



Wednesday, October 27
9:00am-10:30am

908 - Where Do I Start? Environmental Permitting and Reporting for the Non- Specialist

Jon Alby
Associate General Counsel
Leprino Foods Company

Ron Peppe
VP Legal & HR
Canam Steel Corporation

Athan Vinolus
Senior Counsel
Tomkins

Faculty Biographies

Jon Alby

Jon Alby is associate general counsel for Leprino Foods Company in Denver, CO. While Mr. Alby has responsibility for a wide range of standard corporate legal and business issues, he has played a critical role in the development and oversight of the company's environmental management systems and sustainability programs. Leprino is the largest US exporter of whey products and operates nine manufacturing plants in the United States. Leprino cheeses are made especially for pizzeria and foodservice operators, frozen food manufacturers and private label cheese packagers. Mr. Alby has been in-house with Leprino for over 11 years.

Prior to that, he was with a general practice law firm in Aspen, Colorado working on environmental, real estate, land use, and litigation matters.

Mr. Alby has a BA in International Relations and Environmental Studies from the University of Wisconsin-Madison. He received his law degree from the University of Denver.

Ron Peppe

Ron Peppe is vice president of Legal and Human Resources, and corporate secretary for Canam Steel Corporation, the U.S. subsidiary of Canam Group Inc., a publicly traded manufacturing and construction company with operations in Canada, the U.S., China, Romania, India, Dubai, Saudi Arabia, Vietnam and Russia. Canam fabricates steel construction components and builds large-scale projects such as professional sports stadiums, convention centers, highway and railroad bridges and high-rise office buildings. Mr. Peppe oversees legal and human resources issues for U.S. operations, including 11 production facilities in the U.S.

He has served as vice president of Law & Technology at ACC, and is the co-chair of the ACC Environmental & Sustainability Committee.

Athan Vinolus

Athan A. Vinolus is senior counsel for Tomkins Industries Inc., and is the attorney responsible for health, safety and environmental (HSE) matters for all Tomkins companies. He provides guidance and legal counsel on HSE issues, and assists in the development of policies and procedures. Mr. Vinolus is responsible for coordinating and overseeing HSE audits, environmental due diligence for property acquisitions and leases, and coordinates environmental due diligence in corporate acquisitions. He also provides and oversees legal defense in environmental litigation, OSHA citations, CERCLA matters, and remediation of sites.

Session 908

Prior to joining the Tomkins law department, Mr. Vinolus was associate counsel for the Dayton Power and Light Company (DP&L), where he handled environmental and regulatory matters for ten years. Prior to DP&L, he was with the Ohio Attorney General's Environmental Enforcement Section as an assistant attorney general.

Mr. Vinolus received a BS degree from S.U.N.Y. College of Environmental Science and Forestry and a JD from The University of Toledo College of Law.

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Where Do I start?

Environmental permitting
and reporting for the
non- specialist

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Overview

A very basic discussion of:

- The Clean Air Act (CAA)
- The Clean Water Act (CWA)
- What to do when the regulators show up

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Overview (continued)

- We are not going to cover hazardous materials and cleanup issues
- Primary focus on manufacturing activities

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Air Permit Basics

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Why is this important?

- The system relies on disincentives for non-compliance rather than incentives for compliance
- Shift away from compliance assistance towards stronger enforcement

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Why is this important?

- Violations, even administrative errors and recordkeeping, can run \$37,500 per day per violation
- Possibility of criminal charges

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Who is in charge?

- Concurrent jurisdiction of federal and state authorities
- Private enforcement
- Permitting and reporting requirements developed and administered by the states

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The Clean Air Act

- Adopted in 1970, significant Amendments, especially in 1990
- Enforcement and implementation around 2000
- Regulations and interpretations continue to evolve
- Title I- Air pollution and control
- Title V- permits

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NAAQS

- National Ambient Air Quality Standards
- Six "criteria pollutants"
- Primary and secondary standards
- An area can be in "attainment" or "non-attainment" for each

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Primary Standards

- To protect public health
- Includes "sensitive" populations such as asthmatics, elderly, children

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Secondary Standards

- To protect public welfare
- Covers visibility impairment, damage to animals, crops, vegetation, buildings

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Criteria Pollutants

- Carbon monoxide
- Lead
- Nitrogen Oxide
- Ozone
- Particulates
- Sulfur Dioxides

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What about Greenhouse Gases (GHGs)

- Supreme Court Case Massachusetts v EPA 549 US 497 (2007)
- Directed EPA administrator to determine whether or not greenhouse gas emissions from motor vehicles cause or contribute to air pollution which "may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision."

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Greenhouse Gases (continued)

- **Endangerment Finding:** concentrations of the six key well-mixed greenhouse gases—carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆)—in the atmosphere threaten the public health and welfare of current and future generations
- May 2010 final rule with "common sense approach" ("tailoring rule")
- Different thresholds than other criteria pollutants
- Effective January 2, 2011

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New Source Performance Standards (NSPS)

- Apply to specific industries

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Hazardous Air Pollutants /air toxics (HAPs)

- Section 112 of the CAA
- Currently 187 pollutants

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How does this affect my company?

- CAA controls whether you can build a facility or modify operations
- Construction and operating permits
- Recordkeeping and reporting requirements

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Factors

Your ability to obtain and keep a permit depends on not just what you emit, but several other factors

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Factors (continued):

- Whether you are in an attainment or non attainment area for criteria pollutants
- Whether your emissions will affect a sensitive population or area

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Factors (continued)

- Whether you are a new or modified source, or an existing source
- Whether you are a "major source" or propose a "major modification"
- What HAPS you emit
- What other specific rules your state or local agency has adopted

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Major Source for Criteria Pollutants

- For nonattainment areas, 100/50/25/ or 10 ton per year (TPY)
- For PSD in attainment areas- 250 TPY (100 TPY for some sources)
- Based on "Potential to Emit" (PTE)

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Major Modification

- "Significant" increase in emissions
- Many legal fights over interpretation, rulemaking, and reconciling different parts of the law

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Building or Modifying- New Source Review (NSR)

- Building or modification requires construction permit
- Modification includes any different or increased pollutants due to changes in equipment, processes or hours
- You need the permit BEFORE you start construction
- Depends on attainment or non-attainment area and whether you are a major or minor source

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Requirements for Attainment Areas- PSD

- Air quality analysis
- Public involvement- timing issues and public scrutiny
- Prevention of Significant Deterioration (PSD) for new major sources or major modifications in an attainment area
- Best Available Control Technology (BACT)

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BACT

- Maximum achievable control
- Add on equipment or changes in processes
- Case by case analysis that considers cost

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Requirements in Nonattainment Areas

