



THE EXTERNAL VALUE ENVIRONMENTAL MANAGEMENT SYSTEM VOLUNTARY GUIDANCE:

Gaining Value by Addressing Stakeholder Needs

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Prepared by the MSWG EVEMS Subcommittee

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About the Multi-State Working Group on Environmental Performance

The Multi-State Working Group on Environmental Performance (MSWG) is a state-driven organization that convenes governmental, non-governmental (i.e., public interest organizations), business and academic perspectives and skills to conduct research, promote dialogue, create networks and establish partnerships that improve the state of the environment, economy and community through systems-based public and private policy innovation. About 25 states regularly participate at quarterly meetings and 30-40 states attend the annual meeting and workshop. MSWG has sponsored:

- Pilot projects: In a project funded by the EPA's Office of Water, with the Environmental Law Institute and University of North Carolina-Chapel Hill, MSWG states sponsored about 75 EMS pilot projects that produced data for a national database on EMS implementation. The purpose of the pilots was to evaluate the ability of environmental management systems to improve environmental compliance, environmental performance, and the condition of the environment. Information and project results are at: <http://ndems.cas.unc.edu/>
- EMS Research: MSWG has sponsored two Research Summits, the first held in 1999 at The Brookings Institution in cooperation with Council of State Governments and the National Academy of Public Administration, and the second in 2003 at Resources for the Future in cooperation with the John F. Kennedy School at Harvard University. The first Brookings Research Summit papers are included in a textbook *Regulating From the Inside*, edited by Harvard University and the Massachusetts Institute of Technology, published in 2001 by Resources for the Future. It is expected that the proceedings from the second Research Summit will also be published.
- EMS Policy Academy: With funding from The Joyce Foundation, MSWG has established a national EMS Policy Academy using a team of business, government, academic and NGO appointees.
- Workshops: In addition to three quarterly working meetings held around the country, each summer MSWG sponsors, with support from EPA and businesses, an annual EMS workshop. It is a "hands-on" event that hosts EMS practitioners from the US and abroad. Each year, more than 200 people participate in these Workshops, which have been held since 1998.
- Other activities: MSWG members contribute to numerous public policy-related environmental initiatives and discussions including EPA's Performance Track, ISO 14001 revisions; Environmental Council of States forums; Global Environmental Management Initiative meetings; professional and trade association programs and Commission for Environmental Cooperation.

MSWG MISSION STATEMENT

Adopted by Consensus, Charleston, SC

November 15, 2001

MSWG is committed to a nationwide improvement in the state of the environment as measured by a broad base of environmental indicators. For this improvement to be successful, it must be sustained over the long-term and integrated into our national culture. MSWG recognizes the important role states must play in the development and testing of new environmental tools and policies. MSWG's role in bringing about long term, continuous improvement is multi-faceted. Specifically, MSWG will:

- Provide a basis for sound public policy and organizational decisions by creating a repository of information about environmental management systems and other strategic environmental management tools.
- Foster the creation of new models for improving and measuring environmental performance, and disseminating environmental information.
- Use its communication and networking capabilities to share information on innovative mechanisms for environmental performance improvement.
- Create opportunities for interested organizations - public, private, non-governmental, and academic - to partner in developing and testing innovative environmental management tools.
- Advocate transparency and voluntary reporting as necessary first steps in creating a climate for acceptance of new environmental management tools and policies.

Disclaimer

This External Value EMS Guidance document (the Guidance) has been produced by the Multi-State Working Group on Environmental Performance (MSWG). The EVEMS drafting team included representatives from across the four sectors represented within MSWG. Over 20 persons from these sectors contributed to the drafting of the text of the Guidance, and the text was regularly vetted through the broader membership of MSWG via our consensus-driven process. The Guidance is not a policy statement of, nor does it express any agreements or requirements made by, any of the employers of MSWG members, specifically including the United States Environmental Protection Agency or any of the individual states. Rather, it represents the consensus views and professional judgment of the wide array of viewpoints and expertise convened by MSWG. We in MSWG earnestly hope that the Guidance will be useful and applicable for many sectors and organizations. We welcome your input. If you have comments or questions, please contact the Chair of the EVEMS committee, Bob Minicucci, at RMINICUCCI@DES.STATE.NH.US.

