

From: Gruen, Andrea M - DNR
Sent: Tuesday, June 16, 2020 10:48 AM
To: Kristin Holloway Jones (kristin.jones@newellco.com); Gabriel Rodriguez (grodriguez@schiffhardin.com)
Cc: Beggs, Tauren R - DNR; Nelson, William J - DNR; Chronert, Roxanne N - DNR
Subject: Newell Brands, Inc.: Notices of Violation
Attachments: Newell-Mirro_2020-06-16_NOV_Complete.pdf; Newell-Gravel_2020-06-16_NOV_Complete.pdf

Good morning,

Please see attached Notices of Violation that are being issued to Newell Brands, Inc., for alleged violations of state hazardous substance discharge laws at the sites listed below:

- “Manitowoc City / Former Newton Tn Gravel Pit” site (BRRTS Activity # 02-36-000268)
- “Former Mirro Plt 9” site (BRRTS Activity # 02-36-545108)

Contained within the Notices of Violation are a scheduled date for an enforcement conference to be held via teleconference on June 29, 2020 to discuss the alleged violations. The enforcement conferences have been scheduled to discuss the Manitowoc City / Former Newton Tn Gravel Pit site at 1:00 p.m., and the Former Mirro Plt 9 site at 2:30 p.m.

Please feel free to contact me with any questions that you have regarding the Notices of Violation or the department’s enforcement actions. The department looks forward to working with you to return to compliance with applicable state regulations.

Thank you,
Andrea Gruen

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Andrea Gruen

Environmental Enforcement Specialist – Bureau of Law Enforcement
Wisconsin Department of Natural Resources
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Green Bay, WI 54313
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BRRTS Activity # 02-36-545108
Manitowoc County
Electronic Delivery

June 16, 2020

Kristin Holloway Jones, Dir. of Environmental Affairs
Newell Brands, Inc.
6655 Peachtree Dunwoody Road
Atlanta, GA 30328

Gabriel Rodriguez, Attorney
Schiff Hardin LLP
233 South Wacker Drive; Suite 7100
Chicago, IL 60606

SUBJECT: **NOTICE OF VIOLATION / ENFORCEMENT CONFERENCE – JUNE 29, 2020**

Dear Ms. Holloway Jones and Mr. Rodriguez,

The Department of Natural Resources (department) has reason to believe that Newell Brands, Inc. (Newell) is in violation of state hazardous substance discharge laws at the property known as “Mirro Plt 9 (Former)” located at 1512 Washington Street, City of Manitowoc, Manitowoc County, Wisconsin (Site). These violations were documented through a review of the department’s records.

The department alleges the following violations:

- **Section 292.11(3), Wis. Stats., Hazardous substance spills. Responsibility.**
A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of this state.
- **Section NR 700.11, Wis. Adm. Code, Submittals.**
(1) **General.** Unless otherwise directed by the department, responsible parties shall comply with the following:
(a) Responsible parties shall submit site progress reports that summarize the completed work and additional work planned to adequately complete the response action at the site or facility to the department at 6 month intervals until case closure is granted by the department.
- **Section NR 716.09, Wis. Adm. Code, Site investigation work plan.**
(1) **General.** Unless otherwise directed by the department, in cases where a site investigation is required under s. NR 716.05, responsible parties shall submit a work plan to the department within 60 days of receiving notification that a site investigation is required, describing the intended scope and conduct of a field investigation.

The department was notified of the presence of hazardous substances (per- and polyfluoroalkyl substances; "PFAS") at the Site on September 24, 2018. This contamination was in addition to the polychlorinated biphenyl (PCB), volatile organic compound (VOC), Resource Conservation and Recovery Act (RCRA) metals, and polyaromatic hydrocarbon (PAH) contamination that was previously detected at the Site. A responsible party letter was issued to Newell on September 24, 2018, notifying Newell of its responsibilities under Chapter 292, Wis. Stats., and the NR 700, Wis. Adm. Code Rule Series, to investigate and remediate the Site. This letter acknowledged the ongoing investigation work by the City of Manitowoc (a local government with the environmental liability exemption) at the Site and recommended the coordination of investigation efforts.

On October 26, 2018, Schiff Hardin LLP, on behalf of Newell, provided a response to the responsible party letter. On November 16, 2018, the department requested that Newell provide additional information about its intent to coordinate remediation efforts with the City of Manitowoc or hire its own consultant and reiterated that the site investigation work plan was due by November 24, 2018 per s. NR 716.09, Wis. Adm. Code. On November 19, 2018, Schiff Hardin LLP responded stating that Newell had retained its own consultant and acknowledged that the timeline proposed by the City of Manitowoc for submitting a site investigation work plan "after the holidays" was past the deadline imposed by the department; therefore, an extension was requested.

On November 28, 2018, the department granted a 30 day extension to Newell for the submittal of the site investigation work plan in an effort to allow Newell and the City of Manitowoc to coordinate efforts. The new due date by which the site investigation work plan was to be submitted was December 28, 2018. On December 19, 2018, a second extension was requested and granted for the submittal of the site investigation work plan until January 31, 2019.

