



EPA Increasing RMP Enforcement, Seeking Greater Penalties for Violations

By Andrew L. Kolesar & Erin M. Minor of Thompson Hine LLP. Reprinted with permission.

Tyson Foods (Tyson) recently agreed to pay approximately \$4 million in civil penalties to resolve alleged violations of the Clean Air Act's Risk Management Program (RMP) at meat processing and packaging facilities owned by Tyson and related entities. The Tyson settlement illustrates a trend toward increased RMP enforcement and greater penalties for violations. This trend will likely continue in light of a recent report issued by the EPA's Office of Inspector General setting forth several recommendations for enhancing the quality of RMP inspections and a push by Senator Barbara Boxer (D-CA) for greater safety protections at chemical plants following the April 17 explosion at a fertilizer plant in West, Texas.

The RMP

The RMP, codified in Section 112(r)(7) of the Clean Air Act and in regulations at 40 C.F.R. Part 68, is designed to prevent accidental releases of hazardous substances. It requires owners

and operators of facilities that have more than a specified threshold amount of an EPA-listed substance to prepare and implement an accidental release risk management plan, which must contain three main elements:

- A hazard assessment to evaluate the potential effects of an accidental release, including an estimate of potential release quantities and a determination of downwind effects.
- A program for preventing accidental releases of regulated substances, including safety precautions and maintenance, monitoring and employee measures to be used at the source.
- A response program providing for specific actions to be taken in the event of an accidental release, including procedures for informing the public and local agencies responsible for responding to accidental releases, emergency

(Continued on page 4)

Inside this issue:

EPA RMA Enforcement	1
Tech Tip: Boolean Searching	2
Free CLE	3
New Books	6
You and the Legal System: Divorce, Dissolution & Separation	6
Construction Law Resources	7

Hamilton County Law Library

Hamilton County
Courthouse
1000 Main Street
Room 601
Cincinnati, OH 45202
T:513.946.5300
F:513.946.5252

Open Monday-Friday 8 - 4

[www.http://www.hamilton-co.org/cinlawlib/](http://www.hamilton-co.org/cinlawlib/)

Tech Tip: Get better search results by using Boolean operators.

By: Julie Koehne

Why use Boolean operators?

- To focus a search, particularly when your topic contains multiple search terms.
- To connect various pieces of information to find exactly what you're looking for.

Dog AND Cat
This search will yield cases containing both the words Dog and Cat.

Dog NOT Cat
This search will yield cases containing the word Dog but not the word Cat.

Dog OR Cat
This search will yield cases containing at least one of the words Dog or Cat.

Dog w/5 Cat
This search will yield cases containing the word Dog within 5 words of the word Cat.

The wildcard symbol (*) replaces a single character in a word.

Truncation or word stemming can be used to search for a portion of a word with a variant ending. If you searched for **bank*** you would return results that included bankers, banking, bankrupt and any other word that started with the letters before the truncation symbol.

To search for an **exact phrase**, surround your phrase with **quotation marks**, this will only return results that contain the exact words in the same order. This is a default for Lexis.

Parentheses may be included to indicate the sequence in which the search should be executed. e.g. the search "Ethics and (Solicitor OR Lawyer) AND Ohio" will search first for the terms in brackets, and then the other terms.

Free CLE

Free to subscribers;

\$50 for non-subscribers

To register, call 513.946.5300 or via email
reference@cms.hamilton-co.org

Juvenile Law

Presenter: Donald Webb

Tuesday, September 10

Noon-1pm

The seminar will present an overview/
introduction to Juvenile Law focusing on:

- Overview of Ohio Juvenile Court System
- Jurisdiction of Juvenile Court
- Particular types of cases handled in Juvenile Court
- Issues attorneys and judges confront in Juvenile Court

Approved for 1.0 hour of general credit in Ohio and Kentucky.

Ten Things You & Your Elder Client Need to Know About Long Term Care Legal Issues

Presenters: Mary Ann Jacobs and James T. O'Reilly

Wednesday, September 18

1-2pm

The seminar will focus on:

- Financial considerations
- Patients' rights and responsibilities,
- Credentialing/Certification of medical staff
- Assault and other incidents,
- Litigation & Liability Issues

Approved for 1.0 hour of general credit in Ohio and Kentucky.

Case Law Searching

Presenter: Laura Dixon-Caldwell

Wednesday, October 30

Noon-1pm

The seminar will demonstrate tips for searching case law on:

- Fastcase
- Loislaw
- Lexis
- Westlaw

1.0 hour of general credit is pending in Ohio and Kentucky

Fastcase and HeinOnline Integration

Fastcase recently announced a partnership with legal publisher William S. Hein & Co. that will enhance the Fastcase offerings to library users. Fastcase will integrate HeinOnline's extensive law review and historical state statute collection into search results in the Fastcase research application. The Hein collection will include more than 1,800 law reviews back to their first volumes. Fastcase users will be able to search and preview results for free across content available in the Law Journal Library, Session Laws Library, State Attorney General Reports and Opinions, and State Statutes: A Historical Archive. There will be separate subscription options for full articles and the Hein historical statutes. Fastcase statutes will remain available to library users as part of their subscriber benefit. The integrated libraries will be available this fall.

