

Legal and Other Requirements

Background and Exhibits

The **Legal Framework** for **Your EMS**—Familiar Territory

You probably already have some form of EMS and its most mature element is, most likely, its attention to compliance with laws and regulations that relate to shipbuilding and ship repair facilities. Since you probably know most of what you need to about your legal requirements and how they affect what you do, let's begin in this familiar territory and build from there.

Compliance with legal requirements is one of the main pillars upon which your environmental policy should be based because the potential costs of non-compliance (possible damage to the environment, revenue loss, and impact on public image, for example) can be very high.

An effective EMS will build on what you already have and should include processes to:

- Identify and communicate applicable legal and other requirements; and
- Ensure that these requirements are factored into the facility's management efforts.

New or revised legal requirements might require modification of your environmental objectives or other EMS elements. By anticipating new requirements and making changes to your operations, you might avoid some future compliance obligations and their associated costs.

Getting **Started**

Your EMS should include a procedure for identifying, having access to, and analyzing applicable legal and other requirements.

Legal requirements include, but are not limited to:

- Federal requirements;
- State and local requirements; and
- Permit conditions.

Other requirements might include:

- Industry codes of practice; and
- Voluntary pledges or commitments made by your facility.

Identifying applicable regulations, interpreting them, and determining their impacts on your operations can be a time-consuming task. Fortunately, there are many sources for obtaining information about applicable laws or regulations. These sources include:

- Commercial services (with updates offered online, on CD-ROM, or in paper form);
- Regulatory agencies (federal, state and local);
- Trade groups and associations;
- The Internet;
- Public libraries;
- Seminars and courses;
- Newsletters and magazines;
- Consultants and attorneys; and
- Customers, vendors, and other companies.

The next step is to communicate these requirements (and methods for complying with them) to employees, on-site contractors, and others as needed. Communicating “other requirements” (as well as their influence on the facility) is an important but often overlooked step. Keep in mind that different people may have different information needs—for example, operational personnel may need to understand waste consolidation and accumulation requirements for waste streams generated in their areas, while the environmental manager will need to know waste analysis, labeling, and transportation requirements for hazardous waste.

As with many EMS elements, this is not a “one time” activity. Because legal and other requirements change over time, your procedure should include a means to ensure that you are working with up-to-date information.

Use your answers to the questions provided in *Exhibit 4-1: Element Review Questions* to begin the process of identifying applicable legal and other requirements and ensuring that these requirements are factored into your facility's management efforts. Customize the procedure and its supporting form provided in *Exhibit 4-2: Procedure for Identification of Legal and Other Requirements*

(EP-001) to fit your facility’s legal and other requirement needs.

Exhibit 4-3: Information Resources for Legal Requirements presents a variety of commercial and non-commercial sources of information on federal and state environmental laws and regulations. This list is not intended to be comprehensive and appearance on the list should not be construed as an endorsement by EPA of any commercial products or services.

Customize the procedure provided in **Exhibit 4-4: Procedure for Obtaining Agency Approval (EP-002)** to secure approval for processes and activities at your facility. Once the applicable environmental requirements have been identified and adopted into the appropriate operations, you will need to contact regulatory agencies with jurisdiction over your facility to secure these approvals.

Exhibit 4-1: Element Review Questions

Questions	Your Answers
Do we have an existing process for identifying applicable legal and other requirements? If yes, does that process need to be revised? In what way?	
Who needs to be involved in this process within our facility? What should their responsibilities be?	
What sources of information do we use to identify applicable legal and other requirements? Are these sources adequate and effective? How often do we review these sources for possible changes?	
How do we ensure that we have access to legal and other requirements? (List any methods used, such as on-site library, use of Web sites, commercial services, etc.)	
How do we communicate information on legal and other requirements to people within the facility who need such information?	
Who is responsible for analyzing new or modified legal requirements to determine how we might be affected?	
How will we keep information on legal and other requirements up-to-date ?	
<i>Our next step on legal and other requirements is to...</i>	

Exhibit 4-2: Procedure for Identification of Legal and Other Requirements (EP-001)

1.0 Purpose

[Facility's Name] is committed to complying with all relevant environmental regulations. It also will strive to meet other commitments made in its environmental policy, such as commitments to community involvement, pollution prevention, and continuous improvement. This procedure describes how [Facility's Name] identifies relevant legal and other requirements.

