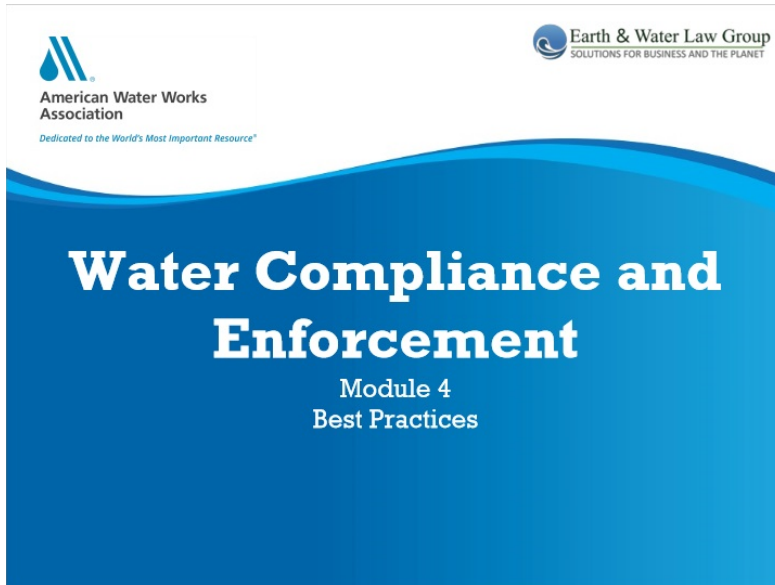


Water Compliance and Enforcement – Module 4

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1.1 Best Practices



Notes:

In our earlier modules we talked about the legal foundations and requirements of our water laws, how the government can enforce against non-compliance, and actual cases that demonstrate the government's authorities and priorities. In our final module we'll look at how you can apply these lessons and identify and establish best practices to maintain compliance at your facility and operate at the top of your profession.

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1.2 Purpose

Purpose

- Recognize the best compliance practices
- Understand how to implement them in your operations **and** maintain that approach over time



Notes:

The purpose of the module is to first recognize what these best compliance practices are, apply them to your work and then look beyond the systems and checklists to the “people and mission” aspect of your work - all to elevate your performance and that of your organization.

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1.3 Learning Objectives

Learning Objectives

- Identify your specific compliance risks
- Recognize risks beyond regulation
- Understand strategies to manage your risk
- Recognize how to implement best practices and sustain compliance



Notes:

Our objectives are to understand the compliance risk landscape and help you craft a risk inventory for your duties, identify some of the emerging risks and trends - outside of direct government oversight, and recognize strategies to remain compliant. Lastly, we will lay out the importance of the “human factor” in all that you and your colleagues do and how engagement with people - outside of “systems” - can help you sustain compliance and safety in your organization.

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1.4 Agenda

Agenda

- Identifying the key compliance incidents and opportunities in the water sector
- Learning about key compliance tools
- Recognizing the importance of change in the water sector – and staying on top of it
- Applying strategies to enhance and maintain compliance in your work



Notes:

As indicated, we'll start with the key risk factors, then talk about some changes outside of government regulation to be aware of, move to the tools and best practices you can apply to stay ahead of the compliance curve, and finish up talking about the critical nature of what I'll call the "people side" of the job.

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1.5 Where are your opportunities and obligations to comply every day?

Where are your opportunities and obligations to comply every day?

- Sampling events
- Ensuring valid permits and licenses
- Up to date operator certifications
- Proper documentation and chain of custody
- Accurate record keeping and reporting



Notes:

The first step in building a strong compliance program is to identify the opportunities for compliance that take place in your job every day and assess your capabilities and track record in meeting those obligations.

And, while it is easy and understandable to fall into a pattern where routine operations appear mundane and not always critical, it's important to look at these everyday activities in the context of what I'd call your compliance and risk inventory.

