

## Environmental Regulatory

We regularly counsel our industrial clients about the numerous environmental regulatory programs affecting their businesses.

Our experience includes counseling on environmental compliance issues, obtaining permits under various regulatory programs, and representing clients in enforcement actions brought by various environmental agencies. Such experience includes representing individuals and entities from both the private and public sectors in administrative hearings, including contested case hearings, at the local, state and federal levels. Our representation of clients in enforcement includes responding to Notices of Violation and Notices of Enforcement, negotiating settlements with agency staff, and/or challenging the agency's allegations.

Due to the ever-changing nature of environmental laws and regulations, we represent our clients in rulemakings at state and federal agencies and in the legislative process at the Texas Legislature. We have wide ranging experience in developing legislative strategies and crafting solutions through interaction with regulated entities, state agencies and state officials in order to accomplish the business goals of our clients. We have training and experience in drafting legislation and amendments for consideration by the legislature, researching and tracking legislation of interest or concern to our clients, and providing expert testimony on various environmental statutes and policies. Our attorneys have been involved in the analysis of environmental legislation in every session of the Texas Legislature since 1981, giving us a deep historical understanding of Texas environmental law. Among our attorneys is a former General Counsel of the Environmental Regulation Committee of the Texas House of Representatives and a former General Counsel of the TCEQ as well as an attorney who served in the dual capacity as legal counsel to the executive director and Houston Air Quality Director at TCEQ. If necessary and appropriate, our attorneys frequently work closely with lobbyists to help achieve our client's legislative goals.

Our extensive experience in representing clients in state and federal administrative rulemaking proceedings includes assisting in the drafting of technical comments, meeting with agency management to discuss those comments and, when necessary and appropriate, filing of judicial challenges to such regulations. We are often successful at convincing agencies to adopt better-reasoned regulations and in some cases, to forego regulations that would negatively impact our clients.

Representative experience of our attorneys under the major federal and state environmental laws includes the following:

### **Clean Air Act**

We have significant experience representing clients in connection with:

- Major and minor new source review (NSR) permits (including Best Available Control Technology, Prevention of Significant Deterioration (PSD) and non-attainment NSR applicability determinations, non-attainment netting evaluations, and health effects reviews), permits by rules, standard permits and flexible permits
- Enforcement by the TCEQ, EPA, and other regulatory agencies
- Criminal and civil enforcement by Harris County and the City of Houston
- EPA and TCEQ special air investigations, including Texas Air Pollutant Watch List investigations
- Single property designations
- Counseling and rulemaking advocacy regarding complex regulatory requirements such as New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP)
- Acid Rain Program compliance
- Federal Operating Permits
- Ozone attainment designations
- Advising upstream and midstream oil and gas operations about new state and federal regulatory developments
- State rulemaking, including multiple state implementation plan (SIP) rulemakings relating to non-attainment areas dealing with issues such as ozone, fine particulate matter, and emissions trading. This experience includes dozens of rulemakings since 2000

### **Clean Water Act**

We have varied and broad experience assisting clients with matters involving compliance with the Clean Water Act and related regulations. We have represented clients in matters involving:

- NPDES permitting actions under Section 402 and the analogous state programs
- Stormwater permitting requirements, including Stormwater Pollution Prevention Plans, inspection, and paperwork requirements
- Industrial pretreatment standards
- State water planning counsel and advice
- POTW discharge cases under Section 307(b)
- Section 404 wetland permitting and wetland mitigation banking
- Rulemaking
- Enforcement, including citizens suits

### **Resource Conservation and Recovery Act (RCRA)**

We have been actively involved in counseling our clients regarding compliance with this complex statute since the EPA's RCRA rules were promulgated in 1980. We have represented clients on all aspects of RCRA and analogous state statutes and regulations including:

- Municipal and industrial solid and hazardous waste permitting (including modifications and transfers of permits), some of which have involved hotly contested hearings
- Regulatory issues such as:
  - The definition of "solid waste," "hazardous waste" and "recycling"
  - Classification of solid wastes
  - Permitting standards for treatment, storage and disposal facilities, including siting, facility management plans, financial assurance, closure and post-closure requirements
  - The "mixture" and "derived from" rules
  - Household hazardous waste and domestic waste issues
  - RRC regulatory oversight for oil and gas exploration and production projects where RCRA hazardous waste exemptions apply
- Release reporting and response
- RCRA corrective action requirements
- Underground storage tank requirements
- Enforcement
- Rulemaking

### **Underground Injection Control (UIC) Program**

We have been involved in the federal and state Underground Injection Control (UIC) programs since the initial publication of the proposed Texas UIC rules by one of the predecessor agencies to the TCEQ in 1980. Since then, we have assisted our clients in UIC matters involving:

- Compliance issues related to the Class I and Class III standards for hazardous waste injection wells and *in situ* uranium mining operations, respectively
- Class II injection wells for oil and gas operations
- Hotly contested administrative hearings related to the permitting of both on-site and commercial injection well operations, including both traditional subsurface injection into confined strata and injection into salt dome caverns

### **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)**

We have represented numerous Potentially Responsible Parties in CERCLA proceedings.

We provide our clients with counsel at all stages of proceedings before EPA and state environmental agencies relating to Superfund sites, including listing, investigation, RI/FS preparation, public comment, remedy design and implementation,

and post closure management. We are familiar with all aspects of this complex and difficult statute, and the State of Texas equivalent.

**Endangered Species Act (ESA)**

We have broad experience assisting our clients to both maintain compliance with and plan development around the ESA. We have worked with all phases of the ESA, from the biological underpinnings of the Act to the legal ramifications of its provisions. We have assisted clients on matters involving Feasibility Studies, Habitat Conservation Plans, and pre-development land use planning involving the ESA.

**Natural Resources Code (Oil and Gas)**

We have significant experience in pollution issues involving oil and gas operations. Our experience includes the permitting of pits, tanks, pipelines, and downhole waste disposal. We also provide representation regarding discharges of produced gases such as sulfur dioxide and hydrogen sulfide, produced water, salt water, oil, drilling mud, drill cuttings, workover and completion waste, dehydration materials, frac sands, bottom wastes and naturally occurring radioactive material (NORM).

We represent oil and gas producers and related entities in rulemaking, permitting and enforcement proceedings before federal and state regulatory bodies, including the Texas Railroad Commission and the Louisiana Department of Environmental Quality.