

**TCEQ Environmental Management System
INTERIM EVALUATION PROTOCOLS**

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CHAPTER 1. INTRODUCTION TO THE TCEQ EMS EVALUATION PROGRAM

1.1 Purpose of this Guidance

This document provides a protocol for TCEQ and third party auditors to evaluate a facility's Texas Environmental Management System (EMS) in order to receive varied levels of incentives provided by the TCEQ and EPA under 30TAC Chapter 90, Subchapter C: Regulatory Incentives for using Environmental Management Systems. The goal of this guidance is to ensure that requirements and processes of the Texas EMS program are clearly established and communicated, and to ensure that the EMS's of participating organizations are evaluated in a fair and consistent manner. To this end, this guidance provides the following:

- Introduces EMS auditors to the Texas EMS program;
- Communicates the requirements for achieving Texas EMS approval; and
- Outlines processes and procedures associated with the Texas EMS evaluation process.

Issues related to TCEQ staff auditor qualifications are provided in separate guidance that outlines the training, experience, and education required for TCEQ staff auditors. Additionally, issues related to third party auditor qualifications are outlined in the TCEQ third party auditor qualifications guidance (under development).

While the primary audience for this guide is auditors, it will also be useful for sites seeking to join Texas EMS. Additional information for sites seeking to develop a Texas EMS is available in the Texas EMS Implementation Guidance (under development).

1.2 The Texas EMS Program

The Texas EMS program provides incentives for facilities that have a TCEQ approved EMS. These incentives are designed for sites that have implemented an EMS that is capable of producing ongoing results and has historically demonstrated results in continuous improvement in environmental and compliance performance. Continuous improvement in environmental performance means reductions of waste, discharges, or emissions; or reduction in negative impacts on air, water, land, natural resources, or human health. An EMS approved by Texas must result in continuous improvement in both environmental performance and compliance. Additionally some component of environmental performance must be in areas that go beyond legal requirements - either by going beyond requirements in areas that are regulated (e.g., hazardous waste reduction), or by addressing areas that are not regulated (e.g., energy conservation). It is understood that sites will place varying levels of emphasis on compliance versus environmental performance based on their current performance in each area; and that sites are not going to have perfect compliance or achieve zero environmental impact. The focus is on improving on the current operations, with the understanding that some base level of compliance and environmental performance has already been achieved.

1.3 Incentives for Performance

There are two levels of incentives available: incentives for sites that meet the minimum requirements for a Texas EMS (Basic EMS); and incentives for sites that have an EMS that goes beyond the minimum

requirements, including community outreach and stakeholder involvement (Leader EMS). Sites with a Basic EMS are provided primarily with state-based regulatory flexibility and state recognition. Sites with a Leader EMS are provided with additional state-based regulatory flexibility, federal regulatory flexibility as identified through EPA's National Environmental Performance Track, and both state and federal recognition.

Currently the following incentives are available for sites meeting the Basic EMS criteria:

- 10% credit under compliance history;
- Exemption from waste reduction and pollution prevention planning;
- Free EMS training; and
- State level recognition.

For the Leadership level, additional incentives are available including:

- Low inspection priority
- Stringency evaluations under various air program; and
- Additional notice for inspections.

TCEQ and EPA are also currently working on many additional incentives including extended hazardous waste storage and reduced MACT reporting. For a current list of incentives, check the Texas EMS Web Site: www.abouttexasems.org

The types of incentives that TCEQ and EPA offer make it imperative that TCEQ assures that sites accepted into the program are managing their compliance obligations and offering benefits that improve environmental quality.

1.4 Audit Scope and Approach

The Texas EMS program is site specific. A site interested in membership would seek approval for the regulated entity as legally defined by TCEQ rules and requirements, such as the permitted entity, or the entity covered by the industrial and hazardous waste identification number.

The audit scope will include any activities of the site that result, or could result, in environmental aspects - both those that are regulated and those that are non-regulated. The primary focus of the audit will be to determine whether the EMS is performance-based – Is the EMS sufficient to achieve ongoing performance and has it demonstrated historical performance both in enhanced compliance and environmental impact reduction?

The audit will consist of three major components. First, the auditor will perform a pre-assessment or “desk-audit” of the site’s application and supporting EMS documentation. Second, the auditor will conduct an on-site EMS evaluation. The on-site portion will emphasize examination of the effectiveness of the EMS. The time-frame for the on-site audit may be as short as one day for very small businesses and may last up to a week for large organizations with multiple business units. The final portion of the audit will include reporting, recommendations and follow-up.

Rather than reviewing the EMS primarily based on each element, the auditor will focus on end results. The EMS elements will be viewed in the context of whether they are sufficient to produce ongoing results and whether they are producing results. In places where performance is lacking, the auditor will look at what

is missing in the EMS that led to the failure in performance. This approach has been deliberately selected by the TCEQ to ensure that the audit is focused on performance and not paperwork, because the audit approach will often drive the focus of the site in preparing for the audit.

1.5 Relationship to ISO14001

This audit protocol is inherently different from ISO14001 auditing for several reasons. The TCEQ is providing regulatory incentives, some of which reduce regulatory oversight. The TCEQ is also responsible for environmental protection in Texas, and public trust is critical to the development of additional incentives and program success. For these reasons, the TCEQ rules and audit protocols are more focused on end results including both compliance and environmental performance, instead of only being focused on system or element auditing. For some ISO14001 registrars, the TCEQ audit protocol will be more closely akin to the first monitoring audit that is conducted under ISO14001, which often begins to look at end results relative to the goals set by the company.

