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TLG CLIENT BULLETIN

November 2000

WHAT DO YOU USE EH&S AUDITS FOR?

EDITORIAL

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Principal of THE LION GROUP

I recently traveled abroad to present to a multinational corporation.

The parent corporation is European based with worldwide subsidiaries. The corporation varies in types of products and services. These variations include heavy industrial products, chemicals and pharmaceuticals, high-tech electronics, and others.

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The presentation concentrated on the changes and impacts of environmental, health and safety regulations within the United States and some international jurisdictions. The primary purpose was to educate the corporation's executive management and corporate EH&S executives on gauging the EH&S compliance levels at their operational sites around the world.

The presentation was scheduled for one hour with an additional one hour for discussion. To my surprise, and delight, the discussion time lasted well over two and one-half hours.

The discussion time focused on the variations/types of audits. The variations discussed included the type of audit; the responsibility for actions that resulted from the audit; what the audit reflected of both the site and the respective corporate EH&S functions.

I am sharing the highlights of this discussion, as I believe it will be of interest to all readers:

DISCUSSION

Audits sometimes have different names such as reviews, assessments, and internal verifications. In my opinion, the purpose of an EH&S audit (audit) is to

identify the level of compliance at a specific site or business operation to applicable EH&S regulations (legal requirements), certification requirements, and internal company standards or policies.

In the past, audits simply reported deficiencies. Today, audits should be expected to give proactive solutions to the reported deficiencies. That expectation is to identify a method to address the reason for a negative or deficient finding, and give a direction to remedy the problem. Audits must be a positive method to confirm and establish the specific level of compliance that the respective company states is desired.

Within some companies, I have found various uses of the audit function:

used as a *political tool*,
audit findings are *softened* to the point of providing very little real insight, or *tailored* to proving compliance on selected issues.

Let me expand on these three variations

The Political Tool Audit

Audits can be used to prove something is not being managed properly. Therefore, the site manager, or management team, becomes the subject of scrutiny. If audits are done properly, they will identify the status of an EH&S program. If the audit identifies a need, or deficiency, then it should also quantify the resource needs to correct the challenge. The audit should then require and allow the site management to respond with both a prioritization, and a correction plan regarding each specific point. There should always be an assurance that the auditing party is apolitical and reports factual findings, not what is thought to exist. The best assurance to prevent an audit from becoming a political tool is to have an internal EH&S multidisciplinary team, which includes an outside experienced EH&S resource.

The Softened Audit

By their nature, audits can be perceived as a burden to an operation's management. The reasons are obvious in that the audit can report problems, irregularities, or some type of potential company liability. Managers do

not want bad news, and an audit can certainly contain bad news. Sometimes an audit is softened to the point that you have to really search for the findings. Sometimes words such as augment, enrich, or enhance mean the subject discussed needs to be improved. In other words, there was something found in the audit process that was deficient. This type of finding is an indicator of the softened audit. In my experience, I have found that the main reason for softened audits stems from site, departmental pressures, and/or poor auditor performance.

The Tailored Audit

A technique sometimes found in auditing is what I term as the "tailored audit." I have witnessed the following:

An operational site was so hostile to the audit function that the auditor forwarded a checklist (instead of personally conducting an on-site audit) of some of the applicable EH&S programs. The site then had the option of responding if they were within compliance to the standards with no requirement for any type of confirmation.

A corporate auditor (the corporate EH&S senior manager) requested the manufacturing site provide an internal written standard operating procedure (SOP) for a specific US governmental regulation. The site provided the auditor with a notebook containing a photocopy of the specific code of federal regulations (CFR), and claimed the document as their internal written SOP. In this specific instance, the auditor then reported to the senior management group that the site was in compliance.

TYPES OF AUDITORS

As in every discipline, there are as many types of auditors as there are individuals. I have taken the liberty of making some huge generalities as to some of the variations. . . .

The Corporate Seagull

An auditor from corporate who shows up at a site,  makes a lot of noise, poops on the manager, flies away, and leaves a big mess.

In my experience, I have seen a number of corporate seagulls. I must also say that a number of times the audited site will use this definition to downplay the facts and findings of an audit. It always boils down to a balance of factors that can make a positive audit happen.