2.0 Activities Affected

EMS Coordinator

3.0 Forms Used

Legal and Other Requirements (EF-001.01)

4.0 References

- 4.1 Governmental/commercially-available publications
- 4.2 Other requirements to which [Facility's Name] subscribes
- 4.3 ISO 14001:1996, Element 4.3.2.

5.0 Definitions

None

6.0 Exclusions

None

7.0 Procedure

- 7.1 The Environmental Management Representative (EMR) is responsible for tracking relevant environmental laws and regulations and evaluating their potential impact on the facility's operations. He or she employs several techniques to track, identify, and evaluate applicable laws and regulations. These techniques include commercial databases, information from the trade association, direct communication with national and state regulatory agencies, and periodic refresher training on environmental laws.
- 7.2 As necessary, the EMR may call upon off-site resources such as consultants or attorneys.
- 7.3 The EMR compiles and maintains updated copies of applicable environmental laws and regulations.
- 7.4 The EMR, working with the EMS Coordinator and Cross Functional Team (CFT), correlates these regulations to the business activities and the related environmental aspects.

8.0 Frequency

Ongoing

9.0 Records

Form for Legal and Other Requirements (EF-001.01) is maintained by the EMS Coordinator. The EMR maintains copies of the applicable regulations.

Record of Revisions

Revision Date	Description	Sections Affected

					Category/Aspect	Identification
					Legal and Other Requirements	
					Description	
					Metal Working and Cutting	Production Process
					Surface Preparation/Blasting	
					Welding	
					Surface Coating/Painting	
					Spec Bilge and Tank Cleaning	
					Purchase of Raw Material	Facility Support
					Facility Plant Maintenance	
					Tank Farm and Fuel Transfer	
					Chemical and Waste Storage	
					Administration	
					Generation of Power, Compressed Air, Steam, and Process Water	
					Medical Facilities for Employees	
					All*	

Form for Legal and Other Requirements (EF-001.01)

Exhibit 4-3: Information Resources for Legal Requirements

Source	Description
EPA Web site	Provides a variety of information on environmental laws and regulations as well as tools and compliance guidance at www.epa.gov .
EPA RCRA/Superfund/EPCRA Hotline (1-800-424-9346 or 703-412-9810)	Questions regarding pollution prevention, source reduction, waste management, and disposal may be directed to this hotline. The Hotline answers factual questions about EPA regulations and programs under RCRA, Superfund, and EPCRA.
EPA Small Business Ombudsman (1-800-368-5888)	Regulatory explanations and guidance, research, case studies, and contacts for additional information. Variety of hotlines available for particular statutes (such as RCRA). Also available online at www.epa.gov/sbo .
Small Business Assistance Programs (various states) and Other State Agencies	Guidance on regulations and compliance issues. Initially these focused on Clean Air Act requirements, but they are expanding into other environmental media.
U.S. Small Business Administration	Various services available to small businesses in the U.S. at www.sba.gov .
U.S. Government Printing Office (202-512-1800)	Federal Register published daily with all federal proposed and final rules. Also available online at www.gpoaccess.gov .
Trade and Professional Associations	A variety of services related to environmental laws and regulations, including regulatory updates and training.
<ul style="list-style-type: none"> • American Shipbuilding Association (202-544-8170) • Shipbuilders Council of America (202-347-5462) 	<p>American Shipbuilding Association is a national trade association that represents America's largest shipbuilders. (www.americanshipbuilding.com/)</p> <p>The Shipbuilders Council of America is a national trade association that represents many of the U.S. commercial shipbuilding and ship repair companies. (www.shipbuilders.org/)</p>
Counterpoint Publishing	CD-ROM and Internet dial-up access to legal/regulatory information on the federal government and all states, updated daily.
Bureau of National Affairs (1-800-372-1033)	Information on environmental, health, and safety laws, regulations, and activities at international, national, and state level. Paper and online access available.
Thompson Publishing Group (1-800-677-3789)	Manuals on a variety of federal and state environmental programs with monthly updates and newsletters.
Business & Legal Reports, Inc. (1-800-727-5257)	Access to federal and state regulations with monthly updates on available on CD-ROM.
Aspen Law and Business (1-800-638-8437)	Compliance manuals with a regular update service for the Resource Conservation and Recovery Act and the Clean Air Act.