Another difference between the Texas EMS program and ISO14001 is in defining the scope of the audit and the auditing of individual sites. Under ISO14001, a site has the discretion to exclude certain business units or regulated areas. Under the TCEQ program, the site must include all areas that are, or could be under non-routine or emergency situations, regulated by the TCEQ. Finally, with regard to auditing of individual sites, ISO14001 certification can be achieved by having a full audit performed at a corporate site, and then later conducting audits at individual sites. Under the TCEQ program, the full audit must be conducted at each site requesting approval and incentives prior to acceptance into the program. There may be other differences between ISO14001 and Texas EMS, depending on the individual registrar's approach.

For sites that are ISO14001 certified or seeking ISO14001 certification, the TCEQ feels that the two programs are complementary and can be worked effectively together without significant additional resources. By understanding the key differences, the site can ensure that preparation for an ISO14001 audit and a TCEQ audit can be combined. Additionally, auditing by a third party registrar for ISO14001 certification can be combined with a TCEQ audit by either having the third party auditor meet the TCEQ standards and protocols, or by including TCEQ staff auditors in the ISO14001 audit.

1.6 EMS Approval Requirements

To receive approval for a Texas EMS, a site must successfully pass an audit conducted by TCEQ auditors or have an audit conducted by a third party successfully pass TCEQ review. Once an organization achieves initial verification it must complete an annual report, as well as interim audits (scheduled at the time of approval) by the TCEQ or a third party auditor.

A site cannot advertise participation in the Texas EMS program until they have successfully passed an audit. The TCEQ will post information on the TCEQ EMS Web Site on sites that have successfully passed the audit, but will not post information on sites that have not passed the audits.

1.7 Addressing Compliance Issues

The audits will not be compliance inspections and auditors will not have the authority to issue violations. If a non-compliance is observed, the function of the auditor is to determine whether the non-compliance indicates a failure of the EMS. However, if the auditor witnesses a situation that is immediately dangerous to the environment, health, or safety of the surrounding community, the auditor will be obligated to report

the situation to the regional office.

1.8 Confidentiality Policy

All materials provided to the TCEQ will be subject to the open records laws of the State of Texas. Sites can mark specific documents as confidential. Sites will be encouraged to allow the TCEQ to utilize photos as part of the audit, because photos will facilitate communication in the closing meeting to upper management. Any photos taken during the audits will remain the property of the site, and the site personnel can operate and control the camera if desired. Photos will only be used in the closing meeting and remain at the site, unless released by the site. Material provided in an annual report by the site may be made available to the public through the TCEQ Web Site.

1.9 Conflict of Interest

To be eligible to conduct or review an audit, the auditor cannot have provided consulting to the site within the last two years, or cannot provide consulting two years after the audit. Consulting is defined as having provided detailed guidance in development of an EMS. Even though the TCEQ's Pollution Prevention Site Assistance Visit (P2-SAV) and compliance assistance site visit programs do not meet this strict definition, the TCEQ has elected to also not allow auditors to audit sites that they have provided on-site assistance through either the P2-SAV or the compliance site visit program in the last two years. Auditors may add value during an assessment by identifying opportunities for improvement during an audit as long as no specific solutions are recommended.

