

# Risk-based licensing

# Environmental management systems guidelines

April 2020

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# Introduction

## 1.1. About this document

This guideline has been developed by the NSW Environment Protection Authority (EPA) to assist holders of environment protection licences to answer questions 1 to 11 in Section G of their Annual Return. These questions need to be answered when a licence holder has an environmental management system (EMS) certified to ISO 14001: 2015 or does not have an EMS or any other demonstrated equivalent system in place.

This document should be read in conjunction with the *Environmental Management Calculation Protocol* which sets out the matters and methods the EPA will use to determine the environmental management category (EMC) allocated to holders of licences issued under the *Protection of the Environment Operations Act 1997*.

## 1.2. Overview of the environmental management category

The EMC is calculated for a licence by considering the environmental management performance of the licensee at the licenced premises. The EPA will take into account:

- a licensee's environmental performance
- the regulatory actions the EPA has taken
- environmental management systems and practices the licensee has in place and
- environmental improvement programs.

Based on this assessment a licensee will be allocated an environmental management category: A, B, C, D or E for each licence.

## 1.3. Licensee environment management systems and practices

Where a licensee has implemented environmental management systems and practices for a licensed activity they will receive a reduction from their total environmental management score. The score reduction for environmental management systems and practices form one component of the total environmental management score reduction.

The EPA will consider whether a non-certified EMS is an equivalent EMS, on a case by case basis. To determine if a non-certified EMS is considered an equivalent EMS, contact your local EPA regional office. An equivalent EMS would need to be equal to or substantially comparable to a certified ISO 14001- 2015 (ISO 14001) EMS in terms of accountability, procedures, documentation and record keeping requirements.

Licensees who have an ISO 14001 certified EMS or any system that the EPA considers is equivalent can receive a reduction to the environmental management score of up to 80 points if the licensee has conformed to their EMS or has rectified all environmental related nonconformances with the EMS. Reductions of up to 60 points apply if nonconformances have not been rectified.

To receive a reduction to the environmental management score for having a certified EMS, licensees must be able to provide documented evidence. Table 1 provides examples of the types of documented evidence that may be required. Licensees do not have to submit the listed documentation with the annual return, however the licensee is required to produce this documentation to any authorised officer of the EPA who asks to see it.

Licensees that do not have an EMS certified to ISO 14001 or any other demonstrated equivalent system in place can receive a reduction in the total environmental management score of up to 60 points for demonstrating management practices and activities that are considered to be equivalent to components of an EMS.

To receive a reduction to the environmental management score for having the components of an EMS licensees must have documented practices and procedures in place. Table 2 provides examples of the types of documented evidence that may be required by the EPA if you answer 'yes' to these questions.

Please note that it is an offence to supply any information in the Annual Return that is false or misleading in a material respect, or to certify a statement that is false or misleading in a material respect. There is a maximum penalty of \$250,000 for a corporation or \$120,000 for an individual.

**Table 1: Audit evidence required to be provided to the EPA for a certified EMS (Question 1 to 4) to be eligible for a reduction to the environmental management score**

Note that you do not need to submit this documentation with the Annual Return. However, you need to consider whether you meet the requirements

