



## 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.

### CAPABILITES

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#### 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

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- 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

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### Publications

#### Carbon Matters - Autumn 2021

2 November 2021

This autumn edition of Carbon Matters launches the same week COP26 commences in Glasgow. This edition includes articles on COP26, the pledges so far and what we might expect; the UK's Hydrogen Strategy; and the government's consultation paper to amend the Energy Savings Opportunity Scheme (ESOS).

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#### Five issues to watch for at COP26 in Glasgow

12 October 2021

Hopes had already been high for COP26 even before the pandemic paused it. The pent-up potential has only heightened those expectations.

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#### Competition and sustainability: the need for further guidance on legitimate cooperation

7 September 2021

### ANTITRUST MATTERS

Climate change is one of the most important priorities facing the international community. The increased focus on environmental concerns has incentivized companies to pursue sustainability initiatives. In many instances, cross-industry collaboration is important for such initiatives to succeed.

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#### 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.

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#### 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.

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## 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.

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## 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.

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## 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.

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## 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.

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## Helping patients during the pandemic

14 May 2020

Some important considerations for biopharma manufacturers.

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## 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.

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## [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.

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### **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.

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### **Food and beverage COVID-19 regulatory updates**

1 May 2020

Ongoing commentary and guidance from US regulators.

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### **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.

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### **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.

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### **Connected care funding for healthcare providers from the CARES Act**

24 April 2020

New funding to promote and support telehealth.

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### **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

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### **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

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field work; meanwhile, CalEPA may fill gaps in EPA's enforcement.

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### **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.

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### **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.

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### **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.

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### **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."

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### **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.

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

9 April 2020

Key developments.

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### **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.

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## **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.

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## **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.

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## **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.

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## **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.

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## **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.

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## **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.

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## **PFAS: in California, regulators put cleanup levels on hold, but announce major data hunt**

7 MAR 2019

This data hunt will affect thousands of facilities, drinking water systems and private drinking water well owners.

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## **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.

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