

Effectively Managing Environmental Compliance

Many organizations today are faced with increasingly complex tasks related to managing regulatory compliance. Effectively meeting the challenges of compliance is becoming a difficult target to reach. In fact compliance, particularly compliance with environmental regulations, has become a moving target. However missing the target can have serious legal, financial and public consequences. Risks associated with non-compliance are high and many organizations discover this after an incident when the cost to repair the damage is much higher than the cost of prevention.



In the past it seemed much simpler. There seemed to be fewer regulations, and they rarely changed from year to year. They seemed less complex, less onerous and frankly, far less scrutinized. But regulations, particularly environment or health and safety related regulations, are no longer predictable and static; they are constantly being updated, expanded and changed.

Compliance enforcement is increasing as well. But it is not just the increasing levels of scrutiny by the regulator that is motivating a more intense focus on corporate compliance; it is the increasingly unforgiving scrutiny of the public, the stakeholders and shareholders. In fact public pressure and awareness of the potential consequences of non-compliance, specifically environmental non-compliance, are a large part of the reason for increasing regulatory scrutiny. Since in many cases compliance related incidents have potential human health impacts, the public is understandably wary of not only the damage to environment but also of the health threats they pose.

Perhaps there was a time when the public was uninformed, or uncaring relative to compliance problems, but clearly that is no longer the case. Organizations that have an environmental incident not only face legal implications but are often tried and convicted in the court of public opinion. Should the

organizational operations and processes in the light of compliance requirements and is an essential component of this foundation step. Many organizations focus on their critical impact areas, places or operations involving chemicals or toxic waste for example, but put too little focus on hidden compliance issues such as pesticide applications on properties around offices.

With a comprehensive map of the organization's activities and processes in hand you can effectively research and chart all of the regulations that affect the organization at every level from local by-laws to federal statutes. Once the



regulatory chart or map is created it is critical for the research team to continue to monitor regulations and be aware of changes that impact compliance requirements. In particular the regulatory requirements related to environment are dynamic and constant change has become the norm for environmental law.

Regulatory Outreach

Many organizations steer a path far from contact with the regulator. This contact can be critical to the effectiveness of a compliance strategy however and should be considered an important element in the overall strategy. Pro-active positive relationships with the regulator can occur at a variety of levels.



Some organizations do initiate contact with regulators at a senior management or executive level, a positive and proactive way to reach out to the regulator and one that works well for many large organizations. However, it is also important to train and equip local staff to build relationships with the regulators representatives in their community or within their geographic area of operations.

Think for a moment about the benefits of having solid relationships with the regulator at all levels. It may afford an opportunity to become aware of pending changes in regulations and have a voice at the table well in advance of legislation being tabled.

At a local level a good relationship helps increase the likelihood that in the event of an incident the organization will get the “benefit of the doubt” since the regulators representative will be aware of your compliance efforts. All regulators are aware that accidents do happen in spite of all the precautions we take. Should an incident occur if the regulator locally knows about the precautions you have taken, the compliance efforts you have made, they are far more likely to see it as an accident rather than a breach of compliance.

Although any incident has consequences those consequences have far less impact when in the courtroom you can not only prove due diligence but have the regulatory representative willing to support that defense.

Continuous Improvement

A number of continuous improvement management systems are in place across the globe. Whether it is ISO 14001 or some other system, the environmental compliance benefits are the same. Regulatory compliance, specifically environmental compliance, requires constant monitoring and updates. Like health and safety, the bar is always moving and people simply forget the routine, reverting to old or easier procedures resulting in accidents and incidents. A continuous improvement process allows the organization to update compliance, monitor critical control points and ensure competencies of the staff involved in the work at those critical points.



Most continuous improvement strategies involve some key elements which have enormous benefits for regulatory compliance. For example, they require that a quality management system be in place ensuring that all staff, from front line to senior managers as well as day to day operations and activities are constantly being planned, measured and monitored for quality.

These systems also require a commitment and endorsement from the highest level of the organization. This not only ensures that the system will have adequate budgets and proper management attention, but it also makes it clear to

every employee that the entire organization is behind the shift to quality management and compliance.



To run a continuous improvement system requires assessments of the operations just as was outlined in the research process. This overall assessment pinpoints key risk or critical control points in the operation and allows compliance managers to focus on these as the first step in overall compliance management.

Continuous improvement management includes a requirement for clear, accurate and complete documentation, something which becomes invaluable in the event of an incident. As well, there is an emphasis on measuring and monitoring throughout the entire organization relative to all the processes and activities undertaken. Many plans take into account the need for calibration of measurement devices, the accuracy of testing procedures and the ways in which results of testing are managed and documented.

And last but certainly not least, all quality management systems require extensive, tested and constantly updated emergency plans. These must be specific to each facility and need to be constantly monitored and tested to ensure they are effective, complete and realistic. Not only are these plans valuable in the event of a crisis but they are essential to a due diligence defense in the aftermath of an incident. The due diligence defense is only possible when the organization can prove that they were indeed diligent, that they managed compliance and used an appropriate system to do so.

It is clear that managing compliance effectively can benefit greatly from having a continuous improvement system in place across the organization.

Communication and Training

The final essential pillar for any compliance management effort rests firmly in the field of communication and training. Communications strategies must be in place to ensure that information vital to compliance is conveyed to all the stakeholders, shareholders, regulators and staff. Consider the value of positive

messages about compliance efforts. Consider the potential problems associated with a failure to communicate regulatory changes, new procedures or processes.



One organization for example asked all purchasing managers to change the type of pesticides they were applying to corporate properties. This request was in response to a pending change in regulations relative to acceptable pesticide products. The request to purchasing did not mention regulations and a thrifty site manager used up all the supplies of the old product before moving to the new one. The result was a charge, a fine and some very negative publicity. Communications need to be undertaken and managed from a compliance perspective to be effective.

Information however, does not change behaviour. It is not enough to know your compliance requirements. The actual goal of a compliance management system is to ensure that the organization remains in compliance daily and that requires more than information, it requires a change in behaviour throughout the entire operation. The only way to make that happen is through comprehensive, practical and applicable training. There are a number of ways to enact training processes.

Some organizations choose to include the environmental and other compliance requirements in all ongoing training such as field training or so called “tail gate” training. Others require all staff to attend a single course focused solely on compliance issues and still others use a combination of these strategies.

“Information however, does not in and of itself change behaviour.”

The critical issue is simply to ensure that the training focuses on not only the “how to” skill building aspects of compliance activities but on the “why to” elements as well. As well, the training needs to be repeated and continuously updated to reflect changes in compliance requirements, new procedures or new activities.

Summing It Up

With these four foundation elements in place an organization is well on its way to ensuring compliance with regulations and is in the best possible position to defend themselves against charges and fines associated with an incident. Without these foundation pillars in place, any incident is likely to be seen as negligence by the courts and seen by the public as an indicator of organizational apathy.



So the task of managing compliance while essentially simple; is certainly not easy. Putting these foundation elements in place is costly, and requires time and attention, a real focus on the part of the organization as a whole. But the benefits are invaluable and not only in the event of an incident. Many organizations find cost cutting opportunities while implementing a compliance management process.

For example there may be many hidden cost savings which are easy to find when undertaking the organizational activity mapping. There are training benefits which extend far beyond the change in behaviour associated with compliance requirements. The end result overall is usually a more efficient, more secure and more cohesive operation.

So while the complexities of getting the system in place can be daunting, they are a one time effort. Once the system is in place the process no longer requires the same level of effort and attention to be maintained, and the benefits of the process continue to accrue as the organization moves forward.