



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

OFFICE OF THE
SECRETARY

89 KINGS HIGHWAY
DOVER, DELAWARE 19901

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

Pursuant to 7 Del. C. § 6005(b)(3)

Order No. 2009-A-0017

***PERSONALLY SERVED BY ENVIRONMENTAL
PROTECTION OFFICER***

Issued to:

Mr. Joseph S. Konrad, Jr.
Playtex Products, Inc. – Plant 1
Energizer Personal Care, LLC
50 N. DuPont Highway
Dover, DE 19901

Registered Agent:

The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

Dear Mr. Konrad:

This is to notify Playtex Products, Incorporated (“Respondent” or “Playtex”) that the Secretary of the Department of Natural Resources and Environmental Control (“Department”) has found Respondent in violation of 7 Del. C. Chapters 60 and 63 and 7 DE Admin. Code 1302, *Delaware Regulations Governing Hazardous Waste* or (“DRGHW”). Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment pursuant to 7 Del. C. § 6005(b)(3).

BACKGROUND

Respondent, a manufacturer and marketer of feminine, skin and infant care products, is a subsidiary of Energizer Holdings, Inc. (“Energizer”) in Energizer’s Personal Care division. Respondent is the owner and operator of Plant 1 (“facility”) located at 50 N. DuPont Highway in Dover, Delaware.

On September 4, 2008, Department representatives conducted a DRGHW Compliance Assessment at the facility. Though previously classified as a large quantity

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generator¹ of hazardous waste, the Department documented that Respondent was operating as a small quantity generator² of hazardous waste at the time of the assessment. The assessment revealed 14 violations of the DRGHW. Similar violations were observed during previous compliance assessments on July 20, 2005, and August 18, 2004.

On September 24, 2008, Notice of Violation 08-HW-22 ("NOV") was sent by certified mail to Mr. Joseph S. Konrad, Jr. The NOV identified the violations found during the compliance assessment and required Respondent to demonstrate compliance within 30 days from receipt of the NOV. The Department's certified receipt indicated that Respondent received the NOV on October 1, 2008. Therefore, compliance was required by October 31, 2008.

On October 8, 2008, the Department received a hand-delivered response from Respondent. Though Respondent corrected many of the violations identified in the NOV, Respondent failed to provide the necessary documentation to ensure continued compliance, as required by law.

On October 15, 2008, the Department issued a follow-up letter identifying the deficiencies in Respondent's response. On November 17, 2008, the Department received a hand-delivered response from Respondent that, upon review by the Department, satisfactorily demonstrated Respondent's efforts to ensure continued compliance.

VIOLATIONS

1. **Section 262.34(d)(5)(ii) of the DRGHW states in part:**

"(ii) The generator must post the following information next to the telephone:

(A) The name and telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm."

On September 4, 2008, SHWMB representatives observed that Playtex had not posted emergency information next to the telephone in three areas where hazardous waste is accumulated (the Old Treat and Tumble Room, the Tank Room and the Acid Scrubber Area).

¹ Playtex was classified as a large quantity generator of hazardous waste during the period from January 26, 2007 until June 25, 2008.

² Playtex records, on the date of the compliance assessment, indicate that the facility began operating as a small quantity generator on June 25, 2008.