PANORAMIC

ENVIRONMENT 2026

Contributing Editors

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Beveridge & Diamond PC



LEXOLOGY

Environment 2026

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Panoramic guide (formerly Getting the Deal Through) enabling side-by-side comparison of local insights, including legislation and main environmental regulations; regulation of hazardous activities and substances; environmental aspects in M&A, public procurement and other transactions; environmental impact assessment; regulatory authorities; judicial proceedings; applicable international treaties and institutions; and recent trends.

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Introduction

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Environmental law – indeed the environment itself – continues to evolve at a rapid pace, with no signs of slowing. The global community is grappling with issues including climate change adaptation, sustainability and supply chains, waste and circular economy considerations, infrastructure development, oceans and species protection, management of plastics and chemicals such as per- and polyfluoroalkyl substances (PFAS) and environmental justice – all while the United States retreats from key domestic and global initiatives. Corporate, investor and non-governmental organisations (NGO) and stakeholder attention to environmental, social and governance (ESG) issues continue to rise even as an 'anti-ESG' movement also takes shape in the United States and abroad.

In the United States, the trajectory of environmental law has been anything but linear, particularly in the past year. Since taking office in January 2025, the Trump administration has advanced a deregulatory agenda that has upended long-standing regulatory frameworks. These actions have reshaped the relationship between federal and state governments, industry, and the courts, resulting in uncertainty and intensified litigation. Congress, in turn, largely followed the Administration's lead, highlighted by recent major legislation undoing key legislation provisions enacted just three years earlier that were aimed at curbing greenhouse gas emissions and deploying renewable energy and other energy technologies.

A hallmark of the second Trump administration has been the drawdown of enforcement efforts. In response, states and environmental non-governmental organisations (eNGOs) have stepped in to fill in the gap. While compliance with core environmental laws for industry remains critical, the Administration has scaled back – or in some cases dismantled – teams addressing issues like climate change, environmental justice, and renewable energy. By contrast, it continues to emphasise areas such as Superfund, PFAS, clean water and expedited environmental reviews and permitting for project development. The Administration has also taken drastic steps to amend or undo prior funding and permitting decisions for projects or initiatives that it deems inconsistent with its policy priorities.

The European Union continues to assert leadership in environmental law through measures such as the Corporate Sustainability Due Diligence Directive, the Carbon Border Adjustment Mechanism, and the expansion of the Environmental Crimes Directive. Waste management remains a critical focus, and circular economy laws have been introduced in the Netherlands, France, and Italy. France's anti-waste and circular economy regulations have been particularly stringent, often exceeding EU standards. Meanwhile, the UK is charting its path post-Brexit; the new government's approach to environmental law is yet to be fully seen.

Meanwhile, in Asia, emissions trading schemes are gaining steam. Japan and Indonesia launched their schemes in 2023, India is developing its own, and China recently expanded its scheme to cover more sectors.

Climate litigation remains a key area to watch. Courts in Switzerland and India are some of the latest to rule that environmental and climate change issues are human rights concerns, requiring lawmakers to introduce stronger regulation.

At this moment of widespread change and complexity, Beveridge & Diamond is pleased to lead the preparation of the *Lexology Panoramic: Environment & Climate Regulation* chapters at this exciting time. As the largest dedicated environmental law firm in the United States, Beveridge & Diamond is a US and global leader on all the issues discussed in these chapters. Beveridge & Diamond is also honoured by the opportunity to work with the esteemed contributing firms outside the United States and appreciates their authored additions to this valuable resource.

We hope you find this publication helpful, and we invite you to contact the contributing editors or any of the authors for additional insights.



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Indonesia

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LEGISLATION

Main environmental regulations

1 | What are the main statutes and regulations relating to the environment?

The primary regulation governing environmental protection in Indonesia is Law No. 32 of 2009 on Environmental Protection and Management, as amended by Law No. 6 of 2023 on the Stipulation of Governmental Regulation in Lieu of Law No. 2 of 2022 on Job Creation Law (collectively referred to as the Environmental Law). This Environmental Law principally regulates the following aspects:

- environmental approval (AMDAL, UKL-UPL or SPPL) and business licensing;
- environmental quality standards;
- environmental economic instruments;
- prevention, control and remediation of environmental pollution or degradation;
- management of hazardous and toxic waste (LB3);
- rights, obligations, and prohibitions related to environmental protection;
- supervision and administrative sanctions;
- application of strict liability principles in certain environmental cases; and
- criminal provisions for environmental violations.

In addition to the above, environmental-related regulations in Indonesia are also governed under various other laws and regulations, including:

- Law No. 41 of 1999 regarding Forestry, as last amended by the Job Creation Law;
- Law No. 32 of 2024 regarding Natural Resources and Ecosystem Conservation;
- Law No. 17 of 2019 regarding Water Resources;
- Government Regulation No. 98 of 2021 regarding the Implementation of Carbon Economic Values to Achieve Nationally Determined Contribution Targets and Control Over Greenhouse Gas Emissions in relation to National Development.

All of the above-mentioned laws and government regulations have their respective implementing regulations issued by the Minister of Environment and Forestry (MoEF).

Law stated - 9 September 2025

Integrated pollution prevention and control

2 | Is there a system of integrated control of pollution?

Yes. The Ministry of Environment and Forestry has established several systems specifically designed to control pollution. The key systems include the following.

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Continuous Industrial Emission Monitoring Information System (SISPEK): SISPEK is the primary system for controlling air pollution from stationary sources using Continuous Emission Monitoring Systems (CEMS). Under relevant regulations, business entities that required to implement CEMS must register through https://ditppu.menlhk.go.id/portal/form-registrasi/form-industri and integrate their emission data into SISPEK. This emission data integration requirement currently applies to ten industrial sectors, including iron and steel smelting, pulp and paper, rayon, carbon black, oil and gas, mining, thermal waste processing, cement, thermal power plants, and fertiliser and ammonium nitrate.

- Electronic Reporting System for Environmental Permits for Business and Activities (SIMPEL): SIMPEL is a web-based system for reporting and evaluating environmental performance through https://simpel.menlhk.go.id/2023/login. It includes emissions and effluent data submitted by business actors as part of their environmental compliance obligations.

In addition to the above, the Ministry of Environment and Forestry also conduct the performance rating program to evaluate and rate the environmental performance of companies, including how effectively they manage pollution and waste through Corporate Performance Rating Program (PROPER). While PROPER does not directly control emissions or pollution like SISPEK (which monitors real-time emission data), it plays a complementary role by:

- assessing companies' compliance with pollution control regulations (air, water, hazardous waste, etc);
- encouraging improvement through a colour-coded rating system (eg,gold, green, blue, red and black); and
- promoting transparency, as results are publicly disclosed, putting reputational pressure on companies to comply.

Law stated - 9 September 2025

Soil pollution

3 | What are the main characteristics of the rules applicable to soil pollution?

Provisions related to soil pollution are governed by several regulations, including the Environmental Law, Law No. 37 of 2014 on Soil and Water Conservation, Government Regulation No. 22 of 2021 on Environmental Pollution and Management, and MoEF Regulation No. 101 of 2018 on Guidelines for the Remediation of Land Contaminated with Hazardous and Toxic Waste (B3 Waste).

In general, these regulations setting out the soil damage quality standards to determine the occurrence of environmental degradation and regulating the obligation of business actors to carry out environmental remediation through the identification of contaminated land, the obligation to maintain groundwater quality and the stages of remediation for land contaminated with B3 waste.

Law stated - 9 September 2025

Regulation of waste

4 | What types of waste are regulated and how?

Waste is classified into three types:

- household waste, which originates from daily activities within households, excluding human waste and specific waste;
- household-like waste, which comes from commercial areas (such as shopping centres, markets, hotels), industrial areas, special zones, social and public facilities or other facilities; and
- specific waste, which includes waste containing hazardous and toxic materials (B3), B3 waste, disaster-related waste, construction and demolition debris, waste that cannot yet be treated with existing technology or waste generated on a non-routine basis.

In general, this regulation outlines the obligation of every individual or business entity to manage waste through activities of waste reduction and management. The government has the authority to provide incentives for those who actively reduce waste, as well as apply disincentives to those who fail to do so. Additionally, compensation may be granted to individuals or communities negatively affected by waste management activities, particularly those residing near final disposal sites.

Further, the regulation mandates that waste management operators obtain the necessary operating permits. Any violations of the licensing provisions may result in administrative, civil, or criminal sanctions, depending on the severity of the offence.

Law stated - 9 September 2025

Regulation of air emissions

5 | What are the main features of the rules governing air emissions?

The main feature governed in air emissions regulation in Indonesian Law differs depending on the context of regulation. The law on the Implementation of Environmental Protection and Management (Government Regulation No. 22 of 2021) provides a comprehensive framework for air quality planning and control. It covers key provisions such as ambient air quality standards and zoning through Air Protection and Management Zones. The regulation also mandates emission inventories, introduces emission quotas and trading mechanisms, and requires pollution prevention, mitigation and recovery. Vehicle emission testing is also regulated, and polluters are required to internalise the cost of emission control. These provisions apply to emissions from both mobile sources (eg, vehicles, land transport and heavy equipment) and stationary sources (eg, industrial and commercial operations).

In addition to direct air emissions regulations, there are also supporting regulations that contribute to emissions reduction. One example is Government Regulation No. 33 of 2023 on Energy Conservation, which promotes efficient energy use through the regulation of energy management systems, audits, performance standards, labelling and incentive schemes across sectors such as industry, transportation and buildings. By reducing energy consumption, such measures help lower potential emissions from energy production and use.

Law stated - 9 September 2025

Protection of fresh water and seawater

6 | How are fresh water and seawater, and their associated land, protected?

Indonesian law regulates the protection and management of water resources, including freshwater, seawater and groundwater, through conservation efforts, the utilisation of water resources and the control of water's destructive power (eg, flood, water erosion and sedimentation, landslides and other environmental impacts caused by water).

In the context of water resource protection, the government has established quality standards for water, wastewater and seawater to regulate the permissible levels of pollutants in aquatic environments. Any individual whose activities result in the exceedance of these established standards may be subject to administrative sanctions, including written warnings, government enforcement measures, administrative fines, suspension and revocation of business licences, as well as criminal penalties in the form of imprisonment and fines.

Further, business actors who utilise water resources, whether for commercial or non-commercial purposes, are required to obtain a business licence or formal approval for water use. Such licences are granted only upon satisfaction of specific conditions, including compliance with technical and administrative requirements, the procurement of approval from relevant stakeholders within the water resource area and the fulfilment of obligations to pay water conservation fees. Failure to obtain the necessary licence may result in administrative or criminal sanctions, in accordance with applicable laws and regulations.

Law stated - 9 September 2025

Protection of natural spaces and landscapes

7 | What are the main features of the rules protecting natural spaces and landscapes?

Indonesia's legal framework for protecting natural spaces and landscapes is built on the conservation of biological resources and their ecosystems. The Law No. 5 of 1990 (as amended) establishes the core principles for protecting natural spaces and landscapes which are ecosystem protection, sustainable use, and area classification. It introduces two primary categories of protected areas: *Kawasan Suaka Alam* (KSA or nature sanctuaries) and *Kawasan Pelestarian Alam* (KPA or nature preservation areas), which are further

divided into subtypes such as nature reserves, wildlife sanctuaries, national parks and nature tourism parks. These areas aim to preserve biodiversity, maintain ecological functions and support sustainable use.

Further provisions of natural spaces and landscapes conservation are regulated under the Government Regulation No. 28 of 2011 and its amendments which details the designation, planning, and management of said areas. The regulation also covers land-use zonation, harmful activities prohibition such as land conversion and allows limited use of the areas for research, education, traditional practices and ecosystem services under strict supervision. These rules also cover broader conservation designations such as *Hutan Konservasi-*, *Hutan Lindung*, and ecological corridors, reinforcing connectivity and ecological resilience.

Other regulations that are related to the conservation of landscape are the Government Regulation No. 21 of 2022. The objectives of the said regulation among others are to establish order in spatial planning implementation and to ensure fairness in the implementation of spatial planning. The regulation governs for spatial planning, space utilisation, control of space utilisation, supervision of spatial planning, spatial planning development and spatial planning institutions.

The central and regional governments are the authorities in charge of implementing said framework, with the participation of community through social forestry programmes and recognition of customary rights. Protection mechanisms include habitat management, fire prevention, invasive species control and restoration. Compliance is enforced through licensing, sanctions and corporate liability.

Law stated - 9 September 2025

Protection of flora and fauna species

8 | What are the main features of the rules protecting flora and fauna species?

Under Law No. 5 of 1990 (as amended), the protection of flora and fauna is carried out through various conservation efforts. These include safeguarding life-supporting systems, such as the protection of springs and cliffs, maintaining forest hydrological functions, and managing watersheds (DAS), all of which aim to prevent ecological changes that may disrupt the balance of flora and fauna. The government also regulates both in-situ (within natural habitat) and ex-situ (outside natural habitat) conservation mechanisms for flora and fauna.

Further, it prohibits certain activities within nature reserves and conservation areas that may degrade or eliminate their ecological functions. Such prohibited activities include destroying or reducing the function of conservation areas, setting fires, introducing non-native plant and animal species, and carrying out actions that may alter the natural landscape. Any individual or corporation found to be in violation of these provisions may be subject to criminal sanctions in accordance with the applicable laws and regulations.

In addition, the list of protected flora and fauna species is referred to in the MoEF Regulation No. P.106/MENLHK/SETJEN/KUM.1/12/2018.

Law stated - 9 September 2025

Noise, odours and vibrations

9 | What are the main features of the rules governing noise, odours and vibrations?

Noise, odours and vibrations are types of disturbances or pollutant elements regulated under the Environment Law. Business actors are required to comply with the disturbance quality standards, which govern the permissible thresholds of such pollutant elements in the course of business activities. Any violation of these standards may be subject to criminal and administrative sanctions. In addition, business actors are also required to conduct disturbance testing through laboratories registered with the Minister or by engaging certified personnel.

More specifically, the provisions regarding each disturbance quality standard are regulated under the following MoEF Decrees:

- MoEF Decree No. 48 of 1996 on Noise Quality Standards;
- MoEF Decree No. 49 of 1996 on Vibration Quality Standards; and
- MoEF Decree No. 50 of 1996 on Odour Quality Standards.

Law stated - 9 September 2025

Liability for damage to the environment

10 | Is there a general regime on liability for environmental damage?

Under Indonesian Environmental Law, any individual or entity conducting activities with the potential to pollute the environment is required to implement appropriate environmental protection and management measures. Should such activities result in harm to other parties, the responsible party is required to provide compensation or carry out environmental restoration, commonly known as the polluter pays principle. Furthermore, Indonesian Environmental Law also adopts the principle of strict liability, which refers to legal responsibility imposed without the need to prove fault. This principle is applied in cases of environmental damage resulting from actions, businesses or activities involving the use of hazardous and toxic substances (B3), the production and management of B3 waste, as well as other activities that pose a serious threat to environmental sustainability. Accordingly, any party engaged in activities with high environmental risk is strictly liable for any resulting harm, regardless of whether fault can be established.

Further, if a business actor conducts activities classified as environmental crimes, they may be held criminally liable in the form of fines or imprisonment. The type and severity of the sanctions depend on the nature and seriousness of the environmental offence.

In addition to the above, business actors may also be subject to administrative sanctions for violations of business licences or approvals issued by the central or regional government. These sanctions may include:

- written warnings;

- enforcement actions by the government;
- administrative fines;
- suspension of business licences; or
- revocation of business licences.

However, the imposition of administrative sanctions does not release the responsible party from the obligation to restore the environment or from potential criminal liability.

Law stated - 9 September 2025

Environmental taxes

11 | Is there any type of environmental tax?

In Indonesia, environmental taxes are imposed based on the criteria of environmental impact arising from the utilisation of natural resources. Such impacts may include:

- depletion of natural resources;
- environmental pollution; and
- environmental degradation.

Types of environmental taxes regulated under prevailing laws and regulations include levies on the extraction and use of groundwater, surface water, fossil fuels and edible bird's nests. The amount of tax imposed depends on the extent of environmental damage caused – the greater the impact, the higher the tax rate applied.

In addition, Indonesia also imposes a carbon tax on the purchase of products or conduct of activities that result in carbon emissions beyond a specified threshold during a given period. The carbon tax subjects include individuals or entities that purchase carbon-containing goods or engage in carbon-emitting activities.

Law stated - 9 September 2025

Environmental reporting

12 | Are there any notable environmental reporting requirements (eg, regarding emissions, energy consumption or related environmental, social and governance (ESG) reporting obligations)?

The government requires all business actors to periodically report the implementation of obligations stipulated in their environmental approval-based business licenses through the Environmental Approval Reporting Information System at https://simpel.menlhk.go.id/. This reporting includes: (1) water pollution control; (2) air pollution control; (3) hazardous and toxic waste (B3) management; (4) environmental damage control; and (5) other matters as regulated by applicable laws and regulations. In addition, business actors engaged in activities related to climate change mitigation and adaptation are required to record and

report their activities through the National Registry System for Climate Change Control (SRN PPI) at https://srn.menlhk.go.id/.

With regard to energy consumption, relevant regulations also mandate that energy providers, energy source users and energy users consuming above a certain threshold must implement energy management measures and submit an annual report to the Minister of Energy and Mineral Resources no later than June 30 of the following year. Such reporting must be submitted electronically through the energy management reporting system provided by the Ministry of Energy and Mineral Resources at https://simebtke.esdm.go.id/sinergi/company.

Further, in relation to ESG in Indonesia, company reporting remains voluntary, except for publicly listed companies and financial service institutions, which are required to submit sustainability reports that cover ESG aspects. Companies may refer to international standards, such as the GRI Standards, Task Force on Climate-related Financial Disclosures (TCFD), and ISO 26000 in preparing their ESG reports.

Law stated - 9 September 2025

Government policy

13 How would you describe the general government policy for environmental issues? How are environmental policy objectives influencing the legislative agenda?

In general, Indonesian environmental policy is centred around sustainable development, with strategic focus areas including mitigating climate change to achieve a FOLU (Forestry and Other Land Use) Net Sink by 2030 and net zero emissions by 2060, transitioning to renewable energy and managing the environment in the utilisation of natural resources.

In support of these objectives, Indonesia has enacted and revised several key regulations, including:

- Law No. 32 of 2009 on Environmental Protection and Management, amended by the Job Creation Law, which strengthens environmental permitting, pollution control and enforcement mechanisms; and
- Government Regulation No. 22 of 2021 on Environmental Management, which integrates environmental considerations into the business licensing process.

In addition, the government has outlined several environmental legislative priorities in the National Legislation Program of the House of Representatives (DPR) for the 2025–2029 period, which include:

- Climate Change Bill;
- Waste Management Bill;
- Forestry Bill;
- Prevention and Eradication of Forest Destruction Bill;
- Forest and Land Fire Prevention and Control Bill; and
- Genetic Resources Bill.

Law stated - 9 September 2025

HAZARDOUS ACTIVITIES AND SUBSTANCES

Regulation of hazardous activities

14 | Are there specific rules governing hazardous activities?

Yes, there are specific rules governing hazardous activities. In addition to the Environmental Law, the MoEF also issues MoEF Regulation Number 6 of 2021 on the Procedures and Management of Hazardous Waste. These regulations set out the obligations of business actors whose activities generate B3 waste. Such obligations include the proper management of B3 waste, which includes the following activities:

- reduction of B3 waste;
- storage of B3 waste;
- collection of B3 waste;
- transportation of B3 waste;
- utilization of B3 waste;
- treatment of B3 waste; and
- disposal of B3 waste.

These waste management activities must be supported by a valid business licence or formal approval issued by the relevant central or regional government authority. Further, businesses are required to submit periodic reports to the appropriate regulatory body, in accordance with the terms of their Technical Approval. In cases where the waste generator is unable to manage the B3 waste independently, such management may be delegated to a third party that holds the necessary licence and qualifications.

In addition, the regulation imposes criminal sanctions on any party that fails to manage B3 waste in accordance with the applicable regulations or illegally imports B3 waste into the territory of the Republic of Indonesia without proper authorisation. Violations of these provisions may result in imprisonment or monetary fines, as stipulated under the prevailing laws and regulations.

Please note Indonesia has a specific regulation addressing hazardous (non-toxic) substances, which are subject to less stringent requirement.

Law stated - 9 September 2025

Regulation of hazardous products and substances

15 | What are the main features of the rules governing hazardous products and substances?

In Indonesia, the regulation on hazardous and toxic substances (B3) is primarily governed by the Environmental Law, along with its implementing regulations, notably Government Regulation No. 74 of 2001 on the Management of Hazardous and Toxic Substances.

The regulation classifies B3 substances based on toxicity, flammability, reactivity, and environmental impact. Business actors are subject to several obligations in managing B3, including mandatory registration of B3 substances, notification for B3 import and export activities and the proper labelling and marking of B3 containers and storage facilities. Additionally, B3 management activities must comply with occupational health and safety standards and conduct periodic medical check-ups for personnel. Entities managing B3 substances are also obligated to provide compensation for any accidents or emergencies arising from B3 usage, and to restore any environmental damage or pollution resulting therefrom. Further, entities managing B3 are required to submit a written report on their B3 management activities at least once every six months to the relevant authorities, with copies forwarded to the governor, regent or mayor, depending on jurisdiction.

Violations of these provisions may result in administrative or criminal sanctions in accordance with prevailing laws and regulations. Moreover, business actors whose use of B3 or generation of B3 waste causes significant environmental harm may be subject to strict liability for the resulting damages.

Law stated - 9 September 2025

Industrial accidents

16 What are the regulatory requirements regarding the prevention of industrial accidents?

To prevent the industrial accidents, business actors – both employer and the employees – are obliged to comply with obligations stipulated under the Occupational Health and Safety (K3) Law while carrying out work. For example, employers must conduct physical and psychological health examinations of employees in accordance with the nature and risks of their work, inform all new employees about workplace hazards, the use of personal protective equipment (PPE) and safe work procedures and conduct. Employers are also obligated to report any occupational accidents to the Ministry of Manpower. On the other hand, employees are required to wear the mandated PPE, comply with all occupational health and safety requirements, and are entitled to raise objections if they are instructed to perform tasks considered unsafe.

In line with the above, the government also mandates companies that employ a minimum of 100 workers or operate with a high level of potential risk to implement the Occupational Health and Safety Management System (SMK3). This implementation involves the establishment of K3 policies, K3 planning, execution of K3 plans, monitoring and evaluation of K3 performance, as well as review and improvement of the SMK3 performance. For companies classified as having a high potential hazard, an SMK3 audit must be conducted by an independent auditor appointed by the Minister of Manpower. Further, in certain sectors, businesses are also required to implement safety management systems specific to their industry, such as the Mining Safety Management System (SMKP) for the mining sector, and the Electricity Safety Management System (SMK2) for the electricity sector.

Law stated - 9 September 2025

ENVIRONMENTAL ASPECTS IN TRANSACTIONS AND PUBLIC PROCUREMENT

Environmental aspects in M&A transactions

17 | What are the main environmental aspects to consider in M&A transactions?

In an M&A transaction, one of the most critical environmental aspects to consider is the environmental approval documentation (eg, AMDAL, UKL-UPL or Environmental Approval). The buyer must conduct a thorough assessment to ensure that the target company holds all required environmental approvals and related business licences that align with its operational activities. Failure to meet this requirement may result in legal or operational consequences for the buyer, including disruption to business operations or sanctions from the relevant authorities. Therefore, to mitigate future risks, it is advisable that the buyer verifies the target company's compliance with all mandatory environmental permits prior to completing the transaction.

It is also essential to identify the specific obligations imposed on the target company under its environmental approvals and business licenses. For example, if the target company's activities generate disturbances such as noise, vibration or odour, it is required to comply with the applicable environmental quality standards, conduct disturbance testing and report to the relevant authority. Accordingly, the buyer should ensure that the target company has fulfilled these obligations and should seek indemnification to release the buyer from any liabilities arising from the target company's non-compliance with environmental regulations.

Law stated - 9 September 2025

Environmental aspects in other transactions

18 | What are the main environmental aspects to consider in other transactions?

As with M&A transactions, companies undertaking IPOs or corporate financing must ensure compliance with applicable environmental approvals and licenses. These transactions are typically reviewed by relevant authorities to verify that all required permits are in place and aligned with the company's operations. Non-compliance may result in fines or even failure of the transaction.

Companies should also review any existing environmental management contracts or waste management contracts with the third party, to confirm their validity and applicability. In addition, ongoing environmental reporting obligations to the relevant ministry must be taken into account as part of the due diligence process.

Law stated - 9 September 2025

Environmental aspects in public procurement

19 | Is environmental protection taken into consideration by public procurement regulations?

Yes, the government has implemented a Green Public Procurement (GPP) policy aimed at reducing negative environmental impacts while delivering economic benefits and supporting good governance (GCG) practices for ministries, government institutions and the public. Accordingly, in conducting the procurement of goods or services, the government is required to consider potential negative impacts on health, air quality, soil and water, and to ensure that the use of natural resources complies with the prevailing laws and regulations. In addition, public procurement process by the government of Indonesia shall consider the use of environmentally friendly products or other technical specifications that incorporate environmental considerations.

As part of its efforts to realise GPP, the government has established specific categories of environmentally friendly goods and services, which include: eco-labelled photocopy paper; eco-labelled file folders; legally verified timber for furniture (SVLK-certified); hybrid autoclave medical waste treatment equipment certified as Environmentally Friendly Technology (TRL); hybrid microwave medical waste treatment equipment certified as TRL; and air conditioning units certified with the Energy Efficiency Label.

Law stated - 9 September 2025

ENVIRONMENTAL ASSESSMENT

Activities subject to environmental assessment

20 | Which types of activities are subject to environmental assessment?

As stipulated under Government Regulation No. 28 of 2025, the government classifies business activities based on their level of hazard, assessed through factors including health, safety, environmental impact and the utilisation and management of natural resources. This risk assessment serves as the basis for determining the type of business license that must be obtained by business actors to legally operate their activities.

Business risks are generally classified into three categories, namely low, medium (subdivided into medium-low and medium-high), and high risk. Low risk business activities are only required to obtain a Business Identification Number (NIB). Medium-risk activities require both an NIB and a Standard Certificate, while high-risk activities must secure an NIB and a specific Business License relevant to the nature of the activity. For instance, in the environmental sector, the landfilling of B3 waste is deemed a high-risk activity, necessitating that businesses obtain both an NIB and a Business License for B3 Waste Management. In contrast, businesses engaged in the collection of household waste and non-hazardous waste are classified as lower-medium risk and are thus only required to secure an NIB and a Standard Certificate, with no additional licence required.

Further, business actors are obligated to obtain environmental approvals in accordance with the environmental impact of their operations. An Environmental Impact Assessment (AMDAL) is mandatory for activities that pose a significant impact on the environment. For activities with less significant impact, an Environmental Management and Monitoring

Effort (UKL-UPL) is required. Activities that fall outside the scope of mandatory AMDAL or UKL-UPL must obtain a Statement of Environmental Management Capability (SPPL).

Law stated - 9 September 2025

Environmental assessment process

21 | What are the main steps of the environmental assessment process?

Environmental assessment of business activities in Indonesia is conducted by the government, taking into account the type, criteria and location of the activity, as well as resource limitations and potential volatility risks. Once the risk level of a business activity has been established by the government, business actors may refer to the classification to determine the specific licensing requirements applicable to their activity. However, in cases where the risk level of a business activity is not listed under Government Regulation No. 28 of 2025, business actors may seek direct consultation with the OSS Institution (BKPM) or submit a formal request for clarification or propose the inclusion of the activity to the relevant technical ministry or authority.

Upon determining the required business licence, business actors must also fulfil basic requirements, including securing an Environmental Approval (AMDAL, UKL-UPL or SPPL), depending on the environmental impact of the proposed activity. The application for Environmental Approval is submitted through the OSS system and proceeds through the following stages:

- screening of the type of environmental document and technical approval by the business actor;
- submission of a request for technical approval;
- submission of the application for Environmental Approval or amendments thereto;
- evaluation or review of the environmental documents;
- issuance of the Environmental Feasibility Decision; and
- issuance of the Environmental Approval.

Once approved, the business actor will receive one of the following, depending on the activity's environmental significance:

- Environmental Feasibility Decree for activities with significant impacts requiring AMDAL;
- Statement of UKL-UPL for activities with minor impacts that fall under the UKL-UPL category; or
- Statement Letter of SPPL for activities with negligible impact not subject to AMDAL or UKL-UPL requirements.

Law stated - 9 September 2025

REGULATORY AUTHORITIES

Regulatory authorities

22 | Which authorities are responsible for the environment and what is the scope of each regulator's authority?

The Environmental Law grants authority to both the central and regional governments in the implementation of environmental protection and management. In general, both the central and regional governments are authorised to:

- issue environmental approvals and business licences required by business actors;
- conduct supervision over the compliance of business operators with environmental protection and management obligations;
- provide incentives and disincentives;
- impose environmental taxes; and
- impose administrative and criminal sanctions.

In addition, the central government is also authorised to establish national environmental policies.

In the context of environmental law enforcement, the government grants authority to civil servant investigators (PPNS), the police, and public prosecutors to conduct integrated enforcement actions against environmental crimes.

Law stated - 9 September 2025

Investigation

23 | What are the typical steps in an investigation?

Investigations into environmental criminal offences may be carried out by designated civil servant investigators (PPNS) from government agencies responsible for environmental protection and management. These PPNS investigators are granted broad authorities, including the ability to examine individuals suspected of committing environmental crimes, inspect relevant documents, seize items that may serve as evidence, terminate investigations and conduct searches of individuals, clothing, premises or other locations suspected of being linked to the offence. Additionally, PPNS investigators may also exercise the authority to arrest and detain suspects.

However, in carrying out investigation, PPNS investigators are required to notify and coordinate with the police investigators. The results of the investigation conducted by the PPNS investigators must be submitted to the public prosecutors. Accordingly, the enforcement of environmental criminal law is carried out in an integrated manner through coordination among PPNS investigators, the police and the public prosecutor, under the supervision of the MoEF.

Law stated - 9 September 2025

Administrative decisions

24 | What is the procedure for making administrative decisions?

An Administrative Decision (KTUN) is a written stipulation issued by an authorised body or official that contains an administrative legal act and gives rise to legal consequences for an individual or a legal entity. In the context of environmental matters, a KTUN may include environmental approvals (such as AMDAL, UKL-UPL and technical approvals), approvals of environmental management and monitoring plans (RKL-RPL), designation of protected areas, and the granting of incentives or disincentives.

The procedure for issuing a KTUN may vary depending on the type of decision. However, in general, the issuance process includes the following stages:

- preparation of administrative documents and submission of the application;
- site survey (if required);
- validation, verification, and processing; and
- issuance of the KTUN.

Law stated - 9 September 2025

Sanctions and remedies

25 | What are the sanctions and remedies that may be imposed by the regulator for violations?

Violations of the provisions under the Environmental Law may be subject to: (1) administrative sanctions, which may include written warnings, government enforcement actions, administrative fines, suspension of business licences and revocation of business licences; or (2) criminal sanctions, depending on the type and severity of the environmental offence committed.

Criminal law enforcement in environmental matters observes the principle of *ultimum remedium* for certain formal offences, such as violations of wastewater quality standards, emission limits and disturbance thresholds. In such cases, criminal sanctions are considered a last resort, imposed only after administrative enforcement measures have proven ineffective.

In parallel, if the violation causes harm to other parties, the responsible party is also required to provide compensation or carry out environmental restoration. This may include:

- stopping the source of pollution and conducting clean-up;
- remediation;
- rehabilitation;
- restoration; or
- other appropriate measures in line with scientific and technological developments.

Law stated - 9 September 2025

Appeal of regulators' decisions

26 | To what extent may decisions of the regulators be appealed, and to whom?

Decisions issued by regulators, such as Environmental Approvals are classified as KTUN. While the Environmental Law itself does not directly regulate the dispute mechanism regarding KTUN, any objection to such decisions may be addressed through the mechanism of administrative court dispute resolution.

In accordance with Law No. 5 of 1986 on Administrative Court (as amended), a party objecting to a KTUN must first pursue administrative remedies, such as filing an objection or administrative appeal. If administrative remedies are not available, or if certain statutory criteria are met, the party may proceed to submit a lawsuit to the Administrative Court (PTUN). Such lawsuit must be filed within 90 calendar days from the date the KTUN was received or publicly announced.

Upon review, PTUN may issue a ruling to cancel the KTUN or order the issuance of a new KTUN. Should any party disagree with PTUN's ruling, further legal recourse is available through:

- appeal to the High Administrative Court (PTTUN);
- cassation to the Supreme Court; and
- Judicial Review to the Supreme Court.

Law stated - 9 September 2025

JUDICIAL PROCEEDINGS

Judicial proceedings

27 | Are environmental law proceedings in court civil, criminal or both?

Yes, both civil and criminal sanctions may be imposed. However, for certain formal offences (such as violations of wastewater discharge standards, emission limits and environmental disturbance thresholds) criminal sanctions serve as *ultimum remedium*, meaning they are applied only as a last option.

Law stated - 9 September 2025

Powers of courts

28 | What are the powers of courts in relation to infringements of environmental law?

Civil court

The civil court has the authority to order:

- the payment of compensation for environmental losses; and
- restoration or rehabilitation of the environment, either as part of compensation or a separate obligation.

Criminal court

The criminal court may impose:

- principal criminal penalties, such as imprisonment and fines; and
- additional penalties for corporations, which may include confiscation of profits, closure of part/all of the business, obligation to carry out specific actions and placement of the company under court-appointed management for up to three years.

Administrative court (PTUN)

The PTUN has the authority to revoke or order the issuance of a new administrative decision (KTUN).

Law stated - 9 September 2025

Civil claims

29 | Are civil claims allowed regarding infringements of environmental law?

Yes, this is permitted under the Environmental Law. Any party suffering losses as a result of environmental pollution or degradation has the right to file a civil lawsuit demanding compensation and environmental restoration from the polluter. This right of legal standing is also granted to class representatives, environmental organisations and authorised government agencies.

Law stated - 9 September 2025

Defences and indemnities

30 | What defences or indemnities are available?

Compensation may be sought from business actors for environmental harm arising from activities involving the use of Hazardous and Toxic Substances (B3), the generation and management of B3 waste, or other activities that pose a serious threat to the environment. In such cases, the principle of strict liability applies, meaning that liability is imposed

regardless of fault or negligence. However, business actors may be exempted from liability if they can demonstrate that the damage resulted from *force majeure* events, such as natural disasters beyond human control.

In addition to compensation, affected parties may also demand accountability measures, including restoration of the environmental functions, elimination of the pollution source and any other necessary remedial actions. In such instances, the business operator is required to demonstrate that environmental management obligations have been properly observed, appropriate preventive measures were taken and no negligence occurred in the conduct of the business activities.

Law stated - 9 September 2025

Directors' or officers' defences

31 | Are there specific defences in the case of directors' or officers' liability?

Yes, a director or officer may be exempt from liability if they can demonstrate that they have fulfilled their duties to ensure environmental compliance, implemented proper environmental management systems (including permitting, monitoring, and risk mitigation), supervised and controlled operations in line with legal standards, as well as acted in accordance with the precautionary principle and good corporate governance.

Law stated - 9 September 2025

Appeal process

32 | What is the appeal process from trials?

In Indonesia, after the District Court judge delivers a court decision in a criminal or civil case, any dissatisfied party may file an appeal to the High Court within 14 days of the court decision. The High Court re-examines both legal and factual aspects of the case. If the party remains unsatisfied, they may then file a cassation to the Supreme Court within 14 days after receiving the High Court's decision, though the Supreme Court only reviews the application of law. As a last resort, a judicial review may be filed with the Supreme Court based on specific grounds, such as the discovery of new evidence (novum) or proven legal or procedural error.

For administrative disputes filed with the Administrative Court, a similar process applies: an appeal must be submitted to the Administrative High Court within 14 days of the decision. If still dissatisfied, the party may proceed cassation to the Supreme Courts.

Law stated - 9 September 2025

INTERNATIONAL TREATIES AND INSTITUTIONS

International treaties

33 Is your country a contracting state to any international environmental treaties, or similar agreements?

Yes. Indonesia is a contracting state to several key international environmental treaties and agreements, including but not limited to:

- United Nations Framework Convention on Climate Change (UNFCCC): Indonesia joined the UNFCCC by ratifying it through Law No. 6 of 1994. Indonesia is also part of the Kyoto Protocol and the Paris Agreement. These agreements show Indonesia's commitment to reducing greenhouse gas emissions and dealing with climate change by taking action to prevent and adapt to its impacts.
- United Nations Conventions on the Law of the Sea (UNCLOS):Indonesia ratified UNCLOS through Law No. 17 of 1985. This agreement provides international rules for using and protecting the ocean. It helps Indonesia manage its marine environment and natural resources.
- Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal (Basel Convention):the Basel Convention was ratified by Indonesia through Presidential Decree No. 61 of 1993. This agreement aims to control and reduce the movement of hazardous waste between countries, especially from developed to developing countries. It supports safer and more responsible waste management practices.
- United Nations Convention on Biological Diversity (UNCBD):Indonesia ratified the UNCBD through Law No. 5 of 1994. This agreement focuses on protecting biological diversity, using it in a sustainable way, and ensuring that the benefits from genetic resources are shared fairly. This is especially important for Indonesia as one of the world's most bio-diverse countries.

Indonesia is also party to other international environmental treaties, including:

- the Stockholm Convention (on Persistent Organic Pollutants);
- the Rotterdam Convention (on the Prior Informed Consent Procedure for certain Hazardous Chemicals and Pesticides);
- the Vienna Convention and Montreal Protocol (on substances that deplete the ozone layer); and
- the Minamata Convention (on Mercury).

These treaties influence national legislation and environmental policy, including climate change targets, biodiversity protection and hazardous waste management.

Law stated - 9 September 2025

International treaties and regulatory policy

34 To what extent is regulatory policy affected by these treaties?

International environmental treaties have a significant influence on Indonesia's regulatory policies, especially in shaping the framework, standards, and enforcement mechanisms of environmental protection and management. Here's how and to what extent these treaties affect national regulatory policy.

- Harmonisation of National Laws with International Commitments: Indonesia is obligated to align its domestic regulations with the provisions of ratified international treaties. This means enacting or amending laws and regulations to comply with treaty obligations. For example, the Environmental Law incorporates international principles such as the precautionary principle, sustainable development, and polluter pays principle, which are reflected in many multilateral environmental agreements.
- National Action Plans and Institutional Arrangements: Indonesia is required to develop national strategies and action plans in line with treaty goals:
    - Nationally Determined Contributions under the Paris Agreement;
    - National Biodiversity Strategy and Action Plan under the UNCBD; and
    - creation of agencies or inter-ministerial bodies to oversee implementation (eg, the National Council on Climate Change – DNPI).
- Reporting, Monitoring, and Transparency: treaties impose obligations to report on implementation, which pushes the government to:
    - improve data collection and environmental monitoring systems;
    - publish periodic national communications (eg, for UNFCCC); and
    - establish Measurement, Reporting, Verification frameworks, especially in climate policy.

Law stated - 9 September 2025

UPDATE AND TRENDS

Key developments of the past year

35 | Are there any emerging trends or hot topics in environment law in your jurisdiction?

