

<b>StanleyBlack&amp;Decker</b>		<i>EHS – T1 - 013</i>
Stanley Black & Decker	<b>Compliance Assurance Program (CAP)</b>	Original Issue Date: 5/8/1999 Revision Date: 5/7/2019 <i>Page 1 of 27</i>

# **Compliance Assurance Program (CAP)**

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## A. Introduction

Stanley Black & Decker, Inc. (SBD) is one of the great brands in the world. Maintaining this position requires us to carry out our activities in ways that preserve and promote a clean, safe and healthy environment and work place for our employees. It also requires us to comply with all environmental, health and safety (EHS) laws and regulations as a minimum acceptable level of behavior.

The first challenge facing our facilities is to ensure that they adhere to all applicable national, state, and local EHS laws and regulations at all times. The Compliance Assurance Program (CAP) is the cornerstone of rigorous compliance assurance within SBD. This document describes the CAP which is a supplemental document to SBD's Environmental Health and Safety Management System Plan (EMS), which was adopted by the Stanley Board of Directors in August 2001 and updated in March 2019.

Under the CAP, SBD has retained outside legal counsel (EHS Counsel) to provide legal advice to the company concerning the compliance of its facilities with applicable national, state, and local EHS laws and regulations. To do so, EHS Counsel will conduct audits (or engage consultants or internal auditors to conduct audits) of SBD facilities.

The primary purpose of compliance audits is to obtain legal advice from EHS Counsel so that our facilities can identify and correct violations. The CAP sets forth roles and responsibilities of the compliance audit team and the compliance audit procedures, which are designed to provide detailed, comprehensive, and objective reviews of facility operations and practices essential in meeting EHS requirements. The CAP also sets forth the procedures to document audit findings and to implement prompt corrective actions. The outcomes of the CAP process are annually submitted to SBD's general counsel.

Because the purpose of the CAP Audits is to enable EHS Counsel to provide legal advice to SBD, and due to the sensitive nature of EHS audits, the CAP Audit findings are confidential and privileged from disclosure under the attorney-client privilege and privilege for self-analysis, as well as under applicable audit laws, regulations or policies. The CAP sets forth procedures to ensure that audit findings are handled in a confidential manner to preserve such privileges.

The CAP has a secondary purpose as well, which is to drive continuous compliance improvement in SBD operations; to identify and implement best practices, and to drive effective compliance management. Because of this purpose, the goal of the CAP is to identify and correct any issues, not to have zero findings.

The benefits of a comprehensive CAP include the following:

- Collect relevant information used by legal counsel to provide legal advice to Stanley on compliance issues

- Identify and eliminate EHS violations
- Protect employee health and safety by eliminating dangerous conditions
- Reduce or eliminate civil and criminal liability for EHS violations through systematic compliance
- Reduce or eliminate penalties for violations discovered during a voluntary audit when reported to the applicable regulatory agency
- Help identify, assess and prioritize strategies for achieving compliance
- Evaluate the effectiveness of the existing EHS compliance management system
- Ensure that effective EHS compliance management systems are in place and functioning properly at each facility
- Increase employee and management awareness of EHS issues.

B. Definitions

**Deficiency** A workplace condition, document, or process identified during a CAP audit that does not meet an applicable regulatory requirement.

**Finding** A workplace condition, document, or process identified during a CAP audit that does not meet SBD’s expectations. Note that in regions where regulatory requirements are less stringent than SBD expectations, an EHS Director may chose to elevate a finding to a deficiency so the issue will be managed as significant and tracked to closure within 60 days unless an exception is sought by the facility management team.

**Best Management Practice** A workplace condition, document, or process identified during a CAP audit that could be improved in order to more effectively meet regulatory and/or SBD expectations.

C. Applicability

The CAP applies to all EHS audits at SBD facilities in North America for which SBD’s Corporate EHS Director (EHS Director) has requested legal advice from EHS Counsel. For other EHS audits, the procedures described herein may be used at the discretion of Facility Managers, but such audits must comply at a minimum with the company’s Non-CAP Audit Policy, which sets forth procedures to protect the confidentiality of audit findings and requirements for prompt corrective actions. See Attachment E.

CAP Audits will allow SBD to identify and promptly correct violations. CAP audits will be conducted at a facility as required under the CAP Audit Tier Schedule outlined in SBD’s EHS Management System or based on the particular needs of a facility as determined by the EHS Director and aligned with the schedule below:

## Audit Frequency

Site Characteristics and Audit Frequency	Site is Category I	Site is Category II	Site is Category III	Site is Category IV
	Third Party Compliance Audit Every 1 Calendar Year	Third Party Compliance Audit Every 2 Calendar Years	Third Party Compliance Audit Every 3 Calendar Years	Third Party or Internal Compliance Audit  Every 3 Calendar Years or at the discretion of the EHS Business Leader
Type	Large DCs, Manufacturing or processing	Large DCs, Manufacturing or processing	Medium DCs, Manufacturing or processing	Small DCs, Field Service Branches, Service Centers, Laboratories, Factory Outlets, SGNAs
Hours Worked	>310,000	< 310,000 >105,000	< 105,000	All/Various
Risk	Business and Regional EHS Leaders can alter these expectations at their discretion by changing a facility's category based on risk (subject to approval of Vice President EHS & CSR). Examples of risk include but are not limited to, a life changing event, an NOV, major facility/operational changes, or high risk operations.			