- Air quality analysis
- Public involvement- timing issues and public scrutiny
- Lowest Achievable Emissions Rate (LAER)
- Emission Offsets

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LAER

- the most stringent emission limitation derived from either of the following:
 - the most stringent emission limitation contained in the implementation plan of any state for such class or category of source; or
 - the most stringent emission limitation achieved in practice by such class or category of source
- Cost is not considered

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Offsets

- A market to buy and sell credits
- More than a 1:1 ratio required
- Markets vary from state to state

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NESHAP

- National Emissions Standards for Hazardous Air Pollutants (NESHAP)
- Must use Maximum Achievable Control Technology (MACT)
- A major source is 10 TPY of one HAP or 25 TPY total
- An "area source" is below that level

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MACT

- "Not be less than the average emission level achieved by controls on the best performing 12 percent of existing sources, by category of industrial and utility sources"
- Specific standards for specific industries
- Some are still being rolled out

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Operating Permit Program- Required in addition to the construction permits

- Emission standards and limitations
- Generally for five years
- Monitoring and recordkeeping requirements
- Annual reporting and fees based on emissions

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Other reporting requirements- TRI

- Toxics Release Inventory, part of the Emergency Planning and Community Right to Know Act (EPCRA)
- Includes air, water and land emissions
- Covers around 650 chemicals
- Some states have different requirements
- Due July 1 each year
- Information reported is publicly available

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Risk Management Programs

- Section 112r of the CAA
- List of substances and thresholds
- Intended to prevent and mitigate releases of air toxics
- Similar to OSHA Process Safety Management requirements
- Even if you are not subject to a RMP, you are subject to a general duty clause

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Requirements for RMPS

- Five year history of releases
- Prevention program to manage risks
- Emergency response program
- Management system
- A written RMP that includes all of the above
- Must be submitted to the EPA electronically

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Clean Water Act (“CWA”)

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Overview- Clean Water Act

- Origin of Major Laws and reasons for implementation
 - Series of laws starting as far back as 1948, but 1972 amendments defined current form
 - Water pollution originally treated as local/state problem
 - Growing frustration over polluted waters led to 1972 amendments

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Overview- Clean Water Act, Cont.

- 1972: Expanded Federal Authority for enforcement and oversight and State Delegation for day-to-day activities: Clean Water Act ("CWA")
- CWA jurisdiction applies to all "waters of the US."
- The objective of the CWA is to restore and maintain the chemical, physical and biological integrity of the nation's waters

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Overview (continued)

- The objective translates into 2 fundamental national goals:
 - 1) Eliminate the discharge of pollutants into nation's waters;
 - 2) Achieve water quality levels that are **fishable** and **swimmable**.
- Established nationwide effluent standards on industry-by-industry basis based on available pollution control technology.


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Overview (continued)

- Discharge of a pollutant to water
- Types of discharges
 - Direct discharges (e.g., pipe from factory to river)
 - Discharge to POTW (e.g., factory to City)
 - Land Application/Groundwater Discharge (e.g., factory to land)
 - Nonpoint Sources/Indirect Discharges (e.g., Storm Water)


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Direct Discharges

- Point Source Discharge
 - "NPDES" Permit
 - Permit contains discharge limits and monitoring and reporting requirements that the discharger must comply with or face strict monetary and/or criminal penalties
 - Permitting authority will issue permit- typically the permitting authority is the state where discharge is proposed, but can be federal EPA if state does not have approved program


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Direct Discharges

- Limits consist of (i) industry-by-industry standards based on available control technology for the type of pollutant discharged; and (ii) water-body specific water quality standards.
- In addition, in waters where water quality standards have not been met despite imposition of these limits, then stream segment can have a limit based on the total maximum daily load ("TMDL").

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Discharge to Publicly Owned Treatment Works (POTW)

- Still covered by the CWA (National Pretreatment Program)
- Objective: protect the POTW from pollutants that may interfere with plant operation and to prevent pollutants that may pass through the POTW without being treated.

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POTW (continued)

- Pollutant limits: under the pretreatment program limits are applied by industry- e.g., if cheese manufacturer, subject to established limits; if steel manufacturer, subject to different limits
- The pretreatment standards subject companies to federal enforcement in the event of a violation.

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Land Application

- Regulated under CWA if potential for discharge to waters of the United States. Generally, state regulates based on discharge to groundwater ("waters of the state").
- Must be protective of groundwater and soil (e.g. agronomic limits, no degradation of groundwater).
 - Typical restrictions include no runoff or ponding of applied water
 - Storage is big consideration in cold climates

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Storm Water

- Generally speaking, if industrial/commercial material or product that is result of industrial/commercial activity has the potential to mix with storm water, permit is required.
 - Examples: Parking lots (oil, debris, etc.), outside chemical storage, outside raw material or feedstock storage, external tanks with no containment

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Storm Water (continued)

- Two Options
 - Stormwater Permit
 - Assumes some contact with SW occurs
 - BMP's / SWPPP / Reporting is Required
 - Sampling may be required
 - No Exposure Certification (High Risk)
 - Means No SW Exposure to Process Water or Industrial activities
 - No Reporting - but Inspections Occur
 - Challenge is if you have accidental discharge, increased scrutiny

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Storm Water (continued)

Storm Water Discharges from Construction Activities

- Required for soil disturbing activities associated with construction
- Trigger is disturbance of 1 acre or more
- Requires application prior to start of construction and implementation of BMPs
- High visibility of construction sites leads to many citations

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General Comments (Wastewater)

- One size does not fill all when it comes to wastewater- diff. requirements/limitations in different regions/states. Can't assume that because you do it one way at an existing location that same will apply to new location.
- Consider during site selection
- Communicate with regulators early in process and keep communicating (it is a "fluid" process)

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General Comments (Wastewater), Cont.

- Permit process can be lengthy and public is often involved. Plan ahead and make sure you start process as early as possible.
- Keep abreast of changes in laws and regs- know what is coming in future permit renewals
- Always submit renewal application on time!

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Water Enforcement Examples

- Montana Colstrip Power Plant
- Hilmar Cheese Company
- Smithfield Foods
- Dean Dairy
- Saputo Cheese USA, Inc.

