We live in an increasingly complex world. This complexity is compounded by an ever-changing series of governmental regulations. The challenge of complying with all of the applicable environmental and occupational safety regulations is formidable for any organization. Yet this challenge cannot go unmet for very long without running the risk of potentially serious consequences for those who are responsible for maintaining the organization’s compliance.

Internal auditing, or self-auditing, is a tool that is increasingly being used to address this challenge. When using the term “self-audit,” I refer to environment, health, and safety (EH&S) compliance audits that are performed by an organization’s own personnel, or by an outside third-party retained on its behalf. Self-auditing is consistent with the basic management tenet that periodic checks are needed. These checks confirm that the systems and practices that management has mandated are in place and are being fully and correctly implemented.

Even in organizations where “management by exception” is practiced and formal management follow-up is not the rule, self-auditing for EH&S compliance is increasingly being recognized as having value. This is due to potentially large fines levied by regulatory agencies, the risk of lawsuits associated with claims of worker injury or environmental damage, and the mandates for financial transparency now required for publicly traded companies under the Sarbanes-Oxley Act of 2002.

BACKGROUND
In the United States, environmental and worker protection agencies have been inspecting (auditing) facilities even before 1970, the year that saw the creation of the Occupational Health and Safety Administration (OSHA) and the U.S. Environmental Protection Agency (EPA). When these agencies were created, there were significant gaps between what the regulations sought to achieve and what organizational practices generally amounted to. EH&S regulatory agencies used a compliance strategy that was based on checking select groups of targeted facilities with inspections for adherence, and then either assisting them in understanding what was needed to achieve compliance or, more
If an EH&S self-auditing program is being implemented for the first time, the following issues are best resolved in advance.

1. **Decide whether audits will be performed under the umbrella of attorney-client privilege.** Although the results of EH&S self-audits may still be obtainable in certain circumstances by regulatory agencies or opposing litigants, maintaining attorney confidentiality may offer some degree of protection from disclosure. Discuss what is needed to accomplish this with a knowledgeable attorney.

2. **Decide if the audit will focus on environmental compliance, occupational safety, or both.** Combined EH&S audits require auditors with a breadth of knowledge that covers both worker and environmental protection. Auditors capable of meeting this challenge are not readily available in all organizations. Combined EH&S audits take more time initially, but can provide overall savings in terms of reduced travel and less start-up and orientation time required by auditors.

3. **Require that auditors tie their findings directly to regulatory requirements.** To ensure the greatest utility of an EH&S self-audit, avoid having auditors rely on their subjective judgment or belief as to what may be required. Set the ground rule that findings are to be tied to regulatory-based requirements, and that any findings related to consensus standards, best practices, or professional/auditor judgment are identified as such. This will be most helpful when sorting out priorities and remedies.

4. **Determine what benchmarks may be available and applicable.** Benchmarking allows comparisons to be made that are helpful in gauging program effectiveness and organizational performance.

5. **Assemble an effective audit team.** Auditors must be very familiar with all applicable regulatory and organizational mandates, have adequate professional experience, possess good interpersonal skills, be motivated, and have the time needed to develop a solid report. Consider that although an auditor may be knowledgeable and experienced, there may not be a match with the area(s) to be audited. Additionally, the validity of an audit can be undermined if those interfacing with the auditors, regardless of rank in the organization, are not adequately familiar with the compliance programs that are being audited.

6. **Include exceptional positive features in audit reports.** Identifying any positive features that distinguish a facility, whether within the specific focus of the audit or not, serves to make audits more palatable for those being audited, and may provide potentially valuable information to management as to successful initiatives at individual facilities. For example, the general degree of workplace cleanliness and neatness can be a strong indicator of a number of positive management characteristics that can be expected to flow down to and through the workplace, and should be worthy of being highlighted as an example for other facilities within the wider organization.