SBD facilities that are NOT required to undergo an audit in a given year based on the frequency prioritization outlined above or that have secured an exemption from the audit requirement from the EHS director are encouraged but not required to conduct a self-evaluation of adherence to applicable regulatory requirements, track any identified deficiencies, findings, or best management practices in the EHSWeb, and drive closure of all items identified. A tool that can be used to support this self-assessment is included in Attachment G. This can be done in conjunction with the EHS Road Map expectations in Section 1.09 Compliance Obligations.

### D. Roles & Responsibilities

#### **CAP Audit Team**

The CAP Audit Team consists of SBD's EHS Directors, Stanley's Corporate EHS Managers, EHS Counsel, and external EHS consultants (EHS Consultants).

Only external professional compliance auditors or internal Corporate EHS Managers may conduct CAP Audits at SBD facilities. CAP auditors are experts in regulatory compliance.

They are trained professionals who compile unbiased and representative audit results. *It is critical to the outcome of SBDs CAP process that the contracted audit company provide a highly experienced auditor that is conversant in the strict legal requirements of the jurisdiction in which the audit is occurring. It is also critical that an audit company retained to provide a CAP audit is not ALSO providing consulting services to the audited site during the same timeframe as the audit. SBD does not want to create a situation where external auditors are auditing the work of their own firm.*

*To ensure an audit company retains impartiality, we encourage wherever possible that the site change audit companies every two years.*

The auditors are responsible for identifying and recording deficiencies, findings, and best management practices within the scope of the audit. CAP auditors also analyze systems for compliance with current (and anticipated) regulatory requirements.

This team is responsible for:

- Conducting CAP Audits at SBD's North America locations
- Maintaining attorney-client privilege
- Maintaining specific audit standards and setting audit protocols for each specific audit
- Ensuring that audits and follow-up actions are conducted in accordance with CAP procedures

### **Corporate EHS**

Corporate EHS works closely with EHS Counsel to manage and monitor the CAP. The EHS Director (or designated Corporate EHS Managers) is responsible for:

- Determining site selection and frequency as outlined in Applicability, above; as well as other criteria, such as:
  - Individual risk factors
  - Complexity of the site's operations
  - Changes in management
  - Known or suspected regulatory agency concerns
  - Serious accidents
  - Recent acquisitions
  - Results of past compliance audits
- Selecting audit sites, audit scope and auditors
- Engaging EHS Counsel to coordinate CAP audits and to provide legal advice relating to audit findings

- Qualifying external auditors and ensuring that they meet the following criteria:
  - Have experience with specific regulatory areas in the jurisdiction required
  - Are familiar with SBD's EHS management systems
  - Have ability to implement efficient and effective audits and corrective actions
  - Are a preferred SBD consultant, unless waived by the EHS Director
  - Have audited the same facility no more than *two* consecutive years, unless waived by the EHS Director
- Advising the facilities on EHS issues
- Tracking progress on sites' audit findings and corrective actions
- Reporting (with EHS Counsel) CAP activities to SBD management including SBD's General Counsel

**Facility manager/management team**

- Maintaining compliance with all applicable laws and regulations, and providing the resources to support EHS compliance.
- Providing the Audit Team access to all conditions, records, and processes, and making facility personnel available for interviews during the audit process.
- Driving closure of deficiencies identified during the audit within 60 days of the out brief meeting
- Quickly identifying and escalating any deficiencies that cannot be closed within 60 days to Corporate EHS.
- Updating the CAP Audit Record in EHSWeb when the audit is complete. (If an exception is approved, this action should be completed by the Corporate EHS Contact.)

**Business Leadership**

- Holding facility leadership accountable for disclosure of identified deficiencies within 60 days of identification. Providing resources to support EHS compliance.

**E. CAP Audit Process**

The CAP Audit process relies on clear and timely communication between CAP Audit Team members and facility personnel during every step of the audit. Once the audit activities begin, the CAP Audit Team keeps facility management informed and involved

to prevent misunderstandings and encourage cooperative problem solving. This engagement does not undermine the attorney-client privilege so long as legal counsel is involved in the communication.

The following steps will be followed to ensure that efficient, thorough, and privileged audits are conducted:

***Step 1: The EHS Director identifies the sites that will receive a CAP Audit, the scope of the audit, the auditor, and time period.*** The EHS Director makes such decisions based on the criteria identified above, including the CAP Audit Tier Schedule. SBD policy restricts outside EHS auditors to the preferred list of consultants or outside legal counsel, unless waived by the EHS Director. See Attachment A.

***Step 2: The EHS Director (or designee) initiates an audit request to EHS Counsel for the purpose of obtaining legal advice.*** The EHS Director (or designee) will inform the Facility Manager of an EHS audit several months in advance of the audit. Facilities will be required to finance the audit. Once the Facility Manager is notified by the EHS Director (or designee), the EHS Director (or designee) will complete the attached audit initiation form and email it to EHS Counsel to formally request legal advice and initiate the CAP Audit. See Attachments B-1 and B-2. The audit initiation form will identify the available time period (e.g., quarter) for scheduling a facility audit, the desired scope of the audit, key facility/personnel information, and the auditor(s) from whom proposals should be obtained.

The EHS Consultant and internal auditor play an important role in the CAP Audit program. They are engaged to assist EHS Counsel. Each EHS Consultant and internal auditor will receive an audit process checklist to ensure that the EHS Consultant and internal auditor follow the CAP procedures. See Attachment C.

***Step 3: EHS Counsel immediately sends out a Request for Proposal (“RFP”) to the EHS Consultant to conduct the audit. If the audit will be conducted by an internal auditor, EHS Counsel will send an engagement letter to such auditor. EHS Counsel copies the EHS Director (or designee) on the RFP (or engagement letter).*** The third party auditor will submit to EHS Counsel a proposal for services responding to the RFP and in the format specified in SBD’s Agreement for Professional Services. After review, EHS Counsel, will forward a copy of the proposal to the EHS Director (or designee) and Facility Manager (or facility designee).

