



# Newsletter

December 2008

## Will your Spill Prevention, Control, and Countermeasure plan meet the 2009 compliance requirements?

THE LION GROUP LLC (TLG) provides this Newsletter as complimentary regulatory information to our clients, resources, and associates.

This article has been written in very general terms to acquaint you with some overview of the Spill Prevention, Control, and Countermeasure (SPCC) plan regulation requirements. The regulation was promulgated to be in effect on or before August 16, 2002. The extension was the result of some revisions made and finalized in December of 2006.

The United States Environmental Protection Agency (EPA) is planning a rigorous SPCC regulation compliance program to become effective immediately after the final deadline of July 1, 2009. The regulation will have a significant impact on operations that have the capacity of storing or handling oil and oil products like non-transportation facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil and oil products. **The regulation also defines oil products to include animal fats, oils, or greases and all variations of vegetable oils. The rule also applies to synthetic oils. The definition of oil includes oil mixed with wastes.** TLG emphasizes the need to proactively address this regulation for those facilities that have these types of materials on their sites. The regulation requires the total capacity of material stored including piping and related systems not what is commonly stored within tanks. The EPA, as well as the applicable state and municipal agencies, may determine that a substance, chemical, material, or other mixture can also be defined as oil.

**The total capacity thresholds are to be calculated in the aggregate for a facility.** The current capacity threshold listed is 1,320 gallons. The rule also applies

if a facility has more than 42,000 gallons of completely buried oil storage capacity. Containers that have a storage capacity less than 55 gallons are not subject to the regulation. In some facilities, the amount of oils contained with equipment, such as hydraulic presses, may need to be included in the capacity calculation. There are some other exemptions defined in the final rule. Standby, temporary and seasonal storage is also to be included in any SPCC plan.

If a facility is subject to the SPCC rule, it is the responsibility of the facility's owner and operator to ensure a proper SPCC plan is properly prepared, documented, and implemented. An additional requirement may be a formal facility response plan.

**If the facility is required to prepare and implement an SPCC plan, it will require a Professional Engineer certification.** TLG is presently working with several clients in preparation of the new compliance date to comply with the requirements for specific documentation, training requirements, and the required certifications. The rule is very complex in some instances--if your facility appears close to being required to having a site SPCC plan, due to the capacity threshold limits, storage or handling of oils as defined, TLG is available for discussions on further clarification as to your specific potential requirement.

### Recent Regulatory Activities

- The EPA recently announced some significant compliance actions against facilities due to a lack of proper Risk Management Plans (RMP) and violations related to the release of anhydrous ammonia. In one case, the company was charged

with a felony, fined \$100,000.00, and was placed on one-year probation. The company had previously certified to the EPA that they had developed and implemented an RMP. Another case involved a company being fined \$75,000.00 and ordered to comply with all aspects of the requirements related to the use of ammonia. Facilities that have materials in quantities that require response and management plans should take note that it is the opinion of TLG that a new EPA “emphasis” program is being developed for implementation in 2009 regarding facility inspections to ensure compliance.

- Recently the EPA identified 14 metropolitan areas along the US–Mexico border as having unacceptable environmental hazards. The areas that will be the focus of a new joint country initiative will include a compliance program for the “maquiladoras” industries in the identified metro areas. The programs of intensified interest are emergency preparedness, clean air, process wastewater, drinking water, hazardous waste minimization, and environmental health. TLG has worked extensively with a number of US firms who have operations in these areas, and is presently developing and performing gap analysis in preparation of the upcoming compliance program.

## The New US Administration and Affects in the Regulatory Arena

The United States is now in the transition phase as a result of the recent election. In the regulatory arena, there is always speculation as to how the regulatory agencies will change, and how the changes will affect those being regulated. After 35+ years experience in the global regulatory consulting business, TLG can say with conviction that during the next administration, the regulatory climate will change dramatically. TLG believes these changes will be apparent in two areas. The first will be an aggressive compliance effort in environmental, health and safety. The two agencies of interest on a federal level are the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA).



The federal agencies are expected to become ridged in the dealing with the applicable state agencies. The EPA’s expectation will be that states will “prove up”

compliance efforts by conducting and documenting more facility inspections, and by taking more rigorous actions when violations are found. Keep in mind that the regional administrators of the agencies are also politically appointed, and as a consequence, the expectations that are held in the Whitehouse are transferred down to every regional level at the very least.

