



November 24, 2020

Marinette County
BRRTS # 02-38-583852
EMAILED

David Mielke, President/CEO
ChemDesign Products Inc.
2 Stanton Street
Marinette, WI 54143

ChemDesign Products Inc.
C/O Corporation Service Company
8040 Excelsior Drive, Suite 400
Madison, WI 53717

Subject: **NOTICE OF VIOLATION / ENFORCEMENT TELECONFERENCE DECEMBER 9, 2020 1:00PM**

Dear Mr. Mielke:

This letter is to advise you that the Department of Natural Resources (department) has reason to believe that ChemDesign Products Inc. (ChemDesign) is in violation of the state hazardous substance spill law, Ch. 292, Wisconsin Statutes (Wis. Stats.), at its facility located at 2 Stanton Street, Marinette, Marinette County, Wisconsin (the Site). The department realizes the COVID-19 public health emergency is affecting daily operations for many businesses and municipalities. What the department is hoping to accomplish through this notice and teleconference is to begin discussions of possible actions and timelines for achieving compliance.

ChemDesign is a "responsible party" under s. NR 700.03(51), Wisconsin Administrative Code, and is required to take a response action under ch. 292, Wis. Stats., as identified in the responsible party letter sent to you on July 2, 2019. (BRRTS# 02-38-583852, FID #438008340)

The department alleges the following violations:

- 1. Section 292.11(3), Wis. Stats. Responsibility. A person who possess 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.**

The department issued a responsible party letter on July 2, 2019, requiring ChemDesign to address per- and polyfluoroalkyl substances (PFAS) contamination discovered in the soil and groundwater at the site. ChemDesign manufactures products containing PFAS at the site. ChemDesign submitted a response dated September 13, 2019 identifying that Johnson Controls Inc. and Tyco Fire Products, LP were responsible for the PFAS cleanup actions at the site. ChemDesign has not moved forward with the required investigation.

The department believes, ChemDesign has failed to take actions to restore the environment, as required.

We have scheduled a Teleconference to discuss this matter in more detail:

Teleconference Date and Time: Wednesday, December 9, 2020 at 1:00 p.m.
Teleconference Call Number: toll-free number (866) 715-6499,
conference ID 8590115558#

At 1:00 p.m. please call the toll-free number listed above and enter the conference ID plus the “#” sign. This will connect you to the teleconference.

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.

We request you join the teleconference, 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. A fact sheet describing an enforcement conference is enclosed.

Please supply the following to the department:

- 1. A full signed copy of all lease agreements with the current and historic property owners at the Stanton Street property.**
- 2. Any legal agreements between ChemDesign and with Johnson Controls, Inc and/or Tyco Fire Products, LP regarding environmental responsibilities.**

Please be advised that the department is authorized to seek injunctive or other appropriate relief for violations of spill pollution laws, including forfeitures of not more than \$5,000 per day of violation pursuant to Chapter 292, Wisconsin Statutes. Each day of violation is considered a separate offense.

If you have any questions or need to reschedule the conference, please contact me at (920) 808-0045.

Sincerely,



Jennifer Pelczar
Environmental Enforcement Specialist

Enclosure: Enforcement Conference Fact Sheet

cc: David Neste – David.neste@wisconsin.gov
Alyssa Sellwood – Alyssa.sellwood@wisconsin.gov
Roxanne Chronert – Roxanne.chronert@wisconsin.gov
Jodie Peotter – Jodie.peotter@wisconsin.gov



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.