If the proposal is acceptable, the Facility Manager (or facility designee) will execute the proposal approval page and provide a signed copy to EHS Counsel, who also will execute the approval page. EHS Counsel will forward the fully-executed approval page to the auditor with an authorization to commence the work. At that point, the proposal becomes an addendum to the Agreement for Professional Services. EHS Counsel will direct the EHS Consultant to contact the EHS Director (or designee) or Facility Manager (or facility designee) to make logistical arrangements for the audit.

In the event that an EHS Consultant has not previously entered into the standard Agreement for Professional Services with Stanley, EHS Counsel will coordinate that process. All EHS Consultants must enter into the Agreement for Professional Services prior to conducting work for SBD unless an exception is made under the circumstances after obtaining the EHS Director's approval.

In some cases, EHS Counsel will conduct the audit without assistance from an EHS Consultant. In this case, the EHS Director (or designee) will initiate the audit in the same manner described above. EHS Counsel will issue its proposal for the audit to the EHS Director (or designee) and Facility Manager for approval.

***Step 4: After an audit is scheduled, EHS Counsel forwards an audit notification letter to the Facility Manager, with a copy to the auditor and the EHS Director or designee. See Attachment D.*** This letter identifies the purpose, scope, and time of the audit.

***Step 5: The audit is conducted.*** During the opening meeting, the auditor will identify the audit scope and purpose including specific regulatory items to be assessed. See Attachment C for talking points to be used by EHS Consultants and internal auditors. If significant compliance issues are identified during the audit or conditions that may require prompt reporting to regulatory agencies or indicate a significant and imminent risk of regulatory enforcement or risk to employee health and safety, then the auditor and facility personnel should provide an oral report immediately to EHS Counsel to obtain necessary legal advice. Each day should include a daily debrief during which the auditor(s) review(s) the scope of the audit completed during the day, and findings or non-compliant items that were identified during that day's scope. Auditors should be able to provide preliminary advice on all issues; some more complex compliance requirements may necessitate review after the onsite portion of the audit is completed. This daily debrief does not circumvent attorney client privilege and allows the facility to more quickly address issues, as well as allows the corporate team to more quickly identify and provide any required support.

***Step 6: The auditor posts draft audit findings and recommended best management practices on the SBD EHS website for review by EHS Counsel, the EHS Director (or designee), the Facility Manager and the facility EHS coordinator.*** Information provided by the auditor to the system includes, among other things, the finding, regulatory citation, finding category (i.e., environmental or health and safety), finding classification (e.g., air, hazardous waste, industrial hygiene, safety, etc.) (see Attachment C-2), recommendations, corrective actions, responsibility, and compliance date. The draft findings must be labeled "DRAFT" until the final findings are posted. Draft and final findings must be labeled "Environmental, Health and Safety Audit Report; Privileged & Confidential; Prepared at the Request of Counsel."

The third party auditor is required to post draft findings no later than seven (7) business days after the site inspection is completed.

**Step 7: EHS Director or Corporate EHS Designee schedules a closing conference call with the auditor, CAP Audit Team members and facility managers to discuss the draft findings.** A closing teleconference shall be held no later than five (5) business days after the draft findings are posted on the EHS website. Participants on the closing conference call include EHS Counsel, the auditor, the EHS Director (or designee), the Facility Manager, and the facility EHS coordinator.

During the closing teleconference call:

- The auditor(s) presents all findings to participants.
- The CAP Audit Team reviews the audit findings, recommendations, and supporting facts with facility managers so that they understand the nature of all identified items and are prepared to develop their corrective action plan.
- The CAP Audit Team discusses whether the facility is required to report any audit findings to the applicable regulatory agency or whether any findings should be voluntarily reported.

**Step 8: The auditor issues final findings on the SBD EHS website Corporate Audit Tracking Application.** The auditor will revise draft findings based on comments received during the closing conference and issue final findings on the system. The report remains a privileged attorney-client product, and is used by EHS Counsel and SBD personnel to track audit finding closure and patterns. The facility is required to complete corrective actions for each finding within sixty (60) days of the closing teleconference unless a variance is requested and approved by the EHS Director (or designee). In some cases, corrective actions will be required more quickly than sixty (60) days. When the corrective action for a particular finding has been completed, the facility EHS coordinator will notify the EHS Director (or designee), who will note in the system that the action is “complete.”

**Step 9: The Facility EHS contact will complete the CAP Audit record page on EHSWeb, including whether any exemptions were included, the scope of the audit & the firm that conducted it, and the final compliance letter signed by the facility manager.** This formal record creates the documentation that the audit was completed & the CAP expectation adhered to, and is used to prepare a summary for the General Counsel.

**Step 10: An EHS Director with responsibility for the CAP program prepares a summary for the SBD General Counsel in alignment with the SBD EHS management system expectations.**

**Step 11: The EHS Director (or designee) will periodically purge findings from the system upon completion of the required corrective action (unless there is a legal obligation to preserve the information).** The system will generate a final report which will identify the date of the audit, scope of audit, and a general description of findings

based on the designated categories and classifications and other factors to be determined by the EHS Director.

F. Maintaining Attorney-Client Privilege

Throughout the audit process, communications must be kept confidential. It is essential that the auditor's notes and any conclusions formed remain confidential and not be copied and otherwise disclosed to anyone without prior authorization. Dissemination of the audit results should be on a need-to-know basis. Accordingly, where audit findings result in the initiation of remedial measures, such as maintenance work or capital projects, those facility personnel or contractors implementing the remedial measures should be given only a job order, task order, or "to do" list, not the confidential audit communications or findings.