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Executive Summary

There are many times when an organization is required to communicate matters regarding its performance to outside parties. Financial and economic performance information is reported externally as a matter of course and has high value to external stakeholders. Banks, insurers, customers, suppliers, and regulatory agencies, among others, all require such information from an organization at different times and in different forms.

Environmental concerns are also among the issues that organizations are required to communicate externally from time to time. Financial institutions require information about possible environmental liabilities. Investors, customers, and suppliers seek assurances that an organization is meeting its legal obligations and is properly managing its environmental affairs. In the United States, and abroad, organizations are required by law to report to governmental agencies their environmental performance in certain areas, putting that information into the public record, sometimes on terms not favorable to the organization. Local communities increasingly expect to know about, and even provide input into, organizations' environmental management activities.

The Multi-State Working Group on Environmental Performance (MSWG) believes that Environmental Management Systems (EMS) represent a valuable tool that can be used by organizations to meet the needs of, and build more positive and collaborative relationships with, their external stakeholders.

This Guidance is intended to offer advice to organizations that wish to develop an EMS that, in addition to providing improved internal value, delivers measurable and reliable value to external audiences, such as governmental authorities, local communities, customers and suppliers, environmental groups, and investors and the financial community, among others. The primary audience for this Guidance is people charged with EMS implementation at these organizations.

This Guidance focuses on three key elements that should be addressed within an organization's EMS if it has these external value aspirations:

- Achievement and Demonstration of Legal Compliance
- Involvement of External Stakeholders
- External Communications: Transparency and Reporting

This Guidance describes why including such elements in an EMS will build credibility with external stakeholders, and provides practical advice on how these particular elements can be designed and implemented to deliver the desired outcomes. This Guidance is intended for any organization that chooses to implement an EMS that seeks to address the expectations of, and secure the confidence of, external audiences. Such an EMS is referred to here as an External Value EMS, or EVEMS.

MSWG intends to update this guidance based on experience gained in its use.

Chapter 1: Introduction

1.1 How to Use This Guidance

The most commonly used EMS standard, ISO 14001:1996(E) (ISO 14001), describes a comprehensive system for managing an organization's environmental affairs. ISO 14001 was designed, however, to function primarily as an *internal* management tool.¹ In this Guidance, we have identified three key areas where EMS frameworks such as ISO 14001 can be augmented to produce greater value to external parties.

The subsequent chapters of this document focus on these key components of an EVEMS. Chapter 2 addresses achieving and demonstrating legal compliance, Chapter 3 covers stakeholder engagement, and Chapter 4 discusses environmental communications and reporting. The guidance and concepts in Chapters 2, 3, and 4 are closely linked and should be considered jointly in the design and implementation of the EVEMS.

Each chapter is presented in four parts: an overview of the issue; a description of the value the element brings to the implementing organization and external audiences; guidance on how to incorporate the element into an EVEMS; and a list of additional sources of information.

1.2 Who is This Guidance for?

The primary audience for this Guidance is facility managers who want to use their EMS to deliver value to stakeholders. This includes those with plant-wide and/or "environmental" responsibilities.

Secondary audiences are, first, the stakeholders who may want to learn how an EMS can be used, and second, government agencies who may want to learn how use of EMSs can help them meet their goals.

¹ For example, ISO 14001 directs organizations to make their environmental policies available to the public, consider the view of interested parties in establishing and reviewing objectives and targets, and respond to external party communications. It does not address stakeholder participation and public reporting of performance results from the perspective of creating value for *external* parties.

Chapter 2: Achievement and Demonstration of Legal Compliance

2.1 Overview – “The What”

Compliance with legal requirements is an extremely important issue for any organization. Increasingly, communities, the general public, and others are calling on organizations to:

- Strive to reduce environmental impacts.
- Demonstrate that they are in compliance with all relevant laws and regulations.
- Demonstrate that they have systems in place that can reliably maintain compliance by keeping current on the laws and regulations that apply to them.

This compliance-related information has more audiences than may seem immediately obvious, and an organization’s EMS can be used to deliver it. Government oversight agencies require, or expect, information demonstrating that an organization is in compliance. Corporate management and financial partners such as insurance companies are likely to be interested in all three of the issues above. An organization’s neighbors and customers/suppliers may be interested as well; the importance an organization places on maintaining good relations with these other groups will drive decisions on how open to be with them.