7. **Make sure that there is adequate commitment on the part of management to correct in a timely manner any deficiencies that may be found.** One can imagine any number of complications that could arise when EH&S self-audits are performed, but timely action is not taken to correct deficiencies.

8. **Decide whether audits will be scheduled in advance with the facility to be audited or they will be unannounced (“surprise”).** Unannounced EH&S audits can be disruptive for facility personnel that must accommodate the auditors. Announced audits, however, may yield unrepresentative conditions to the extent that the facility makes pre-audit-only efforts to minimize potentially adverse audit findings. A solid commitment at the highest levels of an organization to compliance and to responding to self-auditing can help overcome the frustration and disruption caused by unannounced EH&S audits.

9. **Decide on audit reporting formats.** Decide how any exit debriefing will occur, and the manner in which findings will be reported. To avoid any delay in the release of audit findings, decide what the expected format and time frame for completion of audit findings will be. In addition to any listing of inadequacies, decide in advance what the narrative content of the audit report will address.

10. **Decide how the outcome of EH&S audits will be tracked.** Determine how the correction of deficiencies will be reported and tracked, who will track it, and how this information will be managed, especially with respect to protecting the confidentiality of the audits.
commonly, levying heavy financial penalties where complete compliance was not encountered. The intent of assessing penalties at inspected facilities was to motivate others to seek compliance.

REGULATORY AUDITS TODAY
Government EH&S compliance audits typically focus on a single or limited set of regulations in substantial depth, although broader inspections sometimes occur. This approach by regulators, often referred to as “command and control,” remains largely in place today. In the area of environmental protection, agency compliance evaluations that cut across several regulatory programs are referred to as multimedia inspections, and may address compliance with regulations for several different media, such as air, water, and hazardous waste management. Wide ranging occupational health and safety compliance evaluations that are undertaken by OSHA and state-led agencies are referred to as comprehensive, or wall-to-wall, inspections.

EH&S SELF-AUDITS
Although EH&S self-audits are regularly performed and are quite familiar to some companies, they remain quite foreign to others. Self-auditing for EH&S compliance can take many forms. In today’s business environment it is worthwhile for organizations to look at the range of auditing practices that exist, and decide if self-auditing makes sense for them, and if it does, what form it should take.

**Why Audit?**
Listed below are six reasons why organizations should implement an EH&S compliance self-auditing program.

1. **Send a Message to Your Employees** — Probably the best reason for EH&S self-auditing is that when a company audits, it sends a message to its employees that it values compliance. There is great value in creating an expectation that compliance is required, and that compliance will be tested for and confirmed. The impact of self-auditing on creating an expectation of compliance can be greatly enhanced if its outcome is tied to consequences, negative or positive, for those who have managerial and supervisory responsibility. There is nothing that will grab an individual’s attention more than knowing that their professional success and/or compensation is tied directly to environmental protection and occupational safety results as indicated by the outcome of compliance audits.

2. **Send a Message to Your Customers** — Competition for customers is increasingly intense as we shift toward a global economy. Organizations that want to have and maintain a favorable image with potential and existing clients are well advised to do what they can to avoid the negative outcomes associated with serious worker injuries, being cited for not maintaining a safe workplace, or being singled out for causing environmental harm.

3. **Avoid Financial Penalties** — There is a direct cost implication for failing to be in compliance. Financial penalties may result from noncompliance if regulatory agency staff—federal, state, or local—show up and conduct a compliance inspection. An inspecting regulatory agency may also refer apparent noncompliance to other agencies with appropriate jurisdiction. Ignorance of regulatory requirements is no safe harbor. On the other hand, there are federal and state agency policies that may reduce or eliminate penalties where noncompliance is identified as a result of a systematic self-auditing program and the matter of noncompliance is corrected in a timely manner. Self-reporting of noncompliance to agencies, however, does not equate to guaranteed amnesty, and so it is strongly recommended that the advice of an attorney familiar with the issue should be sought.

