



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 and 7714

**Order No. 2009-A-0011**

*PERSONALLY SERVED BY AN ENVIRONMENTAL  
ENFORCEMENT OFFICER*

**Issued To:**

Baltimore Aircoil Company  
Attn: Gregory Lowman, Plant Manager  
1162 Holly Hill Road  
Milford, Delaware 19963

**Registered Agent:**

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

Dear Mr. Lowman:

This is to notify Baltimore Aircoil Company ("Respondent") 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 77, 7 DE Admin. Code 1102 and 7 DE Admin. Code 1201. Accordingly, the Department is issuing a Notice of Administrative Penalty Assessment, pursuant to 7 Del. C. §§ 6005(b)(3) and 7714(b).

***BACKGROUND***

Respondent owns and operates a facility located at 1162 Holly Hill Road in Milford, Delaware ("facility") that makes air handling systems and heat exchangers. Respondent uses propane for its heating processes and fueling fork trucks and subsequently has owned and operated a 30,000 gallon propane storage tank ("tank") at its facility since approximately 1978. The quantity of propane the tank can hold subjects Respondent to the requirements of 7 Del. C. Chapter 77 and 7 DE Admin Code 1201. In addition the tank is required to meet National Fire Protection Association Code requirements enforced by the State Fire Marshal.

On the morning of July 31, 2008, Respondent received delivery of propane to the tank resulting in it being approximately 75% full with 22,500 gallons of propane. Soon after, Respondent discovered a leak from a crack in a vapor line pipe joint at the bottom of the tank which could not be isolated with valves. Respondent reported the leak to the Department at

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9:35 am. The potential fire hazard from the leak necessitated response from local and state emergency responders who facilitated the removal of the propane from the tank to mitigate the fire hazard. This was accomplished by pumping out 21,148 gallons of propane into three propane transport trucks. The remaining 1,352 gallons of propane was released to the environment via the leak itself as well as controlled flaring. The entire process was completed on August 1, 2008 and took approximately 18 hours.

On August 4, 2008, the Department conducted a follow up inspection and discovered that the tank had been located at Respondent's facility for approximately 30 years. Subsequent state laws required Respondent to submit a Risk Management Plan which would have included registering the tank with the Department which it never did. In addition since 1992, Respondent was subject to but never paid an annual fee of \$500.

During the August 4<sup>th</sup> inspection, the Department observed that the tank supports had settled and the vapor line was bowed. The resulting stress on the line could have been a contributing factor in the development of the crack in the vapor line. While the tank had been onsite for approximately 30 years, it had been moved to its current location in 2003. Respondent's incident report submitted August 5, 2008, indicates that due to softening of the ground under the propane tank, it shifted on its foundation during the July 31, 2008 delivery of propane which in turn caused the plumbed fitting under the tank to crack.

For safety purposes, the propane tank was equipped with two liquid and one vapor line emergency shutoff valves which are designed to be operated by cable. During its inspection, the Department observed that the shutoff cables were missing and the emergency shutoff valves had been wired to remain in a constant open position, thus rendering these safety features inoperable. State law imposes a "general duty" to operate and maintain a safe facility, including taking steps to prevent releases and minimize the consequences when they do occur, on those in control or associated with hazardous substances. By tampering with the tank's safety equipment, Respondent failed to meet that obligation.

A concurrent investigation by the State Fire Marshal's office found that the tank and its associated valves and piping failed to meet minimum NFPA Code requirements. It prohibited Respondent from using the tank again unless it obtained the State Fire Marshal's approval. The Department agreed with this directive and included said approval in a list of actions it would require before Respondent could place the tank back in service. Respondent has since decided to switch fuels for its heating processes from propane to natural gas. Smaller propane tanks would be installed to fuel fork trucks and as backup gas. These changes would result in Respondent no longer being subject to the Department's Accidental Release Prevention Regulation.

A Notice of Violation was issued August 11, 2008.

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

1. Respondent has owned and operated a 30,000 gallon propane tank at its facility located at 1162 Holly Hill Road in Milford, Delaware since at least 1978.