Most EMS standards, including ISO 14001, include provisions that encourage or require active management of an organization’s statutory and regulatory requirements. This chapter offers ways to clarify and strengthen these elements of a system. The goal, in the context of an EVEMS, is to demonstrate and communicate sustained compliance, while being best positioned to catch and promptly correct potential future non-compliances.

2.2 Benefits – “The Why”

An organization’s credibility – its regulatory, financial, and social standing – is affected by its performance and openness regarding compliance. Demonstrating compliance, as well as beyond-compliance results, can provide an indication to external stakeholders of the overall quality of the organization’s management structure,² as well as its commitment to environmental stewardship and good corporate citizenship.

When noncompliances occur, an organization’s history of forthrightness and energy in responding to previous incidents necessarily affects how neighbors, financial partners, oversight agencies, and the courts respond. When noncompliance is initially hidden, only

² Research suggests that good environmental management can serve as an indicator of good overall management. See, e.g., Strachan, P. (1999) “Business Strategy and the Environment: Implementation of European Environmental Management Systems”, pp. 176-201 in McDowell, E., and McCormick, J., Environment Scotland: Prospects for Sustainability, London: Ashgate. (http://www2.rgu.ac.uk/subj/las/people/strachan_p.html); Strachan, P. (1999), “Is the Eco-Management and Audit Scheme (EMAS) Regulation an Effective Strategic Management Tool for Implementing Organisations?”, Eco-Management and Audit: The Journal of Corporate Environmental Management, Vol. 6 No. 1 pp. 42-51. http://www2.rgu.ac.uk/subj/las/people/strachan_p.html

to be discovered later by external parties, the legal and financial consequences (including any associated penalties) are almost always more serious, often significantly so.

The opposite is true when instances of noncompliance are identified and addressed proactively. Some organizations avoid being forthright about compliance issues from a fear of lawsuits by the government or private citizens. A record of openness, however, may serve to mitigate any associated penalties. EPA, the Department of Justice, and many states have formal policies for reducing penalties to reflect good faith efforts to prevent, minimize, and remediate violations that are discovered, corrected, and reported through self-auditing. Under the federal government's Audit Policy, for example, no further action may be needed where a violation is corrected promptly and the violator reaped no significant economic benefit of noncompliance. Disclosing under the Audit Policy can also lead to a recommendation by EPA to the DOJ not to pursue criminal proceedings.³

2.3 Practical Guidance – “The How”

EMSs are intended, among other things, to reduce environmental risks, including the potential for regulatory violations. Consequently, a key EMS element is an environmental policy statement that establishes compliance as a goal. To deliver increased value to external customers on certainty of compliance, however, the organization's policy statement should commit the organization to achieving, maintaining, and communicating actual legal compliance with all applicable statutes, permits, and rules. (See Chapter 4 of this Guidance for communications strategies.)

While EMS policies are important for establishing the organization's environmental vision and goals, the key to success is in implementation. When assessing the environmental impacts of the organization, while all environmental impacts need to be analyzed, at a minimum, all *regulated* impacts should be included in the analysis.

Under the ISO 14001 framework, many organizations rank regulated impacts as significant, regardless of their actual or potential environmental impacts, in recognition of the paramount legal importance of meeting compliance obligations. Ranking compliance-related impacts as significant within the EMS can help ensure that associated activities, products, and services are subject to documented operating procedures and that staff is properly trained to implement, measure, and document activities.

It can also help to leverage energy and resources in the organization to undertake specific projects or processes to further improve performance, where compliance is challenging to achieve and maintain. Properly implemented, an EMS can spur projects and processes such as product substitutions, process changes, or other pollution prevention efforts that may eliminate waste streams entirely or reduce their concentrations below regulated levels. This can obviate the need to obtain permits or comply with rules in the first place, a

³ See “*Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*,” 65 FR 19,618 (April 11, 2000), posted at <<http://www.epa.gov/compliance/resources/policies/incentives/auditpolstate.pdf>>

See also “*U.S. Department of Justice (DOJ) Environmental Crimes Sentencing Guidelines*”: www.ussc.gov/2002guid/2002guid.pdf

true “win-win” for all concerned parties. This is often managed in the context of an EMS as part of a process of setting, measuring, and reporting progress on “objectives and targets.”