CHAPTER 2. EVALUATION PROCESS

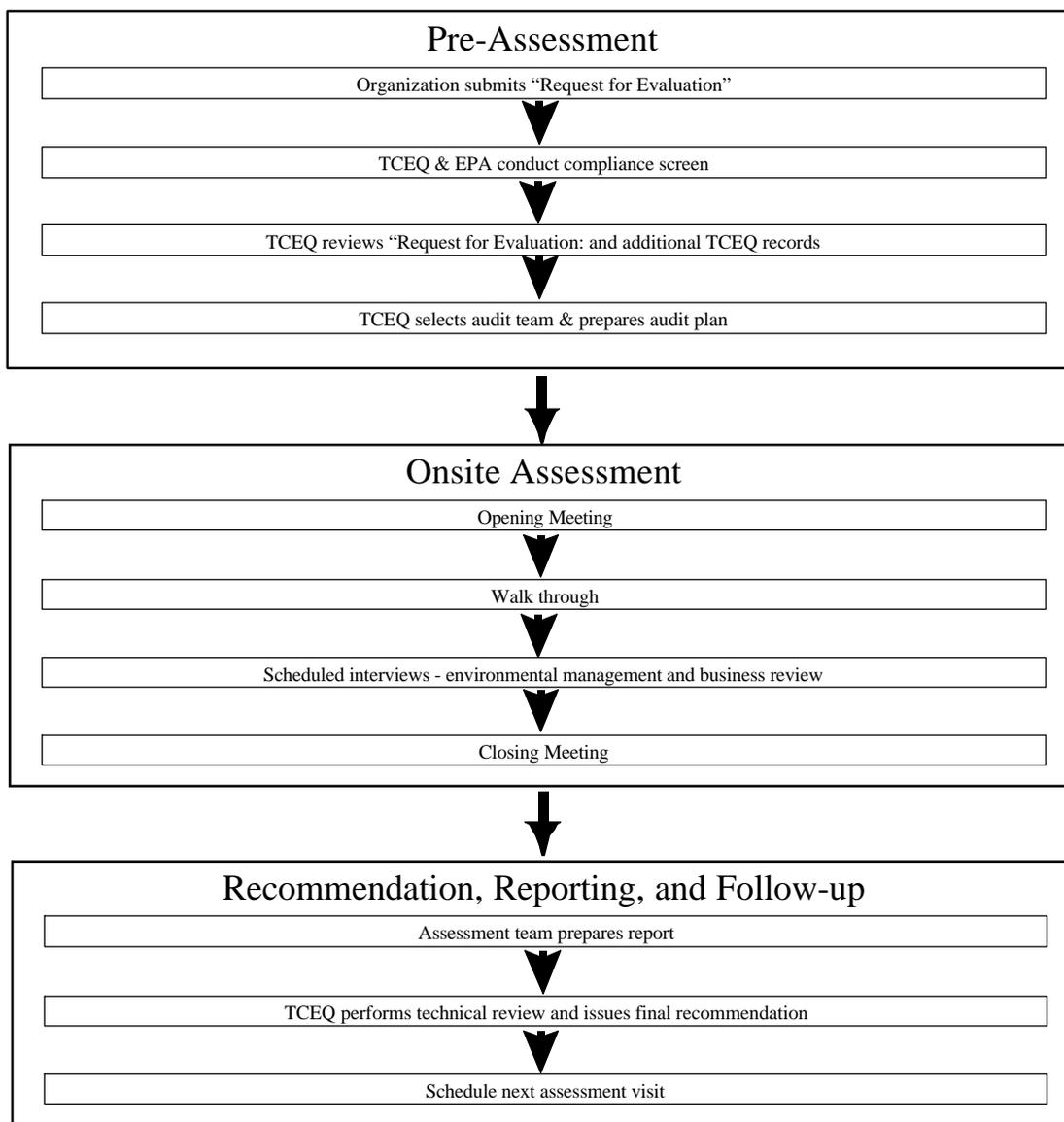
2.1 Overview

The evaluation will consist of the following elements:

- A. Pre-Assessment
- B. On-site Evaluation
- C. Recommendation, reporting, and follow-up

A schematic of the overall process is shown in Figure 1.

Figure 1: Schematic of Evaluation Process



2.2 Pre-Assessment Review

2.2.1 Organization Submits “Request for Evaluation”

The organization fills out and submits the TCEQ request for evaluation, which includes the following elements for a Basic EMS:

- Environmental policy statement
- Scope of the EMS
- Prioritized environmental aspects
- Goals for continuous improvement in environmental performance
- Goals for ensuring compliance;
- Performance indicators to demonstrate the effectiveness of the EMS
- List of any independent or third-party reviews or certifications that have been completed;
- Main point of contact on the EMS;
- Date when the requestor would be ready to have the executive director conduct a formal on-site evaluation or whether the person will be requesting approval of a third-party auditor;
- Description of the regulatory incentives of interest to the person regarding that site;
- Pre-assessment questionnaire that includes environmental, process, and operational background information
- The signature of the requestor or the duly authorized agent that certifies that all information is true, accurate, and complete to the best of that person's knowledge.

Sites that are requesting to be evaluated against the Leader criteria, must also submit the following

- Three references related to stakeholder involvement - one from each of the following categories: community/citizens groups, tribal or local regulator; other community/local reference.
- One reference related to the site’s community outreach effort.

2.2.2 Compliance Screening

A compliance screening will be conducted to ensure that the site meets the compliance criteria for either the Basic or Leader EMS. For the Basic EMS, the TCEQ will ensure that the site:

- is not a poor performer based on the Texas compliance history rules (TAC Chapter 60);
- has not been referred to the Texas or US attorney general and have incurred a judgement in the past three years; and
- has not been convicted of willfully and knowingly committing an environmental crime in the past three years.

For the Leader EMS, the TCEQ and EPA will jointly perform the screening to ensure that the site:

- has not had a criminal conviction, plea for environmentally related violation of criminal laws, ongoing criminal investigation or prosecution involving the corporation, corporate officer, or employee at the site within the last five years;
- has not had three or more significant violations in the last three years;

- does not have unresolved, unaddressed significant non-compliance (SNC) or significant violations (SV) at site;
- Does not have ongoing EPA or state-initiated litigation at site; and
- Is in compliance with schedules and terms of any order or decree.

If the site is rated “average by default” under the compliance history rules, then the auditor will examine compliance issues more carefully during the on-site evaluation, because no compliance data will be available in the pre-assessment phase.

2.2.3 Review “Request for Evaluation” and TCEQ files

Before conducting the on-site evaluation, TCEQ will review the request for evaluation and other information available within the TCEQ, to:

- Ensure that all the required information has been submitted;
- Review EMS materials such as the policy, aspects, goals, and performance indicators;
- Understand the site to select an audit team and plan the audit;
- Determine primary areas of focus for the audit;
- Define expertise needed during the audit, both regulatory and operational;
- Determine the approximate time needed for the audit.

If a site does not provide complete materials, then the TCEQ cannot schedule an audit until the site provides the required information.

Materials that the TCEQ may review from TCEQ files include:

- Compliance screening information;
- Permits and permit conditions; and
- Previous inspection reports.

The TCEQ will likely call the site to clarify information reviewed.

For the Leader level, the TCEQ will also perform assessment functions related to stakeholder involvement and community outreach. This would include independent conversations with stakeholders or community members to verify performance in these areas.

2.2.4 Selection of Audit Team and Preparation of Audit Plan

Audit teams will be selected based on the needs of the audit. The team will include people with expertise in the significant environmental aspects of the site, applicable environmental legal requirements, process knowledge, and other factors. Audit team members will be able to communicate effectively in the required language. In rare instances, one person may be able to conduct an audit, if that person has all of the necessary qualifications to perform the audit.

Audit team members will be free from any interest that might cause them to act in a biased or discriminatory manner. Audit team members will inform the Lead Auditor prior to the assessment of any existing, former or potential links between themselves and the site. The site will be informed of the names of the audit team

members with sufficient time to request reassignment if there may be a conflict of interest. Reassignment will be made based on the validity of the site's concerns.