If the Facility Manager, facility EHS coordinator, or any other authorized person prints a hard copy of draft or final audit findings, such document (and any other audit materials) should be maintained separately in a secure location (marked as "Environmental, Health and Safety Audit Report; Privileged & Confidential; Prepared at the Request of Counsel") with limited access. Such hard copies of audit materials should be discarded when corrective actions have been completed unless the party has been notified by the SBD Legal Department that there is a legal requirement to preserve the documents.

Likewise, facility personnel should refrain, to the extent possible, from taking notes during the audit process. If any notes are taken, they should be kept to a minimum and should be strictly factual in nature, rather than subjective characterizations. These notes should be handled confidentially and likewise be discarded when corrective actions have been completed unless the party has been notified by the SBD Legal Department that there is a legal requirement to preserve the documents.

Under no circumstances should the information provided by the EHS Consultant (or internal auditor) or EHS Counsel, or the opinions or conclusions expressed by them, be communicated to any third party. If such a breach of confidentiality were to occur, this potentially could waive any applicable privileges.

Attachment A  
**APPROVED CAP AUDITORS**

	Stanley Black & Decker EHS Policy	EHS Partner Consultants Revised: February, 2015
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From: Mike Prado, V.P. Global Supply Management  
Deb Geyer, V.P. Environmental Health and Safety

Date: February 2, 2015

Re: EHS Partner Consultants Policy

**Policy:** In order to ensure successful and cost-effective EHS compliance projects and/or remediation/transactional initiatives across global Stanley Black & Decker, we are issuing this policy restricting the use of EHS consultants. Deviation from this policy requires authorization from the Vice President of EHS and the Vice President of Global Supply Management.

**Applicability:** This Policy applies to all Stanley Black & Decker facilities worldwide.

**Discussion:** The firms listed below were sourced through a competitive bid process which considered market presence, qualifications, references and cost. These firms are under contract by Stanley Black & Decker and provide the required insurance, bond, and warranty of services our company expects and deserves. We have expanded on the number of EHS consulting firms available under this policy in order to provide greater service and global coverage.

Stanley Black & Decker's Primary Partner Consultants are:

In the Americas:

- ENVIRON
- PSARA
- WSP Environmental Strategies
- SENES
- AECOM Consulting and Engineering
- Loureiro Engineering Associates (LEA)
- ECOH
- Weston
- AMEC
- HRP
- Arcadis
- Antea Group

In Asia-Pacific:

- Arcadis
- ENVIRON
- WSP Environmental Strategies
- AMEC
- AECOM
- Haley & Aldrich

In EMEA:

- Arcadis
- ENVIRON
- WSP Environmental Strategies
- AMEC
- AECOM
- Haley & Aldrich
- Antea Group
- RSK Group
- Conestoga Rovers & Associates

Attachment B-1  
**Model Audit Initiation Form**  
**When EHS Consultant (or Internal Auditor) Conducts Audit**  
STANLEY BLACK & DECKER

**Privileged and Confidential**

*Deliver By Electronic Mail*

Nathan Hunt  
Thompson Hine LLP  
Austin Landing 1  
10050 Innovation Drive, Suite 400  
Dayton, OH 45342-4934

Re: Initiation of Audit At \_\_\_\_\_ Facility

Dear Nathan:

I am interested in obtaining legal advice concerning the compliance status of the Stanley facility located at \_\_\_\_\_. Please obtain a proposal from **[EHS CONSULTANT or INTERNAL AUDITOR]** to conduct an assessment of compliance issues at the facility. This assessment should address the facility's **[SPECIFY WHETHER THE AUDIT SHOULD COVER ENVIRONMENTAL and/or HEALTH & SAFETY OR LIMITED ASPECTS OF THESE PROGRAM AREAS]**. The audit should be conducted during the \_\_\_\_ quarter of 20\_\_\_. A brief description of the site is provided below.

Physical Site Address: **[INSERT ADDRESS]**

Site Facility Manager: **[INSERT NAME AND EMAIL ADDRESS]**

Site EHS Manager: **[INSERT NAME AND EMAIL ADDRESS]**

Corporate EHS Manager: **[INSERT NAME AND EMAIL ADDRESS]**

Facility Information: **[INSERT TOTAL SQUARE FOOTAGE, NUMBER OF BUILDINGS, THEIR AGE, NUMBER OF EMPLOYEES]**

Permitted Processes: **[LIST APPLICABLE PERMITS HELD BY FACILITY]**

Description of Operations: **[INSERT ONE OR TWO SENTENCE DESCRIPTION OF OPERATIONS]**

Regulatory Agency Inspections in Last 12 months (list agencies/date/outcome):

I understand that you will contact me as soon as possible to confirm the scheduling of the audit.

Sincerely yours,

[Corporate EHS Manager]

Attachment B-2  
**Model Audit Initiation Letter**  
**When EHS Counsel Conducts Audit**

STANLEY BLACK & DECKER

**Privileged and Confidential**

*Deliver By Electronic Mail*

Nathan Hunt  
Thompson Hine LLP  
Austin Landing 1  
10050 Innovation Drive, Suite 400  
Dayton, OH 45342-4934

Re: Initiation of Audit At \_\_\_\_\_ Facility

Dear Nathan:

I am interested in obtaining legal advice concerning the compliance status of the Stanley facility located at \_\_\_\_\_ and wish to engage your firm to conduct an assessment of compliance issues at the facility. This assessment should address the facility's **[SPECIFY WHETHER THE AUDIT SHOULD COVER ENVIRONMENTAL and/or HEALTH & SAFETY OR LIMITED ASPECTS OF THESE PROGRAM AREAS]**. The audit should be conducted during the \_\_\_\_ quarter of 20\_\_\_. A brief description of the site is provided below.