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Montana Colstrip Power Plant

- The owners of the Montana Colstrip Power **Plant paid \$25 million to settle a groundwater contamination lawsuit**
- Fifty-seven plaintiffs, including some plant workers, brought suit against the power plant alleging that plant officials were aware that the community water supply was contaminated and did not notify the community until 4 years later
- The contamination came from holding ponds containing waste that leaked

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Hilmar Cheese Company

- Hilmar paid a \$3 million settlement to the California Regional Water Quality Control Board after being cited for multiple water pollution violations
 - Settlement amount consisted of cash and funding of State Board initiatives.
- The case stemmed from land application of wastewater that exceeded permitted levels of salt and wastewater leaking into state waterways

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Smithfield Foods Case

- (EPA Overfiling case) In August of 1997, a U.S. District Court in Norfolk, Virginia fined Smithfield Foods and two of its subsidiaries \$12.6 million for discharging illegal levels of pollutants from their slaughterhouse into a river, in violation of the Clean Water Act
- The court found that Smithfield's failure to install adequate pollution control equipment and properly treat wastewater resulted in more than 5,000 violations of permit limits for phosphorous, fecal coliform and other pollutants

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Smithfield Foods Case (continued)

- The violations continued over a 5 year period
- **The former operator of the wastewater treatment facility was also indicted on 23 counts of illegally discharging contaminated wastewater and falsifying quality reports submitted to the State. The former operator was sentenced to 30 months in federal prison and 1-year of supervised release.**

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Dean Dairy Case

- In 1996 a U.S. District Court fined Dean Dairy \$4,031,000.00 for violating the CWA
- Dean Dairy had discharged wastewater containing impermissible high levels of BOD and TSS to the POTW in violation of its industrial user permit

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Dean Dairy Case (continued)

- The wastewater damaged a nearby creek
- The Justice Department asserted that the company's failure to reduce production or to reduce pollutants led to more than \$2 million in profits for Dean Dairy, which were included as damages against Dean

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Saputo Cheese USA Inc. Case

- In December of 2000, Saputo Cheese avoided a \$1.2 million penalty by cooperating with EPA under its Audit Policy
- During a self-audit, Saputo became aware it had violated the CWA at 18 of its facilities
- Saputo reported and corrected the violations and settles the case for a reduced penalty of \$10,943

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**Preparing For and Handling
 Environmental and Safety Inspections**

-

Before, During and After

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Environmental Inspections

- Governmental agencies are provided with **authority to enter property at reasonable times to conduct inspections** of facilities or activities to ensure compliance with environmental laws. The following are some helpful guidelines and a checklist to consider using during such regulatory inspections.
- Facilities are inspected regularly
 - Routine, Annual, Complaint, Compliance Inspections

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Safety Inspections

- OSHA/MOL – generally, governmental agencies have authority to conduct safety inspections for the following reasons:
 - Imminent danger;
 - Fatality or catastrophe;
 - Complaint or referral about safety hazard; and
 - Programmed/systematic inspections
- Facilities are inspected regularly
 - Complaint and program Inspections

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Overview

- This session will provide a brief overview of what you can do to:
 - help your facilities handle regulatory inspections
 - help you prepare defense for potential subsequent enforcement action
- Proactively prepare inspection guideline material
- Reminders and tips – before, during and after inspections

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Before an Inspection

- Be Prepared
- Facilities should be prepared for unannounced inspections
- Law Department training
 - Corp HSE Managers
 - Facility Managers
 - Facility HSE Coordinators

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Before an Inspection – cont'd

- Facilities should establish team to handle HSE inspections
 - Plant manager and HSE Coordinator
 - Back-ups and alternates
 - Receptionist
- Review and be familiar with Law Department inspection guidelines and checklist

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Before an Inspection – cont'd

- Distribute Law Department inspection guideline material
 - Company Law Dept. HSE Counsel
 - Corporate HSE manager
 - Internal Website
- Do not wait until an inspection to circulate
- Familiarize your team with procedures

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During an Inspection

- Ask the reason for/purpose of the inspection
- Inform Law Department and Corp HSE Manager
- Try to narrow scope
 - Limit inspection to those matters and locations
 - Plan route to location
 - Scope of investigation can be broadened if inspector hears about or observes hazardous conditions during inspection
- If possible, have 2 team members accompany inspector
 - Spokesperson / Scrivener

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During an Inspection – cont'd

- Responses to Questions and Requests for Documents
 - Be sure to understand the question/request
 - Answer the question asked
 - Do not guess or speculate
 - Do not volunteer additional information
 - Provide only specific documents requested
 - Keep copies of everything provided

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During an Inspection – cont'd

- Photographs
 - Take photos of same areas and items that inspectors photograph
- Samples
 - Request splits of all samples
 - Lab errors are more common than you may think
 - Ask what parameters will be analyzed

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During an Inspection – cont'd

- Interviews
 - Employees
 - Management - right to company representative
 - No legal obligation that any employee sign a statement

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During an Inspection – cont'd

- Closing Conference
 - Let inspector do the talking
 - Were any potential violations alleged?
 - Get as much detail, clarity and specificity as possible from inspector
 - Do not automatically agree to the abatement suggested
- Ask if there will be any correspondence sent to facility after inspection

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After an Inspection

- Contact HSE Counsel and your Corporate HSE Manager
- Complete inspection checklist and send it to HSE Counsel

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After an Inspection – cont'd

- Do not create non-privileged communications!
 - Avoid smoking gun, non-privileged communication
 - a/k/a State's Exhibit 1
 - Educate as to what is non-privileged!
 - You and I know.
 - Do your plant personnel know?
 - Communication to someone other than counsel
 - i.e. Email/memo between plant personnel or other managers

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After an Inspection – cont'd

- Interview the employees interviewed by inspectors
- If there were split samples, arrange for analysis
 - Shelf life
 - Chain of custody
- If potential violations were discussed, contact Law Department and Corporate HSE manager
 - Do not wait until receipt of citation

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Reminder

- If citation, NOV, order,...is issued:
- Within 1 business day of receipt, provide copy to Law Department:
 - Attention: Name
 - Fax: Number
 - Email: Address
- Be sure to note the exact date received at the facility
- Often brief response deadlines – based on date of receipt
- All responses should be reviewed by the Law Department

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In the trenches...

- Types of Inspections
 - **EPA** - Federal, State and Local Authorities
 - RCRA Inspections
 - » Manifests
 - » Closed containers, labeling
 - EPCRA TRI Inspection
 - » Preparation
 - » Checklist and Folders
 - » Items reviewed

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 Henry B. Gonzalez Convention Center, San Antonio, TX

ACC Association of Corporate Counsel

In the trenches...- cont'd

- **EPA** - Federal, State and Local Authorities
 - Air permit inspections
 - » Floor time vs. record review
 - » Permit requirements
 - » Records and calculations reviewed
 - Water
 - » Stormwater
 - » Process

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In the trenches...- cont'd

- **OSHA/MOL**
 - Complaint Inspections
 - Program/Systematic
 - » OSHA forms
 - » Training and records
 - » Proper signatures
 - » Guarding, nip points
 - » Forklifts
 - » Cranes/Hoists/Lifting devices
 - » MOL Enforcement Blitzes

ENVIRONMENTAL INSPECTIONS

Governmental agencies are provided with authority to enter property at reasonable times to conduct inspections of facilities or activities to ensure compliance with environmental laws. The following are some helpful guidelines and a checklist to consider using during such regulatory inspections.

