



Environment, Health and Safety

The experienced lawyers of DLA Piper's Environmental, Health and Safety (EHS) practice design innovative and practical solutions to complex problems that arise from the laws and policies governing environmental protection, energy, natural resources, health and safety at work, and product safety. We are one of the largest teams of EHS lawyers across the globe. DLA Piper lawyers anticipate, track and find solutions to the traditional, ever-changing and emerging environment, health and safety issues that concern local, national and international businesses.

EHS compliance is vital in any business. Non-compliance with regulatory requirements and failure to address potential liabilities both carry increasing financial risks for all companies. Additionally, good safety management is not only important for business image, but is often a condition for obtaining both public and private sector contracts.

DLA Piper offers leading advisory practitioners and litigators throughout the world who work as an integrated team to represent clients' interests in rulemaking proceedings and challenges to regulations; defend in complex and costly EHS litigation and enforcement actions; evaluate and negotiate EHS issues in business transactions; and provide guidance on compliance with EHS regulations.

CAPABILITIES

Counseling and Advocacy

DLA Piper lawyers have played, and continue to play, a major role in shaping modern EHS law, participating in rulemakings, enforcement litigation and advocacy. Our lawyers apply our accumulated knowledge to provide timely counseling and representation on existing and proposed regulatory obligations. We also deploy our skills to track emerging EHS issues that are important to our clients.

Our expansive EHS counseling practice offers clients solutions in traditional issues of air, water, toxics, waste management, and employee safety as well as emerging EHS issues that are important to our clients, such as fracking, carbon trading, and climate change.

Our team works with clients to ensure they are aware of developments in health and safety, product safety, environmental law and the regulatory environment including implications of forthcoming legislation and the regulations. We have a proven track record and experience in reviewing and drafting compliance policies and procedures and in developing compliance programs tailored to industry and company needs. These are designed to inform, instruct and embed in all employees the complexities of governing laws, particular compliance vulnerabilities and the value of ethical behavior.

KEY CONTACTS

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We also assist clients in protecting their commercial interests by influencing new policies and regulations emanating from national and subnational governments, including advising on the implementation of legislation. We regularly advise clients on applications for operating permits, premises licenses, and other required authorizations, including those required under the Clean Air Act, Clean Water Act, and RCRA in the United States, and under the Licensing Act 2003 in the United Kingdom and other licenses pursuant to the Gambling Act 2005.

Enforcement Defence and Litigation

Litigation prevention is a key component of DLA Piper's counselling practice to help our clients anticipate and avoid liability. When disputes arise, our experienced litigators in the EHS practice can vigorously defend clients in high-stakes, complex litigation arising under EHS laws in jurisdictions throughout the world. Our lawyers collaborate with clients and counterparts to identify and execute the most advantageous business-oriented solutions, either by pursuing or defending litigation or arbitration proceedings or through alternative methods, such as mediation.

We have participated in several high-profile court challenges to significant environmental rulemakings and other final agency actions. We also represented the principal defendant in the massive Love Canal litigation in the U.S., the largest and one of the longest Superfund cases on record. We helped secure the reversal of a US\$1.65 billion jury verdict against ExxonMobil in the Maryland Court of Appeals. Our attorneys have substantial experience at Clean Air Act, Clean Water Act, RCRA and Superfund cases throughout the U.S.

Transactions

The depth of our transactional and site remediation experience enhances our ability to service clients across industries. Our lawyers represent investors, buyers, sellers, and lenders on EHS issues arising from the transfer and financing of businesses and real estate around the globe. We perform EHS diligence and negotiate the allocation of EHS liabilities for clients seeking to acquire properties and businesses, for clients offering properties or businesses for sale, and for lenders underwriting loans or engaging in workouts with their borrowers.

Our experience includes cross-border transactions for the acquisition of manufacturing businesses in a wide range of industries; the disposition of retail gasoline stations in various markets across the country; and the acquisition, financing, development, and redevelopment of commercial and residential properties, both individually and as portfolios.