An emerging trend in Indonesian environmental law is the formal adoption of the Environmental Services Payment System (PJLH) under Ministerial Regulation No. 2 of 2025. This regulation provides a national framework for monetising ecosystem services, where beneficiaries of environmental functions (such as water, carbon storage and biodiversity) are required to compensate parties who maintain and protect them. It is the implementing regulation of the concept introduced in Government Regulation No. 46 of 2017 on Environmental Economic Instruments by outlining procedures for performance-based agreements between Environmental Service Users (eg, businesses or local governments) and Providers (eg, communities or conservation actors), thereby linking economic incentives to ecosystem conservation.

This shift introduces a more practical, incentive-based approach to environmental governance in Indonesia by linking environmental financing with existing corporate responsibilities such as CSR programmes, PROPER ratings, and environmental approval requirements. Businesses are encouraged to contribute to conservation efforts through direct payments and long-term environmental management. With implementation and oversight shared across national and local governments, PJLH is expected to support more decentralised, performance-based environmental funding, reflecting a gradual move toward using economic tools to strengthen sustainability efforts in Indonesia.

Law stated - 9 September 2025

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UPDATE AND TRENDS

Key developments of the past year

LEGISLATION

Main environmental regulations

1 | What are the main statutes and regulations relating to the environment?

Encouraged by international environmental trends, including the Rio de Janeiro Declaration of 1992, Japan enacted the Basic Act on the Environment in 1993. The Basic Act on the Environment sets out the basic principles of environmental conservation and clarifies the responsibilities of each party involved.

The basic principles of the Basic Act on the Environment are: (1) to ensure that current and future generations can enjoy the blessings of the environment and pass them on to future generations; (2) to build a society that facilitates sustainable development with reduced environmental impact based on the fair allocation of roles among all people; and (3) to actively promote global environmental conservation through international cooperation. The basic guidelines for the formulation and implementation of the environmental conservation policies set forth in the Basic Act on the Environment are to ensure that (1) the atmosphere, water, soil and other natural components of the environment are maintained in good condition so as to protect human health, conserve the living environment and properly preserve the natural environment; (2) the diversity of ecosystems, wildlife species and other biological diversity are protected, and the various types of natural environments of the forest, farmlands and water bodies, etc, are systematically conserved in accordance with the natural and social conditions of the area; and (3) people can stay in touch with the lush green nature.

The Basic Act on the Environment requires the Japanese government to prepare a basic environmental plan. The basic environmental plan establishes the basic policy of the Japanese government with respect to (1) the outline of long-term comprehensive policies for environmental conservation; and (2) the particulars required to promote the policies for environmental conservation in a comprehensive and systematic manner, in addition to those provided for in (1). In 2023, the sixth basic environmental plan was discussed by the Japanese government to reflect recent discussions, including how to achieve (1) the preservation of various environmental values (eg, carbon neutrality, circular economy, biodiversity) and (2) economic growth by 2030 or 2050. In May 2024, the sixth basic environmental plan was approved at a cabinet meeting. The plan aims to improve the quality of life, happiness, well-being and economic welfare of every citizen now and in the future through environmental conservation.

Law stated - 18 July 2025

Integrated pollution prevention and control

2 | Is there a system of integrated control of pollution?

In Japan, environmental pollution became a social problem in the 1960s, and in 1967, the Basic Act for Environmental Pollution Control was enacted, which was later incorporated into the Basic Act on the Environment. The Basic Act on the Environment defines

'environmental pollution' as 'air pollution, water pollution (in addition to deterioration of water quality, this includes deterioration of water conditions and the quality of bottom sediments), soil contamination, noise, vibration, ground subsidence (excluding subsidence caused by land excavation for mineral exploitation) and offensive odours caused by business activities and human activities in a broad area, among the hindrances to environment conservation, which cause damage to human health or the living environment (including property closely related to human life as well as flora and fauna closely related to human life and their growing environment; the same applies hereinafter)'. The Basic Act on the Environment provides that prefectural governors may prepare environmental pollution control programmes based on the basic environmental plan.

Law stated - 18 July 2025

Soil pollution

3 | What are the main characteristics of the rules applicable to soil pollution?

To combat soil pollution, the Soil Contamination Countermeasures Act was enacted in 2002. The purpose of this Act is to facilitate the implementation of countermeasures against soil contamination by formulating measures to ascertain the level of soil contamination by designated hazardous substances and measures to prevent harm to human health resulting from such contamination, thereby protecting the health of citizens.

The specific regulatory approach is as follows: if the prefectural governor or other competent authority finds that there is a risk of soil contamination following the closure of a specified facility using hazardous substances or upon receipt of a notification of changes in the form or nature of land of an area larger than a certain size, an investigation is carried out by a designated investigation institution, and land found not to be compliant with the standards specified in the ordinances of the Ministry of the Environment is designated as an area requiring action. If this is the case, under the direction of the prefectural governor or other competent authority, the owner of the land or the polluting party must prepare a plan for the removal of the contamination, carry out decontamination measures and report on the results.

Law stated - 18 July 2025

Regulation of waste

4 | What types of waste are regulated and how?

Japan enacted the Waste Management and Public Cleansing Act in 1970 to ensure the proper disposal of waste. This Act regulates the proper disposal of waste, the establishment of waste treatment facilities, and waste treatment business operators. In addition, the following laws have been enacted as special laws or special measures laws:

- the Act on Special Measures concerning the Disposal of Disaster Waste;
-

the Act on Special Measures concerning the Proper Treatment of Polychlorinated Biphenyl Waste;

- the Act on Promoting the Treatment of Debris that Drift Ashore concerning measures against objects drifting ashore; and
- the Act on Special Measures concerning the Handling of Environment Pollution by Radioactive Materials, which applies only to the accident at the Tokyo Electric Power Company (TEPCO)'s Fukushima Daiichi Nuclear Power Plant.

To promote the efficient use of resources, the Act on the Promotion of Effective Utilization of Resources was enacted in 2000. This Act is aimed at certain business operators and regulates the reduction of by-products, the use of recyclable resources or reusable parts, and labelling to promote sorted collection. In addition, in May 2025, this Act was revised to mandate the use of recycled materials in specific products to enhance resource recycling. Producers of such products are obliged to submit plans and periodic reports on the use of recycled materials to the relevant authority. Other laws that have been enacted to implement regulations according to the nature of individual goods include: the Act on the Promotion of Sorted Collection and Recycling of Containers and Packaging, the Act on the Promotion of Recycling of Small Waste Electrical and Electronic Equipment, the Construction Recycling Act, the Act on Promotion of Recycling and Related Activities for Treatment of Cyclical Food Resources, the Act on Recycling of End-of-Life Automobiles, and the Act on the Promotion of Recycling of Small Waste Electrical and Electronic Equipment.

Law stated - 18 July 2025

Regulation of air emissions

5 | What are the main features of the rules governing air emissions?

Japan enacted the Air Pollution Control Act in 1968. This Act sets the emission standards for air pollutants (soot and smoke, volatile organic compounds, particulate matter and mercury) emitted or dispersed by stationary sources such as factories and workplaces by type of substance and by type and size of facility.

There are also regulations for individual problems caused by mobile sources, such as the Act Concerning Special Measures for Total Emission Reduction of Nitrogen Oxides and Particulate Matter from Automobiles in Specified Areas for automobile emissions, and the Act on the Prevention of Generation of Particulates from Studded Tyres for studded tyre dust.

Law stated - 18 July 2025

Protection of fresh water and seawater

6 | How are fresh water and seawater, and their associated land, protected?

Japan enacted the Water Pollution Prevention Act in 1979. This Act aims to prevent water pollution in areas of public water bodies and groundwater, and promotes the regulation of industrial water and the implementation of domestic wastewater measures. For industrial water, the Act sets effluent standards for factories and workplaces and mandates compliance with these standards. For domestic wastewater, the Act provides that municipalities designated as important areas for domestic wastewater measures may formulate programmes to promote domestic wastewater measures and provide guidance and recommendations for wastewater dischargers.

Other enacted laws include the Act on Special Measures concerning Conservation of Lake Water Quality, which regulates enclosed water areas such as lakes and marshes, and the Basic Act on the Water Cycle, which clearly states the basic principle of maintaining or restoring a healthy water cycle and aims to promote the same in a comprehensive and integrated manner.

Law stated - 18 July 2025

Protection of natural spaces and landscapes

7 | What are the main features of the rules protecting natural spaces and landscapes?

In Japan, conservation of the natural environment is regulated by designating certain areas of the existing natural environment and restricting development activities within these areas. Development and other activities within designated areas are regulated by the Natural Conservation Act to ensure biodiversity in areas where the conservation of the natural environment is particularly important, the Natural Parks Act to protect areas of outstanding natural beauty, and other nature conservation laws.

In addition, the Act for the Promotion of Nature Restoration was enacted in 2002, which aims not only to protect existing natural environments but also to restore ecosystems and natural environments that have been damaged in the past. The significance of this Act is that various local entities, including non-profit organisations, are involved in the conservation, restoration, and creation of natural environments such as rivers, wetlands, mudflats, seagrass beds, socio-ecological production landscapes and forests.

The Environmental Impact Assessment Act also seeks to conserve the natural environment by requiring environmental assessments for major projects that may have an impact on the environment.

Law stated - 18 July 2025

Protection of flora and fauna species

8 | What are the main features of the rules protecting flora and fauna species?

In Japan, the Basic Act on Biodiversity, enacted in 2008, sets out the basic principles and responsibilities of each party with respect to the conservation and sustainable use of biodiversity.

Specifically, wildlife is protected by regulations that prohibit the collection of plants and animals and restrict the construction of structures in designated areas. Examples of such regulations include the Act on the Protection and Control of Wildlife, the Act on the Conservation of Endangered Species of Wild Fauna and Flora, and the Act on the Prevention of Adverse Ecological Impacts Caused by Designated Invasive Alien Species. Other enacted laws include the Invasive Alien Species Act for the prevention of adverse impacts caused by designated invasive alien species, and the Cartagena Act for the prevention of adverse impacts on biological diversity caused by the use of living modified organisms.

Law stated - 18 July 2025

Noise, odours and vibrations

9 | What are the main features of the rules governing noise, odours and vibrations?

The Noise Regulation Act, the Offensive Odour Control Act and the Vibration Regulation Act regulate noise, odours and vibrations mainly by designating regulated areas and setting regulatory standards.

The Noise Regulation Act sets regulatory standards for the establishment of factories and workplaces, and construction works in designated areas, and requires notifications to be filed with the competent Japanese authorities in respect of the same. In addition, the Act requires the mayor of each municipality in Japan to request the relevant public safety commission to take remedial action if vehicle noise in the designated areas exceeds the threshold as set out in this Act.

The Offensive Odour Control Act sets regulatory standards for the emission of odours by factories and workplaces in designated areas.

The Vibration Regulation Act sets regulatory standards for the establishment of factories and workplaces, and construction works in designated areas, and requires notifications to be filed with the competent Japanese authorities in respect of the same. In addition, the Act requires the mayor of each municipality in Japan to request the relevant road administrator or the relevant public safety commission to take remedial action if road traffic vibration in the designated areas exceeds the threshold as set out in the Act.

Law stated - 18 July 2025

Liability for damage to the environment

10 | Is there a general regime on liability for environmental damage?

The Basic Act on the Environment provides for the polluter-pays principle, according to which the cost of a project undertaken by a national or local government or other corporation for a public works project should be imposed in a fair and appropriate manner on the person that caused the need for the project. On the basis of this polluter-pays

principle, the Act on Entrepreneurs' Bearing of the Cost of Public Pollution Control Works was enacted. This Act provides a system to make polluting business operators bear the costs of public pollution control works by national and local governments.

The Basic Act on the Environment also provides for the beneficiary-pays principle, according to which if a person obtains huge benefits from the implementation of a public works project to conserve the natural environment, the costs shall be imposed on that person in a fair and appropriate manner, up to the maximum amount of the benefit. The Basic Act on the Environment also contains provisions on public burdens, such as the provision of financial aid under article 22, paragraph 1.

Legislation enacted to deal with health hazards caused by specific pollutants include the Act on Compensation for Pollution-related Health Damage, the Act on Special Measures Concerning Relief for Victims of Minamata Disease and Solution to the Problem of Minamata Disease, and the Act on Asbestos Health Damage Relief.

Law stated - 18 July 2025

Environmental taxes

11 | Is there any type of environmental tax?

In Japan, a global warming tax is levied on the use of fossil fuels such as petroleum, natural gas, and coal in proportion to their CO2 emissions. The tax revenue is used for measures to reduce energy-derived CO2 emissions, including energy-saving measures, the promotion of the use of renewable energy, and the use of cleaner and more efficient fossil fuels. Specific examples of these measures include: promoting the establishment of facilities for innovative low-carbon technology-intensive industries (eg, the lithium-ion battery business) in Japan, promoting the introduction of energy-saving equipment by small and medium-sized enterprises, and promoting the introduction of renewable energy in line with characteristics of each region via the Green New Deal funds and other resources.

In addition, the Act on the Promoting Transition to the Decarbonized Growth Economic Structure (GX Promotion Act), enacted in May 2023, was amended in May 2025. In this regard, GX is an abbreviation of 'green transformation', which means a transformation of the economic system to a decarbonised/circular economy. The amendment established a system to levy taxes on greenhouse gas (GHG) emissions from fossil fuel consumption, targeting business operators involved in fossil fuel extraction and import. Starting from the financial year 2028, these entities will be required to pay a fossil fuel levy.

Law stated - 18 July 2025

Environmental reporting

12 | Are there any notable environmental reporting requirements (eg, regarding emissions, energy consumption or related environmental, social and governance (ESG) reporting obligations)?

In Japan, the GHG emission calculation, reporting and disclosure system has been implemented under the Act on the Promotion of Global Warming Countermeasures (Global Warming Countermeasures Act), wherein specified emitters that produce significant amounts of GHGs are required to calculate and report their GHG emissions to the national government, and the national government compiles and publishes the reported information. This Act provides for a non-penal fine (*karyo*) for failure to report or false reporting. In accordance with the amendments to this system made in March 2025, certain business operators are now obliged to report the amounts of their energy-derived CO2 emissions in a disaggregated manner, categorising them as direct emissions (also known as Scope 1 emissions) and indirect emissions (also known as Scope 2 emissions).

In addition, under the Act on Rationalising Energy Use and Shifting to Non-fossil Energy (Energy Saving Act), specified business operators that use a certain amount of energy are obliged to submit periodic reports on their energy use.

Law stated - 18 July 2025

Government policy

13 How would you describe the general government policy for environmental issues? How are environmental policy objectives influencing the legislative agenda?

The Japanese government is implementing various measures to achieve the following Nationally Determined Contribution that it submitted under the Paris Agreement.

- Achieving carbon neutrality by 2050 and reducing GHG emissions by 46 per cent in the financial year 2030 (compared to the financial year 2013) (- https://unfccc.int/sites/default/files/NDC/2022-06/JAPAN_FIRST%20NDC%20%28UPDATED%20SUBMISSION%29.pdf (English); https://www.env.go.jp/content/000290589.pdf (Japanese)).
- Reducing GHG emissions by 60 per cent in the financial year 2035 and by 73 per cent in the financial year 2040 (compared to the financial year 2013) (https://unfccc.int/sites/default/files/2025-02/Japans%202035-2040%20NDC.pdf (English); https://www.env.go.jp/content/000291804.pdf (Japanese)).

The year 2021 saw the enactment of the amended Global Warming Countermeasures Act, which clearly states 2050 Carbon Neutrality as a basic principle.

The amended Global Warming Countermeasures Act also provides for the promotion of local renewable energy, which has been emphasised in light of the Great East Japan Earthquake in 2011 and other weather-related disasters caused by global warming. The 2024 amendments to the Act (effective 1 April 2025) provide for strengthening the implementation system of the Joint Crediting Mechanism (JCM) and expanding the system of local decarbonisation promotion projects to promote global warming countermeasures domestically and internationally.

Further, the GX Promotion Act was enacted in May 2023 and took effect on 30 June 2023. The Act legislates the formulation and implementation of the Strategy for

Promoting Structural Transition based on Decarbonisation (GX Promotion Strategy), the establishment of the GX Acceleration Agency (this agency was approved for establishment on 1 April 2024 and began operations in July 2024), the issuance of bonds for the transition to a decarbonised growth-oriented economic structure (GX Economic Transition Bonds) over a 10-year period starting in the financial year 2023, the introduction of a carbon levy system starting in the financial year 2028, and the introduction of distribution of allowances through auctions for power companies starting in the financial year 2033.

In May 2025, the GX Promotion Act was partially amended. From the financial year 2026 onwards, business operators emitting a certain amount of GHGs (100,000 metric tons or more per year) (large emitters) will be required to participate in the Japanese GX emissions trading scheme (GX-ETS). Affected business operators will be obliged to calculate and report their GHG emission amounts, as well as to retire their emission allowances. Additionally, the Act now provides that a market for trading emission allowances is to be established, with the GX Acceleration Agency responsible for its operation.

Law stated - 18 July 2025

HAZARDOUS ACTIVITIES AND SUBSTANCES

Regulation of hazardous activities

14 | Are there specific rules governing hazardous activities?

Environmental pollution is a typical example of the adverse effects of harmful activities. The Basic Act on the Environment clearly defines 'environmental pollution' as 'air pollution, water pollution, … caused by business activities and other human activities in a broad area … which causes damage to human health or the living environment'. Air pollution and water pollution caused by radioactive materials are regulated under the Atomic Energy Basic Act.

The Basic Act on the Environment empowers prefectural governors to plan environmental pollution control programmes. When implementing pollution control projects based on these programmes, prefectural governors are entitled to special financial measures with the prior consent of the Minister of the Environment.

For industrial waste that requires appropriate treatment, the Waste Management and Public Cleansing Act provides for the polluter-pays principle. According to this principle, waste-producing business operators are responsible for the proper disposal of industrial waste resulting from their business activities. In addition, certain rules must be followed when a discharging party outsources the treatment of waste to a treatment contractor (eg, a discharging operator must conclude a treatment service contract with the treatment contractor before outsourcing the treatment of industrial waste and must submit a waste management sheet (ie, a manifesto) upon delivery of the waste). A person engaged in industrial waste treatment as a business must obtain a licence from the relevant prefectural governor.

Law stated - 18 July 2025

Regulation of hazardous products and substances

15 What are the main features of the rules governing hazardous products and substances?

Chemical substances are controlled under different laws depending on their use and toxicity type. Among the various laws, the Act on the Regulation of Manufacture and Evaluation of Chemical Substances (Chemical Substance Evaluation Act) regulates the control of chemical substances that cause long-term chronic toxicity, which is the most important in terms of environmental impact. The purpose of this Act is to prevent environmental pollution caused by chemical substances that pose a risk of harming human health or interfering with the inhabitation and growth of flora and fauna. This Act provides for the prior examination of newly manufactured or imported chemical substances, the requirement to file an ex post facto notification with the competent authority to ascertain the amount of manufactured or imported chemical substances, and the regulation of chemical substances in accordance with their respective properties.

In addition, the Act on Assessment of Releases of Specified Chemical Substances in the Environment and Promotion of Management Improvement (PRTR Act) was enacted to promote the assessment of the amount of specified chemical substances released and the voluntary control of these substances by business operators. The PRTR Act requires business operators to report the amount of chemical substances released into the environment to the national government, and further requires the national government to publish the compiled data.

The Act on Control of Household Products Containing Harmful Substances prohibits the sale of household products containing harmful substances at or above the prescribed threshold levels. The Food Sanitation Act prohibits the sale of food products that contain toxic or harmful chemical substances in excess of the permissible levels and provides for the implementation of necessary measures, including the disposal of such products.

The Air Pollution Control Act defines substances that may cause damage to human health (cadmium, hydrogen fluoride, etc) as ‘hazardous substances’ and sets emission standards. The Order for Enforcement of the Soil Contamination Countermeasures Act designates ‘specified hazardous substances’ (eg, lead and arsenic) and the Soil Contamination Countermeasures Act prescribes soil contamination investigation and remediation measures.

The Water Pollution Prevention Act defines ‘hazardous substances’ (eg, cadmium) and requires compliance with nationally uniform effluent standards. If these standards are not sufficient to prevent pollution, each prefecture may, by prefectural ordinance, set more stringent standards known as ‘add-on effluent standards’.

Law stated - 18 July 2025

Industrial accidents

16 What are the regulatory requirements regarding the prevention of industrial accidents?

In recent years, the existing Japanese laws and regulations governing the working environment in workplaces where chemical substances are handled (eg, the Ordinance on Industrial Safety and Health) have been significantly amended. Regardless of the type of industry or the size of the workplace, those who produce or handle certain specified chemical substances are now required to carry out risk assessments (ie, to identify the hazards and harmfulness of chemical substances and their products, to estimate the degree of danger or health hazard to workers caused by them, and to consider risk reduction measures) and take countermeasures. Business operators are required to take risk reduction measures, if any, as specified in special ordinances (eg, the Ordinance on Industrial Safety and Health and the Ordinance on the Prevention of Hazards due to Specified Chemical Substances, both under the Industrial Safety and Health Act). Other risk reduction methods include substitution with substances of lesser hazard or toxicity, changing operating conditions such as chemical reaction processes, changing the form of chemical substances handled, or a combination of these methods.

Law stated - 18 July 2025

ENVIRONMENTAL ASPECTS IN TRANSACTIONS AND PUBLIC PROCUREMENT

Environmental aspects in M&A transactions

17 | What are the main environmental aspects to consider in M&A transactions?

The importance of corporate social responsibility (CSR) has increased in recent years and the opportunities to investigate CSR in the course of legal due diligence (DD) for M&A transactions are expected to increase. Under the Act on the Promotion of Business Activities with Environmental Consideration by Specified Corporations, etc, by Facilitating Access to Environmental Information, and Other Measures (Environmental Consideration Promotion Act), business operators must not only provide information on the reduction of environmental impacts in their business activities but also consider information on the reduction of environmental impacts by other business operators when making investments or other transactions with these other business operators. The information to be considered includes whether these other business operators have caused environmental problems. The Environmental Consideration Promotion Act requires large companies to endeavour to publish environmental reports or otherwise disclose the status of environmental considerations in their business activities, and in recent years an increasing number of companies have published such 'CSR reports'.

Recently, there has been a growing interest in environmental DD. Environmental DD is particularly important for manufacturing companies with factories. Examples of required DD items include surveying and assessing soil contamination, air pollution, and wastewater treatment on the land on which factories are situated and the surrounding land, and investigating the status of environmental permits and licences, including those for the transportation and disposal of industrial waste. In May 2023, the Ministry of the Environment published a handbook on environmental DD entitled 'Introductory Guide on Environmental Due Diligence along the Value Chains: Environmental Due Diligence Practices Utilising Environmental Management System (EMS)'. Further, the Ministry of the Environment convened a roundtable discussion with experts on the approach

to environmental DD by Japanese companies. Following the discussions held at the roundtable, a summary has been published that highlights the following key points to be understood when implementing environmental DD in Japan (Ministry of the Environment, 'Summary of Discussions at the Roundtable on Promoting Environmental Due Diligence by Japanese Companies', https://www.env.go.jp/content/000310912.pdf (available in Japanese only)):

- a risk-based approach;
- implementation of the appropriate measures;
- governance by management; and
- the relationship between environmental DD and compliance with laws and regulations.

The following processes are also indicated as key to implementing environmental DD:

- identification and assessment of adverse impacts;
- meaningful dialogue with stakeholders;
- disclosure of information; and
- grievance mechanisms and remedial actions.

Law stated - 18 July 2025

Environmental aspects in other transactions

18 | What are the main environmental aspects to consider in other transactions?

The key environmental issues will vary depending on the type of business or activity. For example, in a real estate transaction, property valuation reports or engineering reports will include the results of investigations into soil contamination or other environmental issues, and a review of such reports will be required.

The problem of asbestos has also emerged recently. Under the Industrial Safety and Health Act and the Ordinance on the Prevention of Health Impairment due to Asbestos, business operators are required to take measures such as removing, containing or enclosing asbestos used in the buildings where their workers are employed if they are likely to be exposed to dust dispersed from the buildings. Further, recent amendments to the rules related to the Air Pollution Control Act have gradually strengthened the regulations regarding asbestos dust dispersion during building demolition work. For instance, prior surveys, a prerequisite for the execution of building demolition work, must be conducted by qualified individuals, such as those who have completed the necessary training. In addition, from January 2026, the demolition of structures such as boilers and power transmission equipment will be subject to the requirement of being carried out by qualified individuals.

Law stated - 18 July 2025

Environmental aspects in public procurement

19 | Is environmental protection taken into consideration by public procurement regulations?

When awarding contracts, national and local governments, incorporated administrative agencies, national university corporations, and other public institutions are required to make a comprehensive evaluation that includes the environmental performance of the product or service to be purchased, in addition to the price, as provided in the Act on Promotion of Contracts of the State and Other Entities, Which Show Consideration for Reduction of Emissions of Greenhouse Gases, etc. Under this Act, the state and incorporated administrative agencies must establish a basic policy for promoting contracts that takes into consideration the reduction of GHGs and other emissions at their facilities.

The Act on Promotion of Procurement of Eco-Friendly Goods and Services by the State and Other Entities (Green Purchasing Act), enacted in 2000, provides that the state and other public organisations should take the initiative to promote the procurement of environmentally friendly goods (ie, products and services that contribute to mitigation of negative environmental impact) with the aim of promoting the development of a society capable of sustainable development.

In addition, article 19 of the Basic Act on the Environment provides that 'the State shall take environmental conservation into consideration when formulating and implementing policies which have impacts on the environment'. This article is interpreted as having a 'cross-cutting clause effect', meaning that when the government makes administrative decisions or undertakes public works that affect the environment, it must give due consideration to the environment and conduct an environmental impact assessment in accordance with the magnitude of the impact. While the legal binding force of this provision is debatable, a ministerial disposition made without taking into account a material adverse effect on the environment simply because the specific underlying law does not contain a provision on the obligation to take the environment into account may be considered unlawful under this provision of article 19.

Law stated - 18 July 2025

ENVIRONMENTAL ASSESSMENT

Activities subject to environmental assessment

20 | Which types of activities are subject to environmental assessment?

The Environmental Impact Assessment Act of Japan, enacted in 1997, requires environmental impact assessments to be undertaken for large-scale projects that could have a serious impact on the environment.

Thirteen types of projects are subject to this Act: road projects, river projects, railway projects, airport projects, projects for power plants (meaning hydroelectric, thermal, geothermal, solar-battery, wind, and all nuclear power plants of a certain output level or above), industrial-waste final disposal site projects, land reclamation or drainage projects, land adjustment projects, new housing and urban development projects, industrial park development projects, new city foundation development projects, distribution business

centre construction projects and building lots (including residential lots and factory sites) development projects. These 13 types of projects are divided into Class-1 and Class-2 projects in descending order of scale and potential for significant environmental impact. While all Class-1 projects must undergo an environmental impact assessment, the need for an environmental impact assessment for Class-2 projects, which are nearly equivalent in scale to Class-1 projects, is determined on a case-by-case basis.

In addition to the above 13 project types, large-scale port plans are also subject to port environmental assessments.

Please note that the above is a description of the projects covered by the Environmental Impact Assessment Act and each project requires individual confirmation, as many local governments have established their own environmental impact assessment ordinances and may require environmental impact assessments even for projects smaller than the threshold provided under the Environmental Impact Assessment Act.

Law stated - 18 July 2025

Environmental assessment process

21 | What are the main steps of the environmental assessment process?

If a project is subject to the Environmental Impact Assessment Act, a business operator will be required to investigate, predict and assess the impact of the project on the surrounding environment and the local living environment, taking into account the views of the general public, local residents and local authorities.

At the planning stage of a project, the business operator will prepare a document considering the impact of the project on the primary environment. Citizens, mayors, prefectural governors or ministers can comment on this document. Based on these opinions, the business operator will formulate a plan for the project in question, finalise the items of the environmental assessment and the proposed methodology, and prepare a scoping document considering the impact on the environment. To determine the methodology of the environmental assessment, which must be carried out in accordance with the environment of each region, there is a procedure for hearing the opinions of local residents, other citizens and local governments, called 'scoping'. The business operator will then present the results of the environmental assessment (survey, forecast, and evaluation) carried out in accordance with the methodology established by these procedures, and will prepare a document summarising its view on the conservation of the environment. This document, known as the draft environmental impact statement (Draft EIS), describes the measures for environmental conservation (ie, mitigation measures). The business operator will give public notice of the Draft EIS, consider comments received (if any), revise the contents of the Draft EIS, and prepare an environmental impact statement (EIS). The EIS will then be submitted to the Minister of the Environment for review. The business operator must also submit the EIS to the licensing authority because the results of the assessment will be taken into account when deciding whether or not to grant a licence, approval, permit, etc.

In addition, even after the EIS process has been completed and the project has commenced, the business operator must submit a report on any environmental conservation surveys that have been conducted.

The amendment to the Environmental Impact Assessment Act, which was promulgated on 20 June 2025 (and is scheduled to take effect within two years of promulgation) has established two key provisions. First, it has introduced a review of the assessment procedures for reconstruction projects (defined as projects involving the removal or abolition of existing structures and the construction of structures of the same type in the same or adjacent areas). Second, it has ensured the continued public disclosure of assessment documents. When implementing a reconstruction project, the business operator must clarify the details of the measures for environmental conservation implemented with regard to the newly constructed structures in a document on primary environment impact consideration based on the results of surveys regarding the environmental impact of existing structures, in lieu of setting out the details of the survey, forecast and evaluation for the selection of the project implementation area. Further, even after the public inspection period (approximately one month) provided by the operator, the Minister of the Environment may obtain the assessment documents and continue to publicly disclose them via the internet. This will allow operators of subsequent projects to use the assessment documents from previous projects in their own assessment procedures.

Law stated - 18 July 2025

REGULATORY AUTHORITIES

Regulatory authorities

22 Which authorities are responsible for the environment and what is the scope of each regulator's authority?

There is no single agency responsible for the environment in Japan. All ministries and agencies are responsible for the environment, and their respective environmental efforts can be found on the Ministry of the Environment's website (available in Japanese only). The Ministry of the Environment is the lead agency responsible for environmental policy and the release of information.

The Basic Act on the Environment clarifies the state's responsibility by providing that the state is responsible for formulating and implementing basic and comprehensive environmental conservation measures in accordance with the basic principles of environmental conservation. While the Basic Act requires the government to formulate a basic plan for environmental conservation (basic environmental plan), it is the Minister of the Environment who is responsible for proposing a draft basic environmental plan. The Minister of the Environment is also required to publish the basic environmental plan approved by the Cabinet.

The Basic Act on the Environment also clarifies the responsibilities of local governments, business operators and citizens. Each local government is responsible for formulating and implementing environmental conservation measures in accordance with the state's policies and other measures appropriate to the natural and social conditions of the areas under its

jurisdiction. Business operators have the responsibility to dispose of soot, sewage, waste, etc, and to take other measures necessary to prevent environmental pollution or to properly preserve the natural environment, while citizens must strive to reduce the burden on the environment in their daily lives.

There are no laws or regulations that generally and comprehensively define the scope of authority of each regulatory body. Such scope is defined by individual laws.

Law stated - 18 July 2025

Investigation

23 | What are the typical steps in an investigation?

Investigations can be broadly divided into (1) collecting reports from and conducting on-site inspections of business operators to determine their compliance status, and (2) requiring governments to take measurements to confirm the status of the quality of the environmental.

Some laws authorise certain persons (eg, regulatory authorities) to request reports from business operators to verify that they are properly complying with the regulations under each individual law. In practice, reports are often requested as administrative guidance, but in some cases an order for reports may be issued. False reports may be subject to administrative penalties. As encouraging whistleblowers to report is also an important means of investigation, the Whistleblower Protection Act is in place to protect whistleblowers.

On-site inspections by the government are permitted under many environmental laws, including the Soil Contamination Countermeasures Act, the Water Pollution Prevention Act, and the Waste Management and Public Cleansing Act. Most on-site inspections are conducted as administrative monitoring, and the law prohibits such inspections as a means of investigating crimes, whether general or administrative (usually a court warrant is required to enter the site for criminal investigations). However, an administrative officer may report to the police any violation found as a result of the on-site inspection. Upon receipt of the report, the police may conduct a compulsory investigation, if necessary, with a court warrant.

The Air Pollution Control Act and the Water Pollution Prevention Act require prefectural and certain municipal governments to measure and monitor the status of air and water pollution.

Law stated - 18 July 2025

Administrative decisions

24 | What is the procedure for making administrative decisions?

There are two main types of administrative action: non-legally binding administrative guidance and legally binding adverse dispositions. While some individual laws require administrative guidance to be issued prior to any adverse disposition, in practice, administrative guidance is often issued even in cases where individual laws do not require administrative guidance prior to an adverse disposition.

An order by a regulatory authority to improve a state of violation (order for improvement) or to take necessary measures (order to take action) is, in principle, an adverse disposition under the Administrative Procedure Act. Therefore, before imposing the disposition, the regulatory authority must provide the person subject to the disposition with an opportunity to be heard and to rebut the order. Specifically, a hearing (a procedure presided over by an official selected from among the officials of the government agency that imposes the adverse disposition, at which the person subject to the adverse disposition may orally express his or her opinion, submit documentary evidence, and ask the government officials questions) must be held for relatively serious dispositions (such as the revocation of a permit), and an opportunity for explanation (a procedure in which the person subject to the adverse disposition submits a written explanation or documentary evidence to the government agency) must be provided for other adverse dispositions.

Law stated - 18 July 2025

Sanctions and remedies

25 What are the sanctions and remedies that may be imposed by the regulator for violations?

Japan does not have a law that generally provides for the sanctions and remedies that the regulator may impose, and penalties are provided for in individual laws.

The various sanctions that exist can be broadly divided into (1) the direct penalty system, which directly punishes violators of obligations, and (2) the pre-sanction order system, which punishes violators who continue to violate even after receiving an improvement order or other adverse disposition. Another sanction similar to the pre-sanction order system is the pre-sanction administrative guidance system, which punishes violators who continue to violate even after receiving recommendations and administrative guidance.

Penalties usually include imprisonment with work and fines as statutory penalties. An order to suspend the use of facilities necessary for the business is another type of sanction. For example, the Waste Management and Public Cleansing Act provides that if the structure or maintenance of a general waste treatment facility does not meet the technical standards stipulated by law, the prefectural governor may order the installer or manager of the facility to suspend the use of the waste treatment facility. In addition, if a licence or approval from the relevant authorities is required to conduct a business, such licence or approval may be revoked as a sanction against the offender.

If the party subject to an adverse disposition (such as an order to take action) issued by the regulatory authority fails to comply with the order, the regulatory authority may enforce compliance by way of administrative substitute execution (ie, where the regulatory authority steps in to correct the violation itself). However, the government can only take action under

this system of administrative substitution if the obligor fails to comply with its obligation to take action. If the obligor does not comply with his or her obligations (eg, the obligation to suspend drainage), the government will resort to civil execution.

Law stated - 18 July 2025

Appeal of regulators' decisions

26 | To what extent may decisions of the regulators be appealed, and to whom?

Pursuant to the Administrative Complaint Review Act, a person who is dissatisfied with a decision of a regulatory authority may apply for a review. In principle, the competent authority to which a request for review should be submitted is the highest authority (eg, minister, governor, mayor, etc) of the relevant administrative agency that rendered the original administrative disposition (disposition agency) although the decision of such highest authority can be subject to review in a judicial procedure. If there is no such highest authority of the disposition agency, it should be filed with the disposition agency. A person who is dissatisfied with the determination concerning a request for review may request a re-examination, if the relevant individual law contains a provision to that effect. As a simpler method, the person may apply to the disposition agency itself for re-examination and review of the disposition.

As a judicial procedure, an administrative lawsuit may be filed in accordance with the Administrative Case Litigation Act. Among the various types of administrative litigation, the most important are actions to revoke an administrative disposition, actions to declare an administrative disposition null and void, and mandamus actions. The party against whom these actions may be brought is the state or the public body to which the administrative agency that has made the original administrative disposition belongs.

Some individual laws provide that an action for revocation of administrative disposition can be brought only after a decision has been made on a complaint filed.

Law stated - 18 July 2025

JUDICIAL PROCEEDINGS

Judicial proceedings

27 | Are environmental law proceedings in court civil, criminal or both?

Environmental cases can be brought before both civil and criminal courts. There is no special court in Japan that deals exclusively with environmental law cases.

A violation of a criminal provision of an individual law is tried as a criminal case. If a resident seeks an injunction against a business operator's project or development activities, or seeks compensation for damage caused by the business operator's economic activities, the case is heard as a civil case.

There is no special court for administrative actions. They are a type of civil action and are, therefore, heard by an ordinary court.

Law stated - 18 July 2025

Powers of courts

28 | What are the powers of courts in relation to infringements of environmental law?

A violation of a criminal provision of an individual law is tried as a criminal case.

When a business operator engages in business or development activities without obtaining a licence or approval from the government, or when its business or development activities do not meet the legal standards, these incidents are generally handled within the administrative procedures.

If anyone is harmed by the business or development activities of a business operator, the victim may file a lawsuit against the operator for damages in accordance with the provisions of the Civil Code, and the court has the authority to make a judgment. In addition, an injunction lawsuit may be filed as a means of preventing the business operator from conducting or continuing its business and development activities, and the court has the authority to determine the appropriateness of the injunction. Further, if environmental damage is caused by the exercise or non-exercise of the authority of the national or a local government, a claim for state compensation may be filed, and the court has the authority to make a decision on these suits for state compensation.

Law stated - 18 July 2025

Civil claims

29 | Are civil claims allowed regarding infringements of environmental law?

Civil claims for breach of environment law are possible. They can be broadly divided into claims for damages, claims for injunctive relief and petitions for preliminary injunction.

Claims for damages are usually brought under tort liability in accordance with article 709 of the Civil Code. The plaintiff can claim both property damage (damnum emergens (actual/direct damages, such as medical treatment costs) and lucrum cessans (indirect damages, such as lost profits)) and moral damage (solatium), and in principle, must prove each damage separately. The Act on Compensation for Nuclear Damage (Nuclear Damage Compensation Act) provides for strict liability without fault for damage caused by radiation or toxicity of nuclear fuel materials and the like, as typified by nuclear accidents. However, plaintiffs in many compensation lawsuits against TEPCO for the Fukushima nuclear accident following the Great East Japan Earthquake have pursued TEPCO's liability under article 709 of the Civil Code in addition to its liability under the Nuclear Damage Compensation Act. This is believed to be an attempt to clarify TEPCO's breach of its duty of care by also pursuing its tort liability under article 709 of the Civil Code, which requires proof of negligence. In addition, approximately five months after the Great East

Japan Earthquake, a law was enacted to provide early relief to victims, which established a system of provisional payments from the national government to victims. Under this system, the national government makes provisional payments to victims based on the guidelines of the government's Dispute Reconciliation Committee for Nuclear Damage Compensation, and acquires the right to claim compensation from TEPCO by subrogation. Further, the Nuclear Damage Compensation Facilitation Corporation was established following the Fukushima nuclear accident. The compensating party is now entitled to receive financial assistance from the Corporation for the compensation to be paid if the amount payable as compensation for a nuclear accident exceeds a certain amount.