While these required activities are designed to ensure compliance with the law and safe operations, they also entail risk - when not done properly. You can start by first identifying all those routine and required activities that support your efforts and requirements to comply with the law. You can think of these as "compliance points." These include sampling, ensuring valid permits are in place, maintaining operator certifications, confirming procedures, ensuring chain of custody documents are completed appropriately and always focusing on accurate reporting. These are some of the basics of your compliance and risk inventory.

Simply begin to take a more *routine* look at what are your *routine* operations and activities. Doing so can make a real difference in your organization's compliance and effectiveness.

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1.6 When things don't go as planned...

When things don't go as planned...

- Managing permit exceedances
- Notifications of reportable incidents or operational changes
- Notification of spills oil discharges
- Identifying improper or lapsed operator certifications



Notes:

And beyond the routine duties, there are times when unanticipated events occur. The water sector is no exception that rule.

You are often dealing with a fluctuating process, equipment that may not always be adequate, uncertain inputs, and the human factor. Things will not always run smoothly, so a critical part of your compliance readiness includes assessing how you are prepared to react to the non-routine events. These include potential permit exceedances, unforeseen incidents that may require reporting, actual unpermitted discharges to a water way or the surrounding environment, and instances when you learn that you or your colleagues may not have the up to date or appropriate certifications. Certain unpermitted discharges or releases may need to be reported to the National Response Center, run by the U.S. Coast Guard, so it is important to understand ahead of time what types of releases from your facility could fall into that category and establish reporting protocols ahead of time.

These incidents can range from modest corrections to full blown environmental responses. The critical thing to do though, is to document the possibilities of such potential occurrences ahead of time as part of your standard operating procedures. And beyond just understanding such incidents may occur, you need to also identify the correct response actions. The basis of those responses should be reacting in an honest, timely, and accurate manner that focuses on safety and environmental protection if the issue merits it. When external drivers endanger or overwhelm operations, you should follow a pre-established emergency response plan.

We'll talk a bit more in an upcoming slide about what should go into preparing for the unexpected.

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1.7 Knowledge Checkpoint

(Multiple Choice, 10 points, 3 attempts permitted)

Knowledge Checkpoint

Your compliance and risk inventory can include:

- Ensuring sampling protocols are followed
- Ensuring the public is notified of permit renewals
- Understanding the rate structure customers pay
- Expediting treatment chemical purchases



Correct	Choice
X	Ensuring sampling protocols are followed
	Ensuring the public is notified of permit renewals
	Understanding the rate structure customers pay
	Expediting treatment chemical purchases

Feedback when correct:

That's right! You selected the correct response.

Feedback when incorrect:

You did not select the correct response.

Notes:

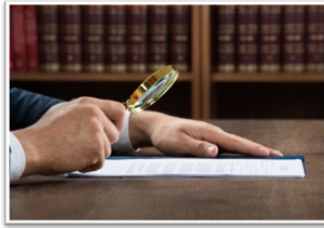
Let's pause and check in on what we've learned thus far. A is correct, and although B, C, and D can be relevant, they don't fall squarely into your compliance and risk inventory when it comes to either enforcement scrutiny or overall environmental compliance.

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1.8 Focusing beyond traditional regulations

Focusing beyond traditional regulations

- Transparency and data availability
- Electronic reporting and posting of data
- Public expectations and scrutiny
- Non-governmental oversight
- Emerging contaminants and threats
- State and local regulation and priorities



Notes:

Now, let's take a step back and expand your lens about enforcement and compliance risk. (Remember, the more you know, then the better prepared you should be...)

So, it's important to first remind yourself that regulatory compliance is the **minimum level** of performance that is acceptable, and risk begins to accrue when operations are not performing at an optimal level. And, it would be nice if your risk was focused exclusively on current laws and regulations - and overwhelmingly it is. But, to really build a robust approach to compliance you need to widen your view a bit further. Today, and historically, your "audience" for compliance includes the public - and the tools to evaluate your performance are expanding.

In years past, you and your colleagues completed reports on paper and likely mailed them in or more recently sent them via an electronic portal. Today, with advances in transparency, data science, and electronic reporting rules, your data is far more accessible to the public and outside groups than it was years ago. And remember, your environmental reporting (with discreet exceptions related to homeland security matters) is and always has been available to the public. It is just a lot easier to access with changes in technology and regulations mandating electronic reporting.