Investigations and Audits

As one of the few international law firms with a dedicated global EHS team, DLA Piper lawyers are capable of dealing with both regulatory investigations and enforcement of EHS laws and regulations around the world. Our experience includes handling all types of regulatory investigations, managing internal and external EHS compliance audits, and preparing for compliance management programs ranging from single-issue audits and programs to multi-media audits and programs encompassing all aspects of environment, health, and safety.

Our team comprises experienced investigators, experienced criminal defence lawyers and former regulators. We assist clients with self-notification issues, responses to supervisory and investigations by the enforcement division of regulatory bodies, and appearing before the various regulatory authorities when action is taken.

Climate Change

DLA Piper is a leader in the field of climate change, providing a strong foundation to manage our client's present and future climate change needs in any country. Our multilingual, multidisciplinary group delivers climate change advice in commentary practice areas, including energy, projects and finance, commercial, real estate, environmental, regulatory and government affairs, insurance, investment funds, corporate, mergers and acquisitions and tax law.

Our attorneys have substantial experience addressing our client's climate-related needs across a variety of projects, sectors, and institutions. Our experience includes the following representative matters:

- Advise on climate change legislation and energy efficiency measures such as the Carbon Reduction Commitment Energy Efficiency Scheme, Climate Change Agreements and the EU Emission Trading Scheme.
- Provide advocacy, counseling and transactional support to help clients navigate the EU Emissions Trading Scheme, California's AB32 cap-and-trade program, voluntary carbon markets, and other national and sub-national initiatives.

- Advise clients and negotiate transactions for carbon credits in compliance and voluntary markets.
- Counsel clients in the emergent area of climate legal risk and advise on the assessment and management of corporate climate legal risk through identification of the climate change risks, identification of the relevant regulatory frameworks that impose legal obligations related to climate change risk, and development and implementation of strategies for dealing with those legal obligations.
- Work closely with our clients to develop strategic climate plans, identify carbon burden, risks and opportunities and prepare companies for integration into a carbon-constrained world.
- Advocate on behalf of clients interests before international climate change and ozone conferences.
- Represent countries at international climate negotiations.

Crisis Management

DLA Piper is well placed to help our clients manage the immediate pressures of a crisis situation. Our 'Rapid Response', global crisis management hotline service, provides our clients with 24-hour, 365-day access to regulatory legal advice and crises assistance. Our extensive experience includes defending raids conducted by different regulators and investigating authorities and controlling major industrial hazards (COMAH legislation). Many of our staff have practical experience of various raid situations, having worked for the various regulators and investigating authorities. Our lawyers understand the appropriate balance between cooperating with the investigators while safeguarding the client's legitimate interests. The DLA Piper team has been involved in responding to raids by regulators including the European Commission, Office of Fair Trading, Serious Fraud Office and HM Revenue and Customs. Our attorneys in the US have also counseled clients to immediately correct alleged environmental law violations and successfully petitioned the EPA under its Audit Policy, thereby avoiding subsequent liability.

EXPERIENCE

- Representation of a major oil company defendant in mass tort actions involving hundreds of plaintiff properties allegedly contaminated by a 26,000-gallon underground piping leak. The Maryland Court of Appeals reversed virtually all damages awards. Cases resulted in landmark rulings on fraud, emotional distress, medical monitoring, and nature of property damages in environmental cases.
- Representation of a major oil company in lawsuits involving multiple retail service stations. Claims were asserted under California Proposition 65, California Fish & Game Code, and California Business & Professions Code Section 17200
- Representation of an oil company in CERCLA and Polanco Act lawsuits involving distribution terminals and retail facilities
- Representation of major power producing companies on permitting, planning, government relations, government initiatives, and potential litigation associated with climate change matters.
- Representation of electric utility companies before public service commissions and regulatory agencies to obtain approval for the construction and siting of natural gas, nuclear, coal, and renewable energy-powered electric-generating facilities.
- Representation of paper manufacturer in the privatization of a municipal solid waste management facility.
- Negotiating a remediation strategy for a large portfolio of filling stations, many of which were contaminated.
- Negotiating with the UK Government on behalf of a major industry sector on the terms and conditions of an energy tax rebate, to be given in return for accepting emissions reductions targets.
- Advising a multinational company on a creative regeneration project for the site of a former large process chemical plant.
- Defending chemical company in an enforcement action concerning discharges to publicly owned treatment works
- Defending a power company in response to alleged Clean Water Act violations at three sites in Maryland, and negotiating a global settlement with regulators and citizen interveners.
- Advising on emission reduction purchase and project development agreements between parties for the development of a range of landfill projects in South Africa.
- Representation of championship golf course owners in the permitting of the course, including wetlands and discharge matters.
- Representation of a large fuel terminal facility in connection with all environmental permitting, including Clean Air Act (Title V) permitting
- Representation of an international chemical company on shale gas development matters.
- Advising on a corporate manslaughter investigation arising from a fatal accident of an employee at a plant decommissioning

service.