On February 20, 2019, the department issued a Notice of Non-Compliance to Newell for failure to submit a site investigation work plan. On February 28, 2019, Schiff Hardin LLP provided a response to the Notice of Non-Compliance. Since that time, additional communications between the DNR, Schiff Hardin LLP, and Newell's consultant Ramboll occurred in March 2019 and May 2019 regarding submittal of a site investigation work plan and the City of Manitowoc has provided additional investigation documentation, which Newell has been notified of.

Therefore, the department believes that Newell has failed to submit a site investigation work plan, as required per s. NR 716.09, Wis. Adm. Code. Based on the investigation data submitted to date, the site investigation work plan needs to be submitted to define degree and extent of contamination and the municipal well closest to the site needs to be sampled for PFAS.

We have scheduled an enforcement conference to discuss this matter in more detail:

Teleconference Date & Time: June 29, 2020 at 2:30 p.m.

Teleconference Call Number: 1(866) 715-6499; Passcode: 5028568926#

Newell Brands Inc.
Mirro Plt 9 (Former)
June 16, 2020

With the changing circumstances surrounding the COVID-19 public health emergency, the department realizes this date and time may not work or that circumstances may change prior to the scheduled date. Please contact me at the number below and I will work with you to find a mutually acceptable date and time.

The department requests Newell Brands to attend the enforcement conference, as it is an important opportunity to discuss the circumstances surrounding the alleged violations and to learn your perspective on this matter. Please note that to encourage a candid and productive conversation, attendance is limited to you, your legal counsel and others with the technical expertise necessary to understand, evaluate and correct the violations.

The department's enforcement decision will be based upon available information if you do not attend the enforcement conference.

Please be advised that the violations alleged above are enforced through Ch. 292, Wis. Stats., and may be referred to the Department of Justice to obtain court ordered compliance and penalties up to \$5,000 per day of violation. In addition, please note that the department has the authority under s. 292.94, Wis. Stats., to assess non-reimbursable fees as specified in ch. NR 740, Wis. Adm. Code, to parties involved in enforcement actions.

If you have any questions regarding this notice or need to reschedule the enforcement conference, please call me at (920) 366-1980.

Sincerely,



Andrea Gruen
Environmental Enforcement Specialist

Enclosure: Enforcement Conference Information Sheet

Cc: Tauren Beggs, DNR – Green Bay
Roxanne Chronert, DNR – Green Bay
Kathleen McDaniel, City of Manitowoc
William Nelson, DNR – GEF2



Environmental Enforcement Conference

An Enforcement Conference (EC) is a meeting between Department of Natural Resources (Department) staff and representatives of a person or business that the Department believes has violated an environmental law. The Department issues a Notice of Violation (NOV) when it has reason to believe that a violation of a permit condition, administrative rule or statutory requirement has occurred. The NOV either offers or schedules an EC.

Why Should I Attend?

The EC is an important opportunity to discuss the Department's basis for the alleged violation(s) and learn more about what happened, why it may have happened, and any factors you believe the Department should consider, such as steps that have been or will be taken to stop the violation, correct any effects of the violation, and prevent violations from occurring in the future. It is also your opportunity to explain why you might disagree with the factual and legal conclusions underlying the NOV.

Historic data shows that most violations are resolved at the EC level, without the need for court ordered compliance and/or penalties. In situations where the significance of the violation warrants further enforcement action, your cooperative efforts to resolve the violation and prevent future violations will help minimize your legal and financial liability.

Who Should Attend the EC?

Department staff involved in the EC typically consists of an Environmental Enforcement Specialist and regulatory staff that are familiar with the issues identified in the NOV.

While not required, you may seek representation by legal counsel or the assistance of an environmental consultant to prepare for and/or attend the EC. The EC is most productive when all involved are well-prepared to discuss the allegations and any corrective actions that may be necessary.

To ensure a productive candid discussion, participation in the EC is limited to the person or business involved and others with the legal or technical expertise necessary to understand, evaluate, mitigate and correct the violation. The EC is not an open meeting under state law and the Department will limit participation to those directly involved in the resolution of the matter.

What Happens if I don't Attend the EC?

If a party is unable to attend the EC, they should immediately contact the Environmental Enforcement Specialist at the phone number in the NOV to reschedule. When a party refuses to attend the EC and provides no further information to the Department, the Department's enforcement decision will be based upon available information.

What Happens Following the EC?

The EC is part of the Department's stepped enforcement process. At the EC, Department staff will explain the process and options available to address the alleged violation. Generally, the options range from closing the matter with no further action to referral to the Wisconsin Department of Justice (DOJ) or to U.S. EPA, for further enforcement action. In limited circumstances, the Department can issue citations, which are handled in local court similar to traffic offenses. If a case is referred to DOJ, the DOJ may initiate an action in court on behalf of the State. The State typically asks the Court to impose financial penalties and order completion of any necessary corrective actions. In most of the Department's cases, a cooperative return to compliance with any necessary restoration results in close out of the case. At close out, the Department will send a letter advising of no further enforcement action.