The ability to also apply advanced data tools to this information has also increased dramatically. The days of sending out a freedom of information act request to get water compliance data and then poring over those paper records is coming to a close. Statistical modeling can help assess trends and even accuracy of data that is reported, and both government regulators and non-governmental organizations are beginning to apply

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these techniques. It is simply one more reason to focus on accurate reporting as your work and performance is under more scrutiny than ever.

You are also likely aware that public expectations for compliance and protection of public health and the environment continue to grow. And within that growing awareness is concern about emerging water contaminants - many of which may not currently be regulated. It is important for you and your utility to begin to think about the impact of these emerging issues and factor in how you should respond. There is not an easy, one size fits all, answer to this issue, but at a minimum you need to begin to think about the appropriate way you and your facility should assess this area - even as regulation remains relatively stable.

And, as we discussed earlier, state and local regulation can indeed be more stringent than federal regulation. A critical element of an up to date risk inventory is staying on top of new regulation and mandates at those levels of government.

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1.9 Management of Change

Management of Change (MOC)

- New processes = time to intently focus
- New inputs impact operations
- Create a checklist for managing change
- Coordinate efforts across the organization
- Assess permit implications
- Integration of new facilities and systems



Notes:

Management of change or “MOC” is one of those terms that you may hear about, but what it actually means may be unclear. Let’s try and unpack this concept a bit and let you know how this term applies to your work ensuring compliance. The first lesson is that changes in treatment likely require permit modifications that require approval. The best thing to do when contemplating such a change is to first reach out to your regulator and discuss the issue before proceeding.

With that primary rule in mind, it is important to remember that change occurs all around us, and that means you need to evaluate how changes that impact your operations can impact compliance. These may involve new inputs to your water facility such as new industrial connections to a wastewater treatment facility or changes in source water that require new treatment approaches at your drinking water plant. These changes, which may be relatively constant mean you need to consistently evaluate how these new inputs impact your operations. That may mean additional treatment chemicals or processes must be used to properly treat the water so that the discharge in turn meets permit limits or drinking water meets applicable standards.

It is worth building processes and plans, so you are prepared to manage the change your operations will routinely face. This may be a straightforward one-page check list to assess the new inputs, effect on operations and potential impacts on your permit limitations.

Another critical area to focus on is when new operations come on line, or you are taking over a new facility through consolidation or acquisition. Different organizations have different compliance systems and often different management cultures. If you are participating in such change, this is a critical time to assess and integrate your operations. These types of events and mergers are a time for heightened vigilance when it comes to compliance and MOC is particularly important in such circumstances.

It simply starts with knowing change will occur and then establishing processes ahead of time to effectively manage that change and stay ahead of issues that can impact your compliance. And going back to our first principle of change, **any significant changes that will impact your compliance, should involve engagement with regulators** for possible permit modifications.

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1.10 Your compliance tools

Your Compliance Tools

- Clarity of expectations
- Checklists and SOPs across tasks
- Staying updated to what is new
- Reporting and response protocols
- External assessments of your operations
- Internal oversight within your team



Notes:

Now, let's drill down into some of the detailed steps you can take to ensure compliance - elements that could be embedded in your EMS or management of change plans.

First and foremost, clarity of expectations should be a priority. In both word and practice, compliance with the law needs to be front and center. Yes, that sounds basic, but you and your colleagues need to be clear about that every day.

To put your compliance ethic into motion, you ideally want to keep things simple and straight forward. Checklists (ideally one page) and standard operating procedures for routine compliance tasks should be developed and implemented.

Included in these documents should be a plan on reporting protocols for both planned and unplanned events. That of course includes clear instructions on what initial steps to take in an emergency situation or during a significant operational event such as an unanticipated release into a waterway. The steps may include notifying first responders, environmental regulators or even the national response center through the Coast Guard which documents certain releases as required by law.