Unlike claims for damages, injunctive actions do not have a clear legal basis. It has therefore become common practice to base injunctions on personal rights (such as the right to life and the right to body). For an injunction to be granted, the wrongful act must be found to be unlawful beyond the point of tolerance.

If the conduct of an ordinary civil action is likely to result in increased damage and it would be impossible to obtain legal redress, a petition for a provisional disposition order may be filed under the Civil Preservation Act as a means of provisional relief pending a decision on the injunction. While injunctive actions and petitions for provisional disposition orders were filed before the Fukushima nuclear accident, injunctions were generally not granted in most court cases before the accident. After the Fukushima nuclear accident, residents won some court cases in the first instance. However, it is not uncommon for the first-instance judgment to be overturned on appeal or the proceedings for objection to the provisional disposition.

Law stated - 18 July 2025

Defences and indemnities

30 | What defences or indemnities are available?

In order to obtain a judgment upholding a claim in an action for damages, the plaintiff (victim) must prove (1) specific intent or negligence on the part of the party at fault, (2) infringement of a right and unlawfulness, (3) the occurrence of damage and (4) the causal link between the infringement of a right by the party at fault and the damage, and the defendant (the party at fault) may defend against each of these requirements.

With regard to (1), the existence of negligence is usually disputed. Meanwhile, as special laws for the tort liability provided under article 709 of the Civil Code, the Water Pollution Prevention Act and the Air Pollution Control Act provide for strict liability without fault. To claim damages based on a tort under article 709 of the Civil Code, the victim seeking compensation must prove the foreseeability and avoidability of the consequences with regard to the negligence of the party at fault. However, under the strict liability rule, victims can obtain compensation for damages without having to prove the negligence of the party at fault if they can prove the causal link between the infringement and their health or other damage.

If the victim is also at fault, the principles of comparative negligence may apply. The violation of a right or illegality in (2) above will not be found unless the illegality exceeds a tolerable

limit, and the defendant (the party at fault) can defend itself on the grounds that the tolerable limit has not been exceeded. There is also a statute of limitations for the right to claim damages based on a tort. If the victims do not exercise their rights within a certain period of time, their claims are time-barred.

Business operators can also take out environmental pollution liability insurance. This is a system under which the insured can receive insurance money if a third party suffers bodily injury or property damage as a result of environmental pollution caused by the insured's facility and a claim is made against the insured, or if the insured is required by government order or otherwise to bear the costs of cleaning up the pollution.

Law stated - 18 July 2025

Directors' or officers' defences

31 | Are there specific defences in the case of directors' or officers' liability?

Under the Companies Act, directors are liable for damage caused to the company by negligence in the performance of their duties (liability to the company) and for damage caused to third parties by wilful misconduct or gross negligence in the performance of their duties (liability to third parties). Since what is required of directors is to perform their duties with due care and diligence, directors and officers may defend themselves on the ground that they have fulfilled their duty of due care.

In determining whether directors have discharged their duty of care, if there was no carelessness in their perception of the facts and in their decision-making process under the circumstances at the time of the decision, it can be said that their business judgement was within the directors' discretion and they will be deemed not to have breached their duty of care (the 'business judgement rule'). As such, directors may be able to defend themselves on the basis of the lack of carelessness. A director also has a duty to monitor and supervise the other directors and to establish the systems necessary to ensure the proper conduct of the company's business (ie, internal control system). In these respects, directors can also defend themselves on the basis that they have fulfilled their duty of care. In a lawsuit concerning the liability of some former TEPCO directors to shareholders in relation to the Fukushima nuclear accident, the reasonableness of the former directors' business judgement was disputed. The court of first instance ruled that the former directors' judgement was extremely unreasonable, stating that they left the situation as it was without taking any tsunami countermeasures, even though there was no continuing expectation that a possible tsunami would not reach the Fukushima nuclear plant site, and thus failed to take and postponed taking any safety measures against tsunamis. However, the court of second instance ruled that the scale of the tsunami caused by the Great East Japan Earthquake could not have been foreseen, and denied the legal liability of the directors (Tokyo High Court judgement of 6 June 2025.).

Law stated - 18 July 2025

Appeal process

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32 | What is the appeal process from trials?

The Code of Civil Procedure provides that an appeal may be lodged in civil cases within 14 days from the day following the date of service of the judgment. An appeal may be lodged with the competent high court against the judgment of the district court of first instance, and with the Supreme Court against the judgment of the high court of second instance.

In the case of a criminal trial for violation of any criminal provision of an individual law, an appeal may be lodged within 14 days from the day following the pronouncement of the judgment of the court of first instance. An appeal may be lodged only on the grounds set out in the Code of Criminal Procedure (eg, unlawful proceedings). A party dissatisfied with the decision of the court of appeal may appeal to the Supreme Court, but the grounds for this final appeal are also limited.

Law stated - 18 July 2025

INTERNATIONAL TREATIES AND INSTITUTIONS

International treaties

33 | Is your country a contracting state to any international environmental treaties, or similar agreements?

Japan is a signatory to treaties and conventions relating to environmental issues such as protection of the marine environment, transboundary movements of chemical substances and hazardous wastes, the protection of the ozone layer, biological diversity, wild fauna and flora, forests and desertification, and climate change. Major environmental conventions to which Japan is a party include the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity, the Montreal Protocol, the Basel Convention, the Washington Convention and the Ramsar Convention.

Law stated - 18 July 2025

International treaties and regulatory policy

34 | To what extent is regulatory policy affected by these treaties?

Under the Japanese Constitution, treaties have domestic legal force once they are promulgated. However, there are several ways to ensure that the rights and obligations under the treaties are implemented domestically, including responding with the existing Japanese laws, amending or repealing existing laws that are inconsistent with the treaties, and enacting new laws.

For example, to implement the Basel Convention domestically, the Waste Management and Public Cleansing Act, an existing law, was partially amended and the Act on the Control of Export, Import and Others of Specified Hazardous Wastes and Other Wastes (Basel Act) was newly enacted.

Law stated - 18 July 2025

UPDATE AND TRENDS

Key developments of the past year

35 | Are there any emerging trends or hot topics in environment law in your jurisdiction?

In May 2024, the Japanese government approved the sixth basic environmental plan at a cabinet meeting. The plan clearly states the goal of 'well-being/high quality of life' for every citizen, now and in the future, through environmental conservation. The plan sets out a vision of a circular society, with the goal of achieving new growth through a shift from an economic society dependent on limited resources including fossil fuels to one based on reusable recourses including renewable energies. The plan clearly states that to achieve this goal, the government will make major investments in the underlying natural capital and seek to add high value to the economy as a whole by exploiting environmental values.

Specific examples of adding high value to the economy as a whole include visualising environmental values and providing relevant information, creating demand for environmental values themselves, promoting carbon pricing and redesigning regulations and systems.

In August 2024, the Japanese government approved the Fifth Fundamental Plan for Establishing a Sound Material-Cycle Society at a cabinet meeting. The plan positions the transition to a sound material-cycle society and circular economy as an important policy issue to be addressed as a national strategy. The plan confirms that the government will strengthen the sound material-cycle system while setting specific numerical targets, expand the use of recycled materials and curb the consumption of natural resources, and further confirms that a sound material-cycle society can contribute more than ever to the reduction of GHG emissions.

In recent years, there has been an increasing emphasis on companies actively indicating their carbon footprints of products (CFP) and promoting communication with consumers through such indications. In response, the Ministry of the Environment published the 'Carbon Footprints Indication Guide' in March 2025. This guide outlines the basic principles of CFP indication, namely, (1) reliability and credibility, (2) lifecycle, (3) comparability, (4) transparency and (5) territoriality, and provides essential considerations for CFP indications. This is expected to function as a greenwashing regulation in Japan.

Another hot topic is the partial amendments to the GX Promotion Act and the Resource Efficiency Promotion Act, enacted in May 2025, as previously mentioned.

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UPDATE AND TRENDS

Key developments of the past year

LEGISLATION

Main environmental regulations

1 | What are the main statutes and regulations relating to the environment?

The main statute relating to the environment in Malaysia is the Environmental Quality Act 1974 (EQA) and the numerous regulations made thereunder.

Law stated - 31 July 2025

Integrated pollution prevention and control

2 | Is there a system of integrated control of pollution?

There is none.

Law stated - 31 July 2025

Soil pollution

3 | What are the main characteristics of the rules applicable to soil pollution?

Section 24 of the EQA restricts pollution to any soil, or surface of any land in contravention of the acceptable conditions, unless licensed. Soil is defined as including earth, sand, rock, shale, minerals and vegetation in the soil. Pursuant to section 47 of the EQA, anyone contravening this provision may be held liable for the clean-up costs and expenses incurred in connection therewith.

Law stated - 31 July 2025

Regulation of waste

4 | What types of waste are regulated and how?

Waste is regulated under the Environmental Quality (Scheduled Wastes) Regulations 2005. 'Scheduled wastes' is defined to mean any waste falling within the categories of waste listed in the First Schedule.

Every waste generator is obliged to notify the Department of Environment (DOE) of any new categories and quantities of scheduled wastes generated. Scheduled wastes shall be disposed at prescribed premises only and treated at prescribed premises or on-site treatment facilities only.

Every waste generator is also responsible for ensuring that scheduled waste generated by them is properly stored, treated on site, recovered on site for material or product from

scheduled wastes and ensures that every scheduled waste subjected to movement is packaged, labelled and transported in accordance with the guidelines prescribed by DOE.

Law stated - 31 July 2025

Regulation of air emissions

5 | What are the main features of the rules governing air emissions?

Section 25 of the EQA restricts pollution to the atmosphere in contravention of the accepted standards, unless licensed.

Specifically, the Environmental Quality (Clean Air) Regulations 2014 (Clean Air Regulations) regulates air emissions in Malaysia. The Clean Air Regulations are applicable to any premises used for any industrial or trade purposes, or on which matter is burnt in connection with any industrial or trade purposes; any other premises or processes that discharge or are capable of discharging air pollutants into open air; any industrial plant; and any fuel burning equipment.

An owner or occupier of a premises involved in any activity or industry listed in the First Schedule such as, among others, fuel burning, iron and steel mills, oil and gas, glass and ceramic manufacturing, shall incorporate measures to reduce the emission of air pollutants to the atmosphere in accordance with the Best Available Techniques Economically Achievable determined by the Director General. The limit values and technical standards that the owner or occupier of a premises involved in the listed activity or industry or set out based on the activity or industry.

Apart from the Clean Air Regulations, there are also other regulations to control motor vehicle smoke emissions as well as ozone-depleting substances.

Law stated - 31 July 2025

Protection of fresh water and seawater

6 | How are fresh water and seawater, and their associated land, protected?

They are protected by the EQA. Section 25 of the EQA prohibits the emission, discharge or deposit of any environmentally hazardous substances, pollutants or waste into any inland waters (ie, reservoir, pond, lake, river, stream, canal, drain), unless licensed. Section 27 of the EQA prohibits the discharge of oil or spill of any mixture containing oil into Malaysian waters in contravention of the acceptable conditions, unless licensed. Section 29 of the EQA prohibits the discharge of any environmentally hazardous substances, pollutants or waste into Malaysian water in contravention of the acceptable conditions, unless licensed.

Further, the Environmental Quality (Industrial Effluent) Regulations 2009 sets out the standards of the discharge or release of industrial effluent or mixed effluent into, among others, any inland waters or Malaysian waters.

Law stated - 31 July 2025

Protection of natural spaces and landscapes

7 | What are the main features of the rules protecting natural spaces and landscapes?

There are different forms and classes of protection for natural spaces and landscapes in Malaysia, which are governed by multiple statutes such as the National Forestry Act 1984 (NFA), the National Parks Act 1980, the Sarawak Forest Ordinance (1954) and the Sabah Forestry Enactment (1968), the Town and Country Planning Act 1976 and the Marine Parks Act 1994.

Under the NFA, a state authority may declare parts of land as a permanent reserved forest (PRF). A licence is then needed to take forest produce from a PRF. Additionally, a permit is required to carry out activities such as:

- research;
- education;
- recreation;
- use of water resources;
- cultivation of vegetables and fodder crops;
- establishment of conversion plants;
- establishment of logging infrastructure; and
- driving of motor vehicles.

Law stated - 31 July 2025

Protection of flora and fauna species

8 | What are the main features of the rules protecting flora and fauna species?

There are different forms and classes of flora and fauna protection in Malaysia. The primary legislation aimed at protecting flora and fauna is the Wildlife Conservation Act 2010 (WCA). Other legislation includes the Sabah Wildlife Conservation Enactment 1997, the Wildlife Protection Ordinance 1998 (Cap 26) Sarawak and the Fisheries Act 1985.

Under the WCA, a licence is needed should any person wish to hunt, take or keep, or collect bird's nests, carry out the business of dealing, and import, export or re-export protected and controlled wildlife. As for totally protected wildlife, a special permit is required to carry out the same activities.

Law stated - 31 July 2025

Noise, odours and vibrations

I

9 | What are the main features of the rules governing noise, odours and vibrations?

Section 23 of the EQA provides that no person shall emit noise greater in volume, intensity or quality in contravention of any acceptable conditions, unless licensed. The Environmental Quality (Motor Vehicle Noise) Regulations 1987 deal specifically with the sound level permitted for motor vehicles. Additionally, the Occupational Safety and Health (Noise Exposure) Regulations 2019 set out the acceptable standard or limit of noise exposure at workplaces.

With regard to for vibrations, the DOE has issued several Guidelines on noise and vibration limits and control.

As for odours, section 22(2)(b) of the EQA is a particular provision governing obnoxious or offensive odours.

Law stated - 31 July 2025

Liability for damage to the environment

10 | Is there a general regime on liability for environmental damage?

There is no such general regime on liability for environmental damage. It is likely that any person seeking to attribute liability for environmental damage will have to bring a claim in the civil courts for the usual causes of action such as negligence, nuisance, trespass on land, etc. That said, section 46E of the EQA provides that after a person has been convicted for an offence under the EQA or any regulations made thereunder, the court, in addition to imposing a penalty for the offence, may, where it appears to the court that any other person has, by reason of the commission of, or the omission resulting in the offence, suffered loss or damage to any property, order the person so convicted to pay the other person the costs and expenses incurred or compensation for loss or damage to the property and any other costs, in the amount as the court considers fit.

Law stated - 31 July 2025

Environmental taxes

11 | Is there any type of environmental tax?

Malaysia has not yet introduced a formal carbon tax, but discussions are ongoing regarding the potential for a tax on carbon emissions. The government has shown interest in aligning with global trends to reduce greenhouse gas emissions and may introduce this tax to meet its climate commitments.

Law stated - 31 July 2025

Environmental reporting

12 Are there any notable environmental reporting requirements (eg, regarding emissions, energy consumption or related environmental, social and governance (ESG) reporting obligations)?

The Energy Efficiency and Conservation Act requires energy consumers to whom the Energy Efficiency and Conservation Act applies to prepare an energy efficiency and conservation report detailing the energy management system, energy consumption and measures for energy efficiency and conservation.

Listed companies are also required under Bursa Malaysia's Sustainability Reporting Framework to report on ESG indicators including disclosure on issues like waste management and emissions. These reports are to be published annually and must align with the International Financial Reporting Standards Sustainability Disclosure Standards.

Law stated - 31 July 2025

Government policy

13 How would you describe the general government policy for environmental issues? How are environmental policy objectives influencing the legislative agenda?

The general government policy towards environmental issues is relatively robust and proactive. The government recently launched the National Climate Change Policy 2.0, which outlined a framework for Malaysia's transition to a low-carbon economy. The policy aims to reduce carbon intensity by 45 per cent by 2030 and achieve net-zero greenhouse gas emissions by 2050.

Malaysia also plans to, among other things, introduce carbon pricing instruments such as a carbon tax and a domestic emissions trading scheme and premium for energy data centres.

Environmental protection goals have led to stringent legislation such as the EQA, which requires industries to comply with pollution control measures and conduct environmental assessments. Green technology financing schemes and investment incentives have also been introduced to encourage the adoption of clean technologies and reduce the carbon footprint of businesses.

Law stated - 31 July 2025

HAZARDOUS ACTIVITIES AND SUBSTANCES

Regulation of hazardous activities

14 Are there specific rules governing hazardous activities?

Hazardous activities are generally governed by the Occupational Safety and Health Act 1994 (OSHA) and the regulations made thereunder. Such activities do not require a licence.

The OSHA requires all employers, self-employed persons, principals, occupiers, etc, to ensure the safety and health of employees and persons at their workplaces.

Law stated - 31 July 2025

Regulation of hazardous products and substances

15 What are the main features of the rules governing hazardous products and substances?

The Occupational Safety and Health (Use and Standards of Exposure of Chemical Hazardous to Health) Regulations 2000 (USECHH) is the main regulation on hazardous products and substances.

USECHH, among other regulations, imposes obligations for employer to keep a register of chemicals hazardous to health (Regulation 5), permissible exposure limit, assessment of risk to health, action to control exposure, labelling and relabelling, information, instruction and training, monitoring of exposure at the place of work, health surveillance, warning signs and record-keeping.

Law stated - 31 July 2025

Industrial accidents

16 What are the regulatory requirements regarding the prevention of industrial accidents?

Prevention of industrial accidents are subject to the safety and health measures set out in the OSHA. OSHA also specifies all the various duties and responsibilities that aim to prevent and militate against industrial accidents.

Law stated - 31 July 2025

ENVIRONMENTAL ASPECTS IN TRANSACTIONS AND PUBLIC PROCUREMENT

Environmental aspects in M&A transactions

17 What are the main environmental aspects to consider in M&A transactions?

Depending on the target's industry, environmental due diligence may be conducted to assess the target's compliance with environmental laws and to identify their existing environmental liabilities or past violations. Long-term liabilities are also assessed including environmental issues affecting employees, such as exposure to hazardous materials.

For acquisition of assets in particular, if such assets are subject to any environmental permits or licences, the buyer may need to apply for transfer of those permits before operating.

Law stated - 31 July 2025

Environmental aspects in other transactions

18 | What are the main environmental aspects to consider in other transactions?

Banks and financial institutions in Malaysia are increasingly adopting ESG frameworks to assess the environmental impact of projects and businesses. These assessments may involve examining the environmental risks associated with a company's operations, supply chain and compliance with local environmental regulations.

Law stated - 31 July 2025

Environmental aspects in public procurement

19 | Is environmental protection taken into consideration by public procurement regulations?

Environmental protection is considered in public procurement requirements in Malaysia but it may not always be the central criterion. In sectors with significant environmental impacts such as energy, construction, manufacturing and transportation, public procurement requirements are more likely to impose stringent environmental requirements and adoption of green building standards or sustainable solutions.

Law stated - 31 July 2025

ENVIRONMENTAL ASSESSMENT

Activities subject to environmental assessment

20 | Which types of activities are subject to environmental assessment?

The types of activities that are subjected to an environmental impact assessment (EIA) report in Peninsular Malaysia are listed in the Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 2015. They include, among others:

- agriculture;
- aerodrome;
- drainage and irrigation;
- fisheries;
- forestry;
- industry;
- and reclamation;

- mining;
- petroleum;
- ports;
- power generation and transmission;
- development in coastal and hill areas;
- development in slope area;
- waste treatment and disposal;
- dredging;
- housing;
- industrial estate development;
- new townships;
- quarries;
- roads;
- water supply; development in coastal areas, national park and state parks;
- development in sloping areas;
- construction of dams;
- transportation; and
- radioactive materials and radioactive waste.

With regard to the state of Sabah, the types of activities are listed in the Environment Protection (Prescribed Activities) Order 2005, requiring a proposal for mitigation measures and/or an EIA report, and they are:

- agriculture;
- forestry;
- housing, commercial and industrial estate;
- fisheries and aquaculture;
- quarries;
- resorts and recreational development;
- drainage and irrigation;
- land reclamation;
- mining;
- power generation;
- water supply; and
- any other activities that may damage or have an adverse impact on the quality of the environment.

As for the state of Sarawak, the Natural Resources and Environment (Prescribed Activities) Order 1994 (Sarawak) stipulates that the types of activities that require an EIA Report are:

- agricultural development;
- logging;
- development of commercial industrial and housing estates;
- activities that may pollute inland water or affect sources of water supply;
- fisheries and activities that may endanger marine or aquatic life, plants in inland waters or erosion of river banks;
- extraction and removal of rock materials and mining;
- facilities for disposal and treatment waste; and
- any other activities that may damage or have an adverse impact on quality of environment or natural resources of the state.

Law stated - 31 July 2025

Environmental assessment process

21 | What are the main steps of the environmental assessment process?

An EIA report has to be prepared in accordance with the Environmental Impact Assessment Guideline 2016 issued by the Department of Environment (DOE) (EIA Guideline). The EIA Guideline is not applicable to Sabah and Sarawak. The environmental assessment process is divided into three stages: (1) the pre-submission stage; (2) the submission stage; and (3) the post-submission stage.

During the pre-submission stage, a screening and scoping first has to be carried out. The screening process determines whether a proposed project falls under a prescribed activity. The scoping process is the process of identifying key environmental issues. For prescribed activities, an Environmental Scoping Information (ESI) that determines the terms of reference (TOR) would first have to be submitted to the DOE. The adequacy of the ESI and TOR formulated would then be decided in a Terms of Reference Adequacy Check meeting. At the meeting, the TOR may be accepted or agreed upon or may require revision within stipulated timeline.

On top of the TOR, the project proponent also has to conduct a site suitability assessment, baseline studies, impact assessment and evaluation of significance, identification of mitigation measures and an EIA Report preparation.

During the submission stage, the EIA report will be submitted to the State DOE, whereas an EIA report involving certain prescribed activities and multiple states would have to be submitted to DOE HQ.

The review of an EIA report by the State DOE will be checked for Report Adequacy (RAC) by the EIA Technical Review Committee (TRC). An EIA report that does not pass would be rejected. EIA Report that passes would be reviewed by the TRC. The EIA report would also be distributed to the relevant government agencies for written comments. The final outcome of the EIA report would be decided by the DOE State Director after taking into consideration of the views of the TRC.

For reviews by DOE HQ, the EIA report would be checked for RAC by the TRC. An EIA report that passes would have to be publicly displayed for public comments. For projects in Sabah and Sarawak, a notification must be placed in at least one regional newspaper. The EIA report shall be displayed for 30 days from the date of announcement and the public will have 45 days to submit their comments to DOE.

The TRC would then review the EIA report. Once the review process is completed, the State Director of DOE or the Director General of DOE (DG) may either approve the EIA report with or without conditions or not approve the EIA report, in which the State Director of the DOE or the DG must give reasons for the non-approval.

Although the State Director of DOE or DG will make the final decision, certain government agencies are also sometimes tasked with deciding, such as the National Development Planning Committee for Federal Government Sponsored projects; the State Executive Council for State Government sponsored projects; the various local authorities or the regional development authorities with respect to planning approval within their respective areas; and/or the Ministry of International Trade and Industry for industrial projects.

Any person aggrieved by any decision may file an appeal with the Appeal Board within 30 days of the date of the decision being communicated.

For the post-submission stage, monitoring activities are divided into three categories: (1) impact monitoring; (2) compliance monitoring; and (3) performance monitoring.

Law stated - 31 July 2025

REGULATORY AUTHORITIES

Regulatory authorities

22 Which authorities are responsible for the environment and what is the scope of each regulator's authority?

The primary authority at the national level responsible for regulating and enforcing the environmental laws of Malaysia, specifically the Environmental Quality Act 1974 (EQA) and the regulations made thereunder, is the Department of Environment (DOE), which is headed by its Director General (DG). There are the various state DOEs headed by the respective State DG.

In addition, specific to water, there are other agencies that also have regulatory powers, such as the National Water Services Commission and the Water Management Authority of the State of Selangor, for instance.

In recent times, the police have also been investigating environment-related offences found in the Penal Code, such as section 430 (ie, mischief by injury to works of irrigation or by wrongfully diverting water).

Law stated - 31 July 2025

Investigation

23 | What are the typical steps in an investigation?

Regulatory authorities especially the DOE has wide powers of investigations as provided under the EQA. The DOE is also conferred with all necessary powers in relation to police investigation in seizable cases given by the Criminal Procedure Code, such as the powers of arrest, stop, board, inspect, search, seize, forfeit, examine persons acquainted with the case, require attendance of persons acquainted with the case, etc.

In an investigation, the DOE would typically present themselves at an alleged offender's premises for inspection to take samples, photographs, documents and records. This would then be followed by taking and recording of formal statements of persons involved in the case.

Law stated - 31 July 2025

Administrative decisions

24 | What is the procedure for making administrative decisions?

The procedure for making administrative decisions is guided by principles of natural justice and procedural fairness.

Law stated - 31 July 2025

Sanctions and remedies

25 | What are the sanctions and remedies that may be imposed by the regulator for violations?

The sanctions and remedies that the DOE may impose for violations include issuing a written notice requiring certain actions to be done (eg, installing or repairing any equipment; adopting any measure to reduce or mitigate pollution), a prohibition order (ie, to prohibit the operation of an industrial plant or process until requirements to make remedy as directed have been complied with), and compounds and fines.

Law stated - 31 July 2025

Appeal of regulators' decisions

26 | To what extent may decisions of the regulators be appealed, and to whom?

Decisions of the DG are appealable to the Appeal Board and may be filed within 30 days the decision is communicated.

Law stated - 31 July 2025

JUDICIAL PROCEEDINGS

Judicial proceedings

27 | Are environmental law proceedings in court civil, criminal or both?

Environmental law proceedings may be before the criminal, civil or administrative courts. If coming before the criminal courts, it will be in the form of a prosecution for an alleged offence by the public prosecutor against an alleged offence, If before the civil courts, it could be a claim by any person for loss and damage suffered arising from an alleged offence. If before the administrative courts, it can be commenced by any person aggrieved by an administrative decision made by the Director General.

Law stated - 31 July 2025

Powers of courts

28 | What are the powers of courts in relation to infringements of environmental law?

In the event of any infringement of environmental law (ie, the Environmental Quality Act 1974 (EQA)), the courts (the criminal courts to be exact) have the power to mete out the appropriate punishment.

Law stated - 31 July 2025

Civil claims

29 | Are civil claims allowed regarding infringements of environmental law?

There is no prohibition as to civil claims, be it contractual or non-contractual arising from infringements of environmental law.

Law stated - 31 July 2025

Defences and indemnities

30 | What defences or indemnities are available?

Strict liability

Offences under the EQA are on strict liability basis. This means that the prosecution does not need to prove intent to establish liability for the offence. Instead, it is sufficient to prove that the prohibited act or omission occurred. Certain defences are usually applicable and can be relied upon, circumstances permitting, such as demonstrating that all reasonable

measures were taken to prevent the offence, establishing that the act occurred beyond the control of the accused (for instance, sabotage) or showing that the act was conducted within the terms of a valid licence issued under the EQA.

Joint or several liability

Companies can be held liable for environmental offences and directors or officers may share liability if they authorised or failed to prevent the offence.

Limitation

The statutes of limitation do not apply to environmental offences under the EQA.

Law stated - 31 July 2025

Directors' or officers' defences

31 | Are there specific defences in the case of directors' or officers' liability?

Directors or officers are afforded a specific and explicit defence under the EQA where if they could prove to the satisfaction of the court that the offence was committed without their knowledge or consent or that they had exercised all due diligence to prevent the same and to ensure observance of the relevant provisions, they will not be held equally liable as the company.

Law stated - 31 July 2025

Appeal process

32 | What is the appeal process from trials?

Generally, there are three level of appeal. For criminal matters, the proceedings of the first instance is usually conducted at the subordinate courts (ie, the Magistrates' or Sessions Court). If the parties are dissatisfied with the decision in of the subordinate courts, they may appeal to the High Court, and subsequently the Court of Appeal. However, leave is required for an appeal against the decision of High Court on any criminal matters that originated from the Magistrates' Court. The Federal Court, which is the apex court in Malaysia, shall have jurisdiction to hear and determine any appeal from any decision of the Court of Appeal in its appellate jurisdiction in respect of any criminal matter decided by the High Court in its original jurisdiction.

Law stated - 31 July 2025

INTERNATIONAL TREATIES AND INSTITUTIONS

International treaties

33 | Is your country a contracting state to any international environmental treaties, or similar agreements?

Malaysia is a contracting state to multiple environmental treaties. Among others, it acceded to the Convention on International Trade in Endangered Species of Wild Flora and Fauna on 20 October 1997, ratified the Convention on Biological Diversity on 24 June 1994, ratified the Cartagena Protocol on 3 September 2023 and acceded to the Nagoya Protocol on 5 November 2018.

Malaysia has also ratified the International Tropical Timber Agreement on 28 September 2007, and is a member of the International Tropical Timber Organization, International Towing Tank Conference as well as the United Nations Forum on Forests. Malaysia joined the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation Program in 2012.

Law stated - 31 July 2025

International treaties and regulatory policy

34 | To what extent is regulatory policy affected by these treaties?

Malaysia has aligned several of its national environmental laws with international standards set by these treaties. For example, under the Convention on Biological Diversity, Malaysia has enhanced its wildlife protection laws to include stricter enforcement against poaching and illegal trade as observed in Malaysia's Wildlife Conservation Act 2010.

Law stated - 31 July 2025

UPDATE AND TRENDS

Key developments of the past year

35 | Are there any emerging trends or hot topics in environment law in your jurisdiction?

Early this year, the Ministry of Investment Trade and Industry introduced the National Industry Environmental, Social and Governance Framework (i-ESG) to support industries to Integrate standards. The i-ESG framework is planned to be a legal requirement by 2030.

Amendments were made to the Environmental Quality Act this year to impose heavier penalties for environmental violations. These amendments reinforces the country's commitment to protecting its environment and businesses are now investing in robust environmental management systems to mitigate the risk of non-compliance.

In addition, DOE has recently published a consultation paper in relation to its Proposed Amendments to the Environmental Quality Act 1974 for stakeholders to provide their comments from 13 May 2025 to 16 June 2025. Among the key proposed amendments include the implementation of Green Industry Practices, imposing obligations on premise owners to establish the Environmental Compliance Monitoring Committee (ECMC) to

monitor the implementation and effectiveness of its organisation environmental policies, review of the EIA approval process, review of the use of Environmental Fund, review of existing and new fees and improvement of pollution control management.

Law stated - 31 July 2025



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Malta

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UPDATE AND TRENDS

Key developments of the past year

LEGISLATION

Main environmental regulations

1 | What are the main statutes and regulations relating to the environment?

Malta has a substantial body of environmental law, which is regulated primarily by the Environment Protection Act (EPA) (Chapter 549 of the Laws of Malta). The various aspects of environmental law are then regulated by the Act's subsidiary legislation. Key regulations include:

- Environmental Impact Assessment Regulations (SL549.46);
- Environmental Permitting (Procedure for Applications and their Determination) Regulations (SL549.172);
- Prevention and Remedying of Environmental Damage Regulations (SL549.97);
- Waste Regulations (SL549.63);
- Water Policy Framework Regulations (SL549.100); and
- Flora, Fauna and Natural Habitats Protection Regulations (SL549.44).

Environmental law is heavily influenced by EU law and policy.

Law stated - 16 September 2025

Integrated pollution prevention and control

2 | Is there a system of integrated control of pollution?

Malta has a system of integrated pollution prevention and control (IPPC) established primarily through the Industrial Emissions (Integrated Pollution Prevention and Control) Regulations (IPPC Regulations) (SL549.77), which aim to prevent, reduce and control pollution from various point sources and set out principles for the permitting and control of activities of industrial installations, based on an integrated approach and the best available techniques (BAT).

In terms of the IPPC Regulations, installations that release emissions to land, water and air are subject to a prior review by the competent authority and must obtain a permit to operate. These regulated facilities include stationary installations in which the following activities are carried out: energy, waste management, production and processing of metals, chemicals and minerals, paper productions, slaughterhouses, etc.

To obtain a permit under the IPPC regime, industrial activities will need to comply with BAT. The permit would generally contain, among other details, a description of the installation, materials and energy used and generated, the sources and nature of foreseeable emissions as well as the measures planned to monitor such emissions. It additionally establishes emission limit values for polluting substances and imposes monitoring obligations on the operator, who must provide certain data to the authority, at

regular intervals, enabling it to check the operator's compliance with emission levels and other permit conditions. Permit conditions are set on the basis of BATs, ensuring that the installation is operated in accordance with the most advanced and proven techniques for the prevention and control of industrial emissions and the wider environmental impact.

Law stated - 16 September 2025

Soil pollution

3 | What are the main characteristics of the rules applicable to soil pollution?

While there is no specific regulation governing soil pollution, this is managed through various avenues, including the environmental impact assessment regime and environmental permitting. With respect to liability for soil pollution, this is covered by the Prevention and Remedying of Environmental Damage Regulations (SL549.97), which address all types of environmental damage, including damage to land, and the Crimes Against the Environment Act (Chapter 522 of the laws of Malta), under which it is an offence to discharge or introduce harmful substances into the soil that are likely to cause substantial damage to the quality of the soil.

Law stated - 16 September 2025

Regulation of waste

4 | What types of waste are regulated and how?

Waste is primarily governed by the EPA, the Waste Regulations (SL549.63) and the Waste Management (Activity Registration) Regulations (SL549.45). Additional regulations are also in place to manage specific areas of waste management in Malta.

Waste is defined, broadly, under the EPA as 'any thing, substance or object which the holder discards or intends to discard, or is required to keep in order to discard…', and requires the competent authorities to ensure that waste is managed in a sustainable manner and that its reduction, proper use, reuse and recovery is promoted. Waste is also defined in the Waste Regulations as 'any substance or object which the holder discards or intends or is required to discard'.

The Waste Regulations qualify the definition in that by-products, which are substances or objects resulting from production processes, are not regarded as waste, as long as the following conditions are met:

- further use of the substance or object is certain;
- the substance or object can be used directly without any further processing other than normal industrial practice;
- the substance or object is produced as an integral part of a production process; and
-

further use is lawful, in other words, the substance or object fulfils all relevant product, environment and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

Classification of waste in Malta is largely based on whether it contains hazardous properties listed in the Waste Framework Directive (2008/98/EC) and that establishes a code for each type of waste. Hazardous wastes are subject to a strict control regime covering their entire life cycle, from generation to final disposal or recovery. The Waste Regulations include specific obligations concerning labelling and packaging of hazardous waste, record keeping, and monitoring and control procedures on transfers of such waste within Malta.

The bulk of waste legislation concerns waste management. Under the Waste Regulations (SL549.63) permits from the competent authority are required by any person wishing to carry out any waste management activity, and in some cases by producers of waste intending to store or dispose of, on site, the waste it produces.

The various waste streams have specific legal regimes. For instance, packaging waste is dealt with in the Waste Management (Packaging and Packaging Waste) Regulations (SL549.43), which oblige producers of packaging waste to collect, recover and recycle such waste. Regimes are also in place to manage waste electrical and electronic equipment, waste batteries, construction and demolition waste, end-of-life vehicles and bio-waste. Additionally, single-use plastic waste is also regulated through a separate regime. The Single-Use Plastic Framework Regulations (SL549.149) impose on producers and distributors certain product and marking requirements. Further, the importation, production, sale and distribution of certain single-use plastic items is prohibited under Maltese law.

Waste legislation and policy imposes a general requirement to comply with the waste hierarchy, which is:

- prevention;
- preparing for reuse;
- recycling;
- other recovery; and
- disposal.

The Waste Regulations impose a duty of care on any person producing or handling waste (with the exception of domestic waste), to ensure that no waste escapes such person's control and that waste is managed by persons in possession of the relevant permits.

Law stated - 16 September 2025

Regulation of air emissions

5 | What are the main features of the rules governing air emissions?

Air emissions are governed primarily by the IPPC Regulations and the Ambient Air Quality Regulations (SL549.59). The latter impose certain obligations on the competent authority with respect to implementation, monitoring and control of air emissions. More specifically, the authority must, among other things, establish limit values and alert thresholds for ambient air, carry out assessments of ambient air quality, and implement measures in zones where levels are higher than the limit value.

In addition, the Limitation of Emissions of Certain Atmospheric Pollutants Regulations (SL549.124) set the maximum amounts of certain substances (including sulphur dioxide and nitrogen oxides) that can be emitted within Malta. Moreover, the Regulations impose a duty on Malta to achieve emission reductions by 2020 and 2030.

Air discharges from regulated industrial activities are managed and controlled through the IPPC Regulations, which impose an obligation on operators of these installations to obtain a permit and to operate the installation in accordance with best available techniques.

The Air Quality Plan for the Maltese Islands 2010 contains high-level policy guidance for reducing the daily average of PM10concentrations in ambient air, by focusing on measures to reduce these concentrations from major contributors, such as road transport.

Law stated - 16 September 2025

Protection of fresh water and seawater

6 | How are fresh water and seawater, and their associated land, protected?

Fresh water is protected under the Protection of Groundwater against Pollution and Deterioration Regulations (SL549.53), the Groundwater (Prohibition of Discharge to Groundwater Bodies) Regulations (SL549.155), and the Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment Regulations (SL549.10). These regulations are both preventative and remedial in nature and essentially tackle pollution of groundwater from point as well as diffuse sources as they regulate direct and indirect discharges. Pollution caused to groundwater by nitrates from agricultural sources is also regulated under Maltese law. Contamination of fresh water sources by any person will give rise to criminal liability.

Extraction, whether for private or public use, is subject to strict controls and permitting requirements by the competent authority. The filling of pools is also regulated and must be done with fresh water to avoid harmful leakage of seawater into the groundwater.

The Water Policy Framework Regulations (SL549.100) establish an action plan for protecting inland waters, coastal waters and groundwater. These regulations attempt to adopt a holistic approach with respect to the entire field of water management. Essentially, the aim is to promote sustainable water use based on the long-term protection of available water resources; and to enhance the protection and improvement of the aquatic environment through specific measures for the progressive reduction and phasing out of discharges, emissions and losses of hazardous substances.

Law stated - 16 September 2025

Protection of natural spaces and landscapes

7 | What are the main features of the rules protecting natural spaces and landscapes?

Over 20 per cent of Malta's land area has protection status under the EU's Birds and Habitats Directives. Moreover, several sites have been designated as special areas of conservation under the Flora, Fauna and Natural Habitats Protection Regulations (SL 549.44) and as special protection areas under the Conservation of Wild Birds Regulations (SL 549.42). Among these protected sites are the woodlands in Buskett and Comino, which have also been designated by the European Commission as sites of Community importance. These protected areas form part of the coherent European ecological network of special areas of conservation established under Natura 2000. Generally, within these protected areas, no operations or activities may be carried out unless consent has been given by the competent authority. Also, before granting such consent, the authority will, where it appears that such activity is likely to have a significant effect on the protected site, carry out, or require the applicant to carry out, an environmental assessment of the implications of the activity on the site.

Additionally, the Environment and Resources Authority (ERA) is empowered, under the EPA, to issue conservation orders to protect areas which are deemed important from a landscape perspective. Once an area is 'protected' for conservation, the ERA may take such measures as it deems necessary to protect the status of the area and prevent any deterioration thereof.

Law stated - 16 September 2025

Protection of flora and fauna species

8 | What are the main features of the rules protecting flora and fauna species?

