

LEGAL AND OTHER REQUIREMENTS

Background and Exhibits

The Legal Framework for Your EMS—Familiar Territory

You probably already have some form of EMS and its most mature element is, most likely, its attention to compliance with laws and regulations that relate to specialty-batch chemical manufacturers. Since you probably know most of what you need to about your legal requirements and how they affect what you do, let's begin in this familiar territory and build from there.

Compliance with legal requirements is one of the main pillars upon which your environmental policy should be based because the potential costs of noncompliance (possible damage to the environment, revenue loss, and impact on public image, for example) can be very high.

An effective EMS will build on what you already have and should include processes to:

- Identify and communicate applicable legal and other requirements; and
- Ensure that these requirements are factored into the facility's management efforts, for instance, factored into determining significant environmental aspects, setting objectives & targets, implementing operational controls, performing monitoring and measurement, and conducting internal audits.

New or revised legal requirements might require modification of your environmental objectives or other EMS elements. By anticipating new requirements and making changes to your operations, you might avoid some future compliance obligations and their associated costs.

As part of your EMS, you also will need to define procedures for achieving and maintaining compliance. These procedures are discussed in *Module 5: Environmental Aspects*, *Module 6: Objectives and Targets*, *Module 14: Monitoring and Measurement*, *Module 15: Nonconformance and Corrective and Preventive Action*, and *Module 17: EMS Audits*.

Getting Started

Your EMS should include a procedure for identifying, having access to, and analyzing applicable legal and other requirements. Legal requirements include, but are not limited to:

- Federal requirements;
- State and local requirements; and
- Permit conditions.

Other requirements might include:

- Industry codes of practice (e.g., Responsible Care®); and
- Voluntary pledges or commitments made by your facility.

Identifying applicable regulations, interpreting them, and determining their impacts on your operations can be a time-consuming task. Fortunately, there are many sources for obtaining information about applicable laws or regulations, see ***Exhibit 4-3*** for a list of information resources.

The next step is to communicate these requirements (and methods for complying with them) to employees, on-site contractors, and others as needed. Communicating “other requirements” (as well as their influence on the facility) is an important but often overlooked step. Keep in mind that different people may have different information needs—for example, operational personnel may need to understand waste consolidation and accumulation requirements for waste streams generated in their areas, while the environmental manager will need to know waste analysis, labeling, and transportation requirements for hazardous waste.

As with many EMS elements, this is not a “one time” activity. Because legal and other requirements change over time, your procedure should include a means to ensure that you are working with up-to-date information.

Refer to ***Exhibit 4-1: Summary Checklist*** for a set of steps that can help you begin the process of identifying applicable legal and other requirements and ensuring that these requirements are factored into your facility's management efforts.

Customize the procedure and its supporting form provided in ***Exhibit 4-2: Procedure for Identification of Legal and Other Requirements (EP-001)*** to fit your facility's legal and other requirement needs.

Exhibit 4-3: Information Resources for Legal Requirements presents a variety of commercial and non-commercial sources of information on federal and state environmental laws and regulations. This list is not intended to be comprehensive and appearance on the list should not be construed as an endorsement by EPA of any commercial products or services.

Customize the procedure provided in ***Exhibit 4-4: Procedure for Obtaining Agency Approval (EP-002)*** to secure approval for processes and activities at your facility. Once the applicable environmental requirements have been identified and adopted into the appropriate operations, you will need to contact regulatory agencies with jurisdiction over your facility to secure these approvals.

Exhibit 4-1: Summary Checklist

LEGAL AND OTHER REQUIREMENTS

- Step 1: Identify and list your legal and other requirements with the corresponding aspects/categories as they pertain to your organization's activities, products, or services on Form for Legal and Other Requirements (EF-001.01).
- Step 2: On Form EF-001.01, provide a brief description of identified requirements and check the applicable production processes and/or facility supports that are affected by the requirement (see *Example 4-2: Sample List of Relevant Legal and Other Requirements for Specialty-Batch Chemical Manufacturers*).
- Step 3: Using *Exhibit 4-2: Procedure for Identification of Legal and Other Requirements (EP-001)*, describe the procedure to identify and access legal and other requirements that are applicable to environmental aspects of your facility's activities, products, or services.
- Step 4: Customize the procedure provided in *Exhibit 4-4: Procedure for Obtaining Agency Approval (EP-002)* to document the method by which you secure or update approval for new processes and activities at your facility.

