

Compliance with Legal and Other Requirements

Environmental legal compliance is an element of an EMS stipulated by ISO 14001 or EMAS. Organisations are required to themselves comprehensively document environmental legal compliance. In addition, it must be ensured that this documentation is systematically reviewed, revised, and kept up-to-date as required.

In order to comply with laws and regulations, an organisation needs to know what rules apply and how they affect the activities of the organisation. Legal compliance can be seen as part of the foundation of an EMS. The reason is that the cost of non-compliance (e.g. fines, possible damage to the environment, revenue loss and impact on public image) can be very high.. Therefore, there are processes required to identify and communicate legal and other requirements that apply to an organisation's activities.

Identifying Legal Requirements

Legal requirements include:

- National, regional and local requirements.
- Standards in locations where an organisation sells products/ services.
- Permit conditions.
- Regulatory obligations.

Other requirements might include (for example):

- Organisation-specific codes.
- International Chamber of Commerce (ICC) Charter for Sustainable Development.
- Other industry codes or programmes to which the organisation voluntarily subscribes (e.g. UNEP declaration for the banking and insurance sector, Responsible Care Programme for the Chemical Industry, and others).

Identifying applicable regulations, interpreting them, and determining their impacts on an organisation's operations can be a time consuming task. Once the legal requirements have been identified, procedures need to be implemented to ensure compliance.

Ways of Ensuring Legal Compliance

Ensuring legal compliance is part of the continuous improvement process. In some business sectors, legal requirements may change rapidly. Compliance with legal requirements is a critical consideration in EMS development and implementation. EMS implementation requires an organisation, among other things, to:

- Develop and communicate an environmental policy that includes a commitment to compliance.
- Develop and implement a procedure to identify, analyse and have access to environmental laws and regulations.
- Set objectives and targets in line with its environmental policy, which includes a commitment to compliance.
- Establish management programmes to achieve its objectives,
- Train employees and communicate relevant EMS requirements to them.
- Establish and implement operational control procedures.
- Establish and implement a procedure for periodically evaluating compliance.
- Establish and implement a procedure to carry out corrective and preventive actions

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

Any EMS should include procedures for identifying, accessing and analysing applicable legal requirements.

There are many methods for obtaining information about applicable laws or regulations.

These methods include:

- Commercial services (with updates offered online, on CD-ROM or in paper form).
- Regulatory agencies.
- Trade groups/associations.
- The Internet.
- Public libraries.
- Seminars and courses.
- Newsletters/magazines.
- Consultants and attorneys.
- Customers, vendors and other organisations [US EPA,

July 2001, p. 60].

Once applicable requirements have been identified and analysed for potential impacts, these requirements (and plans for complying with them) need to be communicated to employees, onsite contractors and others, as needed

Legal Compliance Reviews

It is extremely important for an organisation to have a **regularly updated register of environmental laws and regulations**. It is important to keep in mind that although at particular point in time an organisation may comply with a law, or the law may not be relevant, this situation can change.

The results of the legal compliance review should show **areas of compliance, or areas which do not apply to the organisation's activities**. It should also **show weak points** regarding environmental legal compliance. Some main scenarios should exist when answering the question, “does the organisation comply with a specific piece of legislation?” An overview of all answers to this question should be prepared. This will help the **person responsible for legal compliance to quickly identify the areas where action is needed**. If individual results are “still open” or “not fulfilled,” the overview also serves as a list of points requiring attention, e.g. on the basis of the weaknesses identified during the review.

Objective, and accompanying deadlines for realisation – should be formulated to achieve and/or maintain environmental legal compliance. Remember that the priority of achieving legal compliance does not depend solely on organisation objectives; priorities and objectives must take into account relevant deadlines set by authorities. Nowadays, relations between organisations and environmental authorities in some countries are becoming more positive and constructive. It is advisable to discuss any cases of non-compliance and the action plan with the responsible authority.

The ISO 14001 standard also includes a “regular review.” Regular internal reviews are recommended (e.g. once a year). It makes sense if environmental legal compliance, as part of the overall system, is reviewed at the same intervals.