(Continued from page 1)

health care and employee training measures.

A facility must submit its plan to the Chemical Safety Board, the state emergency response commission and any local emergency planning committee that has responsibility for planning and responding to accidental releases in the area. Generally speaking, plans must be revised and resubmitted every five years. A new facility must submit a completed RMP as soon as it has an amount of a covered chemical that exceeds the threshold quantity.

The Tyson Settlement

The Tyson enforcement action involved 23 facilities in Kansas, Missouri, Iowa and Nebraska, which were subject to RMP requirements because refrigeration systems at the facilities each contained more than 10,000 pounds of anhydrous ammonia. EPA inspections revealed numerous deficiencies in the facilities' RMP programs. Further, ammonia releases at some facilities allegedly had caused property damage, injuries and one death.

Under the consent decree, Tyson will pay a \$3.95 million penalty. The company also agreed to purchase \$300,000 in emergency response equipment for first responders in communities with significant environmental justice concerns in which Tyson operates facilities. In addition, Tyson promised to conduct pipe testing and third-party audits of its ammonia refrigeration systems in all 23 facilities.

Increased Penalties and Enforcement

As the Tyson settlement suggests, penalties for RMP violations are growing. Average civil penalties in stand-alone RMP enforcement cases increased nearly threefold from 2009 to 2012 – rising from about \$6,000 to almost \$18,000. So far this year, the average penalty in RMP cases, excluding the Tyson case, has been about \$33,000.

EPA is also ramping up RMP enforcement efforts. Its Office of Solid Waste and Emergency Response (OSWER) made RMP inspections a high priority for fiscal year 2013. OSWER tasked regional offices with conducting RMP inspections of at least 4 percent of all regulated facilities, with 30 percent of those inspections taking place at high-risk facilities. In addition, EPA is building a more rigorous RMP inspection program in response to a March 2013 OIG report, which concluded that EPA's RMP inspectors and their supervisors were inadequately trained and that the agency had limited mechanisms in place to ensure that quality inspections were performed. Finally, political pressure (led by Senator Boxer) for increased oversight of chemicals in general is increasing in the aftermath of the West, Texas fertilizer plant explosion.

Conclusion

Given EPA's increased focus on RMP enforcement and its intention to seek larger penalties for violations, owners of RMP-regulated facilities should carefully evaluate their RMP program compliance and preparedness for EPA inspections. Noncompliance can have severe consequences, as evidenced by the Tyson settlement.

FOR MORE INFORMATION

For more information, please contact:

Andrew L. Kolesar 513.352.6545

Andrew.Kolesar@ThompsonHine.com

Erin M. Minor 513.352.6556

Erin.Minor@ThompsonHine.com

or any member of Thompson Hine's Environmental practice group.

© 2013 THOMPSON HINE LLP. ALL RIGHTS RESERVED.

New Books

Our new books are displayed on shelves in the Main Room and listed in our catalog at <http://69.63.217.17/C10080/OPAC/Search/NewTitles.aspx>. If any books in this sampling of new titles are of interest to you, please give us a call at 513.946.5300 and we'll hold them for you.

The Best of labor & employment law / [contributing editor Carl F. Muller].

Credit discrimination / Jeremiah Battle, jr ; contributing authors, Sandra Mitchell Wilmore ... [et al.].

The corporate records handbook : meetings, minutes & resolutions / Anthony Mancuso.

Consumer class actions / Stuart T. Rossman, Charles Delbaum, Arielle Cohen ; contributing authors, Robert Bramson ... [et al.].

Consumer banking and payments law : bank accounts ; remittances ; money orders ; prepaid cards ; electronic benefit payments ; electronic records and signatures / Lauren K. Saunders ... [et al.].

Maurice William Myers Award

Each year, the Cincinnati Law Library Association provides funding for the Maurice William Myers Award. This award provides a one year subscription to the Hamilton County Law Library and is given to three law students in each of the graduating classes of the University of Cincinnati College of Law and Northern Kentucky University Salmon P. Chase College of Law. The students selected are nominated by their respective Colleges of Law and will have entered into the practice of law in Hamilton County.

2013 awardees from Northern Kentucky University College of Law are **Brian Peeler**, **Doug Gastright**, and **Robert C. Cummings, III**. Congratulations to our new subscribers! We will announce UC recipients next month.

The award is named after the fifth law librarian of the Cincinnati Law Library Association. Mr. Myers joined the library when it opened in 1846, became the Law Librarian in 1861 and remained in that position until his death in 1899. He was a well-respected – perhaps even feared – member of the legal community in Hamilton County, and the courts closed on December 10, 1899 for his funeral. His son-in-law, Henry Ezekiel, created the Maurice William Myers Fund upon his death to provide for the payment of Law Library Association dues for “worthy young members” of the bar. We're pleased to be able to continue this tradition by awarding each of these graduates a one year subscription (membership) to the Hamilton County Law Library with all of the usual privileges of a subscription.