Exhibit 4-4: **Procedure for Obtaining Agency Approval** (EP-002)

1.0 Purpose/Scope

This procedure describes the method to be implemented to secure approval from regulatory agencies for processes and activities at the **[Facility’s Name]** affecting air emissions, waste management or water discharges, as well as the method for other environmental approvals.

2.0 Activities Affected

All areas and departments

3.0 Forms Used

None

4.0 References

- 4.1 Procedure for Identification of Legal and Other Requirements (EP-001)
- 4.2 Procedure for Communication with Stakeholders (EP-004)
- 4.3 Procedure for Environmental Records (EP-005)
- 4.4 ISO 14001:1996, Elements 4.3.4, 4.4.6, 4.5.1

5.0 Definitions

- 5.1 Regulatory Agency: governmental unit with delegated authority for implementing regulations related to ambient air quality, waste management, and/or water discharge quality.
- 5.2 Process: materials, activities, equipment associated with operations.
- 5.3 Permit: permit, licenses, certifications, or other authorizations issued by a governmental regulatory body.

6.0 Exclusions

None

7.0 Procedure

- 7.1 Where operations are identified as potentially requiring environmental permits, the EMS Coordinator shall coordinate the investigation and permitting process through the use of an informal “permit team” comprised of (at least) the EMS Coordinator and, as appropriate, a representative from the **[Facility’s Name]** function responsible for the operation concerned.
- 7.2 All communications in connection with permits, and specifically those with the relevant regulatory agencies, shall be undertaken in conformance with the Procedure for Communication with Stakeholders (EP-004).
- 7.3 The permit team shall develop a strategy to secure permits concurrently with existing operational timing plans. The Environmental Management Representative (EMR) is responsible for timely communication of the issues to the Facility Management Team.
- 7.4 The EMS Coordinator shall coordinate the preparation, submission and negotiation of permit applications, operating through the permit team. Permits obtained shall be reviewed to ensure that they adequately cover the operation(s) concerned.
- 7.5 The permit team will review the terms and conditions in new permits and modify or establish operational controls necessary to ensure compliance with the permit.

Exhibit 4-4: Procedure for Obtaining Agency Approval (EP-002) (continued)

8.0 Frequency

Ongoing

9.0 Records

Records shall be retained consistent with the procedure for Environmental Records (EP-005).

Record of Revisions

Revision Date	Description	Sections Affected

Examples

Example 4-1: Commonly Applicable Federal Environmental Laws in the U.S. provides a list of commonly applicable federal environmental laws applicable to the shipbuilding and ship repair industry. It is not a complete list, but provides a starting point for considering your own legal and other requirements.

Example 4-2: Sample List of Relevant Legal and Other Requirements for Shipbuilding and Ship Repair Operations lists descriptions of legal and other requirements for shipbuilding and ship repair and how they are relevant to production process and facility support. This example is based on EF-001.01, Form for Legal and Other Requirements, in *Exhibit 4-2*.