It is also wise to formally and informally have outsiders or co-workers evaluate your compliance practices, processes, and strategies for maintaining compliance. This could be a detailed environmental audit that is completed every few years as well as brief "check ins" with your colleagues who take a look at how you are doing. One of the chief weaknesses in organizations is when they operate "one person deep" without adequate oversight. Spreading responsibility and ensuring adequate supervision or peer review of compliance tasks is a relatively straightforward practice that can pay large dividends. And if you, identify potential violations, your obligation is to ensure that they are reported accurately. You should be certain that relevant information is reported up through your chain of command and to the regulators as needed.

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1.11 Best Practices

Best Practices

- Participate in ongoing EHS training
- Maintain compliance documents on site
- Engage in external outreach to regulators
- Establish relationships with local responders
- Use of a compliance hotline to report issues



Notes:

Mastering your craft as an operator or manager also involves continuous improvement. That means engaging in ongoing environmental health and safety training as well as relevant technical training. Make it a commitment to engage in this continuing education as processes, regulations, and even public expectations change. And to be ready for regulators, day to day activities, and even responses, you should have relevant compliance documents on site and accessible.

It's also wise to establish relationships with your regulators and local responders ahead of when they may arrive related to an inspection or even emergency. This simply creates a more effective working dynamic, and you should look at these groups as partners and not adversaries. You may find they rely on your insights and expertise as much as you do with them. And part of continuous improvement is asking routinely what you and your team can do better. This doesn't have to be an arduous process - even consciously setting aside a few minutes each week to review events and discuss potential changes can pay off.

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1.12 Learning from non-compliance

Learning from non-compliance

- Did you conduct a post event review?
- Was non-compliance “avoidable?”
- Were SOPs followed?
- Was data appropriately reported?
- Were training deficiencies identified?
- Getting better = learning from incidents



Notes:

And, if there is a compliance or operational incident use the time afterward to learn from it. Post incident reviews are not just a time to fix the problem for the future but also to learn and get better. Ask if the event in question was avoidable, and if it was what led to it happening. Were your standard operating procedures (or SOPs) followed and was data appropriately reported. Some of the answers may indicate that training needs to be increased or modified, or in some rare instances disciplinary action may need to be taken.

Quite simply, getting better requires learning from mistakes or other unforeseen incidents.

1.13 A positive culture of compliance

A Positive Culture of Compliance

- First focus is people and trust
- Embrace the ethic of service
- Accountability is foundational to service
- Consider:
 - skip level meetings
 - emphasis on profession's mission focus
 - hotline and avenues to elevate issues



Notes:

Systems are critical to success, including having clear check lists, solid standard operating procedures and emergency response plans. Understanding the law and parameters you work under is also critical. But at the end of the day, they are no substitute for capable, honest, and collegial people who operate with integrity. Building a culture of compliance starts with focusing on you and your colleagues and establishing clear expectations about conduct, creating the operating ethic that honesty and accuracy are non-negotiable, and encouraging an environment where concerns of retaliation or inappropriate pressure is non-existent.

It is also important to embrace the mission of protecting the public and the environment which is what water operators and managers do every day. Part of the responsibility of protecting the public, includes accountability. You should embrace being accountable as should your colleagues.

But there are practices you can put in place, and should encourage, that will support this culture of compliance. Among those are skip level meetings - if there is enough staff to have multiple levels. A skip level meeting is essentially an opportunity to raise concerns beyond your immediate supervisor to a level above that supervisor. In a number of enforcement cases, operators felt undue pressure from their immediate supervisors, and didn't feel they could **not** follow through on instructions that may be unwise or inappropriate. Most successful organizations have some type of skip level meeting apparatus established so someone with serious concerns can elevate them above an immediate supervisor in critical situations. This is rarely used, but if that option is present it can serve as a critical relief valve in contentious situations. And even if there is not a formal skip level process in place, and you believe you have been given a directive that would lead to non-compliance with the law, you should elevate that concern in a timely manner.