- Representation of a NASDAQ-listed-South African based technology company that is the subject of a joint investigation regarding allegations of bribery and corruption by the SEC and DOJ into potential violations of the FCPA and securities laws.
- Defence of investigations under Corporate Manslaughter & Health and Safety legislation following the death of a worker crushed by a 70 tonne forging.
- Advising in relation to a major fire at a fuel depot and an explosion at an oil refinery, both major environmental and health and safety incidents.
- Conducting a strategic health and safety review for a major industrial multinational company.

INSIGHTS

Publications

Chicago City Council adopts Industrial Air Quality and Zoning Ordinance

24 March 2021

CHICAGO LAND USE NEWS SERIES

Its oversight is vested in the City departments of Planning and Development, Transportation, and Public Health.

Biden Administration's ambitious climate agenda starts now

22 January 2021

President Biden has kicked off his whole-of-government approach to address climate change.

SEC 2021 and beyond: What to expect

7 December 2020

Some likely areas of SEC focus, from both the regulatory and enforcement perspectives, in 2021 and beyond.

Creating voluntary carbon markets: IIF recommendations and consultation – suggestions due by December 10

17 November 2020

The Taskforce's recommendations are based on core carbon principles to help establish standardized benchmark contracts for listing on exchanges and using existing infrastructure.

Contracting for the climate: The Climate Contract Playbook is a trove of climate clauses

11 November 2020

Contracts have become an essential vehicle for companies seek to mitigate their environmental risks and limit their carbon footprints.

Three tier UK coronavirus local lockdowns

14 October 2020

New lockdown regulations came into force in England on 14 October 2020, creating a three-tier system of restrictions to address

local outbreaks of COVID-19.

Rules of Origin - what you need to know

9 October 2020

DLA PIPER TRADE TRUTHS

With less than two months before the end of the Brexit Transition Period, importers and exporters of goods between the UK and both the EU, and the rest of the world, are preparing for the impact of significant changes to UK and EU trading arrangements upon their businesses and operations. Recent articles in the DLA Piper Trade Truths series have examined the realities of trading on so-called 'World Trade Organisation (WTO) terms', should there be no deal at the end of the Transition Period, including the impact on customs procedures and tariffs on goods, together with the UK's post-Brexit trading landscape.

New York Department of Financial Services issues circular on climate change and financial risks

1 October 2020

The NYDFS expects insurers to start integrating the consideration of financial risks from climate change into their governance framework, risk management processes and business strategies.

Beyond the EU-UK Negotiations: Planning for trade with the rest of the world after Brexit

30 September 2020

DLA PIPER TRADE TRUTHS

Whilst clients are rightly focused on the current status of negotiations between the UK and EU, some 12 weeks before the end of the Transition Period, it is easy to lose sight of the impact of Brexit on the UK's trading relationship with the rest of the world and the commercial consequences of this for businesses.

Face coverings, self-isolation and hospitality restrictions: Further tightening of English coronavirus regime

28 September 2020

New lockdown regulations came into force in England on 23, 24 and 28 September 2020 to address rising cases of COVID-19. We discuss the new regulations and what it means for businesses.

Distributed generation: A rising energy market in Chile

16 September 2020

This growing market has features that make it attractive for investors in uncertain times.

Momentum builds for permanent expansions in federal telehealth policy

21 July 2020

Recent legislative proposals and administrative initiatives suggest that the federal government may be moving to make permanent certain emergency fixes to the telehealth regulatory landscape.