Legal requirements should be reviewed periodically to determine their applicability and the results of that review recorded and communicated. The organization should have flexible and proactive procedures for identifying applicable legal requirements. These procedures need to take into account product, process and other site changes potentially affecting the organization’s compliance obligations.

Employees should also be informed, and trained, on their responsibility to determine, verify, address, and report to management on past, continuing, and potential future violations. Such employee training should include their responsibility to measure and document all relevant factual information for use by management and regulators to determine whether a problem exists, its extent, and the appropriate corrective/remedial actions.

The organization’s procedures should establish accountability within the organization for any consequences and remedial actions flowing from employees’ departures from operating procedures that are designed to ensure compliance. These duties should be included in appropriate job descriptions and considered by rewards systems and in personnel reviews.

Because “what is measured is managed,” monitoring and measurement systems should be designed and implemented with consideration for legal requirements. Often, the regulations themselves will mandate methods and schedules for inspecting, sampling, or testing. EMSs can help organizations identify opportunities to propose alternate methods, for internal or external use, to minimize redundancies. This can promote both compliance and business efficiency.

Checking and corrective action procedures should be used whenever noncompliance problems occur. The root causes of the noncompliance should be identified and addressed using the appropriate areas of the EMS as circumstances dictate. Immediate corrective action may be sufficient to address an issue, or new objectives and targets may need to be set and/or new operational procedures or training instituted. The findings and corrective action should then become a part of the management review process so that upper management is informed and can make the necessary decisions to address the organization’s compliance and business needs.

Periodic re-assessments of actual compliance status - compliance audits - are an important adjunct to EMS audits. EMS audits and compliance audits address different issues: the former determines conformance with a process-based, voluntary EMS standard; the latter, compliance with mandatory regulations that are, for the most part, performance-based. EMS audits and compliance audits can support and reinforce each other and are therefore both useful EVEMS elements.

Compliance auditors should be skilled in compliance investigation techniques (which overlap but are not identical to EMS conformance skills). In addition, they should be independent of the organization and possess a working knowledge of the organization’s

facilities or similar operations and any relevant federal and state environmental requirements. Some organizations use third-party compliance auditors to promote independent judgment and findings.

Noncompliances found through compliance audits should be fed into the EMS corrective action and management review processes. The compliance audit results should be compared to previous audit results to determine if improvements have occurred and whether new or additional corrective actions are needed.

Regardless of the scope and extent of the compliance auditing undertaken by the organization, for credibility, management review of the EMS should include compliance matters. Upper management has the responsibility to address any compliance problems and to assign resources and responsibility for correcting them.

When noncompliances occur, reporting to the public and oversight agencies must occur as required by law. Even where no affirmative legal requirement exists to report noncompliance, early and proactive communication can demonstrate to outside parties that the organization has effective, functioning systems in place to identify, resolve, and report noncompliance. Achieving and maintaining compliance through transparent, documented processes enables the organization to show it is meeting its legal obligations and implementing its policy commitment to achieving and maintaining full compliance. This can transform the nature of the information communicated to external audiences from a catalog of past problems to a forward-looking, solutions-oriented success story.

2.4 Other Sources of Information and Assistance

North American Commission for Environmental Cooperation Improving Environmental Performance and Compliance; 10 Elements of Effective Environmental Management Systems, June 2000, http://www.cec.org/files/pdf/LAWPOLICY/guide-e_EN.pdf

U.S. EPA Guidance on the Use of Environmental Management Systems in Enforcement Settlements as Injunctive Relief and Supplemental Environmental Projects. June 2003 www.epa.gov/compliance/resources/policies/ems/emssettlementguidance.pdf

Workshop Report: Joint workshop to examine connections between environmental management systems and permitting, inspection and enforcement in regulation.
Workshop held 11-13 June 2003 Conrad Hotel, Chelsea London, United Kingdom
<http://www.ieep.org.uk/PDFfiles/PUBLICATIONS/PROCEEDINGS%20ENAP-REMAS%20WS2.pdf>

Chapter 3: Involvement of External Stakeholders

3.1 Overview – “The What”

In contrast to an “internal” EMS, an EVEMS provides the full range of external stakeholders a better opportunity to participate in, obtain information on, and receive answers about an organization’s environmental management and performance. Thus adopters of an EVEMS have special responsibilities to develop and implement open processes for engaging and sharing information with the public. Procedural and physical barriers to the timely sharing of information are inconsistent with the intent of an EVEMS. However, as with any EMS, an organization has certain needs (and legal rights) to keep some competitive information from public view. External stakeholders should respect this. The notion of mutual obligation has been described as “stakeholder responsibility,” which serves as the compliment and corollary of “corporate responsibility.”⁴

The following material presents guidance on stakeholder engagement for EVEMS-implementing organizations. In addition to benefiting the organization, it is our hope that this chapter will help external stakeholders as they engage in dialogue with EVEMS adopters.

