

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Wisconsin Rapids Service Center
473 Griffith Avenue
Wisconsin Rapids WI 54494

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



November 11, 2015

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Wallace Scroggins III
Brazo's Urethane
1031 6th Street North
Texas City, TX 77590

2015-WCEE-070
Solid Waste -- Adams County

Warden Carol Holinka
Oxford Federal Correctional Institute
County Road G & Elk Avenue
Oxford, WI 53952

Subj: **NOTICE OF VIOLATION AND ENFORCEMENT CONFERENCE**

Dear Mr. Scroggins and Warden Holinka:

The Department of Natural Resources has reason to believe that Brazo's Urethane and the Oxford Federal Correctional Institute is in violation of state air pollution control laws s. NR 447.06(1), s. NR 447.07(1), (2), (3), and s. NR 447.13, Wis. Adm. Code and solid waste laws s. 289.31, Wis. Stats., s. NR502.05 and s. NR 500.06, Wis. Adm. Code at property located at 863 Elk Avenue, Oxford, Adams County, Wisconsin. These violations were documented during a compliance inspection which was in response to complaints received by the department. The inspection was conducted by Department staff on November 4, 2015. The Department alleges the following violations:

1. s. 289.31, Stats, & NR 502.05, Wis. Adm. Code, & NR 500.06, Wis. Adm. Code: Illegal disposal of roofing waste, solid waste storage without a license.
2. s. NR 447.06 (1) Failure to thoroughly pre-inspect the facility where the demolition or renovation will occur. "To determine which requirements of this section and ss. NR 447.07 and 447.08 apply to the owner or operator of a demolition or renovation activity, the owner or operator shall, prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II nonfriable ACM." Brazo's Urethane and Oxford Federal Corrections Institution (OFCl) failed to identify regulated asbestos containing material (RACM) in the roofing material that was improperly removed and deposited on the property located at 863 Elk Avenue.
3. s. NR 447.07 (1), (2), or (3) Demolition and renovation; notification requirements. Each owner or operator of a demolition or renovation activity to which this chapter applies shall: (1) Provide the department with written notice of intention to demolish or renovate. Delivery of the notice by U.S. postal service, commercial delivery service or hand delivery is acceptable. (2) Update the notice, as

necessary, including when the amount of asbestos affected changes by at least 20%. (3) Postmark or deliver the notice as follows: (a) At least 10 working days before asbestos stripping or removal work or any other activity begins. Brazo's Urethane failed to notify the Department of the removal of over 150 cubic yards of RACM from OFCI to the site located at 863 Elk Avenue.

4. s. NR 447.08 (3 & 4) Demolition and renovation; procedures for asbestos emission control. Failure to adequately wet the RACM removed from the facility and end employ negative pressure enclosure during renovation operations. Material found on disposal site not adequately wetted or stored in leak proof containers.
5. s. NR 447.13 Failure to adequately dispose of asbestos containing materials once removed from a facility. The asbestos contaminated roofing debris was transported to a site not licensed to accept asbestos waste.

We have scheduled the following Enforcement Conference to discuss this matter in more detail:

Date: November 14, 2015
Time: 10:30 a.m.
Location: Adams County Courthouse, Room A30 (downstairs)
400 Main Street
Friendship, WI 53934

We request you 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 in an effort 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 violation.

In preparation for the enforcement conference, please be prepared to discuss the specifics of the roofing project, removal of the materials, contract specifics, etc. The Department's enforcement decision will be based upon available information if you do not attend the Enforcement Conference.

It is required that the material be removed and properly disposed of as friable asbestos containing material and landfilled as a facility licensed to accept asbestos containing material. The area where the material has been distributed must be cleared to bare ground – no indication of the waste material visually evident. The Department requires that receipts be provided to document the proper disposal of all on-site materials. In addition, Department staff will need to observe the site upon completion to determine that the clean-up is adequate. The Department will also require that an "After-the-Fact" Form 4500-113, "Notification for Demolition and/or Renovation and Application for Permit Exemption" be completed and filed with the Department.

Please be advised that violations of ch. 289, Wis. Stats., may be referred to the Department of Justice to obtain court ordered compliance and penalties up to \$5,000 per day of violation. Violations of ch. 285, Wis. Stats, may be referred to the Department of Justice to obtain court ordered compliance and penalties up to \$25,000 per day of violation. In addition, the Department has the authority to issue citation for certain violations dependent on the details of the case.

If you have questions or need to reschedule the conference, please contact me at 715/421-7809 or through e-mail at deb.dix@wisconsin.gov.

Sincerely,



Deborah S. Dix
Environmental Enforcement Specialist

Enclosure – What is an enforcement conference information sheet

- c. Mark Chamberlain, Oshkosh
- Brenda Halminiak, Wausau
- Mark Davis, Milwaukee
- Bill Baumann, AM/7
- Jill Schoen, Eau Claire
- Martha Makhholm, AM/7
- Larry / Nadine Fattig, by e-mail
- Mike Szabo, LS/8
- Cheryl Heilman, LS/8



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.