Exhibit 4-2: Procedure for Identification of Legal and Other Requirements (EP-001)

1.0 Purpose

[Facility's Name] is committed to complying with all relevant environmental regulations. It also will strive to meet other commitments made in its environmental policy, such as commitments to community involvement, pollution prevention, and continuous improvement. This procedure describes how [Facility's Name] identifies relevant legal and other requirements.

2.0 Activities Affected

EMS Coordinator

3.0 Forms Used

Legal and Other Requirements (EF-001.01)

4.0 References

- 4.1 Governmental/commercially-available publications
- 4.2 Other requirements to which [Facility's Name] subscribes
- 4.3 ISO 14001:1996, Element 4.3.2

5.0 Definitions

None

6.0 Exclusion

None

7.0 Procedure

- 7.1 The Environmental Management Representative (EMR) is responsible for tracking relevant environmental laws and regulations and evaluating their potential impact on the facility's operations. He or she employs several techniques to track, identify, and evaluate applicable laws and regulations. These techniques include commercial databases, information from the trade association, direct communication with national and state regulatory agencies, and periodic refresher training on environmental laws.
- 7.2 As necessary, the EMR may call upon off-site resources such as consultants or attorneys.
- 7.3 The EMR compiles and maintains updated copies of applicable environmental laws and regulations.
- 7.4 The EMR, working with the EMS Coordinator and Cross Functional Team (CFT), correlates these regulations to the business activities and the related environmental aspects.

8.0 Frequency
Ongoing

9.0 Records
Form for Legal and Other Requirements (EF-001.01) is maintained by the EMS Coordinator. The EMR maintains copies of the applicable regulations.

Record of Revisions

Revision Date	Description	Sections Affected

Form for Legal and Other Requirements (EF-001.01)

Identification			Production Processes					Material Loading, Unloading, Handling & Storage	Facilities & Maintenance				Other Processes		
Category/Aspect	Legal or Other Requirement	Description	Packaging Area	QC Laboratory	R&D Laboratory	In-Plant Material Handling (inc. bulk material & drums)	Pressurized Reactor Operation (based on a generic process)	Raw Material Handling & Storage (EO, flammables, reactives, sulfur, other chemicals)	Waste Storage & Separation	Waste Water Treatment Plant Operations (inc. off-site transfers & emissions)	Centralized Air Pollution Control/Operations (inc. incinerator or thermal oxidizer with pretreatment)	Cooling Water System	Boiler Operation	Contractor Trailer, Storage/Welding Area	Administration

Exhibit 4-3: Information Resources for Legal Requirements

Source	Description
EPA Web site	Provides a variety of information on environmental laws and regulations as well as tools and compliance guidance at www.epa.gov .
EPA RCRA/Superfund/EPCRA Hotline (1-800-424-9346 or 703-412-9810)	Questions regarding pollution prevention, source reduction, waste management, and disposal may be directed to this hotline. The Hotline answers factual questions about EPA regulations and programs under RCRA, Superfund, and EPCRA.
EPA Small Business Ombudsman (1-800-368-5888)	Regulatory explanations and guidance, research, case studies, and contacts for additional information. Variety of hotlines available for particular statutes (such as RCRA). Also available online at www.epa.gov/sbo .
EPA General Phone Numbers	Contact the Administrator’s Office at 1-202-564-4700 with compliance assurance questions. Directory assistance is available at 1-202-272-0167 (1-202-564-0260 TTY).
ChemAlliance	Up-to-date information on environmental regulations affecting the chemical industry, provided at www.chemalliance.org .
EPA Compliance Assistance Resources	A helpful list of EPA tools for compliance assistance, provided at www.epa.gov/compliance/resources/publications/assistance/sectors/chemicalpub.html .
Resource Directory of Small Business Environmental Assistance Providers	An EPA publication, provided in PDF format, that is an easy-to-use guide of key environmental assistance providers for small businesses, at www.epa.gov/sbo/sba-directory.pdf .
Small Business Environmental Compliance Homepage	Provides links to several compliance assistance resources at www.smallbizenviroweb.org/compliance/compliance.html .
Small Business Assistance Programs (various states) and Other State Agencies	Guidance on regulations and compliance issues. Initially these focused on Clean Air Act requirements, but they are expanding into other environmental media.
U.S. Small Business Administration	Various services available to small businesses in the U.S. at www.sba.gov .
U.S. Government Printing Office (202-512-1800)	Federal Register published daily with all federal proposed and final rules. Also available online at www.gpoaccess.gov .
Practical Guide to Environmental Management for Small Business	A guide, in PDF format, to getting organized and making the most of the time you and your employees spend on environmental affairs, provided at www.smallbiz-enviroweb.org/html/pdf/EM_Guide0902.pdf .
Compliance Assistance Tools	An overview of the resources available or in development in a wide variety of industries to assist with environmental regulation compliance, provided at www.smallbiz-enviroweb.org/pub_video/epadocs/bdocs/b08.pdf .

