

Don't Become a “Designated Felon”



WHAT IS AN ENVIRONMENTAL MANAGEMENT SYSTEM?

An EMS is simply a framework for managing environmental obligations and expectations that relies upon a “plan-do-check-act” approach. The basic elements of an EMS include:

- ▶ A review of the businesses’ environmental goals.
- ▶ An awareness of potential environmental impacts (via a risk assessment).
- ▶ An awareness of all legal requirements and any other voluntary standards.
- ▶ Setting environmental objectives and targets.
- ▶ Establishing programs and best management practices to meet these objectives and targets.
- ▶ Monitoring and measuring progress.
- ▶ Ensuring employees’ environmental awareness and competence through training.
- ▶ Reviewing progress of the EMS and making improvements periodically.

What Boards Need to Know About Environmental Management Risk and Liability Protection

By Kevin A. Fletcher, Ph.D.

CLUB MANAGEMENT IS DIFFICULT ENOUGH without having an understanding of where potential environmental risks and liabilities might lie throughout the business. For instance, recently a golf course in Maryland received a \$15,000 regulatory fine resulting from discharges of pollutants into buffer zones, along with discharges into a small stream. The monetary fine in an event like this alone is unwelcome, but so too is the negative publicity in the community and resultant reputation with the regulatory agencies.

That’s just one example. Consider the number of environmental violations by golf course and club operations in the U.S. that occur each year. Research conducted on Environmental Protection Agency’s (EPA’s) enforcement database website (echo.epa.gov) from 2010–2013 reveals that more than 1,000 golf courses and clubs nationwide had to deal with violations during the three-year period. A more recent record review shows similar annual rates. Those risks should make any board member or club leader eager to help avoid a potential “designated felon” tag.

Are You a “Designated Felon” for Your Club’s Environmental Practices?

The “designate felon” moniker comes from a principle present in environmental law which assigns individual responsibility (both potential civil and criminal liability) to those who have the authority to control company activities that lead to problems—even when that individual does not actually exercise that authority. This is often based on the position and title that an individual holds. Depending on the circumstance, this “designated felon” could include owners, board members, club/general managers and golf course superintendents.

The good news is that environmental management systems (EMS), and its associated risk assessment, are widely-recognized means for reducing corporate and individual liability (see EMS sidebar left). EPA’s guidance document, Compliance-Focused Environmental

Management System Enforcement Agreement, strongly encourages organizations of all types to consider EMS to address compliance and risk management issues. EPA further builds on the value of EMSs in a 2006 statement:

“EPA supports and will help promote the development and use of EMSs ... that help an organization achieve its environmental obligations and broader environmental performance goals ... with particular emphasis on adoption of EMSs to achieve improved environmental performance and compliance, pollution prevention through source reduction, and continual improvement.” (Federal Register, Vol. 71, No. 22.)

Taking Charge, Owning the Responsibility

With a more accurate and complete assessment of how to prioritize various club activities, along with knowledge of potential or ongoing environmental impacts, the club will be in a stronger position to avoid incidents and potential fines. Board members and club management alike share responsibility to operate with the best environmental management practices in place. With the knowledge acquired through an EMS and a comprehensive risk assessment, the club, its staff and the board will be better protected. ☐

Kevin A. Fletcher, Ph.D., is the president & CEO of e-par USA, Inc., and serves as assistant professor of management at The Sage Colleges, N.Y. He can be reached at kevin@eparusa.com or 855-372-7872.