



April 23, 2020

Eric Bretl, Director of Operations
 Johnson Controls
 One Stanton St
 Marinette, WI 54143
[sent electronically]

Subject: **NOTICE OF NONCOMPLIANCE**
WPDES Permit #WI-0046566-07 FIN 64624
Permit Limit Exceedance (June and November 2019)

Dear Mr. Bretl:

The Wisconsin Pollution Discharge Elimination System (WPDES) authorized under s. 283.31, Wis. Stats., requires that the **Tyco Fire Products LP – Fire Technology Center Ditch A** issued WPDES permit # **WI-0046566-07**, a point source facility, meet permit conditions. The purpose of this letter is to issue a Notice of Noncompliance (NON) for violations of the above referenced WPDES Permit. The alleged violations are limit exceedances and system modifications that were unreported to the department.

Summary of Noncompliance:

1. Permit Limit Exceedances & Failure to Properly Report

Parameter	Monthly Average Limit from Sec. 4.2.1.1, Table 1 of the WPDES general permit	June 2019	November 2019
PAHs	0.1 ug/L	0.655 ug/L	1.338 ug/L

- a. Pursuant to **Section 7.1.4** of the WPDES general permit, permittees are required to report violations to the department within 24 hours after becoming aware and submitting a written report within 5 business days
- b. The facility/consultant has not contacted the department regarding these, or other limit exceedance violations, that have occurred. Typically, a comment is made on the monthly reporting form regarding any violations which does not meet the 24 hour reporting requirement or satisfy a full reporting of the exceedances and how they were addressed. Violations for PAH limits have not been addressed on the reporting forms.
- c. The department has requested appropriate follow up during previously regular scheduled phone conferences with JCI/Tyco and Arcadis, with no response. The department has sent email requests to Arcadis and JCI/Tyco on February 13 and March 13, 2020 with no response.

2. Failure to obtain approval for planned changes to treatment operations

- a. Pursuant to **Section 7.1.5** of the WPDES general permit (and s. NR 108.03(1), "No person may commence, or cause to commence, construction of any reviewable project until final

plans and specifications for such projects have been reviewed and approved by the department...”), planned changes to the operation of the treatment system are to be reported to the department. Some projects, defined as “Reviewable Projects” (see s. NR 108.02(13)(e), Wis. Adm. Code) require final plan and specifications for projects to be reviewed and approved by the department prior to system modification.

- b. The modifications described (e.g. replacement of hose connections with pipe manifolds and valves; addition of decant wastewater holding tank, pump, and additional bag filters; modified use and purpose of storage tank T-02, and feed pumps P-01A and P-01B; addition of bag filters, etc.) in the Semi-Annual Operations, Maintenance, and Optimization Progress Report for July 1, 2019 – December 31, 2019, dated February 2020, are considered a reviewable project that could potential impact the quality of wastewater discharged from the system.

Requested Actions:

Tyco Fire Products LP – Fire Technology Center Ditch A is currently out of compliance with its WPDES Permit **and will remain in noncompliance** until all requirements of the permit conditions are met. To achieve compliance, the department requests the following actions:

- Provide an explanation of the circumstances that led to the exceedances and what processes will be put in place to maintain compliance with the permit limits.
- Future violations shall be reported via phone to Alexis Heim Peter (920/391-9526) within 24 hours of becoming aware of the noncompliance. A follow up report describing the noncompliance shall also be submitted within 5 days. The content of the reports shall be consistent with **Section 4.2.3** of the WPDES general permit.
- Submit as-built documentation of the system modifications pursuant to **Section 7.1.5** of the WPDES general permit. Please review submittal requirements available online at: <https://dnr.wi.gov/topic/wastewater/industrialsystems.html>

Please provide a written response to the department within 45 days (June 8, 2020) of receipt of this letter addressing each of the required action items. Please be advised that if violations continue or if corrective action is not achieved, that the department may pursue further enforcement action. Those actions may ultimately result in a referral to the Department of Justice with potential penalties per s. 283.89, Wis. Stats.

The department recognizes the hardships caused by the COVID-19 pandemic public health emergency and Governor Evers’ Safer at Home mandate. If you have any questions or comments, please contact me at Alexis.Peter@wisconsin.gov or 920/391-9526. I appreciate your cooperation in protecting our natural resources.

Sincerely,



Alexis Heim Peter
DNR Wastewater Specialist

CC (email): Jeff Danko, Johnson Controls Inc.
Ben Verberg, Arcadis US Inc
Heidi Schmitt Marquez, DNR – Green Bay
Dave Neste, DNR – Oshkosh