Source	Description
An Environmental Self-Evaluation for Small Business – Tool #1: A Practical Guide to Environmental Compliance	A guide from the Pennsylvania Department of Environmental Protection, in PDF format, that is the first in a series of tools to help companies cost-effectively achieve compliance, provided at www.dep.state.pa.us/dep/deputate/pollprev/PDF/smal_biz.pdf
Counterpoint Publishing	CD-ROM and Internet dial-up access to legal/regulatory information on the federal government and all states, updated daily.
Bureau of National Affairs (1-800-372-1033)	Information on environmental, health, and safety laws, regulations, and activities at international, national, and state level. Paper and online access available.
Thompson Publishing Group (1-800-677-3789)	Manuals on a variety of federal and state environmental programs with monthly updates and newsletters.
Business & Legal Reports, Inc. (1-800-727-5257)	Access to federal and state regulations with monthly updates on available on CD-ROM.
Aspen Law and Business (1-800-638-8437)	Compliance manuals with a regular update service for the Resource Conservation and Recovery Act and the Clean Air Act.

Exhibit 4-4: Procedure for Obtaining Agency Approval (EP-002)

1.0 Purpose/Scope

This procedure describes the method to be implemented to secure approval from regulatory agencies for processes and activities at the [Facility's Name] affecting air emissions, waste management or water discharges, as well as the method for other environmental approvals.

2.0 Activities Affected

All areas and departments

3.0 Forms Used

None

4.0 References

- 4.1 Procedure for Identification of Legal and Other Requirements (EP-001)
- 4.2 Procedure for Communication with Stakeholders (EP-004)
- 4.3 Procedure for Environmental Records (EP-005)
- 4.4 ISO 14001:1996, Elements 4.3.4, 4.4.6, 4.5.1

5.0 Definitions

- 5.1 Regulatory Agency: governmental unit with delegated authority for implementing regulations related to ambient air quality, waste management, and/or water discharge quality.
- 5.2 Process: materials, activities, equipment associated with operations.
- 5.3 Permit: permit, licenses, certifications, or other authorizations issued by a governmental regulatory body.

6.0 Exclusions

None

7.0 Procedure

- 7.1 Where operations are identified as potentially requiring environmental permits, the EMS Coordinator shall coordinate the investigation and permitting process through the use of an informal "permit team" comprised of (at least) the EMS Coordinator and, as appropriate, a representative from the [Facility's Name] function responsible for the operation concerned.
- 7.2 All communications in connection with permits, and specifically those with the relevant regulatory agencies, shall be undertaken in conformance with the Procedure for Communication with Stakeholders (EP-004).
- 7.3 The permit team shall develop a strategy to secure permits concurrently with existing operational timing plans. The Environmental Management Representative (EMR) is responsible for timely communication of the issues to the Facility Management Team.

7.4 The EMS Coordinator shall coordinate the preparation, submission and negotiation of permit applications, operating through the permit team. Permits obtained shall be reviewed to ensure that they adequately cover the operation(s) concerned.

7.5 The permit team will review the terms and conditions in new permits and modify or establish operational controls necessary to ensure compliance with the permit.

8.0 Frequency

Ongoing

9.0 Records

Records shall be retained consistent with the procedure for Environmental Records (EP-005).

Record of Revisions

Revision Date	Description	Sections Affected

Examples

Example 4-1: Commonly Applicable Federal Environmental Laws in the U.S. provides a list of commonly applicable federal environmental laws applicable to the specialty-batch chemical manufacturing industry. It is not a complete list, but provides a starting point for considering your own legal and other requirements.

Example 4-2: Sample List of Relevant Legal and Other Requirements for Specialty-Batch Chemical Manufacturers lists descriptions of legal and other requirements for specialty-batch chemical manufacturers and how they are relevant to production process and facility support. This example is based on EF-001.01, Form for Legal and Other Requirements, in **Exhibit 4-2**.

Example 4-1: Commonly Applicable Federal Environmental Laws in the U.S.