Physical Site Address: **[INSERT ADDRESS]**

Site Facility Manager: **[INSERT NAME AND EMAIL ADDRESS]**

Site EHS Manager: **[INSERT NAME AND EMAIL ADDRESS]**

Corporate EHS Manager: **[INSERT NAME AND EMAIL ADDRESS]**

Facility Information: **[INSERT TOTAL SQUARE FOOTAGE, NUMBER OF BUILDINGS, THEIR AGE, NUMBER OF EMPLOYEES]**

Permitted Processes: **[LIST APPLICABLE PERMITS HELD BY FACILITY]**

Description of Operations: **[INSERT ONE OR TWO SENTENCE DESCRIPTION OF OPERATIONS]**

Regulatory Agency Inspections in Last 12 months (list agencies/date/outcome):

I understand that you will contact me as soon as possible to confirm the scheduling of the audit.

Sincerely yours,

[Corporate EHS Manager]



**MEMORANDUM**

**PRIVILEGED AND CONFIDENTIAL**

\_\_\_\_\_, 2017

TO: [Outside Auditor Consultant]

FROM: Thompson Hine LLP

RE: Mandatory Audit Process Checklist for Outside Auditors

This checklist has been developed to explain the vital role you, as auditor, perform in helping Stanley Black & Decker, Inc. (“Stanley”) implement its corporate-wide environmental, health and safety (“EHS”) auditing program. You have been (or will be) asked by Stanley’s legal counsel (“Counsel”) to conduct an assessment of compliance issues at a facility so that Counsel may provide legal advice to Stanley management. Because the purpose of your audit is to enable Counsel to render legal advice to Stanley, and due to the sensitive nature of EHS studies and the potential for litigation, your audit team’s findings and conclusions are privileged from disclosure under the attorney-client privilege and privilege for self-analysis, as well as under applicable federal and state audit laws and policies.

This checklist summarizes the Stanley audit process, identifies “talking points” which you should present on Counsel’s behalf to facility personnel participating in the audit, and emphasizes procedures intended to protect your findings and conclusions from inappropriate disclosure and dissemination. Accordingly, this checklist highlights many of the provisions contained in Stanley’s standard scope of work for EHS audits. For further direction, you may contact Andrew Kolesar at 513.352.6545, Nathan Hunt at 937.443.6908, or Kathryn Hinckley at 860.827.3972.

1. *The Stanley Audit Process.* Stanley management, at the facility or corporate level, retains Counsel to provide legal advice on the compliance status of a facility. Counsel sends a Request for Proposal (“RFP”) to the outside consultant. If the consultant has not previously entered into the Agreement for Professional Services with Stanley, then the consultant will be required to do so before any work is conducted.

The consultant will submit to Counsel a proposal for services in response to the RFP and in the format specified in the Agreement for Professional Services. The proposal must include an approval page for execution by Counsel and Stanley. Upon acceptance of the proposal by

Counsel and Stanley, the proposal becomes an addendum to the Agreement for Professional Services. Counsel will forward copies of the fully executed proposal to all parties.

After a consultant is formally retained, Counsel sends an audit notification letter to the Stanley Facility Manager (with a copy to the consultant and Stanley's EHS Director or designee) identifying the time, scope, and purpose of the audit. At the consultant's opening meeting at the facility, the consultant (as Counsel's representative) confirms the scope and purpose of the audit. The consultant presents opening meeting "talking points," which provide essential information about the audit process to participating facility personnel, including, among other things, that the consultant is retained by Counsel to conduct the audit and that the communications are considered privileged and confidential. (A list of "talking points" is provided as Attachment C-1 to this memorandum.)

After the audit, the consultant posts draft findings on the Stanley EHS website no later than seven (7) business days after the site inspection is completed. The draft findings should indicate the specific findings or best management practices, regulatory citations, category (environmental or health and safety), classification (see Attachment C-2 to this memorandum), recommendations, and corrective actions. The consultant will schedule a conference call to present these findings to Counsel. This closing teleconference must be held no later than five (5) business days after the draft audit findings are posted on the EHS website. The consultant, Counsel, Stanley's EHS Director (or designee) and certain facility personnel (usually the Facility Manager and EHS coordinator) participate in this conference call, where any issues of concern are raised and addressed. Thereafter, the consultant posts final audit findings on the Stanley EHS website. As audit findings are addressed by the facility, the findings are closed and removed from the system by Stanley's EHS Director (or designee).

2. *Preserving the integrity of the audit process.* There are several steps you, as auditor, should take to ensure that Stanley's audit process functions properly. Please keep the following important requirements in mind:

- *You have been, or will be, engaged by Counsel to conduct an audit. All written communications should be addressed to Counsel.*
- *Your opinions, and the written materials you prepare, are privileged.* Do not undertake any actions which might result in the waiver of applicable privileges. Your audit team studies and any conclusions formed remain confidential and should not be copied and otherwise disclosed to anyone without prior authorization by Counsel. Dissemination of audit results should be on a need-to-know basis. Under no circumstances should the information provided by you or your opinions or conclusions be communicated to any third party.
- *All written materials generated in the course of the audit should be stamped or labeled: "ENVIRONMENTAL, HEALTH AND SAFETY AUDIT REPORT; PRIVILEGED AND CONFIDENTIAL; PREPARED AT THE REQUEST OF COUNSEL."* Counsel may request additional verbiage depending on specific state audit laws or policies.

