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NEWELL RUBBERMAID INC
Form S-8
February 08, 2008

As filed with the Securities and Exchange Commission on February 8, 2008
Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-8
Registration Statement
under
The Securities Act of 1933

NEWELL RUBBERMAID INC.
(Exact name of registrant as specified in its charter)

DELAWARE
(State or other
jurisdiction of
incorporation or
organization)

36-3514169
(I.R.S. employer
identification no.)

10B Glenlake Parkway
Suite 300
Atlanta, Georgia 30328
(Address of principal executive offices, including zip code)

NEWELL RUBBERMAID INC. 2008 DEFERRED COMPENSATION PLAN
(Full title of the plan)

Dale L. Matschullat
Senior Vice President, General Counsel and Corporate Secretary
10B Glenlake Parkway, Suite 300
Atlanta, Georgia 30328
(Name and address of agent for service)

(770) 407-3830
(Telephone number, including area code, of agent for service)

With a copy to:

Lauralyn G. Bengel
Schiff Hardin LLP
6600 Sears Tower
Chicago, Illinois 60606
(312) 258-5670

CALCULATION OF REGISTRATION FEE

Amount	Proposed maximum offering
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Title of Securities to be Registered -----	to be registered -----	price per share -----	offe --
Deferred Compensation Obligations	\$50,000,000 (1)	N/A	\$50
Interests in the Plan	(2)	(2)	

(1) Deferred Compensation Obligations represent general unsecured obligations of the Registrant for deferred compensation in accordance with the above-referenced Plan.

(2) In addition, pursuant to Rule 416(c) under the Securities Act of 1933, this Registration Statement covers an indeterminate amount of interests to be offered or sold pursuant to the Plan for which no separate fee is required.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by Newell Rubbermaid Inc. (the "Registrant") are incorporated herein by reference:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2006;
- (b) The Registrant's Quarterly Reports on Form 10-Q for the quarters ended March 31, 2007, June 30, 2007 and September 30, 2007;
- (c) All other reports of the Registrant filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, since the end of 2006; and
- (d) The description of the Registrant's Common Stock contained in the Registrant's Registration Statement on Form 8-B filed on June 30, 1987.

All documents subsequently filed by the Registrant or the Plan pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing of such documents.

ITEM 4. DESCRIPTION OF SECURITIES.

The Plan provides a select group of management or highly compensated employees of the Registrant and its affiliates, and non-employee directors of the Registrant, with an opportunity to defer a portion of their compensation (including base salary, bonus and director fees) on a pre-tax basis. The Registrant may make discretionary credits of employer contributions to participants' accounts under the Plan. Participants' accounts also reflect certain

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amounts transferred from their accounts under the Newell Rubbermaid Inc. 2002 Deferred Compensation Plan. The amount of compensation deferred under the Plan is based on elections by each Plan participant in accordance with the terms of the Plan, the Registrant contributions, the amounts, if any, transferred to their accounts under the Plan and the earnings or losses thereon. The obligation of the Registrant to pay such deferred compensation (the "Obligations") will become due as pre-designated by each Plan participant or on retirement, death or other termination of employment in the form and

on the date or dates determined in accordance with the terms of the Plan.

Amounts deferred under the Plan will be credited with investment returns based on investment alternatives chosen by each Plan participant, and the amount of the Obligations payable to each Plan participant will reflect the investment returns of the chosen investment alternatives. However, the Plan participants will have no ownership interest in any of the investment alternatives. Each Plan participant is an unsecured general creditor of the Registrant with respect to his or her own interest in the Plan. Benefits are payable solely from the general funds of the Registrant.

The Obligations cannot be assigned, transferred, pledged or otherwise encumbered by the Plan participants, except that each Plan participant may designate one or more beneficiaries to receive benefits upon his or her death. The Registrant reserves the right to amend or partially or completely terminate the Plan, provided that such amendment or termination does not result in any reduction of a Plan participant's account balance, including previous earnings or losses, as of the date of such amendment or termination.

The total amount of Obligations being registered pursuant to this Registration Statement is \$50,000,000.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Not applicable.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Section 102 of the Delaware law allows a corporation to eliminate the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except in cases where the director breached his or her duty of loyalty to the corporation or its stockholders, failed to act in good faith, engaged in intentional misconduct or a knowing violation of the law, willfully or negligently authorized the unlawful payment of a dividend or approved an unlawful stock redemption or repurchase or obtained an improper personal benefit. The Registrant Charter contains a provision which eliminates directors' personal liability as set forth above.

The Charter and the Bylaws of the Registrant provide in effect that the Registrant shall indemnify its directors and officers to the extent permitted by the Delaware law. Section 145 of the Delaware law

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provides that a Delaware corporation has the power to indemnify its directors, officers, employees and agents in certain circumstances.

Subsection (a) of Section 145 of the Delaware law empowers a corporation to indemnify any director, officer, employee or agent, or former director, officer, employee or agent, who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding provided that such director, officer, employee or agent acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, provided that such director, officer, employee or agent had no reasonable cause to believe that his or her conduct was unlawful.