Applicable Federal Environmental Laws	Overview of the Laws
<p>Clean Air Act (CAA) [40 CFR Parts 50-99]</p> <ul style="list-style-type: none"> • Title V air permits and/or follow the standards for hazardous air pollutants under the NESHAP • State air permits 	<p>Establishes ambient and source emission standards and permit requirements for conventional and hazardous air pollutants.</p>
<p>Clean Water Act (CWA) [40 CFR Parts 100-145, 220-232, 410-471]</p>	<p>Establishes ambient and point source effluent standards and permit requirements for water pollutants, including sources that discharge directly to a water body or to a public sewer system. Also includes storm water management requirements.</p>
<p>Resource Conservation and Recovery Act (RCRA) [40 CFR Parts 240-299]</p>	<p>Establishes regulations and permit requirements for hazardous waste management. Also creates standards for underground storage tanks that hold oil or hazardous substances.</p>
<p>Toxic Substances Control Act (TSCA) [40 CFR Parts 700-799]</p>	<p>Regulates the use, development, manufacture, distribution, and disposal of chemicals. Certain chemicals (such as polychlorinated biphenyls [PCBs]) are subject to specific management standards.</p>
<p>Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, also known as “Superfund”) [40 CFR Parts 300-311]</p>	<p>Establishes a program for cleaning up contaminated waste sites and establishes liability for clean-up costs. Also provides reporting requirements for releases of hazardous substances.</p>
<p>Emergency Planning and Community Right-To-Know Act (EPCRA) [40 CFR Parts 350-374]</p>	<p>Establishes a program (also known as the “Toxic Release Inventory”) to inform the public about releases of hazardous and toxic chemicals. Reporting requirements apply to companies that use, process, or store specific chemicals over specified quantities.</p>
<p>Hazardous Materials Transportation Act (HMTA) [49 CFR Parts 100-180]</p>	<p>Establishes standards for the safe transportation of hazardous materials.</p>

Example 4-2: Sample List of Relevant Legal and Other Requirements for Specialty-Batch Chemical Manufacturers

Identification			Production Processes					Material Loading, Unloading, Handling & Storage		Facilities & Maintenance				Other Processes	
Category/Aspect	Legal or Other Requirement	Description	Packaging Area	QC Laboratory	R&D Laboratory	In-Plant Material Handling (inc. bulk material & drums)	Pressurized Reactor Operation (based on a generic process)	Raw Material Handling & Storage (EO, flammables, reactives, sulfur, other chemicals)	Waste Storage & Separation	Waste Water Treatment Plant Operations (inc. off-site transfers & emissions)	Centralized Air Pollution Control/Operations (inc. incinerator or thermal oxidizer with pretreatment)	Cooling Water System	Boiler Operation	Contractor Trailer, Storage/Welding Area	Administration
Material Use*	Corporate Directive	Facility Strategy, Planning, and Implementation	X	X	X	X	X	X	X	X					
Air Emissions	40CFR Part 50	NAAQS National Primary and Secondary Air Quality Standards	X	X	X	X	X	X							
Air Emissions	40CFR Part 51	Emission of Hazardous Air Pollutants	X	X	X	X	X								
Air Emissions	40CFR Part 52	Emission of Hazardous Air Pollutants	X	X	X	X	X								
Air Emissions	40CFR Part 60 40CFR 60.42c and 60.43c (Boiler emission standards for sulfur dioxide and particulate matter)	Verification of Emissions	X	X	X	X	X								
Air Emissions	40CFR Part 63	National Emissions Standards for Hazardous Air Pollutants for Source Categories	X	X	X	X	X	X	X	X	X	X	X	X	X

SPECIALTY-BATCH CHEMICAL MANUFACTURING INDUSTRY — EMS IMPLEMENTATION GUIDE

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Air Emissions	40CFR Part 68	Chemical Accident Prevention Provisions (RMP)										X			
Air Emissions	40CFR Part 72	Permits (Title V)										X			
Air Emissions	County Ordinances	Air Permits	X	X	X	X	X	X	X	X	X	X	X	X	X
Air Emissions	40CFR Part 82	Stratospheric Ozone Protection-CFC Containing Equipment Requirements													
Air Emissions	40CFR Part 265 part AA, BB, and CC	RCRA Emission Requirements-Hazardous Waste Storage Tanks	X					X	X						
Air Emissions	State Rules and Regulations	State Air Rules (i.e., air permits, point source control for stationary sources, malfunctioning of control equipment)	X	X	X	X	X	X	X	X	X	X	X	X	X
Energy Use	Corporate Directive	Facility Strategy, Planning, and Implementation	X	X	X	X	X	X	X	X		X			
Solid/Liquid Waste	State Rules and Regulations	Liquid and Solid Waste Management	X	X	X	X	X	X	X	X	X	X	X	X	X