Further English COVID-19 amendment regulations

15 July 2020

From 13 July 2020, the Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) Regulations 2020 (the Amendment Regulations) come into effect. In this post, we consider the effects of the Amendment Regulations on businesses operating in England.

UK imposes targeted human rights-based sanctions in first autonomous move

9 July 2020

On 6 July 2020, UK Foreign Secretary Dominic Raab announced the first autonomous sanctions designations since the UK formally left the European Union on 31 January 2020.

Clinical trials during the COVID-19 pandemic: A global guide

2 July 2020

The consequences of the COVID-19 pandemic continue to develop dynamically. Some countries are beginning to ease lockdown measures, whilst others retain or even impose new restrictions. The situation continues to impact the ability to conduct clinical trials on a global scale. Pharmaceutical companies need to address even more challenges to ensure the continuity of trials on human medicines.

mHealth: verso il cambiamento nel modo di praticare fitness e wellness

29 giugno 2020

Impatto dell'emergenza COVID-19 sull'attuale e futuro sviluppo del settore della Mobile Health nell'UE.

Further relaxation of English coronavirus restrictions

16 June 2020

The UK government has enacted emergency legislation to address the effects of the coronavirus pandemic. In England, regulations were laid and came into force from 26 March 2020 onwards under the Public Health (Control of Disease) Act 1984. On 12 June 2020, the UK government published the most recent (the fourth) set of amendment regulations.

As COVID forces a telehealth boom, lawmakers weigh making certain emergency permissions permanent

12 June 2020

Some of the ways in which government actors have signaled openness to the possibility of longer-term telehealth solutions.

Loosening the lockdown: 1 June 2020 amendments to the English COVID-19 emergency regulations

1 June 2020

The UK government and the UK devolved administrations have enacted emergency legislation to address the effects of the coronavirus pandemic. On 31 May 2020, the UK government laid the most recent and, in some respects, the most significant, set of amendment regulations. The changes came into force at 11:30am BST on 1 June 2020.

DOJ increasing scrutiny on coronavirus-related provider fraud

22 May 2020

Recent enforcement activity is focusing on providers, particularly on telemedicine companies.

COVID-19 - Time and cost claims under construction contracts in the UK

21 May 2020

On 10 May the UK Government announced a roadmap to ease the restrictions in place as a result of coronavirus, of particular relevance to the construction industry, the Government's guidance in relation to work has changed in emphasis. This article discusses the guidance aimed at the construction industry.

COVID-19: Updated UK Health and Safety Executive guidance

15 May 2020

The UK government is encouraging those who cannot work from home to return to work. The Health and Safety Executive has this week produced guidance on the reporting requirements, the requirement to consult with workers regarding health and safety measures and their return to the workplace, and how to manage the risk of COVID-19 at work.

Helping patients during the pandemic

14 May 2020

Some important considerations for biopharma manufacturers.

Maintaining oil and gas leases during secondary terms

14 May 2020

Highlighting several relevant lease interpretation issues.

Puerto Rico starts reopening businesses: Employers must establish exposure control plans

11 May 2020

The authorization to reopen is conditioned on the adoption of strict measures by employers to avoid contagion.

[UPDATED] Therapies for COVID-19: What is in the pipeline?

11 May 2020

As of May 8, 2020, there are over 1,300 clinical trials investigating potential therapies for COVID-19, of which nearly 800 are interventional trials.

Facial recognition technology: Supporting a sustainable lockdown exit strategy?

8 May 2020

Technology has played a dominant role during the lockdown and will be a key aspect of ensuring the transition back to normality is successful. This article discusses recent trends, particularly in Ireland, Denmark and China, regarding the adoption of facial recognition technology (FRT) as a result of the COVID-19 pandemic.

Guidance on Green Loan Principles and Guidance on Sustainability Linked Loan Principles

8 May 2020

These guidelines and standards portend an increase in sustainable finance documents and projects in the near future.

Food and beverage COVID-19 regulatory updates

1 May 2020

Ongoing commentary and guidance from US regulators.

Post-COVID-19: What to expect in the "next normal"

30 April 2020

Issues that are front of mind, based on an informal survey of some of the largest companies and most influential global business leaders.