Example 4-1: **Commonly Applicable Federal Environmental Laws in the U.S.**

Applicable Federal Environmental Laws	Overview of the Laws
<p>Clean Air Act (CAA) [40 CFR Parts 50-99]</p> <ul style="list-style-type: none"> • Title V air permits and/or follow the standards for hazardous air pollutants under the NESHAP • State air permits 	<p>Establishes ambient and source emission standards and permit requirements for conventional and hazardous air pollutants.</p>
<p>Clean Water Act (CWA) [40 CFR Parts 100-145, 220-232, 410-471]</p>	<p>Establishes ambient and point source effluent standards and permit requirements for water pollutants, including sources that discharge directly to a water body or to a public sewer system. Also includes storm water management requirements.</p>
<p>Resource Conservation and Recovery Act (RCRA) [40 CFR Parts 240-299]</p>	<p>Establishes regulations and permit requirements for hazardous waste management. Also creates standards for underground storage tanks that hold oil or hazardous substances.</p>
<p>Toxic Substances Control Act (TSCA) [40 CFR Parts 700-799]</p>	<p>Regulates the use, development, manufacture, distribution, and disposal of chemicals. Certain chemicals (such as polychlorinated biphenyls [PCBs]) are subject to specific management standards.</p>
<p>Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, also known as “Superfund”) [40 CFR Parts 300-311]</p>	<p>Establishes a program for cleaning up contaminated waste sites and establishes liability for clean-up costs. Also provides reporting requirements for releases of hazardous substances.</p>
<p>Emergency Planning and Community Right-To-Know Act (EPCRA) [40 CFR Parts 350-374]</p>	<p>Establishes a program (also known as the “Toxic Release Inventory”) to inform the public about releases of hazardous and toxic chemicals. Reporting requirements apply to companies that use, process, or store specific chemicals over specified quantities.</p>
<p>Hazardous Materials Transportation Act (HMTA) [49 CFR Parts 100-180]</p>	<p>Establishes standards for the safe transportation of hazardous materials.</p>

Example 4-2: Sample List of Relevant Legal and Other Requirements for Shipbuilding and Ship Repair Operations

Identification			Production Process					Facility Support							
Category/Aspect	Legal or Other Requirement	Description	Metal Working and Cutting	Surface Preparation/Blasting	Welding	Surface Coating/Painting	Spec Bilge and Tank Cleaning	Purchase of Raw Material	Facility Plant Maintenance	Tank Farm and Fuel Transfer	Chemical and Waste Storage	Administration	Generation of Power, Compressed Air, Steam, and Process Water	Medical Facilities for Employees	All*
Material Use	Corporate Directive	Facility Strategy, Planning, and Implementation	X	X	X	X	X	X	X	X		X			
Air Emissions	40 CFR Part 50	NAAQS National Primary and Secondary Air Quality Standards	X	X	X	X	X								
Air Emissions	40 CFR Part 51	Emission of Hazardous Air Pollutants	X	X	X	X	X								
Air Emissions	40 CFR Part 52	Emission of Hazardous Air Pollutants	X	X	X	X	X								
Air Emissions	40 CFR Part 60 40 CFR 60.42c and 60.43c (Boiler emission standards for sulfur dioxide and particulate matter)	Verification of Emissions	X	X	X	X	X								
Air Emissions	40 CFR Part 63	National Emissions Standards for Hazardous Air Pollutants for				X				X	X		X		

Example 4-2: Sample List of Relevant Legal and Other Requirements for Shipbuilding and Ship Repair Operations (continued)

Identification			Production Process					Facility Support							
Category/Aspect	Legal or Other Requirement	Description	Metal Working and Cutting	Surface Preparation/Blasting	Welding	Surface Coating/Painting	Spec Bilge and Tank Cleaning	Purchase of Raw Material	Facility Plant Maintenance	Tank Farm and Fuel Transfer	Chemical and Waste Storage	Administration	Generation of Power, Compressed Air, Steam, and Process Water	Medical Facilities for Employees	All*
		Source Categories													
Air Emissions	40 CFR Part 68	Chemical Accident Prevention Provisions											X		
Air Emissions	40 CFR Part 72	Permits (Title V)											X		
Air Emissions	County Ordinances	Air Permits		X	X	X							X		
Air Emissions	40 CFR Part 82	Stratospheric Ozone Protection-CFC Containing Equipment Requirements													
Air Emissions	40 CFR Part 265 part AA, BB, and CC	RCRA Emission Requirements-Hazardous Waste Storage Tanks													
Air Emissions	State Rules and Regulations	State Air Rules (i.e., air permits, point source control for stationary sources, malfunctioning of control equipment)	X	X	X	X	X								
Energy Use	Corporate Directive	Facility Strategy, Planning, and	X	X	X	X	X	X	X	X			X		