Annual return questions relating to certified EMSs	Considerations
<p>1. Do you hold an ISO 14001 certified environmental management system (EMS), or any other system that the EPA considers is equivalent, for the premises that was valid during the Annual Return period?</p>	<p><b>1. Does the certification relate to all scheduled and ancillary activities undertaken at the licensed premises?</b></p> <p>a. Discounts only apply for certifications with adequate detail that cover all licensed activities at the premises.</p> <p><b>2. Is the certification held by the licensee, a contractor working for the licensee or a joint venture partner?</b></p> <p>a. The EPA will only consider EMS certifications that are held by contractors and/or joint venture partners if the licensee can provide evidence that:</p> <ul style="list-style-type: none"> <li>i. All licensed activities are covered by the certificate, and</li> <li>ii. Staff responsible for administering the requirements of the licence are ‘covered’ by the EMS, i.e. they are adequately trained and aware of their responsibilities within the EMS. In particular, all persons working on the premises on behalf of the licensee, contractor or joint venture partner are aware of: <ul style="list-style-type: none"> <li>A. the importance of conforming to the environmental policy and the requirements of the EMS;</li> <li>B. their role and responsibility within the EMS;</li> <li>C. the significant actual or potential environmental aspects and associated impacts of their work activities;</li> <li>D. benefits of improved performance; and</li> <li>E. the consequences of the departure from applicable EMS requirements.</li> </ul> </li> </ul> <p><b>3. Do you have the following certification documents?</b></p> <p>a. If asked to do so, the licensee must produce to any authorised officer of the EPA a certification document that clearly identifies the following (ISO 17021-1:2015, Clause 8.2.2):</p> <ul style="list-style-type: none"> <li>i. the name and geographical location of the certified premises (or the geographical location of the headquarters and any sites within the scope of a multi-site certification);</li> <li>ii. the effective date of granting, expanding or reducing the scope of certification, or renewing certification;</li> <li>iii. the expiry date or recertification due date consistent with the recertification cycle;</li> <li>iv. a unique identification code;</li> <li>v. the management system standard and/or normative document, including indication of issue status (e.g. revision date or number);</li> <li>vi. the scope of certification with respect to the type of activities, products and services as applicable at each site without being misleading or ambiguous;</li> </ul>

**Annual return questions relating to certified EMSs**

**Considerations**

- vii. the name, address and certification mark of the certification body;
- viii. any other information required by the standard and/or other normative document used for certification;
- ix. in the event of issuing any revised certification documents, a means to distinguish the revised documents from any prior obsolete documents.

**4. Is the certification part of an Integrated Management System (IMS) certification?**

- a. If yes, the licensee must demonstrate, that:
  - i. the premises is audited yearly, or is included in the yearly certification or surveillance audit, and
  - ii. all EMS requirements relevant to the premises and the licenced activities are audited during the three-year auditing cycle
  - iii. if the ISO 14001 certification is part of an IMS certification, the points under Annual Return Question 2 on page 6 must also be considered.

**5. Do you have a Multi-Site Organisation certification and undertake multi-site sampling?**

- a. To qualify for “multi-site sampling”, licensees must have a large number of fundamentally similar sites (IAF MD1:2018; ISO 17021:2015) and meet the following requirements:
  - i. Organisation Certification based on sampling of multiple sites is justifiable only when all sites in the sample cover fundamentally similar activities in various geographical locations (ISO 17021-1, Clause 9.1.5).
  - ii. The licensee must provide the sampling program and the documented rationale for the sampling plan.
  - iii. The sampling methodology, including the required size of sample and the time at each site audited must be undertaken in accordance with IAF Mandatory Document for Audit and Certification of a Management System Operated by a Multi-Site Organisation– Issue 2 (IAF MD1:2018) and IAF Determination of Audit Time of Quality and Environmental Management Systems (IAF MD 5:2015).

**6. Are you eligible to claim a discount for an EMS certification based on multi-site sampling?**

- a. To be eligible to claim a discount for an EMS certification based on multi-site sampling, the licensee must demonstrate that:
  - i. All sites included in the sample are performing very similar processes/activities, and the licensee can demonstrate the eligibility of a multi-site certification based on sampling.
  - ii. The licensee can demonstrate that the organisation’s management system is capable of achieving its intended results for all sites involved.
  - iii. The licenced premises is subject to the organisation’s internal audit program and all EMS requirements at the licensed premises are audited at least once a year within the internal audit program.

