



COMPLIANCE SECTION

Sarbanes-Oxley Act of 2002 A New Challenge for EHS Managers

EHS MANAGERS: AN ALREADY ENDANGERED SPECIES?

For years, corporate “right-sizing” has resulted in many EHS Managers being increasingly asked to take on more responsibilities with fewer resources until, today, many are spending the bulk of their day in a totally reactive “fire-fighting” mode. And, at least implicitly, many believe their marching orders with respect to reporting new environmental liabilities to their management can best be summarized by “Don’t ask. Don’t tell.” That is, management often chooses not to quantify environmental liabilities for a variety of reasons. Add to this the way environmental costs have historically been dispersed throughout the corporate accounting structure, and the fact that they may not arise until years after the triggering decisions were made, and EHS Managers can find themselves having responsibility for costs which they do not have the authority to control.

SARBANES-OXLEY

The Public Company Accounting Reform and Investor Protection Act, enacted as the Sarbanes-Oxley Act of 2002 (SOX), now just over a year old, has stood the formerly accepted practices of environmental accounting on their heads. Public and, to an extent, even private companies are now being held to a much different standard than before SOX. And, there is considerable pressure from environmental and other interest groups for the SEC to raise the bar even higher.

And, these new standards make the CEO and CFO personally responsible for the content of the corporation’s financial reports, including the disclosure and discussion of environmental liabilities and contingent liabilities contained in those reports.

As a result, EHS Managers are now being asked for information which, for years, they may have been discouraged from collecting and storing, let alone analyzing. And, with management’s increased focus on environmental accounting, some companies are also looking for ways to better track and assign environmental costs, placing an additional responsibility of an already stretched EHS Department.

INTENDED BENEFITS

The Act was intended to mandate ethical corporate governance and financial disclosure practices in the wake of the now-infamous incidents of corporate accounting failures discovered in the two years prior to its enactment. Those failures struck at the core of an open market system which relies on the complete disclosure of financial information as the basis for properly valuing public companies. Thus, the intended benefits were exclusively external to the reporting companies and were directed to shareholders and others who rely on the effectiveness of the market – and even to the market and the economy themselves.

HIDDEN BENEFITS

However, even before SOX, there was a growing acknowledgement that voluntary approaches to such issues as transparent corporate governance, corporate social responsibility, and corporate sustainability all had real, measurable, positive effects on corporate financial performance. These benefits result directly from improved reputation and branding, better stakeholder relations, and the lower cost of and increased ability to raise debt and equity capital.

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The Environmental Edge



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There are demonstrable internal and external benefits from complying with Sarbanes-Oxley's disclosure requirements. Internally, better, more complete information can facilitate more appropriate, cost-effective and proactive environmental management. Externally, the increased transparency enhances shareholder relations, brand and reputation and, ultimately, increases competitive advantage. And, it also provides an opportunity for the corporation to report on its environmental assets which might include emission credits, cost savings from pollution prevention programs, and the financial benefits derived from other Corporate Social Responsibility and Corporate Sustainability programs.

BENEFITS TO THE EHS MANAGER

The EHS Manager can also directly benefit from the increased awareness of the importance of environmental issues and environmental management to overall corporate performance. This can help move the corporate leadership's view of the EHS function from that of a separate cost (only) center to that of a fully integration component of corporate governance which has significant effect on the corporation's branding and reputation, stakeholder relations, and numerous other areas which directly affect corporate value. It can change the view of the EHS Manager from the person who fills out the Form Rs and OSHA 300 forms to a fully integrated member of the corporation's risk management team.

SUMMARY

Sarbanes-Oxley, the most sweeping securities reform legislation since the 1930s, can directly affect the corporate EHS Manager. For more information, please contact Dave Strayer or Dan Weed at (513) 489-2255 or via e-mail at dcs@paynefirm.com or ddw@paynefirm.com. This and other Environmental Edges topics are available at our website at www.paynefirm.com.