The overall protection of species is governed by the Flora, Fauna and Natural Habitats Protection Regulations (SL549.44). The Regulations prohibit persons from, among other things, disturbing, capturing, killing, destroying, transporting and selling protected species without first obtaining a permit. They also contemplate measures to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest, taking account of the economic, social and cultural requirements and regional and local characteristics. Moreover, the Regulations impose obligations on the competent authority in terms of developing national strategies and other action plans and programmes aimed at the conservation and sustainable use of biodiversity.

The Schedules to the Regulations identify the habitats and species that are given protection status, specifying the level of protection. Natural habitats whose conservation requires protection are designated as Special Areas of Conservation, and this includes areas of both national and international importance. Similarly, species of animals and plants of both Community and national interest are also designated as Special Areas of Conservation. The Regulations also identify animal and plant species of Community and national interest that need of strict protection.

Other legislation governing the protection of flora and fauna include the Trade in Species of Fauna and Flora Regulations (SL549.38), the Trees and Woodlands Protection Regulations (SL549.64) and the Conservation of Wild Birds Regulations (SL549.42). In addition, there are various other pieces of legislation under Maltese law regulating the protection of a specific species or a defined protected area.

In the marine environment, flora and fauna are afforded protection under additional legislation, including the Marine Mammals Protection Regulations (SL549.35) and the Marine Policy Framework Regulations (SL549.35), which require Malta to take the necessary measures to achieve and maintain a 'good environmental status' in the marine environment.

Additionally, Malta's marine Natura 2000 network encompasses 18 sites and covers over 4,100 square kilometres, equivalent to more than 35 per cent of Malta's Fisheries Management Zone, and was established over a period of 10 years, for the conservation of important habitats and species. The network comprises Special Areas of Conservation, designated for the protection of marine habitats and species pursuant to the EU Habitats Directive, and Special Protected Areas designated for the protection of seabirds under the EU Birds Directive. In 2018, the network was extended, leading to a further three inshore and five offshore areas being proposed for the protection of cave and reef habitats.

Law stated - 16 September 2025

Noise, odours and vibrations

9 | What are the main features of the rules governing noise, odours and vibrations?

Environmental noise is mainly regulated under the Assessment and Management of Environmental Noise Regulations (SL549.37) which define environmental noise as unwanted or harmful outdoor sound created by human activities, including noise emitted by means of transport, road traffic, rail traffic and air traffic, and from sites of industrial activity. The Regulations aim to define a common approach intended to avoid, prevent or reduce on a prioritised basis the harmful effects, including annoyance, due to exposure to environmental noise. To this end, the Regulations seek to:

- determine the exposure to environmental noise through noise mapping;
- ensure that information on environmental noise and its effects are made available to the public; and
- adopt action plans based upon noise-mapping results, with a view to preventing and reducing environmental noise where necessary and particularly where exposure levels can induce harmful effects on human health and preserving environmental noise quality where it is good.

Implementation of the regulations is the responsibility of the ERA.

Noise arising from construction activities is also regulated under Maltese law. In terms of the Construction Management Site Regulations (SL623.08), construction activity generating noise may only be carried out during certain hours of the day or week. The Regulations also prescribe the permissible noise levels.

Vibrations are, in effect, regulated under the Industrial Emissions (Framework) Regulations (SL549.76) and are included in the definitions of 'pollution' and 'emissions'; and odours are controlled by the competent authorities through general permitting requirements, including trading licences and environmental permits.

Law stated - 16 September 2025

Liability for damage to the environment

10 | Is there a general regime on liability for environmental damage?

Liability for environmental damage may be imposed through various regimes. Liability may be civil, administrative or criminal. Generally, in terms of the EPA, it is an offence to carry out any activity or operation affecting the environment without a permit. Likewise, failure to comply with the conditions of a permit is also an offence. However, in cases of breach, the competent authority may choose to take administrative action such as the issuance of fines and enforcement notices.

Administrative liability is mainly governed by the Prevention and Remedying of Environmental Damage Regulations (SL549.97), which establish a framework of environmental liability based on the polluter pays principle, to prevent and remedy environmental damage. Environmental damage is defined as damage to protected species and natural habitats, damage to water and damage to land.

The Regulations impose strict liability on operators for environmental damage resulting from any of the occupational activities listed in Schedule III. Operators carrying out other occupational activities than those listed in Schedule III are liable for fault-based damage to protected species or natural habitats. However, establishing a causal link between the activity and the damage is always required. The Regulations impose the following obligations on operators responsible for the damage (or immediate threat thereof):

- prevention in the case of an imminent threat of damage;
- immediate limitation measures; and
- remediation measures, including primary, complementary and compensatory remediation.

The Crimes Against the Environment Act imposes criminal liability on persons carrying out activities that breach specific environmental legislation. The Act criminalises activities that cause significant harm or risk to the environment and human health, including:

- the illegal emission or discharge of substances into air, water or soil;
- the illegal trade in wildlife;
- the illegal trade in ozone-depleting substances; and
- the illegal shipment or dumping of waste.

General principles of civil law may also be relied upon in instances of environmental damage. Persons may be held liable in tort for damages caused towards a third party

who actually suffers a related loss. Under the Maltese legal system, compensation can be sought for material (or real) damage or loss, including loss of future profits, by the person who suffers the harm.

Law stated - 16 September 2025

Environmental taxes

11 | Is there any type of environmental tax?

Malta has introduced a number of fiscal instruments, mainly environmental taxes, to discourage the use of environmentally damaging activities such as the burning of fossil fuels, while promoting other alternative and more efficient energy sources. Overall, these taxes can be grouped into three categories: energy, transportation, and pollution and resources. In terms of energy, the taxes comprise:

- carbon taxes and taxes on energy products for transportation such as diesel and petrol;
- taxes on energy products for stationary use (coal, oil products, electricity, natural gas); and
- taxes on greenhouse gases.

With respect to transport, taxes comprise road usage tax and taxes on the import, sale and registration of motor vehicles. Policies allowing favourable tax rates for lower emission levels have been implemented. The rate of registration tax levied varies depending on the carbon dioxide emission value and age of the vehicle, among other contributing factors. The Annual Circulation Tax also takes into account the age of the vehicle and specifications such as vehicle weight or engine capacity, depending on the type of vehicle in consideration.

To incentivise cleaner modes of transport, tax rebates exist for purchases of bicycles and electronic bicycles. Additionally, plug-in hybrid vehicles with an electric range of not less than 50km will be exempt from the payment of registration tax. The annual circulation licence fee shall remain free of charge for the first five years for the same category of vehicles.

Law stated - 16 September 2025

Environmental reporting

12 | Are there any notable environmental reporting requirements (eg, regarding emissions, energy consumption or related environmental, social and governance (ESG) reporting obligations)?

Sectors of industry covered by the Emissions Trading System (ETS) are subject to reporting obligations. Under the ETS regime, installation and aircraft operators must submit a monitoring plan describing the measures by which annual emissions from the installation

will be monitored and reported. The monitoring plan must be approved by the national competent authority and will serve as the accepted methodology for monitoring in that installation. On an annual basis, the operator of the installation must submit verified emissions reports to the competent authority. The reports must first be verified by a competent, independent accredited verifier before being submitted to the competent authority. A verification report issued by the verifier must accompany the emissions report when this is submitted to the authority.

ESG reporting is not yet a regulatory requirement under Maltese law. However, this will change with the adoption of the Corporate Sustainability Reporting Directive (CSRD) by the EU, which will apply to all member states, including Malta. The CSRD, which was adopted at EU level in January 2023, will require certain large companies to report on sustainability from 2024, while listed small and medium-sized enterprises (SMEs) will have until the 2026 financial year to comply.

The EU Commission set in place compulsory reporting requirements for large companies, of which there are approximately 50,000 in Europe. A large company is defined as fulfilling two of these three criteria: €40 million in net turnover, €20 million in assets or 250 or more employees. Separate, proportionate standards will be introduced for listed SMEs, which will have to report in a like manner.

It must be noted, however, that at present, there is a non-financial reporting obligation on large public interest companies with more than 500 employees. This obligation stems from the Non-Financial Reporting Directive (Directive 2014/95/EU), which was transposed into Maltese law through an amendment to the Maltese Companies Act (Chapter 386 of the laws of Malta).

Law stated - 16 September 2025

Government policy

13 | How would you describe the general government policy for environmental issues? How are environmental policy objectives influencing the legislative agenda?

National environmental policy covers all environmental sectors and natural resources, including air, waste, water, land, soil, climate, biodiversity, coastal and marine areas, noise, chemicals and mineral resources. It covers, but is not restricted to, obligations stemming from the European Union environment acquis. The Environment and Resources Authority has formulated and implemented several policies and action plans to serve as a framework to guide environmental protection initiatives and to support the various legislation.

Law stated - 16 September 2025

HAZARDOUS ACTIVITIES AND SUBSTANCES

Regulation of hazardous activities

14 | Are there specific rules governing hazardous activities?

The primary legislation governing hazardous activities is the Control of Major Accident Hazards Regulations (SL424.19), which implements Directive 2012/18/EU (COMAH). The COMAH regime regulates the use of dangerous substances rather than specific activities, and primarily aims to regulate those sites that store, produce or make use of dangerous substances in sufficient quantities and that could constitute a serious health, safety or environmental risk. It predominantly applies to chemical and petrochemical-related activities, and fuel storage and distribution.

There are no licensing requirements for operators carrying out activities covered by these Regulations; however, operators are required to notify the competent authority of the activities carried out in the establishment, specifying the dangerous substances present and the quantities of each substance. Operators are also required to describe the immediate environment of the establishment and factors likely to cause a major accident or to aggravate the consequences thereof including, where available, details of neighbouring establishments.

Management of hazardous waste, as well as the transport of hazardous substances, are governed by specific regimes.

Law stated - 16 September 2025

Regulation of hazardous products and substances

15 What are the main features of the rules governing hazardous products and substances?

With regard to hazardous products and substances, regulations are aimed at protecting the environment and creating common standards to protect consumers, ensuring the free circulation of goods among member states without damage being caused to the environment or human health. In fact, the Dangerous Substance Regulations (SL427.14) were issued under the Product Safety Act (Chapter 427). The Regulations define substances as chemical elements and their compounds in the natural state or obtained by any production process. Further, the Regulations list a number of substances that are considered to be 'dangerous', such as explosive and extremely and highly flammable substances and preparations. The main obligations on the importer and producer under these Regulations relate to labelling and packaging.

Maltese legislation concerning hazardous products and packages is mainly made up of EU Regulations, namely Regulation (EC) No. 1272/2008 on the classification, labelling and packaging of substances and mixtures (as amended by Commission Regulation (EU) 2018/1480 for the purpose of its adaptation to technical and scientific progress); and Regulation (EC) No. 1907/2006 on the registration, evaluation, authorisation and restriction of chemicals (REACH). The latter is designed to ensure a high level of protection of human health and the environment from risks that can be posed by chemicals. REACH makes the industry responsible for assessing and managing the risks posed by chemicals and providing appropriate safety information to their users.

Other potentially dangerous and hazardous substances, such as pesticides, explosives and fertilisers, are regulated under Maltese law by substance-specific legislation.

Law stated - 16 September 2025

Industrial accidents

16 What are the regulatory requirements regarding the prevention of industrial accidents?

Health and Safety legislation sets out general duties on employers to safeguard the health and safety of employees in the workplace. Among other duties, employers are required to assess and review work-related risks faced by employees, and put in place preventive and protective measures. Additional health and safety regimes exist for specific activities such as underground mineral extraction and construction activity.

The COMAH regime also applies to prevent major accidents in the workplace. Operators of upper-tier establishments are required to prepare safety reports, establish safety management systems and emergency plans. The competent authorities also have various obligations directly related to COMAH establishments, such as inspections of the installation and review of the safety report or major accident prevention policy, and obligations relating to emergency planning and land use planning.

Law stated - 16 September 2025

ENVIRONMENTAL ASPECTS IN TRANSACTIONS AND PUBLIC PROCUREMENT

Environmental aspects in M&A transactions

17 What are the main environmental aspects to consider in M&A transactions?

The main environmental aspect in M&A transactions would be environmental liability. Where a company acquires shares in another company that would have committed an environmental wrongdoing prior to the acquisition, the acquiring company (as shareholder) would not, except in very limited circumstances, be liable unless it had also participated in such wrongdoing. The purchaser of the shares does not itself take on the environmental liability of the company.

Consideration should also be given to permitting issues. In a case where a company operates under an environmental permit that risks being revoked by the competent authority due to non-compliance with environmental regulations, shareholders may not want to acquire shares in such company. For this reason, investigations and due diligence exercises should always be carried out to ensure that any environmental-related issues are disclosed prior to the acquisition.

Law stated - 16 September 2025

Environmental aspects in other transactions

18 What are the main environmental aspects to consider in other transactions?

In real estate transactions, issues of possible soil pollution and other environmental considerations would certainly be of interest to a new owner because, although such owner would not be held liable for environmental damage caused prior to the acquisition, the competent authorities could nevertheless, in certain cases, impound the property. In transactions regarding financing, environmental due diligence will, in general, be similar to that of an M&A transaction.

Law stated - 16 September 2025

Environmental aspects in public procurement

19 | Is environmental protection taken into consideration by public procurement regulations?

The Public Procurement Regulations (SL 601.03) do not formulate any absolute environmental criteria. They do, however, provide that the conditions governing the performance of a contract may concern environmental considerations. The Regulations further provide that contracting authorities are to establish technical specifications for public contracts, such specifications may include environmental characteristics. When laying down such environmental characteristics in terms of performance or functional requirements, contracting authorities may use the detailed specifications or parts thereof as defined by European, national or multinational eco-labels or any other eco-label. The contracting authority may be required by the Director of Contracts to provide information to the tenderer or candidate as to its obligations, including those relating to environmental protection that shall be applicable to the works or services executed during the performance of the contract.

Law stated - 16 September 2025

ENVIRONMENTAL ASSESSMENT

Activities subject to environmental assessment

20 | Which types of activities are subject to environmental assessment?

The main types of environmental assessment insofar as developments and projects are concerned are the environmental impact assessment (EIA) and the appropriate assessment (AA). These assessments are not licences in themselves, but they do form part of the development permitting process.

The Environmental Impact Assessment Regulations (SL549.46) cover large-scale projects (or activities) likely to have a significant impact on the environment. These activities are listed in Schedule I of the Regulations and include construction of roads and motorways, airports, power plants and wastewater treatment plants, among others. Projects of a smaller scale may be subject to an AA if the site of the development falls within, or is relatively close to, a Natura 2000 or other protected site or area, and is likely to have an adverse effect on the protected site.

Additionally, governmental plans and programmes that are likely to have a significant effect on the environment are subject to a Strategic Environmental Assessment in accordance with the Strategic Environmental Assessment Regulations (SL549.61).

Law stated - 16 September 2025

Environmental assessment process

21 | What are the main steps of the environmental assessment process?

Before consent is granted for a development, a screening process must take place to determine whether the development qualifies for mandatory assessments, such as the AA and the EIA. If an AA is required, the case is processed in accordance with the Flora, Fauna and Natural Habitats Protection Regulations (SL549.44), and if an EIA is required, in accordance with the EIA Regulations (SL549.46). It is important to note that these two assessments are not exclusive of each other and in some cases both may be required.

An AA is required where the proposed development is not directly connected with or necessary to the management of the protected site, and where it appears to the Environment and Resources Authority (ERA) that such activity is likely to have a significant effect on the protected site. The information gathered for this assessment will enable the ERA to make an informed decision as to whether or not to grant development consent. Developments that are relatively complex will usually require detailed assessments. However, it is possible that even with detailed assessments the impacts remain unclear and therefore cannot be excluded. In this case, a full-blown study, similar to an EIA, would be required. With regard to the actual content of the AA, this would depend very much on the complexity and nature of the activities to be carried out and the location or site of the activities. At the very least, the assessment would have to include a description of the project and the land and marine environments affected by the activities, the elements of the project that are likely to have environmental impacts, the potential impacts on the habitats and or species listed in the Schedules to SL549.44, and mitigation measures. Once the relevant information has been gathered and the report is submitted to the ERA, the adverse effects on the integrity of the site have to be assessed by the ERA. If the impact is considered insignificant or likely to be significant or unclear but can be rendered insignificant through mitigation measures, the proposed activity can proceed. If, on the other hand, the mitigation measures are insufficient such that significant impacts would remain, then the proposal may be refused.

With regard to EIAs, all developments listed in Schedule I of the EIA Regulations require either a full EIA or screening in accordance with Schedule III by the ERA, depending on whether they fall within Category I or II. Developments not listed in the Schedule would not require an EIA or screening unless in the opinion of the ERA they are likely to have significant impacts on the environment.

Where the ERA indicates that a project or development falls within Schedule I, the permit application must be accompanied by a Project Description Statement in accordance with Schedule II. This provides the ERA with the necessary information to conduct a screening of the proposed development (not falling in Category I – as the latter automatically requires

a full EIA) and to decide whether an EIA is required. The decision is communicated to the applicant within 30 calendar days and is made available to the public. Following screening, if a proposed development requires an EIA, project-specific Terms of Reference (TOR) are formulated by the ERA following a 30-day consultation period with government agencies, non-government organisations, affected local councils and the public. These TORs will determine the content of the EIA Report. An EIA coordinator and independent consultants are then appointed by the developer to conduct the studies required and to assess the likely impacts of the environmental parameters established in the TORs. The EIA findings are compiled into an EIA report. Once the report is complete, the developer must publish a notice in local newspapers, informing the public that an EIA report has been submitted to the ERA and is available for public consultation. A digital copy of the report is made available on the ERA's website for a 30-day consultation period. Concurrently, consultation is undertaken with government entities, local councils and NGOs. For Category I projects (those automatically requiring a full EIA), a public hearing is organised at the cost of the developer within or after the consultation period. All comments, queries and requests made during the consultation period and public hearing are referred to the EIA coordinator for a reply, and the EIA report may be revised accordingly. The ERA will examine the final EIA report and prepare its final assessment thereon, which will have a bearing on the decision on whether to approve the development permit or not. Should it be approved, then specific conditions and post-permit monitoring will apply.

Law stated - 16 September 2025

REGULATORY AUTHORITIES

Regulatory authorities

22 Which authorities are responsible for the environment and what is the scope of each regulator's authority?

The Environment and Resources Authority (ERA) is the main body responsible for ensuring compliance with environmental legislation. The ERA's primary functions are to:

- formulate and implement policies relating to the protection and management of the environment, and the sustainable management of natural resources;
- permit, assess, investigate, audit, monitor and take action on any activity, intervention, project, operation or land use that may have an effect on the environment; and
- carry out, review or request others to carry out environmental assessments, environmental audits and environmental monitoring of activities and works having an impact on the environment.

The ERA has the power to revoke or modify any authorisation or permit granted where environmental damage or risk is concerned. Additionally, the ERA has the power to carry out investigations and inspections. The ERA may issue stop notices and compliance orders and may impose administrative fines.

Law stated - 16 September 2025

Investigation

23 | What are the typical steps in an investigation?

Regulatory authorities may monitor and investigate any issues and complaints brought to their attention. In certain cases, the relevant regulator or competent authority will have the power to take any action that it may deem necessary and enforce it in accordance with relevant laws. When an investigation is being carried out, apart from assessing the complaint and the facts of the case, the authorities may also carry out on-site inspections, collect documentation and evidence, carry out inquiries and invite any interested parties to make any submissions. Interim measures may also be evoked to safeguard rights.

Law stated - 16 September 2025

Administrative decisions

24 | What is the procedure for making administrative decisions?

Generally, when an administrative decision is to be made, consultation, oral or written, will occur, after which parties are invited to make submissions. The procedures for making such decisions are usually subject to any relevant policies and guidelines that may be issued by authorities.

Law stated - 16 September 2025

Sanctions and remedies

25 | What are the sanctions and remedies that may be imposed by the regulator for violations?

Violations may amount to offences, rendering the offender criminally liable. In such cases, offenders may face imprisonment, revocation of a licence or permit, or a fine. Administrative penalties may also be imposed, as well as warnings or substantial fines, as the situation may be. The range of sanctions and remedies for environmental breaches is broad and includes:

- suspensions or revocation of permits or modification of permit conditions;
- enforcement and stop notices, and compliance orders;
- financial guarantees to secure remediation in the case of environmental damage or loss; and
- step-in powers for competent authorities to carry out remedial works.

Law stated - 16 September 2025

Appeal of regulators' decisions

26 | To what extent may decisions of the regulators be appealed, and to whom?

Decisions of public authorities are generally subject to appeal. Decisions as to environment assessments, access to environmental information and the prevention and remedying of environmental damage taken by the ERA, for instance, may be appealed before the Environment and Planning Review Tribunal. From such decisions, further, albeit limited, recourse may be had to the Court of Appeal (Inferior Jurisdiction). It is also possible to have an administrative action reviewed judicially when claimed to be ultra vires.

Recourse may also be had to the ombudsman, which, however, may only result in a recommendation in one's favour.

Law stated - 16 September 2025

JUDICIAL PROCEEDINGS

Judicial proceedings

27 | Are environmental law proceedings in court civil, criminal or both?

Court proceedings concerning environmental law matters may be civil, administrative or criminal, depending on the nature and type of claim. Proceedings must be brought within prescribed time frames.

Law stated - 16 September 2025

Powers of courts

28 | What are the powers of courts in relation to infringements of environmental law?

At the request of an appellant, which must be made simultaneously with the appeal application, the Environment and Planning Review Tribunal (Tribunal) may suspend any development from being carried out pending its decision. Such suspension will be made under terms, conditions and any other measures the Tribunal may deem fit.

The court, in criminal proceedings, is empowered to order imprisonment or may impose fines and penalties. In civil proceedings, it may award damages or order that any wrongful action be remedied.

Law stated - 16 September 2025

Civil claims

29 | Are civil claims allowed regarding infringements of environmental law?

Non-contractual claims would generally be brought under the basic principles of tort found in the Civil Code, while contractual claims could be brought on the basis of breach of contract.

Law stated - 16 September 2025

Defences and indemnities

30 | What defences or indemnities are available?

The general principle at law is that the person liable for any wrongdoing must answer to any damage caused up to that degree. Therefore, all defences provided generally by law shall apply. The statute of limitations in the Civil Code can be used as a defence to an action for damages suffered due to a wrongful act carried out in relation to the environment. Such a claim would be time-barred after a period of two years, which starts to run from the time the wrongful act is committed. In certain cases, set out in the Civil Code, several and joint liability applies, for instance, where two or more persons, acting maliciously, have caused environmental damage.

Defences are also available under the Prevention and Remedying of Environmental Damage Regulations. An operator shall not be held financially liable if he or she proves that the damage was caused by a third party (provided appropriate safety measures were in place), or if he or she proves that the damage resulted from compliance with an order or instruction from a public authority. In addition, the following defences may be invoked in cases where environmental damage results from an event where the operator acted fully in accordance with the conditions of the authorisation; or one that was not considered likely to cause environmental damage according to the state of scientific and technical knowledge at the time the activity took place.

Law stated - 16 September 2025

Directors' or officers' defences

31 | Are there specific defences in the case of directors' or officers' liability?

In cases of civil liability for damage committed by a company or corporate entity, the director or any other officer of the company cannot be held responsible for such damage.

In terms of criminal liability, directors and similar officers may be held personally liable for the offence. However, in such cases, a defence is that the offence was carried out without the director's or officer's knowledge, and that all due diligence had been exercised to prevent the commission of the offence.

Law stated - 16 September 2025

Appeal process

32 | What is the appeal process from trials?

Civil actions and criminal offences can be appealed before the relevant court of appeal. The decision of the latter would be final. Where there is a claim for a breach of a constitutional right, the court may refer the matter to the civil court, having constitutional jurisdiction, to be decided. An appeal from this decision may be brought before the constitutional court.

Law stated - 16 September 2025

INTERNATIONAL TREATIES AND INSTITUTIONS

International treaties

33 | Is your country a contracting state to any international environmental treaties, or similar agreements?

Malta is a signatory to various international environmental treaties, primarily UN conventions, both directly and via the EU. Among the most notable are:

- the International Convention on Civil Liability for Oil Pollution Damage;
- the UN Convention on the Law of the Sea;
- the Convention on the Prevention of Marine Pollution by Dumping of Wastes at Sea and other Matter;
- the Geneva Convention on Long-Range Transboundary Air Pollution;
- the Basel Convention for the Transboundary Movement of Hazardous Wastes and their Disposal;
- the Vienna Convention on the Protection of the Ozone Layer; and
- the Aarhus Convention on Access to Information and Access to Justice in Environmental Matters.

Law stated - 16 September 2025

International treaties and regulatory policy

34 | To what extent is regulatory policy affected by these treaties?

These conventions influence both Maltese law and policy, so much so that, when ratified, such international treaties or conventions become part of Maltese law.

Law stated - 16 September 2025

UPDATE AND TRENDS

Key developments of the past year

35 | Are there any emerging trends or hot topics in environment law in your jurisdiction?

Environmental law continues to change and evolve as new regulations and policies are adopted and subsequently implemented. At present, the Environment and Resources Authority is formulating the National Strategy for the Environment 2050 (NSE), which seeks to create an overarching framework for Malta's existing environmental strategies and plans. The NSE is built on eight key pillars, referred to as strategic goals. These address traditional environmental facets complemented with pillars that focus on key environmental challenges that Malta faces, while also laying down the road map to enable and empower changes necessary to support the required green transition.

Law stated - 16 September 2025

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UPDATE AND TRENDS

Key developments of the past year

LEGISLATION

Main environmental regulations

1 | What are the main statutes and regulations relating to the environment?

The key pieces of environmental legislation are based on article 74 et seq of the Federal Constitution of the Swiss Confederation (SFC). The Swiss Parliament has enacted a wide range of federal statutes to protect natural resources; the Federal Council enacts the complementing ordinances. Additionally, regulations are in place at the cantonal and communal levels to implement the federal statutes and set forth the competences and organisation of the authorities.

The principal federal statutes relating to the environment include the following acts:

- Environmental Protection Act of 1983 (EPA);
- Spatial Planning Act of 1979;
- Water Protection Act of 1991 (WPA);
- Act on the Protection of Nature and Cultural Heritage of 1966;
- Forest Act of 1991;
- Agriculture Act of 1998;
- Hunting and Protection of Wild Mammals and Birds Act of 1986;
- Fishing Act of 1991;
- Act on Non-Human Gene Technology of 2003;
- Act on the Reduction of CO2 Emissions of 2011 (significant revisions entered into force on 1 January 2025); and
- Act on Climate Protection Goals, Innovation, and Strengthening Energy Security of 2022 (in force as of 1 January 2025 alongside an implementing ordinance).

Further, the Swiss Civil Code of 1907 (CC) includes provisions relevant to the abatement of nuisances such as water pollution, air pollution and noise. Articles 679 and 684 of the CC outline the liability of landowners in this context.

In Switzerland, environmental protection law focuses on preventing environmentally harmful activities as well as on abating and remediating environmental harms. Further, several federal statutes (such as the EPA and the WPA) provide criminal sanctions (fines or imprisonment) for deliberate or negligent infringement of specific duties under the relevant statutes. Both natural persons and legal entities can be sanctioned.

The SFC and international agreements ratified by Switzerland, such as the European Convention on Human Rights and the United Nations Covenant on Civil and Political Rights, incorporate rights relevant to environmental cases, such as the right to life or the right to privacy.

Law stated - 11 August 2025

Integrated pollution prevention and control

2 | Is there a system of integrated control of pollution?

The construction or modification of any installation or building requires a planning approval and a building permit, which is subject to compliance with environmental regulations, among other conditions, such as air quality, water management, waste disposal and noise abatement. Further, the construction of industrial facilities or large infrastructures, such as power lines, railways and waterways, is subject to an environmental impact assessment designed to verify the project's compatibility with all environmental aspects and regulations.

Law stated - 11 August 2025

Soil pollution

3 | What are the main characteristics of the rules applicable to soil pollution?

Regulatory regime

The Federal Law on Environmental Protection (EPA) and the Ordinance on the Remediation of Contaminated Sites of 1998 (CSO) provide for comprehensive qualitative and quantitative protection and remediation of soil contamination. Swiss law distinguishes between polluted sites and contaminated sites. A site is considered polluted if (based on past activities on the site) the soil is likely to be contaminated by waste. If the polluted site threatens or affects groundwater, surface water, soil fertility or air, it is considered contaminated and must be remediated. The levels of contamination that trigger remediation or monitoring are specified in the CSO for specific hazardous substances or determined by the authorities on a case-by-case basis.

As a rule, investigation and remediation obligations follow a procedure in several steps under the CSO (although in urgent cases, some of these steps can be omitted):

- recording of the site in a public register;
- assessment of the need for monitoring and remediation by means of investigation within a reasonable period of time;
- assessment of the objectives and urgency of remediation; and
- decision on monitoring or on objectives of remediation.

The objective of remediation can be achieved by measures that enable environmentally hazardous substances to be eliminated (decontamination) or prevent the diffusion of hazardous substances into the environment (securing).

Any person who wilfully fails to comply with remediation orders is liable to a fine not exceeding 20,000 Swiss francs.

Liability regime

In general, the owner or operator of the site must perform the necessary investigation, monitoring and remediation. The obligation to carry out the remediation must be distinguished from the obligation to bear the costs of the remediation. The costs are to be borne by the persons responsible for the pollution and are to be apportioned among them in proportion to their causal contribution to the pollution (article 32d of the EPA). The canton or the Confederation must bear the share of the costs of a responsible party who cannot be identified or who is unable to pay. The authority may require the person liable for all or part of the costs to provide adequate financial security to cover their probable share of the costs (article 32d-bis of the EPA). The current 'polluter by situation' (the person who legally or actually controls the site and the installations (ie, the owner, operator or tenant)) must bear part of the costs (usually between 5 and 20 per cent), even if they did not cause the pollution, unless they did not or could not have any knowledge of the pollution at the time they acquired the property. Previous operators or occupiers are liable for the costs to the extent that they were liable for the pollution by their actions or omissions (polluters by behaviour). This liability is not subject to a limitation period. The lender can be liable if they control the site and can be deemed 'polluter by situation', or if they cause the pollution to occur. However, the financial risks for the lender can be mitigated by a valid indemnity clause in the agreement with the site owner.

Environmental liabilities under article 32d of the EPA are based on public law and cannot validly be excluded towards the authorities. Provisions to the contrary inserted in purchase agreements or other contracts do not bind the authorities.

Law stated - 11 August 2025

Regulation of waste

4 | What types of waste are regulated and how?

Waste is regulated by the EPA and complemented by several Ordinances, including the Ordinance on Avoidance and Disposal of Waste of 2015 (replacing the Technical Ordinance on Waste of 1990), the Ordinance on Movement of Waste of 2005, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 1989.

Three principles guide the regulation on waste: (1) The generation of waste should be avoided as far as possible; (2) waste must be recycled as far as possible; and (3) waste must be disposed of in an environmentally friendly manner and, as far as possible and reasonable, domestically (article 30 of the EPA).

Waste is any movable material that the owner disposes of or the disposal of which is required in the public interest (article 7 (6) of the EPA). The Ordinance distinguishes between municipal waste from households, other waste, which includes construction waste in particular, and hazardous waste (ie, waste whose environmentally sound disposal requires specific precautions).

The cantons must draw up waste plans and determine their needs for waste facilities, avoid overcapacity and select the locations of waste facilities. Waste can only be disposed of in certain categories of landfill. The construction and operation of a landfill is subject to

specific planning requirements and authorisation by the competent cantonal authority. The export of waste requires a permit from the Federal Office for the Environment (FOEN). It is prohibited to permanently store waste anywhere other than in one of the five types of landfill, which are subject to various construction and operational conditions and permits. It is also forbidden to mix waste in order to reduce its toxicity by dilution.

Due to limited landfill capacity for incineration residues in certain regions, the Waste Ordinance (VVEA) has been amended with effect in 2025 in coordination with the Water Protection Ordinance. Under the new provisions, existing landfills located within usable groundwater zones may be expanded in exceptional cases – provided that water protection is ensured and no alternative sites outside groundwater protection areas are available. This amendment aims to relieve pressure particularly in regions facing critical landfill shortages.

Among other obligations, the operator of a landfill must:

- require and obtain a construction permit and operating licence;
- prevent as far as possible any harmful or nuisance effects on the environment;
- employ qualified personnel;
- ensure that only allowed waste is being disposed of;
- keep a register of the waste;
- document the filling and upgrading of the landfill;
- regularly control the installations and their impact on the groundwater; and inform the authorities twice a year about the results of groundwater samplings; and
- guarantee the coverage of the costs necessary to close the landfill and to conduct monitoring and potential remediation measures after its operation has ended.

With regard to the obligation to dispose of waste, a distinction is made between municipal waste and other waste: Municipal waste must be disposed of by the cantons, while other waste must be disposed of by the holder. However, a general rule applies with regard to the bearing of costs: The holder of the waste bears the costs of disposal, unless otherwise specified. If the holder cannot be identified or is unable to fulfil this obligation due to insolvency, the cantons bear the costs of disposal (article 32 of the EPA). With regard to municipal waste disposal costs, the cantons shall ensure that they are passed on to the polluters in the form of fees or other charges to the extent that they are responsible for them (article 32a of the EPA). This is an application of the polluter-pays principle.

Specific rules are applicable to hazardous waste, which:

- must be marked as such for transfer within Switzerland as well as for import, export and transit;
- can only be exported with authorisation from the FOEN; and
- can only be accepted or imported by companies with authorisation from the canton.

Article 60 et seq of the EPA contain criminal liability provisions. A person is liable to a custodial sentence not exceeding three years or a monetary penalty if they:

- wilfully construct or operate a landfill without authorisation;
-

fail to mark special waste as such for transfer, or hand it over to an undertaking that does not hold the relevant authorisation;

- accept, import or export special waste without authorisation; or
- infringe regulations on waste or on the movement of special waste.

A person is liable to a fine not exceeding 20,000 Swiss francs if they:

- wilfully burn waste illegally outside installations;
- deposit waste outside authorised landfills;
- infringe the reporting duties in connection with waste;
- infringe the regulation on waste;
- infringe the regulations on the movement of other forms of waste; or
- fail to guarantee coverage of the costs of closing and remediation of a landfill.

A significant legislative revision to strengthen the circular economy was adopted by Parliament in March 2024. Most provisions entered into force on 1 January 2025. The reform is designed to promote resource conservation, boost recycling efforts and reduce environmental impact.

Key elements of the amendment include:

- the introduction of a new chapter in the EPA, which is dedicated to conserving resources and promoting the circular economy;
- an updated waste treatment hierarchy to prioritise reuse or recycling over incineration, emphasising the importance of reusing materials and reducing waste generation;
- a new provision in the EPA, which empowers the Federal Council to issue detailed regulations to set requirements for products and packaging based on their environmental impact;
- a new provision in the EPA, which empowers the Federal Council to establish detailed regulations to set requirements regarding the use of environmentally friendly construction materials and elements, construction materials derived from the recycling of demolition waste, regarding the reversibility of buildings and the reuse of construction elements in new buildings;
- an amendment of the Energy Act: Cantonal authorities must set limits values on grey energy for new buildings and major renovations, helping to reduce the embedded environmental footprint of construction; and
- an amendment of the Public Procurement Act (PPA), which oblige the contracting authority, where appropriate, to stipulate technical specifications for the conservation of natural resources or the protection of the environment.

Law stated - 11 August 2025

Regulation of air emissions

5 | What are the main features of the rules governing air emissions?

Air pollution is regulated by the EPA and the Ordinance on Air Pollution Control of 1985 (OAPC). As a rule, air emissions must be limited at their respective source using state-of-the-art technology, provided the costs of doing this are not excessive. Stricter abatement measures must be taken if the air pollution is harmful to health (article 11 of the EPA).

Anyone who operates or wishes to construct an installation that causes air pollution must provide the cantonal authorities with information on:

- type and level of emissions; and
- release location, release height and time course of emissions.

Existing and new facilities must comply with the emissions limitation standards provided by the OAPC or the construction and operating permits, or both. Emission standards are amended from time to time to reflect new scientific developments and knowledge. If the emissions due to combined sources of air pollution exceed exposition thresholds, the competent authorities will order stricter abatement measures.

It is prohibited to operate new or existing stationary installations in such a way that they cause emissions exceeding the threshold limits defined in the OAPC. Further, it is prohibited to incinerate waste except in the facilities specified in the OAPC's annex.

Stationary installations that do not meet the OAPC requirements must be retrofitted or can be shut down.

Any person who wilfully puts substances into circulation which they know or must assume may present a danger to the environment (or indirectly endanger people when used in a certain manner) is liable to a custodial sentence not exceeding three years or a monetary penalty. In addition, any person who wilfully fails to comply with emissions limitations or with remediation orders is liable to a fine not exceeding 20,000 francs. If the person acts negligently, the sentence is a monetary penalty or a fine.

Law stated - 11 August 2025

Protection of fresh water and seawater

6 | How are fresh water and seawater, and their associated land, protected?

The Water Protection Act (WPA), supplemented by ordinances, applies to all public and private surface and ground waters. Recently, the Federal Council revised the Water Protection Ordinance to define the criteria for when the authorisation of a pesticide must be reviewed. This will improve the protection of drinking water and surface waters from pesticides. The revisions came into force on 1 February 2023. The Federal Fishing Act of 1991 (FFA) includes further water protection provisions.

The WPA states a duty of care and a prohibition to pollute: Everyone is obliged to exercise all due care required by the circumstances to avoid detrimental effects on the waters (article 3 of the WPA). It is prohibited to introduce substances that may pollute water directly or

indirectly into a water body or to allow them, or to deposit or spread such substances outside a water body if this creates a specific risk of water pollution (article 6 of the WPA). The cantonal authorities can grant exceptions and discharge permits based on strict statutory requirements.

The following activities require a permit issued by the competent cantonal authorities:

- discharging or infiltrating polluted wastewater into a body of water;
- constructing and converting buildings and installations (including operations such as excavations, earthworks and similar works) in areas that are particularly vulnerable, if they may pose a risk to the waters;
- drawing water from a watercourse with permanent flow (if the activity goes beyond normal use);
- drawing water from a lake or groundwater body, which significantly affects the water flow of a watercourse with a permanent water flow (if the activity goes beyond normal use);
- flushing out and emptying impoundments; and
- extracting gravel, sand and other materials.

When withdrawals occur from a watercourse with permanent flow, the permit is subject to a minimal residual flow as defined by the statute. The cantons determine the appropriate residual flow rate separately for each water body and withdrawal site, subject to specific exceptions provided by the statute. The same provisions apply if water is withdrawn from lakes or groundwater resources and the rate of flow of watercourses is substantially affected by the activity (article 29 et seq of the WPA).

A cantonal permit is necessary in particular for intervention in waters, the use of hydropower, the creation of artificial streams, the withdrawal of water and the exploitation of gravel and sand in waters (FFA).

Under the WPA, the polluter pays principle applies (article 3a of the WPA). Based thereon, the authorities can impose on both the operator and the owner of an installation that causes a pollution all necessary measures to prevent an immediate threat to waters and to assess and repair the effects of a pollution. In an emergency, the competent authorities can carry out the necessary measures themselves. The costs of the remediation measures will then be imposed on the persons responsible for the pollution (be it by operating or owning the installation).