The details of audit planning will be decided between the EMS contact and the TCEQ lead auditor. Prior to the audit, The TCEQ will provide an overview of the on-site evaluation that describes the process including, as appropriate:

- The proposed schedule for the audit;
- Key staff from the site and purpose and timing of their participation;
- TCEQ audit team members and team leader;
- Description of opening meeting, including required staff;
- Description of environmental and business review and required and requested staff;
- Description of walk-through;
- Description of closing meeting; and
- Timing of the approval process.

The purpose of this will be to ensure that the site has a clear understanding of what will take place and why during the audit. Differences in understanding will be resolved.

The site will need to make all necessary arrangements for the conduct of the assessment, including provision for examining documentation and the access to all areas, records (including internal EMS audit reports) and personnel for the purposes of assessment, reassessment and resolution of non-conformances.

2.3 On-Site Evaluation

The on-site visit will be the main tool to determine whether a site is implementing a results based EMS. The visit will include the following:

- Opening meeting with key representatives from the site
- Scheduled interviews related to environmental management and operational/business issues as they relates to environmental issues
- Walk-through of the facility to observe operations and environmental performance, and to interview workers.

The bulk of the time will be spent during the walk-through phase. Audits may take as little as one day, or as much as five days depending on the size and complexity of the site.

2.3.1 Opening Meeting

The opening meeting will be a brief overview of the audit including a description of what will happen and why, and a review of the schedule. The opening meeting should take about 30 minutes, and will not include a long presentation from either the TCEQ or the site. The TCEQ will review the following:

- **The purpose of the audit** - The purpose of the audit is to audit the site against the TCEQ standard, ensuring that the EMS is achieving results in the areas of compliance and environmental performance;

- **The environmental management review** - The environmental management review will be conducted with the Environmental Manager, and other key personnel to review elements of the EMS;
- **The operation/business review** - The operation/business review will be conducted with managers in charge of operations and finances in order to identify connections between the EMS and operations and financial management practices.
- **The walk-through** - The walk-through will include interviews with floor employees and will include some root cause analysis;
- **Interviews of personnel** - Questions will be open ended, and may be repeated - the purpose of the questions is both to seek information and, more importantly, to identify knowledge of site personnel;
- **Compliance violations** - The site will not be subject to violations or reporting to enforcement unless an immediate risk to human health and the environment is witnessed;
- **The TCEQ confidentiality policy**; and
- **The possible results of the audit.**

The opening meeting will be arranged prior to the visit to include key personnel from the site as appropriate for the type and size of facility. Potential site personnel that would be involved in this meeting may include, but are not limited to:

- Senior manager - manager with authority to commit resources and responsibility over both operations and environmental activities;
- Environmental manager - staff member with specific overall responsibility for ensuring that the environmental management system is established, implemented and maintained and for reporting on environmental performance to top management;
- Facility, production, operation, maintenance, and product managers – particularly in areas that have significant environmental aspects; and
- Environmental and related (for example Health & Safety) team members and representatives.

Personnel present for the opening meeting should have sufficient knowledge and authority to cover the scope of the audit.

2.3.2 Walk-Through

Auditors will observe portions of the site on a walk-through. The goals of this activity are to gain familiarity with the site's operations, to observe the site's environmental performance, and to identify evidence of EMS conformance or non-conformance. The walk-through will comprise a significant portion of the on-site audit time. The walk-through is likely to comprise several segments with opportunities between segments for different audit groups to compare notes and pictures.

All areas that have environmental impact, or could have environmental impact under non-routine or emergency situations, should be made available during the audit. If a site has concerns about access to certain areas, these should be discussed during pre-assessment review. The auditor is not required to observe all areas, but should focus on areas that have, or could have, significant environmental impact or environmental compliance concerns and/or greater opportunities for improvement in compliance and environmental performance.

Each team of auditors will require a site escort. The escort needs to have sufficient knowledge of the site's operation and environmental aspects, to speak the language of the workers, and to know operational terminology.

Pictures will be taken, where possible, to document work practices. These will be used during the closing meeting. Photos may be taken by the escort, as directed by the auditor. Photos will be the property of the site, unless other permissions are granted.

Auditors will make observations and interview site personnel, both operators and management, to understand and evaluate operational practices. A walk-through will make limited use of checklists.

In cases where the auditors find evidence of an EMS non-conformance, they will document it. The auditors will conduct a cursory root cause investigation when they find non-conformance. As results warrant and after consultation among auditors, some non-conformances will undergo more in-depth root cause analysis through additional interviews, document review, and observation. This could require a revision of the scheduled flow of the walk-through, possibly including repeat visits to some areas.

2.3.3 Environmental Management and Business Review

Scheduled interviews will be used to assess certain aspects of the EMS and to assess how the EMS fits in with operational and financial considerations. The EMS review will be conducted with the environmental manager to review aspects, goals, targets and achievement of those goals.

The business review will be used to assess how the EMS is considered as compared to other programs, the extent of resource allocation for goals, the financial limitations that may be necessary to consider in developing goals and targets, and other aspects of the EMS as it relates to business concerns such as upcoming operational changes. The business review will be conducted with the plant manager and/or the financial manager. The site will not be required to reveal any sensitive issues; however the business review is very important so that the EMS can be assessed in context to operations and financial considerations.

2.3.4 Audit Team Meetings

The audit team will hold several meetings throughout the audit to compare notes and discuss observations. These will primarily take place off site at the end of each day. The audit team will likely fill out audit check-lists and summary reports, like those covered in Chapter 6, during these audit team meetings to keep track of observations during the audit. Based on these audit team meetings, additional information may be required, particularly to understand specific non-conformances, that may change the flow of the audit - either to observe additional locations, conduct additional interviews, or review additional documents.

After completing all interviews and the walk-through, the audit team will meet without the auditee to review observations and make initial decisions about approval. The team will review observations as they relate to the elements outlined in Chapter 4 and decision guidance in Chapter 5.