Guidelines for Environmental Inspections*

1. Meet the inspectors¹ promptly upon their arrival. The escort should be thoroughly familiar with the Company's policies on government inspections. Request presentation of appropriate credentials. Ask the purpose of the inspection. Ask about particular matters that the inspector would like to review and, to the extent possible, try to limit the inspection to those matters. Show the inspectors only those documents (relevant and non-privileged) or areas that they have identified. **If the purpose of the inspection is anything other than a routine inspection, immediately contact Legal (NAME, PHONE #). If the inspector asks to review documents, activities or areas which are not clearly relevant to the laws being enforced,** apologetically explain that there is a policy that no non-relevant or privileged documents are to be released prior to legal review and explain that you will contact the Law Department promptly to obtain a response to their request.
2. Request that, while inspectors are on the site, they remain with and follow the directions of their escort or host and abide by all applicable plant rules and procedures.
3. If possible, designate two Company representatives to accompany the inspectors, with one representative designated as the Company spokesperson while the other acts as an observer.
4. Be truthful, listen carefully to any questions and answer the question asked, unless it involves potentially privileged information (e.g., attorney-client communications, internal memoranda and communications, and environmental audits). Be brief and to the point and do not volunteer information. Be courteous and polite. Do not become too friendly with the inspectors. "Off the record" comments often are included in their report.
5. To the extent possible, do not allow the inspectors to talk with Company employees other than the designated spokesperson. Non-spokesperson employees do not have to speak to inspectors if they do not so desire. They can contact Corporate Counsel to be advised of their legal rights. If possible, prepare a list of questions asked and the answers provided. While the inspector is entitled to speak with employees privately, you should not ask or

¹If the Department of Justice or lawyer for any other regulatory agency is present, contact the Company Law Department before any discussion takes place. Company counsel should be present for any such discussion. Apologetically explain that it is Company policy to have Company counsel present for any such discussion, and that the Company will arrange such meeting at an agreeable time and location.

volunteer that opportunity; continue to accompany them and assume that you can be present until you are directly asked to leave. Prepare a list of employees that spoke with the inspectors.

5. If you do not understand a question, say that you do not understand and ask that it be repeated or explained. If you do not know the answer, say that you do not know or cannot remember, as appropriate. You should not guess or speculate as to what they are asking or as to an answer.
6. If appropriate, say that an answer may have to be provided later either because of the need to review records to be accurate, or because you would like to discuss the matter further with others.
7. Keep copies and make a record of anything you provide to the inspectors. If photographs are taken, photograph the same area or item. Take notes as to what the inspector photographs or videotapes. Be aware that video cameras have increasingly been permitted except where you have a valid claim that proprietary processes are involved. Do not forget, video cameras and most digital cameras also record sound. If possible, use your own video, but only if the inspector initiates videotaping of the inspection.
8. Request that any business information obtained during the visit, such as production or manufacturing processes or methods, product formulae, suppliers or customers, financial or pricing matters, and any other matters that the Company may not want to have publicly disclosed, be treated as confidential business information, and that the confidentiality of such information be strictly maintained unless its disclosure is compelled by law.
9. For every sample collected, and particularly those collected pursuant to hazardous waste management authority derived from the Resource Conservation and Recovery Act or from CERCLA, request that the Company be provided a split sample, a receipt describing the sample, and a copy of the results of any analysis made of the sample. The Company also must originate a chain of custody record as to the samples it retains. If the inspector has used a video camera during the inspection, be sure to videotape or photograph every aspect of the sampling event.
10. Before the inspector departs the facility, deliver to the inspector a written request for a copy of any reports submitted by the inspector to EPA or otherwise prepared by EPA as to the plant visit and for any related reports, summaries, memoranda, photographs, videotapes, and analytical data. Be sure to keep a copy of the letter that you give to inspectors and send a copy to the Law Department. Conduct an exit interview with the inspector to determine his/her observations, opinions and course of subsequent action.
11. Prepare a summary of the inspection, directed to legal counsel, documenting the events and observations. A sample checklist follows these guidelines.

*These guidelines are intended to be beneficial for environmental inspections by governmental regulatory agencies.

If the agency serves a search warrant upon a Company facility, Legal (NAME, PHONE #), or any other attorney available in the Law Department (LAW DEPARTMENT PHONE #), should be contacted immediately.

NPDES
FORM
3510-11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460
NO EXPOSURE CERTIFICATION FOR EXCLUSION FROM NPDES STORMWATER
PERMITTING

Form Approved
OMB No. 2040-0211

Submission of this No Exposure Certification constitutes notice that the entity identified in Section A does not require permit authorization for its stormwater discharges associated with industrial activity in the State identified in Section B under EPA's Stormwater Multi Sector General Permit due to the existence of a condition of no exposure.

A condition of no exposure exists at an industrial facility when all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. A storm resistant shelter is not required for the following industrial materials and activities:

- drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak. "Sealed" means banded or otherwise secured and without operational taps or valves;
- adequately maintained vehicles used in material handling; and
- final products, other than products that would be mobilized in stormwater discharges (e.g., rock salt).

A No Exposure Certification must be provided for each facility qualifying for the no exposure exclusion. In addition, the exclusion from NPDES permitting is available on a facility-wide basis only, not for individual outfalls. If any industrial activities or materials are or will be exposed to precipitation, the facility is not eligible for the no exposure exclusion.

By signing and submitting this No Exposure Certification form, the entity in Section A is certifying that a condition of no exposure exists at its facility or site, and is obligated to comply with the terms and conditions of 40 CFR 122.26(g).

ALL INFORMATION MUST BE PROVIDED ON THIS FORM.

Detailed instructions for completing this form and obtaining the no exposure exclusion are provided on pages 3 and 4.

A. Facility Operator Information

1. Name: 2. Phone: - -

3. Email:

4. Mailing Address: a. Street

b. City: c. State d. Zip Code: -

B. Facility/Site Location Information

1. Facility Name:

2. a. Street Address:

b. City: c. County:

d. State: e. Zip Code: -

3. Is the facility located on Indian Lands? YES NO

4. Is this a Federal facility? YES NO

5. a. Latitude: ° ' " b. Longitude: ° ' "

6. a. Was the facility or site previously covered under an NPDES stormwater permit? YES NO

b. If yes, enter NPDES permit number or tracking number: _____

7. SIC/Activity Codes: Primary: Secondary (if applicable):

8. Total size of site associated with industrial activity: _____ acres

9. a. Have you paved or roofed over a formerly exposed, pervious area in order to qualify for the no exposure exclusion? YES NO

b. If yes, please indicate approximately how much area was paved or roofed over. Completing this question does not disqualify you for the no exposure exclusion. However, your permitting authority may use this information in considering whether stormwater discharges from your site are likely to have an adverse impact on water quality, in which case you could be required to obtain permit coverage.