OSHA is very much the same in many aspects. And, as the result of the recent election, there will a higher expectation level as to compliance adherence in worker safety programs. As always, there will be more activity in the field by inspectors; only now with a higher number of expected inspections, more citations and violations will become very visible to the public. TLG suspects there will be a greater drive for “partnership between OSHA and industry” in current programs requiring a greater number and detail of submissions and filings on program status and plans for continued improvement.

TLG’s expectation is that there will be a fairly hard push by the EPA to begin initiatives in the area of air emissions, and requirements from all manufacturing facilities to produce more definitive documentation related to air emission calculations. Some facilities will be required to post air emission estimations based on potential emissions versus what they are actually producing. A “cap and trade” program, similar to some current air programs, will require posting air emission amounts so facilities that need more emission capacity can trade off with facilities that have excesses. Needless-to-say, this program will be complex in nature and may have effects on a facility’s ability to expand and operate. The bottom line is all facilities must proactively audit and document their air emissions, including the potential to emit. TLG will be informing our clients on how these air studies should be documented and how proper submissions should be filed with the applicable agencies.

## Some current TLG project snap shots:

-  Development of material safety data sheets for products produced by an energy related company.
-  A series of GAP assessments for a number of clients (food products, pharmaceutical, chemical, and medical devices) both in the USA and other parts of the Americas.

- 🐾 A multi-site review and documentation for an energy producing client which is being pro-actively conducted on a number of sites (100 plus) in the southwest USA. The reviews relate to the forthcoming SPCC requirements as well as some other submissions or filings.
- 🐾 TLG is presently developing Storm Water Pollution Prevention Plans (SWP3) for several clients. Included in the TLG SWPs is the installation of electronic rain gauges for accurate rainfall reporting, sampling equipment designed to capture storm water discharges, and a complete submission module for the required reporting.
- 🐾 TLG is presently in the process of obtaining a storm water discharge permit for a rock quarry operation in an environmentally sensitive area which requires a complex and detailed submission.
- 🐾 TLG is expanding the Sampling and Technologies Group due to a growing demand for specialized sampling in process and manufacturing wastewater discharges.

### TLG Institute of Professional Education

- The following schedule will provide TLG clients and others specialized training in the following areas:
  - Storm Water Pollution Prevention Plans and Specialized Sampling and Documentation (Second Quarter 2009).

- Air emissions and the management process related to preparing documentation and submissions such as risk management plans, permits by rule, emergency notifications and permits / exemptions (Third Quarter 2009).
- Representative and Defensible Wastewater Sampling Techniques and Analytical Understanding (Forth Quarter 2009).
  - Note: Courses have qualified for continuing hours of education.

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As we grow, we continue to look for well-qualified resources who want to grow in personal and professional strengths and abilities that can contribute to our continued success. Would you be a great contributor to THE LION GROUP TEAM? Call our office at 817.731.4141 and discuss with TLG Principal, Thomas Jones -or- mail your resume / background experience to 4012 Old Benbrook Rd., Fort Worth TX 76116-7810 -or- email to mail.theliongroupllc.com.

THE LION GROUP TEAM  
WISHES EVERYONE  
A WONDERFUL HOLIDAY SEASON  
AND  
A PROSPEROUS 2009.

**DISCLAIMER:** The intent of THE LION GROUP LLC "Newsletter" is to provide the reader with information regarding regulatory activities. The topics are presented in a very general sense, and are combined with interpretations and opinions from THE LION GROUP LLC. The reader is encouraged to contact THE LION GROUP LLC for further information as it relates to their specific situation, or contact their appropriate company professional. THE LION GROUP LLC makes no warranty, express or implied, nor does THE LION GROUP LLC assume any legal liability as to accuracy, completeness, or usefulness of any of the information in THE LION GROUP LLC "Newsletter."

# SAMPLING SPECIALISTS

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*EH&S SAMPLING TECHNOLOGIES*

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- Proper Field Protocols
- Representative and Defensible Sampling
- Acceptable / Defensible Chain-of-Custody
- Proper Preservations / Sample Retention
- Field Notes, as required