- *If significant compliance issues are identified during the audit or conditions that may require prompt reporting to regulatory agencies or indicate a significant and imminent risk of regulatory enforcement or risk to employee health and safety, then you and the facility managers should provide an immediate oral report to Counsel.*
- *In accordance with Stanley's auditing procedures, draft audit findings should be posted to the Stanley EHS website and presented to Counsel during a teleconference which includes a Stanley Corporate representative and facility personnel. Draft audit findings, including those contained in audit finding spreadsheets, should not be distributed directly to facility personnel. Instead, any such findings should be forwarded through posting on the Stanley EHS website and by emailing the findings directly to Counsel.*
- *You should post your draft findings well in advance of the closing conference to provide time for Counsel and Stanley representatives to review and analyze prior to the conference. Draft findings must be posted no later than seven (7) business days after the site inspection is completed. The closing conference must be held no later than five (5) business days after the findings are posted on the EHS website.*
- *Like draft audit findings, the final audit findings should be posted to the EHS website, not directly forwarded to Stanley facility personnel. This helps to protect the privileged nature of the findings.*

Thank you for your attention to these important procedures and for your assistance in implementing an important aspect of Stanley's EHS program.

Attachments

cc: Kathryn Hinckley

Attachment C-1

**PRIVILEGED & CONFIDENTIAL**

**Audit Procedures “Talking Points”**

***NOTE TO AUDITORS:*** *These talking points have been developed to ensure all facility personnel involved in an audit are aware that the audit has been requested by Stanley Black & Decker, Inc.’s (“Stanley’s”) legal counsel to allow counsel to provide legal advice regarding the facility’s compliance status. Each of the talking points listed below should be provided orally by the auditor at the initial or opening conference. This conference typically involves the Facility Manager, facility EHS coordinator, and other key personnel. Other facility personnel subsequently may become involved in the audit, for example when asked questions concerning specific operations. As discussed below, while these individuals also should be made aware of the audit’s purpose, they do not necessarily need a detailed explanation of the audit process.*

- We have been requested by Stanley’s legal counsel, Thompson Hine LLP (“Counsel”) to conduct an assessment of compliance issues at this facility. Counsel has asked us to conduct a compliance audit at the facility so that Counsel will be able to give Stanley management legal advice concerning the compliance status of the facility. In short, the purpose of this audit is to enable counsel to render legal advice to Stanley.
- I will provide you a schedule of on-site audit activities during this opening meeting. The compliance audit will cover [ENVIRONMENTAL and/or HEALTH & SAFETY] laws and regulations that impact your facility. Your EHS coordinator and other appropriate personnel should be available on an as-needed basis to participate in the audit.
- During the audit, I may interview facility personnel who did not participate in the opening meeting. Before asking these individuals any questions, I will indicate to them that I am working for Stanley’s legal counsel as part of a compliance audit. I will further indicate that the information provided to me is privileged and confidential and must be kept confidential.
- When the compliance audit is completed, we will provide an oral report to Counsel. The Facility Manager and EHS coordinator also will participate in this closing conference.
- Because this audit is being conducted so that Counsel can render legal advice to Stanley, and due to the sensitive nature of EHS studies and the potential for litigation, the audit team’s opinions, as well as any written materials they prepare, are privileged from non-voluntary disclosure under the attorney-client privilege and privilege for critical self-analysis, as well as under applicable federal and state audit privilege laws and policies.
- It is essential that the audit team’s studies and any conclusions they form remain confidential and not be copied and otherwise disclosed to anyone without prior authorization from counsel. Dissemination of the audit results should be on a need-to-know basis.

- Facility personnel should refrain, to the extent possible, from taking notes during the audit process. If any notes are taken, they should be kept to a minimum and should be strictly factual in nature for the purpose of promptly completing corrective action(s).
- All written materials generated in the course of the audit should be stamped or labeled: “[**ENVIRONMENTAL and/or HEALTH & SAFETY**] AUDIT REPORT; PRIVILEGED AND CONFIDENTIAL; PREPARED AT THE REQUEST OF COUNSEL.”
- Under no circumstances should the information provided by the auditors or Counsel or opinions or conclusions expressed by the auditors or Counsel be communicated to any third party. If such a breach of confidentiality were to occur, this could potentially waive any applicable privileges.

## Attachment C-2

When posting audit findings to the Stanley EHS website Corporation Audit Tracking Application, the auditor shall identify, among other things, the “classification” for each finding, using the following list:

### Environmental<sup>1,2</sup>

Air  
Wastewater – Direct  
Wastewater – Indirect  
Storm Water  
Drinking Water  
Hazardous Waste  
Solid Waste  
Underground Storage Tanks  
Aboveground Storage Tanks  
EPCRA or Country Equivalent  
TSCA or Country Equivalent  
Radioactive Materials  
Other