Less than one acre One to five acres More than five acres

C. Exposure Checklist

Are any of the following materials or activities exposed to precipitation, now or in the foreseeable future?
 (Please check either "Yes" or "No" in the appropriate box.) **If you answer "Yes" to any of these questions (1) through (11), you are not eligible for the no exposure exclusion.**

	Yes	No
1. Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to stormwater	<input type="checkbox"/>	<input type="checkbox"/>
2. Materials or residuals on the ground or in stormwater inlets from spills/leaks	<input type="checkbox"/>	<input type="checkbox"/>
3. Materials or products from past industrial activity	<input type="checkbox"/>	<input type="checkbox"/>
4. Material handling equipment (except adequately maintained vehicles)	<input type="checkbox"/>	<input type="checkbox"/>
5. Materials or products during loading/unloading or transporting activities	<input type="checkbox"/>	<input type="checkbox"/>
6. Materials or products stored outdoors (except final products intended for outside use [e.g., new cars] where exposure to stormwater does not result in the discharge of pollutants)	<input type="checkbox"/>	<input type="checkbox"/>
7. Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers	<input type="checkbox"/>	<input type="checkbox"/>
8. Materials or products handled/stored on roads or railways owned or maintained by the discharger	<input type="checkbox"/>	<input type="checkbox"/>
9. Waste material (except waste in covered, non leaking containers [e.g., dumpsters])	<input type="checkbox"/>	<input type="checkbox"/>
10. Application or disposal of process wastewater (unless otherwise permitted)	<input type="checkbox"/>	<input type="checkbox"/>
11. Particulate matter or visible deposits of residuals from roof stacks and/or vents not otherwise regulated (i.e., under an air quality control permit) and evident in the stormwater outflow	<input type="checkbox"/>	<input type="checkbox"/>

D. Certification Statement

I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "no exposure" and obtaining an exclusion from NPDES stormwater permitting.

I certify under penalty of law that there are no discharges of stormwater contaminated by exposure to industrial activities or materials from the industrial facility or site identified in this document (except as allowed under 40 CFR 122.26(g)(2)).

I understand that I am obligated to submit a no exposure certification form once every five years to the NPDES permitting authority and, if requested, to the operator of the local municipal separate storm sewer system (MS4) into which the facility discharges (where applicable). I understand that I must allow the NPDES permitting authority, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an NPDES permit prior to any point source discharge of stormwater from the facility.

Additionally, I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name:

Print Title:

Signature: _____

Date: / /
 Mo Day Year

Email:

Instructions for the NO EXPOSURE CERTIFICATION for Exclusion from NPDES Stormwater Permitting

Who May File a No Exposure Certification

Federal law at 40 CFR Part 122.26 prohibits point source discharges of stormwater associated with industrial activity to waters of the U.S. without a National Pollutant Discharge Elimination System (NPDES) permit. However, NPDES permit coverage is not required for discharges of stormwater associated with industrial activities identified at 40CFR 122.26(b)(14)(i)-(ix) and (xi) if the discharger can certify that a condition of "no exposure" exists at the industrial facility or site.

Stormwater discharges from construction activities identified in 40 CFR 122.26(b)(14)(x) and (b)(15) are not eligible for the no exposure exclusion.

Obtaining and Maintaining the No Exposure Exclusion

This form is used to certify that a condition of no exposure exists at the industrial facility or site described herein. This certification is only applicable in jurisdictions where EPA is the NPDES permitting authority and must be re-submitted at least once every five years.

The industrial facility operator must maintain a condition of no exposure at its facility or site in order for the no exposure exclusion to remain applicable. If conditions change resulting in the exposure of materials and activities to stormwater, the facility operator must obtain coverage under an NPDES stormwater permit immediately.

Where to File the No Exposure Certification Form

No Exposure Forms sent regular mail: Forms sent overnight/express:

SW No Exposure Certification (4203M) USEPA 1200 Pennsylvania Avenue, NW Washington, D.C. 20460	SW No Exposure Certification US EPA East Building, Rm. 7420 1201 Constitution Avenue, NW Washington, D.C. 20004 (202) 564-9545
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Completing the Form

You must type or print, using uppercase letters, in appropriate areas only. Enter only one character per space (i.e., between the marks). Abbreviate if necessary to stay within the number of characters allowed for each item. Use one space for breaks between words. One form must be completed for each facility or site for which you are seeking to certify a condition of no exposure. Additional guidance on completing this form can be accessed at EPA's website: www.epa.gov/npdes/stormwater. Please make sure you have addressed all applicable questions and have made a photocopy for your records before sending the completed form to the above address.

Section A. Facility Operator Information

1. Provide the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this certification. The name of the operator may or may not be the same as the name of the facility. The operator is the legal entity that controls the facility's operation, rather than the plant or site manager.
2. Provide the telephone number of the facility operator.
3. Provide the email address of the facility operator.
4. Provide the mailing address of the operator (P.O. Box numbers may be used). Include the city, state, and zip code. All correspondence will be sent to this address.

Section B. Facility/Site Location Information

1. Enter the official or legal name of the facility or site.
2. Enter the complete street address (if no street address exists, provide a geographic description [e.g., Intersection of Routes 9 and 55]), city, county, state, and zip code. Do not use a P.O. Box number.
3. Indicate whether the facility is located on Indian Lands.
4. Indicate whether the industrial facility is operated by a department or agency of the Federal Government (see also Section 313 of the Clean Water Act).

5. Enter the latitude and longitude of the approximate center of the facility or site in degrees/minutes/seconds. Latitude and longitude can be obtained from United States Geological Survey (USGS) quadrangle or topographic maps, by calling 1-(888) ASK-USGS, or by accessing the Census Bureau at: www.census.gov/cgi-bin/gazetteer

Latitude and longitude for a facility in decimal form must be converted to degrees (°), minutes ('), and seconds (") for proper entry on the certification form. To convert decimal latitude or longitude to degrees/minutes/seconds, follow the steps in the following example.

Example: Convert decimal latitude 45.1234567 to degrees (°), minutes ('), and seconds (").