It is important to recognize that stakeholder involvement in the implementation of an EVEMS is a key mechanism to achieve the goals described in other chapters of this EVEMS guidance.

3.2 Benefits – “The Why”

Engagement of external audiences in the EVEMS’ development, implementation, and ongoing improvement can benefit the implementing organization by providing a mechanism for obtaining comments and ideas regarding EMS design and optimization. It can also serve to establish credibility and accountability with stakeholders. For instance, stakeholder input can serve as the basis for priority setting, as well as the justification (i.e., political cover) for environmental management activities, should other interested parties query the organization regarding its focus and approach.

Public confidence can be considered the currency of the EVEMS. This confidence may translate into value to the EMS-implementing organization, as well as create benefits for an organization’s stakeholders. Trust-based relationships can allow for increased flexibility for innovations to achieve financial and environmental gains. For example, openness with the community and a commitment to environmental performance improvements has the potential to build public support for company projects, permits, and facility expansions. Stakeholder engagement activities can also improve investor relations, enhance risk management, and lead to improved regulatory relationships.

Stakeholder engagement is fundamentally about empowerment and trust. Through transparency and dialogue, consumers and communities gain empowerment and, in return, the organization builds trust enabling it to manage its affairs more effectively and

⁴ Windsor, 2002

efficiently. For some businesses, this is analogous to involving customers in product development.

By its very nature, stakeholder engagement is unpredictable (and uncontrollable). As an organization engages its stakeholders as envisioned here, it may learn unexpected things, and may even receive unwanted and/or irrelevant feedback. For instance, issues labeled “social” are often as, or more, important to some stakeholders than issues labeled “environmental.” Given that many stakeholders do not differentiate between these two issues, an organization may find itself expected to respond to unexpected items. Assuming that there is an underlying motive to build trust and improve relationships, the EVEEMS-implementing organization should be prepared to listen respectfully to all expressed concerns, and try to address them as best it can. Organizations with little or no experience engaging its stakeholders may want to proceed slowly at first and seek to build relationships over time.

3.3 Practical Guidance – “The How”

Openness and active engagement of external stakeholders are central to the design, implementation, and iterative improvement of an EVEEMS. In order to have a useful context for EMS implementation, an organization should actively seek out and consider environmental issues most significant to external stakeholders. At a minimum, it is crucial to receive input from local communities and other stakeholders that are directly affected by the organization’s operations.

As with environmental reporting, stakeholder engagement is more of a process than an outcome. The two-way nature of stakeholder involvement can lend legitimacy to (and improve) the choices made within an organization’s EMS. In particular, organizations can engage stakeholders to gain input on:

- Environmental issues of concern to prioritize/address;
- Issues for performance measurement;
- Content and means for ongoing communication and external reporting.

Identifying and understanding your stakeholders

An organization should attempt to identify its full range of stakeholders when developing its EVEEMS. Stakeholders are found wherever an organization has a relationship. Examples of such relationships are:

Financial: shareholders, corporate bodies, customers, suppliers, banks, insurance companies.

Geographical: neighbors and communities, environmental groups.

Topical: groups interested in a given industry, class of product or service.

Legal: governmental oversight bodies, entities with whom the organization is in a contractual relationship.

Identifying “the community” can be a problem for some. The term is used here to refer to those living near the facility – near enough to work there, or near enough to be directly

affected by the facility. The term can have wider meanings, but here it is used in a geographical sense.

To better understand stakeholders' needs, the organization, as appropriate and feasible, may also wish to consider:

- The expectations and perceptions that interested parties may have towards the organization regarding environmental issues;
- The level of environmental awareness of these parties;
- The methods of communication that have proven to be the most effective for interacting with stakeholders to date;
- The public image that the organization has within the geographic region;
- The organization's positions on environmental topics related to its activities, processes, products and services.