US telehealth update: New federal guidance to state Medicaid agencies suggests more coverage is coming

27 April 2020

A powerful signal that CMS is ready to support targeted interventions in favor of telehealth.

Connected care funding for healthcare providers from the CARES Act

24 April 2020

New funding to promote and support telehealth.

Coronavirus: reopening businesses – compliance risks

24 April 2020

Companies looking to reopen are urged to do so in compliance with varying, changing government restrictions to avoid longer term liabilities that could potentially outweigh short term gains

EPA and CalEPA guidance on field activities during COVID-19 focuses on agency communication, deadlines and flexibility

24 April 2020

EPA wishes individual regions to communicate directly with their regulated communities to ensure reasonable expectations for ongoing field work; meanwhile, CalEPA may fill gaps in EPA's enforcement.

COVID-19: UK Safety, Health and Environmental Considerations

22 April 2020

The coronavirus COVID-19 pandemic and the introduction of social distancing measures by the UK Government presents new challenges for businesses across all sectors seeking to manage the disruption it brings and understand the new risks that it poses.

Opening Up America Again Guidelines signal relaxation in elective surgery restrictions

20 April 2020

For healthcare providers as they evaluate how the Opening Up America Again Guidelines pertain to their respective practices.

Clinical trials during the COVID-19 pandemic: A global guide

17 April 2020

The unprecedented situation resulting from the COVID-19 pandemic impacts the ability to conduct clinical trials on a global scale. Pharmaceutical companies need to address multiple challenges to ensure the continuity of trials on human medicines.

US CPSC advises consumers certain recall remedies may be unavailable due to COVID-19 – four key takeaways

15 April 2020

Guidance will evolve as the pandemic develops, and CPSC-regulated firms are encouraged to consider these actions.

Families First Coronavirus Response Act – Health emergency leave and exempted health care providers

10 April 2020

The temporary health emergency leave measures include a key carveout for "Health Care Providers" and "Emergency Responders."

US \$2T stimulus COVID-19 package includes significant R&D funding

10 April 2020

A summary of R&D funding in the CARES Act broken out by federal departments and agencies.

Family First Coronavirus Response Act: US Department of Labor regulations provide additional guidance for employers

9 April 2020

Key developments.

Are new Bay Area protocols and testing coming your way?

6 April 2020

The Bay Area has often led the way in developing and implementing government-mandated restrictions on business operations – details about current protocols.

Coronavirus: Supplier due diligence for vetting Chinese medical suppliers for quality, safety, fair pricing and anti-corruption compliance

6 April 2020

Some key risks, and potential solutions to reduce cross-border operational risks.

Beyond social distancing: What employers need to know to keep their workplaces safe and manage privacy obligations in the face of COVID-19

2 April 2020

Guidance from OSHA, EEO and CDC to help employers seeking to protect the health, safety and privacy of their on-site employees.

Amid COVID-19, US EPA loosens its enforcement policies on the regulated community

31 March 2020

EPA will exercise enforcement discretion in policing businesses and other regulated entities for noncompliance with certain environmental regulations.

Importing critical healthcare supplies during the COVID-19 pandemic: Recent US developments

31 March 2020

Practical guidance is critical to help importers of medical products efficiently navigate legal and regulatory hurdles so that admissible products with the potential to safeguard patients' health and well-being may be granted entry into US markets as expeditiously as possible.

ESG: The rise of private ordering and the role of the NCGC committee (United States)

26 March 2020

[ESG HANDBOOKS AND GUIDES](#)

This inaugural ESG handbook, part of our 2020 Proxy Season Hot Topics series, aims to help public companies as they develop and maintain a robust ESG program.

ISIA requires every Illinois "public agency" and "governmental unit" to implement ESG policies in their investments: action steps for private-sector actors

2 March 2020

Most market observers expect this trend to continue incrementally, with ever more institutional actors, whether public or private, considering ESG factors when investing.

COP25's key outcome: adoption of the San Jose Principles on carbon market mechanisms – takeaways for business

12 February 2020

Ambitious countries are not waiting for full consensus on carbon markets.

First EU international agreement linking greenhouse emissions trading systems

24 January 2020

This publication offers you the latest insights and conclusions on the first international agreement linking greenhouse gas emissions trading systems.

