Sustainability component key aspect of today's environmental compliance audits

By **Kristian Witt**

Why conduct an environmental compliance audit? What's the sense? What are the paybacks? Can I economically justify one?

Today's business culture is all about going "green." However, the cost and efforts of your green initiatives would likely be lost with just one press release of an environmental impact from your facility.

As the future of environmental compliance becomes more business driven than regulatory driven, environmental audits become more important for industry to ensure their survival. In the past, these audits have been primarily conducted based upon federal, state and local compliance with regulations. The current business mantra is to "go green." Whether this is a fad or not, it is current reality. You notice more and more "green" retailers driving their suppliers toward "sustainability" in order to attract more environmentally conscious customers and shareholders. Manufacturers and suppliers of their products are now passing along a sustainability requirement to their suppliers. This mandate is having a major impact on the way suppliers respond to compliance and sustainability. Most are realizing that public opinion, and the way they are viewed by their customers, will have a larger impact on their business than environmental fines and penalties.

To address this situation, the scope of the standard environmental audit, having a traditional basis on compliance with regulations, should include a sustainability component.

Suppliers may be unaware of underlying environmental conditions within their facilities that would expose them to significant fines and penalties. These resulting compliance issues may not be apparent to facility personnel. One way to assure regulatory/sustainability compliance is to conduct regular facility audits. Companies can then reassure customers they are "green" while simultaneously reducing their financial exposure.

The environmental audit purpose and process

Environmental audits are intended to quantify environmental performance or establish a baseline environmental position. They perform an analogous function to financial audits. An environmental audit report ideally contains a statement of environmental performance and environmental position, and may also aim to define what needs to be done to sustain or improve on indicators of such performance and position. However, an audit can also provide information on energy efficiency, water usage, raw material usage and recycling activities to provide a "sustainable aspect" to environmental compliance.

During a typical environmental audit, a team of qualified inspectors, either employees of the organization being audited or contractor personnel, conducts a comprehensive examination of a plant or other facility to

determine compliance with environmental laws and regulations. Using checklists and audit protocols and relying on professional judgment and evaluations of site-specific conditions, the team systematically verifies compliance with applicable requirements, as well as best management practices. The team may also evaluate the effectiveness of systems in place to manage compliance and assess the environmental risks associated with the facility's operations.

The concept of environmental auditing is closely related to monitoring, norms and standards. Environmental auditing has traditionally been conducted only by firms that were already in the environmental "fishbowl," such as large chemical manufacturers and hazardous waste disposal companies. But recent changes in audit privilege and the move toward environmental management systems, such as ISO 14000, have resulted in changing attitudes and policies from government agencies.

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ISO 14001 is the environmental standard against which organizations are assessed. It specifies the requirements for an Environmental Management System, which provides a framework for an organization to control the environmental impacts of its activities, products and services. On the other hand, an environmental audit is the assessment of the compliance of environmental administration and performance of an operating business with environmental protection requirements, with sound environmental practice in general, and with the principles of sustainable development. Environmental auditing is mandatory only in cases stipulated by law.

Benefits of conducting a voluntary environmental audit

The EPA Audit Policy, "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations," has been in effect since 1995. It safeguards human health and the environment by providing incentives for regulated entities to come into compliance with the federal environmental laws and regulations. The policy was designed to provide major incentives for regulated entities that voluntarily discover, promptly disclose, and expeditiously correct noncompliance, rendering formal EPA investigation and enforcement action unnecessary. The Audit Policy reflects the input of industry, trade associations, state environmental program practitioners and public interest groups.

Disclosures are often preceded by consultations between EPA and the regulated entity, so that mutually acceptable disclosure details, and compliance and audit schedules can be discussed. If policy conditions are met, most penalties may be waived, and further civil or criminal prosecution may not be pursued.

- No gravity-based penalties for disclosing entities that meet all nine policy conditions, including "systematic discovery" of the violation through an environmental audit or a compliance management system. Gravity-based penalties are that portion of the penalty over and above the economic benefit. In general, civil penalties that the EPA assesses comprise two elements: the economic benefit component and the gravity-based component. The economic benefit component reflects the economic gain derived from a violator's illegal competitive advantage. Gravity-based penalties are that portion of the penalty over and above the economic benefit. They reflect the egregiousness of the violator's behavior and constitute the punitive portion of the penalty. EPA retains its discretion to collect any economic benefit that may have been realized as a result of noncompliance.
- Reduction of gravity-based penalties by 75 percent may be granted to entities that meet all of the conditions except for "systematic discovery" of the violation through an environmental audit or a compliance management system.
- No recommendation for criminal prosecution for entities that disclose violations of criminal law and meet all applicable conditions under the policy. "Systematic discovery" is not required to be eligible for this incentive, although the entity must be acting in good faith and adopt a systematic approach to preventing recurring violations. The EPA generally does not focus its criminal enforcement resources on entities that voluntarily discover, promptly disclose, and expeditiously correct violations, unless there is potentially culpable behavior that merits criminal investigation. When a disclosure that meets the terms and conditions under the Audit Policy results in a criminal investigation, the EPA generally will not recommend criminal prosecution for the disclosing entity, although the agency may recommend prosecution for culpable individuals and other entities.
- No routine requests for audit reports from entities who disclose under the Audit Policy. In general, EPA will refrain from routine requests for audit reports. However, if EPA has independent evidence of a violation, it may seek the information it needs to establish the extent and nature of the violation and the degree of culpability.

In summary, it makes sense for facilities to conduct an environmental audit that includes sustainability issues. However, companies "going green" should remember that the publicity and consumer reaction to a single environmental impact will eliminate all efforts and associated costs expended to promote your sustainability.

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