The Red Flag Waver

An auditor who identifies a deficiency, and fails to use good business judgment relative to the degree of seriousness.



Obviously, every finding in an audit should require a high degree of attention. However, some findings are

more serious than others. Every audit should produce both findings and a prioritization as to how each should be addressed. Priorities should begin with human safety and health, followed by environmental concerns, and then finalized by company property and liability.


The Blame Gamer



An auditor, especially if they are corporate, who blames all audit findings on the site.

If EH&S leadership has not provided the proper resources for their respective operations, the truth is they are also at fault for negative findings. Again, audits should always provide resource information and estimates as to resource usage for each deficiency.

The Justifier

An auditor who "goes by the book" and interprets all findings to the most specific level as  possible.

This type of auditor is one that produces huge lists of findings in order to justify their respective position. Again, both common sense and a balance of definition will better serve the EH&S programs. An auditor should never use an audit to justify their position. Audits are necessary business tools and have no need for justification.

AUDIT BALANCE

The following are some points to consider in an EH&S program that should help ensure balance in audit programs:

Establish a standard / procedure as to who, why, and how audits are conducted.

Recruit and retain an independent resource to participate in the audit process.

Proactively establish a method by which both the auditor(s) and the audited site/operation can request a resource to resolve any dispute. Disputes must be resolved in short deliberate order. Do not let these issues drag on.

Audits, documentation, and related actions must be conducted under an Attorney-Client Privilege.

Every audit item should be specific as to the issue in question and what resources are needed to address them.

Senior management must always review audits.

Audits must be scheduled and routinely conducted. Typically, operational sites must be audited every two years at a minimum. Only major events should produce a change in the audit schedule.



THOMAS O. JONES, PRINCIPAL OF TLG,
IS RECOGNIZED FOR HIS DYNAMIC EH&S
PRESENTATIONS TO CORPORATIONS
AROUND THE WORLD.

TLG HAS A NUMBER OF AUDIT RESOURCES
AVAILABLE SUCH AS AUDITOR TRAINING
PROGRAMS, WRITTEN DOCUMENTATION
NEEDED TO ENHANCE PRESENT AUDIT
PROGRAMS, AND CAN PROVIDE INDEPENDENT
THIRD PARTY AUDIT OVERSIGHT.

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MINNESOTA / EUROPEAN COMMISSION BRINGING PARALLEL EFFORTS IN ELECTRONIC RECYCLING

The state of Minnesota and Sony Electronics Corporation (Sony) are teaming up in an effort to eliminate the increasing amounts of electronic wastes headed toward landfills. The effort is voluntary and will include only Sony products. Other manufacturers are being encouraged to participate in similar programs. Sony has agreed to cover the cost of recycling their outdated equipment. The program is to last the next five years.

The program will incorporate agreements with present waste handlers and designed to avoid the deposit of toxic materials including lead, mercury, and acids. Environmental activist groups have encouraged this type of program and their expectations are that this new step is one of many in the future within the USA.

As has been discussed in previous TLG Client Bulletins, this effort in Minnesota contains some similarities with proposed efforts being discussed within the European Commission. The draft law, or directive, is known as the Waste from Electrical and Electronic Equipment (WEEE) Directive. Under The WEEE Directive, the manufacturers of electronic equipment would be financially responsible for the managing of their products throughout their life cycles.

TLG Opinion / Comment

Most TLG clients, until recent years, considered their product life cycle efforts to be more of a marketing tool rather than a necessity. As stated before, this type of regulatory activity has been driven primarily by efforts in Europe, and should be a part of business planning in all continents. It is no longer something that a business can wait to be forced into. Any TLG client who thinks that they will be immune to this type of public and governmental scrutiny, because of what they make or sell, should think again. Constantly, new materials are emerging as bad actors in the eyes of regulatory agencies. Some materials are used in products that the public now perceives as environmentally friendly. This includes product

raw materials, packaging (both direct and indirect), shipping materials, and labeling.

TLG clients are encouraged to evaluate their respective product life cycle efforts; determine if those efforts are managed effectively, and are provided the right amount of resources.