**Annual return questions relating to certified EMSs**

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- iv. All EMS requirements relevant for the premises have been audited during the three-year certification cycle at the premises.
- v. Where nonconformities were found at any individual site, either through the organisation's internal auditing or from auditing by the certification body, investigations should have been undertaken to determine whether the other sites not audited also may be affected:
  - A. if the organisation has reviewed the nonconformities to determine whether they indicate an overall system deficiency applicable to other sites or not:
    - I. if they were found to do so, corrective action should have been taken and verified both at the particular individual site and at the other affected sites;
    - II. if they have not done so, the organisation should have demonstrated to the certification body the justification for limiting its follow-up corrective action.

**7. Do you have any other system the EPA considers is an equivalent EMS for the premises that was valid during the Annual Return period?**

- a. The EPA will consider whether a non-certified EMS is a demonstrated equivalent EMS, on a case by case basis.
- b. To determine if a non-certified EMS is considered a demonstrated equivalent EMS, contact your local EPA regional office.
- c. A demonstrated equivalent EMS would need to be equal to or substantially comparable to a certified ISO 14001- 2015 EMS in terms of accountability, procedures, documentation and record keeping requirements.

Suggested Reading:

ISO 14004:2016 Environmental management systems – General guidelines on implementation (ISO 14004:2016), Clauses:

7.2 Competence

7.3 Awareness

ISO 17021-1:2015 – Conformity assessment – Requirements for bodies providing audit and certification of management systems – Part 1: Requirements (ISO 17021-1:2015), Clauses:

8.2 Certification documents,

9.1.5 Multi-site sampling

IAF Mandatory Document for Audit and Certification of a Management System Operated by a Multi-Site Organisation– Issue 2 (IAF MD 1:2018)

**Annual return questions relating to certified EMSs**

**Considerations**

2. When was the last certification or surveillance audit, by an accredited certification body, related to environmental issues and relevant to the licensed activities, undertaken at the premises? \_\_/\_\_/\_\_

- 1. Have the licensed activities at the premises been audited by an accredited certification body during the Annual Return period?**
  - a. The licensee can only claim the discount for having a certified EMS for the premises within the Annual Return period, if the licensed activities at the premises have been audited by an accredited certification body during the Annual Return period.
- 2. Have all EMS requirements relevant to the licensed activities at the premises been audited as part of a certification, recertification or surveillance audit by a qualified and registered environmental (lead) auditor within the three-year certification cycle?**
  - a. The licensee must provide evidence that all EMS requirements relevant for the licensed activities at the premises have been audited as part of a certification, recertification or surveillance audit by a qualified and registered environmental (lead) auditor within the three-year certification cycle.
  - b. The licensee may be requested to provide a copy of:
    - i. the audit program for the full certification cycle;
    - ii. the audit plan for the last audit undertaken within the Annual Return period; and
    - iii. the resulting audit reports.
- 3. Is the audit report an accurate, concise and clear record of the audit and does it include all required information?**
  - a. The audit report must provide an accurate, concise and clear record of the audit and must include all required information in accordance with ISO 17021-1, Clause 9.4.8, including:
    - i. identification of the certification body;
    - ii. the name and address of the client and the client's representative;
    - iii. the type of audit (e.g. initial, surveillance or recertification audit or special audits);
    - iv. the audit criteria;
    - v. the audit objectives;
    - vi. the audit scope, particularly identification of the organisational or functional units or processes audited and the time of the audit;
    - vii. any deviation from the audit plan and their reasons;
    - viii. any significant issues impacting on the audit program;
    - ix. identification of the audit team leader, audit team members and any accompanying persons;
    - x. the dates and places where the audit activities (on site or offsite, permanent or temporary sites) were conducted;
    - xi. audit findings (see 9.4.5), reference to evidence and conclusions, consistent with the requirements of the type of audit;

**Annual return questions relating to certified EMSs**

**Considerations**

- xii. significant changes, if any, that affect the management system of the client since the last audit took place;
- xiii. any unresolved issues, if identified;
- xiv. where applicable, whether the audit is combined, joint or integrated;
- xv. a disclaimer statement indicating that auditing is based on a sampling process of the available information;
- xvi. recommendation from the audit team;
- xvii. the audited client is effectively controlling the use of the certification documents and marks, if applicable;
- xviii. verification of effectiveness of taken corrective actions regarding previously identified nonconformities, if applicable.