Additional cost implications for noncompliance might include worker injury and compensation claims and environmental cleanup costs. These may be accompanied by increased insurance premiums and lost work time by both the injured employees and their supervisors who must investigate and complete the required documentation. Attorney fees may also be incurred fighting significant regulatory agency penalties, or as a result of having to address lawsuits brought by workers or their families, neighbors, or local governments in the case of significant environmental liabilities. There may also be the risk of damage to company property due to fire, explosion, or contamination that an EH&S self-audit might have helped avert.

4. **Improved Financing** — Organizations that may eventually need to raise substantial capital will find that lenders are increasingly alert to any potentially significant EH&S liabilities faced by borrowers. Lenders often conduct their own due diligence before approving significant financing. If a credible EH&S self-audit program is in place, a lender’s comfort level with the culture and risk that a potential borrower presents may be greatly improved. In other words, having a viable EH&S self-audit program in place can help smooth the way when future financing is sought.

5. **Benchmarking** — Just how does your organization compare to others in the same market? Benchmarking, as part of an EH&S audit, is an important way of learning whether your organization is doing better than the competition, or whether your organization is missing something important in the way of pollution or safety controls that may eventually place it at a competitive disadvantage. A variety of publicly available data can be used to identify indicators of EH&S performance. These indicators serve as standards against which an organization can compare itself to others in similar endeavors. Some examples of benchmarks that may be relevant are employee injury rates, toxic release inventory accounting of chemicals, and perhaps even air pollution emissions.

6. **It’s the Law** — The dramatic collapses of ENRON and WorldCom gave rise to the financial disclosure law, commonly referred to as “Sarbanes-Oxley.” Provisions of Sarbanes-Oxley have recently come into effect that require publicly traded companies to regularly assess their EH&S compliance.
liabilities and disclose any that may have a “material adverse affect” on their financial status. Self-auditing is not an option in this case, it is a requirement.

Defining the Audit

Although EH&S audit procedures are commonplace, the particulars are far from standardized. Many organizations use standard audit formats, but broadly speaking, there is little consensus as to the specific items to be checked in an EH&S audit. An important issue in defining an audit should be a decision as to the level of detail at which the audit will be conducted. EH&S audits are conducted at various levels of detail, as described below.

**Level I Audit** — The intent and desired outcome of what might be termed a Level I Audit, would be a determination that all applicable permits and the basic elements of all applicable compliance programs are in place. This level of audit is most useful as an initial screening where the time available for auditing is limited and where subsequent audits, such as Level II, may occur (see below) and when there is a need to screen only for the most significant risks (think “macro” level).

**Level II Audit** — The intent and desired outcome of a Level II Audit would include the objectives of a Level I Audit, plus a determination that all requirements of environmental permits are being met, and that at least the most critical requirements of applicable safety programs are in place. For example, this level of audit may conclude that a facility has all applicable permits, is performing and documenting all required monitoring, is certifying and filing all required compliance reports in a timely manner, has all applicable safety programs in place, is providing all required training, has all required written programs containing all required elements, and has all required employer certifications on hand. I expect that most EH&S self-audits are conducted at this level of detail.

**Level III Audit** — What might be termed a Level III Audit would be a detailed and focused audit. This level of audit would entail a comprehensive review of virtually all elements of compliance of one or more areas of EH&S compliance. Because this can be very time- and resource-intensive, a Level III Audit may concentrate on a single area of compliance, such as an audit of compliance with all air pollution control regulations or an audit of compliance with the requirements of oil spill prevention control and countermeasure program regulations. Consider this a “micro” level audit, similar to those commonly performed by regulatory agencies for a single regulatory program.

**CONCLUSION**

EH&S self-auditing is now a common feature of organizational governance and its practices continue to evolve. Organizations that are not regularly performing EH&S self-audits should consider whether this practice has value for them. If the answer is “yes,” then they should be asking themselves, “When will we get on board?”