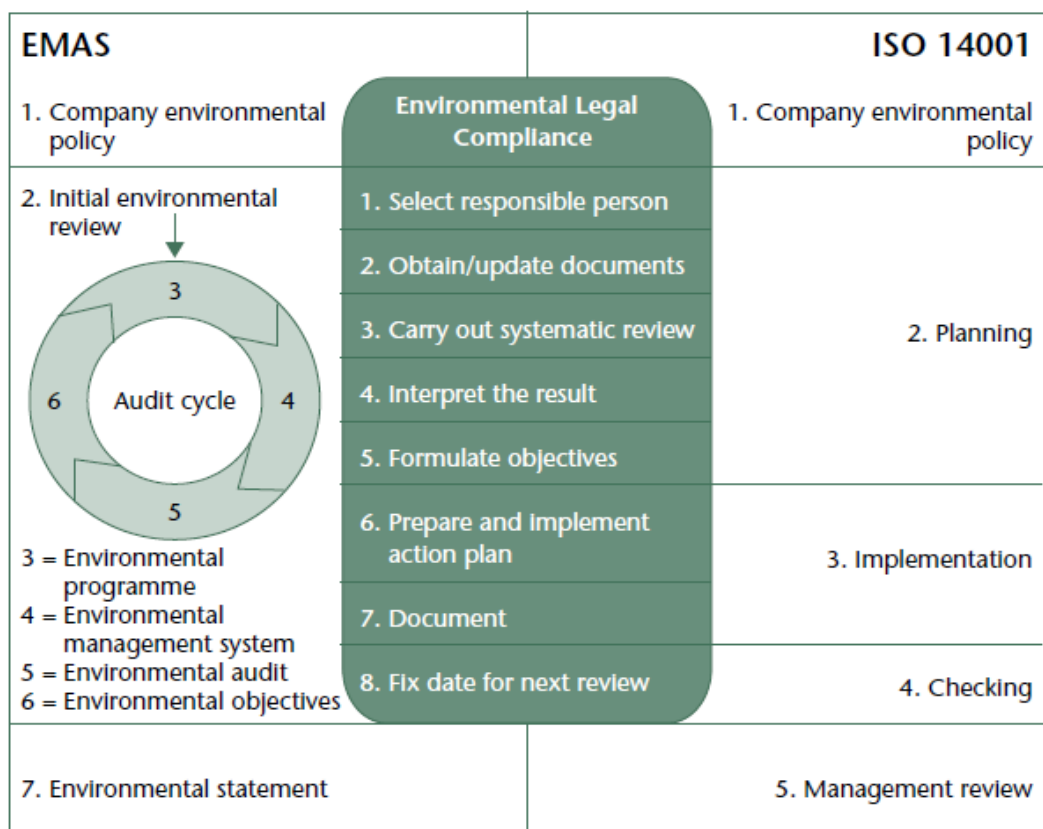
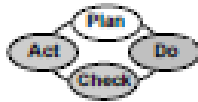


Figure *The Linkage Between ISO 14001 and EMAS*

Commonly Applicable Federal Environmental Laws in the US

Clean Air Act (CAA) [40 CFR Parts 50-99]	Establishes ambient and source emission standards and permit requirements for conventional and hazardous air pollutants.
Clean Water Act (CWA) [40 CFR Parts 100-145, 220-232, 410-471]	Establishes ambient and point source effluent standards and permit requirements for water pollutants, including sources that discharge directly to a waterbody or to a public sewer system.
Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) [40 CFR Parts 150-189]	Establishes a program for Federal review of, registration and control of pesticides.
Resource Conservation and Recovery Act (RCRA) [40 CFR Parts 240-299]	Establishes regulations and permit requirements for hazardous waste management. Also, creates standards for underground storage tanks that hold oil or hazardous substances.
Toxic Substances Control Act (TSCA) [40 CFR Parts 700-799]	Regulates the use, development, manufacture, distribution and disposal of chemicals. Certain chemicals (such as PCB's) are subject to specific management standards.
Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, also known as "Superfund") [40 CFR Parts 300-311]	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
Emergency Planning and Community Right-To-Know Act (EPCRA) [40 CFR Parts 350-374]	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.
Hazardous Materials Transportation Act (HMTA) [49 CFR Parts 100-180]	Establishes standards for the safe transportation of hazardous materials.



Capture the Learning: Legal & Other Requirements Worksheet

<p>Do we have an existing process for identifying applicable legal and other requirements?</p> <p>If yes, does that process need to be revised? In what way?</p>	
<p>Who needs to be involved in this process within our organization? What should their responsibilities be?</p>	
<p>What sources of information do we use to identify applicable legal and other requirements?</p> <p>Are these sources adequate and effective? How often do we review these sources for possible changes?</p>	
<p>How do we ensure that we have access to legal and other requirements? (List any methods used, such as on-site library, use of web sites, commercial services, etc.)</p>	
<p>How do we communicate information on legal and other requirements to people within the organization who need such information?</p>	
<p>Who is responsible for analyzing new or modified legal requirements to determine how we might be affected?</p>	
<p>How will we keep information on legal and other requirements up-to-date?</p>	
<p><i>Our next step on legal and other requirements is to ...</i></p>	