In certain organizations hotlines have been also established where inappropriate pressure, good ideas, or even misconduct can be reported - ideally before the consequences of that pressure plays out in the form of violative behavior.

Look to build and set the example for a capable and positive workforce that embraces its mission of serving the public - and also look to establish the relief valves in your organization so difficult situations can be resolved before serious problems arise.

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1.14 Scenario: You work at a facility that has experienced a series of avoidable permit violations and are frustrated that management directly above you is aware of, but has not reported accurately. What should you do first? (Multiple Choice, 10 points, 3 attempts permitted)

Scenario: You work at a facility that has experienced a series of avoidable permit violations and are frustrated that management directly above you is aware of, but has not reported accurately.

What should you do first?

- Elevate the issues quickly to higher management levels if your valid concerns have not been addressed by your immediate supervisor.
- Report it to your immediate supervisor as you have done. Under the chain of responsibility that is the appropriate avenue to follow up on the matter.
- If they were not major violations, disregard and defer to your immediate supervisor.

Correct	Choice
X	Elevate the issues quickly to higher management levels if your valid concerns have not been addressed by your immediate supervisor.
	Report it to your immediate supervisor as you have done. Under the chain of responsibility that is the appropriate avenue to follow up on the matter.
	If they were not major violations, disregard and defer to your immediate supervisor.

Feedback when correct:

That's right! You selected the correct response.

Feedback when incorrect:

You did not select the correct response.

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1.15 Assessing Readiness

Assessing Readiness

Answer: You work at a facility that has experienced a series of avoidable permit violations and are frustrated that management directly above you is aware of, but has not reported accurately

What steps should you take as the operator to meet your compliance obligations?

- a. Elevate the issues quickly to higher management levels if your valid concerns have not been addressed by your immediate supervisor.
 - Remember, you are both serving the public and can be legally held responsible for such violations. Your obligation is to be truthful and depending on the circumstances you may need to directly report the conduct to your regulators.
- b. Report it to your immediate supervisor as you have done. Under the chain of responsibility that is the appropriate avenue to follow up on the matter.
- c. If they were not major violations, disregard and defer to your immediate supervisor.

Notes:

In a situation where you become aware that permit violations are not reported, you need to speak up, and you should never put yourself in a position of turning a blind eye to non-compliance. Your duty is to comply with the law - even if elevating a matter is uncomfortable, that is generally the correct course of action. And at times that may mean raising concerns above your direct supervisor to ensure a compliance matter is addressed.

So in this case, A is correct.

1.16 Summary

Summary

- Create a robust compliance and risk inventory
- Identify significant emerging trends
- Implement best practices – including MOC processes and EMS
- Train, learn, communicate and embrace accountability



Notes:

The first step in applying the best compliance tools is to understand the risks you face and the requirements you must meet. This compliance risk inventory can serve as the foundation of your efforts to understand what you must do and what you may need to improve upon. Then you can overlay the new factors that are important to your work outside of the government regulatory structure such as public concerns and increased transparency.

When your robust inventory is completed, then you can apply the best practices such as implementing an established EMS and MOC process. (You'll see some links at the end of this presentation if you'd like to learn more about those issues and programs.) And within these broader plans look at the basics of continued improvement, peer review of your and your colleagues' work, and when in doubt elevate concerns that you believe are not receiving adequate attention.

And finally, embrace accountability and the responsibility you carry in your role providing clean and safe water for your communities. When you look at your position as one of public service upholding the trust placed in you, the decisions to train, learn, and take on challenging situations simply become the right thing to do as a professional.

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1.17 Resources

Resources

For more information visit:

EPA's resources on compliance

- <https://www.epa.gov/compliance>

The Coast Guard's National Response Center


- <http://www.nrc.uscg.mil>

EPA's resources on environmental management systems

- <https://www.epa.gov/ems/learn-about-environmental-management-systems#what-is-an-EMS>

Notes:

1.18 Closing

You have finished this module.
Click the  in the upper right corner to go back to the main course page.



Notes:

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