### Safety and Health<sup>2,3</sup>

Recordkeeping (Reporting, OSHA 300I, 300A and 301 Injury and Illness Logs)  
Walking - Working Surfaces (ladders, stairs, aisles)  
Means of Egress (exits, signs, doors all marked)  
Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms  
Occupational Health and Environmental Control (ventilation, noise, radiation)  
Hazardous Materials (flammable/combustible liquids, compressed gasses)  
Hazardous Chemical Operations (spray finishing, dip coating, hazardous waste, process safety management)  
Personal Protective Equipment (head, eyes & face, respirators, gloves & body, foot, fall protection)  
Lockout tagout (written program, annual audits, training)  
Confined spaces, and signs (permits, non-permit spaces, safety signs)  
Medical and First Aid (CPR, eyewash, bloodborne pathogens)  
Fire Protection (fire extinguishers, sprinklers, training, Emergency Action Plan (EAP))  
Materials Handling and Storage (forklifts, storage, overhead & mobile cranes & slings)  
Machinery and Machine Guarding (abrasive wheels, presses, power transmission equipment)  
Hand and Portable Powered Tools and Other Hand-Held Equipment  
Welding, Cutting, and Brazing (oxy-acetylene, arc)  
Electrical (electrical cords, training, equipment, high voltage, arc-blast)  
Toxic and Hazardous Substances (1910.1000 to end (Z-Tables, Expanded chemical hazard standards, hazard communication and MSDS))  
Other

<sup>1</sup> If the finding relates to a monitoring, recordkeeping or reporting (“MRR”) requirement, include that information in the description (for example, “Air/MRR”).

<sup>2</sup> If the finding relates to a training requirement, include that information in the description (for example, “Hazardous Waste/Training”).

<sup>3</sup> The parenthetical text is provided for clarification only. It should not be included with the audit findings.

Attachment D

**EXAMPLE – Facility Manger Notification Letter**

[Date]

**PRIVILEGED & CONFIDENTIAL**

[Facility Manager]

[Company]

[Address]

Re: Environmental, Health, and Safety Compliance Audit

Dear [Facility Manager]:

Thompson Hine LLP (“Thompson Hine”) has been retained by Stanley Black & Decker, Inc. (“Stanley”) in connection with an assessment of environmental, health, and safety compliance issues at Stanley’s facility in [location]. We have retained [consultant] to conduct a rigorous environmental, health, and safety compliance audit. The audit is necessary so that I will be able to give management legal advice concerning the compliance status of the facility.

The on-site audit will be conducted on [date]. An audit agenda will be provided to the facility by [consultant] during the opening meeting. The compliance audit will be comprehensive in scope, covering environmental, health, and safety laws and regulations that impact the facility. Please ensure that the facility’s environmental, health, and safety personnel are available on an as-needed basis to participate in the audit. Following the compliance audit, a closing call will be scheduled during which [consultant] will provide me with an oral report regarding the audit findings. This closing call will likely occur a week after the on-site visit at a time that is convenient for you, me, and the audit team.

Because the audit team is assisting me so that I can render legal advice to Stanley, and due to the sensitive nature of environmental, health, and safety studies and the potential for litigation, the audit team’s opinions as well as any written materials they prepare, are privileged from involuntary disclosure under the attorney-client privilege and privilege for critical self-analysis, as well as under applicable state audit privilege laws. It is essential that the audit team’s studies and any conclusions they form remain confidential and not be copied or otherwise disclosed to anyone without my prior authorization. Dissemination of the results of their work will be on a need-to-know basis. All written materials generated in the course of their work will be stamped or labeled “ENVIRONMENTAL, HEALTH AND SAFETY AUDIT REPORT; PRIVILEGED AND CONFIDENTIAL; PREPARED AT THE REQUEST OF COUNSEL.” **[add other labeling requirements under state audit law, if applicable]**

Under no circumstances should the information provided by the audit team or opinions or conclusions expressed by the audit team or me be communicated to any third party. If such a breach of confidentiality were to occur, this could conceivably waive any applicable privileges. Dissemination of the results of the investigation will be on a strictly need-to-know basis.

Please call me if you have any questions concerning the information provided in this letter. I look forward to working with you on this project.

Sincerely,

[Attorney Name]

cc: [Corporate EHS Director or Designee]  
[EHS Consultant]

Attachment E

**Privileged & Confidential**

To: Facility Managers  
From: Ted Morris  
Assistant General Counsel  
cc: Kathryn Hinckley  
Re: EHS Non-CAP Audit Program Policy

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Stanley Black & Decker, Inc. (Stanley) recognizes that audits are a valuable tool our Facility Managers use to ensure Stanley's facilities adhere to applicable national, state and local environmental, health and safety (EHS) laws and regulations at all times. EHS audits benefit Stanley in a variety of ways, including:

- Identification and prompt elimination of EHS violations at our facilities.
- Protection of employee health and safety by eliminating dangerous conditions.
- Reducing or eliminating civil and criminal liability for EHS violations through systematic compliance.
- Reducing or eliminating penalties for EHS violations discovered during a voluntary audit when reported to the applicable regulatory agency.

Facility Managers must be careful, however, to ensure that the information collected during EHS audits remains confidential and privileged from disclosure to the fullest extent permissible under applicable laws and audit policies.

The Compliance Assurance Program (CAP) is the cornerstone of rigorous compliance assurance within Stanley and was established to ensure (to the extent possible) EHS audit findings remain confidential and privileged. Under the CAP, Stanley has retained outside legal counsel (EHS Counsel) to provide legal advice to the company concerning the compliance of its facilities with applicable EHS laws and regulations. Because the purpose of the CAP Audits is to enable EHS Counsel to provide legal advice to Stanley, and due to the sensitive nature of EHS audits, the CAP audit findings are confidential and privileged from disclosure under the attorney-client privilege, in addition to the privilege for self-analysis and applicable audit laws or policies. For these reasons, Stanley encourages Facility Managers to use the CAP procedures in connection with EHS audits performed at our facilities.