Determining the desired level of engagement with stakeholders

Not every organization will be ready to fully engage with stakeholders in initial efforts. Experience in managing stakeholder relations may come slowly, and the decision to extend or supplement the stakeholder engagement process will depend on an appreciation of the value it provides. At least three levels of engagement can be described⁵:

- Presentation
- Dialogue
- Consensus-building

These levels build on each other. To reach full engagement with any stakeholder group, the organization will have to move beyond simple presentation and move toward dialogue and possibly (depending on circumstance), consensus-building. While a relationship with a given stakeholder group may need to start with presentation, to maintain long-term engagement the organization should be prepared to advance to the other levels.

How to reach stakeholders

The methods of stakeholder engagement are highly variable, and depend on the organization's circumstances. In recent years extensive literature has been published on the topic of stakeholder engagement. (See Section 3.4 below for an illustrative list.)

A fundamental rule to follow is: "Go where they are and try your best to speak their language." Specific methods for reaching various stakeholders might include:

Financial stakeholders: Presumably, the organization has regular contact with these parties. The best method here may be to add environmental concerns to existing communications. For customers, the organization may want to add environmental information to advertisements, or conduct customer research that goes beyond standard

⁵ Hemmati, 2002. Also see ISO/CD 14063 Environmental Management – Environmental Communications – Guidelines and Examples, Oct. 2003

product development and acceptance issues. As guided by its EMS “aspects and impacts analysis,” the organization can add environmental issues to supplier specifications – a preference for recyclable materials for instance.

Geographical stakeholders: The local community can be reached by newspaper advertisements, by postings at the front gate of the facility, by asking to speak at a municipal meeting, or by asking staff to “talk up” a subject. A booth at a local fair can be quite useful to an organization. Local radio stations may have talk shows on which the organization can have a representative participate. Persistence and forthrightness are key with this audience.

Topical stakeholders: Articles or advertisements in trade press can be good opportunities to tout notable successes. An active presence in trade groups can reap dividends for an organization in many ways: in the context of an EVEMS, the organization gains by learning how it stands in relation to its peers, it can advocate for constructive change more effectively, and it can gain a greater voice with some outside parties.

Legal stakeholders: Government oversight bodies are often willing to discuss an organization’s concerns. A polite letter requesting a meeting may be all that is needed to initiate such a process. It should be understood that governments, for logistical reasons, are sometimes more comfortable dealing with trade groups and this can form a primary reason for an organization to join such groups. In terms of contractual arrangements, the EVEMS organization should be certain that vendors are aware of, and adhere to, its EMS. Contracts with suppliers may include sanctions for violating specific environmental obligations.

Involving stakeholders in EMS design

Generally, EVEMS-implementing organizations should contact stakeholders as early as possible to make them aware of the EVEMS and the opportunity to participate. Ideally, external stakeholders should be engaged at the beginning stages of EVEMS planning. As a practical matter, this can begin by inviting their commentary on the environmental policy.

From the outset, EVEMS organizations should work to ensure that stakeholders have an understanding of EMS principles so that they will be able to have adequate and value-adding input during the more advanced stages of EMS implementation. Once stakeholders have been engaged, the organization should establish a system to properly disseminate and receive EMS-related information.

As appropriate and feasible, EVEMS organizations should also consider seeking input from external stakeholders when:

- Articulating the policy;
- Establishing the criteria for inclusion and exclusion of environmental aspects into the EMS;
- Creating the system for determining significance of aspects;
- Setting environmental performance objectives and targets;
- Developing and optimizing audits;

- Establishing ways to measure and report performance;
- Creating approaches for ongoing communication and external reporting;
- Creating a system for periodically reviewing the organization's aspects and impacts.

At a minimum, an EVEMS organization should document and make available for external review, how the views of external interested parties were considered in the ranking of impact significance and in the setting of environmental objectives and targets. A space on the organization's website, or inclusion in newsletters may be appropriate.

