

Section 3: Legal and Other Requirements

Due to its potential impacts on the environment and public health, wastewater utilities are heavily regulated. A key requirement of the EMS and your environmental policy is a commitment to legal (regulatory) and other compliance requirements. To fulfill those commitments, you need to be up-to-date on the local, state, and federal requirements that apply to your operations, activities and services as well as any other relevant requirements. How these regulations and other commitments affect what you can do within your organization is a critical part of managing your environmental issues. Additionally, you'll want to verify that these requirements are communicated to employees whose work function is governed by these regulations in language that they can understand.

LEGAL Requirements Typically Include:

- *Federal requirements*
(e.g., Emergency Release Notification—EPCRA; Clean Water Act—CWA; Spill Prevention, Control and Countermeasure, SPCC Rule, etc.)
- *State and local requirements*
(e.g., Coastal Zone Management; Resource Conservation and Recovery Act—RCRA; Pretreatment Requirements; Biosolids Land Application)

OTHER Requirements Might Include:

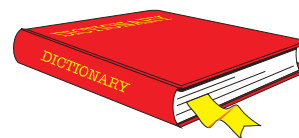
- *Trade Association commitments or agreements*
(e.g., American Water Works Association Standards, National Biosolids Partnership Code of Good Practice, APWA Management Accreditation Guidelines)
- *Local/regional environmental and community initiatives*
(e.g., Regional Stormwater Education Partnership)
- *Voluntarily programs in which your organization participates*
(e.g., EPA's Performance Track, Energy Star)

Step-by-Step Guide to Legal and Other Requirements

- Step 1) Identify and Maintain Compliance with Your Legal and Other Requirements
- Step 2) Develop a System Procedure for Identifying Your Legal and Other Requirements
- Step 3) Check the Legal and Other Requirements Procedure for EMS Conformance
- Step 4) Communicate Your Legal and Other Requirements



Key Section Terms



EMS Fenceline – Project scope and/or operational areas within an organization in which the EMS is implemented.

Legal Requirements – The set of rules and legal regulations that apply to the operations and services of an organization, including local, state, and federal laws.

Other requirements – The rules and guidelines an organization follows that are not legally binding under existing environmental laws, but to which an organization is committed (e.g., industry standards or voluntary guidelines). Under an EMS, these requirements require the same commitment as legally binding requirements.

System Procedure – An EMS (ISO 14001) required document that establishes purpose, scope, roles & responsibilities, the tasks to be completed, and where and how the associated records and documents are maintained.

REMEMBER



A commitment to compliance with legal requirements is one of the three commitments of your environmental policy.

Three Keys to Success

(from wastewater facilities):



1. Document a summary of all your legal and other requirements in one easy-to-follow database or spreadsheet—showing the requirements and to which operation or area they apply.
2. Inform regulators of your efforts to implement an EMS at your wastewater facility in order to encourage an active dialogue about the value of an EMS approach.
3. Provide training and communicate your requirements to employees in regulated areas—in language they can easily understand.

NOTE

EMS software and/or a database tracking tool and an e-mail notification system can help your organization comply with legal and other requirements.

Research has shown that a large number of a public organization's environmental violations result from missing permit reporting deadlines. An easy and proactive way to manage these compliance obligations (and to manage your EMS project) is to consider using a software tool. See Appendix B for a review of available EMS software tools.

Step 1) Identify and Maintain Your Legal and Other Requirements

A good place to start is to review how your organization currently identifies and maintains its legal and other requirements. Ask yourself:

- ◆ Who on your staff is responsible for this? Perhaps you outsource it.
- ◆ What information sources do you find most useful and user-friendly?
- ◆ If outsourcing, you need to be confident that regulatory updates and requirements are updated and current.
- ◆ Where do you store the information and in what form?
- ◆ Is there an electronic database of your laws and other requirements? Perhaps it's a paper copy?
- ◆ Do your employees know how to access the information as necessary?
- ◆ How often do you check to see whether information is current?
- ◆ Who on your staff is responsible for communicating legal and other requirements clearly and simply to employees?

Case Study

In King County, Washington, the EMS Team surveyed their EMS fenceline (Solid Waste Operations) to identify their current regulations and permits that affect that area. King County started by putting together a list of the environmental regulations and then creating one clear, manageable reference document and list. The EMS Team identified the current and outdated regulations during the review.

Perhaps your current system is working well and your review confirms that your process is complete, current and efficient. Most importantly, you have verified roles and responsibilities, including communicating information to employees whose work is governed by the requirements.