Stanley recognizes, however, that Facility Managers will at times commission EHS audits at our facilities that are not conducted in accordance with all of the CAP procedures. These EHS audits are referred to as Non-CAP Audits. Information obtained from Non-CAP

Audits will not be protected by the attorney-client privilege, but may be protected from disclosure by application of the privilege for self-analysis, as well as applicable audit laws or policies. This policy addresses the steps Facility Managers must take to ensure information collected during Non-CAP Audits remains confidential and privileged from disclosure to the fullest extent possible.

## **APPLICABILITY**

This policy applies to all Non-CAP Audits at Stanley facilities in North America. Facility Managers who commission Non-CAP Audits must comply, at a minimum, with this policy, which sets forth guidelines to protect the confidentiality of Non-CAP Audit findings and requirements for prompt corrective action.

## **RISKS OF DISCLOSURE**

Although Stanley encourages EHS audits for the reasons stated above, Facility Managers should be aware of the risks associated with the identification and documentation of EHS violations. The risks include:

- Information obtained during Non-CAP Audits may be accessible to EHS regulators during enforcement actions or compliance inspections.
- Information obtained during Non-CAP Audits may be discoverable by opposing attorneys in legal proceedings against Stanley.
- Information obtained during Non-CAP Audits could form the basis for a finding that Stanley committed a knowing or willful violation of EHS laws and regulations.

## **GUIDELINES FOR PRESERVING THE CONFIDENTIALITY OF NON-CAP AUDITS**

There are certain steps the Facility Manager must take to ensure that confidentiality and privilege are preserved to the extent possible when they conduct Non-CAP Audits. Please keep the following important requirements in mind:

- *Ensure that the EHS Consultant stamps or labels all pages of written materials generated in the course of the Non-CAP Audit as follows: "ENVIRONMENTAL, HEALTH AND SAFETY AUDIT REPORT; PRIVILEGED AND CONFIDENTIAL."*
- *The EHS Consultant's opinions, and the written materials they prepare, should be considered privileged and confidential. Throughout the Non-CAP Audit process, communications must be kept confidential. It is essential that the EHS Consultant's studies and any conclusions formed remain confidential and are not be copied and otherwise disclosed to anyone without prior authorization. Dissemination of audit results should be on a need-to-know basis. Accordingly, where audit findings result in the implementation of remedial measures, such as maintenance work or capital projects, those facility personnel or contractors implementing the remedial measures should be given only a job order, task order, or "to do" list, not confidential audit communications or findings.*

- *Written audit findings should be concise and factual.* Written audit findings should include only a concise statement of the facts associated with findings or best management practices, the recommended corrective actions, regulatory citations, category (environmental or health and safety), classifications, recommendations, and corrective actions. Audit findings should be factual and should avoid subjective characterizations, overstatements, speculation or other non-essential statements that could be harmful if discovered by regulators or other third parties.
- *Audit materials should be tightly controlled.* Draft materials should be labeled "DRAFT" and should be destroyed when the final audit report is issued. The audit report should be distributed only to your audit team, which should include your Corporate EHS Manager. All audit materials, including hard copies of draft reports and final audit findings, should be maintained separately in a secure location (marked as "ENVIRONMENTAL, HEALTH AND SAFETY AUDIT REPORT; PRIVILEGED AND CONFIDENTIAL") with limited access. Audit materials should be discarded when corrective actions have been completed unless you have been notified by the Stanley Legal Department that there is a legal requirement to preserve the documents.
- *Members of the audit team should refrain, to the extent possible, from taking notes during the audit.* If any notes are taken, they should be kept to a minimum and should be strictly factual in nature (e.g., place label on drum in storage room), rather than subjective characterizations. These notes should be handled confidentially and be discarded when corrective actions have been completed unless you have been notified by the Stanley Legal Department that there is a legal requirement to preserve the documents.
- *Under no circumstances should the information provided by the EHS Consultant, or the opinions or conclusions expressed by them, be communicated to any third party.* Such a breach of confidentiality potentially could waive any applicable privilege.
- *Expediently correct compliance issues identified during the audit.* Prepare a checklist of remedial measures required, a deadline for completion of remedial measures, and responsibility assignments. Corrective actions must be promptly implemented.
- *Promptly consider the pros and cons of self-reporting.* The U.S. EPA and certain state agencies may provide penalty immunity or mitigation when violations discovered during an audit are self-disclosed to the applicable agency. The audit team should consider the pros and cons of self-reporting of audit findings. The decision to self-report violations is made on a case-by-case basis and only after consultation with Stanley's Corporate EHS Director and EHS Counsel.

Audit laws and policies typically require disclosure of violations within a specified period of time. The U.S. EPA Audit Policy, for example, requires that violations be disclosed to U.S. EPA in writing within 21 calendar days after discovery in order to claim the benefits of the policy, which include the elimination or reduction of gravity-based penalties and no recommendation for criminal prosecution. Consequently, the audit team must promptly determine whether any audit findings should be disclosed to EHS regulators.

## Attachment G

### Compliance Self-Assessment Tool

Instructions (See Compliance Self-Assessment Tool on EHS SharePoint Site):

- (1) List the regulatory requirements the facility is subject to in Column B.
- (2) Provide a "plain language" description of the expectation in Column G.
- (3) Explain how this requirement is met in Column H.
- (4) Explain what action you can take to validate that the requirement is met in Column J.
- (5) Use columns K & L to describe what you reviewed and when.
- (6) Determine based on the evidence, whether the requirement is met and indicate that in Column M, and note any exceptions in Column N.

Screenshot:

(Excel template can be found on EHS SharePoint site [here](#):  
EHS SharePoint Site/ Compliance Audit Program/ Self Assessment Tools