Subscriber Benefits

All subscribers have access to the following valuable resources and services:

Circulation privileges to borrow from over 40,000 print volumes for up to 6 weeks at a time

Access to extensive electronic databases from the Law Library, including LexisNexis, Shepard's, CCH Omnitax, CCH Human Resources Group, and CCH Business Group resources, Hein Online Law Journals and Federal Register, and over 70 Aspen / LOISLaw treatises in 16 substantive areas

Wireless network throughout the Law Library

Polycom videoconferencing

5 meeting rooms with speaker phones

Professional reference service by our law librarians, available via e-mail, telephone, and in person

Free document delivery by fax or e-mail of print and electronic materials

Inexpensive CLE seminars throughout the year, on legal research and substantive topics

In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/ LOISLaw treatises and CCH Newsletters

You and the Legal System: Divorce, Dissolution & Separation

Attorney Bill Reynolds is our next speaker in the *You and the Legal System* series for the public. Mr. Reynolds will discuss Divorce, Dissolution and Separation on Friday, September 27 at noon at the Law Library.

The program is free to the public. To register, call 513.946.5300.

Please note that this is not a CLE event; it is intended for the general public. However, attorneys are welcome to attend and may want to pass along the program announcement to clients, staff and community organizations. If you would like more information, please contact Laura Dixon-Caldwell at 513.946.5302.

You and the Legal System is brought to you as a public service by the Hamilton County Law Library, in conjunction with the Cincinnati Bar Association's Lawyer Referral Service.

Save the date for the next event in the *You and the Legal System* series. Mr. Jon Sinclair will discuss Criminal Law on Friday, October 11.



Construction Law Resources

The Law Library offers a variety of print and online resources on construction law. If you have questions about access to any of these resources, just call us at 531.946.5300.

Books

ADR: a practical guide to resolve construction disputes: alternate dispute resolution in the construction field
KF902 .A47

Alternative clauses to standard construction contracts
KF902 .A748 2009

Construction change order claims
KF902 .C49 2011

Construction defect litigation: from A to Z in Ohio
KFO155.8 C752 2009

Construction disputes: a practice guide with forms
KF902 .K68 2009
*(Also available online via Aspen/Loislaw)

Construction law forum
KFO155.8 B8 C65 2012

Construction law update
KF902 .W56 2013

Construction lien law in Ohio
KFO155.8 .C751 2010

Consultant and independent contractor agreements
KF898 .F567 2008

The design build deskbook: a blueprint for design-build procurement across the United States and Canada
KF2925.1 D472 2010

Discovery in construction litigation
KF8900 .C342 2012

HDR Handbook of housing and development law
KF5729 .H37 2013

Knowledge-based audit procedures
KF1446.A7 K55 2011

Ohio Building Codes and Related Codes
KF0459 .A1 A29

Ohio Planning and Zoning Law
KFO458 .M42 2013

Online Resources-Remote Access*

[Aspen/Loislaw Construction Law Library](#)

Construction Law Handbook

Construction Disputes: Practice Guide with Forms

Alternative Clauses to Standard Construction Contracts

Fifty State Construction Lien and Bond Law Forms and Checklists

*Remote access is available to subscribers who are solo attorneys or firm attorneys whose entire firm has a subscription to the Law Library.

Links

City of Cincinnati Planning and Buildings Department-
<http://www.cincinnati-oh.gov/planning/>

Cincinnati Municipal Code-
<http://www.cincinnati-oh.gov/council/references-resources/municipal-code/>

Hamilton County Building Code-
http://www.hamiltoncountyohio.gov/hcibi/dbi_docs/2007%20Hamilton%20County%20Building%20Code.pdf

Hamilton County Planning and Development Department-
<http://www.hamiltoncountyohio.gov/pd/default.asp>

Upcoming Events:

September 10: Juvenile Law CLE

September 18: CLE-10 Things You and Your Elder Client Need to Know about Long Term Care Legal Issues

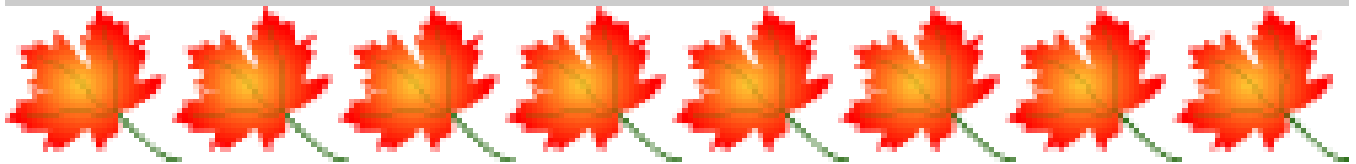
September 27: You and the Legal System: Domestic Relations Law

October 11: You and the Legal System: Criminal Law

October 30: Case Law Searching CLE

Law Library Holidays:

The Law Library will be closed Monday, September 2 in observance of Labor Day.



September 2013 Law Library Newsletter

INSIDE THIS MONTH

- **Tech Tip: Boolean Searching**
- **Free CLE**
- **Construction Law Resources**

ADDRESS CORRECTION REQUESTED

Hamilton County Law Library
Hamilton County Courthouse
1000 Main Street, Room 601
Cincinnati, OH 45202