2.3.5 Closing Meeting

At this meeting, the team will give the facility an initial indication as to whether the site has met the standard; however, this recommendation will not be finalized until technical review. If the site is accepted with

provisions, or not accepted, the non-conformances will be provided initially at the closing meeting, and then finalized after technical review.

2.4 Reporting, Recommendation, and Follow-up

2.4.1 Technical Review and Approval Decision

A final approval decision will be made after a technical review of the information gathered during the audit process and any other relevant information. The TCEQ technical reviewer will be qualified to lead an audit, but will not have participated in the audit being reviewed. In addition, for the Leadership level, EPA Headquarters will perform a technical review to assure consistency with the National Environmental Performance Track standards.

There are three possible outcomes of a technical review: approval, conditional approval, or denial. Under conditional approval, the TCEQ will provide a set of non-conformances that need to be addressed. Based on the extent of these non-conformances, the TCEQ will set a monitoring schedule reflective of the level of non-conformance.

Technical review can overturn an audit team's recommendation for approval, or add conditions which must be met prior to approval. If the audit team recommends that the site be denied approval, the technical reviewer will not normally overturn this decision, and then only with proper justification and documentation. Likewise, any changes to the initial evaluation report made by the technical reviewer will be appropriately documented and justified.

2.4.2 Evaluation Report

The purpose of the evaluation report is to document whether or not the site met the standard. If the site is denied approval or receives conditional approval, then the evaluation report will document the non-conformances. An example audit template is provided in Chapter 6, Audit Tools.

The report will be shared with the site with a request for comments. Any corrective actions required will be documented along with the potential need for re-evaluation or other assurance of conformity.

2.4.3 EMS Monitoring

TCEQ will conduct EMS monitoring via on-site assessments at least every 3 years after the initial assessment. These will follow the same protocol as the initial assessment, but may be shorter. Sites that are accepted without any provisions will likely be placed on the maximum three year review cycle. Sites with many areas of concern will be placed on the most frequent monitoring schedule, potentially as frequent as every six months.

2.4.4 EMS Measurement - Annual Report

The performance of the EMS will also be reviewed based on a report to the TCEQ. This report will vary for each company in terms of key measures; however, it will be selected from a menu of measures provided by the TCEQ. Additional measures not provided by TCEQ, will be considered on a case-by-case basis. If

facilities begin using new measures broadly, TCEQ will add these to the menu of measures provided. Note that for the Leader level, sites will be required to report under the categories provided for consistency with EPA's National Environmental Performance Track program.

CHAPTER 3: AUDIT METHODS

This section covers three methods of collecting information about the site's EMS.

3.1 Observation

Observation is a key method for verification of a well-functioning EMS. The auditor will use observations to assess several elements of the EMS, such as aspect identification and routine evaluation to demonstrate attainment of goals and targets. More details on when observation is used are given in Chapter 4.

3.2 Interviews

Interviews are another key method for verifying EMS performance. It is important for the site to make key personnel specified in the audit plan available, as well as to provide reasonable access to employees during the walk-through. Lack of time or availability of key personnel might result in the audit being rescheduled. Ad hoc interviews of employees is important for independent verification of several elements, but the auditors should be sensitive towards operational needs, not unduly interrupting operations. Additionally auditors should minimize the number of auditors present during interviews and make efforts to put the interviewees at ease.

Interview questions should primarily be open ended, such as:

- Describe how your facility developed the environmental policy.
- Describe this operation and how you evaluated it for environmental aspects.

Interviewing will be used most extensively to verify knowledge and understanding of policy, training, emergency response, and other key elements of the EMS. Keep in mind that auditors may ask questions that they already know the answer to, since the auditor is trying to determine knowledge, understanding and implementation at the site.

3.3 Document Review

Document review will primarily focus on those areas that require documentation for proper performance, such as calibration of testing equipment. TCEQ will also review other documentation to verify that the requirement is addressed in the EMS (e.g., policy). However, document review will not be the key method for assessing the functioning of the EMS. It is less important that the EMS procedures and activities are internally consistent, than it is for the activities and outcomes to demonstrate continuous improvement in compliance and environmental performance.

CHAPTER 4: AUDIT METHODS BY ELEMENT

This sections covers each element in detail and methods for the auditor to test the element, either through document review, interviews, or observation. Auditors should use the type of method (e.g., document review, interview, or observation) recommended, but may also use additional methods. Additionally, auditors should use judgement in how to use each method (e.g., what documents to review, who to interview, and areas to observe).

4.1 Policy

Key elements of a written environmental policy directed towards continuous improvement and methods to verify the policy are given in Table 1.

Table 1: Policy

Element	Document Review	Interview	Observation
Readily available and communicated internally	/-Policy		/ - Common areas
Covers continuous improvement and compliance performance.	/-Policy		
Management commitment evident in how policy is treated (e.g., treated in same way as all other policies with respect to management and employee development, approval, internal/external communication, implementation and review)		/ - Environmental Manager Senior Manager Representative Workers and Managers	
Employees aware of intent of policy and demonstrate inclusion of this policy in their day-to-day activities.		/- Environmental Manager Senior Manager Representative Workers and Managers	/- Are activities conducted consistent with policy?
<i>Covers pollution prevention and outreach - Leader only</i>	/-Policy		
<i>Communicated externally - Leader only</i>	/-Web Site	/-Stakeholders and/or community references	

4.2 Environmental Aspects

Evaluation of environmental aspects is a key to an effective EMS as it sets the baselines for goal-setting and performance measurement. The site is required to identify the environmental aspects at the site, which are defined as an element of the site's activities, products, or services that *can* interact with the environment. Table 2 provides an overview of the elements evaluated as part of aspects, and how each element can be verified.