Example 4-2: Sample List of Relevant Legal and Other Requirements for Shipbuilding and Ship Repair Operations (continued)

Identification			Production Process					Facility Support							
Category/Aspect	Legal or Other Requirement	Description	Metal Working and Cutting	Surface Preparation/Blasting	Welding	Surface Coating/Painting	Spec Bilge and Tank Cleaning	Purchase of Raw Material	Facility Plant Maintenance	Tank Farm and Fuel Transfer	Chemical and Waste Storage	Administration	Generation of Power, Compressed Air, Steam, and Process Water	Medical Facilities for Employees	All*
		Implementation													
Solid/Liquid Waste	State Rules and Regulations	Liquid and Solid Waste Management	X	X		X	X			X	X				
Solid/Liquid Waste	40 CFR Part 261-265	Hazardous Waste Requirements	X	X	X	X	X		X	X					
Solid/Liquid Waste	40 CFR Part 268	RCRA Land Disposal Restrictions													
Solid/Liquid Waste	40 CFR Part 279	Standards for the Management of Used Oil							X	X			X		
Solid/Liquid Waste	40 CFR Parts 265, 280	USTs									X	X			
Solid/Liquid Waste	40 CFR Part 300	Hazardous Ranking System (HRS)	X	X	X	X	X	X	X	X		X			
Solid/Liquid Waste	40 CFR Part 302	Hazardous Substances and Reportable Quantities	X	X	X	X	X	X	X	X					
Solid/Liquid Waste	40 CFR Part 355	Extremely Hazardous Substances (EHS)	X	X	X	X	X	X	X	X					

Example 4-2: Sample List of Relevant Legal and Other Requirements for Shipbuilding and Ship Repair Operations (continued)

Identification			Production Process					Facility Support							
Category/Aspect	Legal or Other Requirement	Description	Metal Working and Cutting	Surface Preparation/Blasting	Welding	Surface Coating/Painting	Spec Bilge and Tank Cleaning	Purchase of Raw Material	Facility Plant Maintenance	Tank Farm and Fuel Transfer	Chemical and Waste Storage	Administration	Generation of Power, Compressed Air, Steam, and Process Water	Medical Facilities for Employees	All*
Solid/Liquid Waste	40 CFR Parts 370 & 372	Community Right-to-Know Requirements													
Solid/Liquid Waste	40 CFR Part 710	Toxic Substances Control Act (TSCA) Requirements						X			X				
Solid/Liquid Waste	40 CFR Part 413	Electroplating Point Source Category												X	
Solid/Liquid Waste	29 CFR Part 1910	OSHA Requirements													
Solid/Liquid Waste	CERCLA 103	Release Reporting Requirements of EPCRA (facility or vessel)	X	X	X	X	X		X	X	X				
Solid/Liquid Waste	Facility Directive	Requirement for Waste Minimization Plan	X	X	X	X	X		X	X	X		X		
Solid/Liquid Waste	City Ordinance	Sewer Permit	X	X	X	X	X		X	X	X		X		
Waste Water Discharge	NPDES State Permit	Permit to Discharge to Local Water Bodies		X	X	X	X		X	X	X		X		
Waste Water Discharge	40 CFR Parts 121-125	NPDES 122-Permit to Discharge Stormwater to Local	X	X	X	X	X		X	X					

Example 4-2: Sample List of Relevant Legal and Other Requirements for Shipbuilding and Ship Repair Operations (continued)

Identification			Production Process					Facility Support							
Category/Aspect	Legal or Other Requirement	Description	Metal Working and Cutting	Surface Preparation/Blasting	Welding	Surface Coating/Painting	Spec Bilge and Tank Cleaning	Purchase of Raw Material	Facility Plant Maintenance	Tank Farm and Fuel Transfer	Chemical and Waste Storage	Administration	Generation of Power, Compressed Air, Steam, and Process Water	Medical Facilities for Employees	AI*
		Water Bodies													
Waste Water Discharge	40 CFR Part 136	Guidelines Establishing Test Procedures for the Analysis of Pollutants													
Waste Water Discharge	40 CFR Part 316	Cooling Water Intakes or Discharges	X		X								X		
Waste Water Discharge	40 CFR Parts 400-409	Effluent Guidelines and Standards	X	X	X	X	X		X	X			X		
Waste Water Discharge	40 CFR Part 433	Metal Finishing Point Source (proposed job shop category)													
Waste Water Discharge	33 CFR Parts 151-156, 158-159	Discharge and Transfer of Oils or Hazardous Materials From Vessels and Port Facilities	X	X	X	X	X		X	X					
Spills	40 CFR Part 112	Oil Spill Prevention					X		X	X	X				