The WPA provides for criminal sanctions in the form of fines or a prison term of up to three years for deliberate or negligent infringement of specific duties enumerated in the Act (article 70 et seq of the WPA). In addition, the Swiss Criminal Code (SCC) imposes a custodial sentence of up to five years or a fine on any person who wilfully contaminates drinking water intended for people or domestic animals with substances that are harmful to health. If the person acts negligently, the penalty is a custodial sentence of up to three years or a fine (article 234 of the SCC).

Law stated - 11 August 2025

Protection of natural spaces and landscapes

7 | What are the main features of the rules protecting natural spaces and landscapes?

The protection of natural spaces (habitats) and landscapes is regulated by the Federal Act on the Protection of Nature and Cultural Heritage (NCHA) and its ordinances. The cantons also have autonomous competences to protect specific elements of nature and cultural heritage and have enacted their own legislation. Further, the Federal Spatial Planning Act (SPA) stipulates that the natural foundations of life such as soil, air, water and forests must be protected, and the landscape should be preserved.

The Federal and Cantonal legislation imposes a large array of measures and obligations that must be taken into consideration when planning developments project. The requirements and level of protection vary depending on the affected sites. As an example, article 3 of the NCHA provides that in the fulfilment of federal tasks, the Confederation, its institutions and enterprises, and the cantons must ensure that heritage landscapes and sites of local character, historical sites and natural and cultural monuments are carefully managed and, where there is an overriding public interest, preserved undiminished. This obligation can be fulfilled by suitably designing and maintaining their own buildings and installations, or by foregoing their construction altogether; or by imposing conditions or requirements on the issue of licences and authorisations or refusing to issue them.

In addition, the Federal Council shall draw up inventories of local landscape and townscape, historical sites and natural and cultural monuments that are of national importance (article 5 (1) of the NCHA). Based thereon, the Federal Council has adopted three federal inventories to date: Federal Inventory of Landscapes and Natural Monuments; Federal Inventory of Sites worthy of Protection in Switzerland; and Federal Inventory of Historic Transport Routes in Switzerland. Objects contained in these inventories enjoy a higher level of protection than non-inventoried protected local landscape and townscape, historical sites and natural and cultural monuments (article 6 of the NCHA).

Compliance with the above-mentioned legal requirements is reviewed as part of the impact assessment for projects subject to them and for others, in the spatial planning procedure or as requirement to the granting of a building permit.

Law stated - 11 August 2025

Protection of flora and fauna species

8 | What are the main features of the rules protecting flora and fauna species?

The protection of flora and fauna species is governed by the NCHA and its ordinances. Important rules are also contained in the Hunting Act and the FFA. Switzerland has also ratified several international treaties such as the Convention on Biological Diversity, the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and the Nagoya Protocol.

The NCHA provides that the extinction of native animal and plant species must be counteracted by maintaining sufficiently large habitats (biotopes) and other suitable measures. The Federal Council shall designate biotopes of national importance (article 18 to18a of the NCHA). Based thereon, the Federal Council has determined inventories to protect raised bogs and transition bogs, floodplains, fenlands, amphibian spawning grounds and dry meadow regulations.

Despite the above, according to the Federal Office for the Environment, biodiversity in Switzerland is under pressure as a result of the intensive use and loss of soil, fragmentation and dissection of habitats by settlements and infrastructure, and excessive nitrogen and pesticide inputs. One third of all species and half of all habitat types are in danger.

In September 2024, Swiss voters decisively rejected a biodiversity initiative that aimed to expand protected habitats and enhance safeguards for endangered ecosystems – more than 60 per cent voted against it. This reflected resistance to higher costs and perceived constraints on agriculture and development. Meanwhile, the Federal Council extended the Swiss Biodiversity Strategy and its Action Plan through 2030, launching Phase II (2025–2030) with 15 new measures focused on addressing climate impacts, insect decline and habitat connectivity.

Law stated - 11 August 2025

Noise, odours and vibrations

9 | What are the main features of the rules governing noise, odours and vibrations?

In addition to the protection against emissions provided by private law to neighbouring properties (articles 679 and 684 of the CC), the EPA and its ordinances regulate the protection against noise, odour and vibration emissions.

The concept of emission limitation contained in the EPA is two-stepped (article 11 of the EPA): first, air pollution, noise, vibration, and radiation are limited by measures taken at their source (emission limitation). Irrespective of existing pollution, emissions are limited as a precautionary measure to the extent that technology and operating conditions allow, provided this is economically bearable. Second, emissions are more strictly limited if, taking into account the existing level of environmental pollution, harmful or annoying effects are observed or expected (ie, if they exceed the immission limit values). The Federal Council has defined immission limit values in the Noise Abatement Ordinance, the Ordinance on Air Pollution Control and the Ordinance on Protection against Non-Ionizing Radiation. Where the Federal Council has not yet set immission limit values (eg, in the case of vibrations, these are determined on a case-by-case basis by the administrative authorities applying the law in accordance with certain criteria laid down in the law (article 13 to 15 of the EPA)).

A reform adopted in autumn 2024 (not yet in force) modifies articles 22 and 24 of the EPA governing building permits in noise-impacted locations. Previously, noise limits (immission thresholds) had to be respected at every window of every noise-sensitive room; under the new rules, compliance is required only at one window per apartment, or alternatively a cooling or controlled ventilation system must be installed – and at least half of those rooms must meet the window standard. The implementing federal regulation is still pending and

must clarify details such as which rooms or windows to test. Its adoption may be delayed into 2026.

In a ruling of April 2025, the Federal Supreme Court upheld the approval of a daycare centre in a residential zone in Olten, ruling that the planned facility is compatible with local zoning laws. It found that children's daytime noise is generally acceptable in such areas and that the minimal increase in disturbance does not violate planning regulations.

Law stated - 11 August 2025

Liability for damage to the environment

10 | Is there a general regime on liability for environmental damage?

The EPA contains two provisions on civil liability: general liability for environmental damage under article 59a of the EPA and special liability for damage caused by pathogenic organisms under article 59a-bis of the EPA. Other liability regimes apply to specific installations (eg, article 30 et seq of the Law on the Use of Gene Technology in the Non-Human Sphere, which regulates liability for damage caused by the use of genetically modified organisms; the Radiation Protection Act, as well as federal laws with more stringent provisions, such as the Federal Act on Pipeline Installations for the Transport of Liquid or Gaseous Fuels).

Article 59a of the EPA provides for the strict liability of the owner of an enterprise or facility that presents a particular danger to the environment for damage resulting from the realisation of this danger. The conditions for liability under article 59a of the EPA are as follows: the damage (defined as an involuntary reduction in assets) must be caused by an enterprise or facility that must present a particular danger to the environment. Article 59a (2) of the EPA defines certain installations that present such a danger and are subject to special safety provisions. It is only intended as a guideline, to be adapted to technical developments.

The damage must be a concrete manifestation of this danger, result from its realisation and be caused by the harmful effects or nuisances defined in article 7 of the EPA. There must be a causal link between the actualisation of the risk presented by the company and the damage. Liability is independent of fault; force majeure, gross negligence of a third party or of the injured party may be grounds for exoneration.

Purely environmental damage (ie, damage to natural resources that are not subject to property rights or the sovereign powers of the cantons) is not compensated under civil law, including article 59a of the EPA, unless a specific legal provision provides otherwise (eg, article 15 of the FFA).

Law stated - 11 August 2025

Environmental taxes

11 | Is there any type of environmental tax?

Taxes are levied on volatile organic compounds (VOC), extra light heating oil and thermal fuels. Biofuels can be exempted from tax on request. The persons liable to pay the environmental taxes are defined in the Customs Act and Petroleum Tax Act. They are, usually, importers, producers and manufacturers in Switzerland.

The following tax rates apply (as examples):

- volatile organic compounds: 3 francs per kilogramme of VOCs;
- extra light heating oil: 0.3 centimes per litre;
- unleaded petrol: 76.82 centimes per litre;
- diesel: 79.57 centimes per litre; and
- coal and other fossil fuels: 120 francs per tonne of carbon dioxide.

Law stated - 11 August 2025

Environmental reporting

12 Are there any notable environmental reporting requirements (eg, regarding emissions, energy consumption or related environmental, social and governance (ESG) reporting obligations)?

Reporting obligations

In recent years, new transparency obligations have been enacted in Switzerland (article 964a et seq of the Swiss Code of Obligations (CO)). Companies that meet certain criteria must prepare a report on non-financial matters, covering, inter alia, environmental matters (in particular, but not exclusively carbon dioxide targets). The first report for the first full business year 2023 had to be published and submitted for approval in 2024. The Ordinance on Reporting on Climate-Related Matters, entered into force on 1 January 2024, specifies the reporting obligations on climate-related matters as part of environmental matters, pursuant to article 964b CO. The ordinance implements the recommendations of the Task Force on Climate Related Financial Disclosures.

In 2024, the Federal Council initiated consultations on amending the provisions of the CO as well as the Ordinance on Reporting on Climate-Related Matters to adapt to the latest international developments. In the EU, the omnibus proposal (a legislative package that changes several laws at once) aims to reduce the regulatory reporting burden on companies from the CSRD and CSDDD. These development have an impact on the ongoing revision of the Swiss law on non-financial reporting (article 964a et seq). On 21 March 2025, the Federal Council not only took note of the results of the consultation procedure on the above-mentioned provisions, but also indicated that it intends to build on developments in the EU to ensure a level playing field for Swiss companies on the international market. Accordingly, it has instructed the administration to draw up possible options for a pragmatic amendment of the current legislation. The Federal Council will decide on how to proceed as soon as the EU has decided on its announced simplifications, but at the latest by spring 2026.

On 25 June 2025, the Federal Council decided to suspend the ongoing revision of the ordinance on climate-related reporting until a decision is taken on the revision of the CO, but in any case not later than 1 January 2027.

Public registers

Various environmental laws require that information on air and water emissions and discharges to the environment be made available to the authorities. In addition, the Federal Ordinance on the Register of Pollutant Releases and the Transfer of Waste and of Pollutants in Waste Water ensures public access to information on pollutants released into water, air or soil by listed facilities. Reporting is done on an annual basis. In addition, government agencies maintain publicly accessible registers of polluted sites.

Third-party procedures

The Federal Act on Freedom of Information in the Administration of 2004 seeks to promote transparency with regard to the federal administration's activities. Any person can inspect, in principle, official documents and obtain information from the federal authorities. Similar rules apply at the cantonal level. Further, in 2014, Switzerland ratified the Aarhus Convention, which seeks to improve access to environmental information. Citizens can review official documents with environmental content.

Environmental auditing

Everyone is obliged to provide the authorities (on request) with the information required to enforce the EPA and, if necessary, to conduct or acquiesce in the conduct of enquiries (article 46 (1) of the EPA).

There is no general duty to report environmental incidents under the EPA. However, several statutory provisions provide for such an obligation regarding specific incidents (eg, a leak of liquids that may pollute the waters or the occurrence of a hazardous accident).

Climate

Next to the obligations under the Ordinance on Reporting on Climate-Related Matters, the CO2 Act requires operators of installations and aircraft to report their greenhouse gas emissions annually to the federal government (article 20).

Law stated - 11 August 2025

Government policy

13 How would you describe the general government policy for environmental issues? How are environmental policy objectives influencing the legislative agenda?

Switzerland is known for its environmentally conscious ethos, underscored by a steadfast commitment to sustainability within its environmental policy framework. In particular, the

country places a growing emphasis on renewable energy, reflecting its commitment to conservation and sustainable development. Certain regions, particularly those with increased tourism impacts, are taking additional measures to protect the environment.

The Swiss government takes a comprehensive approach to environmental concerns, addressing issues such as biodiversity, climate change and pollution. Key facets of Swiss environmental policy include:

- Sustainability: in its 2030 Sustainable Development Strategy (2030 SDS), the Federal Council outlines the priorities it intends to set to implement the 2030 Agenda over the next 10 years, combined with a 2024–2027 Action Plan. The 2030 SDS sets out the guidelines for the Federal Council's sustainability policy and establishes sustainable development as an important requirement for all federal policy areas. The 2030 Agenda for Sustainable Development (2030 Agenda) with its 17 global Sustainable Development Goals provides the reference framework.
- Climate change mitigation: Switzerland is actively engaged in efforts to reduce greenhouse gas emissions in accordance with its international commitment under the Paris Agreement. The country has set emission reduction targets and aims to increase the use of renewable energy sources. The recently enacted Climate Act requires the federal government to achieve net-zero greenhouse gas emissions by 2050.
- Conservation of biodiversity: measures include the preservation of natural habitats, wildlife management and support for conservation initiatives.
- Energy policy: Switzerland is committed to transitioning to renewable energy sources, promoting hydropower, wind power and solar power through a combination of financial incentives and regulatory measures. At the same time, the government is committed to improving energy efficiency.
- Waste management: Switzerland has a comprehensive waste management system that includes recycling and waste reduction initiatives.

The implementation of the amendments of the EPA to strengthen circular economy will result in several amendments of legislation with the aim of creating obligations and incentives to avoid waste wherever possible, or to recycle and reuse it, with the involvement of the economy.

Law stated - 11 August 2025

HAZARDOUS ACTIVITIES AND SUBSTANCES

Regulation of hazardous activities

14 | Are there specific rules governing hazardous activities?

The Federal Law on Environmental Protection (EPA) is a central legislative instrument that addresses a range of environmental issues, particularly those related to hazardous activities. It articulates the basic principles of environmental protection and measures to prevent and control pollution. In addition, activities involving hazardous substances,

particularly those with potential environmental impacts, may require the obtaining of permits or authorisations. The permitting framework is structured to ensure that activities that pose a risk to the environment or public health are conducted with minimal harm. Different regulatory regimes apply to activities such as industrial processes, waste management, chemical handling and operations that have the potential to discharge pollutants into the air, water or land. The specific regulatory landscape for a hazardous activity depends on its inherent nature. Additionally, Switzerland has signed several international conventions in this field.

Law stated - 11 August 2025

Regulation of hazardous products and substances

15 What are the main features of the rules governing hazardous products and substances?

The purpose of the Chemicals Act (Federal Act on Protection against Dangerous Substances and Preparations of 2000) is to protect human life and health by reducing the harmful effects of substances and preparations. The Federal Council has defined the specific properties that are considered hazardous and has prescribed corresponding hazard classifications. Manufacturers and distributors are required to comply with regulatory measures that include registration and self-monitoring requirements, information and documentation obligations, and due diligence standards. Specific ordinances have been promulgated to regulate certain substances and procedures, such as public swimming pool disinfection, pest control, pesticides, wood preservatives, refrigerants, international trade in chemicals and fertilisers. Additionally, the Ordinance on the Reduction of Risks relating to the Use of Certain Particularly Dangerous Substances, Preparations and Articles (Chemical Risk Reduction Ordinance) of 2005 prohibits or restricts the use of the particularly dangerous substances, preparations and articles set out in its annexes, and specifies the personal and professional qualifications required for the use of such hazardous products and substances.

With the amendment to the Chemical Risk Reduction Ordinance (ChemRRV), the placing on the market of three cyclic siloxanes – substances that may have adverse effects on human health and the environment – will be prohibited in Switzerland, and their use, for example in cosmetic products, will be restricted. The ChemRRV is thereby being aligned with the revised EU regulation. As a result, the transition costs for affected parties in Switzerland will be comparable to those in the rest of Europe. The amendments entered into force on 1 January 2025.

Law stated - 11 August 2025

Industrial accidents

16 What are the regulatory requirements regarding the prevention of industrial accidents?

Article 10 of the EPA aims to protect people, animals and plants against serious damage caused by installations following an extraordinary event outside the normal operation of the installation. Article 10 (1) of the EPA requires the owner of a dangerous installation to take measures 'to ensure the protection of the population and the environment', such as the selection of a suitable site, the maintenance of the necessary safety distances, the implementation of technical safety measures, the monitoring of the installation and the organisation of an alarm system. This provision is supplemented by the 1991 Ordinance on the Protection against Major Accidents (OPAM), which provides guidance on how the operator is to meet his obligations and how the protection objective is to be achieved. The regulation also indicates how the risk of major accidents is to be assessed and what documentation is required in this respect.

Urban development in the vicinity of hazardous facilities increases the risk of major accidents. The obligation to keep the risk at an acceptable level rests with the owner of the installation, who does not always have control over the sphere of influence of dangerous installations. Article 11a of the OPAM, which came into force in 2013, now requires the cantons to coordinate major accident protection with land-use planning measures.

Additionally, Switzerland is a signatory to international conventions, including the Convention on the Transboundary Effects of Industrial Accidents and the Convention on Assistance in the Case of a Nuclear Accident or Radiation-related Emergencies, further underscoring its commitment to addressing cross-border and nuclear-related incident management.

Law stated - 11 August 2025

ENVIRONMENTAL ASPECTS IN TRANSACTIONS AND PUBLIC PROCUREMENT

Environmental aspects in M&A transactions

17 | What are the main environmental aspects to consider in M&A transactions?

Pre-acquisition

In asset sales, because some environmental liabilities are tied to the facility or industrial site itself, environmental risks or liabilities may be transferred to the buyer in asset deals. In addition, liabilities associated with past operations or activities may be transferred to the acquiring entity in a business transfer, even if no liability claim is pending or known at the time of the transfer. Particular attention must be paid to possible contamination of soil and groundwater and to waste disposal. The buyer must ensure that the seller has complied with environmental laws relating to the assets in question. The buyer will typically require warranties and indemnities to cover these risks.

In a share deal, the environmental liabilities remain with the target company and therefore the buyer indirectly acquires these risks. The buyer (shareholder) can only be directly liable to the extent that the corporate veil is pierced, which can only occur in exceptional circumstances as an application of the abuse of rights theory. Share purchase agreements often contain representations and warranties and indemnification obligations relating to environmental matters.

Post-acquisition

In the case of asset sales, some environmental liabilities are not linked to the assets themselves (the 'property of production'), but to a specific conduct (operational activities). In these cases, the seller remains liable (except in the case of a merger or transfer of assets and liabilities, or where the competent authorities agree to the transfer of liabilities to the buyer).

In a share deal, the seller may retain its environmental liability if it is considered a polluter by behaviour and has contributed to the contamination together with the target company.

Disclosure of environmental information

In an asset deal, such as a real estate transaction, it is generally recognised that the seller must disclose environmental information to the buyer, unless both are professionals. From the buyer's perspective, it is usually important to require representations and warranties, along with indemnification, from the seller.

Environmental due diligence

The environmental issues that need to be considered in M&A transactions depend on the specific activities that the target company engages in or has engaged in. It is common practice to conduct environmental due diligence. Particular attention should be paid to existing and past enforcement or compliance procedures, especially in the areas of air pollution, noise abatement, soil contamination and remediation, waste disposal and prevention of hazardous accidents. The buyer should carefully analyse the liabilities associated with past and present activities under both public and private law.

An environmental due diligence includes the following assessments.

- System boundary (scope). The scope of the property to be acquired must be precisely defined. This includes former sites of the property where contamination may have occurred.
- Surrounding area. The surrounding area is of particular importance in environmental due diligence. On the one hand, the operation may be affected by environmental impacts. On the other hand, impacts of the operation on the environment must be considered.
- Company history. The history of the company is of special importance, especially with regard to possible contamination of the building structure or subsoil caused by past activities and processes. The history of the company is recorded by means of the land register, the commercial register, interviews with long-time employees, a review of the company archives, old plans and national maps as well as old aerial photographs.
- Environmental aspects. Among others, the following environmental aspects are of importance and are checked on site:
    - consumption of resources (energy, water);

- emissions of polluting substances into the air; and
- loads in the subsoil, soil and building fabric (contaminated sites).

The results of the assessments are summarised, and the cost risks are estimated.

Law stated - 11 August 2025

Environmental aspects in other transactions

18 | What are the main environmental aspects to consider in other transactions?

Environmental considerations play a significant role in various transactions, including financing, initial public offerings, real-estate transactions, corporate restructuring and bankruptcy proceedings. Key environmental aspects that stakeholders and legal professionals should consider include:

- environmental due diligence: assessing potential environmental liabilities associated with the target company, property or investment; identifying any historical contamination, potential pollution sources or non-compliance with environmental regulations; review adherence to zoning and land use regulations;
- regulatory compliance: understanding and ensuring compliance with environmental laws and regulations related to, inter alia, carbon dioxide certificates, water management, waste disposal and hazardous substances;
- permitting and licensing: ensuring that all environmental permits and licences required for the business are in place and will not expire soon and that no change of control clauses are triggered by the transaction;
- climate change considerations: assessing the impact of climate change and potential regulatory changes related to carbon emissions; and
- corporate social responsibility (CSR): considering and disclosing environmental initiatives, sustainability practices and overall CSR efforts. Transparent reporting on environmental performance can impact investor perception.

Law stated - 11 August 2025

Environmental aspects in public procurement

19 | Is environmental protection taken into consideration by public procurement regulations?

Public procurement is governed by the Federal Law on Public Procurement (relevant for procurements of federal authorities) and an agreement between the cantons on public procurement (relevant for all procurement of cantonal authorities and municipalities), which sets out the procedures and principles governing public procurement at the federal level. According to federal law, the award of a public contract is subject to the bidder's compliance with the legal provisions governing the protection of the environment and the

conservation of natural resources at the place of performance. These regulations include Swiss environmental laws and international conventions on environmental protection ratified by Switzerland.

These regulations aim at and require sustainable procurement. In addition, environmental considerations are increasingly being routinely integrated into public procurement processes as part of broader sustainability initiatives. Procurement legislation empowers public authorities to take environmental criteria into account when awarding contracts or to include specific conditions relating to environmental performance at the contract performance stage.

According to the newly enacted article 30 (4) of the PPA, the contracting authority must, where appropriate, stipulate technical specifications for the conservation of natural resources or the protection of the environment. The circumstances in which such specifications are appropriate have yet to be defined. The positive environmental impact of this amendment will depend largely on how the authorities apply and incorporate this provision into their practices. Further, the new climate protection legislation obliges the federal government and encourages the cantons to act as role models in this respect and to monitor and influence supply chains for the purpose of climate protection.

Law stated - 11 August 2025

ENVIRONMENTAL ASSESSMENT

Activities subject to environmental assessment

20 | Which types of activities are subject to environmental assessment?

Construction or planning projects for facilities or transportation infrastructure that may have a significant impact on the environment are subject to an environmental impact assessment (EIA). EIAs are regulated by the Environmental Impact Assessment Act and the Federal Ordinance on Environmental Impact Assessment of 1988, which contains a list of specific construction and infrastructure projects that are subject to EIA if they meet certain thresholds. The purpose of an EIA is to assess the project's compliance with all relevant federal, cantonal and communal regulations. The EIA is not a licence, but part of the (preliminary) procedure for obtaining a construction permit. The final decision (including the EIA) is published.

Law stated - 11 August 2025

Environmental assessment process

21 | What are the main steps of the environmental assessment process?

The applicant must conduct a preliminary study to determine whether the project is likely to have significant adverse effects on the environment. If so, they must prepare an environmental report that includes a description of the environmental baseline, details of the project, the adverse effects that are likely to remain, and measures that could reduce

those adverse effects. The report must then be evaluated by the relevant cantonal or federal authorities, depending on the project. The report and the authorities' assessment of the report must be submitted with the application for a project permit in order to allow for public consultation during a period that varies from canton to canton (usually 30 days). Any person or entity with an interest, as well as designated environmental organisations, may submit observations or objections or become a party to the permitting procedure. The competent authority must assess the environmental impact of the project on the basis of the environmental report, the recommendations and comments of the other authorities, and the comments and objections of all interested parties. It may require any additional measures or conditions necessary to ensure compliance with environmental legislation.

Certain non-government organisations have a legal right to appeal against building permits or zoning plans issued for projects subject to an EIA. They can also appeal against the approval of a project if an EIA was required but not carried out. Failure to conduct an EIA will result in denial of the construction permit or revocation of the permit by the court.

Law stated - 11 August 2025

REGULATORY AUTHORITIES

Regulatory authorities

22 | Which authorities are responsible for the environment and what is the scope of each regulator's authority?

The cantons are responsible for implementing the federal statutes and ordinances, except where the law attributes this duty to the Confederation. The cantons enact the appropriate legislation.

Law stated - 11 August 2025

Investigation

23 | What are the typical steps in an investigation?

The intensity of enforcement may vary from canton to canton, but in general environmental legislation is strictly enforced at both federal and cantonal levels. The Federal Office for the Environment and the cantonal authorities are constantly striving to increase the level of enforcement. For enforcement purposes, the administrative authorities can request all necessary information from operators and can also rely on the usual data and information collected in the course of monitoring compliance. They may issue injunctions and orders, which may be challenged in court.

Law stated - 11 August 2025

Administrative decisions

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24 | What is the procedure for making administrative decisions?

In administrative proceedings, the authority shall establish the facts of the case ex officio and obtain evidence by means of official documents, information from the parties, information, or testimony from third parties, inspection, expert opinions (article 12 of the Federal Act on Administrative Procedure (APA)). The parties are obliged to cooperate in establishing the facts of the case if they have initiated the proceedings on their own application, in any other proceedings if they make their own independent applications, and if they are subject to a more extensive duty to provide information or duty of disclosure under a federal law (article 13 of the APA). The parties have a right to be heard by the authority before the authority issues a decision. However, there might be exceptions, such rulings in which the authority grants the application of the parties in full or interim orders that cannot be contested separately by appeal (article 29-30 of the APA).

Law stated - 11 August 2025

Sanctions and remedies

25 | What are the sanctions and remedies that may be imposed by the regulator for violations?

There are different sanctions and remedies available in Swiss administrative law in general and in environmental laws in particular. They range from subjecting orders or decisions to certain conditions, authorisation or licence withdrawal, ordering of substitute measures undertaken by the state and the decommissioning of an installation, to criminal sanctions, including monetary penalties, imprisonment and fines.

Law stated - 11 August 2025

Appeal of regulators' decisions

26 | To what extent may decisions of the regulators be appealed, and to whom?

In environmental law matters, the decisions of the last cantonal instance (Cantonal Administrative Court) and the Federal Administrative Court (first appeal instance) may be appealed to the Federal Supreme Court using the 'appeal in matters of public law', unless the Federal Administrative Court has jurisdiction (article 82 et seq of the Federal Supreme Court Act (FSCA)). The grounds of appeal include violation of federal law, international law, cantonal constitutional rights and inter-cantonal law (article 95 of the FSCA).

Law stated - 11 August 2025

JUDICIAL PROCEEDINGS

Judicial proceedings

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27 | Are environmental law proceedings in court civil, criminal or both?

In general, environmental proceedings in Switzerland are conducted by public law courts. Criminal law provisions, such as article 60 et seq of the Federal Law on Environmental Protection (EPA), are applied and enforced by the criminal courts, while civil law provisions, such as articles 679 and 684 of the Swiss Civil Code (CC) (liability of landowners), article 41 of the Code of Obligations (CO) (tort), and article 59a of the EPA (general environmental liability) are applied and enforced by the civil courts.

Law stated - 11 August 2025

Powers of courts

28 | What are the powers of courts in relation to infringements of environmental law?

With respect to violations of environmental law, the court may, depending on the applicable substantive law, issue an injunction, a performance order or a declaratory judgment. Courts may order the sanctions mentioned above. Depending on the applicable procedural law, provisional and interim measures, such as suspensive effect, may be ordered.

Law stated - 11 August 2025

Civil claims

29 | Are civil claims allowed regarding infringements of environmental law?

Pollution can cause damage to health, property and natural resources. A person injured by pollution may seek financial compensation for the damage suffered under tort law. The relevant provisions are contained in the EPA (strict liability for installations posing a particular risk to the environment and liability for pathogenic organisms), the CO (general rule on civil liability arising from tort and liability of the owner for construction or maintenance defects) and the CC (liability of landowners).

Strict liability provisions are also found in specific statutes, such as the Nuclear Civil Liability Act of 1983.

Regardless of the legal cause of action, the plaintiff must prove that they have suffered damage, that the tortfeasor committed a wrongful act or omission, and that there is a causal connection between the damage and the wrongful act. Purely environmental damage (ie, damage to natural resources that are not subject to property rights or the sovereign powers of the cantons) is not compensated under civil law, unless a specific legal provision provides otherwise (eg, article 15 of the Federal Fishing Act).

Law stated - 11 August 2025

Defences and indemnities

30 | What defences or indemnities are available?

The rules on the allocation of liability, on the limitation periods or on joint or several liability applicable to a particular civil claim relating to infringements of environmental law generally depend on the law applicable in the specific case. These may, for example, provide for special limitation periods or refer to the general provisions of the Swiss Code of Obligations. For instance, claims for compensation for damage arising from impacts in connection with an operation or installation that poses a particular risk to the environment are time-barred in accordance with article 60 of the Swiss Code of Obligations. If the loss or damage occurs due to the handling of pathogenic organisms, the right to damages prescribes three years after the injured person obtains knowledge of the loss or damage and of the identity of the person liable, but at the latest 30 years after the event that caused the loss or damage occurred in the establishment or in the installation or came to an end; or the pathogenic organisms were put into circulation (see article 59a of the EPA).

Law stated - 11 August 2025

Directors' or officers' defences

31 | Are there specific defences in the case of directors' or officers' liability?

Not applicable.

Law stated - 11 August 2025

Appeal process

32 | What is the appeal process from trials?

In matters of environmental law, judgments of the last cantonal instances that are not subject to appeal by the Federal Administrative Court, as well as judgments of the Federal Administrative Court, may be appealed to the Federal Supreme Court by filing an 'appeal in matters of public law' (article 82 et seq of the FSCA). If the matter is being decided in civil or criminal proceedings, the respective appeal process is based on the relevant civil or criminal procedural regulations.

Law stated - 11 August 2025

INTERNATIONAL TREATIES AND INSTITUTIONS

International treaties

33 | Is your country a contracting state to any international environmental treaties, or similar agreements?

Switzerland ratified the United Nations Framework Convention on Climate Change on 10 December 1993, the Kyoto Protocol on 9 July 2003 and the Paris Agreement on 6 October 2017. It is also a contracting party to the Vienna Convention for the Protection of the Ozone Layer, ratified on 17 December 1987, and ratified all following protocols, including the Montreal Protocol on Substances that Deplete the Ozone Layer, on 28 December 1988.

European Union (EU) environmental regulations do not directly apply to Switzerland, as Switzerland is not a member of the EU. However, Switzerland maintains extensive cooperative relations with the EU, including with regard to the harmonisation of environmental legislation. On 23 November 2017, Switzerland and the EU concluded a bilateral agreement that links the Emissions Trading Systems of the two legal orders.

Law stated - 11 August 2025

International treaties and regulatory policy

34 | To what extent is regulatory policy affected by these treaties?

Switzerland takes a monist approach to international law. Accordingly, upon its entry into force for Switzerland, international law is directly valid within the Swiss legal order without any need for further incorporation. Depending on the nature of the international legal norm in question, domestic implementing legislation is required. International environmental treaties regularly affect Swiss domestic environmental regulatory policy. Switzerland must ensure that its domestic law is such so that Switzerland can meet its obligations under international law. For instance, the CO2 Act is currently being revised to enable Switzerland to meet its obligations and voluntary commitments under the Paris Agreement. Another example are the respective provisions of the Chemical Risk Reduction Ordinance, in particular its Annexes 1.4 and 1.5, which implement the Montreal Protocol on Substances that Deplete the Ozone Layer of 1987.

Law stated - 11 August 2025

UPDATE AND TRENDS

Key developments of the past year

35 | Are there any emerging trends or hot topics in environment law in your jurisdiction?

Switzerland's new Climate and Innovation Act and its implementing Climate Protection Ordinance (CPO) became fully effective from 1 January 2025. They legally anchor net-zero greenhouse gas emissions by 2050, with mandatory interim reduction targets (64 per cent by 2040; 89 per cent by 2050) and require all companies (excluding agriculture) to develop transition plans in line with national goals. Large firms subject to mandatory sustainability reporting must produce such plans starting in 2025.

In the popular vote on 9 June 2024, the Swiss electorate approved the Electricity Supply Security Act by a large majority. The amendment to the Electricity Supply and Energy Act is intended to quickly generate more electricity from renewable sources, especially in winter,

and to tap into new storage sources. Following full passage of the revised Energy Act and Electricity Supply Act, the Federal Council adopted implementing ordinances on 13 November 2024, and divided enforcement into two packages: the first package entered into force on 1 January 2025, while the second package is scheduled for 1 January 2026. The first package introduces immediate measures such as harmonised procurement tariffs for renewable energy, grid-based electricity communities (vZEVs), suppliers' take-up obligations, a mandatory winter hydropower reserve and expansion of preselected hydropower projects. The second package – covering topics like virtual power communities, detailed metering and tariff reforms, flexibility mechanisms and billing rules – will follow in 2026 to allow smooth industry adaptation. Besides, a new article 24 ter will be added to the Spatial Planning Act, allowing electrolysers and PtX plants to be licensed outside traditional building zones, removing key permitting barriers. Further reforms will speed up approvals, harmonise definitions ('renewable', 'CO -neutral' and 'low-carbon' hydrogen), support hydrogen clusters and introduce subsidy and state-aid schemes aligned with evolving EU rules.

In December 2024, the Swiss Federal Council adopted its National Hydrogen Strategy, which outlines a comprehensive framework for developing a domestic hydrogen and power to X (PtX) market. The strategy focuses on using climate-neutral hydrogen for applications where direct electrification is impractical – such as high-temperature industrial heat, reserve power, heavy transport, aviation and shipping – and envisions stronger integration with emerging European hydrogen infrastructure over time.

In September 2024, Swiss voters decisively rejected a biodiversity initiative that aimed to expand protected habitats and enhance safeguards for endangered ecosystems – more than 60 per cent voted against it. This reflected resistance to higher costs and perceived constraints on agriculture and development. Meanwhile, the Federal Council extended the Swiss Biodiversity Strategy and its Action Plan through 2030, launching Phase II (2025–2030) with 15 new measures focused on addressing climate impacts, insect decline and habitat connectivity.

This legislative overhaul will result in several amendments to ordinances, scheduled for implementation in multiple phases between now and 2027. The first phase began in June 2025 with a public consultation on several environmental ordinances. Key proposals include amendments to the Ordinance on Avoidance and Disposal of Waste and the introduction of a new Packaging Ordinance, which will replace the existing Beverage Containers Ordinance. The amendments to the Waste Avoidance and Disposal Ordinance will:

- clarify the newly defined waste hierarchy set out in the EPA;
- establish the provisions necessary to implement the littering ban;
- classify combustion residues from household waste incineration plants as municipal waste, with the aim of recovering valuable metals from filter ash, which is mandatory from 2026 (article 32 (2) let. g and article 54 (3) of the Ordinance on Avoidance and Disposal of Waste).

The new Packaging Ordinance will regulate all types of containers, not just beverage containers, which currently account for 25 per cent of the packaging used in Switzerland. It will introduce the following non-exhaustive provisions:

-

general sustainability requirements for packaging as much as technology and operating conditions allow and provided that this is economically acceptable;

- a subsidiary obligation for retailers and manufacturers supplying beverage cartons and single-use plastics to end users. Those not affiliated with an industry organisation – or not making a financial contribution to such an organisation – must ensure the collection and proper disposal of the beverage cartons and single-use plastics they supply; and
- a prepaid disposal charge for glass packaging.

Law stated - 11 August 2025



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UPDATE AND TRENDS

Key developments of the past year

LEGISLATION

Main environmental regulations

1 | What are the main statutes and regulations relating to the environment?

Environmental legislation in Türkiye comprises a large number of laws and regulations. The most important laws are as follows:

- the Environmental Law;
- the Turkish Criminal Code;
- the Environmental Permits Regulation;
- the Chemical Registration Regulation;
- the Soil Contamination Control Regulation;
- the Air Pollution Regulation;
- the Waste Management Regulation;
- the Water Pollution Control Regulation;
- the Regulation on the Transportation of Hazardous Materials via Highways;
- the Environmental Noise Protection Regulation;
- the Regulation on the Registration, Evaluation, Authorisation and Restricti on of Chemicals;
- the Odour Emissions Control Regulation;
- the Zero Waste Regulation; and
- the Regulation on Prevention and Control of Major Industrial Accidents.

Law stated - 20 August 2024

Integrated pollution prevention and control

2 | Is there a system of integrated control of pollution?

Yes, on 6 January 2011, the Ministry of Environment, Urban Development and Climate Change (Ministry of Environment) adopted the Protocol on Integrated Pollution Prevention and Control, establishing the framework for the administrative, legal and technical structures for the implementation of integrated environmental permits for integrated pollution prevention and control in facilities in various sectors in Türkiye.

There is no uniform authorisation system for all sectors. Rather, the Ministry of Environment has issued several regulations and notices on integrated pollution prevention and control for various sectors, some of which (including cement, automotive, large combustion plants and leather processing) are still at the draft stage.

As the textile sector is an important driver of the Turkish economy, the Communiqué on Integrated Pollution Prevention and Control in the Textile Sector was published before other sectors. This describes the principles for the management of emissions, discharge of waste during textile production. It also emphasises the efficient use of raw materials and energy and the use of clean production technologies.

In view of the increasing importance of sustainability-related topics, regulations for other sectors are expected to be published in the near future.

Law stated - 20 August 2024

Soil pollution

3 | What are the main characteristics of the rules applicable to soil pollution?

Soil pollution is regulated by the Soil Contamination Control Regulation, according to which the following principles apply:

- prevention of soil contamination at source;
- avoiding the direct or indirect introduction of various wastes and residues into the soil in a way that damages the soil;
- avoiding mixing contaminated soil with uncontaminated soil; and
- taking the necessary precautions to prevent soil contamination, considering the possibility of accidents.

According to the Soil Contamination Control Regulation, those whose activities may lead to soil pollution must complete the information form attached thereto and submit it to the district directorate of the Ministry of the Environment.

After examining the information sheet, the district directorate categorises the operating site in question as a potentially contaminated site or a suspected site. For sites classified as suspected sites, further measures must be taken pursuant to the provisions of the Soil Contamination Control Regulation.

With regard to liability for remediation measures, the polluter pays principle applies in accordance with the Environmental Law. Accordingly, those who pollute the environment must pay for all damage to the environment and are liable for the resulting damage without having to prove fault.

According to the general statutory provisions, claims for compensation for environmental damage must be asserted within five years from the date on which the injured party became aware of the damage and identified the person responsible. Said period is the absolute limitation period following which no claims can be made.

Law stated - 20 August 2024

Regulation of waste

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4 | What types of waste are regulated and how?

The Regulation on Waste Management (the Waste Regulation) applies in Türkiye, the main objective of which is to define the principles for waste management. The Waste Regulation contains detailed provisions on the authorisation requirements, the transport and the classification of waste.

The Waste Regulation sets out certain requirements for those who generate waste or pre-treat, mix or use other processes that change the composition or structure of waste.

All substances or materials that are disposed of or left in the environment either by their producer or by the natural or legal person in whose possession they are, or all substances or materials that must be disposed of, are defined as waste in the Waste Regulation.

There are further definitions of specific waste in corresponding regulations. For example, radioactive waste, packaging waste, mining waste, waste electrical equipment, medical waste, used batteries and wastewater are defined and regulated in separate regulations.