Table 2: Aspects

Element	Document Review	Interview	Observation
Aspects accurately identified, both regulated and non-regulated -Key activities, processes, products, services assessed for inclusion in scope -all significant impacts accounted for -all regulated areas accounted for	/-List of Aspects, List of Activities, List of Regulations	/- Environmental Manager	/-Activities, processes , services included in scope where appropriate
Aspect information and legal requirements are kept up-to-date, for example through periodic review to ensure that operational changes and new regulations are taken into consideration	/	/	/
Results of aspect identification and legal requirements are documented.	/		
Environmental risks and impacts associated with emergency situations and non-routine activities included in aspect analysis	/ - emergency preparedness plan, Emission event and spill records	/- Environmental Manager, Maintenance, Employees	/-Emergency situations and non-routine operations included

Observations will focus on:

- All principal activities undertaken to confirm the accuracy of the aspect identification process, to confirm that all legal requirements are correctly identified, and to identify potential inconsistencies or omissions in the identification of aspects and legal requirements.

Interviews will primarily be with:

- Management representatives
- Personnel responsible for identification of environmental aspects (for example, departmental or environmental representatives)
- Personnel responsible for compliance with relevant legal requirements (for example, legal counsel, process managers)
- Operational and financial managers to assess operational change issues

Documents that may be reviewed under this element include:

- List of environmental aspects
- List of environmental requirements
- Emergency plans and procedures

4.3 Prioritization of Aspects

This element requires the site to prioritize the aspects based on the significance of the associated environmental impact. The documents, interviews, and observations will focus on the same areas as the evaluation of the identification of aspects.

This activity should result in what can be deemed a reasonable prioritization of aspects and can take into account factors such as:

- scale or magnitude of the associated environmental impact(s)
- severity of the associated environmental impact(s)
- probability of occurrence
- duration of the associated environmental impact(s).
- the degree to which the aspect is related to a legal requirement or policy commitment and stakeholder requirements

One resource which can be used to determine significance based on Texas' environmental priorities is the TCEQ's Strategic Plan, Volume II.

Table 3: Prioritization of Aspects

Element	Document Review	Interview	Observation
The prioritization of all aspects shall be defensible and based on common technical knowledge of environmental impacts and issues	/	/	/
Based on significance of environmental impact	/	/	/
The prioritization shall be subject to periodic review, to reflect changes in the way the organization operates, and changes in environmental issues.	/	/	/

4.4 Goals and Targets

This element requires the site to set goals for continuous improvement in environmental performance and compliance with legal requirements. Setting of goals and targets can take into account many factors, such as cost and effect on operations. However, the audit will focus on how the environmental impacts have been integrated into the goals and targets and whether goals and targets have been set to reasonably reflect environmental significance, while accounting for other factors such as cost.

Table 4: Goals and Targets

Element	Document Review	Interview	Observation
Address continuous improvement in environmental performance (impact). Impact must be addressed both from impacts from ongoing, non-routine, and emergency situations; and also from the perspective of liability control	/		
Address compliance	/		
Specific, measurable, with expected attainment dates	/		
Prioritization of aspects reflected in selection of goals and targets ¹ with consideration of operational issues (e.g., financial and economic feasibility).	/	/	
Supported by the means to achieve the goals (plans, money, resources) to establish that goals are realistic	/-Action Plans	/-Environmental Manager, Operational/Financial Manager, Employees	/-Projects are active and have resources
Some goals must go beyond legal requirements. Two for Basic, or for Leaders that are "Small Facilities" ² and four for all other Leader facilities.	/		

¹The aggressiveness of the goals will be considered in approving systems for either the Basic or Leader levels. Leader facilities will be expected to demonstrate more aggressiveness and relevance in goal setting than Basic facilities.

²For the purposes of this program a site is considered a "small" facility if the company as a whole is a small business as defined by the Small Business Administration (see FR 30386, Vol. 65, No.94, May 15, 2000) and if the facility itself employs fewer than fifty (50) full-time equivalent employees.

Reference: <http://www.epa.gov/performancetrack/program/sm-bus.htm>

Goal selection will be a very critical portion of the EMS since it lays the foundation for internal review and sets the stage for the program. The auditor will need to determine whether the site goals have been selected to reasonably reflect environmental priorities at the site. This will require auditor judgement as well as an understanding of financial and technical considerations at the site. In the case of projects that address environmental aspects in ways that go beyond compliance, the site will have some discretion in selecting projects, but this selection process should include environmental considerations in a meaningful way. For example, if a company assesses NOx as their most significant environmental aspect and wastewater as their second most significant aspect, but they have projects to minimize wastewater that have a two year payback and projects to reduce Nox that have a 10 year pay back; then it would be reasonable for the site to select the wastewater project first. However, if the site is a large quantity generator of hazardous waste and this is a significant area for them, and their goals are to recycling aluminum cans, this would not reasonably reflect environmental impact.

4.5 Assigns Responsibilities

A key element of an effective EMS is the extent to which the EMS has been rolled out beyond the environmental department. This can often be determined by looking at how responsibilities have been assigned, awareness of these assigned responsibilities, and competencies of those responsible. Clearly assigned responsibility means that it is clear to those who need to know at the site who is responsible for each area.

Documents that can be reviewed include:

- Job descriptions
- Organizational chart
- Performance evaluations

Interviews for this element may include a cross-section of all personnel, human resource manager, and each person assigned specific responsibilities.