- a) The numbers to the left of the decimal point are the degrees: 45°.
 - b) To obtain minutes, multiply the first four numbers to the right of the decimal point by 0.006: $1234 \times 0.006 = 7.404$.
 - c) The numbers to the left of the decimal point in the result obtained in (b) are the minutes: 7'.
 - d) To obtain seconds, multiply the remaining three numbers to the right of the decimal from the result obtained in (b) by 0.06: $404 \times 0.06 = 24.24$. Since the numbers to the right of the decimal point are not used, the result is 24".
 - e) The conversion for 45.1234567 = 45° 7' 24".
6. Indicate whether the facility was previously covered under an NPDES stormwater permit. If so, include the permit number or permit tracking number.
 7. Enter the 4-digit SIC code which identifies the facility's primary activity and second 4-digit SIC code identifying the facility's secondary activity, if applicable. SIC codes can be obtained from the Standard Industrial Classification Manual, 1987.
 8. Enter the total size of the site associated with industrial activity in acres. Acreage may be determined by dividing square footage by 43,560, as demonstrated in the following example.

Example: Convert 54,450 ft² to acres

Divide 54,450 ft² by 43,560 square feet per acre:
 $54,450 \text{ ft}^2 \div 43,560 \text{ ft}^2/\text{acre} = 1.25 \text{ acres}$.
 9. Check "Yes" or "No" as appropriate to indicate whether you have paved or roofed over a formerly exposed, pervious area (i.e., lawn, meadow, dirt or gravel road/parking lot) in order to qualify for no exposure. If yes, also indicate approximately how much area was paved or roofed over and is now impervious area.

Instructions for the NO EXPOSURE CERTIFICATION for Exclusion from NPDES Stormwater Permitting

Section C. Exposure Checklist

Check "Yes" or "No" as appropriate to describe the exposure condition at your facility. If you answer "Yes" to **ANY** of the questions (1) through (11) in this section, a potential for exposure exists at your site and you cannot certify to a condition of no exposure. You must obtain (or already have) coverage under an NPDES stormwater permit. After obtaining permit coverage, you can institute modifications to eliminate the potential for a discharge of stormwater exposed to industrial activity, and then certify to a condition of no exposure.

Section D. Certification Statement

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means:

- (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or
- (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit

application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor, or

For a municipal, State, Federal, or other public facility: by either a principal executive or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this certification is estimated to average 1.0 hour per certification, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose to provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Director, OPPE Regulatory Information Division (2137), USEPA, 401 M Street, SW, Washington, D.C. 20460. Include the OMB control number of this form on any correspondence. Do not send the completed No Exposure Certification form to this address.

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Prepared At Request Of Counsel

Fax or Email to Legal Counsel:

NAME

Telephone: _____ Cell Phone: _____
Facsimile: _____ Email: - _____

Regulatory Inspection Checklist

_____ Company Name, Facility Name and Location: _____

_____ Company representative(s) attending inspection: _____

_____ Company representative preparing this checklist (include email address and phone #):

Basic Information

_____ Name of inspector(s)¹, agency, address and telephone number:

Phone: _____ Phone: _____ Phone: _____

_____ **Stated purpose and scope of inspection** (what documents/activities are covered, i.e., Material Safety Data Sheets, Manifests, Disposal Records . . .) and the statutory authority under which the inspection is being conducted (what laws are being enforced, i.e., RCRA, CAA, OSHA . . .): _____

¹Form is only confidential after being completed. It should then only go to the Company Law Department.

²If the Department of Justice or lawyer for any other regulatory agency is present, contact the Company Law Department before any discussions take place. Company counsel should be present for any such discussions. Apologetically explain that it is Company policy to have Company counsel present for any such discussion, and that the Company will arrange such meeting at an agreeable time and location.

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_____ **Ask what has triggered this inspection (i.e., routine inspection or employee or citizen complaint): _____

_____ **Promptly advise legal counsel (**NAME**) of the inspection:
 _____ (Attorney
 contacted)

_____ **Promptly advise Corporate HSE manager of the inspection:
 _____ (Name of person contacted)

_____ **Require that the environmental health and safety manager (if available), or a representative, attend the inspection.

Response: _____

_____ Accompany the inspector(s).

- Preferably, two company representatives should accompany the inspector -- one to answer questions and the other to take detailed notes.

Take notes on the following:

- What is seen and areas visited during inspection;
- Who is spoken to;
- What is said (specific questions and specific answers);
- Samples collected;
- Photographs/videotape taken; and
- Documents reviewed.

(If the inspector asks to review documents, activities or areas which are not clearly relevant to the laws being enforced, request an explanation and contact legal counsel.)

_____ Make duplicates of any relevant and unprivileged documents copied for the inspector(s). Attach duplicates as part of this checklist/report.

_____ Ask the inspector(s) to provide the following, if applicable:

_____ split samples²

²Contact legal counsel to ensure that you create an adequate chain of custody document for all samples. If samples are collected, photograph or videotape all of the sampling event (preparation, sample collection, labeling . . .).

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Response: _____

_____ copies of government/inspector's laboratory report and results

Response: _____

_____ copies of photographs and videotapes

Response: _____

_____ copies of any tape-recorded statements

Response: _____

_____ copies of any written statements

Response: _____

_____ copies of the inspector's reports

Response: _____

_____ Complete and provide to the inspector the Request for Information Letter that is attached hereto. **Be sure to keep a copy of the Request for your records and to provide a copy to the Law Department.**

Steps to Take After the Inspection

_____ Did inspector reveal the discovery of any potential violations? _____

_____ Does the inspector plan to return to the site? _____

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When: _____

For what purpose: _____

_____ List of all employees questioned by and providing answers to the inspectors: _____

Observations During Inspection

_____ Date: _____

_____ Time inspection started: _____

_____ Time inspection finished: _____

_____ Weather conditions: _____

_____ Any noteworthy comments from inspector: _____

_____ Any unusual events or activities occurring prior to inspection: _____

_____ Any unusual events or activities occurring during inspection: _____

_____ Contact legal counsel and environmental management; provide both with copies of completed checklist, notes and documents.

****DO NOT DISCUSS YOUR NOTES, CHECKLIST OR COMMENTS WITH ANYONE OTHER THAN THOSE TO WHOM YOU REPORT AND THE ENVIRONMENTAL MANAGER WITHOUT FIRST CONTACTING LEGAL COUNSEL.**

FAX OR EMAIL THIS REPORT TO COUNSEL

OSHA INSPECTIONS

The Occupational Safety and Health Administration (OSHA) may conduct an inspection for four reasons: imminent danger, a fatality or catastrophe, a complaint or referral about a safety hazard, and programmed inspections. The most common reason in recent years is to investigate a complaint or referral. However, it's OSHA's policy not to identify the persons who file those complaints. Some states and localities also have agencies with authority to enter property at reasonable times to conduct inspections of facilities or activities to ensure compliance with state and local health and safety laws. The following are some helpful guidelines and a checklist to consider using during such regulatory inspections.

