WHEN AN AUDIT ISN'T THE ANSWER

Alternatives to Improving Safety Performance

A White Paper by

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A Resource for Companies Committed to
Efficient, Effective Safety
Compliance and Risk Management

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1.0 INTRODUCTION

The law of the instrument is an over-reliance on a familiar tool. As Abraham Maslow said, "I suppose it is tempting if the only tool you have is a hammer, to treat everything as if it were a nail." There are lots of situations where only a hammer will do - but plenty where it is simply the wrong tool.

Auditors love to audit, and, given the opportunity, rarely decline to do so. It's important to note, however, that audits are not always the answer. Auditors can still provide significant value with their audit skills in other ways that provide greater value and reduce risks to organizations *without* doing an audit.

Auditors must be independent and objective. An audit includes a defined scope, an audit plan, procedures, analysis of evidence, documentation, communications and reporting. The focus area of an audit is something that poses risks to the organization.

Sometimes an audit can pose greater risk to the organization than doing something else. Or, a different type of effort could reduce the identified risk more efficiently and effectively. To explore this topic thoroughly, this white paper includes sections on:

- Audits: Limitations and Alternatives
- Safety: Case History
- Suggestions

Auditors should be aware of situations where conducting an audit could be counterproductive, and seek alternative ways to improve compliance and performance in these situations.

2.0 AUDITS: LIMITATIONS AND ALTERNATIVES

The risks of non-compliance with safety regulations and requirements can be significant. Regulatory compliance or risk may be audited by Internal Audit, or by a safety auditing specialist.

United States Safety Regulatory Framework

The Occupational Safety and Health Administration (OSHA), part of the U.S. Department of Labor, is the Federal agency responsible for safety. Many states assume enforcement responsibilities for OSHA regulations, and some impose additional requirements of their own. Companies must develop procedures for safe practices in their workplace. OSHA applies to an organization's employees. Operations may include contractors onsite; this can produce a tangled web of roles and responsibilities for safety compliance and performance.

OSHA and state agencies have the ability to levy fines and penalties for non-compliance with safety regulations.

Audits: Outputs, Uses, and Risks

Safety audits may be done by in-house auditors, external resources, or combination of the two[1]. Audits generate work plans, audit criteria, work papers, and some type of deliverable. The classic deliverable is an audit report. Some organizations use an abbreviated form of reporting, such as a table of findings and recommendations [only], or a presentation or management briefing.

It is good practice for organizations to control distribution of safety audit reports[2]. These reports are typically done for the use of the organization's management to monitor and improve compliance. Report distribution includes Operations, Legal, Compliance, and Risk Management groups. Human Resources is often included on distribution of safety audit reports. Internal Audit may also be included, or could get a periodic summary of audit findings and the programs' performance.

As with any audit, a safety audit should not be undertaken without the organization's commitment to compliance, and to addressing each finding in an audit report. Consider an example where an audit

[1] When hiring an external resource, look for consultants who can provide some level of co-sourcing. This partnership deepens organizational understanding, effectiveness, buy-in, etc. DHC most commonly recommends and works with clients on a co-sourcing basis to address environmental and safety auditing procedures.
[2] DHC anticipates publishing a white paper on this in 2Q2016; see http://douglashileman.com

report identifies a compliance gap where the available enforcement remedy is up to $1,000 per day. It is now documented that the organization is aware of the compliance gap; failure to address it promptly and in good faith poses the risk that, if discovered, the enforcement authority would be more aggressive in levying fines, penalties, or injunctive relief.

Audit reports may be used in other ways. If an organization or a facility is subject to a transaction –merger, acquisition, divestiture – audit reports can provide a baseline for compliance and risk management. Audit reports could be discoverable in litigation or enforcement.

There can be risks if legacy safety audit reports are obtained by unauthorized parties, such as regulatory agencies, opposing counsel in lawsuits, or new facility owners, and are taken out of context.

