

Management of Change — Improving or Undermining your Environmental Compliance

Have you ever been notified that an inspector from an environmental regulatory agency is planning a Title V inspection of your facility only to realize that you cannot locate all of the records necessary to demonstrate compliance with the facility's Title V Operating Permit? Or have you ever missed a permit renewal deadline because your environmental, health, and safety ("EHS") manager left the company and did not inform appropriate personnel of upcoming deadlines before his or her departure? How about discovering that an incident has occurred at your facility because operating procedures have not been updated to reflect proper operation of new equipment?

Management of change ("MOC") can make or break your compliance efforts and your budget. Change comes from turnover of personnel and changes in operation, such as changes to equipment and processes. Lack of MOC policies and procedures can lead to significant gaps in compliance that, if not identified and managed, can "snowball." For example, a facility can quickly become out of compliance with its air permit if a storage tank is added on site or a compressor engine is replaced with a larger model. Another example is when an employee who has handled operations and managed compliance for decades leaves, taking with him or her the institutional knowledge of where records are kept, who is due for which training, and when a permit needs to be modified to address an upcoming change to the facility or its operations. If forced to cease operation until the compliance issues are resolved, a facility may fail to fulfill production commitments, not to mention expend resources and incur costs, such as consultant and attorney fees, often necessary to defend the alleged violations in agency enforcement actions. Further, regulatory programs such as stormwater permitting, spill prevention, control, and countermeasure ("SPCC") planning, and Clean Air Act risk management planning ("RMP") require regular review and updating of those plans to incorporate changes to the facility. Many environmental regulatory programs also require regular training of personnel. To be managed effectively, these requirements and the company's standard operating procedures should be incorporated into an MOC program that triggers timely engagement of appropriate EHS personnel to assure compliance.

MOC in the context of environmental compliance involves documented systems, processes, procedures, calendaring, and assignment of responsibility to appropriate personnel to ensure that compliance is maintained despite unexpected (or expected) changes to personnel, facilities, or method of operation. On the personnel side, it is critical to ensure that multiple individuals within various levels of the company — from field or plant



operations to managers and corporate compliance officers — are aware of the location of records and of upcoming regulatory deadlines. A central compliance calendar is a critical tool.

Reorganization of a company or acquisition of new assets are two events when MOC can be particularly important. Significant gaps in compliance can be avoided if a company is mindful of the upcoming changes, reviews current environmental management efforts, identifies needs for transitioning and/or improving these efforts, and plans for these types of transitions. Another time when it makes sense to address MOC is when the company conducts an internal self-audit. For example, once applicable regulatory requirements and gaps in compliance are documented, a company can develop and then put into practice the standard operating procedures, checklists, calendaring of permitting and other regulatory deadlines, assignment of personnel responsible for compliance tasks, and other systems necessary to manage compliance obligations and thereby avoid recurrence of the issues that have been identified during the audit.

Development of an MOC program may sound like a lot of work, and it is, particularly on the front end. The resources and effort necessary to develop an MOC program can seem daunting. But once in place and if regularly reviewed and updated, the standard operating procedures, checklists, and calendaring of regulatory deadlines to manage change will make maintaining compliance more efficient and sustainable. Such safeguards will also minimize the risk of noncompliance and save the company time and money going forward. ✨

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