Subsection (b) of Section 145 of the Delaware law empowers a corporation to indemnify any director, officer, employee or agent, or former director, officer, employee or agent, who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person acted in any of the capacities set forth above, against expenses (including attorneys' fees) actually and reasonably incurred in connection with the defense or settlement of such action or suit provided that such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification may be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery shall determine that despite the adjudication of liability such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

Section 145 further provides that to the extent that a director or officer or employee of a corporation has been successful in the defense of any action, suit or proceeding referred to in subsections (a) and (b) or in the defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith; that indemnification provided by Section 145 shall not be deemed exclusive of any other rights to which the party seeking indemnification may be entitled; and the corporation is empowered to purchase and maintain insurance on behalf of a director, officer, employee or agent of the corporation against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such whether or not the corporation would have the power to indemnify him or her against such liabilities under Section 145; and that, unless indemnification is

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ordered by a court, the determination that indemnification under subsections (a) and (b) of Section 145 is proper because the director, officer, employee or agent has met the applicable standard of conduct under such subsections shall be made by (1) a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (2) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (3) by the stockholders.

The Registrant has in effect insurance policies for general officers' and directors' liability insurance covering all of the Registrant's officers and directors. The Registrant also has entered into indemnification agreements with each of its officers and directors that provide that the officers and directors will be entitled to their indemnification rights as they existed at the time they entered into the agreements, regardless of subsequent changes in the Registrant's indemnification policy.

Pursuant to an Agreement and Plan of Merger by and between Newell Co., Rooster Company and Rubbermaid Incorporated dated as of October 20, 1998 (the "Merger Agreement"), the Registrant will, to the fullest extent not prohibited by applicable law, indemnify, defend and hold harmless each person who is now, or has been at any time prior to the date of the merger agreement, or who becomes prior to the Effective Time (as defined in the Merger Agreement), an officer, director or employee of Rubbermaid or any of its subsidiaries against any losses, expenses, claims, damages or liabilities (1) arising out of acts or omissions occurring at or prior to the Effective Time that are based on or arising out of the fact that such person is or was a director, officer or employee of Rubbermaid or any of its subsidiaries or served as a fiduciary under or with respect to any Rubbermaid employee benefit plan and (2) to the extent they are based on or arise out of the transactions contemplated by the Merger Agreement.

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED.

Not applicable.

ITEM 8. EXHIBITS.

The exhibits filed herewith or incorporated by reference herein are set forth in the Exhibit Index filed as part of this Registration Statement.

ITEM 9. UNDERTAKINGS.

The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

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(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

PROVIDED, HOWEVER, that paragraphs (i) and (ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial BONA FIDE offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial BONA FIDE offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or

proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of

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appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

SIGNATURES

THE REGISTRANT. Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Atlanta, State of Georgia, on the 7th day of November, 2007.

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NEWELL RUBBERMAID INC.
(Registrant)

By: /s/ Mark D. Ketchum

Mark D. Ketchum
President and Chief Executive Officer

Each person whose signature appears below appoints J. Patrick Robinson, Rick T. Dillon and Dale L. Matschullat, or any one of them, as such person's true and lawful attorneys to execute in the name of each such person, and to file, any pre-effective or post-effective amendments to this Registration Statement that any of such attorneys shall deem necessary or advisable to enable the Registrant to comply with the Securities Act of 1933, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission with respect thereto, in connection with this Registration Statement, which amendments may make such changes in such Registration Statement as any of the above-named attorneys deems appropriate, and to comply with the undertakings of the Registrant made in connection with this Registration Statement; and each of the undersigned hereby ratifies all that any of said attorneys shall do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

SIGNATURE -----	TITLE -----	DATE -----
/s/ Mark D. Ketchum ----- Mark D. Ketchum	President and Chief Executive Officer (Principal Executive Officer) and Director	November 7, 2007
/s/ J. Patrick Robinson ----- J. Patrick Robinson	Executive Vice President - Chief Financial Officer (Principal Financial	November 7, 2007

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Officer)

/s/ Rick T. Dillon

Rick T. Dillon Vice President - November 7, 2007
Corporate Controller
(Principal Accounting
Officer)

/s/ Thomas E. Clarke

Thomas E. Clarke Director November 7, 2007

/s/ Scott S. Cowen

Scott S. Cowen Director November 7, 2007

/s/ Michael T. Cowhig

Michael T. Cowhig Director November 7, 2007

/s/ William D. Marohn

William D. Marohn Chairman of the Board November 7, 2007
and Director

/s/ Elizabeth Cuthbert Millett

Elizabeth Cuthbert Millett Director November 7, 2007

SIGNATURE

TITLE

DATE

/s/ Cynthia A. Montgomery

Cynthia A. Montgomery Director November 7, 2007

/s/ Steven J. Strobel

Steven J. Strobel Director November 7, 2007

/s/ Gordon R. Sullivan

Gordon R. Sullivan Director November 7, 2007

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/s/ Michael A. Todman Director November 7, 2007

Michael A. Todman

/s/ Raymond G. Viault Director November 7, 2007

Raymond G. Viault

THE PLAN. Pursuant to the requirements of the Securities Act of 1933, the Plan Administrator has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Atlanta, State of Georgia, on February 4, 2008.

NEWELL RUBBERMAID INC.
2008 DEFERRED COMPENSATION PLAN

By: /s/ Thomas J. Nohl

Thomas J. Nohl
Benefit Plans Administrative
Committee

INDEX TO EXHIBITS

Exhibit Number -----	Exhibit -----
4.1	Restated Certificate of Incorporation of Newell Rubbermaid Inc., as amended as of April 5, 2001 (incorporated by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period March 31, 2001).
4.2	By-Laws of Newell Rubbermaid Inc., as amended (incorporated by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2007).
5	Opinion of Schiff Hardin LLP.
23.1	Consent of Ernst & Young LLP.
23.2	Consent of Schiff Hardin LLP (contained in the Opinion filed as Exhibit 5).
24	Power of Attorney (contained on the signature pages hereto).