Guidelines for OSHA Inspections*

1. Meet the inspectors¹ promptly upon their arrival or, if unannounced, have the inspectors wait in a designated area until the appropriate company representatives are present before starting an opening conference. The company representatives should be thoroughly familiar with the company's policies on government inspections. **Request presentation of appropriate credentials as identification.**
2. At the opening conference, **ask the reason for the inspection and what its scope will be.** Ask about particular matters that the inspector would like to review and, to the extent possible, try to limit the inspection to those matters and location. Show the inspectors only those documents (relevant and non-privileged) or areas that they have identified as within the scope of their investigation. **If the purpose of the inspection is anything other than a routine inspection, immediately contact the Law Department (NAME, PHONE NUMBER).** **If the inspector asks to review documents, activities or areas which are not clearly relevant to the laws being enforced,** apologetically explain that there is a policy that no non-relevant or privileged documents are to be released prior to legal review and explain that you will contact the Law Department promptly to obtain a response to their request.
3. Request that, while inspectors are on the site, they remain with and follow the directions of their escort or host and abide by all applicable plant rules and procedures.
4. If possible, designate two company representatives to accompany the inspectors, with one representative designated as the company spokesperson while the other acts as an observer.
5. Be prepared to supply copies of OSHA 300 logs and safety program documentation if requested. **Supply only the specific documents that are sought.**

¹If the Department of Labor lawyer or a lawyer for any other regulatory agency is present, contact the Law Department before any discussion takes place. Counsel should be present for any such discussion. Again, apologetically explain that it is company policy to have Counsel present for any such discussion, and that the Law Department will arrange such meeting at an agreeable time and location.

6. Be truthful, listen carefully to any questions and answer only the question asked, unless it involves potentially privileged information (e.g., attorney-client communications, internal memoranda and communications, and environmental audits). **Be brief and to the point and do not volunteer information.** Be courteous and polite. Do not become too friendly with the inspectors. They are there to perform a job. “Off the record” comments often are included in their report.
7. To the extent possible, do not allow the inspectors to talk with facility employees, other than the designated spokesperson. Non-spokesperson employees do not have to speak to inspectors if they do not so desire. They can contact Corporate Counsel to be advised of their legal rights. If possible, prepare a list of the questions asked and the answers provided. While the inspector is entitled to speak with employees privately with the employee’s consent, you should not ask or volunteer that opportunity; continue to accompany them and assume that you can be present until you are directly asked to leave. You have the right to ask the employee if you can be present during the interview. Prepare a list of employees that spoke with the inspectors.
8. If you do not understand a question, say that you do not understand and ask that it be repeated or explained. If you do not know the answer, say that you do not know or cannot remember, as appropriate. **You should not guess or speculate as to what they are asking or as to an answer.**
9. If appropriate, say that an answer may have to be provided later either because of the need to review records to be accurate, or because you would like to discuss the matter further with others.
10. Ask questions if you do not understand what the inspectors are viewing. Keep the walk around within the scope of the inspection. The inspectors may widen the scope if they witness or are made aware of an imminent danger.
11. Keep copies and make a record of anything you provide to the inspectors. **If photographs are taken, photograph the same area or item.** Take notes as to what the inspector photographs or videotapes. Be aware that video cameras have generally been permitted except where you have a valid claim that proprietary processes are involved. **(Do not forget, video cameras and some digital cameras also record sound – be careful what you say!)** If possible, use your own video, but only if the inspector initiates videotaping of the inspection.
12. Request that any business information obtained during the visit, such as production or manufacturing processes or methods, product formulae, suppliers or customers, financial or pricing matters, and any other matters that the company may not want to have publicly disclosed, be treated as confidential business information, and that the confidentiality of such information be strictly maintained unless its disclosure is compelled by law.

13. At the closing conference, note all the alleged violations that are discussed, and make sure you understand the specific alleged violations. Take careful notes to identify all of the anticipated areas of citation.
14. Before the inspector departs the facility, deliver to the inspector a written request for a copy of any reports submitted by the inspector to OSHA or otherwise prepared by OSHA as to the plant visit and for any related reports, summaries, memoranda, photographs, videotapes, and analytical data. Be sure to keep a copy of the letter that you give to inspectors and send a copy to the Law Department. Conduct an exit interview with the inspector to determine his/her observations, opinions and course of subsequent action.
15. Prepare a summary of the inspection, directed to legal counsel, documenting the events and observations. A sample checklist follows these guidelines.
16. If the inspector indicates in the closing conference that a citation will likely be issued, contact the Law Department to discuss potential corrective action and scheduling an informal settlement conference with OSHA. Once a citation or other correspondence is received from OSHA, promptly provide a copy to and advise the Law Department (NAME) and either Corporate HSE Management or the person with primary HSE responsibility for your company. Understand the response due date carefully, and work with the Law Department to respond promptly.
17. In most cases, if you receive a citation, it's to the Company's advantage to go to an Informal Conference with OSHA to discuss the citation and the agency's proposed penalty amount. Contact the Law Department to coordinate the Informal Conference. Supplying documentation that you have acted in good faith to provide a safe and healthful work environment for employees can often reduce the severity or the penalty amount. Resolution of safety issues at the Informal Conference stage often results in significant discounts in fines.

*These guidelines are intended to be beneficial for health and safety inspections by OSHA.

If the agency serves a search warrant upon a company facility, the Law Department (NAME, PHONE NUMBER) should be contacted immediately.

Environmental Health and Safety Procedure		
HS-01-CO	Title :Management of change	
	Updated :	Version : 01
		Pages 1
Written by:		Approved by:

1.0 Objective

This procedure will help to review new or modified processes. Any changes, in chemicals, equipment, facilities, process technology, software or other will need to be evaluated in advance to prevent adverse impact on the environment, health or safety.

2.0 Responsibilities

Safety, Health & Environmental Coordinator
 Employee initiator of change
 Quality
 Production
 Maintenance
 General Manager

3.0 Definitions

Change: Change is defined as any deviation from existing practice, process, procedure, material, software equipment, etc...

Change that might require review include the following:

- New chemical purchase or increased use or storage of a chemical at a site
- Movement of chemical storage locations
- Changes in emergency response equipment
- New or modified production equipment
- Modification to control pollution equipment etc..

4.0 Procedure

The procedure below must be followed for replacement and all other changes.

The initiator of the change must fill the checklist give in this procedure. In case of doubt, please check with the EH&S coordinator.

The initiator ask to all approvers to sign the procedure.

Any “Yes” answers on the checklist requires the identification of the appropriate actions to evaluate the potential risk.

No changes are authorized until all approverrs have signed off on the request.

If the identified actions include a formal process hazard analyssis, the process hazard analysis must be completed and appropriate action items addressed, prior to any changes.