If the board, management, or the audit program manager have concerns in a certain area, the default approach is often to commission an audit. There are situations, however, when an audit may not be the best approach, and may cause more problems than it solved. Auditors have disincentives to speak up – especially out-sourced auditors who risk losing audit fees, or even losing a client.

The next section describes a scenario where an audit was the default request, but where the outsourced auditor worked with the client to achieve desired results more efficiently and effectively – and without conducting an audit. The example is for illustrative purposes, and represents an amalgam of experiences with different engagements and situations.

3.0 SAFETY AUDIT OR SOMETHING ELSE?

Company Background: Acme Products owns and operates approximately 80 facilities. Acme has grown by acquisition, and consists of assets and staff from five legacy companies. Acme facility operations are similar. The variations are due to differences legacy company operations, land area and available space at the facilities, and local market requirements. Acme's operations are all in the United States, and in 30 states; most are clustered in adjacent states, but six are located across the country.

Situation Assessment: Acme's safety performance, as measured by standard OSHA statistics[3], is better than the average for its industry. Acme's operations happen to require handling of some hazardous substances. Acme has received no Notices of Violation or other enforceable actions from safety regulators in two years. Acme's board and senior management instills a culture of compliance throughout the organization. Senior management understands that safety and environmental management are interrelated, and that any incident involving these substances could have significant impact on operations, customer fulfillment, and/or sales. Acme asks Eta Sigma Auditors ("ES Auditors", or "ESA") to lead safety audits at three of its facilities, with Acme's Safety Coordinators participating in the office in some way.

ES Auditor Initial Planning

ESA convened a series of meetings with Acme's Safety Coordinators, and with key staff at the three locations selected. EHA asked for a sampling of policies, documents, and records to gain a better understanding of what would be required for audit protocols, as well as estimating how much time would be required at Acme's offices and at each facility.

Within a couple weeks, ESA made several observations in documents, including those listed below.

- Acme facilities continued to use safety policies and procedures that were published by legacy owners. In some cases, the legacy owners had also grown through acquisition – so the safety policies, procedures, forms, and guidance documents were decades old and out of date.

[3] See https://www.osha.gov/recordkeeping/index.html for more on OSHA injury and illness recordkeeping and reporting requirements.

- Several in-house groups were conducting Facility safety inspections and self-assessments. The scope and criteria varied among the facilities. The nature, scope, and distribution of reports were inconsistent. There was no systematic approach to corrective actions – let alone consideration of root causes, or validating "gaps" that were identified. There was no central repository for these inspections and self-assessments. Some gaps had been noted multiple times over the course of several years, and yet the inspections dutifully noted the same gaps each time.

ESA also noted inconsistencies in conversations with Acme employees.

- Acme's Safety Coordinators had different interpretations of OSHA regulations and company policies.
- Facility Managers seeking assistance on safety matters from in-house Safety Coordinators had long noted inconsistent answers from different Safety Coordinators. They had given up seeking advice from Safety Coordinators, and were implementing safety practices based on their own common sense, and what they learned from peers in their area, but outside of Acme.
- The way Acme Facility Managers viewed their responsibility for contractor safety varied from facility to facility.
- Facility Managers complained of duplicative and unnecessary paperwork.

An ESA consultant observed one scenario that captured many of the challenges at Acme. Kenton Coordinator, an Acme Safety Coordinator, provided a courtesy tour of Facility #1 to an ESA Director. They met Eleanor Employee, who had transferred to Facility #1 from Facility #2. They also met Scott Supervisor, who had transferred from Facility #3. Facilities #2 and 3 had come from different legacy owners, and each had a different primary Safety Coordinator in Acme's corporate safety group. Eleanor asked Kenton why safety glasses and shoes were required in the warehouse at Facility #1, when they were not required a Facility #2. Every Acme employee had a different answer: regulatory requirement; state requirement; company policy; and good industry practice. The basis for the answer was important, because employees could be written up if they did not comply. Not one person thought to suggest looking at the Safety Operations Manual, which was available in hard copy 10 feet away, and online at a computer terminal in the room.

