final report will be prepared accordingly.

3.0 References

EPCRA § 313, 42 U.S.C. § 11023, SARA Title III

EPA QA/G-6 - Guidance for Preparing Standard Operating Procedures (SOPs)

Norlite Analytical Laboratory's Quality Manual

Norlite Laboratory's Chemical Hygiene and Safety Plan

Norlite Corporation's Hazardous Waste Management Permit under Article 27, Title 9; 6NYCRR 373

4.0 Safety

During the sampling, compositing and analysis of the materials used for TRI 313 reporting, routine laboratory safety requirements should be followed. This is due to the potential exposure of hazardous, flammable or toxic substances. Additional safety information can be found in Norlite Laboratory's Chemical Hygiene and Safety Plan.

5.0 Definitions and Acronyms

5.1 Definitions

- Profile – A file of information pertaining to a specific waste stream. This may include a description sheet, MSDS, or other generator knowledge of the material.
- Manifest – A shipping document required by EPA and DOT that details the contents of delivered material to the facility.
- Chain of Custody Form – A form used to document sampling information and provide signatures for the transfer of the samples collected.

5.2 Acronyms

- TSDF - Treatment, Storage and Disposal Facility
- TRI - Toxic Release Inventory
- SARA - Superfund Amendments and Reauthorization Act
- EPA – Environmental Protection Agency
- LGF – Low Grade Fuel
- VOA – Volatile Organic Analysis
- TCL – Target Compound List
- TAL – Target Analyte List
- HSL – Hazardous Substance List
- PPM – Parts Per Million
- MSDS – Material Safety Data Sheet
- NYS DOH – New York State Department of Health
- ELAP – Environmental Laboratory Approval Program

6.0 Process / Required Materials

- 40 ml VOA Vials for sample collection
- Transfer pipettes
- Graduated Cylinder 25 ml
- Refrigeration Unit – Capable of maintaining 0-4 °C
- 8, 16 or 32oz. sample container
- Laboratory Chain of Custody forms

7.0 Procedure

7.1 Sample preparation and compositing

1. Each LGF Truck coming into the facility will be sampled for normal acceptance procedures as outlined in the Part 373 Hazardous Waste permit. As soon as incoming waste samples are received in the lab, a 40 ml aliquot of each sample will be transferred to a clean VOA vial using a transfer pipette or graduated cylinder. Make sure to fill the vial completely leaving no airspace (headspace) in the vial any larger than a small pea. This will help prevent any premature loss of volatile compounds.
- 2 LGF Drum samples are sampled in the same manner. When a representative drum sample (e.g. Vacuum Tank 200A) is provided to the laboratory, a 40 ml aliquot must be taken as described in steps 1, above.
3. Label the aliquot with the unique tracking number and the date.
4. Store the aliquot in a container specifically designed for holding 40 ml VOA vials and immediately transfer to cold storage (0 – 4 °C).
5. On a monthly basis, a composite sample will be prepared to include all aliquot samples retained from that month. Determine the appropriate size container required to include all of the aliquots by multiplying the number of samples by 40 ml and converting to ounces: (ml x .0338 = oz.). If the total number of ounces is greater than 32, calculate the necessary number of milliliters required from each aliquot so that the total volume does not exceed 32 oz. Transfer the representative aliquots to a clean glass sampling container.
6. Prepare a laboratory chain of custody to document the official date and time the composite was prepared. The required analysis should be documented as well.
7. Composite samples will be analyzed for the Target Compound / Analyte List (TCL/TAL), also known as the Hazardous Substances List (HSL) of Metals, Volatiles, Semi-Volatiles, Pesticides, Herbicides, PCBs and Cyanide. The volatiles and semi-volatiles will also include organic library searches (Tentatively Identified Compounds (TICs)) to analyze for all potential TRI 313 chemicals.
8. Provide the final report, along with the profile review report (sec. 7.2) to the compliance department for report preparation.
9. Without compromising the compositing procedure described in 7.1.5 of this SOP and upon agreement between Norlite and EPA, there is flexibility to vary the sampling method or timing of the testing based on sound evidence, analyses or previous laboratory practice. For example, it may be advantageous to sample and analyze discrete samples from specific waste streams if it appears that certain analytes experience interference from the monthly composite matrix. Any changes must be reviewed and approved by EPA prior to implementation of any change to the SEP protocol.

