

RATH YOUNG PIGNATELLI

Environmental News

April 2, 2009

Colleges and Schools are the Center of Spill Prevention Enforcement Action by EPA

On March 12, 2009, the EPA issued a news release announcing that as part of an ongoing effort to prevent illegal oil spills to New England waters, it has stepped up its enforcement against facilities with oil storage capacity – including colleges and schools - that fail to adequately prepare and fully implement Spill Prevention Control & Countermeasure (“SPCC”) plans as required by the federal Clean Water Act (“CWA”), and fail to file hazardous chemical inventory forms with proper authorities, as required by the federal Emergency Planning and Right-to-Know Act (“EPCRA”). As part of this effort, EPA is seeking penalties for such violations against two educational institutions in Massachusetts – a private college and a private preparatory school.

EPA inspectors discovered that both educational institutions had no SPCC plan as required by the CWA, and both failed to file the required Tier II hazardous chemical inventory forms with the Local Emergency Planning Committee, State Emergency Response Commission and local fire department, as required by EPCRA. EPA reports that the college also had an illegal spill in 2008, resulting in a discharge of oil to a brook, that may have been preventable if a SPCC plan had been in place. The spill originated from a 500-gallon oil tank in the power house and discharged through drains in the power house’s cement floor into a brook that flows into the Nashua River.

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The Environmental Practice Group provides practical environmental advice and counsel to some of the nation’s leading industrial companies and many New England municipalities, private business owners, non-profits and citizens.

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Both schools could face penalties in excess of \$100,000 for these violations based on the statutory maximums.

EPA reports that every year, thousands of gallons of oil spilled from small oil storage facilities pollute New England rivers and streams. SPCC regulations are designed to prevent oil spills or leaks into our nation's surface waters from facilities, including schools, and contain spills that do occur. The regulations apply to facilities with an above-ground storage capacity of more than 1,320 gallons, or a completely buried storage capacity of more than 42,000 gallons, and require the preparation, implementation and regular review of SPCC plans. The plans ensure that measures are in place to prevent leaks and spills from impacting navigable waters. For example, facilities are required to have secondary containment, such as cement floors and dikes surrounding a storage tank, to capture any oil released from the tank. The regulations promulgated under EPCRA are designed to inform emergency responders and the local community about hazardous chemicals, including oil, stored on site at the regulated facilities.

If you need assistance determining whether your facility is in compliance with CWA and EPCRA regulations or other federal or state environmental laws, or if you need guidance on how to respond to a federal or state enforcement action, we encourage you to contact members of our [Environmental Practice Group](#).

A copy of EPA's news release related to the enforcement actions against the college and school and other environmental news articles for New England can be found at: <http://www.epa.gov/region01/newseven/index.html> (EPA News and Events in New England).

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