

COVID-19 Enforcement Preparedness Checklist



Prepare Now for Later

Strong documentation is critical to successfully respond to a future information request from a regulatory agency or to defend a case for Force Majeure. Gather this information now before you need it.

Create a List of Key Personnel and Decision Makers

- Company corporate and operations personnel
- Contractors, consultants and labs, and vendors
- Federal, state, and local agency contact names and numbers

COVID-19 Related Ordinances, Declaration, Guidance, and Phase-Out Orders

- Check federal, state, and local agency websites
- Note the requirements for documentation
- Identify date ordinance, declaration, guidance or order was put in place and when it is terminated

Company Guidance Related to COVID-19, Force Majeure, and Emergency Response

- Revised operating procedures to accommodate COVID-19 orders
- Company shelter in place orders
- Applicable SOPs related to emergency response
- Recordkeeping and document retention guidelines
- Applicable contract or provisions related to Force Majeure
- Communications related to delays or use of contractual Force Majeure
- General or decision-specific legal memoranda interpreting Force Majeure or modification provisions

AUTHORS

Pamela Marks

Principal
+1.410.230.1315
pmarks@bdlaw.com



Allyn Stern

Of Counsel
+1.206.620.3027
astern@bdlaw.com
Former EPA Region 10
Counsel



Maddie Boyer

Principal
+1.512.391.8010
mboyer@bdlaw.com



ABOUT B&D

Beveridge & Diamond's more than 125 lawyers across the U.S. focus on environmental and natural resources law, litigation and alternative dispute resolution. We help clients around the world resolve critical environmental and sustainability issues relating to their products, facilities, and operations.

Learn more at bdlaw.com

Applicable Permits, Reports, and Settlement Documents

- Applicable reports and data
- Settlement agreements and consent decrees
 - Identify upcoming deadlines within the next 6 months
 - Discuss with contractors, consultants, labs, supply chain to determine impacts
 - Review modification, notice, and force majeure requirements

Vendor or Third-Party Contracts and Communications

- Applicable contract or provisions related to Force Majeure
- Communications related to delays or use of contractual Force Majeure

Communications with Agencies

- Correspondence to and from agencies
- Records of phone conferences

Incident Specific Documentation

- Documents that detail circumstances leading up to noncompliance
- Date noncompliance first known or anticipated, and how
- Agency notification – date and scope of discussion (confirm agency verbal discussion in writing)
- Date(s) and nature of noncompliance
- Steps taken to minimize the duration of noncompliance
- Specific impact of Covid-19 on the obligation
- Best efforts to maintain compliance
- Other actions in response to the COVID-19 disruption
- Steps taken to return to compliance as soon as possible
- Date of return to compliance
- Any other information required by an relevant agency's guidance or policy statement
- All communications with agencies during time of noncompliance

As the leading law firm for environmental, health, and safety law and litigation, Beveridge & Diamond helps clients with unprecedented challenges posed by COVID-19. Our team includes lawyers with high-level federal government experience, including determining when to exercise enforcement discretion, grant or deny Force Majeure petitions, and sufficiency of documentation. Visit B&D's [COVID-19 EH&S Resource Center](#) for more information on navigating the global pandemic, or contact the authors.

May 6, 2020