How the Environmental, Social and Governance standards are affecting the commodities industry – key factors and action steps

23 January 2020

ESG affects all industries, but for the commodities industry, it is at once one of the biggest investment opportunities and one of its biggest challenges.

Cannabidiol Consumer Products under German law

24 December 2019

Placing on the market and retail regarding Cannabidiol (CBD) consumer products is currently subject to a highly controvertible discussion of the respective interpretations of the regulatory background.

Dutch impasse: Can the Dutch nitrogen issue a transfer to the Flemish region?

5 December 2019

The Dutch Council of State decided in May that the Dutch Action Plan Nitrogen is not in accordance with the European rules for the protection of the environment. As a result, a lot of important projects that rely on the APN had to be put on hold. Last month, the Dutch government announced emergency measures to prevent their economy from stalling.

Nederlandse imPASse: Kan de Nederlandse stikstofproblematiek overwaaien naar Vlaanderen

5 December 2019

De Nederlandse Raad van State besloot op 29 mei 2019 dat het Plan Aanpak Stikstof ("PAS") niet in overeenstemming is met de Europese regels ter bescherming van het milieu. Hierdoor gingen meteen een hoop belangrijke projecten die steunen op het PAS kopje onder. Kan deze stikstofproblematiek overwaaien naar Vlaanderen?

California Supreme Court: notice-prejudice rule in first-party insurance contract is a fundamental public policy that can trump a choice-of-law provision

5 September 2019

The decision holds, in the first-party pollution coverage context, that the notice-prejudice rule is a fundamental public policy in California.

No-deal Brexit: Impact on safety, health and environment legislation

1 September 2019

While a range of outcomes, including [a departure under the terms of the current Withdrawal Agreement](#), remains possible, it is important for businesses to plan for a no-deal Brexit, in which the UK leaves the EU without a withdrawal agreement or other deal. Here we look at the potential impact of a no-deal Brexit on safety, health and environment (SHE) legislation

Food and Beverage News and Trends

20 August 2019

FOOD AND BEVERAGE NEWS AND TRENDS

In this issue, FDA issues first warning letter under the FSMA foreign supplier verification requirements, Seattle wrangles over soda tax revenue, plus school meal standards, clean water, and Hep A in the news.

OEHHA's revised regulatory changes would make Prop 65 safe harbor defenses harder for many defendants: comment period closes 8/5/2019

1 August 2019

The revisions would significantly limit safe harbor provisions that protect against bounty hunters.

California regulators approve broader wetland definition and new procedures in wake of federal rollback: for developers, what to expect next

30 APR 2019

California regulators approve tighter wetland definition and new procedures in wake of federal rollback: for developers, what to expect next

California's Prop 65 regulator moves to counteract court ruling, exclude Prop 65 cancer warnings for coffee

21 JUN 2018

If the regulation is adopted, coffee will not require a cancer warning label after all.

California court's narrow Prop 65 coffee ruling should not be misinterpreted

9 APR 2018

A careful understanding of the narrow basis of the ruling is important for coffee consumers and for all manner of product-based companies doing business in California.

New glyphosate decision forces Prop 65 to reckon with federally accepted science

7 MAR 2018

This outcome will likely put wind in the sails of industry groups and individual companies challenging the science behind other Prop 65 listings.

Slavery in the supply chain: new corporate reporting obligations for companies

9 DEC 2015

HEALTH, SAFETY AND ENVIRONMENTAL MATTERS SERIES

The UK's Modern Slavery Act 2015 is in force, imposing on companies new reporting requirements and new enforcement powers, including the creation of an Independent Anti-Slavery Commissioner.

Events

Previous

Green finance and ESG ratings

18 June 2020 | 2:00 - 3:00 ET

Webinar

NEWS

DLA Piper represents the City of Cologne on legality of Clean Air Plan (LRP)

20 September 2019

DLA Piper has represented the City of Cologne in a legal proceeding on the legality of the Clean Air Plan Cologne (LRP) brought before the Higher Administrative Court of Münster and has also advised on the drafting of the LRP. The Plaintiff is the German Umwelthilfe e.V. and defendant the state of North Rhine-Westphalia, which sets up the LRP.
