



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL

89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

OFFICE OF THE  
SECRETARY

PHONE: (302) 739-4403  
FAX: (302) 739-6242

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT  
AND SECRETARY'S ORDER**

Pursuant to 7 Del. C. §6005(b)(3)

**Order No. 2005-A-0014**

*PERSONALLY SERVED BY ENVIRONMENTAL  
PROTECTION OFFICER*

**Issued to:**

D & B Products,  
Insulation Division, (Multi-Tech, Inc.)  
Attn: D. Brooke Kinney, Vice President  
2-4 Cedar Creek Avenue  
Georgetown, Delaware 19947

**Registered Agent:**

YCST Services, LLC  
1000 West Street,  
Brandywine Bldg., 17<sup>th</sup> Floor  
Wilmington, Delaware 19801

Dear Mr. Kinney:

This is to notify D & B Products, Insulation Division ("Respondent"), that the Secretary of the Department of Natural Resources and Environmental Control ("Department") has found Respondent in violation of 7 Del. C. Chapter 60, and accordingly, the Department is issuing a Notice of Administrative Penalty Assessment, ("Assessment and Order"), pursuant to 7 Del. C. §6005(b)(3).

***BACKGROUND***

On July 1, 1998, the Department issued Permit: AQM-005/00121 to Respondent. Permit: AQM-005/00121 authorized Respondent to use five polyester tube manufacturing lines and one banding tape manufacturing line. The process of manufacturing polyester tubing at Respondent's facility creates a potential to emit over 10 tons per year of Methyl Ethyl Ketone which is a hazardous air pollutant.

*Delaware's Good Nature depends on you!*

According to Condition (3)(c)(3)(i) of Permit: AQM-005/00121, Respondent was required to submit an Annual Compliance Certification Report by February 1<sup>st</sup> of each year. On April 6, 2001, the Department issued a Notice of Violation (NOV) to Respondent for failing to submit its Annual Compliance Certification Report by the February 1<sup>st</sup> due date. The April 6, 2001, NOV specifically stated that Respondent should, "immediately comply with this letter by submitting its Annual Compliance Certification Report for calendar year 2000."

On May 1, 2001, a Department representative contacted Respondent to inform Respondent that the Department had not received its Annual Compliance Certification Report as requested in the April 6<sup>th</sup> NOV. The Department representative gave Respondent until May 23, 2001 to submit its report. The Department received Respondent's Annual Compliance Certification Report on May 23, 2001, approximately 23 days after the second due date. Subsequently, Respondent submitted its 2002 Annual Compliance Certification Report on January 13, 2003; however, the report was incomplete.

Respondent was issued Permit: AQM-005/00121 (Renewal 1) on April 28, 2003.

### ***FINDINGS OF FACT***

On March 31, 2004, Respondent submitted its 2003 Annual Compliance Certification Report to the Department, approximately two months overdue. Subsequently, the Department conducted a thorough review of the report and discovered that the report was incomplete. On April 12, 2004, the Department sent Respondent a letter in reference to its Annual Compliance Certification Report received on March 31, 2004.

The letter from the Department listed the areas where additional information would be needed in order for Respondent to fully comply with its permit. In addition, the letter set forth a deadline of May 1, 2004, by which the report needed to be corrected and resubmitted to the Department. Once again, Respondent's report was overdue. Respondent submitted its report on May 19, 2004. Consequently, the Department issued a Notice of Violation to Respondent on May 28, 2004 for failure to submit the Annual Compliance Certification Report in a timely manner.

### ***PERMIT REQUIREMENTS***

Condition (3)(c)(3)(i) of Permit: AQM-005/00121-Renewal 1 states:

"Compliance with terms and conditions detailed in Condition 3 – Table 1 of this permit shall be certified to the Department not later than the first day of February of each year unless the terms or conditions in Condition 3 – Table 1 require compliance certifications to be submitted more frequently. Such certification shall cover the previous calendar year and shall be submitted on form AQM 1001BB...."

