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# Navigating Environmental Regulations

Tips for staying in compliance.



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**O**ur state's ever-changing regulatory environment makes it hard to stay on the right side of the law. Here are some simple steps to help keep your business in compliance:

**1. Ignorance Is Not Bliss.** Take time to research which environmental regulations apply to your operations. Consider all relevant media — air, water and land. For example:

- **Does your facility emit air pollutants?** Consult with the local air pollution control agency.
- **Are you planning construction near a shoreline or wetland?** Consult with the Washington Department of Ecology's Shorelands and Environmental Assistance program.
- **Do your operations require a stormwater permit?** Consult with the Washington Department of Ecology's Water Quality Program.

As a starting point, review the Regulatory Handbook prepared by the Governor's Office for Regulatory Innovation and Assistance ([oria.wa.gov](http://oria.wa.gov)). When in doubt, it is best to consult experienced environmental counsel to determine which regulations apply. Once you have this information, you can develop the appropriate compliance programs.

**You should live by the mantra: "If you don't write it down, it never happened." The key to compliance is meticulous recordkeeping.**

**2. Uncover Your Property's History.** Under the Model Toxics Control Act, RCW 70.105D, a business that owned or operated a facility where hazardous substances have come to be located may be liable for cleaning up the property. To manage this risk, it is essential to conduct due diligence before entering into a lease or buying a commercial or industrial property. A reputable consulting firm can assist. If any notable conditions arise, a subsurface investigation may be warranted. Frequently, businesses negotiate environmental indemnity agreements to address this kind of liability, but it is important to do so before you lease or buy, not after.

**3. Identify Your Waste Streams.** Every business generates waste, whether from an office building or a manufacturing facility. Be sure to review your local rules, since some jurisdictions mandate recycling.

It is also critical to determine whether a waste is "dangerous" under WAC 173-303. This is more common than you think. Most businesses generate some type of dangerous waste, including adhesives, aerosol cans, paints, solvents, fertilizers and cleaners. You can start by taking a look at the materials you use and the wastes that remain. If you have products labeled "DANGER," "FLAMMABLE," "WARNING" or "POISON," they may become a dangerous waste if discarded or mixed with other wastes. Electronic waste, such as batteries, mercury-containing equipment and light bulbs, are also regulated. If used oil, batteries and other wastes are recycled, they may be partially or fully exempt from the regulations.

**4. Recordkeeping Is Essential.** You should live by the mantra: "If you don't write it down, it never happened." The key to compliance is meticulous recordkeeping. Keeping records up to date, organized and readily available for an inspector is critical. Create easy-to-use logs to track internal inspections, monitoring programs and the use of best management practices.

**5. Violation Issued, Now What?** If you get a notice of violation from an agency or a citizens' suit notice, immediately take note of the deadlines to respond and any procedures for contesting or appeal. Contact a lawyer to discuss your rights, whether there may be other parties at fault and settlement options. Once you have established the deadlines and determined the best course of action, evaluate what circumstances led to the violation. Plan a debriefing session with your employees to discuss how to prevent future violations. Establish what changes can be implemented to ensure compliance, which may involve enhanced training requirements or the development of an internal auditing program. Use this as a learning opportunity for your business.

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