ESA leadership and the audit team recognized that the Acme Safety Audit would be a "finding-rich exercise." In fact, they had found more than a dozen significant findings during the initial planning phase! A Safety Audit Report would likely generate dozens of findings. Some of these findings, if well documented, could actually lead to increased risk for Acme.

Let's Not Audit; Let's Do Something Else

ESA leadership and the audit team also felt that, in a culture committed to compliance, Acme senior management may wish to redirect resources to address some of the fundamental problems that were already identified. At the risk of losing the audit, and losing an important client, ESA leadership scheduled a meeting with Acme management and the sponsor of the Safety Audit.

ESA proposed a different, bold approach. Acme management assumed that the Safety Operations Manual clearly conveyed requirements, policies, and procedures company-wide. This was clearly not true. It would be little wonder that "compliance" would be inconsistent, since there was no consistent understanding of what was required to achieve it. ESA suggested that Acme halt the audit, and redirect efforts to producing an updated Safety Operations Manual.

ESA further suggested that the SOM should have several features, as compared to legacy manuals:

- Create an SOM with modules that align logically with regulatory requirements, typical Acme operations, or both.
- Clearly differentiate between regulatory requirements and company policies.
- Write the SOM with user-friendly language.
- Include features of controlled documents for each procedure. These features would include titles, standard file naming convention, dates and revision numbers, page numbers, the location of the original document on Acme's intranet, and language cautioning that all printed copies are not controlled documents.
- Avoid complicating the core content required by the intended users. Place supplemental information in attachments or in appendices online.
- Review the design of every form that Acme requires to be completed by facility staff.
- Where possible, eliminate duplication and make the form more use-friendly.

ESA also suggested an approach that would benefit Acme company management, but would be invisible to the primary users of the SOM at company facilities.

- ESA asked about Acme's commitment to various frameworks and certifications, including ISO management systems standards, COSO enterprise risk management framework, and industry codes of conduct. ESA suggested that the design of the SOM should incorporate features of Acme's priority standards, to facilitate future audits or certification efforts.
- ESA could perform a form of Quality Assurance Review (QAR) concurrent with revising the SOM.

ESA also suggested that rewriting the SOM as a co-sourced effort would offer advantages, including those listed below.

- It would be a team-building effort for Acme staff.
- Since Acme staff (mostly Safety Coordinators) would be part of the effort, they could provide real-time answers with regard to company policies. As needed, the Safety Coordinators on the project team could draft new policies, subject to management approval.
- Launch of the new SOM would be accelerated, and more likely to achieve success, since Acme staff would be part of writing it.

Acme senior management was startled at the observations from the initial planning effort. They were grateful to ESA for stopping the audit. They were even more grateful that ESA had presented an alternate approach that was better-suited to achieving goals of improved compliance and performance, and reducing compliance and operational risks. Acme and ESA revisited the project parameters and started on a bold new effort.

A well-written safety manual is an often overlooked strategy in significantly reducing risk. Creating a manual in a co-sourced fashion draws upon an in-house knowledge base and an external consultant who knows most current regulations and is an excellent process observer. Examining and rewriting a company safety manual to make it "top of mind" could be a game changer exercise that would significantly reduce operational and enterprise risk. The next section outlines a process to rewrite the manual that has proven to be both effective and efficient.

Rewriting a Safety Operations Manual

Some of the key features of the successful project are summarized below.

Senior Management Buy-in

The team established formal systems and controls for Operations Management and other executive personnel to review, comment upon, and approve each revised module.

Staffing

ESA fulfilled the roles of independent project leader, facilitator, and author of draft for the Safety Operations Manual (SOM) content. ESA also performed a limited Quality Assurance Review, focusing on ensuring completeness of applicable safety regulations, industry codes, company policies, and other applicable standards in the SOM. Acme was expected to provide at least

two resources to contribute part-time to the effort. As word of the effort spread, more Acme staff (Safety Coordinators and Operations) asked to join the team. Some joined as full team members; others contributed in their areas of technical expertise.

