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TLG CLIENT BULLETIN

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Environmental Impact Assessments require proper consideration!

Economic changes are diminishing the advantages for companies operating manufacturing / distribution sites in various regions of the world. There are new unexpected challenges surfacing related to EH&S regulations. In some instances, these challenges are forcing managers to make unexpected costly decisions.

By **THOMAS JONES**
PRINCIPAL OF THE LION GROUP

Over the years, THE LION GROUP (TLG) has worked with clients in obtaining regulatory approvals for new manufacturing sites in numerous countries and regions. These new ventures were driven by various factors, including hefty tax incentives; lower labor costs; availability of raw materials, and a number of other factors. Typically, environmental impact assessments (EIAs) are required for new manufacturing sites. The amount of EIA details and specifics vary greatly from country to country as well as region to region. Some EIAs include estimates on the numbers of employees, schedules of operation, levels of production, energy usage, and many other factors. Sometimes local authorities use these EIAs as master templates to plan a number of public and private infrastructures.

In a number of jurisdictions, these EIA estimates can turn into a guarantee by the submitters. In other words, these estimates are compared and included with other

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required submissions, such as fiscal promises, and then become a part of a total submission to other governmental regulating / approval agencies. The EIA submission is then approved by the various regulatory agencies including the Environmental, Health, and Safety (EH&S) specifics. Consequently, the various agencies—and the number can be staggering—assume they have an oversight position concerning EH&S issues. Therefore, the company must include them on



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all EH&S related submissions, certificates, and declarations. I have seen a company's operational permit held in question because the EH&S wastes

submissions were not included in a required hospital district submission.

Any company who is contemplating a new facility, or a change to their present facility, should consider the unforeseen. TLG recently encountered some strange realities when servicing two new clients who downsized their operations by closing facilities in Latin America. TLG's challenges began when learning that the two new clients had begun their closures by notifying their employee workforce through a series of meetings. Unfortunately, they did not immediately inform any of the local regulatory agencies, and these agencies gained the information through the national and local medias. Almost immediately after discovering the pending closures, agency inspection teams appeared at the facilities to determine if there were open environmental issues that needed their review. In both instances, the facilities had changed some of their processes without informing the local agencies. Additionally, the number of employees differed significantly from the original estimates submitted in the original EIAs. Consequently, the clients were required to negotiate with the governments, local and federal, on every facet of their closures that resulted in a drain of resources.

TLG OPINION / COMMENT:

If a company is in the process of making any significant changes to their operations at any of their facilities, they should conduct a full review of any regulatory submissions before making a final

decision. If any of these facilities are located in regions based on long-term economic incentives, especially in Latin America, it is even more important to consider past submissions, agreements, or certifications before making any decision publicly.



MORE DETAILED REQUIREMENTS FOR REGULATORY SUBMISSIONS LOOM IN PERU AND ECUADOR

Due to recent efforts in the development of metal and petroleum exploration, in Peru and Ecuador, companies should plan on extensive and ever-changing environmental impact statements for current or future operations.

There has been recent industrial interest due to the discovery of minerals, gold, and petroleum in Peru and Ecuador. Populist and political concerns are focusing on the endangerment of forestation, agricultural land, and endangered species. Some environmental impact studies have been rejected because they were not specific or detailed enough, and lacked in addressing concerns such as expectations on specific biological and animal species.

Companies that are currently or considering any type of commercial expansion in Peru, or Ecuador, should be prepared to include extensive information on specific and detailed environmental impact concerns. Nonpublished government interagency memos of understanding can amend the requirements on submission content without public notification. Additionally, changes to any operational permits will allow any of the local, state, or federal environmental agencies to require further information.

TLG OPINION / COMMENT:

Via a third party, obtain specific information on any environmental submissions in Peru, or Ecuador, in order to confirm environmental impact statement requirements, or recent amendments to the applicable regulations. Special attention should be given to any current or potential commercial activities in the Peruvian districts of Ayabaca, Suilana, Piura, as well as Tambo Grande.



GERMANY, UNITED KINGDOM, AND SPAIN MANDATE AUTO-RECYCLING REGULATIONS

Another example of how the European countries are leading in product recycling requirements and placing the costs back on the manufacturers of products. Any company that manufactures and/or distributes products in Europe should familiarize themselves with this issue.

Over the past few years, TLG has been informing and working with some clients on this issue. Another example of the importance of a design for the environment program has just been announced in Europe. Auto manufacturers will be required to bear the costs for the recycling of their products after the products have reached the end of their usefulness. The 2000 end-of-life vehicles (ELV) directive is the driving force as issued by the European Union. The directive target is to have 85% by weight of old autos recycled by 2006 and 95% by 2015.

TLG has focused on this issue in past Client Bulletins. There are discussions underway to issue commercial permits to all product manufacturers based on the ability of the manufactured product being recycled, including product packaging.

TLG OPINION / COMMENT:

Incorporate systematic product reviews relative to the current and future recycling requirements. TLG has the needed resources to assist in this process.

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: liongrp@worldnet.att.net or Telephone #: **1.817.244.9107**.

REGULATORY AGENCY INTERPRETATIONS / CHANGES AND IMPLICATIONS

U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION (OSHA)

A **sink-on-a-drum style parts cleaner** is considered a **dip tank** as defined under the OSHA standard 1910.123 (a); 1910.123 (b). This interpretation does not apply if the fluid is water and applies if the non-water fluid (or vapor) is used to clean or coat an object. The standard can also

apply if there is any altering of the surface of an object or any change of character. The rule also applies if there is draining or drying of the dipped or coated object. Some examples of operations listed are paint dipping, electroplating, pickling, quenching, tanning, degreasing, stripping, cleaning, roll coating, flow coating, and curtain coating.

