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LEGAL EXPERTISE FOR THE BUSINESS COMMUNITY

JANUARY 7 - JANUARY 20, 2022

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TOP 5 TIPS FOR CONDUCTING VOLUNTARY ENVIRONMENTAL AUDITS

Many businesses choose to conduct internal audits to evaluate compliance with environmental laws because such audits, when administered in a thorough and thoughtful manner, serve as a powerful risk management tool. Operating in noncompliance can not only result in environmental incidents and penalties, but can also create employee safety concerns, operational interruptions and, potentially, negative publicity. Audits minimize these risks by preemptively identifying gaps in compliance management processes. If your business is considering conducting an internal environmental audit, consider these top five tips.



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to decide what limitations it will apply to conducting the audit. For example, the audit might focus on only certain locations or perhaps only certain operations subject to specific regulatory requirements.

2. Consider engaging outside experts when needed. Simply put, the saying "you don't know what you don't know"

applies to environmental audits. Hiring an external third party to conduct the audit will provide fresh, unbiased eyes over the operations and enable you to better identify environmental obligations that may have been overlooked by internal staff. Outside consultants who specialize in conducting such audits will bring valuable expertise to the table, while freeing up internal staff to compile the information needed for the audit and continue their normal job duties.

3. Involve outside legal counsel early and throughout the audit process. An experienced environmental

attorney can assist in mitigating risks associated with conducting an audit by providing valuable legal analysis and interpretations regarding complex environmental regulations. In addition, environmental audits, by their nature, generate documents that lend themselves to attorney-client communication protections. If left unprotected, information related to, or obtained through, an audit could provide the basis for enforcement actions or third-party lawsuits. However, attorney-client privilege protects communication between attorney and clients made in confidence for the purpose of obtaining legal advice, or in anticipation of litigation. As such, having an attorney oversee and be directly involved with an audit can assist in protecting sensitive information.

4. Be prepared to address deficiencies found during the audit. The bottom line is: a business should not conduct an audit unless it plans to address the issues discovered by the audit.

Documenting violations of environmental regulations and then doing nothing to address them could lead to additional civil or even criminal liability. Therefore, prior to beginning the audit process, management should agree that it will do what is needed to address any violations or deficiencies discovered.

5. Be aware of state and federal programs for self-reporting. The U.S. Environmental Protection Agency as well as many states, including Ohio, have voluntary audit disclosure programs that provide incentives, such as significant penalty reductions, for regulated entities that voluntarily report and fix violations of environmental laws and regulations. However, the federal and state programs differ in their requirements, with each having their own specific criteria that must be met. Therefore, it is critical that a business work closely with an advisor who is knowledgeable about these programs prior to deciding to self-report. ■

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TOP REASONS WHY YOU SHOULD AVOID BEING SUBJECT TO GUARDIANSHIP

A famous singer and a 2020 cinematic hit recently brought guardianships much attention. Guardianship is the legal process of declaring a person incompetent and making the person a ward of the court. Can guardianship be avoided? You bet! You can avoid guardianship altogether by signing two legal documents known as a health care power of attorney and a financial power of attorney. Every adult should sign these documents.

If you need reasons why you should



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plan in advance to avoid guardianship, here are six:

1. You might end up with a stranger in charge of you. Ohio law does not require the appointment of a family member or friend as your guardian.

2. Seeking guardianship is public, not private. Your loss of capacity will be a matter of public record.

3. Guardianship is expensive. It can cost thousands of dollars in legal fees to establish a guardianship and thousands each year thereafter.

4. Guardianship is not a fast process. It may take months for the Court to make the appointment.

5. The Court is the superior guardian. The person or entity appointed as your individual guardian must seek Court permission to do anything. This means annual budgeting, reporting and ongoing administrative expenses, as well as legal fees and filing fees.

6. Guardianship is often indefinite and terminates at death.

By signing powers of attorney, you remain in control.

1. You choose your legal agent, and that person is usually a loved one.

2. Your health and your finances remain private.

3. You limit your legal fees.

4. Your agent can act immediately on your behalf.

5. No Court supervision is required.

6. You retain the right to revoke the documents at any time. ■



FEB 25
12-1pm on
Zoom

ENVIRONMENTAL CRIMES

With speakers from the Ohio Attorney General's Office

Environmental crimes affect all of us. From open dumping of solid and hazardous waste to wildlife crimes, the Ohio Attorney General's Environmental Enforcement Section has their hands full. This program, through real case studies, examines an overview of the steps the AG takes to assure public health and safety. 1.0 CLE hour.



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