PLASTIC MATERIALS GAINING U.S. PUBLIC SCRUTINY AFTER STUDY

A new study is suggesting that there are traces of "plasticizing" chemicals in human populations. The researchers at the Centers for Disease Control and Prevention (CDC), reported in the October issue of the journal Environmental Health Perspectives that there may be unknown exposures to chemicals in the phthalate family, which have been proven to cause severe health effects in animal studies.

The new study represents the first time researchers have measured the presence of phthalates in humans. The following are some of the products that contain phthalates:

- *Di-ethyl phthalate*: auto parts, tools, food packaging, cosmetics
- *Di-n-butyl phthalate*: cellulose plastics, some types of solvents, food wrap and cosmetic consumer products
- *Benzyl butyl phthalate*: adhesives, flooring materials, coatings, and some consumer products

A CDC chemist, who was the lead researcher on the phthalate study, came upon the discovery by accident. The original intent was a study into the amount and type of known carcinogens such as PCBs in human blood and urine. The testing indicated phthalates present at levels 1,000 times higher than PCBs. The study has intensified comments and requests from various groups to continue these types of studies to determine the relations between phthalates and a number of severe illnesses.

There are industry-sponsored panels disputing the significance of the study. However, the study has increased by over 300% in size. The CDC new report card on public exposures to 25 selected toxins including heavy metals, phthalates, neurotoxins, pesticides, and other substances is expected to be released sometime before December, 2000.

TLG Opinion / Comment

Clients should constantly be vigilant as to studies related to all materials that are present in their respective products. There are huge numbers of various regulatory agencies that are continually adding chemicals or product types into

regulated arenas. Design for the Environment programs must also include a component so as changes are made in the regulated materials, past or existing products are reviewed again.

USE OF CHLORINE FURTHER REGULATED

The United States Environmental Protection Agency (EPA) has proposed further restrictions relative to the uses of chlorine gas. The proposal will require only certified and trained applicators to use chlorine gas in water, sewage, and swimming pool applications. The regulation was proposed as a result of previous deaths and injuries to applicators.

The proposal will apply to all uses of chlorine gas. The current closing date for comment on this proposal is November 15, 2000.

TLG Opinion / Comment

Clients should evaluate the uses of chlorine gas for water treatment in their facilities. Uses would include electrical plants, steam generation, and water sanitation / cleaning process. If clients have crossed threshold limits as to quantities reportable, they might expect EPA or agency inquiries.

TLG SHORT TAKES

The following list of topics has been researched by TLG Regulatory Research Team. For further information on any of these topics, please feel free to contact TLG by e-mail at liongrp@worldnet.att.net or by calling **1.817.244.9107**.

- US EPA ANNOUNCES THE FIRST CONSOLIDATED AIR RULE.
- MEMBER OF EUROPEAN COMMISSION RESPONSIBLE FOR THE ENVIRONMENT OPENS CONFERENCE AND DISCUSSION AS TO THE USE OF PVC.
- EUROPEAN MEMBERS DECLARE CONCERN ON MUSCULOSKELETAL DISORDERS.
- INTERNATIONAL POLLUTION IS EXPERIENCING MORE WASTE DESPITE EFFORTS, EFFICIENCIES, AND REGULATIONS. EXPECT MORE TO COME
- TELECOMMUNICATION COMPANIES DISCLOSE AND CORRECT OVER 3,400 ENVIRONMENTAL VIOLATIONS.
- EPA RELEASES NEW GUIDE ON PUBLIC INVOLVEMENT IN ALL ENVIRONMENTAL PERMITS.
- OSHA FURTHER INTERPRETS SELECTION OF AIR PURIFYING RESPIRATORS.
- MORE INFORMATION ON THE GLOBAL POLLUTION AND TRANSFER REGISTERS REFERENCE CANADA, UNITED KINGDOM, MEXICO, AUSTRALIA, AND CZECH REPUBLIC.

- EPA PROPOSING THE ADDITION OF DINP PHTHALATE TO LIST OF TOXIC CHEMICALS.
- REVIEW OF THE WORKPLACE OCCUPATIONAL SAFETY AND HEALTH PROGRAMS IN THE EU.
- NEW RESTRICTIONS AS TO PACKAGING MATERIALS, RAW MATERIALS, FINISHED PRODUCT COMPONENTS (I.E., BATTERIES) IN LATIN AMERICA.
- OPERATIONAL PERMITS RELATIVE TO ENVIRONMENTAL RESTRICTIONS MAY BE DRAMATICALLY AMENDED TO REQUIRE REREGISTRATION OF MANUFACTURING COMPANIES (BRAZIL, VENEZUELA, ARGENTINA, PERU).