Table 5: Responsibility

Element	Document Review	Interview	Observation
Responsibility clearly assigned for implementation of the EMS	/	/	
Responsibility clearly assigned for training related to environmental performance and compliance	/	/	
Responsibility clearly assigned for monitoring environmental performance	/	/	
Responsibility clearly assigned for undertaking corrective action in relation to environmental performance	/	/	
Responsibility clearly assigned for ensuring compliance with applicable environmental regulations.	/	/	
Staff are sufficiently competent, and have received sufficient training to perform each assigned responsibility effectively.		/	
Staff have sufficient authority to perform each assigned responsibility effectively.		/	
Staff have sufficient resources (including time) to perform each assigned responsibility effectively.		/	

Responsibilities are incorporated in work instructions, job descriptions, performance plans and reviews, and operational procedures as appropriate	/	/	
Staff are implementing each area of responsibility sufficient to achieve end results of EMS		/	/

4.6 Documentation of Implementation Procedures and Results

Audit methods for documentation of procedures and results are given in Table 6. Performance indicators and baseline data are necessary to describe the effectiveness of the EMS.

Table 6: Documentation of Implementation Procedures and Results

Element	Document Review	Interview	Observation
Selection of performance indicators is relevant to goals and targets	/		
Performance indicators are specific and measurable	/		
Baseline data is available to determine progress.	/		
Progress towards achievement of goals and targets is measured and monitored on a routine basis	/	/	
Procedures associated with EMS implementation are documented and communicated as needed including, as appropriate, maintenance and operations, emergency preparedness, and corrective action	/	/	/

4.7 Routine Evaluation to Demonstrate Attainment of Goals

The EMS must have been in place long enough for the site to evaluate and improve on the system. This is typically one year, but could be less. The auditor will need to determine how long the program has been in place. This is a key element of the audit, because it provides evidence of performance.

Table 7: Routine Evaluation to Demonstrate Attainment of Goals

Element	Document Review	Interview	Observation
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EMS has been in place for sufficient time to allow for meaningful review of performance (typically one year)	/	/	
Routine evaluation of EMS is conducted and shared with management - including assessment of both compliance and environmental performance	/	/	
Results of evaluation documented	/		
Results of evaluation are incorporated into action plans, etc. as related to effective implementation of the EMS	/		
Results show progress towards goals and targets as identified by the EMS plan	/	/	/
Demonstrated enhanced or maintained compliance. Sites with very high compliance may be committed to only maintaining their current level of compliance.	/	/	/
Demonstrated mitigation/control of liability associated with any routine, non-routine, and emergency situations.	/	/	/
Demonstrated reductions in impact to the environment, such as reduced emissions, waste, etc.	/	/	/
Demonstrated reductions in pollution beyond that required by rule. One for Basic and for Small Facility ¹ Leader and Two for all other Leader facilities.	/	/	/

¹Major violations as defined by the Compliance History rules (Chapter 60) would be considered as evidence that the EMS is not assuring compliance. Also, lack of measurable reductions in environmental impact would be considered evidence that the site is not continuously improving environmental performance.

²For the purposes of this program a site is considered a "small" facility if the company as a whole is a small business as defined by the Small Business Administration (see FR 30386, Vol. 65, No.94, May 15, 2000) and if the facility itself employs fewer than fifty (50) full-time equivalent employees.

Reference: <http://www.epa.gov/performancetrack/program/sm-bus.htm>

4.8 Stakeholder Involvement - Leader Level Only

This element is only required for facilities seeking approval of a Leader EMS. Stakeholder involvement includes how the company communicates and responds to the community with regard to the facility's environmental impacts. This element requires identifying and responding to community concerns and informing the community of important issues. To verify this element, the auditor will speak both to site personnel and references provided by the site including a community citizen group, a tribal or local regulator, and other references such as an emergency management official.

Table 8: Stakeholder Involvement - Leader Level Only

Element	Document Review	Interview	Observation
<i>Community concerns relative to the site's operations/impacts have been identified</i>	/	/	/
<i>Has an open process to allow the community to identify concerns relative to the site's operations/impacts</i>	/-Web	/	
<i>Responds to community environmental concerns in a timely manner</i>	/-Web	/	
<i>Informs community of important environmental matters in a timely manner</i>	/-Web	/	
<i>Information about the EMSs annual performance is made public</i>	/-Web	/	
<i>Ongoing citizens suits (if any) are being addressed proactively</i>	/	/	

4.9 Community Environmental Outreach - Leader Level Only

This element is only required for facilities seeking approval of a Leader level EMS. Organizations will commit to establish, support, or sponsor local environmental partnerships, programs, or projects that meet local needs. This element requires conducting or sponsoring annual community environmental programs with partners that may include schools, local or state agencies, chambers of commerce or business organizations, community or environmental groups. Community outreach activities include, for example, resource conservation, recycling, mentoring, Texas Watch or other environmental monitoring programs, public environmental education or literacy programs, nature preserves, land protection, habitat protection, local cleanup activities, and household hazardous waste programs. To verify this element, the auditor will speak both to site personnel and references provided by the site including a community citizen group, a tribal or local regulator, and other references such as an emergency management official.

Table 9: Community Environmental Activity - Leader Level Only

Element	Document Review	Interview	Observation
<i>Facility is an active partner in at least one community outreach activity.</i>		/	
<i>Activity meets a local, priority environmental need.</i>		/	
<i>The community has been involved in identifying the local environmental needs</i>		/	
<i>Activity is appropriate in size, resources, expertise of the organization.</i>		/	

CHAPTER 5. AUDITOR DECISION GUIDANCE

5.1 Potential Outcomes

There are three potential outcomes of the audit:

- Approval
- Conditionally Approvable; and
- Denial

Conditionally approvable means that once a site fixes the specified non-conformances the site will be approved.