In either case, once you've identified any gaps between what the EMS requires and what you currently do, you and your Core Team can plan ways to implement any necessary changes to make your process for determining legal and other requirements conform to the EMS requirements.

During our EMS development process we hired an external consultant to conduct an environmental requirements baseline which included an assessment of facility operations to determine which rules and regulations and other relevant industry standards applied to our wastewater facilities.

Donna Adams
Eugene, Oregon
Wastewater Division

REMEMBER



You may find that an informal process for identifying and tracking information on your legal and other requirements exists already. Now it is simply a matter of developing a formal procedure.

Sources for Legal and Other Requirements

There are many sources of information to identify and track your environmental regulations and other requirements, including: federal, state, and local regulatory agencies; trade groups/associations; environmental journals; consultants; and commercial services (e.g., legal reports on CD-ROM). Identify the sources that suit your needs and incorporate them into your legal and other requirements procedure.

Many wastewater facilities have found it useful to collect a common list of information sources and key contacts and to post this list in their EMS documents. In many cases this activity has brought some duplication of effort and inefficiencies to light and expedited the process of staying current with legal requirements.



One legal information source that many wastewater and public organizations have found very useful is the [Local Government Environmental Assistance Network \(LGEAN\)](#), which provides environmental management, planning, funding, and regulatory information for local governments. LGEAN enables local officials to interact with their peers and others online.

The International City/County Management Association (ICMA) is responsible for the management of LGEAN, but the strength of the LGEAN network is in the partnership that has been formed by the various organizations that comprise it, including trade associations, regional and state non-profits such as the Environmental Council of the States (ECOS), and government agencies, such as the U.S. EPA. Through the membership of these partners, the network is able to reach more than 100,000 local government officials and environmental professionals.

NOTE



Many organizations use a consultant to do a compliance status check of the entire fence line. At the same time the consultant can help develop a list or database of the local, state, and federal laws that apply to your facility.

Legal Sources

Wastewater facilities that were consulted for this Handbook considered the following sources of regulatory and other requirements information the most important and useful:

- 1) EPA Website (www.epa.gov)
- 2) Local Government Environmental Assistance Network (www.lgean.org)
- 3) Federal Register Notices
- 4) Trade Associations (e.g., The Association of Metropolitan Sewerage Agencies (AMSA), Water Environment Federation (WEF), National Rural Water Association (NRWA), etc.)
- 5) State Agency Internet sites and Information Sources

Involving Contractors and Temporary Staff

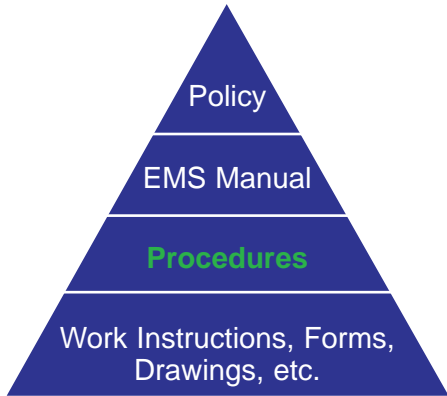
It is important to train and communicate legal and other requirements to your temporary employees if they work in areas that are regulated, have significant aspects, or are related to your objectives and targets.

Remember to communicate and provide training in language they can understand. For example, for temporary staff for whom English is not their primary language, consider using illustrations (e.g., a circle with a line through it to indicate no). For example you could create a sign to designate for employees to not throw their oily rags in the general trash.

If on-site contractors are within your EMS fence line, they also need to understand their responsibilities to comply with environmental, legal, and organizational requirements.

Review your legal and other requirements on a regular basis since Federal, State and local environmental laws and initiatives are continually revised and issued.

Jim Newton, P.E., DEE
 Kent County, Delaware
 Levy Court Public Works



A Legal and Other Requirements **system procedure** is required for this element. A system procedure defines the purpose (why the procedure is needed), scope (to what operations/ areas/staff the procedure applies), roles & responsibilities (who needs to complete the tasks), and the tasks that need to be completed.

The [Association of Metropolitan Sewerage Agencies \(AMSA\)](#), is another great legal resource for wastewater organizations. AMSA represents public wastewater agencies and organizations and works closely with federal regulatory agencies in the implementation of environmental programs.