The circular economy system is not regulated in Türkiye, but the private sector is aware of the EU's circular economy agenda and the number of companies optimising their production processes accordingly is steadily increasing. Some examples from the private sector include a large Turkish household appliance manufacturer that is implementing a resource efficiency project. Another Turkish conglomerate is launching a new product line that utilises coffee waste.

Law stated - 20 August 2024

Regulation of air emissions

5 | What are the main features of the rules governing air emissions?

The most important legal framework for air emissions from industrial plants is the Air Pollution Regulation which contains strict guidelines for permissible air emissions from industrial plants. whereby these emissions may not exceed the emission limits and air quality parameters specified therein.

According to the Air Pollution Regulation, facilities, installations that emit substances into air and fall within the scope of the Environmental Permits Regulation require an environmental permit. The Air Pollution Regulation contains technical data and calculations to determine installations falling within this scope.

The Regulation on the Energy Performance of Buildings regulates the procedures and principles for the efficient use of energy and energy resources in buildings (including large combustion plants), the prevention of energy waste and the protection of the environment. Accordingly, an energy performance certificate must be issued which contains information on the energy demand and classification of the building's energy consumption, its greenhouse gas emissions, insulation properties and the efficiency of the heating or cooling system.

If the Ministry of the Environment discovers that the energy performance certificate was issued incorrectly or that a building does not comply with the energy performance certificate, the building must be converted to meet the specifications of the energy performance certificate.

Law stated - 20 August 2024

Protection of fresh water and seawater

6 | How are fresh water and seawater, and their associated land, protected?

The Coastal Law, the Regulation on the Protection of Drinking Water Reservoirs, the Regulation on the Quality of Surface Waters and the Regulation on Combating Water Pollution regulates the protection of freshwater and seawater.

The Coastal Law is applied in conjunction with the Turkish Constitution to protect the natural and cultural characteristics of the seacoasts, lakes and rivers. Accordingly, the coastline cannot be the subject of private property and as such is the exclusive responsibility of the state.

The Water Protection Regulation is specifically designed to protect water resources and serves as a framework for the definition of discharge parameters limiting values for the discharge of wastewater from industrial plants. According to the Water Protection Regulation, industrial plants outside urban centres discharging their wastewater directly must install either individual or group sewage treatment plants to treat and discharge their wastewater.

According to the Circular on Wastewater Treatment Plant Identification Certificate, all wastewater treatment plants that discharge or reuse wastewater must have an authorisation.

To promote the recycling and reuse of treated wastewater, the Ministry of the Environment has issued a circular on the authorisation of wastewater treatment and deep-sea discharge projects.

Law stated - 20 August 2024

Protection of natural spaces and landscapes

7 | What are the main features of the rules protecting natural spaces and landscapes?

Nature reserves are areas in which the natural environment is protected for conservation and research purposes. The National Parks Law regulates the selection and designation of national parks, nature parks, natural monuments and valuable nature reserves, pursuant to which a nature reserve includes rare, endangered or threatened ecosystems, species and outstanding examples of natural phenomena.

Real estate and facilities within the boundaries of national parks, nature parks, natural monuments and nature conservation areas are expropriated in accordance with the Expropriation Law.

Areas of ecological importance, both nationally and globally, that are prone to pollution and degradation can be recognised and designated as special environmental protection areas by the Ministry of the Environment. The aim of these designations is to establish the necessary measures for the protection of biodiversity, the conservation of natural resources and the protection of related cultural resources. Belek, Foça and Datça are specific examples of special environmental protection areas.

Law stated - 20 August 2024

Protection of flora and fauna species

8 | What are the main features of the rules protecting flora and fauna species?

Environmental protection, and in particular the protection of threatened or endangered species and rare plant and animal species, is regulated by the Environmental Law. The sustainability of biodiversity requires the protection of threatened, endangered and rare plant and animal species in accordance with the Environmental Law. Trade in threatened, endangered and rare plant and animal species is strictly prohibited.

The Regulation on the Implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora regulates the control of international trade to ensure the sustainable use of animals and plants covered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Law stated - 20 August 2024

Noise, odours and vibrations

9 | What are the main features of the rules governing noise, odours and vibrations?

The Environmental Noise Protection Regulation lays down the principles for the regulation of environmental noise and vibrations. The Ministry of the Environment is the enforcement authority in this area.

The aim of the Environmental Noise Protection Regulation is to minimise the harmful effects of environmental noise which is defined as unwanted noise emanating from industry, traffic, leisure and recreational activities, construction projects and workplaces that adversely affects both the environment and human health. The Environmental Noise Protection Regulation assigns certain tasks to industrial plants and workplaces, such as drawing up noise action plans and implementing measures to monitor and reduce environmental noise.

The Odour Emissions Control Regulation regulates the administrative and technical procedures and guidelines for dealing with and reducing unpleasant odour emissions.

Companies carrying out activities that generate odour emissions must ensure that adverse effects on the public and the environment are minimised by using the best available production or treatment techniques, taking measures to prevent odours and ensuring compliance with odour emission limits.

Law stated - 20 August 2024

Liability for damage to the environment

10 | Is there a general regime on liability for environmental damage?

According to the Environmental Law, natural and legal persons who pollute or damage the environment are liable for the resulting damage in accordance with the polluter pays principle. The polluter pays principle means that the natural or legal persons responsible are liable for damage without having to prove fault.

According to the general statutory provisions, claims for damages for environmental damage must be asserted within five years from the time at which the injured party became aware of the damage and identified the person responsible. The said five year period is the absolute limitation period following which no claims can be made.

Furthermore, under the Turkish Criminal Code, anyone who wilfully discharges waste or residues into the soil, water or air in violation of the technical procedures under the relevant laws and causes damage to the environment is liable to imprisonment for a term of six months to two years.

Law stated - 20 August 2024

Environmental taxes

11 | Is there any type of environmental tax?

In accordance with the Municipal Revenue Law, an environmental cleaning tax for residential properties of 1.5 Turkish liras per cubic metre of water consumption in metropolitan municipalities and 1.1 Turkish liras per cubic metre of water consumption in other municipalities has been levied since 1 January 2023. Apart from this tax, there are no other levies in force as of 2023.

However, in 2020, a draft regulation on carbon tax was prepared by the Ministry of Treasury and Finance which has not yet been adopted. Forthcoming regulations are also anticipated in Türkiye, due to its expedited efforts to align with the EU's regulations, which are expected to include certain tax policies concerning climate matters as well.

Law stated - 20 August 2024

Environmental reporting

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12 Are there any notable environmental reporting requirements (eg, regarding emissions, energy consumption or related environmental, social and governance (ESG) reporting obligations)?

The Sustainability Principles Compliance Framework issued by the Capital Markets Board stipulates that listed companies must comply with certain ESG standards and associated disclosure obligations. Compliance with these principles is voluntary, but listed companies that do not wish to comply with them must justify this.

Further reporting obligations for greenhouse gases arise from the Regulation on the Monitoring of Greenhouse Gas Emissions. The Regulation on Environmental Authorisations and the Regulation on Air Pollution also govern the monitoring and regulation of greenhouse gas emissions.

There are currently no further reporting obligations in Türkiye but with awareness in ESG principles on the rise, companies are voluntarily disclosing their climate change policies by responding to the Carbon Disclosure Project's invitation. The number of Turkish companies participating in this initiative reached 81 in 2022.

The possible adverse effect of complex supply chains on the environment and the difficulties of inspecting the same prompted the EU to take action to ensure EU companies have reliable information on their suppliers' operations.

As the rules on environment and sustainability in third countries do not meet EU standards, the scope of the Corporate Sustainability Reporting Directive (CSRD) and the Corporate Sustainability Due Diligence Directive (CSDDD) were expanded to capture non-EU companies. Organisations falling within the scope of the CSDDD (whether EU or not) must conduct due diligence to identify and prevent environmental risks including assessing the potential impact of their operations and their supply chains on the same. Furthermore, the scope of the non-financial reporting obligations under the CSRD have been significantly broadened. Accordingly, non-EU companies generating a net turnover above €150 million in the EU, or having at least one subsidiary or branch in the EU exceeding certain thresholds, will need to comply with the reporting rules starting from the financial year of 2028.

Therefore, Turkish companies falling within this scope will need to commence reporting from 2028 in accordance with the CSRD and conduct due diligence pursuant to the CSDDD (once in place).

Law stated - 20 August 2024

Government policy

13 How would you describe the general government policy for environmental issues? How are environmental policy objectives influencing the legislative agenda?

As in many other countries, the Turkish government must also undertake far-reaching reforms in environmental issues. This necessity arises not only from the fact that Türkiye is a party to various important international agreements and has also ratified the Paris Agreement, but also from the need to be an attractive business location and economic

partner, especially with regard to the EU. The EU is a major economic player and access to the EU market is very important for Türkiye. Türkiye is one of the largest exporters to the EU (almost half of its exports go to the EU). This means that Türkiye is not only indirectly affected by legal developments in the EU, but there is also a direct need for action to bring the Turkish legal framework in line with EU legislation. Against this background, Türkiye published the Green Deal Action Plan on 16 July 2021 with Presidential Decree No. 2021/15 to comply with global climate change mitigation policies, and to ensure the green transformation of Turkish industry and the adoption of measures to harmonise with the EU Green Deal. The coordination and secretariat of Türkiye's Green Deal Action Plan is provided by the Ministry of Trade. The measures and targets defined in the action plan cover topics such as the carbon adjustment mechanism, national carbon pricing, the national circular economy, clean energy, sustainable smart mobility and sustainable agriculture.

Law stated - 20 August 2024

HAZARDOUS ACTIVITIES AND SUBSTANCES

Regulation of hazardous activities

14 | Are there specific rules governing hazardous activities?

he Environmental Law defines hazardous chemicals as all types of chemical substances and products affecting the ecological balance and the natural structures of humans and other living organisms through negative physical, chemical or biological effects.

In terms of storage, those who generate hazardous waste in quantities of 1,000 kilograms or more per month must obtain a permit from the provincial directorate for the temporary storage of hazardous waste in certain areas or containers in accordance with the Regulation on Waste Management.

The Regulation on the Transport of Dangerous Goods by Road regulates the transport and handling of hazardous substances. In addition, a certificate per the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)/vehicle conformity certificate is required for vehicles transporting hazardous substances.

The import and export of hazardous chemicals is regulated by the Regulation on the Import and Export of Certain Hazardous Chemicals. It promotes joint responsibility and co-operation in the international transport of hazardous chemicals, supports the environmentally-sound handling of hazardous chemicals and facilitates information exchange on the properties of hazardous chemicals.

Law stated - 20 August 2024

Regulation of hazardous products and substances

15 | What are the main features of the rules governing hazardous products and substances?

The Regulation on the Carriage of Dangerous Goods by Road defines dangerous products and substances with reference to Table A of the List of Dangerous Substances in Chapter 3.2 of the Convention concerning the International Carriage of Dangerous Goods by Road. These include ammonium picrate, wet with less than 10 per cent water by mass or dry and ammunition, smoking, with or without fragmentation, fragmentation or propelling charge, containing substances toxic by inhalation.

Law stated - 20 August 2024

Industrial accidents

16 What are the regulatory requirements regarding the prevention of industrial accidents?

The prevention of industrial accidents is governed by the Regulation on the Prevention and Control of Major Industrial Accidents, which is strongly influenced by the Seveso Regulation in force in the EU. It lays down the guidelines and principles for measures necessary to ensure robust, effective and continuous protection to prevent major industrial accidents in establishments handling hazardous substances.

The owner or the natural or legal person who operates the installation and is authorised to take decisions on the technical operation of the installation must take all necessary measures to prevent major accidents. If a major accident occurs despite these measures, the adverse effects must be minimised to limit the damage to people and the environment.

Law stated - 20 August 2024

ENVIRONMENTAL ASPECTS IN TRANSACTIONS AND PUBLIC PROCUREMENT

Environmental aspects in M&A transactions

17 What are the main environmental aspects to consider in M&A transactions?

Mergers and acquisitions (M&A) should consider various environmental aspects to mitigate risks, ensure regulatory compliance and take into account potential future environmental liabilities. Performing environmental due diligence is essential for an appropriate risk assessment, regardless of whether it is a share deal or an asset deal. Due diligence covers a variety of topics, such as compliance with applicable legislation (eg, Turkish REACH regulation), contaminated sites, environmental processes, the transferability of permits and licences, compliance with required environmental permits and much more. Furthermore, in some industries having environmental due diligence carried out by environmental experts in addition to legal due diligence is important.

Law stated - 20 August 2024

Environmental aspects in other transactions

18 | What are the main environmental aspects to consider in other transactions?

Environmental considerations are important in various types of transactions, beyond M&A. In all transactions, understanding and managing environmental risks is vital to ensure compliance, protect stakeholders, and avoid potential legal and financial consequences. Engaging environmental experts and legal counsel is recommended to navigate the complexities of environmental considerations in diverse transactions.

In financing, it is important to consider the use of the funds and the potential environmental impact of the projects or activities supported. Lenders can carry out environmental due diligence to ensure that the projects they support meet sustainable standards. This can include compliance with environmental regulations, potential liabilities, and the impact of environmental issues on the borrower's ability to repay the loan. Environmental covenants might be included in loan agreements to ensure that the borrower maintains compliance with environmental laws and regulations throughout the loan term.

As investors in IPOs pay increasing attention to the environmental impact of the companies they invest in, clarifying and communicating environmental issues can influence the success of the company. Companies may be required to disclose material environmental risks and liabilities in their IPO prospectus. This is important for transparency and to inform potential investors. Compliance with environmental laws and regulations is crucial, as regulatory issues can impact a company's valuation and reputation.

With respect to real estate transactions, it is crucial to perform an environmental site assessment before purchasing or developing a real estate to identify potential environmental contamination on the property. This is crucial for assessing potential clean-up costs and liabilities. Understanding and complying with local environmental and zoning regulations is also essential.

In the course of corporate reorganisations, the environmental impact of operational changes, plant closures or business relocations may need to be assessed. Understanding and mitigating environmental risks can be critical to ensuring regulatory compliance and preserving the organisation's reputation. There is a growing number of reorganisations that affect Turkish subsidiaries or business partners of EU-based companies due to the pressure of the number of regulations.

When it comes to bankruptcy proceedings the treatment of environmental claims and obligations is often complex. In bankruptcy sales, the sale of assets may involve transferring environmental liabilities to the buyer. Proper due diligence and negotiation are essential as in M&A transactions.

There may also be differences between a share deal and an asset deal. For example, in an asset deal, the buyer can control its liability and liabilities by selecting certain assets and liabilities, which allows for a more selective approach to the assumption of environmental obligations. In addition, when selling assets, the question of the transferability of all environmental licences must be examined more frequently. When drafting the contract, the environmental warranties must be carefully formulated according to the results of the due diligence.

Law stated - 20 August 2024

Environmental aspects in public procurement

19 | Is environmental protection taken into consideration by public procurement regulations?

The environmental impact assessment is an investigation regulated by the Environmental Code to assess the positive and negative effects of planned projects on the environment. It includes the identification and assessment of measures to avoid or minimise negative environmental impacts. In cases where the applicable law prescribes an environmental impact assessment, a positive environmental impact assessment is a prerequisite for participation in public tenders.

Apart from legal obligations, various local authorities are sensitive to green public procurement and have set a wide range of targets to realise environmentally sustainable projects and investments. For instance, as part of the EU harmonisation process, the Public Procurement Authority launched a green procurement project in 2011 to support key stakeholders in the environmental field. In this context, certain authorities include in the award criteria compliance requirements with certain environmental standards, including considering the environmental impact of the products or services procured, promoting energy efficiency and favouring suppliers with environmentally friendly practices.

Law stated - 20 August 2024

ENVIRONMENTAL ASSESSMENT

Activities subject to environmental assessment

20 | Which types of activities are subject to environmental assessment?

The Regulation on Environmental Impact Assessment specifies which activities are subject to an environmental impact assessment (EIA). Companies involved in projects listed in the Environmental Impact Assessment Regulation shall prepare an EIA report. These projects include oil refineries, thermal, nuclear and hydroelectric power plants, and metal industry plants.

The preparation of an EIA report is mandatory for projects listed in Annex 1 of the Regulation on EIA. Although the submission of this report is a prerequisite for the granting of authorisation, it does not constitute approval.

Law stated - 20 August 2024

Environmental assessment process

21 | What are the main steps of the environmental assessment process?

The EIA determines the effects of a project or development on the environment.

The EIA covers the calculation of potential environmental damages and the definition of the measures to be taken in a report, the EIA Report. All projects listed in the Environmental Impact Assessment Regulation are required to prepare an EIA Report.

The phases of conducting an EIA can be summarised as follows:

- Companies that shall submit an EIA Report, shall first submit a draft to the Ministry of the Environment.
- The EIA report draft is then sent to the Ministry of Environment with a letter stating the date and place of the meeting to review and assess the report. Interested third parties wishing to review the EIA Report draft may examine it and submit their comments to the Ministry of Environment or the relevant governorship.
- The commission shall review and assess the EIA Report within 10 working days of the initial review and assessment.
- The EIA Report is reviewed and finalised by the commission which shall be submitted to the Ministry of Environment within 10 calendar days of the conclusion of the meetings.
- The EIA report reviewed and finalised by the commission shall then be made available to the public by the Ministry of Environment or the relevant Governor for a period of 10 calendar days to solicit comments and suggestions.
- Depending on the comments of the public, the Ministry of the Environment may request that the report be supplemented, additional studies be carried out or the commission be reconvened. The applicant's declaration of commitment and the notarised signature must be submitted to the Ministry of the Environment within five working days.
- The decision of the Ministry of the Environment 'environmental impact assessment positive' or 'environmental impact assessment negative' for the project is then publicly announced.

Law stated - 20 August 2024

REGULATORY AUTHORITIES

Regulatory authorities

22 Which authorities are responsible for the environment and what is the scope of each regulator's authority?

The Ministry of the Environment is the government agency responsible for environmental issues. The main objectives of the Ministry of Environment include protecting the natural environment and promoting the development of sustainable cities and municipalities. In addition to the Ministry of Environment, the Directorates of Environment, Urban Planning and Climate Change of Municipalities are the authorities responsible for environmental protection. Both the Ministry of Environment and the Directorates are authorised to impose sanctions and issue permits, including environmental permits and licences.

Law stated - 20 August 2024

Investigation

23 | What are the typical steps in an investigation?

The Ministry of the Environment carries out regular inspections to ensure compliance with relevant laws and regulations and is authorised to enter the premises and examine documents and records as part of these inspections.

If, following such an inspection, administrative sanctions are deemed necessary under the Environmental Law, an official inspection report is drawn up. This is submitted to the competent authority. The competent authority examines the report and determines whether an offence has been committed and whether administrative sanctions should be imposed. Companies or individuals against whom sanctions have been imposed may appeal against the administrative sanctions before the administrative courts within 30 calendar days of notification.

Law stated - 20 August 2024

Administrative decisions

24 | What is the procedure for making administrative decisions?

The inspection team appointed by the Ministry of the Environment draws up a report on any breaches of environmental legislation and the fines (if any) to be imposed. The report is then forwarded to the supervisory authority, which is authorised to impose administrative sanctions. This authority examines the report and then issues the necessary decision. The decision is communicated to the person concerned by the competent authority.

The decision on the administrative sanction clearly states the legal remedies, authorities and time limits that can be appealed against the decision. In this context, administrative sanction decisions can be appealed before an administrative court within 30 calendar days of the date of notification. There is no appeal procedure in the decision-making phase.

Law stated - 20 August 2024

Sanctions and remedies

25 | What are the sanctions and remedies that may be imposed by the regulator for violations?

Violations of the Environmental Law are punishable by fines, the amount of which depends on the severity of the offence.

In cases where the Turkish Criminal Code applies, the perpetrator may be sentenced to a prison term of six months to two years and a fine.

In the case of claims under civil law, those affected have the option of demanding compensation from the polluter in accordance with the provisions of civil law.

Law stated - 20 August 2024

Appeal of regulators' decisions

26 | To what extent may decisions of the regulators be appealed, and to whom?

The decisions of the supervisory authority may be appealed in accordance with the Environmental Law and the general principles of Turkish administrative law. According to the Environmental Law, such appeals can be filed with the administrative courts within 30 calendar days of the notification of the decision of the supervisory authority.

Law stated - 20 August 2024

JUDICIAL PROCEEDINGS

Judicial proceedings

27 | Are environmental law proceedings in court civil, criminal or both?

The criminal courts of first instance have jurisdiction over legal disputes that fall within the scope of the Turkish Criminal Code, including intentional environmental pollution and causing nuisance such as noise, odour and vibration.

On the other hand, the administrative courts of first instance are responsible for cases concerning administrative sanctions under the Environmental Law and derived environmental law, such as the disposal of household waste and residues in places other than those designated for their collection or storage.

Law stated - 20 August 2024

Powers of courts

28 | What are the powers of courts in relation to infringements of environmental law?

Under Turkish law, criminal and civil courts have jurisdiction over various environmental claims, especially under administrative law, the law of obligations and criminal law. In this context, an infringement of environmental law can carry liability under administrative law as well as criminal law and civil law. The administrative, criminal or civil law dimension of the claim will be assessed by courts through the evaluation of the offence in each individual case. Criminal courts may impose imprisonment or monetary penalties, while administrative courts may impose administrative fines. Injunctions are only issued when there is a direct and immediate interest. In this respect, parties may apply for interim measures in cases of immediate and direct interest.

In cases where the Turkish Criminal Code applies, the perpetrator may be sentenced to a prison term of six months to two years and a fine. Furthermore, under the Turkish Code of Obligations, tortious liability may arise in cases of negligence if a causal link between the damage and the negligence is proven. The Environmental Law and secondary legislation also provide for administrative fines to be imposed for violations of the provisions of the relevant legislation. The amount of fines imposed by state authorities such as the Ministry of the Environment will depend on the severity of the offence. The decisions of such authorities can be challenged in court.

Law stated - 20 August 2024

Civil claims

29 | Are civil claims allowed regarding infringements of environmental law?

Yes, under Environmental Law, natural or legal persons causing environmental pollution can be held liable for damages. Civil liability for environmental damage can be both contractual, where it is imposed on a party by contract, and non-contractual. Under the Turkish Code of Obligations, tortious liability may arise in cases of negligence if a causal link between the damage and the negligence is proven.

Law stated - 20 August 2024

Defences and indemnities

30 | What defences or indemnities are available?

Objections can relate either to the merits of the claim or to the proceedings. For example, the defendant may argue that they have not committed an act that can be considered a violation of Environmental Law, that the authority that imposed the sanction is not competent or that the statute of limitations has expired. Actions for compensation for environmental damage must be brought within five years of the injured party becoming aware of the damage and identifying the responsible party.

Law stated - 20 August 2024

Directors' or officers' defences

31 | Are there specific defences in the case of directors' or officers' liability?

There is no specific regulation on the liability of directors of legal entities in relation to environmental regulations. However, it is possible that directors and officers may be held liable if they have breached their duty of care under the general principles of Turkish commercial law. If it is established that they have breached such duty, the managing

directors or senior executives must prove otherwise. Procedural defences such as the expiry of the limitation period also apply.

Law stated - 20 August 2024

Appeal process

32 | What is the appeal process from trials?

Appeals against the decisions of the courts of first instance can be lodged with the Court of Appeal and appeals against the decisions of the Court of Appeal can be lodged with the Court of Cassation. Appeals against the decisions of the administrative courts may be lodged with the regional administrative courts and the Council of State.

Law stated - 20 August 2024

INTERNATIONAL TREATIES AND INSTITUTIONS

International treaties

33 | Is your country a contracting state to any international environmental treaties, or similar agreements?

Türkiye is a signatory to several international agreements, including:

- the Vienna Convention for the Protection of the Ozone Layer;
- the Montreal Protocol on ozone-depleting substances;
- the Kyoto Protocol;
- the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes, and their Disposal;
- the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean;
- the Stockholm Convention on Organic Pollutants;
- the Convention on Long-range Trans-Boundary Air Pollution;
- the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
- the Barcelona Convention for the Protection of Marine Environment and the Coastal Region of the Mediterranean; and
- the Protocol on Environmental Protection to the Antarctic Treaty.

Türkiye has acceded to these conventions but has not yet ratified them.

Law stated - 20 August 2024

International treaties and regulatory policy

34 | To what extent is regulatory policy affected by these treaties?

Regulatory policy in Türkiye is strongly influenced by international regulations. It is therefore common for local legislation to be based on the provisions of international regulations and to adopt their provisions and guidelines.

This influence stems from Türkiye's position as one of the largest exporters to the EU (almost half of the country's exports go to the EU). Türkiye is currently in the process of adopting extensive legislative changes to harmonise with EU environmental legislation and ESG standards.

International treaties signed by Türkiye that have not yet been ratified have a significant impact on internal regulatory policy, which forms the basis for local legislation.

Law stated - 20 August 2024

UPDATE AND TRENDS

Key developments of the past year

35 | Are there any emerging trends or hot topics in environment law in your jurisdiction?

The trend in Turkish environmental legislation is towards harmonisation with EU standards. Türkiye's efforts to join the EU have driven efforts to harmonise national legislation with the EU's, including the adoption of new directives and regulations.

Environmental compliance and sustainability are becoming increasingly important, with a focus on ESG principles. Companies are increasingly expected to adopt environmentally friendly practices, report on their ESG performance and face potential penalties for non-compliance. The drive for sustainable development and green initiatives is gaining momentum, with a focus on reducing carbon emissions and promoting the circular economy.

In addition, the first steps of the legislation required for the establishment of energy storage systems in Türkiyewere taken with the regulation on storage activities in the electricity market. The Energy and Markets Regulatory Authority has already started issuing pre-licences for energy storage systems. According to the regulation, there are different types of energy storage systems. Those that are integrated into the generation plant will be licensed in accordance with the Regulation on the Issuance of Licences for the Electricity Market. It is assumed that the total installed capacity of electricity storage systems will exceed 9.5 gigawatts. It should also be noted that applications for licences for integrated generation plants have been suspended until further notice due to the high volume of applications.

Türkiye has significant potential for green hydrogen production as it has abundant renewable energy sources, and the installation costs of renewable energy-based power plants are lower than in Europe. Therefore, Türkiye is ready to become a major player in

the global hydrogen market and has started pilot production of green hydrogen in a first hydrogen valley in Türkiye.

Law stated - 20 August 2024



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UPDATE AND TRENDS

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LEGISLATION

Main environmental regulations

1 | What are the main statutes and regulations relating to the environment?

In the UK, regulation of the environment is largely a 'devolved matter'. Generally, environmental laws for England are made by the UK Parliament, with environmental laws for Scotland, Wales and Northern Ireland made by the Scottish Parliament, the Welsh Parliament (Senedd) and Northern Ireland Assembly respectively. However, some aspects of environmental law are reserved for the UK Parliament, and in many areas, a common approach or framework is sought across the UK.

The main Acts of Parliament creating environmental frameworks are the Environmental Protection Act 1990 (EPA 1990), the Water Resources Act 1991 (WRA 1991), the Environment Act 1995 (EA 1995), the Pollution Prevention and Control Act 1999 (PPCA 1999), and the Environment Act 2021 (EA 2021). The EPA 1990 establishes the framework for waste regulation, the management of contaminated land (inserted by the EA 1995), statutory nuisances and genetically modified organisms. The WRA 1991 establishes the frameworks for the regulation of water pollution and the management of water resources. The EA 1995 established the principal of environmental regulators in England, Wales and Scotland. The PPCA 1999 contains wide powers for government ministers to make environmental regulations. The EA 2021 covers a wide range of areas such as waste and resource efficiency measures (including extended producer responsibility), measures to improve air quality and the introduction of mandatory biodiversity protections into the planning system.

Most environmental legislation across the UK is now contained in secondary legislation, such as the Environmental Permitting (England and Wales) Regulations 2016 (EPR), which provide for the regime regulating activities requiring an environmental permit in England and Wales. Many regulations implement the requirements of EU legislation deriving from the UK's former membership of the EU.

Law stated - 30 July 2025

Integrated pollution prevention and control

2 | Is there a system of integrated control of pollution?

Yes, the UK has a system of integrated pollution control. It is primarily governed by the Environmental Permitting (England and Wales) Regulations 2016 (EPR) in England and Wales and equivalent legislation in Scotland and Northern Ireland. The EPR provide for an integrated environmental permitting regime for activities resulting in discharges to land, air or water. The EPR sets out which types of activities require an environmental permit, and which can be undertaken under an exemption. Permit conditions require operators to use Best Available Techniques (BAT) to prevent and reduce pollution to air, land, and water.

Law stated - 30 July 2025

Soil pollution

3 | What are the main characteristics of the rules applicable to soil pollution?

Most contaminated sites in the UK are cleaned up (remediated) through the planning system as and when they are redeveloped. Local planning authorities will normally impose conditions on any planning permission for the redevelopment of brownfield land, requiring the land to be investigated and, if necessary, remediated. The developer is responsible for the remediation, regardless of who caused the contamination originally, unless it can agree contractually with another person (such as a former owner) that the other person will bear the responsibility.

Significantly contaminated sites that are unlikely to be redeveloped in the foreseeable future can be remediated under the contaminated land regime provided for in Part 2A of the EPA 1990. Local authorities are responsible for identifying such sites and the 'appropriate persons' liable for their remediation. Broadly, any persons who have caused or knowingly permitted contamination (known as 'Class A persons') are primarily liable for remediating it, but where no such persons can be found, then the current owners or occupiers (known as 'Class B' persons) are liable. There is a complex set of tests whereby Class A persons may be excluded from liability – for example, if they sell the land to another Class A person with sufficient information to make the new owner aware of the contamination.

Law stated - 30 July 2025

Regulation of waste

4 | What types of waste are regulated and how?

The key waste legislation in the UK is primarily the Environmental Protection Act 1990 (EPA), which establishes a 'duty of care' for waste management and outlines responsibilities for preventing pollution from waste. Anyone who produces or handles waste has an overarching statutory duty of care under the EPA to ensure the safe management of that waste to protect human health and the environment. The Environmental Permitting (England and Wales) Regulations 2016 (EPR) (and equivalents in Scotland and Northern Ireland) provide for the permitting regime relevant to businesses that use, recycle, treat, store or dispose of waste.

Waste is broadly regulated under the EPA 1990 and the EPR. The types of waste and how they are regulated are subject to specific rules and include the following.

- Controlled waste. This includes household, industrial, and commercial waste. Under the EPA 1990, controlled waste must be managed and disposed of safely. Broadly, in England businesses must register as a carrier if they transport waste, as a dealer if they buy, sell or dispose of waste or as a broker if they arrange for someone else to buy, sell or dispose of waste. Different registration processes apply in Northern Ireland, Scotland and Wales.
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Hazardous waste. Defined under the Hazardous Waste (England and Wales) Regulations 2005 (and equivalent legislation), hazardous waste poses a risk to human health or the environment. Producers and handlers of hazardous waste must comply with specific requirements, including proper classification, storage and disposal, and must complete consignment notes.

- Waste Electrical and Electronic Equipment (WEEE). Regulated under the WEEE Regulations 2013 which cover waste electrical and electronic equipment. Producers under the regime are responsible for financing the collection, treatment and recycling of WEEE.
- Packaging waste. Regulated under the Producer Responsibility (Packaging Waste) Regulations 2007 (due to be wholly revoked on 1 January 2026) and the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024. Businesses that produce or handle packaging must meet recycling and recovery obligations.
- Batteries. Regulated by the Waste Batteries and Accumulators Regulations 2009. Battery producers in the UK are responsible for the costs associated with waste battery collection, treatment, recycling and disposal of those batteries. There are also obligations placed on distributors and end-users of batteries.

Businesses and households that produce waste are required to comply with various other statutory requirements depending on the source and nature of that waste.

Law stated - 30 July 2025

Regulation of air emissions

5 | What are the main features of the rules governing air emissions?

The Environmental Permitting regime provides the primary framework for regulating air emissions from industrial processes. Operators of regulated facilities must obtain permits that set conditions controlling emissions to air. Conditions are based on the use of Best Available Techniques (BAT) to minimise emissions and environmental harm.

Aside from the Environmental Permitting regime, emissions of specific pollutants are regulated under various laws, including:

- Clean Air Act 1993, which controls smoke, grit and dust emissions, particularly in Smoke Control Areas;
- Climate Change Act 2008, which targets greenhouse gas emissions, setting legally binding carbon budgets to reduce the UK's contribution to climate change; and
- National Emissions Ceilings Regulations 2018, which set national limits for emissions of ammonia, nitrogen oxides (NOx), non-methane volatile organic compounds (NMVOCs), sulphur dioxide (SO2), and fine particulate matter (PM2.5).

Certain businesses are also required to report their greenhouse gas (GHG) emissions under the Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013. The Streamlined Energy and Carbon Reporting (SECR) framework was introduced

in 2019 and requires large UK companies to report on their GHG emissions. The UK Emissions Trading Scheme (UK ETS) also applies to energy-intensive industries, power generation and aviation. The scheme requires participants to monitor, report and verify their emissions annually and surrender allowances equivalent to their emissions.

Law stated - 30 July 2025

Protection of fresh water and seawater

6 | How are fresh water and seawater, and their associated land, protected?

Freshwater and seawater, along with their associated land, are protected in the UK through legislation such as the Water Resources Act 1991, Marine and Coastal Access Act 2009, and Wildlife and Countryside Act 1981. Regulatory bodies like the Environment Agency, Marine Management Organisation and Natural England oversee water quality, pollution and habitat conservation. Protections include designated areas (eg, Sites of Special Scientific Interest (SSSIs), Ramsar Sites and Marine Conservation Zones), compliance with the retained Water Framework Directive, and permits for discharges under the Environmental Permitting regime. Planning controls and fisheries regulations further safeguard these environments.

Law stated - 30 July 2025

Protection of natural spaces and landscapes

7 | What are the main features of the rules protecting natural spaces and landscapes?

The main features of the rules protecting natural spaces and landscapes in the UK include:

- Wildlife and Countryside Act 1981. This statute is in place to protect Sites of Special Scientific Interest (SSSIs), prohibit damage to protected species and habitats, and designates National Nature Reserves.
- Conservation of Habitats and Species Regulations 2017. Special Areas of Conservation (SACs) are designated under these regulations, which also protects Special Protection Areas (SPAs) as part of the UK's National Site Network.
- The Environment Act 2021 introduces a framework for improving biodiversity, including mandatory biodiversity net gain for developments. The Act also establishes Local Nature Recovery Strategies (LNRS) which aim to identify locations for nature recovery, alongside strengthening protections for natural spaces through long-term environmental targets.

Law stated - 30 July 2025

Protection of flora and fauna species

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8 | What are the main features of the rules protecting flora and fauna species?

The main features of the rules protecting flora and fauna species in the UK include the following.

- Wildlife and Countryside Act 1981. This Act protects species from harm, prohibits the destruction of certain plants (such as the Bluebell, which is protected from sale or trade) and regulates non-native species (including Japanese knotweed).
- Conservation of Habitats and Species Regulations 2017. The regulations aim to protect European species and habitats, such as bats and common otters. They also function to prohibit activities that harm these species or habitats without a European Protected Species Licence (EPSL).
- The Environment Act 2021 has introduced measures to enhance biodiversity through long-term strategies.
- The UK implements the Convention on International Trade in Endangered Species (CITES) through the Wildlife Trade Regulations and the Control of Trade in Endangered Species Regulations 2018. CITES regulates international trade in endangered species to ensure their survival. Trade in listed species requires permits or certificates.
- There are certain rules for specific species of animals, including the Protection of Badgers Act 1992, which safeguards badgers and their setts.
- The Marina and Coastal Access Act 2009 protects marine species and habitats via Marine Conservation Zones (MCZs). MCZs aim to conserve biodiversity, protect ecosystems, and contribute to a network of Marine Protected Areas (MPAs) that safeguard the marine environment.

Law stated - 30 July 2025

Noise, odours and vibrations

9 | What are the main features of the rules governing noise, odours and vibrations?

The Environmental Permitting regime provides the framework for governing noise, odours and vibrations in regulating emissions from activities requiring an environmental permit. Operators must be able to use Best Available Techniques (BAT) to minimise impacts. The UK's planning system also dictates that planning applications must consider the impacts of noise, odours, and vibrations. These can be deemed 'statutory nuisances' if they materially affect the use or enjoyment of property. Local authorities have powers to serve abatement notices to stop or restrict the nuisance.

The Control of Pollution Act 1974 is also relevant here given it regulates construction noise and vibrations. Councils can impose requirements on how construction works are undertaken, specifying plant, hours of operation and noise levels.

Law stated - 30 July 2025

Liability for damage to the environment

10 | Is there a general regime on liability for environmental damage?

In the UK, the general regime for environmental damage liability is primarily governed by the Environmental Damage (Prevention and Remediation) (England) Regulations 2015 in England and equivalent legislation in Wales, Scotland and Northern Ireland. The Environmental Damage regime implements the requirements of the EU Environmental Liability Directive and aims to ensure operators of certain activities both prevent and remediate environmental damage based on a 'polluter pays' principle.

There are also specific regimes that deal with liability for environmental damage. For instance, under Part 2A of the EPA, the contaminated land regime empowers local authorities to identify and require remediation of contaminated sites. The Environmental Permitting regime requires permits for activities with potential harm. The Environment Agency (or national equivalent) enforces these regulations, ensuring compliance and addressing breaches. The regulator also has the power to prosecute, in serious cases.

Law stated - 30 July 2025

Environmental taxes

11 | Is there any type of environmental tax?

Yes, there are several types of environmental tax in the UK, including the following.

- Climate Change Levy (CCL). The CCL is an environmental tax charged on the energy that businesses use. Main rates of the CCL apply to businesses in either the industrial, commercial, agricultural or public services sectors. The main rates are paid on electricity, gas, and solid fuels (such as coal, lignite, coke, and petroleum coke). Businesses can get a reduction on the main rates of CCL if they are an energy intensive business and have entered into a climate change agreement with the government. There are also carbon price support (CPS) rates which encourage industries to use low carbon technology for producing electricity and are paid on gas consumption, LPG and coal and other solid fossil fuels. These are paid by owners of electricity generating stations and operators of combined heat and power (CHP) stations.
- Landfill tax. This tax is paid in addition to normal landfill fees if a business disposes of waste using landfill sites. It is charged by weight. ‘Inactive waste’, such as rocks or soil, is paid at a lower rate of £4.05 per tonne (as at 1 April 2025). The standard rate for other items is £126.15 per tonne (as at 1 April 2025). Certain activities are exempt from landfill tax, including quarrying and mining.
- Plastic packaging tax (PPT). The tax was introduced on 1 April 2022 and aims to incentivise the use of recycled plastic and to increase plastic recycling collection rates. The tax is imposed on plastic packaging components which contain less than 30 per cent recycled plastic. The current rate is £223.69 per tonne (as at 1 April

2025). Certain types of packaging are exempt from PPT, such as those used for the immediate packaging of licensed human medicine.

Law stated - 30 July 2025

Environmental reporting

12 Are there any notable environmental reporting requirements (eg, regarding emissions, energy consumption or related environmental, social and governance (ESG) reporting obligations)?

Yes, there are various environmental reporting requirements in the UK, including the following.