7.2 Profile and Manifest review for TRI 313 compounds

1. Although this review is required on an annual basis for TRI 313 reporting, monthly review and calculations will make the process more manageable. Any time period may be evaluated by the following procedure.
2. Obtain a summary list of all LGF generators received into the facility for the given time period. This can be done through the database management of manifest information. The summary should include the generator name, profile number and pounds received into the facility.
3. Determine each profile number and review the chemical constituents listed in each profile. Calculate the pounds of each constituent by using the ratio(s) listed on the profile and multiplying them by the number of pounds on the summary report. See Assumptions Listed Below. (Sec. 7.4)
4. Add these values to the previous time period report (e.g. last month) and keep a running sum of all chemical constituents for the calendar year.
5. Provide these summaries to the compliance department for final TRI 313 reporting.

6.3 Previous Year's Data Review

1. Prior to preparing TRI 313 reporting forms for a given reporting year, and at other times, as appropriate, a review of the TRI database for the preceding year's data will be performed.
2. Go to www.rtknet.org (or similar website) and review the database for compounds that were reportedly sent to Norlite by other TRI reporters.
3. The database should be queried to report the total mass of each chemical sent to Norlite.
4. Compare each chemical that was reportedly shipped to Norlite in excess of 10,000 pounds to the list of reportable chemicals generated by Sections 7.1 and 7.2 of this procedure. Use the appropriate threshold for special chemicals or substances (eg. Lead compounds).
5. If such chemicals are absent from the list being generated by Sections 7.1 and 7.2 of this procedure, review the current profiles and consider targeted composite sample analysis to determine the cause of the difference. For example, did the generator stop shipping the waste to Norlite, was the quantity different, has the waste stream changed and the chemical is no longer present?
6. If the chemical's absence is not explained or obvious, either contact the generator for an explanation of the difference between the two years or report the chemical as received for the current reporting year.

7.4 Assumptions and Guidance

1. Where the profile contains a single concentration, such as 15%, the single % value will be used.

2. Where the profile contains a range of %, for a constituent, such as 5 – 45%, the average of these percents will be used as the value for calculating the pounds received.
3. Where the profile contains concentrations that are less than 5,000 parts per million (ppm) or less than 0.5%, the compound or constituent will be dropped from consideration since the constituent cannot exceed 10,000 pounds per year based on Norlite's fuel (LGF) consumption.
4. Where an MSDS for the material is supplied, the values found on the MSDS will be used.
5. Where several constituents are grouped under a single concentration or %, the concentration or % divided by the total number of constituents will be used.
6. Where no constituents are identified in the profile, or the chemicals described are described generically (e.g., aromatics), the profile constituent column will be left blank.
7. Identify the various names of chemicals which would fall under the same CAS (Chemical Abstract Service) number.
8. Report all metals as total metal values.
9. Norlite will use its best judgment when reporting the chemicals and quantities.

8.0 Quality Assurance

1. All analyses will be performed by a NYS DOH ELAP approved laboratory.
2. The laboratory will perform standard Quality Control samples such as blanks, duplicates, matrix spikes and matrix spike duplicates. The laboratory will follow EPA approved methodology.
3. Any discrepancies concerning the quality control will be documented as part of the permanent file.

9.0 Record Keeping and Retention

1. All worksheets, analytical reports and calculations will be kept with the final TRI report.
2. The final report will be kept on file for a period of not less than seven (7) years.

10.0 Pollution prevention and Disposal requirements

1. All waste materials from the analytical phase of the review must be disposed of as hazardous waste at the Norlite facility. The waste must be handled according to all local, state, and federal laws.

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2. In an effort to minimize potential pollution and the amount of waste handled during the process, each sample aliquot and composite sample will be prepared based on the minimum amount required to perform the analysis.