5.2 Conditions for Approval or Denial

Sites will be approved, deemed conditionally approvable, or denied based on the level of non-conformances. Major non-conformances will result in denial. Moderate non-conformances will allow for the possibility of conditional approval. Minor non-conformances will allow for approval. Definitions of these are provided in the following section; however, specific examples are also provided as directly relevant to the TCEQ standards. Examples have not been provided for all scenarios, so the auditor should use both of the following sections as guidance.

5.3 Definition of Non-Conformances

Minor non-conformance is one that, when taken by itself, does not indicate a systematic problem with the EMS. It is typically a random or isolated incident. Minor non-conformances involve discrepancies with the EMS that would only have insignificant affects on compliance assurance or improvement in environmental performance. Examples of insignificant compliance issues would include minor violations as defined by the compliance history rules. Examples of insignificant issues with relation to environmental performance would include regulated areas that are very low in significance at the site level.

Moderate non-conformance occurs when one or more elements of the EMS is only marginally addressed; and correction of this non-conformance can be addressed with minimal organizational, operational, or technical change and within a reasonable time-frame (roughly within 120 days). Moderate non-conformances will not include outcomes that result in significant non-compliance or unaddressed significant environmental impact.

Major non-conformance occurs when one or more elements of the EMS has not been adequately addressed. A major nonconformance can also exist when the EMS is not assuring compliance with significant environmental requirements or not addressing significant environmental impacts. Significant compliance issues would include major violations as defined by the compliance history rules. Significant environmental performance issues would include an EMS that does not address and show progress towards reducing the significant environmental impact at the site.

5.4. Relationship of Non-Conformances to Approval Decisions

Sites with one or more major non-conformances will not be approved. Sites with moderate non-conformances will, at the auditor’s discretion, either be denied approval or deemed conditionally approvable, based on the auditee’s ability and intention to address the non-conformance. Sites with minor non-conformances will be approved.

5.5 Audit Decision Matrix

An overview of conditions for reaching each of these outcomes is provided in Table 10. Not all non-conformances have been included as each situation is unique; however, key non-conformances envisioned by the TCEQ are included. The main theme to keep in mind is the relation of the following key elements:

- Aspect identification and prioritization
- Goal setting reflective of significance; and
- Achievement of goals

Achievement of goals should cover compliance assurance and continuous improvement in environmental performance. The latter includes both actual reductions in pollution or impact on the environment, and potential reductions in pollution and impact through liability management. If the auditor finds evidence of lack of compliance assurance, lack of environmental performance, or lack of mitigating significant liability, these are all key reasons to deny approval -- and are probably the most important issues for the auditor to focus on.

Table 10: Examples of Reasons for Approval, Conditional Approval or Denial

Elements	Approval	Conditionally Approval	Denial
Policy	PManagement commitment is evident PWritten policy in place that includes required elements	PPolicy is marginally communicated PMarginal demonstration of management commitment	PNo policy in place PPolicy not communicated to employees PNo management involvement
Aspects	PAccurately identified and documented PEmergency and non-routine situations included	PAspects not kept up to date	PSignificant aspects not identified PEmergency and non-routine situations not included
Prioritization	PBased on significance of environmental impact	PNot kept up to date	PNot based on significance of environmental impact

Goals	<p>PAddress both continuous improvement in environmental performance (impact) and compliance</p> <p>PReflects prioritization including potential liabilities</p> <p>PSome goals go beyond legal requirements</p>	<p>PGoals are not measurable or do not have clear start and end dates</p> <p>PGoals not sufficiently supported by means to achieve</p>	<p>PGoals do not address both continuous improvement in environmental performance and compliance assurance</p> <p>PGoals do not reflect environmental impact.</p>
Responsibility	<p>PResponsibility clearly assigned for all EMS elements</p> <p>PImplementation of responsibilities appropriate to EMS goals and results achievement</p>	<p>PResources and authority not consistent with assignments</p> <p>PIncomplete incorporation of responsibility into existing systems</p> <p>PMarginal fulfillment of responsibilities assigned</p>	<p>PResponsibility not assigned</p> <p>PResponsibility assigned but consistently not fulfilled</p>
Documentation	<p>PClear documentation of results</p> <p>PImplementation procedures sufficient to achieve EMS goals are documented and communicated appropriately</p>	<p>PDocumentation is not entirely clear, lacks start and end times, measurements are questionable</p> <p>PNon-routine (infrequent) measurement</p> <p>PIncomplete documentation of implementation procedures, or marginal communication</p>	<p>PResults not documented</p> <p>PProcedures necessary for ensuring compliance and environmental performance are consistently not documented</p>
Evaluation	<p>PEMS has been through one cycle</p> <p>PEvaluation routinely conducted</p> <p>PResults are incorporated into plans</p> <p>PDemonstrates attainment of goals, including compliance assurance, mitigation of liabilities associated with aspects identified, and environmental performance¹- some achievement must go beyond legal requirements</p>	<p>PMarginal achievement of goals</p> <p>PEvaluations are only marginally conducted, or not well documented</p>	<p>PNo progress in goals (compliance not maintained/enhanced, no mitigation of liability, no reduction in impact)</p> <p>PNo reductions in pollution or waste beyond that required by rule</p>
Stakeholder Involvement - Leader Level Only	<p>PCommunity concerns identified in open process and responded to in a timely fashion</p> <p>PIinformation about EMS made public</p>	<p>PIStakeholder involvement is in place but shows inconsistency in participation or is not entirely timely</p>	<p>PINo active stakeholder process.</p>

<p>Community Environmental Activity - Leader Level Only</p>	<p><i>PFacility plays an active role in community outreach activity that meets a local, priority environmental need, that has been defined with community input. PThe activity is appropriate to size of facility</i></p>	<p><i>PFacility plays a small role in community outreach, or activity does not address local environmental need, or lacks community participation.</i></p>	<p><i>PNo community environmental outreach.</i></p>
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