

Element 5: Internal Reviews

OBJECTIVE: To protect the integrity of the total system by verifying compliance within all of the company's export-related divisions and locations with the company's written and operational EMS procedures and to ensure the procedures are consistent with the EAR.

PROCEDURE: First, designate a reviewer responsible for conducting the Export Management Systems reviews at the company's site(s). The reviewer should be from an auditing division or some other person outside of the day-to-day export regulations and compliance operations. Another option is to retain a consultant who provides this specialized service. Second, develop an evaluation module for the reviewer to use for each of the units consistent with their responsibilities and roles in the EMS manual and process. Third, schedule the reviews. Fourth, establish a mechanism for ensuring appropriate reporting and/or corrective action.

Conduct Internal Reviews

Most EMS programs include manual and automated portions. The reviewer will need to determine what questions to ask the personnel involved in the process that will confirm that written procedures accurately describe how things really work operationally. Beyond being told how things work, the reviewer will want to observe the process and examine records that are maintained as part of the process. For any automated part of a system, review the system logic flow chart that describes where/how any screens are performed. Determine whether there are systems reports or internal controls that monitor and report problems. Evaluate whether the manual and automated operations complement each other in a smooth, effective flow.

- ◆ Verify evidence of current resource and written management commitment to complying with the EAR and adequately maintaining EMS procedures.
- ◆ Verify evidence that the administrative structure is current and effective.
- ◆ Verify the procedures are formalized in a written manual. The review process should evaluate the actual operation of the EMS procedures to determine whether in practice the implementation of the operational program parallels the written EMS manual.
- ◆ If the written and operational procedures are inconsistent, identify where the vulnerability exists and recommend the corrective action.
- ◆ Assess the risk of the vulnerability and if any further action is required. (A common scenario in companies is that a trained export transaction person leaves and another employee has to assume that person's duties without training or written procedures. Without training or written procedures, companies can easily commit violations of the EAR.)
- ◆ Determine that all export compliance screens are adequately performed at the most effective steps in the process to prevent violations of the EAR.
- ◆ Document ongoing export regulations and procedures training.
- ◆ Evaluate whether changes to business strategies require new or different compliance

mechanisms.

- ◆ Provide management and the export regulations and compliance personnel with a report of findings/recommendations and corrective actions required to maintain and enhance the system procedures.

Export Transaction Records

The reviewer should verify which records are maintained and evaluate whether these documents are in compliance with the EAR requirements (e.g., purchase orders, commercial invoices, SEDs/AES Records, Air Waybills, etc.). Refer to the [Record Keeping Element](#) for a list of required documents, including any special pre-export check documents or other control documents mentioned throughout the EMS written program. The reviewer need only examine a representative sampling.

Order Processing Checks

The reviewer should determine, via a representative sampling, whether the following records are maintained:

- ◆ documentation of completed transaction screening (including results, date and person responsible);
- ◆ documentation that the product/license matrix has been furnished to the party responsible for order processing; and
- ◆ written procedures for processing orders which identify how to determine the correct export authorizations.

In an internal systems review, the reviewer can use the following techniques:

- ◆ flow charting the order processing system;
- ◆ interviewing export-related personnel;
- ◆ inspecting all required export-related documents;
- ◆ analyzing sample transactions;
- ◆ verifying completion of the export control checks;
- ◆ reviewing the EMS and procedures manuals; and
- ◆ reviewing the company's training programs and review procedures.

Written Internal Systems Review Reports

The reviewer should write a report of each internal review, including a description of the review process used, and the results of the review. Appropriate managers should be notified of the results of the review and corrective actions needed. It is suggested that this report be sent to the person responsible for oversight of the compliance unit. The reviewer should prepare written confirmation of follow-up and corrective actions taken as a result of the review.

Frequency of Internal Systems Reviews

The exporter's site should be reviewed annually. Throughout the year, spot checks and informal reviews may be performed to verify accuracy of work and validity of the procedures. These spot checks and reviews should be documented.

COMMENTS: To avoid a conflict of interest, an effort should be made to use a person not involved in sales or the daily export functions to perform quality control assessments. In larger companies, the internal review staff should be independent of, and not report to, parties with marketing responsibilities. In all cases, the internal review should be conducted as objectively as possible using written review procedures prepared in advance. The review procedures should be as comprehensive as possible. Results should be communicated to appropriate management personnel.

The review checklist need only examine compliance with the elements adopted in a company's customized EMS. For example, if a company decides it is not necessary to adopt a nuclear screen or a chemical/biological weapons screen, then it is not necessary to review these in an internal review. The review, however, should evaluate the rationale behind the decision to exclude a specific screening element. It is recommended that if specific screens are deemed unnecessary, this decision should be documented with the rationale.

A [draft review module](#) is available, in hard copy, or on disk upon request to the Export Management & Compliance Division. The module is considered a draft because it should be tailored to a company's transactions and business environment in order to prove a useful tool.