Suggested Reading:

ISO 17021-1:2015, Clauses:

9.1.3 Audit program

9.2.3 Audit plan

9.4.8 Audit report

IAF Mandatory Document for Audit and Certification of a Management System Operated by a Multi-Site Organisation– Issue 2 (IAF MD 1:2018), Clause:

7.4 Audit Plan

3. Were there any nonconformances identified in the EMS certification or surveillance audit?

**1. Were nonconformances identified for a certified IMS?**

- a. If the licensee has a certified IMS, all nonconformances identified need to be considered as EMS nonconformances, as all nonconformances potentially have implications also on the EMS, such as personnel and contractor competence, documented information and operational planning and control.

**2. Were nonconformances identified for multi-site sampling?**

- a. In case of multi-site sampling, nonconformances identified in any other similar site need to be considered as a nonconformance of the premises, unless the licensee can demonstrate that the nonconformance does not apply for the premises.
- b. The licensee is required to review the nonconformities to determine whether or not they indicated an overall system deficiency applicable to other sites.
  - i. If they are found to do so, corrective action shall be performed and verified both at the central function and at the individual affected sites.
  - ii. If they are not found to do so, the licensee must be able to provide the EPA with the justification given to the certification body for limiting its follow-up corrective actions (see Question 4 below).

Annual return questions relating to certified EMSs	Considerations
	<p>Suggested Reading:                      ISO 17021-1:2015, Clauses:                      9.4.5 Identifying and recording audit findings                      9.4.8 Audit report                      9.4.9 Cause analysis of nonconformities                      9.4.10 Effectiveness of corrections and corrective actions</p> <p>ISO 14004:2016, Clause:                      4.5.3 Nonconformity, corrective action and preventive action</p> <p>IAF MD 1:2018, Clause:                      7.7 Nonconformities and Certification</p>
<p>4. If there were nonconformances identified, were these nonconformances rectified?</p>	<p><b>1. Were the nonconformances adequately rectified?</b></p> <p>a. The licensee must provide evidence that:</p> <ul style="list-style-type: none"> <li>i. all nonconformities identified during the external audit have been investigated to determine the cause;</li> <li>ii. actions have been taken to control and correct all nonconformities;</li> <li>iii. they have dealt with the consequences, including mitigation of adverse environmental impacts;</li> <li>iv. they have evaluated the need for action to eliminate the causes of the nonconformities, to prevent recurrence elsewhere;</li> <li>v. they have implemented any action needed;</li> <li>vi. they have reviewed the effectiveness of any corrective action taken;</li> <li>vii. they have made changes to the EMS, if necessary.</li> </ul> <p>b. The licensee must provide copies of all corrective action reports applicable to the premises, if asked to do so by an EPA officer.</p>
	<p>Suggested Reading:                      ISO 17021-1:2015, Clauses:                      9.4.9 Cause analysis of nonconformities                      9.4.10 Effectiveness of corrections and corrective actions</p> <p>ISO 14004:2016, Clause:                      4.5.3 Nonconformity, corrective action and preventive action</p> <p>IAF MD 1:2018, Clause:                      7.7 Nonconformities and Certification</p>

**Table 2: Examples of the documented evidence that may be required to be produced to the EPA to be eligible for a reduction to the environmental management score for non-certified environmental practices (Question 5 to 11)**

If the licensee does not have an environmental management system certified to ISO 14001 or any other demonstrated equivalent system, the following questions should be answered in relation to any documented environmental practices, procedures and systems in place.