Starting Point & Disposition Process

ESA began with the premise that all the content in each legacy safety manual was placed there for a reason. Furthermore, there could be pride in authorship for these manuals – perhaps including some of the Acme participants on the team. ESA created a disposition process to address everything in the legacy safety manuals, subject to team approval.

Draft New Format

ESA drafted a format for each issue to be included in the new SOM. The format was designed to be user-friendly. ESA designed the format to collect information in a way that would be suitable to pursue certifications later on. Another design feature facilitated the ability of Facility Managers and staff to provide information to agency inspectors, customers, or other entities seeking safety information from the company. The format included features of a controlled document, including listing distribution, and the location of the current master file on Acme's shared drive.

Topic List

ESA and Acme agreed on a list of topics. Many of these aligned with prior versions, but some were new. The team agreed, for example, that Facility personnel would be unlikely to seek safety guidance for forklifts in a section titled "Powered Industrial Vehicles." The team agreed to a new section on "Forklifts." The group made a subjective determination as to whether revising the legacy standards would be hard, average, or easy. This was to prioritize and pace the team's efforts throughout the project.

Basis of Requirement

ESA and the Acme team verified the basis of requirements in the revised SOM. As a QAR exercise, ESA reviewed OSHA regulations[4] and ensured that applicable requirements were addressed. As the team identified issues that were Acme policy – or should be – they formalized the policies. These discussions were done with an eye towards simplicity, efficiency, and effectiveness – not just for the SOM project, but for subsequent Facility use as well.

[4] The project also included provisions to incorporate requirements imposed by state and regional jurisdictions.

For example, there are OSHA standards that address the repair of portable wooden ladders. The team had different thoughts on how much information should be included in the SOM, and whether it should be in the body of the safety procedure or provided as an attachment. One team member did a quick, informal poll of several facilities and learned that there were few wooden ladders at the company, and that they were rarely used. The project team established a new company policy that they would no longer repair wooden ladders; if they became unusable, the company would replace them with ladders of different construction.

One Size Fits Most

The team recognized that applicability of safety regulations would vary somewhat at facilities across their organization. The revised SOM included features for facilities to customize or augment sections to be fit for their purpose.

Begin with Some Quick Wins

Acme staff wanted to begin with some safety topics that pose challenges across the industry, such as lockout/ tagout or confined space entry regulations[5]. Lengthy discussions threatened to derail the project. ESA redirected the team's effort to some "Easy" items. The team was able to complete several of these relatively quickly. This allowed the team to get a clear idea of the SOM revision process. Team members demonstrated excellence and interest in different areas. One team member, for example, excelled at regulatory research. Another had operational history at three legacy companies, and could quickly dispense with outdated legacy content. ESA managed the project with each participant focusing on their areas of greatest competency and interest.

Engage With Key Stakeholders – Early and Often

Acme management and the full project team that there would be many substantive changes to the SOM, and that these changes would create many different expectations of employees on their jobs. Changes in policies and procedures could affect operational procedures, job descriptions, basis for employee performance reviews, and future compensation. The Safety Operations Manual would not be only about safety.

[5] See 29CFR1910.147 for OSHA lockout/ tagout regulations, and 29CFR 1910.146 for confined space entry regulations. See https://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARDS&p_toc_level=1&p_keyvalue=1910 for a list of all OSHA regulations.

Stakeholder Engagement

The team actively sought to engage with key stakeholder groups throughout the project. Examples of this practice are listed below.

Pilot test the new format. Team members showed the new format for SOM module write-ups to some Facility Managers and operators. They facilitated formal meet-ups at some facilities and provided refreshments. The team gathered comments and made some changes to the format.

