

those violations within the same 180 days or include, as part of the EMS agreement it enters into with the State, a written and enforceable agreement that establishes a schedule to correct the violations in accordance with the usual terms of this policy.

As part of its schedule, the EMS agreement will include a deadline, not later than one year after entry into the agreement, for the local government's submission to the State of its EMS manual (*see* element 9, below), and a commitment to ensure the performance of an EMS audit not less than one year and not more than three years after the submission of its EMS manual (*see* element 16, below). The EMS manual must contain policies, procedures, and standards explaining and showing how the small local government's EMS conforms to and will accomplish these essential elements of an EMS:

1. *Environmental policy*—The local government must develop a statement of its commitment to environmental excellence and use this statement as a framework for planning and action.

2. *Environmental aspects*—The local government must identify which of its activities, products, and services have impacts on the environment and what those impacts are.

3. *Legal and other requirements*—The local government must identify the environmental laws and regulations that apply to its operations.

4. *Objectives and targets*—The local government must establish goals for its operations that are consistent with its environmental policy, that will eliminate the gap between the local government's current procedures and an accepted EMS framework, and that will reduce the environmental impacts of its operations.

5. *Environmental management program*—The local government must plan specific actions that will achieve its objectives and targets.

6. *Structure and responsibility*—The local government will establish roles and responsibilities for staff and management to implement the environmental management system, and provide adequate resources.

7. *Training, awareness and competence*—The local government will have a plan to ensure its employees are trained and capable of carrying out their environmental responsibilities.

8. *Communication*—The local government will establish a process for internal and external communications on environmental management issues.

9. *EMS documentation*—The local government will maintain information both on its environmental management system and necessary for its operation.

As part of this effort, the local government prepare an EMS manual that contains the policies, procedures, and standards explaining and showing how the local government's EMS conforms to and will accomplish the essential EMS elements. In accordance with the schedule established by its EMS agreement, and in no event later than one year after entering into the EMS agreement, the local government will submit a copy of its EMS manual to the State as proof that the local government has developed an EMS.

10. *Document control*—The local government will establish a system to ensure effective management of documents related to the EMS and to environmental activities.

11. *Operational control*—The local government will establish a system to identify, plan, and manage its operations consistent with its objectives and targets.

12. *Emergency preparedness and response*—The local government will identify potential emergencies with environmental impacts and develop procedures for preventing them and for responding to them if unprevented.

13. *Monitoring and measurement*—The local government will monitor key EMS activities and track performance. One periodic measure will be an assessment of compliance with legal requirements.

14. *Nonconformance and corrective and preventative action*—The local government will identify and correct deviations from its EMS, and take actions to prevent their recurrence.

15. *Records*—The local government will maintain and manage records of EMS performance.

16. *EMS audit*—Not less than one year, and not more than three years after the local government submits its EMS manual to the State, the State, or an independent third approved by the State, will conduct an EMS audit to confirm that a local government has been and is continuing to implement its EMS.

17. *Management review*—The local government must provide for periodic review of its EMS by local government management, with the goal of continual improvement of both the system and environmental performance.

A fuller explanation of these 17 essential elements and of the EMS process can be found in *Environmental Management Systems: An Implementation Guide for Small and Medium-Sized Organizations* (EPA Document Number EPA 832-B-01-001; available electronically at www.epa.gov/OW-OWM.html/iso14001/ems2001final.pdf). Additional guidance

and information regarding how to obtain assistance from a local EMS resource center can be found at www.peercenter.net.

During the development and implementation of its EMS, the small local government may discover violations that were unknown to it at the time of its entry into the EMS agreement with the State. Such violations must be disclosed to the State as required by regulations or in accordance with EPA self-disclosure policies. The small local government and the State may agree to modify the terms of the terms of the agreement and schedule to incorporate correction of these violations. The small local government and the State may also to consider discovery of additional violations a separate event that can be resolved in any manner consistent with the terms of this policy and EPA enforcement policies and guidelines. An assessment of whether or not the local government has corrected all discovered violations as expeditiously as practicable in order of risk-based priority should be part of the EMS audit.

K. What Are the Limits on EPA Deference?

EPA reserves all of its enforcement authorities. EPA will generally defer to a State's exercise of its enforcement discretion in accordance with this policy, except that EPA may require immediate with respect to any violation or circumstance that may present an imminent and substantial endangerment to, has caused or is causing actual serious harm to, or presents a serious threat to, public health, welfare, or the environment.⁶

The *Small Local Governments Compliance Assistance Policy* does not apply if, in EPA's judgment:

- A State's small local government environmental compliance assistance program process fails to satisfy the adequacy criteria stated above; or
- A State's application of its small local government environmental compliance assistance program process fails, in a specific case, to provide adequate protection to public health and the environment because it neither

⁶ EPA will regard as a matter of national significance any violation or circumstance that may present an imminent and substantial endangerment to, has caused or is causing actual serious harm to, or presents a serious threat to, public health, welfare, or the environment that is left unaddressed by a small local government participating in a State environmental compliance assistance program. Such circumstances require consultation with or the concurrence of, as appropriate, the Assistant Administrator for Enforcement and Compliance Assurance or his or her delegatee before initiation of an EPA enforcement response.