**Note that you do not need to submit this documentation with the Annual Return. However, you need to consider whether you meet the requirements to satisfy a ‘yes’ response.**

Annual Questions	EMC score reduction	Considerations
<p>5. Have you conducted an assessment of your activities and operations to identify the aspects that have a potential to cause environmental impacts and implemented operational controls to address these aspects?</p>	<p>18</p>	<p><b>Environmental Aspects (activities) – elements of an organisation’s activities or products or services that can interact with the environment</b></p> <ul style="list-style-type: none"> <li>a. Have you undertaken a documented environmental review of all your activities, products or services that would apply across the whole organisation?</li> <li>b. Have you identified those environmental aspects associated with your past, ongoing and planned activities, products and services (including normal and abnormal operating conditions) that can be controlled or influenced by your organisation?</li> </ul> <p><b>Environmental Impacts – any change to the environment, whether adverse or beneficial, wholly or partially resulting from an organisation’s environmental aspects</b></p> <ul style="list-style-type: none"> <li>c. Have you identified the environmental impacts of each of the environmental aspects?</li> </ul> <p><b>Determine Significance (potential to cause environmental impacts)</b></p> <ul style="list-style-type: none"> <li>d. Have environmental aspects been assigned a level of significance; considering the scale, severity and duration of the impact, type, size and frequency?</li> </ul> <p><b>Legal Requirements</b></p> <ul style="list-style-type: none"> <li>e. Have procedures been established, implemented and maintained to identify legal requirements related to the environmental aspect?</li> </ul> <p><b>Operational Controls</b></p> <ul style="list-style-type: none"> <li>f. Have you identified and established operational controls for each environmental aspect to ensure compliance with legal requirements?</li> </ul> <p><b>Review and Documentation</b></p> <ul style="list-style-type: none"> <li>g. Have documented procedures been established for setting priorities for management action to address the environmental aspect?</li> <li>h. Are there documented procedures in place to ensure the environmental aspects and impacts are kept up-to-date to allow for operational change?</li> <li>i. Has all the relevant information and decisions been documented in a legible form, for example in a table?</li> </ul>

			<p>Suggested reading:          ISO 14001:2015 Environmental management systems – General guidelines on implementation (ISO 14004:2015), Clauses:          6.2.1 Environmental aspects          6.1.3 Compliance obligations          7.5 Documented information          8.1 Operational planning and control</p>
6. Have you established and implemented an operational maintenance program, including preventative maintenance?	12		<p>a. Has a plan been developed that includes routine (scheduled) operation and maintenance procedures?          b. Does the plan include critical and preventative maintenance?          c. Does the plan include a list and describe the tasks performed, including the frequency and who is responsible for performing those tasks?          d. Does the plan include mechanisms to identify and review outstanding maintenance issues?          e. Are records, including maintenance documentation, systems and procedures used to schedule maintenance and preventative maintenance kept?</p>
			<p>Suggested reading:          ISO 14004:2016, Clause:          8.1 Operational planning and control</p>
7. Do you keep records of regular inspections and maintenance of plant and equipment?	6		<p>a. Has a procedure been established, implemented and maintained, for the storage, protection and retention of records of regular inspections and maintenance of plant and equipment?          b. Are records of regular site inspections kept?          c. Are records of maintenance carried out on plant and equipment kept?          d. Have you ensured that all documents are legible and readily identifiable?</p>
			<p>Suggested reading:          ISO 14001:2015, Clauses:          7.5.3 Control of documented information          8.1.2 Identifying needs for operational controls          8.1.3 Establishing operational controls</p>
8. Do you conduct regular (at least yearly) environmental audits at the premises that are conducted by a competent person?	7		<p>a. Has your organisation established, implemented and maintained a documented procedure to undertake site audits?          b. Are site audits conducted at planned intervals?          c. Do the site audits include an assessment of compliance with environmental legal requirements?</p>

- d. Do the site audits include an assessment against documented environmental practices, procedures and systems?
- e. Is there a procedure for corrective action, review and follow up on issues identified?
- f. Are there processes in place to ensure ongoing compliance and/or conformance with any issues identified?
- g. Are records kept of site audits and results of the evaluation?
- h. Are audits conducted by auditors who have the ability to apply knowledge and skills necessary to achieve the intended results of the audits they are expected to perform?
- i. Are audits conducted by auditors that possess the necessary qualities to enable them to act in accordance with the principles of auditing as described in ISO 19011:2018, Clauses 4 and 7.2.2?