Pilot test an early draft. Once a few modules had been drafted in the new format, project team members shared them with another group of Facility Managers and employees. This tested whether the team's goals for new format and content would work.

Get personal with launch of the new Safety Operations Manual. SOM project team members and their colleagues made a personal effort at the launch of the new SOM. Where possible, they hand-delivered hard copies of the new SOM copies. The paper copies served as a visual, tangible reminder of the extent of the effort; it also allowed Safety Coordinators the opportunity to watch how employees used it, and to answer questions.

After Launch of the Revised Safety Operations Manual

The revised SOM succeeded in fulfilling Acme's and the project's goals.

Manuals have established a common language and reference point for safety, easily accessible in a common and understandable format. Facility staff have been pleased with the reduction in number of forms, and in greater simplicity of some forms.

There is greater clarity regarding roles, responsibilities, and how safety practices are managed and documented when contractors work onsite.

Documenting the process shed light into some wasteful practices as well as overlooked procedures. The result has squeezed time and costs out of standard operations, and reduced risk of incident or injury.

A few company policies have been challenged – but everybody knows that the item is a company policy, and can be discussed and changed at the company's discretion. It is not a regulatory requirement, and non-negotiable. The discussion itself is a notable improvement, and an indication that staff is reading the new SOM.

ESA had also designed the new SOM to fulfill another Acme objective. The SOM can now be used as the basis for facilities to perform safety self-assessments, and for in-house or external auditors to use as criteria for safety audits. Acme reports quantitative and qualitative management of safety compliance and performance as a result of the revised SOM.

4.0 SUGGESTIONS

DHC believes that auditing skills provide value to organizations – and we love to audit.

Auditors can bring value, and can help their clients avoid potentially greater risks, if they stop and question whether an audit is really the best mechanism to achieve the stated goals.

Every audit has a client, whether the auditor is in-house or external – or a blend of the two. Auditors can demonstrate integrity, their understanding of why auditing is done in the first place, as well as their commitment to client success by proposing alternatives when they might make sense.

Risk management involves assessment of risk, consideration of additional practices to mitigate risk, and implementation of additional controls where practical to reduce risks.

Credentials from a respected entity can help provide confidence in the proficiency of a resource. The Board of EHS Auditor Certifications (BEAC) created the Certified Professional Environmental Health and Safety Auditor (CPEA) credential, with focus areas including environmental compliance, safety compliance, and management systems. The Institute of Internal Auditors (IIA) assumed BEAC in early 2016[6], and now administers the CPEA program.

The IIA itself is a global organization with more than 180,000 members. Established in 1941, the IIA has 160 chapters in North America serving over 70,000 members. The IIA offers credentials including the Certified Internal Auditor (CIA), Certified Risk Management Assurance (CRMA) professional, and Certification in Control Self-Assessment.

[6] See https://na.theiia.org/certification/beac/Pages/Get-Started.aspx

ABOUT THE AUTHOR

Douglas Hileman, CRMA, CPEA, P.E. has led his own firm for over seven years. He draws from over 35 years of experience in many aspects of operations, compliance, business strategy, enterprise risk management, non-financial reporting, audit readiness, and auditing. He worked at PricewaterhouseCoopers for six years, where he supported financial audits, internal audits, and other engagements involving governance, risk management, compliance. He also has nine years of experience in industry.

He has led many types of audits and assessments, using criteria including regulatory requirements, permit conditions, self-written plans, contractual requirements, industry standards and codes of conduct, and project implementation plans. He has also proposed and led alternative projects where audits were initially requested, such as the scenarios featuring aspects of those described in this white paper.

He is active in the Institute of Internal Auditors. He holds credentials as a Certified Risk Management Assurance professional (CRMA), Certified Professional Environmental/ Health & Safety Auditor (CPEA, Management Systems focus), and a Professional Engineer (chemical). He has taught "Incorporating Sustainability into Financial Reporting" at UCLA Extension. His firm serves clients nationwide from Los Angeles.

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