3.4 Other Sources of Information and Assistance

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US EPA, Constructive Engagement Resource Guide: Practical Advice for Dialogue Among Facilities, Workers, Communities and Regulators (May 1999)

US EPA, Project XL Stakeholder Involvement: A Guide for Sponsors and Stakeholders (March 1999). (Available at www.epa.gov/projectxl/032599.pdf)

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Chapter 4: External Communication and Reporting

4.1 Overview – “The What”

There is a growing demand by an array of external audiences for companies to commit to and demonstrate sound environmental practices. These external parties have expectations for credible and meaningful information on companies' environmental practices and performance, but concern is mounting among some observers that the quality of the content is increasingly suspect. Limited transparency by companies and inconsistent reporting formats, in addition to the tendency to prefer “flash” over content, may undermine the long-term value of organizations' environmental communications with the public, as well as jeopardize the future usefulness of EMS-based reporting in public policy.

Current regulatory trends toward performance- and information-based strategies highlight the need for more consistent means of reporting environmental information. A policy statement issued by the MSWG in December 1999 illustrates the expectation for better quality information and lauds the ability of EMSs to produce it. It notes: “Meaningful information on environmental performance can enhance regulators' ability to determine whether organizations are meeting or exceeding legal requirements. EMS performance metrics may also provide better information to the public on the nature and extent of the public health and environmental effects of an organization's activities, as well as how organizations are managing for the environment.”⁶

Additionally, Standard & Poor's reports “The amount of information companies provide in their annual reports is correlated to market risk and valuations...Companies that distinguish themselves by disclosing more information lower their market risk and therefore lower their cost of capital.”⁷

4.2 Benefits – “The Why”

Both the public and private sectors tend to underestimate the value of public access to information about environmental performance. Transparency can build public confidence and facilitates regulators' ability to work with regulated entities.

Presently, there is a general climate of distrust among stakeholders on environmental issues. In light of this, it is the quality of the external communication aspect of an EVEMS that will bring credibility and create accountability of actions with any or all of the organization's external stakeholders. If this mechanism is not adequately developed, then EMSs could fail to meet their promise. Structured correctly, however, an EVEMS can serve as a tool that provides communities and other audiences with assurances of an organization's commitment to responsible environmental management to go with documentation of performance.

In addition to improved financial position due to reduced uncertainty, as noted by Standard & Poor's, above, external communication is an important component of enhanced

⁶MSWG December 1999 <http://www.mswg/compliance.cfm>

⁷ Standard & Poor's *Transparency and Disclosure*, 2002

corporate image, which has been shown to effect market share in a highly competitive global marketplace. Consumers increasingly make purchasing decisions based upon branded, perceived, or demonstrated corporate environmental performance, as evidenced by the growing numbers of socially and environmentally responsible investment funds and “green products” organizations that advise clients and members about corporate environmental and social responsibility. That advice depends upon the open availability of evidence and is damaged by real or apparent secrecy on the part of the company.

It must be understood that there is some risk in external communications. There may be more *perceived* risk than actual risk, but differentiating perceived and actual risk is exceedingly difficult. No organization should be expected to give away information that can be legitimately called a trade secret, and external stakeholders need to understand that. However, as stated in the previous chapter, openness with the community and a commitment to measurable environmental performance improvements has great potential to build public support for company projects, permits and facility expansions.

Environmental regulators, who provide oversight on behalf of the public, are increasingly facing a shortage of resources necessary for comprehensive inspection, monitoring, and enforcement. This resource deficit must be creatively and carefully addressed before it becomes acute and the system becomes unsustainable. EMS performance metrics can document improved environmental performance, which may enable regulatory agencies to achieve policy objectives more efficiently, as well as improve communications with the public. Thus a well-designed EMS with a credible reporting system could keep the regulator better informed of progress of the entity without excessive oversight. This would require reported information that is specific and quantitative. Such reported information could also lead the regulator to have greater confidence about the organization’s compliance management ability. This allows regulators to focus on other regulated entities, priorities, and pollution prevention strategies.

4.3 Practical Guidance – “The How”

Reporting as an ongoing process

It is helpful to consider external communication as more of a process than a product. *How* a company decides what and how to report, who has access to data/information, and how the company responds to feedback can be as important as the raw data itself, collection methods, aggregation of information, etc. Approaching external communication as a process potentially helps with the conundrum of comparability versus individual tailoring. External audiences have a high interest in comparability, while acknowledging that organizations will need to tailor their reporting and other communications. The process aspects of two-way communication can lend legitimacy to the choices made within a flexible reporting system.