TLG CLIENT PROJECTS

STORM WATER PLANS



TLG conducted multisite audits, developed individual site plans, created computerized system documents for recordkeeping and authored notification letters/submissions, documents to local, state, and federal authorities.

CONTRACTOR SAFETY - NATIONAL PROGRAM IMPLEMENTATION



TLG authored and implemented a Corporate Contractor Safety Program. The client has locations in the USA, Canada, Latin America, and Europe. The program includes a full written program, training modules, tracking documentation and identification cards/materials for each individual trained.

AUDIT



TLG conducted an EH&S operational audit for a client in Panama. The audit was based on specific regulations as promulgated within Panama as well as corporate standards.

DIVESTITURE / MANUFACTURING OPERATIONS - MULTISTATE

A client recently finalized a divestiture that required the closing of a number of manufacturing sites throughout the USA. TLG prepared an EH&S Shutdown Checklist that was used at each site to direct site management and document applicable issues.

PROPOSITION 65 QUESTIONNAIRE - TEXAS HEADQUARTERED / CALIFORNIA SITES



A TLG client requested a review as to the impact and a program for each of their locations within the state of California. TLG prepared an executive brief, simple questionnaire and decision flowchart as to site applicability.

DIVESTITURE / ACQUISITION



TEXAS



IDAHO

A manufacturing operation located in Texas sold the operation to an out-of-state purchaser. TLG reviewed a large amount of documentation related to a previous environmental incident at the site (not related to either party discussed), conducted a site visit, consulted as to next steps related to a recently approved air permit and other EH&S issues.

SUPPLY CHAIN MANAGEMENT PROCESS



TEXAS



NEW JERSEY

TLG recently completed a computerized documentation process that allows a client to include an EH&S liability review in their supply chain management process. The process identifies specific types of vendors as to potential liabilities that may be inherent in their specific manufacturing group and allows the client to document present vendor status and proactive responses if their material production is interrupted. Additionally, the system produces a questionnaire that the vendor can complete to establish if there are any long-term environmental liabilities that might revert to the client.

SITE SELECTION / ASSESSMENT / PERMITS



MEXICO

A European based client asked TLG to assist in the selection, assessment, purchase, and permit approval for a manufacturing operation in Mexico. The project was completed under a very strict and comprehensive time schedule. TLG was able to complete the project within the allotted time frame and budget cost.

PRESENTATION "METHODS OF THE EH&S AUDIT"



SPAIN

A presentation was made to executive managers of a multinational European based corporation (see Editorial article for story).

OWNERSHIP TRANSFER / PERMIT APPLICATIONS



BELGIUM

A client began the process of expanding its operation into Belgium. TLG assisted in the purchasing process and permit transfers to allow a smooth transition without any major production interruption.

MANUFACTURING ENVIRONMENTAL ASSESSMENT AND PERMIT AMENDMENTS / APPROVALS



BRAZIL

A chemical processing operation was recently approved and will begin operation due to TLG efforts in Brazil. Costly documentation, permitting, and related delays were avoided for the client.



A "SNAPSHOT" OF TLG TEAMS

Regulatory Affairs Team specializes in assisting clients as they address issues that are regulatory driven. These areas are primarily employee safety, health, and environmental. Services encompass all areas related to program development, policy implementation, and regulatory compliance.

Engineering and Technology Team provides engineering services to TLG clients as they require in-systems design, process improvements, and proactive services related to manufacturing expansion.

Industrial Hygiene and Health Team specializes in assisting clients in all aspects of industrial hygiene and employee health.

Regulatory Research and Systems Team provides global regulatory research for clients on specific regulations and laws. This team also administrates and assists clients in the design and implementation of THE LION GROUP **Footprint System**--a unique global base system that enhances EH&S compliance, saves time, effort, and money in the disciplines of a Corporate EH&S function.

Creative Design and Administrative Services Team provides specialized services in presentation materials, regulatory submissions, and administration of regulatory compliance systems.

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