- Streamlined Energy and Carbon Reporting (SECR). Under SECR quoted companies and 'large' unquoted companies and LLPs (i.e. those which meet at least two of the following criteria: (1) more than 250 employees; (2) annual turnover exceeding £36 million; and (3) a balance sheet total of more than £18 million) are required to report on their GHG emissions. Disclosures involved under SECR include information about energy consumption and associated carbon emissions, such as total energy use, greenhouse gas (GHG) emissions, an energy efficiency narrative and an intensity ratio (energy consumption per unit of activity).
- Publicly quoted companies and businesses with more than 500 employees and a turnover that exceeds £500 million are required to make climate-related financial disclosures, which are based on the Task Force on Climate-related Financial Disclosures (TCFD) recommendations. Material disclosures are required to be made in annual reports and should cover how climate change is addressed in corporate governance; the impacts on strategy; how climate-related risks and opportunities are managed; and the performance measures and targets applied in managing these issues. These disclosure requirements were introduced under the Companies (Strategic Report) (Climate-related Financial Disclosures) Regulations 2022 and the Limited Liability Partnerships (Climate-related Financial Disclosures) Regulations 2022.
- The main energy efficiency auditing regime in the UK is the Energy Saving Opportunity Scheme (ESOS), introduced under the Energy Saving Opportunity Scheme Regulations 2014. The ESOS regime is mandatory and requires 'large undertakings' and groups of undertakings that contain a large undertaking to carry out an energy audit every four years and notify the appropriate regulator of their compliance. In-scope businesses are also required to develop an Action Plan for implementing energy savings and to report on progress against the Action Plan on an annual basis. A 'large undertaking' means a business that employs 250 of more people or has an annual turnover exceeding £44 million and an annual balance sheet exceeding £38 million. The ESOS regime is currently in 'Phase 4' and the next energy audit deadline is 5 December 2027.

Law stated - 30 July 2025

Government policy

13 How would you describe the general government policy for environmental issues? How are environmental policy objectives influencing the legislative agenda?

The UK government's general policy on environmental issues is centred around achieving net-zero emissions by 2050, improving environmental quality (such as air and water quality), and enhancing biodiversity (including the aim to halt the decline of biodiversity by 2030).

Environmental policy objectives influence the legislative agenda by ensuring that legally binding targets are imposed on various environmental aspects, which then requires the government to take action to meet these goals.

Law stated - 30 July 2025

HAZARDOUS ACTIVITIES AND SUBSTANCES

Regulation of hazardous activities

14 Are there specific rules governing hazardous activities?

Yes. In the UK, there are specific regulations and wider legislation in place that govern hazardous activities. The overarching focus surrounds the control of risks associated with dangerous substances and potential associated hazards. The aim of the rules are to prevent accidents and ensure the health, safety and welfare of workers and the general public who might be affected by the activities. The primary legislation is the Health and Safety at Work etc. Act 1974 (HSWA), which is underpinned by various regulations including but not limited to the Management of Health and Safety at Work Regulations 1999 (MHSWR) and the Control of Substances Hazardous to Health Regulations 2002 (COSHH).

Law stated - 30 July 2025

Regulation of hazardous products and substances

15 What are the main features of the rules governing hazardous products and substances?

In the UK, hazardous products and substances must be stored safely to minimise the risks of leaks, spills or other incidents. The rules focus on ensuring safety in their use, handling, storage, transportation and disposal. Below are key features of the rules.

- The REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) Regulation. REACH requires manufacturers and importers to assess and manage the risks posed by chemicals and to provide safety information to users. It ensures that hazardous substances are registered with the Health and Safety Executive

(HSE) and evaluated, with restrictions applied (where necessary) to protect human health and the environment.

- The CLP (Classification, Labelling and Packaging) Regulation. CLP ensures that hazardous substances are classified and labelled consistently to communicate their risks effectively. This includes the use of standardised hazard pictograms (symbols), signal words and precautionary statements.
- The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (as amended) govern the safe transportation of hazardous substances by road, rail, and inland waterways. They align with international agreements, such as ADR (which is the European Agreement concerning the International Carriage of Dangerous Goods by Road), which regulates the safe international transport of dangerous goods (including explosives, flammable gases, and corrosive substances) by road.
- The Control of Asbestos Regulations 2012 sets out requirements for managing asbestos risks, including identifying asbestos-containing materials, assessing risks and implementing control measures to protect workers and others from exposure. Certain work that involves handling asbestos will require a licence before the work may commence.

Law stated - 30 July 2025

Industrial accidents

16 What are the regulatory requirements regarding the prevention of industrial accidents?

In the UK, the prevention of industrial accidents is governed by a framework designed to protect workers, the public and the environment. The key regulatory requirements include the following.

- The Health & Safety at Work regime which imposes a general duty on employers to ensure, so far as is reasonably practicable, the health, safety and welfare of employees and others who may be affected by their activities (including the public, if applicable). This includes identifying risks, implementing control measures and maintaining safe systems of work to prevent industrial accidents.
- The Control of Major Accident Hazards Regulations 2015 (COMAH), which apply to establishments where dangerous substances are present in quantities above specified thresholds. Site operators are required to implement safety management systems and preventative measures to minimise the likelihood and impact of accidents.
- The Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR), which apply to workplaces where dangerous substances are present and could cause fires, explosions or corrosion. DSEAR requires employers to assess risks, implement control measures and classify areas where explosive atmospheres may occur, ensuring appropriate controls are in place.

Law stated - 30 July 2025

ENVIRONMENTAL ASPECTS IN TRANSACTIONS AND PUBLIC PROCUREMENT

Environmental aspects in M&A transactions

17 | What are the main environmental aspects to consider in M&A transactions?

This largely depends on whether the transaction is a share sale or asset sale.

On a share sale, any environmental liabilities of the company being sold will remain with the company, so a buyer will inherit those liabilities. If the buyer wants to protect itself against those liabilities, it will have to seek alternative protection, such as an indemnity from the seller, a purchase price retention, or environmental insurance. It should be noted, however, that as a general rule, the courts in the UK will not typically enforce indemnities against criminal fines, for public policy reasons.

On an asset sale, any environmental liabilities relating to the seller's period of ownership of the assets will normally remain with the seller, and so a buyer will not inherit those liabilities. However, some environmental liabilities (such as liability for contaminated land under Part 2A of the EPA 1990) can be transferred by contract.

Law stated - 30 July 2025

Environmental aspects in other transactions

18 | What are the main environmental aspects to consider in other transactions?

Regardless of the type of transaction, assessing potential liabilities associated with contamination, pollution or breaches of environmental legislation is critical. This would usually include undertaking due diligence to identify any existing or historic environmental risks. Other areas of regulatory compliance would involve verifying the existence of any necessary permits, licences, and consents for the operations or assets involved. Other considerations would include addressing any obligations regarding the proper handling, storage and disposal of waste, alongside climate change and sustainability commitments, such as obligations under the UK Emissions Trading Scheme (UK ETS).

Law stated - 30 July 2025

Environmental aspects in public procurement

19 | Is environmental protection taken into consideration by public procurement regulations?

The Procurement Act 2023 requires public bodies to consider the environmental impact of their procurement decisions to maximise public benefit when awarding contracts. The Act

also promotes sustainability in encouraging the minimisation of negative environmental impacts throughout the lifecycle of goods and services.

Law stated - 30 July 2025

ENVIRONMENTAL ASSESSMENT

Activities subject to environmental assessment

20 | Which types of activities are subject to environmental assessment?

In the UK, certain developments (rather than specific activities) are subject to environmental assessment under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) where they are likely to have a significant effect on the environment. Schedule 1 of the EIA Regulations lists developments where an EIA is mandatory, for example:

- large-scale energy projects, such as nuclear power stations or oil refineries;
- waste disposal installations, including hazardous waste facilities;
- large-scale infrastructure projects, such as motorways or airports; and
- extractive industries, such as quarries or open-cast mining.

Schedule 2 of the EIA Regulations lists developments that may require an EIA if they are likely to have a significant environmental effect due to factors such as size, nature or location.

Law stated - 30 July 2025

Environmental assessment process

21 | What are the main steps of the environmental assessment process?

Environmental impact assessments involve several key steps to ensure that the environmental impacts of a proposed development are properly identified, assessed and considered before development consent is granted. Below are the main steps.

- Screening: which will determine whether the proposed development requires an EIA.
- Scoping: which identifies the key environmental issues and impacts that need to be assessed in the EIA.
- Preparation of an Environmental Statement: which is a detailed document outlining the potential environmental impacts of the proposed development.
- Submission and public consultation: the Environmental Statement is submitted alongside the planning application to the relevant authority. The public, statutory

consultees and other stakeholders are then invited to review and comment on the Statement during a consultation period.

- Review: the Environmental Statement is then reviewed by the relevant authority who will decide whether to grant or refuse development consent. The developer can also be required to monitor environmental impacts of the development both during and after implementation.

Law stated - 30 July 2025

REGULATORY AUTHORITIES

Regulatory authorities

22 | Which authorities are responsible for the environment and what is the scope of each regulator's authority?

The Environment Agency (EA) regulates environmental issues in England, including pollution control, water resources, flood risk management, waste management and contaminated land. In the devolved administrations, Natural Resources Wales, the Scottish Environment Protection Agency (SEPA) and the Northern Ireland Environment Agency (NIEA) carry out equivalent enforcement and regulatory functions.

The Health and Safety Executive (HSE) regulates workplace health and safety, which includes hazardous substances (such as asbestos and its licensing regime) and major accident hazards under COMAH and DSEAR.

Local authorities are responsible for air quality monitoring, noise control, contaminated land identification and the enforcement of certain environmental permits.

Natural England focuses on biodiversity, habitat conservation, protected species and Sites of Special Scientific Interest (SSSIs). NatureScot, Natural Resources Wales and the NIEA carry out equivalent functions in the devolved administrations.

Marine Management Organisation (MMO) is an executive non-departmental public body of the Department for Environment, Food and Rural Affairs. It licenses and regulates marine activities in the seas around England and Wales, including fisheries management and marine conservation zones.

Law stated - 30 July 2025

Investigation

23 | What are the typical steps in an investigation?

Although the Environment Agency and its equivalents in the devolved administrations routinely conduct inspections of regulated facilities, most regulatory compliance issues will be resolved without a comprehensive investigation being initiated. Many compliance issues, whether self-disclosed or identified as a result of an agency inspection, are resolved

on an informal basis, without the use of formal enforcement powers. If agency inspectors identify non-compliance through a review of a regulated facility's records or an onsite inspection, in most cases agency personnel will initially discuss the alleged violations with facility personnel.

If a regulatory agency initiates either a comprehensive or limited investigation into non-compliance, it will typically require sites to provide responses to questions relating to the facility's compliance and the potential issue, which may take the form of a interview under caution (either in person or in writing). It may also make a site inspection and undertake testing, sampling or similar activities. If there is sufficient evidence of an offence having been committed, the regulatory authority will make a decision on the level of enforcement action which has to be appropriate and proportionate to the issue. If a regulator does not pursue a full criminal prosecution, it may still provide written advice or a written warning requiring the facility to come into compliance.

For some regimes, the regulator will have access to a range of civil sanctions, which can include monetary penalties. Regulators can impose these sanctions without going to court or bringing a criminal prosecution and so these are relatively commonly used where they are available.

Law stated - 30 July 2025

Administrative decisions

24 | What is the procedure for making administrative decisions?

The process begins with the submission of an application or proposal to the relevant authority. The authority will review the application to ensure that it meets procedural and legal requirements. Often, public and stakeholder consultation is required, particularly for decisions with significant environmental impact. The authority will then assess the application against the relevant legal and policy frameworks, and will base its decision on legal criteria, evidence provided, and (if applicable) consultant feedback. The decision is then communicated to the applicant and other relevant parties.

Law stated - 30 July 2025

Sanctions and remedies

25 | What are the sanctions and remedies that may be imposed by the regulator for violations?

Regulators have the power to impose criminal sanctions or civil penalties. Many breaches of environmental law in the UK are criminal offences and are prosecuted in the courts. Penalties can include fines (which can be unlimited for serious offences) and imprisonment for any culpable directors or senior officers.

Some environment regimes also provide for the use of civil enforcement powers which include fixed and variable monetary penalties, compliance notices (requiring steps to

remedy or prevent further breaches), restoration notices (requiring the offender to restore environmental damage) and stop notices (requiring an offending activity to stop immediately).

Other remedies that may be imposed include Enforcement Undertakings, which are voluntary undertakings from offenders to take specific actions to remedy harm, ensure compliance, or provide compensation to affected parties. These are increasingly used as an alternative to prosecution.

These civil enforcement powers have been used, for example, under the Environmental Permitting regime, the Energy Savings Opportunity Scheme (ESOS) and the packaging waste regime.

Environmental regulators often choose to publicise enforcement actions, which can also have a deterrent effect on future non-compliance and damage the offender's reputation.

Law stated - 30 July 2025

Appeal of regulators' decisions

26 | To what extent may decisions of the regulators be appealed, and to whom?

Decisions by regulators to impose civil sanctions can generally be appealed. Appeals are made to the First-tier Tribunal (General Regulatory Chamber). Grounds for appeal may include that the sanction was not lawfully imposed, that the decision was unreasonable or disproportionate, or that there was a procedural error in the decision-making process.

If a criminal prosecution results in a conviction, the offender may appeal to the Crown Court or higher courts, depending on the nature of the offence.

Where no statutory right of appeal exists, decisions of regulators may still be challenged through judicial review in the High Court. Judicial review examines whether the decision was lawful, rational and procedurally fair, rather than re-assessing the merits of the decision.

Law stated - 30 July 2025

JUDICIAL PROCEEDINGS

Judicial proceedings

27 | Are environmental law proceedings in court civil, criminal or both?

Environmental law proceedings in the UK can be civil, criminal or both, depending on the nature of the breach and the enforcement route chosen by the regulator.

Law stated - 30 July 2025

Powers of courts

28 | What are the powers of courts in relation to infringements of environmental law?

Courts can impose fines for environmental offences, which can be unlimited in cases of serious breaches. The level of fine is determined by courts based on sentencing guidelines that consider the seriousnous of the offence, the offender's culpability and the financial circumstances of the offender.

Courts also have the power to impose custodial sentences. Under the Environment Protection Act 1990, the maximum custodial sentence is five years.

Courts can also issue: (1) confiscation orders to recover financial benefits gained from environmental crimes; (2) community orders, requiring individual offenders to carry out unpaid work; or (3) restitution orders, which obligate offenders to pay compensation to victims or cover the costs of remediation.

Courts also have the ability to grant injunctions and award damages through civil proceedings.

Law stated - 30 July 2025

Civil claims

29 | Are civil claims allowed regarding infringements of environmental law?

In certain circumstances, civil claims can be brought if the affected persons have suffered harm, loss or damage resulting from an environmental infringement. Key avenues for civil claims include: (1) public or private nuisance claims; (2) negligence claims, if the defendant owed the claimant a duty of care which was breached; and (3) statutory claims – for example, under legislation such as the Water Resources Act 1991 where individuals can claim damages for harm caused by unlawful water pollution. Claimants are required to demonstrate that the defendant's actions caused the harm or damage.

Law stated - 30 July 2025

Defences and indemnities

30 | What defences or indemnities are available?

This varies from regime to regime. Some environmental offences provide a statutory defence where the defendant can prove it took all reasonable precautions and exercised all due diligence to avoid committing the offence. For example, under the Environmental Protection Act 1990, this defence may apply to certain waste offences.

For statutory nuisance claims, it may be a defence to prove that the defendant used 'best practicable means' to prevent or counteract the nuisance. In common law nuisance, an 'act of God' can also be a defence, but this tends to be a narrow exception.

Environmental indemnities are available in contractual agreements that oblige one party to compensate another for losses or liabilities arising from a breach of environmental law.

Law stated - 30 July 2025

Directors' or officers' defences

31 | Are there specific defences in the case of directors' or officers' liability?

Generally, most environmental regimes provide that directors and officers of the company will only be liable for environmental offences where the company has committed the offence and it was either:

- committed with the consent or connivance of the director or officer; or
- attributable to the neglect of the director or other officer.

As a result of the offence needing to have been committed with the consent, connivance or neglect of the directors or officers, prosecution of directors and officers most commonly occurs in the case of small companies where the directors are closely involved in the day-to-day operations of the business. There are generally no specific 'defences' and, instead, individuals would need to argue that the offence did not take place with their consent, connivance or neglect. This could be, for example, by showing that they delegated responsibility for environmental compliance to a competent individual within the company and took reasonable steps to monitor and review compliance.

Law stated - 30 July 2025

Appeal process

32 | What is the appeal process from trials?

The appeal process for environmental law cases in the UK depends on the court or tribunal involved. Magistrates' Court decisions can be appealed to the Crown Court or High Court (Administrative Court) on points of law. Crown Court cases go to the Court of Appeal (Criminal Division). Administrative Court decisions can be appealed to the Court of Appeal (Civil Division) and, with permission, to the Supreme Court (although this is rare). Tribunal decisions (through the Planning Inspectorate) are appealed to the Upper Tribunal, then the Court of Appeal, and potentially the Supreme Court. Appeals require permission and are usually limited to points of law.

Law stated - 30 July 2025

INTERNATIONAL TREATIES AND INSTITUTIONS

International treaties

33 | Is your country a contracting state to any international environmental treaties, or similar agreements?

Yes, the UK is party to numerous international environmental treaties, which reflect its commitment to global environmental protection and sustainability. These include:

- United Nations Framework Convention on Climate Change (UNFCCC), which sets the framework for international cooperation on climate change;
- the Paris Agreement, which covers climate change mitigations, adaptation and financing; and
- the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, which is a multilateral environmental agreement to protect human health and the environment against the adverse effects resulting from the generation, transboundary movements and management of hazardous wastes and other wastes.

Annex B of the International environmental protection report (published on 29 April 2025 by the Department for Environment, Food and Rural Affairs) provides links to other multilateral agreements, treaties and trade agreements the UK is party to.

Law stated - 30 July 2025

International treaties and regulatory policy

34 | To what extent is regulatory policy affected by these treaties?

UK regulatory policy is significantly influenced by international environmental treaties, such as the UNFCCC and the Paris Agreement. These treaties create binding obligations, shaping domestic laws such as the Climate Change Act 2008 and policies such as the Net Zero by 2050 target. The UK aligns its policies with treaty goals, submits progress reports and demonstrates global leadership. While international commitments drive regulatory frameworks, domestic priorities and economic considerations also play a role in implementation.

Law stated - 30 July 2025

UPDATE AND TRENDS

Key developments of the past year

35 | Are there any emerging trends or hot topics in environment law in your jurisdiction?

PFAS

Per- and polyfluoroalkyl substances (PFAS) are commonly known as 'forever chemicals'. Some PFAS fall within the scope of the UK REACH and CLP regimes. There is likely to be increased regulation over the next few years, which may include bans on some PFAS. This is a particularly hot topic given recent media coverage of the prevalence of PFAS in common household products such as non-stick pans.

Circular economy

Extended Producer Responsibility (EPR) schemes have been introduced, requiring companies to manage product lifecycles, including disposal. Measures like the Plastic Packaging Tax and stricter recycling targets are driving waste reduction and sustainable product design.

ESG

Mandatory climate disclosures under the Task Force on Climate-Related Financial Disclosures (TCFD) now apply to large companies, with biodiversity and natural capital gaining focus. The UK is set to adopt Sustainability Disclosure Standards (based on ISSB standards) later on in 2025. Regulators like the CMA are cracking down on greenwashing, and businesses must ensure accurate ESG claims. Supply chain due diligence is also increasingly critical.

Law stated - 30 July 2025

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UPDATE AND TRENDS

Key developments of the past year

LEGISLATION

Main environmental regulations

1 | What are the main statutes and regulations relating to the environment?

The National Environmental Policy Act (NEPA) is the umbrella procedural statute that requires federal agencies to consider the environmental impacts of their actions and involve the public.

Several substantive statutes are media-specific:

- the Clean Air Act (CAA) regulates air quality and emissions;
- the Clean Water Act (CWA) regulates water quality and discharges;
- the Safe Drinking Water Act establishes drinking water standards for tap water and underground injection rules;
- the Resource Conservation and Recovery Act (RCRA) regulates hazardous and solid waste management;
- the Comprehensive Environmental Response, Compensation and Liability Act (also known as Superfund or CERCLA) addresses remediation of legacy disposal sites and release reporting; and
- the Oil Pollution Act provides for oil spill prevention and response.

Other statutes are resource specific. The Endangered Species Act (ESA) protects listed endangered and threatened species and critical habitat. Other statutes protect certain species, including the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act and the Marine Mammal Protection Act.

Other statutes govern natural resource planning and development on federal lands onshore and on the Outer Continental Shelf, including:

- the Mineral Leasing Act;
- the Outer Continental Shelf Lands Act;
- the Federal Land Policy and Management Act;
- the Mining Law of 1872;
- the National Forest Management Act;
- the National Park Service Organic Act;
- the Wild and Scenic Rivers Act;
- the National Wildlife Refuge System Administration Act;
- the Rivers and Harbors Act;
- the Marine Protection, Research, and Sanctuaries Act (ie, Ocean Dumping Act); and
- the Coastal Zone Management Act.

Additional statutes cover certain products or wastes:

- the Toxic Substances Control Act (TSCA) regulates new and existing chemicals and products that contain these chemicals;
- the Pollution Prevention Act creates a national policy to reduce pollution at the source by changing production, operation, and raw materials;
- the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) regulates pesticides; and
- the Federal Food, Drug and Cosmetic Act regulates food, drugs and cosmetics.

Still more statutes focus on human health and safety:

- the Hazardous Materials Transportation Act (HMTA) regulates transportation of hazardous materials;
- the Occupational Safety and Health Act regulates hazards in the workplace; and
- the Emergency Planning and Community Right-to-Know Act provides emergency planning and notification for hazardous and toxic chemicals.

The US Environmental Protection Agency (EPA) offers high-level summaries and citations for key US environmental laws.

Nearly all of these statutes have implementing regulations issued and administered by federal agencies vested with jurisdiction. The federal and state governments share authority to administer some federal environmental programmes (eg, the CAA and the CWA). States also have their own, sometimes more stringent, environmental laws, such as groundwater protection schemes, additional recycling and extended producer responsibility requirements, and state equivalents of the NEPA. Counties, cities and other local government entities may have their own requirements as well.

Law stated - 26 September 2025

Integrated pollution prevention and control

2 | Is there a system of integrated control of pollution?

There is no general system providing integrated pollution prevention and control. The EPA administers most of the national environmental statutes and regulations, but other federal agencies also have jurisdiction over federal lands, wildlife, or specific activity types. State and local authorities generally may impose additional requirements where not pre-empted by federal law. In some cases, the federal system is a delegated programme where states implement minimum federal standards but can impose more stringent requirements.

Law stated - 26 September 2025

Soil pollution

3 | What are the main characteristics of the rules applicable to soil pollution?

Superfund's remediation authorities extend to pollution of soil and other media. The EPA lists sites on the National Priority List based on a hazard ranking system. The EPA also maintains a list of hazardous substances that are subject to such authorities. Liability under the act and state laws is typically strict, joint and several, and retroactive, even to legacy contamination sites. Potentially responsible parties (PRPs) liable for remediation under Superfund include entities that arrange or arranged for the disposal of hazardous substances, transporters and current and former owners and operators of contaminated sites. These PRPs may be strictly and retroactively liable for investigation, evaluation and remedial action, which is generally selected by the EPA in compliance with the National Contingency Plan. Superfund also provides that federal and state 'trustees' can recover from PRPs the costs associated with the injury to, destruction of or loss of natural resources. States also implement brownfield and voluntary response programmes aimed at remediating and reusing legacy contaminated soil sites. While Superfund covers soil pollution after the release of hazardous substances, the RCRA aims to prevent soil pollution in the first place by implementing a cradle-to-grave approach to hazardous waste management and monitoring, and also provides redress for releases that create an 'imminent and substantial endangerment' to the environment.

Law stated - 26 September 2025

Regulation of waste

4 | What types of waste are regulated and how?

The RCRA defines 'solid waste' as 'any garbage, refuse, sludge . . . and other discarded material'. Under that law, 'solid' wastes include solid, liquid, semisolid or contained gaseous material. Solid wastes classified as 'hazardous wastes' under Subtitle C of RCRA include:

- certain specifically listed wastes;
- wastes that fail generic characteristics of toxicity, reactivity, corrosivity or flammability;
- certain mixtures of hazardous wastes and other solid wastes, and residues from treatment of hazardous waste; and
- media (eg, soil and debris) that contain hazardous waste.

Some states have adopted additional provisions that expand the generic characteristics of hazardous waste or the list of wastes identified as hazardous in that state.

The RCRA creates a cradle-to-grave regulatory scheme, including detailed requirements for generators and transporters of hazardous wastes, as well as detailed design and operating standards for treatment, storage and disposal facilities, which generally require state or federal permits. The RCRA requires that certain hazardous wastes meet treatment standards (incineration, stabilisation) before landfill disposal. Certain treatment standards are numerical and others require the use of certain treatment technologies. 'Universal' wastes, including batteries, certain suspended or cancelled pesticides, aerosol cans, lamps and mercury-containing equipment (some states have expanded this list) are subject to streamlined hazardous waste storage, labelling and transportation requirements.

Municipal solid wastes and medical and infectious wastes are generally subject to state transportation and disposal requirements. The Act also imposes record-keeping requirements on disposers of hazardous waste. For hazardous waste storage, depending on the size and type of facility, RCRA regulations may impose accumulation time limits and technical standards (eg, for containers, tanks, drip pads or containment buildings), as well as training requirements, air emission limitations and the development of contingency plans and emergency procedures. Under the HMTA, transporters of hazardous waste must obtain an EPA identification number and comply with the EPA's hazardous waste manifest system. Exemptions exist for transporters of certain recycled or reclaimed hazardous wastes generated by small-quantity generators. Transporters must take certain actions in response to discharges or spills of hazardous waste. Transporters must also comply with applicable Department of Transportation regulations that apply to the transport of hazardous materials by rail, aircraft, water vessel or truck. These include record-keeping, training, manifest, labelling and packaging requirements. RCRA also restricts the export and import of hazardous waste.

In line with increasing efforts to regulate per- and polyfluoroalkyl substances (PFAS), in February 2024, the EPA proposed a rule to add nine PFAS to the list of 'hazardous constituents' under the RCRA. This marks the first time since 2005 that the EPA has considered listing a hazardous constituent. Notably, this rule would not list PFAS as 'hazardous waste' subject to the cradle-to-grave regulatory scheme. However, it would still bring PFAS into the RCRA corrective action programme, which imposes requirements on facility owners and operators for releases of hazardous wastes or constituents. If the rule is adopted, it may eventually lead to full hazardous waste regulations for certain PFAS wastes. The final rule has yet to be adopted, but EPA Administrator Lee Zeldin's April 28, 2025 announcement about PFAS suggests such a final rule may eventually be promulgated. Moreover, in April 2024, the EPA issued a final rule listing two PFAS (PFOA and PFOS), as 'hazardous substances' under Superfund. The RCRA and implementing the EPA regulations and guidance exempt certain recyclable materials (including some by-products) and recycling activities from its hazardous waste regulations, generally if specified conditions are met. Recycling standards under the RCRA range from full regulation to full exemption from regulation. Federal law does not mandate a circular economy or waste recycling in lieu of disposal. Under a growing number of state laws (especially in California), extended producer responsibility requirements (including various recycling targets and obligations to pay fees to support a Producer Responsibility Organization (PRO)) may apply for certain categories of products.

Law stated - 26 September 2025

Regulation of air emissions

5 | What are the main features of the rules governing air emissions?

The CAA regulates air emissions from stationary and mobile sources and obliges the government to regulate air pollutants it determines may endanger public welfare. One of the main provisions of the CAA authorises EPA to establish National Ambient Air Quality Standards (NAAQS). To date, the EPA has established NAAQS for six pollutants: particulate matter (coarse and fine), ozone, sulphur dioxide, nitrogen dioxide, carbon monoxide and

lead. States must adopt state implementation plans (SIPs) to achieve the NAAQS and to control emissions of criteria and hazardous pollutants within their boundaries. The CAA also requires the EPA to regulate emissions of listed hazardous air pollutants (HAPs) and to address ozone-depleting substances, acid rain and regional haze.

Most facilities that produce air emissions are likely to be regulated by the CAA and must comply with federal and state requirements to meet or maintain the NAAQS. The act requires new or modified sources of air pollutants to obtain pre-construction approval. The pre-construction permit programme requires project proponents to demonstrate that emissions from the new or modified sources will not cause or contribute to an increase in air pollutants that would degrade air quality and require installation of certain levels of pollution control equipment depending on the area's air quality. Following construction, new or modified sources must obtain operating permits, which require compliance with equipment standards (eg, best available pollution control equipment) and emissions limits. These standards and limits vary based on facility type and the nature of emissions. Permitting thresholds, emissions limits and equipment standards are generally more stringent for sources emitting HAPs or located in NAAQS non-attainment areas. For certain actions, federal agencies must also demonstrate general conformity or transportation conformity to approved SIPs, thereby ensuring that those actions will not create or worsen air quality violations under the NAAQS.

Although EPA issues permits in some circumstances, most permits are issued by state or local air pollution control agencies under their delegated SIP authority (with EPA oversight). Operating permits are generally required for larger sources and sources that are subject to new source performance standards, HAP standards and acid rain control requirements. Operating permits typically last for five years and include enforceable emissions standards and limitations (which vary by industry or source category), compliance schedules, and monitoring and reporting requirements.

Following a challenge from three states as well as several companies and trade associations, in June 2024 the Supreme Court granted a temporary stay of the EPA's 'Good Neighbour' air pollution rule. That rule would require 'upwind' states to implement air pollution control measures to limit pollution in states 'downwind' of them. In *Ohio v EPA*, the Supreme Court reasoned that although the rule could improve air quality in 'downwind' states, it would unduly interfere with the ability of individual states to manage their own industries and citizens. Moreover, compliance with the rule would impose a significant monetary burden on the challengers. The case will now return to the DC Circuit for adjudication on the merits.

In *Oklahoma v EPA*, the Supreme Court further restricted the scope of the 'Good Neighbour' rule by holding that states can contest EPA's decisions to disapprove 'good neighbour plans' in regional appellate courts rather in the DC Circuit Court of Appeals where nationally applicable rules are generally challenged. Further, as of June 2025, the Trump administration has stated their intention to repeal the plans altogether.

In August 2015, EPA introduced the Clean Power Plan (CPP) to set national standards to reduce carbon dioxide pollution from stationary power plants. In June 2019, the EPA formally withdrew the CPP and replaced it with the Affordable Clean Energy (ACE) rule. In June 2022, the Supreme Court reviewed the DC Circuit's decision to vacate the ACE rule, which would have opened the door for further regulatory action by the Biden administration on power plant greenhouse gas (GHG) emissions. In *West Virginia v EPA*,

the Supreme Court, relying on the 'major questions doctrine', concluded that Congress did not grant EPA the authority to devise emission caps based on a goal to shift power generation from coal to renewable energy and natural gas. The EPA thus exceeded its power by enacting the CPP. Congress must now provide clear direction to the EPA in its delegation of authority before the agency can regulate GHG emissions as attempted in the CPP. In April 2024, the EPA issued a final rule under the CAA that repealed the ACE rule. That same final rule also revised new source performance standards for GHG emissions from certain new and reconstructed fossil fuel-fired electric-generating units (EGUs), and finalised emission guidelines for GHG emissions from existing fossil fuel-fired steam-generating EGUs. In line with the Biden administration's commitment to addressing climate change and environmental justice, during the United Nations Climate Change Conference (COP27) in December 2023, the EPA announced a final CAA rule intended to reduce methane and other pollutants in the oil and gas industry. The rule consists of new source performance standards regulating methane and volatile organic compound emissions as well as first-time emissions guidelines that direct state plans to address existing sources' methane emissions. Moreover, in April 2024, the EPA announced a suite of final rules intended to reduce air, water and land pollution from fossil fuel-fired power plants. Most notably, the rules include significant limits on coal-fired and new natural gas-fired power plants. The rules also consist of tightened mercury and air toxics standards, stronger limits on water pollution from power plants, and requirements for the safe management of coal ash. Many of these rules pertaining to power plants are now being reconsidered by the EPA as of 12 March 2025 as a part of Trump's deregulation policy goal.

Beyond stationary sources, the EPA has broad authority over mobile sources including aircraft, on-road vehicles and non-road engines and equipment. It sets emission standards for vehicles, imposes testing and certification for engines, and controls fuel formulations and additives. Passenger cars and light-duty trucks must meet tailpipe emission standards for various air pollutants and GHGs. In recent years, the unique ability of California to set stricter vehicle emissions standards, which other states may then adopt in lieu of federal standards, has been in flux. In September 2019, the EPA formally revoked California's unique ability to set stricter vehicle emissions standards, which are followed by about a dozen other states, but then reinstated California's authority in March 2022. In December 2021, following a re-evaluation of standards previously set, the EPA issued new stricter standards for tailpipe carbon dioxide emissions for passenger cars and light-duty trucks for model years 2023 to 2026. The Department of Transportation followed by strengthening corporate average fuel economy standards in April 2022 for model year 2026. In March 2021, the EPA issued a final 'phase 3' rule that created stricter GHG emission standards for heavy-duty vocational vehicles, set to apply in model year 2027. However, in June 2025, Congress purported to adopt three Congressional Review Act resolutions to invalidate stricter California standards for certain emissions and compelling zero-emission truck sales; those actions are the subject of litigation.

In addition, for aircraft, in August 2016, the EPA finalised a finding that GHG emissions from certain classes of aircraft endanger human health and welfare. On 11 January 2021, the EPA issued the first-ever CAA GHG emission standards for aircraft. Those standards apply to manufacturers of new aircraft and new aircraft engines, with compliance determined as part of the Federal Aviation Administration's airworthiness certification process. In November 2021, the Federal Aviation Administration published the US Aviation Climate

Action Plan, which outlines the government's approach to achieving net-zero emissions by 2050. The plan relies on more efficient aircraft and engine technologies, production and use of sustainable aviation fuels, advancements in airport operations, international cooperation, and support for climate science research. Several states, including Florida and Tennessee, have begun to issue bans on emitting any chemicals intentionally into the atmosphere for the express purpose of affecting temperature, weather or sunlight.

The US currently has no federal law setting energy efficiency standards or requiring energy audits for buildings. The US Department of Energy (DOE) establishes and implements minimum energy conservation standards for residential, commercial and industrial equipment and appliances used in buildings under the Energy Policy and Conservation Act of 1975, as amended by the National Appliance Energy Conservation Act, the Energy Policy Acts of 1992 and 2005 and the Energy Independence and Security Act of 2007. On 12 May 2025, the DOE published several proposed rules that would roll back some of their energy efficiency regulations. As part of the Inflation Reduction Act of 2022, the government offers incentives for energy efficiency such as 179D Commercial Building Energy-Efficiency Tax Deduction. States and localities have promulgated green building standards, which, generally, are voluntary, and are exploring other means to make buildings more energy efficient. However, as of 4 July 2025, President Trump signed the One Big Beautiful Bill Act into law which repeals portions of the tax credits provided under the Inflation Reduction Act of 2022.

Additionally, in March 2025, EPA Administrator Lee Zeldin issued a policy in which corporations can 'request exemptions' from CAA standards based on 'national security' or 'lack of available technology' justifications. Presently, coal power plants across 23 states have made use of this exemption and a litigation has ensued.

On 1 August 2025, the EPA proposed rescinding the 'endangerment finding' under the CAA, which has formed the backbone of regulation of certain greenhouse gas emissions since 2009 and was upheld by the Supreme Court. This is part of a broader agenda to undo climate regulations and is almost certain to trigger additional litigation.

Law stated - 26 September 2025

Protection of fresh water and seawater

6 | How are fresh water and seawater, and their associated land, protected?

The CWA requires a permit for any person or entity to discharge either pollutants or dredged or fill material to waters of the US. The EPA oversees the former; the US Army Corps of Engineers oversees the latter (subject to EPA veto). In June 2023, in its *Sackett v EPA* decision, the Supreme Court substantially narrowed the definition of 'waters of the US', a decades-long debate and the subject of numerous agency rulemakings and court decisions. In particular, the Supreme Court held that waters of the US include jurisdictional wetlands with a continuous surface connection to relatively permanent bodies of water. In August 2023, the Corps and the EPA issued a final rule implementing the revised definition of 'waters of the US' in *Sackett*. That latest rule and prior rules remain in litigation. On 12 March 2025, the EPA and the Corps issued post-*Sackett* guidance and commenced a new rulemaking effort.

The issue of groundwater discharges has also caught the attention of the Supreme Court. In March 2020, in *County of Maui, Hawaii v Hawaii Wildlife Fund*, the Supreme Court established the 'functional equivalent' test to determine if facilities need a permit to discharge pollutants to a water of the US through groundwater. The EPA is in the process of issuing its interpretation of the test in *Maui*.

Individual states maintain their own programmes regulating these discharges to surface waters, and may be delegated authority to implement the act within their borders. Industrial and municipal 'discharges' of wastewater and designated discharges of storm water to these waters that pass through a 'point source' and 'discharges' of fill material are subject to permitting. Permits must contain the more stringent of technology-based effluent limitations reflecting uniform national standards or effluent limitations designed to protect the water quality of the specific water body to which the discharge is made. States also issue water quality certifications under section 401 of the CWA, which remains the subject of ongoing regulatory changes and litigation aimed to balance state interests and expeditious permitting. Although the Trump administration substantially limited state authority under Section 401, the Biden administration largely restored it. On 1 July 2025, the Trump administration began a process to revisit section 401 implementation. The EPA also regulates the transportation and deposit of waste by a vessel within coastal waters through the Shore Protection Act and Marine Protection, Research and Sanctuaries Act (also known as the Ocean Dumping Act). In addition, the EPA sets standards for different contaminants in drinking water through the Safe Drinking Water Act and monitors states, local authorities and water suppliers who enforce those standards. State law governs the extraction of water for consumptive use. In April 2024, the EPA finalised the first-ever National Drinking Dater Standard for six PFAS. The Biden administration also provided US$10 billion in funding through the Infrastructure Investment and Jobs Act of 2021 (Bipartisan Infrastructure L aw) to assist states, territories and owners of private wells in addressing PFAS contamination. The Make America Healthy Again (MAHA) Commission reported on 28 May 2025, that the EPA is evaluating their position on regulating the use of fluoride in drinking water, which could pose future regulations surrounding drinking water.

On 4 March 2025, in *City and County of San Francisco v EPA*, the Supreme Court struck down EPA's to impose generic prohibitions on CWA section 402 discharge permits that do not have clearly articulated limits to which discharges must conform.

Law stated - 26 September 2025

Protection of natural spaces and landscapes

7 | What are the main features of the rules protecting natural spaces and landscapes?

Several categories of federally owned and managed lands are set aside for conservation and recreational purposes and are under various agencies' jurisdiction. Such designations are usually made by Congress pursuant to an organic statute and a site-specific statute, with the exception of the presidential designations of national monuments under the Antiquities Act. Other categories of protected areas include national parks, national wildlife refuges, national forests, wild and scenic rivers, and wilderness areas. Each type of designation entails balancing predominant or multiple uses. For example, the ESA requires

protection for designated critical habitat areas, while the Land and Water Conservation Fund (LWCF) invests earnings from offshore oil and gas leasing to conserve parks, wildlife refuges, forests, open spaces, trails and wildlife habitat. Under section 6(f) of the LWCF Act, projects supported by LWCF funds that convert areas to non-recreational uses property generally must receive approval from the US National Park Service and provide replacement lands or other mitigation.