During communication activities, the following principles and behaviors will contribute to a successful EVEMS:

- Contact stakeholders early to make them aware of the EVEMS and opportunity to participate;

- Receive, respectfully consider, and respond to comments, and;
- Provide opportunities for ongoing communications that are sensitive to stakeholder needs.
- Provide quantified measures of performance that allow realistic evaluation and comparison.

For their part, the external stakeholders should work to:

- Respect the EVEMS organization's place in society and its right to exercise its economic or organizational franchise;
- Provide constructive, reflective, and thoughtful feedback, and avoid mere criticism;
- Endeavor to understand the value an EVEMS can bring to the sponsor and work to create that value for a win-win result, and;
- Respond constructively and directly to opportunities for input and dialogue.

When reporting, the EVEMS-implementing organization should consider the following:

- Share EMS' targets and objectives and implementation timetables of interest to stakeholders;
- Report results in a timely fashion in a form that stakeholders can understand and use;
- Respond to questions about the results, and commit to specific timescales to take up the suggestions and recommendations.

For their part, the external stakeholders should work to:

- Acknowledge the comparative environmental value produced by the organization through the EVEMS;
- Consider deficiencies in meeting targets and objectives in the context of the full EVEMS record;
- Discuss deficiencies in the context of continuous improvement designed into the EVEMS.

Specific measures for communications

The EVEMS-implementing organization should establish and maintain procedures for:

- Internal communication between levels and functions of the organization;
- Receiving, documenting and responding to relevant communication from external interested parties, using the principles outlined above. Active response to external communications is particularly important.

Internal and external communication procedures need to be robust to deliver performance. In communicating internally and externally, paths of communication need to be clear. Further, back-up channels need to be established so that communications are not interrupted if an individual is away for whatever reason.

Specific measures for reporting

The organization should prepare an environmental statement that is available to the public. The statement, which should be produced at intervals no less than every two years, should include a description of the organization's:

- Environmental policies, practices, and programs (in summary format);
- Significant environmental aspects;
- Targets and objectives relative to significant environmental aspects;
- Legislative and regulatory requirements;
- Environmental performance, quantified whenever possible, related to its significant environmental aspects, its targets and objectives and its legislative and regulatory requirements.

The environmental statement should contain numerical data, where applicable, and should be presented, described and arranged in a clear and comprehensible manner. The organization can obtain third-party verification of the statements and numerical data in the environmental statement if it desires.

Especially after the events of September 11, 2001, there are legitimate security concerns regarding external communications. We have two thoughts to offer in this regard:

- Organizations are responding to security concerns by enhancing relationships with one class of external stakeholders: local fire departments and emergency responders. This not only helps the organization and its community respond better to emergencies of all sorts, it also builds knowledge and trust with the local community and demonstrates foresight to all stakeholders.
- Information protected for business or security reasons can remain privileged while maintaining transparency, but such restrictions should be limited to the absolute minimum. For example, an organization might report a total quantity of (say) wastes in a certain legal classification without revealing the precise chemicals involved, if the details would allow reverse engineering of a product.

4.4 Other Sources of Information and Assistance

DiPiazza Jr & Eccles, *Building Public Trust: The Future of Corporate Reporting* 2002

ISO/CD 14063 Environmental Management – Environmental Communications – Guidelines and Examples

Morhardt, Emil. *Clean Green & Read All Over: 10 Rules for Corporate Environmental and Sustainability Reporting*. 2002. ASQ Quality Press Milwaukee, Wisconsin.

International Corporate Environmental Reporting Website.
<http://www.enviroreporting.com/>

Standard & Poor's *Transparency and Disclosure*, 2002

MSWG External Value EMS Guidance
March 2004

Tellus Institute, CERES, Facility Reporting Project, in progress as of February 2004
(www.facilityreporting.org)

Appendix: Roster of EVEMS Task Team

Note: The EVEMS Task Team included representatives from across the sectors represented within MSWG. Many people from these sectors contributed to the drafting of the text of the Guidance, and the text was regularly vetted through the broader membership of MSWG via our consensus-driven process. The Guidance is not a policy statement of, nor does it express any agreements or requirements made by, any of the employers of MSWG members, specifically including the United States Environmental Protection Agency or any of the individual states. Rather, it represents the consensus views and professional judgment of the wide array of viewpoints and expertise convened by MSWG.

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