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West Virginia and the Importance of Risk Maintenance

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The recent **chemical spill emergency** in West Virginia is a reminder of the importance of effective risk management and compliance programs. It has been reported that the tanks at the **West Virginia facility** had not been inspected since the early 1990s. This drives home a point well understood by **Environment, Health, and Safety ("EHS") professionals**: the absence of enforcement or regulatory inspections does not mean everything is in good shape.

This incident should encourage facilities to make sure that **Spill Prevention, Control, and Countermeasure ("SPCC")** plans – whether or not strictly required – are adequate and being properly implemented, above and below ground tank storage is in good shape, and that release reporting requirements are understood and complied with. It is also a broader cautionary tale on the importance of consistently and systematically executing effective EHS risk management to prevent incidents from happening in the first place, and being ready to rapidly respond to and mitigate the consequences of incidents that do occur.

The level of attention that each facility devotes to managing EHS risk should be tailored to the risks that that facility poses. One size does not fit all. However, managers should be sure not to assume that physically or financially small facilities necessarily pose small risks. They have to ask the question. Nor should managers assume that just because the core business of the facility does not conjure up visions of chemical spills, that the facility does not pose a risk. Again, they have to look out back and ask the question.

Some key points after the break:

- **Know your risks.** Create and maintain a comprehensive understanding of your operations' "risk footprint." This includes but extends beyond an evaluation of compliance obligations: just because it is legal to do something does not necessarily mean that it is a good idea. This should not be a static snapshot: it should be kept current through acquisitions, divestitures, changes in product portfolios, design, markets, etc.
- **Manage your risks**. Match your risk management and compliance programs to your risk footprint. What are your defined procedures to manage the identified risks? Or are you managing through oral tradition? What risks can be eliminated or mitigated by changing operations or substituting materials? Do your really need all of those chemicals, in those volumes, stored in those locations? Sometimes relatively modest preventive actions might

avoid significant risks (media reports suggest that the West Virginia release involved only 7500 gallons, but it affected the drinking water of over 300,000 citizens).

- **Train your people**. Do your people know what to do, so that they will do the right thing at the right time, every time? Don't limit awareness to the rank and file: does management understand the company's risk footprint, the programs and procedures to manage the risks, and their role in them?
- **Be prepared.** No one expects a crisis, and once one has happened is not the time to be figuring out what to do. Identify potential emergency situations. Have emergency response procedures, not only those required by law but also by good risk management common sense. Accurate and timely release and emergency reporting is critical: make sure the procedures are clear and your people know what to do. Have a response team in place, including outside technical and legal resources as appropriate. Establish good and transparent communications with emergency responders, community leaders, and other stakeholders.
- **Measure and Verify**. How strong is your inspection and auditing program? Have you accurately identified your risks? Do you have the correct procedures in place? Are they being implemented? Do you regularly obtain current data on how risks and compliance are being managed? Are there regularly measured EHS performance metrics that are on a par with other business key performance indicators? Are there effective preventive and corrective action programs? Who sees this information? Is the information being evaluated for trends, opportunities for improvement, leading indicators of potential problems, etc., or is the attitude "no violations = no problems"?
- **Lead**. Does management own risk management and EHS compliance so that it is integrated into operations? Are they directly participating in oversight, or are they leaving it to the EHS professionals? What about the board of directors? If top and middle managers do not make EHS risk management and compliance a personal priority, it is tough to expect anyone else to.

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