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Solid/Liquid Waste	40CFR Part 261-265	Hazardous Waste Requirements	X	X	X	X	X	X	X	X	X	X	X	X	X
Solid/Liquid Waste	40CFR Part 268	RCRA Land Disposal Restrictions													
Solid/Liquid Waste	40CFR Part 279	Standards for the Management of Used Oil	X	X	X	X	X	X	X	X	X	X	X	X	X
Solid/Liquid Waste	40CFR Parts 265, 280	USTs									X				
Solid/Liquid Waste	40CFR Part 300	Hazardous Ranking System (HRS)	X	X	X	X	X	X	X	X					
Solid/Liquid Waste	40CFR Part 302	Hazardous Substances and Reportable Quantities	X	X	X	X	X	X	X	X	X	X	X	X	X
Solid/Liquid Waste	40CFR Part 355	Extremely Hazardous Substances (EHS)	X	X	X	X	X	X	X	X					
Solid/Liquid Waste	40CFR 370 & 372	Community Right-to-Know Requirements													X
Solid/Liquid Waste	40CFR 710	Toxic Substances Control Act (TSCA) Requirements						X			X				X

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Solid/Liquid Waste	29 CFR 1910	OSHA Requirements													
Solid/Liquid Waste	CERCLA 103	Release Reporting Requirements of EPCRA	X	X	X	X	X		X	X	X				
Solid/Liquid Waste	Facility Directive	Requirement for Waste Minimization Plan	X	X	X	X	X		X	X	X				X
Solid/Liquid Waste	City Ordinance	Sewer Permit	X	X	X	X	X	X	X	X	X				
Waste Water Discharge	NPDES State Permit	Permit to Discharge to Local Water Bodies		X	X	X	X	X	X	X	X				X
Waste Water Discharge	40 CFR Part 121-125	NPDES 122-Permit to Discharge Stormwater to Local Water Bodies	X	X	X	X	X	X	X	X	X				
Waste Water Discharge	40CFR Part 136	Guidelines Establishing Test Procedures for the Analysis of Pollutants (only for WW analysis lab)													
Waste Water Discharge	40CFR Part 316	Cooling Water Intakes or Discharges	X		X						X				

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Waste Water Discharge	40CFR parts 400-409	Effluent Guidelines and Standards	X	X	X	X	X		X	X		X			X
Spills	40CFR 112	Oil Spill Prevention (SPCC)					X		X	X					
Emergency Planning & Community Right-to-Know	State Emergency Response Commission (SERC)	Notification to SERC of Storage and Use of Extremely Hazardous Substances	X	X	X	X	X			X					
Emergency Planning & Community Right-to-Know	Local Emergency Planning Committee (LEPC)	Identification of Plant Emergency Coordinator to Participate in LEPC Process												X	X
Emergency Planning & Community Right-to-Know	29CFR Part 1910.1200 and 40CFR Part 370	MSDSs on Chemicals Required by OSHA	X	X	X	X	X	X	X	X					

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Emergency Planning and Community Right to Know	40CFR Part 372	Form R Toxic Substances Processed or Used in Excess Quantities	X	X		X	X	X	X	X			X		X
Medical Waste	40CFR Part 259	Generation of Medical Waste for states of CT, NY, NJ, RI, and territory of Puerto Rico											X		X
Medical Waste	State Regulations	State Regulations on Generation of Medical Waste											X		X
PCBs	40CFR Part 761	PCB Regulations										X		x	
Pesticides	40CFR part 171	Pesticide Regulations (Only applicable to sites that produce pesticides)				X									
Pesticides	40CFR Part 165	Storage of Pesticide Materials	X	X	X	X	X	X	X	X	X	X	X	X	X
Property Transfers	Environmental Cleanup Responsibilities Act (ECRA)	Environmental Cleanup Responsibilities													X

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Property Transfers	State Regulations	Environmental Cleanup Responsibilities													X
Property Transfers	CERCLIS	Information pertaining to site													
All	Facility Directive	Facility Strategy, Planning, and Implementations													

* Are there any legal or company requirements associated with the use of materials at the facility (e.g., toxic release inventory tracking or chemical inventory procedures)?