## ***CONCLUSIONS***

Respondent violated Condition (3)(c)(3)(i) of Permit: AQM-005/00121-Renewal 1 by failing to submit a timely and complete Annual Compliance Certification Report by February 1, 2004. The Department received an incomplete 2003 Annual Compliance Certification Report from Respondent on March 31, 2004, approximately two months overdue. Subsequently, the Department allowed Respondent to complete and resubmit its Annual Compliance Certification Report by May 1, 2004. Respondent submitted its Annual Compliance Certification Report on May 19, 2004, nineteen days past the second deadline.

## ***ASSESSMENT OF PENALTY***

Pursuant to the provisions of 7 Del. C. § 6005(b)(3), this letter will serve as written notice to Respondent that on the basis of its findings, the Department has determined that a \$7,500.00, penalty and \$1,185.20 reimbursement for Department costs, are appropriate for fully resolving the alleged violations identified in this Assessment and Order. This Assessment and Order is being issued in order to dispose of this issue without litigation, and without any admission by Respondent of liability for alleged violations.

Respondent shall submit a check to the Department in the amount of \$7,500.00, for the penalty and a check in the amount of \$1,185.20 for the Department's costs within 30 days from the receipt of this Assessment and Order. The checks shall be made payable to the "State of Delaware" and shall be directed to: Keith Trostle, Deputy Attorney General, Delaware Department of Justice, Environmental Unit, 3<sup>rd</sup> Floor, 102 W. Water Street, Dover, Delaware 19904.

## ***PUBLIC HEARING***

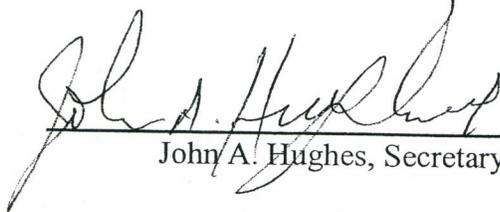
This Assessment and Order shall become effective and final unless the Department receives from Respondent, no later than 30 days from the receipt of this Notice, a written request for a public hearing on these matters as provided in 7 Del. C. §6005(b)(3). In the event Respondent requests a hearing, the Department reserves the right to withdraw this Assessment and Order and take additional enforcement actions it deems appropriate, including but not limited to, the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 Del. C. §6005. The Department otherwise does not intend to convene a public hearing on these matters, but reserves the right to do so at its discretion.

D & B Products, Insulation Division  
(Multi-Tech, Inc.)  
Administrative Penalty Order  
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If you have any questions, please contact Nancy E. Terranova at (302) 323-4542.

2-22-05

Date

  
\_\_\_\_\_  
John A. Hughes, Secretary

cc: Marjorie Crofts, Acting Director  
Keith Trostle, Deputy Attorney General  
Ali Mirzakhali, P.E., Administrator  
Paul Foster, P.E., Acting Program Manager  
Nancy E. Terranova, Program Manager  
Stephen S. Our, P.E., Environmental Engineer  
Thomas I. Lilly, Environmental Engineer  
Karen A. Mattio, Environmental Engineer  
Jennifer M. Bothell, Enforcement Coordinator  
Mercedes Rooks, Paralegal  
Dover File

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***WAIVER OF STATUTORY RIGHT TO A HEARING***

**D & B Products, Insulation Division** hereby waives its right to a hearing and its opportunity to appeal or contest this Assessment and Order and agrees to submit a check in the amount of \$7,500.00, for the penalty and a check in the amount of \$1,185.20 for the Department's costs, made payable to the "State of Delaware," within 30 days of receipt of this Assessment and Order. The checks shall be directed to Keith Trostle, Deputy Attorney General, Delaware Department of Justice, Environmental Unit, 3<sup>rd</sup> Floor, 102 W. Water Street, Dover, Delaware 19904.

**D & B Products, Insulation Division**

**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_