

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Materials Management, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7220 | F: (716) 851-7226
www.dec.ny.gov

December 15, 2015

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Mr. Simon Greer
Nulife Glass NY, Inc.
3213 Middle Road
Dunkirk, New York, 14048

Dear Mr. Greer:

NOTICE OF VIOLATION
Nulife Glass NY, Inc.
Dunkirk Facility, #07Z04
Part 360 Permit #9-0664-00035/02001
Financial Assurance

This letter serves to provide you with a Notice of Violation (“NOV”) setting forth the specific actions that constitute violations involving Article 27, Title 7, of the New York State Environmental Conservation Law (“ECL”) and Permit #9-0664-00035/02001, in connection with your operations conducted at 3213 Middle Road, Dunkirk, Chautauqua County, New York (the “facility”). This NOV is issued because NuLife Glass NY failed to submit a surety instrument to the Department for closure costs associated with the facility by March 11, 2014.

In response to NuLife’s request to reduce the amount of the surety required by the subject Permit, the Department has reviewed numerous revised closure cost estimates provided by NuLife. To date, an acceptable revised closure cost estimate has not been provided and the required surety has not been supplied by Nulife Glass.

PLEASE TAKE NOTICE THAT YOU ARE IN VIOLATION OF:

- 6 NYCRR Part 360 Permit #9-0664-00035/02001, Special Condition 8 – failure to submit a surety instrument in an amount sufficient to cover one-half of the anticipated cost of closure of the facility; and
- 6 NYCRR Part 360 Permit # 9-0664-00035/02001, Special Condition 30 – failure to maintain a surety instrument, acceptable to the Regional Materials Management Engineer (RMME), to assure the proper closure of the facility.

PLEASE TAKE 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. You should take immediate actions (see attached compliance schedule) to ensure that all on-going violations cease. Compliance with this **NOTICE** by immediately correcting the violations shall not relieve you of any liability for penalties or appropriate sanctions for the above-referenced violations. However, failure to comply with this **NOTICE** by correcting the violations in accordance with the attached schedule could result in a larger penalty than would otherwise be assessed, should you be adjudged to be in violation of the law.

- ECL 71-2703 provides that any person who violates any of the provisions of, or who fails to perform any duty imposed by ECL Article 27 or any rule, regulation, determination or order of the department made pursuant to this title, or any permit condition shall be liable for a civil penalty not to exceed \$7,500 (Seven Thousand Five Hundred Dollars) per day for each violation and an additional penalty of \$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.

Should you have any questions regarding this matter, please call me at (716) 851-7220.

Sincerely,



Peter Grasso, P.E.
Regional Enforcement Coordinator

PG/bb

Enclosure

cc: Ms. Maureen Brady, Esq., NYSDEC, Regional Attorney
Mr. James Strickland, P.E., NYSDEC Regional Engineer
Ms. Efrat Forgette, P.E., NYSDEC, Division of Materials Management, Region 9
Mr. Richard Clarkson, P.E., NYSDEC, Division of Materials Management, Albany
Mr. Jeff Contino, Nulife Glass, Environmental Manager

NuLife Glass
Notice of Violation

Compliance Schedule

Respondent shall, on or before the dates indicated:

<u>ITEM</u>	<u>COMPLETION DATE</u>
1. Submit an Updated Closure Cost Estimate, based on the maximum amount of material expected to be stored at the Dunkirk facility six months into the future. The estimate must include cost for off-site disposal of the following: <ul style="list-style-type: none">• Whole CRTs• Unprocessed Leaded Glass• Panel Glass• Processed Leaded Glass (feed stock for furnace)• De-Leaded Glass (from furnace)	January 1, 2016
2. Submit a surety instrument, acceptable to the Department, for proper closure of the Dunkirk facility.	Within 30 days of Department approval of an updated Closure Cost Estimate