5.0 Reference

Iso 14001, Environmental Management System, Speciality technical Publisher

Management of Change:

No. _____

Date of request: _____ Requested by: _____

Change Type:

Permanent Temporary Emergency

Effective date of change: _____ End date(when temp): _____

Purpose and description of Change:

Equipment/structures/procedures/ products Involved:

Review and Approved by:

Production: _____ Date: _____

Quality: _____ Date: _____

Maintenance: _____ Date: _____

Environment: _____ Date : _____

H&S: _____ Date: _____

GM (last signature): _____ Date: _____

CHECKLIST FOR STORMWATER INSPECTIONS AT INDUSTRIAL FACILITIES

Name of Facility: _____

Address of Facility: _____

Facility Representative(s): _____

Brief Description of Facility Operations (include what Sector it is)

Approximate Size of Facility (acres): _____

Permit Status

- Has the facility applied for and obtained any of EPA's following general permits:
(applicable to DC facilities and Delaware Fed Facs)

Baseline Industrial Permit (effective 9/25/92) Yes No

Baseline Construction Permit (effective 9/25/92) Yes No

Multi Sector Industrial Permit (effective 9/29/95) Yes No

If yes, obtain copies of all Notices of Intent (NOIs) that were submitted for stormwater permitting purposes.

If no, has the facility ever applied for and obtained EPA's individual or group permit?
Yes No

- Has the facility applied for and obtained a state issued general stormwater permit?
(applicable to facilities in delegated states - i.e., Pa, Md., Va., Del., W.Va.)

Yes No

If no, does the facility need to apply for and obtain a stormwater permit? Yes No

Stormwater Pollution Prevention Plan

3. Does the facility have a stormwater pollution prevention plan? Yes No

If no, is one required? Yes No

If yes, does the plan contain the following material

Names of employees responsible for preparing and implementing pollution prevention plan? Yes No

Site Map (see last page for required elements)? Yes No

Existing stormwater sampling data and description of stormwater monitoring programs (including visual examination of stormwater quality) performed by the facility? Yes No

Identification of all activities and significant materials which may potentially contaminate stormwater runoff? Yes No

Identification of areas having a high potential for soil erosion Yes No

Non-stormwater discharges (i.e., process wastewater, non-contact cooling water, condensate, etc.) along with a certification for them? Yes No

BMPs to control pollutants from various sources/areas where stormwater contamination is likely to occur? Yes No

List of chemicals that could possibly contaminate stormwater runoff? Yes No

Areas where spills are likely to occur and clean-up procedures for such spills? Yes No

List of previous spills or leaks? Yes No

Employee awareness and training program? Yes No

Visual inspection program ? Yes No

Good housekeeping practices? Yes No

Preventive maintenance practices? Yes No

Facility Activities

- 4. Describe efforts facility has made to reduce or eliminate the contamination of its stormwater runoff (i.e., implementation of BMPs).

- 5. Has the facility performed any monitoring of its stormwater? Yes No

If yes, describe what monitoring activities were conducted including types and numbers of samples and obtain copy of results. Also include visual examinations.

- 6. Does the facility conduct periodic inspections or site evaluations to identify the release of pollutants that may contaminate stormwater? Yes No

If yes:

a. What is the frequency of inspections? _____

b. Are inspection records maintained? Yes No

c. Are inspections conducted by qualified personnel? Yes No

- 7. Does the facility have an employee training program? Yes No

Inspection Observations

- 8. Have there been instances of past spills or leaks of toxic materials? Yes No

If yes, describe when, where, how they occurred and whether they resulted in stormwater contamination

9. Does there appear to be any stormwater runoff that was in contact with processing, chemical storage, maintenance or other areas having industrial activity? Yes No

If yes, describe the areas most susceptible to stormwater contamination and the materials involved..

10. Describe the type of stormwater collection and conveyance system the facility has.

(include destination of stormwater runoff, i.e. directly to local stream, sanitary sewer, separate municipal storm sewer, industrial storm sewer, etc.)

10. Describe the facility's general housekeeping practices (look for uncovered/exposed materials, dirty or cluttered surfaces that are exposed to stormwater, oils, grease or other chemicals on the ground, spots/stains/discoloration, leaking equipment, poor chemical storage or transfer operations, floor drains or other conduits that toxic chemicals are likely to enter and suspicious looking puddles).

11. Does it appear that the facility is in compliance with its stormwater permit?
Yes No N/A

12. Does it appear that the facility is properly implementing its stormwater pollution prevention plan? Yes No N/A

Other Comments

Name of Inspector: _____

REQUIRED MATERIAL IN A SITE MAP

Does the facility's site map contain the following:

- | | | | |
|----|--|-----|----|
| a. | A delineation or "footprint" of all buildings, structures, paved areas and parking lots? | Yes | No |
| b. | All outfalls and stormwater discharges? | Yes | No |
| c. | Drainage areas of each stormwater outfall? | Yes | No |
| d. | Structural stormwater pollution control measures? | Yes | No |
| e. | Stormwater and non-stormwater sewer systems? | Yes | No |
| f. | Name of stream or type of conduit receiving stormwater discharge? | Yes | No |
| g. | Locations of exposed materials that can potentially contaminate stormwater runoff? | Yes | No |
| h. | Locations of past spills or leaks? | Yes | No |
| i. | Locations of high risk, waste generating areas and activities at the facility including fueling stations, vehicle or other equipment storage, washing and maintenance areas, tank farms for liquid storage, landfills, waste piles, disposal sites or other waste management areas, raw material storage areas, loading/unloading areas and outside manufacturing areas? | Yes | No |

EXAMPLES OF BMPs (INCLUDING WASTE MINIMIZATION MEASURES)

Material substitution

Enclosure/containment of material or potential contamination sources

Diversion of stormwater away from areas of potential contamination

Installation of stormwater collection systems followed by storage and reuse where possible

Provision of oil/water separators, sediment traps or other treatment devices

Erosion control including diversions, regrading, re-vegetation and use of rip-rap

Use of drip pans or dry sweep material under vehicles or equipment

Use of absorbent devices to contain and reduce releases of liquids

Moving industrial operations, storage areas, vehicle/equipment maintenance areas, etc. from outdoors to indoors

Good housekeeping practices such as frequent cleaning, proper disposal of trash, garbage and other wastes and the proper storage and transferring of materials

Modification/labelling of storm drains or catch basins

Recycling

Implementing a spill prevention and response program

Employee Training Program

Preventive Maintenance Program



Extras from ACC

We are providing you with an index of all our InfoPAKs, Leading Practices Profiles, QuickCounsels and Top Tens, by substantive areas. We have also indexed for you those resources that are applicable to Canada and Europe.

Click on the link to index above or visit <http://www.acc.com/annualmeetingextras>.

The resources listed are just the tip of the iceberg! We have many more, including ACC Docket articles, sample forms and policies, and webcasts at <http://www.acc.com/LegalResources>.