



## [COMPLIANCE TIPS]

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# Maritime environmental management systems: Beyond compliance

For shipping companies, implementing an environmental management system (EMS) could be the most important preventative measure taken, and the cost of not acting could be detrimental.

Failure to comply with the provisions of international environmental protection laws (such as the International Convention for the Prevention of Pollution from Ships or MARPOL) and national laws (such as the Clean Water Act) can result in massive fines and possible jail terms. Increased vigilance by the European Union, the U.S. Coast Guard and many state port authorities has led to several recent high-profile prosecutions of shipping companies and individuals.

The Department of Justice (DOJ) is committed to protecting the environment and natural resources. Since 1998, its environmental crimes section imposed nearly \$180 million in penalties and obtained sentences totaling 25 years of jail time for polluters violating the Clean Water and Oil Pollution Acts. Operators have been denied contracts with government agencies because they have had pollution incidents.

Most cases involve deliberate discharges of oily bilge water, sludge and other pollutants. As the DOJ's environmental crimes section continues to investigate and prosecute shipping companies that willfully pollute U.S. waters and do not adhere to MARPOL and U.S. laws, the criminal fines will continue to increase.

Companies that do not adhere to laws are subject to extensive million-dollar fines and jail terms. However, there are currently concerns related to operators who have developed systems but are not monitoring some. Compliance is not enough. Operators must be vigilant in assessing that the programs are being fully implemented and in measuring the program's success.

The boards of shipping companies, in their corporate governance role, must take steps to benchmark their environmental management program as part of their due diligence. Tools and programs exist to assess both the condition and robustness of their EMS.

ABS Consulting utilizes a two-stage audit process for the assessment.

Stage I focuses on understanding the level of preparedness and adequacy of the

EMS. This is accomplished through an on-site documentation review (tier I, lower tier documents and records are audited), confirmation of physical and product/services scopes and sampling of areas not common to other standards (such as EMS policy, full planning section and operational controls viewed from the environmental point of view). The main objective of Stage I is to provide a focus for planning Stage II by gaining an understanding of the EMS in the context of the organization's environmental aspects and associated impacts, policy and objectives.

Internal audits are reviewed to learn about corrective action plans already in place and any further information already collected by the organization. Results of Stage I are documented in a report, which will include any nonconformities (NCs) generated during the audit. NCs are classified, and their resolution is verified during the next audit stage — Stage II.

Stage II is the core assessment used to audit all clauses of the standard through all levels of the organization. Evidence of conformance is gathered through interviews of personnel review of documents and inspec-

tions. The audit report documents the recommendation/conclusions reached by the audit team, and nonconformance statements list any deviations. The objectives of the Stage II audit are to confirm that the organization adheres to its own policies, objectives and procedures, and to confirm that the EMS conforms to all the requirements and achieves the organization's policy objectives.

The results of this process help the owner in acknowledging and identifying good trends and also addressing poor trends before they get worse.

Knowing where the program is in relation to the expectations of the board and of the external stakeholders, such as coastal and state port administrations, is critical to the operational success of shipping companies. A less attractive alternative to the benchmarking and continuous improvement of a company's EMS would be to create a fund of millions of dollars to be used in the unlikely but possible event that a spill might occur.

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