Resources that wastewater facilities have used to identify and track environmental laws and regulations can be found in Appendix C. Also, see pages 3-68 through 3-97 in EPA's "Profile of Local Government Operations," for a list of relevant Federal environmental regulations for wastewater operations.

Step 2) Develop a System Procedure for Identifying Your Legal and Other Requirements

When you're satisfied that your process for determining legal and other requirements conforms to the EMS requirements, it's time to document the process in a system procedure. Your system procedure clearly defines what you'll do, roles and responsibilities, when you'll do it, how the information will be communicated, and where the information will be stored. This documented procedure should be a consistent, easily accessible, and clear guide for ensuring that this important element of your EMS is carried out according to plans.

For samples of Legal and Other Requirements procedures from wastewater facilities, see Appendix A.

Step 3) Check the Legal and Other Requirements Procedure for EMS Conformance

About two or three months after you have documented and implemented your Legal and Other Requirements procedure it's time to check to see if it's actually working according to the plan. Here are some questions to ask yourself and the organization:

Check ✓

1. Is there a list of all applicable legal and other requirements (your record that you have implemented the procedure)?
2. Can employees who need the information access it easily?
3. When is the next review date?
4. Have the requirements been communicated and understood by the employees and contractors that need to know?
5. Can employees whose work is governed by legal and other requirements describe how the law affects what they do in their daily jobs?

For an Evaluation Checklist example see Appendix B.

Step 4) Communicate Your Legal and Other Requirements

Identifying your legal and other requirements is an important first step. But what good is the information if it's not communicated to employees, on-site contractors, and others who need to understand it?

It's important that employees whose work is affected by these laws understand what the requirements mean, and how they affect their job. Communication about your legal and other requirements should be in plain English rather than "legalese."

- ▶ **NO!**—According to the Clean Water Act, section 5.3.3 and our Stormwater Management Plan, it is illegal to dump hazardous waste in anything other than its proper, labeled container.
- ▶ **YES!** —We should not dump our hazardous waste in the floor drain because the drain leads to the local stream where we like to fish.

REMEMBER



Not everyone in every area needs to know all the legal requirements that apply to your organization. Keep in mind that different people may have different informational needs.

Three Lessons Learned

(from wastewater facilities):

1. Include clearly-defined roles and responsibilities in your methods to track requirements.
2. Consider using a third-party to document your baseline of legal requirements.
3. Conduct more frequent reviews of your legal requirements than other EMS elements. The wastewater industry is heavily regulated and changes can occur often.



Three Things to Avoid

(from wastewater facilities):

1. Making your legal and other requirements review a one-time only activity. You must keep up-to-date with with changing requirements.
2. Overlooking the communication of applicable requirements to front-line floor employees.
3. Treating "other" requirements and voluntary initiatives as "minor" agreements.



Legal and Other Requirements

(Cut out this section for handy reference)




The **Purpose** of this EMS element is to:

- Identify, track, and communicate your organization's legal and other requirements.

The **Results** of this EMS element are:

- A system procedure (EMS document) that identifies, tracks, and communicates your Legal and Other Requirements.
- A list (EMS record) of applicable environmental laws and other requirements.

Before you Begin this EMS element:

- Identify environmental regulatory information relevant to your organization.
 - Obtain information regarding other environmental requirements relevant to your organization.
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ISO 14001 Requirements	Key Links to Other EMS Elements	Required Documents & Records	Optional Documents & Records
<p><i>Legal and Other Requirements</i></p> <p>The organization shall establish and maintain a procedure to identify and have access to legal and other requirements to which the organization subscribes and that are applicable to the environmental aspects of its activities, products or services.</p>	<p>Environmental Policy - Your policy requires commitment to all applicable environmental laws and organizational requirements. Compliance with environmental laws is one of the three major policy commitments.</p> <p>Objectives & Targets - Consider your legal commitments and requirements as you identify possible areas for measurable environmental performance improvements.</p> <p>Training & Awareness - Employees whose work is governed by regulations need to understand the laws that affect their daily work and the operational controls that are needed to maintain compliance.</p> <p>Communication - Talk to employees about how environmental laws and other requirements affect their work, and how their roles and responsibilities ensure compliance.</p> <p>Operational Control - Procedures, work instructions, manuals, etc. need to be documented or established for environmental priority areas and regulated areas.</p>	<p>Legal and Other Requirements Procedure</p> <p>List of Legal and Other Requirements</p>	<p>Compliance Plans</p> <p>Relevant Code of Federal Regulations (CFRs), State and Local Regulations, Permits, etc.</p>