NOTE: OSHA stated it retracted an earlier document on this topic because of a wrong definition on these types of equipment and operations.

The use of Task-Based Noise Exposure Assessment Modeling (T-BEAM) is acceptable. However, companies should be aware that they will be fully responsible for the T-BEAM strategy, and can receive citations if the sampling protocols do not cover all employee tasks or potential variations of noise exposure.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH **Cal-OSHA Standards Board** did not accept a recent request by a labor union to adopt the previous ergonomics standard as considered by OSHA.

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) **Small industrial / commercial incinerator emissions** are being reviewed to see if there is a greater need for controls and use permits. Part of this renewed interest in the smaller incinerators is due to some recent claims in court against the EPA that were brought forth from environmental activist organizations. Included in these lawsuits were hazardous waste incinerators, as well as cement kilns.

CALIFORNIA, USA

A recent study has been released detailing the hazards caused by electric and magnetic fields, (EMFs), emanating from electrical power lines, wiring in buildings, certain job tasks, as well as certain appliances. The study was conducted in concert with the California Department of Health Services.

CONNECTICUT, USA

There is current regulatory activity as to certain waste being added to waste management regulations. Included are batteries, thermostats, pesticides, and lighting lamps. The rule facilitates the recycling of these wastes and is designed to remove them from the solid waste streams. The used oil management standards establish requirements for all facets of handling used oil.

TLG Global Regulatory

H I G H L I G H T

AUSTRALIA AND EUROPEAN UNION SHARING WORKPLACE HEALTH INITIATIVES

Another example of how industry must recognize the emerging unification of Trans-border EH&S regulations.

The National Occupational Health and Safety Commission in Australia (NOHSC) based in Canberra and the European Agency for Safety and Health at Work in Bilbao (Spain) have recently launched a new joint Occupational Safety and Health (OSH) website. The OSH website represents a significant contribution to the creation of a global portal to workplace safety and health information.

STUDY LINKS EMPLOYEE CHEMICAL EXPOSURES TO OFFSPRING CANCER

The American Journal of Epidemiology publishes study that links parental chemical exposures to their children's neuroblastoma.

Male employees exposed to various chemicals such as lacquer thinner, turpentine, diesel fuel, solders, and wood dust may increase the chances that their children will develop a childhood cancer called neuroblastoma, according to a recent study published by the American Journal of Epidemiology. The study was based on



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interviews with 472 fathers of children under the age of 19 who have been diagnosed with the disease. They were compared with 445 fathers of healthy children.

TLG OPINION / COMMENT:

Assure that any actual or potential employee chemical exposure be considered in Job Hazard Assessments. Appropriate process engineering, employee training, and Personal Protective Equipment should be implemented as needed.

EMPLOYEES CONCERNED ABOUT WORKPLACE VIOLENCE

A survey of 1000 American adults indicates a high concern about workplace violence and their employers' lack of appropriate precautions.

A survey by the Employment Law Alliance (ELA) reported that more than 25% of those polled are concerned about the lack of their employers preparations regarding workplace violence.

Other findings included:

- 27 percent do not believe that their employers are prepared to deal with threats of violence in the workplace.
- 28 percent thought their employers were well prepared to deal with workplace violence.
- 12 percent said they had experienced violence against themselves or a fellow employee.
- 63 percent support a zero-tolerance policy (immediate termination) against any employees who engage in any threats of violence in the workplace.



TLG OPINION / COMMENT:

A number of regulatory agencies, including those in the America's and Europe, consider workplace violence to be a mandatory employee safety and health program.

GREAT BRITAIN SUPPORTS BRAZIL'S ACKNOWLEDGEMENT TO THE EUROPEAN UNION (EU) MARKETPLACE

Another indication of the spreading of potential regulatory influence into emerging markets and regions.

Recently, Britain's Prime minister gave a determined promise to assist in providing Brazil, and Mercosur, a greater exposure to the marketplace within the EU. This would indicate that the EU's expectations are that Mercosur's members will abide by EU directives including those regarding environmental issues.

TLG OPINION / COMMENT:

Companies that have any commercial operations within the countries in Mercosur, and other countries within Latin America, should be aware of the implications of these emerging regional relationships.

BUENOS AIRES, ARGENTINA, NEARS A MORE DEFINED WASTE DISPOSAL POLICY

Buenos Aires is now in the process of developing a significant waste management program including all aspects of waste management.

Solid waste volume has increased by 30 percent in the past ten years. The local government, with federal oversight, has begun to develop an extensive waste management plan. A study, conducted in concert with the University of Buenos Aires College of Engineering, has determined that paper and cardboard have increased while glass and metal has decreased. A substantial amount of industrial hazardous waste has been disposed of over the years outside government regulatory requirements. TLG has learned from local agency

sources that applicable regulatory agencies are planning stringent audits of known and suspected industrial waste generators. Substantial fines and further sanctions will be issued as regulatory infractions are discovered.

Additional regulations will be forthcoming regarding mandatory material specification for packaging materials. Waste minimization programs will be required including specific documentation by each waste generator on their goals and objectives.

TLG OPINION / COMMENT:

Any client who is active, in any way, within the Argentinean market should conduct a full review of their respective waste management program. For further details, please contact TLG at 1.214.244.9107 for consultation and information as to available resources.

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