Suggested reading:

ISO 14004:2016, Clauses:

9.1.2 Evaluation of compliance

9.2 Internal audit

AS/NZS ISO 19011:2018 Guidelines for auditing management systems, Clauses:

4 Principles of auditing

7.2 Determining auditor competence to fulfil the needs of the audit program

9. Have you undertaken an environmental audit covering documented environmental practices, procedures and systems in place during the Annual Return period conducted by a third party? 2

- a. Who undertakes the environmental audits?
- b. Are environmental audits undertaken by a third party external to the organisation?

In accordance with ISO 19011:2018, Clause 3.1, external audits such as third party audits are conducted by independent auditing organisations, such as regulators or those providing certification.

Suggested reading:

ISO 14001:2015, Clauses:

9.1.24.5.2 Evaluation of compliance

9.2 Internal audit

ISO 19011:2018, Clause:

3.1 Audit

10. Have you established and implemented an environmental improvement or management plan? 12

- a. Has an environmental improvement or management plan been prepared that sets out a comprehensive approach to environmental management of the site?
- b. Does the environmental improvement or management plan contain the following?

- i. environmental policy and objectives
  - ii. identification, assessment and evaluation of options for improved performance
  - iii. commitments, targets and contingency arrangements
  - iv. operational arrangements to achieve objectives
  - v. performance monitoring and reporting
  - vi. auditing and review of the plan
  - vii. endorsement by senior management.
- c. Has the environmental improvement or management plan been audited?
  - d. Was the audit undertaken by an independent auditing organisation?

Suggested reading:  
ISO 14001:2015, Clause:  
10.3 Continual improvement

11. Do you train staff in environmental issues that may arise from your activities and operations at the premises and keep records of this?

**Competence, training and awareness**

- a. Have staff been trained about the risks to the environment from undertaking activities that have the potential to cause a significant environmental impact?
- b. Have staff been trained on how to respond to environmental issues?
- c. Is training competency based?
- d. Are staff required to demonstrate understanding of their role, responsibility and potential impacts of their work activities?
- e. Are training records kept for each staff member?
- f. Is there a procedure in place to ensure training needs are regularly reviewed and kept up to date?

Suggested reading: ISO 14001:2015, Clauses:  
7.2 Competence  
7.3 Awareness

For further information on how the environmental management category is calculated refer to the Risk-based licensing section on the EPA website.

## 1.4. Glossary

Term	Definition
Environmental Management System (EMS)	Part of an organisation's <i>management system</i> (3.1.1) used to manage <i>environmental aspects</i> (3.2.2), fulfil <i>compliance obligations</i> (3.2.9), and <i>address risks and opportunities</i> (3.2.11) (ISO 14001:2015).
Integrated Management System (IMS)	When two or more discipline-specific management systems are integrated into a single management system this is known as an integrated management system (ISO 19011:2018).
Management system	Set of interrelated or interacting elements of an organisation to establish policies and objectives, and processes to achieve those objectives. A management system can address a single discipline or several disciplines, e.g. quality management, financial management or environmental management (ISO 19011:2018).
Multi-site EMS	EMS for a multi-site organisation.
Multi-site IMS	An IMS for a multi-site organisation.
Multi-site organisation	An organisation covered by a single management system comprising an identified central function (not necessarily the headquarters of the organisation) at which certain processes/activities are planned and controlled, and a number of sites (permanent, temporary or virtual) at which such processes/activities are fully or partially carried out (IAF MD 1:2018).
Multi-site sampling	A methodology for auditing of a multi-site organisation using site sampling.