SpencerFane®

Environmental Law

Identify. Avoid. Solve. This is how we approach environmental challenges.

Businesses face considerable uncertainty in navigating environmental matters, amid profound changes in environmental laws and regulations in the last decade and ongoing questions about legal and regulatory responses to climate change. The Spencer Fane Environmental team understands these challenges and has deep experience developing practical solutions to even the most complex environmental problems.

Overview

Avoiding risks to operations and reaching resolution as quickly as possible

The Spencer Fane Environmental team has deep experience helping clients not only identify and resolve acute environmental challenges – regulatory enforcement actions and litigation – but also providing guidance that helps reduce near-term and long-term business risks.

We also know that legal issues are just one among many important considerations to navigate when dealing with an environmental matter. Keeping a business operating, finding and seizing opportunities for growth, and strategizing for the future, are just as important.

Helping businesses across a wide range of industries

We help manufacturers, oil and gas operators, industrial facilities, real estate developers, construction contractors, and related businesses address and resolve environmental challenges. Steering clear of unending deliberations over countless possible outcomes to an environmental issue, we help clients move forward and achieve their legal and business goals.

We advise on matters involving the Clean Air Act; Clean Water Act; Resource Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund); TSCA; FIFRA; NEPA; the Endangered Species Act; and wetlands regulations, along with state and local environmental programs.

We also assist clients in addressing:

- Liability
- Cleanups
- Climate change and sustainability issues
- Asbestos
- Lead paint
- Underground storage tank issues

While in some instances this means vigorously defending a matter in litigation, more frequently, our team seeks an approach that helps avoid litigation altogether. Whenever possible, we pursue outcomes that preserve long-term relationships with the regulatory agencies that our clients will continue to work with throughout the life of their businesses.

Our ability to counsel in this way stems from our team's commitment to maintaining a deep understanding of the issues of greatest concern to our clients. Whether the matter is mundane or complex, our attorneys do not just study an environmental problem. We weigh the technical issues against a client's business goals to find sustainable solutions that satisfy an environmental concern while protecting a client's interests.

Areas of Focus

Environmental Cleanups, Brownfields, and Contaminated Properties

Helping to transition potentially burdensome properties into successful redevelopments. Spencer Fane Environmental attorneys guide developers, lenders, and businesses, as well as public and quasi-public entities, through the legal intricacies related to environmental cleanups and the redevelopment of Brownfields and contaminated properties. Our attorneys:

- **Recognize which redevelopment programs are viable.**
- **Have worked in regulatory agencies and have strong relationships** with key stakeholders related to environmental redevelopment projects.
- **Understand how federal and state regulators think** and provide valuable insight to clients seeking regulatory approvals.
- **Lead successful negotiations** that create meaningful relationships between clients and regulators, government officials, and community leaders.
- **Lead clients through the entire cleanup and redevelopment process**, including the transaction, financing, land-use planning, regulatory approval, and remediation to further the development or disposition of properties.
- **Advise on the transfer of surplus federal properties**, routinely assisting clients in navigating the base realignment and closure (BRAC) and federal property disposal requirements.

Environmental Health and Safety (EHS)

Maintaining safe job sites, ensuring compliance with standards, and defending against enforcement actions. Our EHS team counsels businesses in a variety of industries to implement best practices for safety and maintain regulatory compliance with Occupational Safety and Health Administration (OSHA) requirements.

We work to:

- **Assess and minimize workplace risk**.
- **Ensure compliance with standards**, addressing and resolving deficiencies before enforcement is sought.
- **Implement chemical accident prevention programs**, including EPA's Risk Management Plan (RMP) program and OSHA's Process Safety Management (PSM) program.
- **Respond to OSHA investigations and related health and safety audits**.
- **Contest OSHA citations and resolve them** on favorable terms.
- **Defend against enforcement actions**, including both civil and criminal cases.

- **Defend against whistleblower allegations** and related complaints regarding workplace safety and claims of unsafe practices.
- **Handle crisis management and incident investigations** in the event of workplace fatalities or catastrophic incidents (e.g., explosions, fires, chemical releases).

Environmental Litigation

Representing clients throughout the U.S. in traditional and cutting-edge environmental litigation. Spencer Fane environmental litigators bring incisive and innovative analysis of laws, regulations, and legal precedents to the counsel they provide to clients as well as a keen understanding of the operational needs that shape clients' litigation and business goals.

Working with clients to reduce litigation exposure and resolve disputes on favorable terms, we:

- **Distinguish claims that merit quick resolution from those that do not**.
- **Serve as counsel in multiparty litigation involving hundreds of potentially responsible parties**, as joint defense counsel, common counsel, liaison counsel, or mediators.
- **Advise on multiparty litigation involving federal, state, and local government agencies**.
- **Have been retained as neutral allocation consultants** to help apportion costs and resolve claims.
- **Serve as expert witnesses in complex cases** where our expertise can assist the parties and the courts.

Several of our litigators have trial and appellate court experience enriched by the know-how that comes from holding prior senior-level positions at the Environmental Protection Agency, the Department of Justice, and state and local enforcement agencies.

Environmental Permitting, Compliance, and Enforcement Defense

Developing practical, innovative, and strategic solutions to ever-evolving requirements. Environmental permits will become even more important as state and federal regulators seek to further restrict emissions believed to contribute to global climate change.

Spencer Fane attorneys are well-positioned to address new and emerging legal and regulatory realities, working with businesses in a wide variety of industries subject to environmental permitting. Our team:

- **Brings decades of experience advising on** federal, state, and local environmental laws and regulations.
- **Recognizes that permitting is in the service of projects and operational goals**, and we work to clear obstacles and prevent delays.
- **Seeks collaborative approaches** with regulatory bodies to expedite approvals and permits.
- **Works to put clients in a position of strength in relation to compliance**, capable of mounting a vigorous defense in response to enforcement actions.
- **Responds to civil and criminal enforcement actions** in a manner that protects business interests, minimizes disruption to operations, and achieves successful resolution.

Transactions and Project Development

Performing environmental due diligence for transactions and providing compliance and sustainability support for project development. From addressing the environmental issues in mergers and acquisitions, real estate transactions,

financing, and restructurings to assisting in the development of infrastructure projects, Spencer Fane Environmental attorneys help clients address the full range of environmental legal and regulatory hurdles involved in transactions and projects.

Members of our team advise on:

- **Environmental site assessments**
- **Environmental indemnities, representations, and warranties**
- **Environmental insurance**
- **Environmental compliance audits**
- **Environmental disclosure obligations**
- **Brownfields redevelopment**

Our team has provided environmental counsel on a range of projects, including:

- **Renewable energy projects**
- **Drinking water projects**
- **Mine development**
- **Landfills**

We collaborate closely with Spencer Fane corporate lawyers managing deals as well as outside environmental, financial, and insurance advisers to assess and mitigate risk and meet the full range of transactional needs.