The Department of the Interior manages most public lands, including both onshore and the 3.2 billion acres of the Outer Continental Shelf. The Department of Agriculture manages national forests. Designated wilderness areas receive the most protection. Individual states and localities also have systems of protected areas. In recent years, the Department of the Interior has issued several new rules intended to prioritise conservation and curtail certain energy development of federally managed lands. For example, in May 2024, the Bureau of Land Management finalised a Conservation and Land Health rule that includes new authority to issue conservation leases. On 11 September 2025, the Trump administration proposed to rescind that rule. That rule and others also face litigation. The future of this trajectory remains uncertain and subject to the policy priorities of the Executive Branch, as the Trump administration attempts to balance conservation (such as the 3 July 2025 creation of the Make America Beautiful Again (MABA) Commission) with aggressive energy development on public lands.

Transportation (road, transit or rail) projects must additionally comply with section 4(f) of the US Department of Transportation Act of 1966. This section precludes the use of parks, recreation lands, wildlife refuges and historic sites for transportation projects unless there is no feasible and prudent avoidance alternative. Additionally, the project must include all possible planning to minimise harm to section 4(f) properties or demonstrate that the project only has a minimis impact on section 4(f) properties.

Law stated - 26 September 2025

Protection of flora and fauna species

8 | What are the main features of the rules protecting flora and fauna species?

The ESA provides for the protection and recovery of listed endangered and threatened plants and animals and the habitats upon which they depend. Absent a 'no effect' determination, each federal agency must engage in consultation to ensure that its actions are not likely to jeopardise the continued existence of the species or result in destruction or adverse modification of the species' designated critical habitat. The ESA further prohibits anyone from 'taking' a listed species and from engaging in commerce in listed animals or plants or parts thereof. 'Taking' is broadly defined to include killing, capturing or destroying habitat. Some states have enacted legislation to protect endangered and threatened plants and animals (in addition to the federal ESA list) within those states. The Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act, and their respective regulations, also protect against certain actions, including 'taking' migratory birds and eagles.

The US Fish and Wildlife Service (FWS) and National Marine Fisheries Service (the Services) remain engaged in review and potential further revision of regulations implementing the ESA, which in recent years have vacillated between fewer and greater

protections. In 2016, the Services amended their rules to broaden key ESA terms and make it harder to delist species. In August 2019, the Services sought to reform and narrow ESA implementation, including the rules for listing species, designating critical habitat, conducting interagency consultation and removing the automatic extension of take prohibitions to listed threatened species under the jurisdiction of the US Fish and Wildlife Service. Separately, the Services in June 2022 reversed a December 2020 rule that had narrowed the definition of 'habitat' for purposes of designating critical habitat. In May 2024, the Services issued three final rules that primarily undo the 2019 regulatory amendments. Like their predecessors, these latest rules have generated litigation. In April 2025, the Services proposed to remove the regulatory definition of 'harm' implementing ESA section 9 to exempt impacts on habitat. On 23 April 2025, based on a 'national energy emergency' of indefinite length declared by the President, the Department of the Interior announced 'alternative procedures' for informal ESA section 7 consultations for qualifying energy projects. On 9 June 2025, the FWS issued a request for information seeking to simplify the ESA section 10(a) permitting process which provides incidental take protection for certain non-federal activities.

Beyond the ESA, on 4 October 2021, the FWS reversed a January 2021 rule that had excluded incidental take from prohibition under the Migratory Bird Treaty Act, thereby again subjecting incidental take of migratory birds to prosecutorial discretion for enforcement. That same proposed rule included a new broader definition of incidental take and creation of an incidental take permitting programme for migratory birds. On 21 April 2025, the FWS withdrew that proposal. In February 2024, the FWS issued a final rule that created general permits under the Bald and Golden Eagle Protection Act to authorise incidental take of bald and golden eagles associated with wind energy, power lines and certain other projects.

Law stated - 26 September 2025

Noise, odours and vibrations

9 | What are the main features of the rules governing noise, odours and vibrations?

Noise, odours and vibrations are primarily regulated, if at all, at the local or state level. Many states have noise pollution programmes, which vary widely. Local zoning laws and allowed activities also vary widely. Under the CAA, Noise Control Act of 1972, and Quiet Communities Act of 1977, the EPA retains authority to investigate, study and respond to questions about noise pollution and adverse health impacts. Federal noise regulations cover standards for transportation equipment, air and motor carriers, low noise emission products and construction equipment, and are enforced by the EPA or other designated federal or state and local agencies. Workplace exposure to noise, odours and vibrations is regulated by the US Occupational Safety and Health Administration. Additionally, the aviation industry may soon see new noise regulations by the beginning of 2026 based on a 'Leading the World in Supersonic Flight' executive order that encourages the FAA to establish aircraft noise certifications and acceptable noise thresholds for takeoff, landing and supersonic operations. Under common law tort principles, private parties may bring nuisance actions for excessive noise, odours and vibrations. State agencies also are dedicating increasing attention to these issues via environmental justice initiatives. Federal agencies used to utilise environmental justice initiatives as it pertained to these

issues, but the Trump administration has since revoked many key environmental justice executive orders, including via the 'Ending Illegal Discrimination and Restoring Merit-Based Opportunity' executive order that ended the Clinton-era executive order12898, which systematically directed federal agencies to consider environmental justice in their activities.

Law stated - 26 September 2025

Liability for damage to the environment

10 | Is there a general regime on liability for environmental damage?

There is no US generalised regime for environmental damages. Statutes, regulations and common law can impose various types of liability, including administrative, civil and criminal. Courts in turn establish precedent for liability in cases arising under various environmental laws. Alleged violators may face government administrative actions, civil suits or citizen suits. Only the government can prosecute criminal liability in court.

The government generally follows proportional enforcement. Minor offences may trigger administrative or civil sanctions; more serious and intentional violations trigger more severe sanctions or even criminal charges. The government's burden of proof is highest in criminal cases. Some programmes, like Superfund and the Oil Pollution Act, impose strict liability based on party status. The RCRA authorises the government or private parties to seek relief for 'imminent and substantial' endangerment to the environment.

Law stated - 26 September 2025

Environmental taxes

11 | Is there any type of environmental tax?

Most US environmental programmes are regulation based, not tax based. Some environmental tax programmes do exist. For example, the Oil Pollution Act established a federal trust fund to clean up oil spills, financed by a per-barrel tax collected from the oil industry. An underground storage tank trust fund is funded by taxes on certain motor fuels. A federal tax also applies to use or import ozone-depleting chemicals. The Surface Mine Control and Reclamation Act authorises a reclamation programme for abandoned mine land, which is funded by a coal tax. Environmental taxes are more prevalent on the state and local levels, including taxes relating to waste and battery disposal, chemicals, petroleum, tyres, air emissions, oil spill response, litter control and water quality.

Law stated - 26 September 2025

Environmental reporting

12 | Are there any notable environmental reporting requirements (eg, regarding emissions, energy consumption or related environmental, social and governance (ESG) reporting obligations)?

Since approximately 2010, the EPA has required certain large emitters (eg, fuel and industrial gas suppliers, carbon dioxide injection sites) to annually report their GHG emissions data using specified methodologies and the EPA's electronic reporting tool (see the EPA's Greenhouse Gas Reporting Program, codified at 40 CFR Part 98). Following the EPA's multi-step verification process, the annual data is then made available to the public. On 15 September 2025, the EPA proposed to end this programme.

There is currently no general system for comprehensive ESG reporting in the US, although more targeted reporting requirements have been established within the social dimension of ESG, such as the Securities and Exchange Commission's (SEC) conflict minerals rule, the SEC's rule on disclosures relating to human capital management and the State of California's Transparency in Supply Chains Act. To date, most companies voluntarily reporting ESG information have been driven by customer, investor, NGO and other stakeholder expectations. However, the DOE has recently closed comments to a proposed rule that would end that programme. The US currently seems unlikely to transition to mandatory ESG reporting obligations. In March 2024, the SEC adopted new disclosure and reporting requirements for investors concerning registered funds' and advisers' incorporation of ESG factors. The acting SEC Chairman issued a statement in February 2025 questioning what the next steps are for the SEC towards actually adopting the rule and whether the rule is necessary or permissible under the Commission's delegated authority. This follows an executive order on 8 April 2025 for the Attorney General to identify all ESG initiatives and take action to stop all such ESG activities that hinder domestic energy resource activities. These developments may spur widespread efforts to revisit or rewrite company ESG policies.

Meanwhile, Congress remains divided on ESG issues and legislation has remained elusive. For example, in 2021, Congress considered legislation that would require disclosures relating to climate, ESG, political spending, tax havens and offshoring. By contrast, in March 2023, Congress voted to overturn the US Department of Labor's ESG rule that enabled fiduciaries to consider ESG factors when selecting investments for retirement plans. President Biden vetoed the resolution. Certain states have pursued similar actions to limit ESG considerations in investing.

Law stated - 26 September 2025

Government policy

13 How would you describe the general government policy for environmental issues? How are environmental policy objectives influencing the legislative agenda?

Environmental policy is often a function of the presidential administration in power, which changes every four to eight years. Current environmental policy under the Trump administration is largely focused on deregulation and encouraging domestic energy production, particularly fossil fuels. There also are concerted legislative and Trump administration efforts to undo the overall expansion in environmental policy of the prior Biden administration, including on climate change, renewable energy, the NEPA review process and tax benefits under the IRA. These environmental policy objectives have manifested earliest in a series of executive orders issued as early as day one on 20 January

2025., Executive orders declared the US to be in a national energy emergency and urged the expansion of domestic production of energy. Subsequent actions by the Department of the Interior and other agencies have since invoked this declared emergency to apply streamlined review and permitting procedures to certain energy projects. At the same time, the Trump administration has taken several actions to stop or deter wind and solar energy projects. The Council on Environmental Quality (CEQ) and other federal agencies have also largely revoked their regulations implementing NEPA, in favour of guidance and handbooks. The Trump administration has also prioritised shrinking and consolidation of environmental agencies and federal employee staffing across the government. Whether this approach will improve application and consistency in agency decision-making is to be determined.

On the legislative front, Congress has prioritised the Trump administration's stated objectives. Several environmental objectives that cannot be achieved via bipartisan legislation have been pursued via the budget reconciliation process, which is exempt from the 60-vote supermajority requirement in the Senate to overcome a filibuster. Most recently, the One Big Beautiful Bill Act (OBBBA), among other things, repealed many climate change-based policies and tax credits under the Inflation Reduction Act of 2022, including for electric vehicles and renewable energy. It also resumed semi-annual leasing of the Outer Continental Shelf for oil and gas leasing. The Fiscal Responsibility Act of 2023 (FRA), in relevant part, modified and expedited the NEPA process, which the OBBBA further expedited for certain projects that pay federal agencies 110 percent of the cost to prepare or oversee preparation of NEPA documents.. Congress continues to consider various bills to further reform and expedite federal environmental permitting.

Law stated - 26 September 2025

HAZARDOUS ACTIVITIES AND SUBSTANCES

Regulation of hazardous activities

14 | Are there specific rules governing hazardous activities?

See the Resource Conservation and Recovery Act regarding the generation, treatment, storage, disposal and management of hazardous wastes; the Hazardous Materials Transportation Act for transport and handling of hazardous materials; the Comprehensive Environmental Response, Compensation and Liability Act for release of hazardous substances; the Toxic Substances Control Act (TSCA) for production, importation, use, and disposal of specific chemicals; and the 1970 Occupational Safety and Health Act (OSHA) for worker safety at facilities. The OSHA also establishes specific standards for the construction, maritime, and agriculture industries, designed to reduce on-the-job injuries and to limit workers' risks of developing occupational diseases from exposure to various air contaminants, asbestos, and other substances.

Law stated - 26 September 2025

Regulation of hazardous products and substances

15 |

What are the main features of the rules governing hazardous products and substances?

Under TSCA, reporting, record-keeping and other requirements may apply to manufacturers (including importers), processors, distributors and users of chemical substances. Manufacturing a non-exempt new chemical substance (not on the inventory under the Act) is prohibited unless and until the Environmental Protection Agency (EPA) makes an affirmative finding either that a chemical is not likely to present an unreasonable risk or that a manufacturer may begin subject to a compliance order imposing restrictions on the new chemical. Designated 'significant' new uses of approximately 2,800 chemicals are subject to similar notification and review requirements.

Following amendments to the act passed in 2016, EPA also has authority to:

- prioritise chemicals for in-depth review;
- conduct risk evaluations of high-priority chemicals; and
- regulate those chemicals found to present an unreasonable risk under the conditions of use.

The EPA further may issue either orders or rules requiring testing by manufacturers and processors. For new chemicals (ie, not in the inventory), the EPA must now make affirmative findings (eg, whether a chemical is likely to present an unreasonable risk under the conditions of use) with an order to follow if the 'likely to present' finding is made. EPA actions may pre-empt certain state restrictions on chemicals. Based on chemical manufacturer, importer and processor submissions, the EPA updates its inventory which identifies those chemical substances that are considered to be active. Pursuant to the 2016 statutory amendments to the act, in December 2023, the EPA initiated the prioritisation process for acetaldehyde, acrylonitrile, benzenamine (aniline), vinyl chloride and MBOCA, which makes these chemicals candidates for high-priority designation. In October 2024, the EPA finalised changes to the existing regulations governing testing, risk evaluation, reporting, and significant new uses of chemical substances under TSCA to align these regulations with revisions to OSHA's Hazard Communications Standard.

The Consumer Product Safety Improvement Act 2008, implemented by the Consumer Product Safety Commission (CPSC), limits the levels of lead, phthalates and certain chemicals allowed in children's products. The CPSC also administers the Federal Hazardous Substances Act, which requires precautionary labelling to alert consumers to certain products' potential hazards. Moreover, the Federal Trade Commission has established 'green guides' for environmental marketing claims. States additionally have imposed requirements to regulate and restrict the sale of certain products containing specified hazardous substances.

Many of these regulations for chemical products may be subject to change during the current administration. On 28 May 2025, the Make America Healthy Again (MAHA) Commission submitted an assessment that pushes for further policy action to regulate several items to protect the health of children in the US – PFAS, microplastics, fluoride, electromagnetic radiation, phthalates, bisphenols and pesticides. On 9 September 2025, the MAHA Commission issued a strategy with more than 120 initiatives.

Law stated - 26 September 2025

Industrial accidents

16 What are the regulatory requirements regarding the prevention of industrial accidents?

Under the 'general duty' clause of OSHA, each employer is required to provide to employees a place of employment free from recognised hazards. The US OSHA has promulgated numerous standards for industrial processes, establishing specific workplace practices as well as imposing training requirements. For instance, the OSHA's process safety management standard addresses hazards from the use of highly hazardous chemicals. OSHA's hazardous waste operations and emergency response standard requires training and control measures for clean-up operations.

The Emergency Planning and Community Right-to-Know Act requires facilities to report chemical storage and release information, and also requires state and local governments to undertake emergency planning activities. The EPA, in October 2024, proposed a new rule to include 16 individual PFAS and 15 categories of PFAS to the Toxic Release Inventory (TRI) under that Act. In addition, under the CAA, facilities that produce, handle, process, distribute or store certain chemicals must prepare and submit a risk management plan to the EPA. Certain facilities are also required to prepare, develop and implement oil spill prevention, control and countermeasure plans.

Law stated - 26 September 2025

ENVIRONMENTAL ASPECTS IN TRANSACTIONS AND PUBLIC PROCUREMENT

Environmental aspects in M&A transactions

17 What are the main environmental aspects to consider in M&A transactions?

Purchasers should:

- check the target facilities' regulatory compliance;
- conduct 'all appropriate inquiries' including evaluating the facilities' environmental conditions and potential liability and costs for onsite remediation; and
- evaluate potential liabilities associated with the current and historic generation and offsite disposal of wastes from the target's operations.

A share purchaser generally acquires all the corporate target's assets and liabilities, including the predecessor's environmental liabilities. An asset purchaser may be able to acquire the assets free of environmental liabilities arising from pre-closing regulatory non-compliance by the target and from historic offsite disposal.

The Trump administration has signalled a desire to reduce federal oversight, potentially making M&A transactions easier for corporation. At the same time, it has also signalled

a protectionist stance, including on energy and resource development, which could affect transactions involving foreign-based entities.

Law stated - 26 September 2025

Environmental aspects in other transactions

18 | What are the main environmental aspects to consider in other transactions?

The scope of many environmental laws has been interpreted quite broadly to impose liability on entities beyond the actual owner of a facility or business. For instance, lenders have been held liable in some circumstances for their borrower's environmental liabilities (although there are some defences and 'safe harbours' available for lenders). An entity acquiring contaminated real property (whether through a purchase, foreclosure or corporate restructuring) will be liable for the remediation of such contamination, even if the acquirer had nothing to do with the cause. The acquirer may have contractual indemnity or statutory rights of contribution from one or more prior owners, but government enforcement authorities can choose to seek recourse against the current owner. Transactions involving entities in bankruptcy present unique environmental issues. Environmental claims that 'continue' after a transaction or even after an entity emerges from bankruptcy, such as obligations to correct ongoing non-compliance and to remediate contaminated property, often are not discharged in the bankruptcy.

Law stated - 26 September 2025

Environmental aspects in public procurement

19 | Is environmental protection taken into consideration by public procurement regulations?

Federal regulations require the US government to take into account certain environmentally preferable products in the procurement process. Some state and local governments also have procurement policies that favour environmentally preferable products. Though not procurement-based, agencies have included increasingly stringent environmental conditions (eg, community benefit plans) as conditions of awarding federal financial assistance under recent legislation encouraging certain infrastructure development. Moreover, certain environmental violations may result in a company being suspended or debarred from doing business with the US, state or local government.

On 16 April 2025, the White House previewed an overhaul of the federal procurement policy 'in order to increase competition and efficiency while decreasing costs'. In the statement, the White House signalled that it would be rewriting Federal Acquisition Regulations (FAR) in order to lower compliance costs and reduce regulatory buildup. While the statement did not explicitly mention any changes to environmental aspects in the FAR, it is an area to watch due to the Administration's broader goals of environmental deregulation. In addition, the Administration has aggressively cancelled and clawed back previously approved

federal funding for various projects, including based on previously agreed environmental objectives and conditions.

Law stated - 26 September 2025

ENVIRONMENTAL ASSESSMENT

Activities subject to environmental assessment

20 | Which types of activities are subject to environmental assessment?

The National Environmental Policy Act (NEPA) requires environmental review of most discretionary federal agency actions, including approving, financing, assisting or conducting plans, projects or programmes, whether regional or site-specific. However, the NEPA does not restrict any industrial activity or mandate particular environmental outcomes. Many NEPA documents address the federal government's natural resource management decisions. Certain actions are exempt from the NEPA, such as ministerial agency actions or where potentially duplicative environmental reviews are required. In some 'small handles' situations where only a small component or minor approval involves a federal nexus, the NEPA might not apply to the larger project. Certain states have laws analogous to the NEPA, which vary significantly.

Between 1978 and 2025, the CEQ had binding federal government-wide regulations implementing NEPA. Following court decisions finding that CEQ has no regulatory authority, and in furtherance of Trump administration directives such as Executive Order 14514 'Unleashing American Energy', on 19 February 2025, the CEQ issued an 'Interim Final Rule' rescinding its regulations, effective 11 April 2025. Subsequently, multiple agencies have issued interim final rules rescinding most of their NEPA regulations and have instead issued guidance. Prior to that, Congress codified several components of the CEQ's regulations in the 2023 Fiscal Responsibility Act, including by clearly allowing applicants to prepare draft NEPA documents, imposing hard time and page limits on studies, requiring the designation of a lead agency and limiting analysis to those environmental impacts that are reasonably foreseeable. On 23 April 2025, based on a 'national energy emergency' of indefinite length declared by the President, the Department of the Interior announced 'alternative arrangements for NEPA compliance' for qualifying energy projects purporting to complete NEPA reviews in 14 to 28 days. On 29 May 2025, the US Supreme Court's decision in *Seven County Infrastructure Coalition v Eagle County* narrowed the scope of judicial review and expanded deference to agencies' NEPA reviews.

Law stated - 26 September 2025

Environmental assessment process

21 | What are the main steps of the environmental assessment process?

The NEPA requires an environmental impact statement (EIS) for 'proposals for... major federal actions significantly affecting the quality of the human environment.' A less detailed

environmental assessment (EA) may suffice for a federal agency action with insignificant or unclear impacts. Finally, categorical exclusions (CEs) apply to categories of agency actions that do not significantly affect the environment individually or cumulatively. An agency can perform a more detailed review under the NEPA than legally required and is guided by agency-specific regula tions implementing the NEPA.

The lead federal agency is responsible for the NEPA review and may invite assistance by cooperating or participating with federal, state, tribal and local agencies with jurisdiction or special expertise. The lead agency may also hire and supervise third-party consultants, typically funded by the project proponent, to prepare the NEPA analysis. For an EIS, and sometimes an EA, the lead agency will publish a notice of intent for the proposed action, conduct scoping of affected resources or values, prepare a draft analysis and then finalise its analysis and decision. The project proponent and public may submit information and comments during this process, including typically a minimum 45-day comment period on the draft analysis. The adequacy of the final impact state ment may be challenged in court. There is increasing legislative and regulatory focus on facilitating and expediting the NEPA reviews, including by integrating the NEPA with early planning efforts and other environmental requirements for a given project. As described above, however, those rules remain somewhat in flux as of this writing.

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REGULATORY AUTHORITIES

Regulatory authorities

22 Which authorities are responsible for the environment and what is the scope of each regulator's authority?

The Environmental Protection Agency (EPA) implements most national environmental statutes. The Department of the Interior and the US Forest Service implement a variety of laws addressing environmental review, wildlife and cultural and historic resources. The Clean Water Act (CWA) wetlands fill permits are issued by the US Army Corps of Engineers with EPA oversight. The US Department of Justice litigates cases arising under federal environmental and natural resources laws. State agencies issue most operations permits pursuant to authority delegated by the EPA, and also share enforcement authority. States generally take the lead under the Clean Air Act (CAA), CWA and the Resource Conservation and Recovery Act on inspections and enforcement, with the EPA retaining significant 'overfiling' enforcement authority with regard to violations of these statutes at individual facilities. In other areas (eg, the Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act and the Emergency Planning and Community Right-to-Know Act), the EPA generally takes the lead on enforcement.

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Investigation

23 What are the typical steps in an investigation?

Although state and federal environmental agencies routinely conduct inspections of regulated facilities, comprehensive governmental investigations are not usually initiated as a result of most regulatory compliance issues. Many compliance issues, whether self-disclosed or identified as a result of an agency inspection, are resolved informally. If agency inspectors identify non-compliance through review of a regulated facility‘s records or an onsite inspection, under most circumstances agency personnel will initially discuss the alleged violations with facility personnel. If a regulatory agency initiates a comprehensive or even a limited investigation, it will typically make a site inspection, undertake testing, sampling or similar activities, conduct interviews of facility personnel and prepare a written report and notice of violation identifying the practices or events constituting alleged non-compliance. The facility is entitled to obtain split samples of materials removed by the agency for testing, to retain copies of records requested by the agency and to be represented by counsel throughout the investigation.

Environmental agencies also have the power to initiate criminal investigations, which are generally brought when 'serious’ environmental violations (which pose actual environmental harm or substantial risks of harm) are committed 'knowingly’ or 'intentionally’. These criminal charges can be brought against the company, culpable or responsible individuals or both. If criminal charges are brought against individuals in the federal system, the risks of an active prison sentence are real. With regard to companies, apart from substantial fines, the biggest adverse impact can arise from suspension or debarment from public contracting, which can also spill over into contractual bars imposed by the compliance requirements of larger corporations, which prohibit them from using vendors with corporate criminal records.

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Administrative decisions

24 | What is the procedure for making administrative decisions?

Most administrative decision-making processes are supposed to be open and allow for participation by interested parties and the general public. The procedural aspects of administrative decision-making vary based on a number of factors, including the agency involved (eg, federal or state), the type of decision (eg, individual permit or variance, enforcement) and the environmental statute under which the decision is made. Some administrative processes resemble a formal trial. More informal proceedings are decided based on written submissions. Although procedures vary, the parties typically may use any type of evidence they deem relevant in administrative proceedings. There also are means to seal confidential information if applicable. Any subsequent court challenge to a final agency action is typically based on and limited to the same administrative record as before the agency. The current Administration, in the name of efficiency and other factors, has placed less of a priority on public involvement and pursued a large number of interim final rules and decisions with immediate effect.

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Sanctions and remedies

25 | What are the sanctions and remedies that may be imposed by the regulator for violations?

Federal and state agencies may pursue injunctive relief and require the abatement or cessation of permit violations or environmental harm. Remedial steps may include installing equipment to control emissions, ceasing certain activities or revoking a permit or shutting down a facility. Many environmental statutes also authorise civil and criminal penalties, often calculated on a per-day, per-violation basis. Agencies may – and sometimes must – issue warnings or notices of violations before taking more severe enforcement actions. An agency typically may pursue an administrative enforcement action or sue the violator in federal court.

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Appeal of regulators' decisions

26 | To what extent may decisions of the regulators be appealed, and to whom?

Nearly all formal administrative decisions from environmental agencies can be appealed by the recipient. Appeals can be based on factual findings and legal conclusions and can also challenge the extent of the remedy imposed by the decision-maker. Administrative appeal procedures differ among agencies, including potential proceedings before an administrative law judge or an agency appeals board. These appeal procedures may or may not be mandatory to exhaust of administrative remedies before proceeding to court, depending on the applicable statute and regulations and whether the challenged decision has immediate effect. A final agency action may be appealed to a US district court, or in some instances directly to a US court of appeals. These cases typically proceed based on governing law and the administrative record filed by the agency, and generally do not involve discovery or trial. Judicial review follows the Federal Rules of Civil Procedure, the Federal Rules of Appellate Procedure, and individual courts' local rules.

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JUDICIAL PROCEEDINGS

Judicial proceedings

27 | Are environmental law proceedings in court civil, criminal or both?

Both. Most violations trigger administrative or civil enforcement. In addition, a party may be prosecuted in a criminal case if that party has committed a knowing violation of the law or a permit (or in some cases, even a negligent violation). Civil regulators and criminal prosecutors have substantial discretion about whether and which charges to bring in response to environmental violations, but typically seek remedies commensurate with the

underlying offence. Since the consequences associated with criminal charges are more severe, US law imposes a higher burden of proof for crimes (eg, 'beyond a reasonable doubt') as opposed to civil violations (eg, 'preponderance of the evidence' or 'more probable than not'). A party challenging a federal agency action on environmental grounds may bring a civil case in a proper federal district court or a specific (eg, appellate) court if the relevant statute so directs.

Under the Trump administration, environmental law proceedings may increasingly take place in civil rather than criminal court. On 9 May 2025, Executive Order No. 14294- , 'Fighting Overcriminalization in Federal Regulations', ordered federal agencies to explicitly describe the conduct subject to criminal enforcement and took aim at strict liability criminal offences, describing them as 'absurd and unjust'. To that end, it directs federal agencies to assess whether they can adopt a background *mens rea* standard for all existing regulations. This and other actions driven by deregulation policies may narrow criminal enforcement of environmental regulations, with civil enforcement potentially filling the gap.

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Powers of courts

28 | What are the powers of courts in relation to infringements of environmental law?

In civil cases brought by governmental entities or citizen plaintiffs to enforce environmental laws, courts are generally authorised to require violators of environmental legal requirements to pay penalties and to undertake injunctive relief to abate the violation or address the environmental impacts of the violation. In a criminal case, individual defendants who plead guilty or are convicted at trial can generally be ordered to pay a higher fine and serve time in prison. The primary factors that the US courts consider in imposing such a sentence include:

- the level of harm or danger imposed;
- the degree of the violations;
- the duration of the violations; and
- whether the violations required a substantial clean-up.

Under Federal Rule of Civil Procedure 65 and similar court rules and case law, courts may also grant a preliminary injunction or other interim relief to, for example, stay a challenged agency action or prevent a project from going forward during the litigation. An 11 March 2025 Presidential Memorandum directs the US Department of Justice to aggressively pursue plaintiffs' posting of security for preliminary injunctive relief, which security otherwise is often waived or nominal.

Rulings of the Supreme Court, in the 2024 and 2025 terms, have diminished the power of agencies and increased the power of courts in resolving alleged violations of environmental law by agencies or by regulated entities. First,*Loper Bright Enterprises v Raimondo* overruled the Supreme Court's longstanding *Chevron* standard, under which courts had generally deferred to reasonable agency interpretations of ambiguous provisions in their governing statutes. Second, *Corner Post, Inc. v Board of Governors of the Federal Reserve*

Systemm> may enable facial challenges to longstanding regulations by holding that the general six-year statute of limitations does not run until the specific plaintiff is harmed. Third, in *Securities and Exchange Commission v Jarkesy*, the Supreme Court curtailed at least one agency' s authority to issue penalties without a court jury trial. And on 27 June 2025, in *Trump v CASA*, the Supreme Court generally limited the scope of injunctive relief that lower courts may order, thereby curtailing the increasing trend of universal or nationwide injunctions against agency actions found to be unlawful.

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Civil claims

29 | Are civil claims allowed regarding infringements of environmental law?

Certain environmental statutes (eg, the US Clean Air Act (CAA), the Clean Water Act and the Resource Conservation and Recovery Act) contain 'citizen suit' provisions authorising non-governmental entities to sue third parties for injunctive relief for violations. A private party claiming injury from hazardous activities also may seek damages or injunctive relief in a tort action. No contractual relationship among the private parties is necessary, but contracts can create obligations for compliance with environmental laws. The Administrative Procedure Act also generally enables citizen plaintiffs to file civil lawsuits challenging final agency actions, or omissions in some circumstances, as arbitrary and capricious. The Act also permits lawsuits for a federal agency's failure to comply with procedural or substantive requirements of other laws.

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Defences and indemnities

30 | What defences or indemnities are available?

In civil cases, potential defences frequently include:

- statutes of limitations (up to five years is common);
- ambiguity of statutory or regulatory language;
- compliance with a valid permit;
- factual defences; and
- limited statutory defences.

In criminal cases, additional defences often may include:

- lack of knowledge;
- the government's failure to meet its heightened burden of proof; and
- other constitutional arguments unique to criminal cases (eg, lack of fair notice or void for vagueness).

A liable party could have indemnity rights against other parties or be a party to contracts with other parties under which the violator in turn may seek recovery, but such indemnities do not shield the violator from liability to the government. In Superfund litigation, in which multiple parties can be liable, courts have generally held that liability is strict and joint and several (subject to potential 'divisibility' defences).

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Directors' or officers' defences

31 | Are there specific defences in the case of directors' or officers' liability?

Routine environmental violations generally do not create officer and director liability. However, some federal environmental statutes, including the CAA, specifically state that an 'operator' or 'responsible corporate officer' can include 'any person who is senior management personnel or a corporate officer.' In addition, a number of reports submitted to the US Environmental Protection Agency and state agencies are required to include formal certifications (under oath) with regard to the accuracy of the information contained therein, which can provide the basis for claims against corporate officers.

More often, various theories under laws governing the internal governance of corporations and other business enterprises can support personal liability of corporate directors and officers under environmental and other public health laws – for example:

- the corporate veil is pierced;
- the director or officer personally participated in the improper activity; or
- the director or officer personally exercised substantial control and supervision over the activity in question.

US law generally does not permit liability based only on the corporate position or job title of director or officer. However, federal prosecutors can rely on a range of surrogates to prove the executive's knowledge. Therefore, criminal charges can be pursued when the directors or officers:

- are personally aware of, or involved in, the commission of a crime;
- aid and abet a crime;
- fail to prevent the commission of a crime by others within the corporation by either turning 'wilfully blind' or negligently supervising the conduct of those subject to their control; or;
- fail to implement preventive measures to ensure that violations do not occur.

Directors' and officers' liability insurance and corporate indemnification can mitigate such liability.

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Appeal process

32 What is the appeal process from trials?

In the federal courts, a judgment from a trial-level federal district court is directly appealable to one of 12 federal circuit courts of appeals. From a circuit court of appeals, a party may petition the US Supreme Court to hear an appeal, but the Supreme Court's jurisdiction is discretionary and rarely exercised. The Supreme Court recently has increased the use of its 'shadow docket' to decide interlocutory appeals of lower courts' preliminary injunctions.

Each of the 50 states has its own court system, but generally there is a right of review from the trial level to an intermediate appellate court and then to the state's highest court. In many states, the highest court's jurisdiction is discretionary. State court systems vary as to the possible levels of appeal, but there are typically two or three levels of courts (although the jurisdiction of some courts of appeal may be discretionary).

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INTERNATIONAL TREATIES AND INSTITUTIONS

International treaties

33 Is your country a contracting state to any international environmental treaties, or similar agreements?

Yes. For example, regionally, the US and Canada have a bilateral Air Quality Agreement. The US is also party to the North American Agreement on Environmental Cooperation and the North American Free Trade Agreement and its side agreements, which have environmental aspects.

Multilaterally, the US is party to, among other agreements: the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter; the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora; and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer. The State Department maintains a complete list of international agreements to which the US is party. The US is not a party to a number of other multilateral environmental agreements, generally for lack of certain domestic authority for which new legislation would be required before the US could join, including: the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal 1989; the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade 1998; and the Stockholm Convention on Persistent Organic Pollutants 2001.

In an effort to address global plastics pollution, the US is currently involved in negotiations with other countries for a legally binding international treaty that would apply to the entire life cycle of plastics. If adopted, the treaty may impose legal requirements that would essentially govern plastics use in all products. The most recent (sixth) round of negotiations (INC-5.2) was held in August 2025, but still yielded no final agreement.

However, the current administration is generally skeptical of international environmental treaties. A 20 January 2025 executive order withdrew the US from the Paris Climate Agreement to 'prioritize US economic and energy interests'. However, as of the time of publication, the US remains party to the parent agreement, the United Nations Framework Convention on Climate Change (UNFCCC), which governs the Paris Agreement. As a result, the US is still able to vote on UNFCCC resolutions and has GHG reporting obligations. The current Administration's desire to enter into various new international trade agreements may also be a vehicle for changes to environmental obligations.

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International treaties and regulatory policy

34 | To what extent is regulatory policy affected by these treaties?

With few exceptions, treaties are generally not given direct effect in US law. The US has generally implemented its treaty obligations under multinational environmental agreements through national statutes and regulations. In some cases, this domestic authority has pre-dated the US international obligations and US law and policy make no direct reference to treaties. In other cases, however, the US has enacted new legislation expressly to satisfy international obligations, and US policy under such laws is closely keyed to the developments under international agreements. As a general matter, federal agencies that are responsible for developing, implementing and enforcing US environmental regulatory policy are conscious of US obligations under international agreements, as well as of developments under agreements to which the US is not yet a party.

States, however, in some cases have taken the lead to act consistent with international treaties and laws. For example, the states that have adopted carbon credit systems have adhered to the model of the European Union Emissions Trading System. Additionally, foreign treaties may influence environmental best practices adopted by transnational corporations operating in the US.

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UPDATE AND TRENDS

Key developments of the past year

35 | Are there any emerging trends or hot topics in environment law in your jurisdiction?

The re-election of President Trump in November 2024 unified Republican control of the Executive and Congress, and a conservative super-majority on the US Supreme Court have heralded a sea change in environmental law in the US, just as the Biden and first Trump administrations had heralded sea changes four and eight years earlier. The severity of these policy swings has increased over time, with the current Trump administration focused on not only promoting its favoured policies going forward but also eviscerating prior

actions taken by its predecessor, including reevaluation and withdrawal of prior approvals for complex infrastructure projects.

Overall, the emerging environmental law trend is deregulation. Largely through a litany of unilateral executive orders, as well as corresponding individual agency directives, the Trump administration has indicated a desire to greatly increase domestic industrial and certain energy development by curtailing the breadth of environmental regulations and time frames that companies must endure. In particular, there is a strong emphasis on de-emphasising climate change and environmental justice initiatives. Individual agencies are actively identifying regulations and even whole divisions or offices to amend or rescind. At the same time, the federal workforce has decreased significantly, posing challenges for implementation and enforcement of environmental and natural resources laws.

Further, criminal case for alleged environmental crimes have slowed in the past year. In reaction to federal environmental law developments, and those that can be reasonably expected in the future, additional environmental statutory and regulatory protection, as well as environmental enforcement, can be expected at the state and local levels, subject to their budgeting constraints. In addition, increased numbers of citizen suits by non-environmental and public health organisations likely will continue to be filed. The extent to which such non-federal efforts can fill their perceived gap in federal efforts is unclear.

At the same time, the judicial branch of government wields increasingly significant influence and power over environmental and climate policy. Many regulatory efforts and policy reversals have triggered significant amounts of litigation across the country, particularly under the Administrative Procedure Act (APA). In several instances, ongoing challenges to Obama, Trump or Biden administration rules have been mooted or stayed to accommodate new litigation on superseding Trump administration regulatory actions. In some cases where new actions were struck down in court, the original challenges subsequently resumed. Other cases seek broad relief from industry for climate change impacts under common law theories. These cases will continue for the foreseeable future. Meanwhile, the *Corner Post* decision may reopen older agency actions to fresh challenges. The Supreme Court's and other federal courts' increasing scrutiny of federal agency actions in the environmental arena marks a shift of power from agencies to courts. In particular, the Supreme Court's 30 June 2022 decision in *West Virginia v EPA* narrowed the Biden administration's ability to meet its environmental and climate goals by prohibiting the Environment Protection Agency (EPA) from mandating generation-shifting (from coal-fired power to renewable energy generation) measures under the existing Clean Air Act. In doing so, the Supreme Court relied upon a 'major questions' doctrine that could form the basis for further challenges to environment-related actions by agencies. In addition, the Supreme Court's 25 May 2023 decision in *Sackett v EPA* narrowed the scope of federal jurisdiction over wetlands under the CWA by requiring wetlands to have a 'continuous surface connection to bodies that are waters of the US in their own right.' In June 2024, the Supreme Court issued three major decisions that further impede on agency decision-making power. *Loper Bright Enterprises v Raimondo* overturned the basic *Chevron* standard of deference to federal agencies in reviewing their interpretations of ambiguous governing statutes, and affirmed courts' role in determining 'the best reading' of a statute. *Ohio v EPA* stayed the EPA's 'Good Neighbour' rule, which would have imposed obligations on states whose air pollution impacts states 'downwind' of them. *SEC v Jarkesy* limited the Securities Exchange Commission's administrative adjudication authority, raising the question of whether other agencies (including those involved in environmental rules and

policies) can seek civil penalties through administrative proceedings in the future. And the June 2025 decision in *CASA v EPA* largely removed nationwide injunctions as a means to preliminarily or permanently delay new agency initiatives. Meanwhile, the Supreme Court's *Loper* and *Seven County* decisions reaffirm deference owed to agencies under the APA on factual or technical issues. These cases and the outcome of upcoming environmental and administrative law cases applying the Supreme Court's new precedent will further erode or bolster the ability of federal agencies to pursue environmental objectives.

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