Example 4-2: Sample List of Relevant Legal and Other Requirements for Shipbuilding and Ship Repair Operations (continued)

Identification			Production Process					Facility Support							
Category/Aspect	Legal or Other Requirement	Description	Metal Working and Cutting	Surface Preparation/Blasting	Welding	Surface Coating/Painting	Spec Blige and Tank Cleaning	Purchase of Raw Material	Facility Plant Maintenance	Tank Farm and Fuel Transfer	Chemical and Waste Storage	Administration	Generation of Power, Compressed Air, Steam, and Process Water	Medical Facilities for Employees	All*
Emergency Planning & Community Right-to-Know	State Emergency Response Commission (SERC)	Notification to SERC of Storage and Use of Extremely Hazardous Substances	X	X	X	X	X			X	X				
Emergency Planning & Community Right-to-Know	Local Emergency Planning Committee (LEPC)	Identification of Plant Emergency Coordinator to Participate in LEPC Process													X
Emergency Planning & Community Right-to-Know	29 CFR Parts 1910.1200 and 40 CFR Part 370	MSDSs on Chemicals Required by OSHA	X	X	X	X	X	X	X	X					
Emergency Planning and Community Right to Know	40 CFR Part 372	Form R Toxic Substances Processed or Used in Excess Quantities	X	X		X	X	X	X	X	X			X	

Example 4-2: Sample List of Relevant Legal and Other Requirements for Shipbuilding and Ship Repair Operations (continued)

Identification			Production Process					Facility Support							
Category/Aspect	Legal or Other Requirement	Description	Metal Working and Cutting	Surface Preparation/Blasting	Welding	Surface Coating/Painting	Spec Bilge and Tank Cleaning	Purchase of Raw Material	Facility Plant Maintenance	Tank Farm and Fuel Transfer	Chemical and Waste Storage	Administration	Generation of Power, Compressed Air, Steam, and Process Water	Medical Facilities for Employees	All*
Medical Waste	40 CFR Part 259	Generation of Medical Waste for states of CT, NY, NJ, RI, and territory of Puerto Rico												X	
Medical Waste	State Regulations	State Regulations on Generation of Medical Waste												X	
PCBs	40 CFR Part 761	PCB Regulations											X		
Pesticides	40 CFR Part 171	Pesticide Regulations				X									
Pesticides	40 CFR Part 165	Storage of Pesticide Materials				X									
Property Transfers	Environmental Cleanup Responsibilities Act (ECRA)	Environmental Cleanup Responsibilities										X			
Property Transfers	State Regulations	Environmental Cleanup Responsibilities													
Property Transfers	CERCLIS	Information pertaining to site										X			
All	16 USC 1401	Marine Protection	X	X	X	X	X	X	X	X		X			

Example 4-2: Sample List of Relevant Legal and Other Requirements for Shipbuilding and Ship Repair Operations (continued)

Identification			Production Process					Facility Support							
Category/Aspect	Legal or Other Requirement	Description	Metal Working and Cutting	Surface Preparation/Blasting	Welding	Surface Coating/Painting	Spec Bilge and Tank Cleaning	Purchase of Raw Material	Facility Plant Maintenance	Tank Farm and Fuel Transfer	Chemical and Waste Storage	Administration	Generation of Power, Compressed Air, Steam, and Process Water	Medical Facilities for Employees	All*
All	Facility Directive	Research and Sanctuaries Act Facility Strategy, Planning, and Implementations													

* Indicates applicability to all components of the facility.