Workplace safety and environmental regulations—and the ways in which they are enforced—are constantly evolving, making compliance a moving target. As workplaces innovate and modernize and new generations of talent enter the workforce, regulators scramble to apply existing laws to new safety hazards. Companies need sophisticated guidance that does more than just achieve compliance and mitigate risk—they need advice that sees around corners to preserve their core businesses and ensure they can thrive in any regulatory environment.

**HOW WE HELP**

Seyfarth guides public and private sector companies through the constantly shifting regulatory landscape. Through a combination of deep subject matter expertise and intense client focus, our attorneys offer thorough analyses of the entire life cycle of regulation and enforcement, ensuring there are no surprises.

**Workplace Safety Counseling and Litigation.** Seyfarth’s workplace safety and health attorneys assist in navigating state and federal safety and health laws, finding practical business solutions to workplace safety and health problems. We are counselors, advisors, negotiators, trial lawyers, and appellate advocates with respect to all elements of workplace safety and health laws. We take a practical, efficient, hands-on approach to addressing issues arising under those laws. We assist clients with compliance, internal audits, expert retention and evaluation, agency inspections, workplace accidents, catastrophe response, litigation, and appeals. Our working relationships with many federal and state regulatory agencies provides us with practical insights often needed to solve unique client dilemmas. Our philosophy is
simple: We use our deep subject matter expertise to quickly identify key issues and
develop practical strategies to achieve the best possible result for our clients.

Seyfarth’s deep and experienced bench of workplace safety and health attorneys assist
a wide variety of industries in OSHA and state plan inspections arising from workplace
accidents, union and employee complaints, programmed inspections and national and
state enforcement programs, initiatives and emphasis programs aimed at protecting
employee safety and health. When a compliance inspection generates litigation, our
team has the experience, insight, and reputation to drive the outcomes companies
want. We have litigated cases in virtually every state and federal OSHA jurisdiction
with numerous successes at trials and in appeals. We have earned and maintain a high
degree of credibility with OSHA officials at the federal and state level, their attorneys
and the judges who decide OSHA disputes. In addition, Seyfarth attorneys regularly
help clients respond to safety-related issues in the workplace, such as workplace
violence, pandemic planning and response, chemical exposures, and powered
equipment. We proactively assist clients in establishing and improving OSHA
compliance programs, manage and oversee internal OSHA compliance audits and
safety reviews and represent employers in whistleblower actions brought under laws
enforced by OSHA and state analogues. We have helped clients navigate OSHA’s Severe
Violator Enforcement Program (SVEP) and multimillion-dollar citations and have
significant experience with the Mine Safety & Health Act (MSHA).

Additionally, our Fatality and Accident Response team can quickly step in to help when
unexpected safety and health crises arise, such as workplace accidents, fatalities,
hospitalizations, fires, explosions, and other catastrophes. When a crisis hits, our
experienced team helps companies carefully manage interactions with government
agencies, media, employees, and counsel representing injured parties. We routinely
collaborate with our clients’ tort, workers’ compensation and environmental counsel
to help achieve the best possible results across all disciplines.

Our OSHA attorneys have assisted clients in nearly every conceivable industry
impacted by workplace safety and health laws. These include industries such as
logistics, warehousing, health care, construction, road construction, retail, steel and
heavy metals manufacturing, explosives, propellants and munitions, chemical
manufacturing, paints and coatings, adhesives, inks and solvents, pharmaceutical
manufacturing, building products, staffing services, media, medical products, paper
and plastics packaging, plastics manufacturing, commercial laundries, lime operations
and cement manufacturing, railcar manufacturing and maintenance, tanker
manufacturing and maintenance, ammonia systems, outdoor advertising, alumina
manufacturing and aluminum extruding, petrochemical refining, building and roofing
materials, cell tower construction and use, printing, batteries manufacturing and recycling, lighting, food and beverage processing, transportation of chemicals and mining products, laboratory products, soaps/surfactants/cleaners, fertilizers, and the waste treatment and disposal industry.

**Environmental Counseling and Litigation.** We assist our clients with their water, air, and hazardous materials, from manufacturers of heavy industry to food, distribution, and residential and commercial construction. By addressing the full spectrum of compliance, enforcement, and litigation matters, we create practical business solutions to complex environmental issues.

Whether serving mid-market businesses or *Fortune 500* companies with international operations, we translate complex regulation into informed decisions and actionable strategies.

We have experience in all major environmental programs and corresponding local, state, and federal regulations, including the:

- Clean Air Act (CAA)
- Clean Water Act (CWA)
- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
- Emergency Planning and Community Right to Know Act (EPCRA)
- Resource Conservation and Recovery Act (RCRA)
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
- Hazardous Materials Safety Transportation Act (HMSTA)
- Oil Pollution Act (OPA)
- Toxic Substances Control Act (TSCA)

When disputes arise we leverage our extensive litigation and trial experience before administrative tribunals and in state and federal courts. From Superfund cost recovery and contribution claims, individual and class-action toxic tort and medical-monitoring claims, and civil investigations and criminal proceedings, our team gives
clients the confidence they need. Environmental litigation can encompass a wide range of issues including property damage caused by environmental contaminants, insurance coverage disputes, breach of contract and environmental indemnities, and multijurisdictional issues. Our attorneys have close relationships with a wide variety of consultants and other professionals that are necessary to obtain the best results possible in any given circumstance.

Our international presence includes one of the largest safety and health practices in Australia, and our attorneys often work with the top local counsel in jurisdictions worldwide to evaluate environmental compliance issues and devise site-specific solutions for our clients, regardless of their location.

THE SEYFARTH EXPERIENCE

We deliver thorough analysis and clear direction, each and every time. After pouring over complex regulations in the office, the team gets on the ground to identify critical business and operational needs at client facilities around the globe. This hands-on approach results in the creative, practical solutions for which Seyfarth is known—putting clients in the best position to address risks and allocate the necessary human and capital resources to achieve compliance.

Partnering with colleagues in the corporate, real estate, business, litigation, and labor and employment practices, we bring in the right people at the right level to illuminate the regulatory landscape and identify a path to profitability.

Key Contacts

Benjamin D. Briggs
Partner
Our Environmental Work

Occupational Safety and Health Administration (OSHA). We have extensive experience with all aspects of workplace safety and

- **Clean Air Act (CAA).** We have extensive experience with air permitting, counseling and enforcement defense. Our experience in air permitting and compliance includes: the negotiation of operating and construction permits in attainment and non-attainment areas, including issues involving PSD, NSR, NSPS, and NESHAPS; BACT, LAER and MACT determinations; emissions netting, banking and offsetting; and enhanced monitoring. We also have substantial experience in air enforcement at the federal and state levels, with cases that involve such broad issues as excess emissions, off-site odors, construction without a permit, sham permitting, violations of the NAAQS, failure of control and monitoring devices; and issues relating to startups and shutdowns. We have resolved several high-profile PSD enforcement cases for our clients.

- **Clean Water Act (CWA).** We have experience in all aspects of water pollution control and permitting arising under the major federal water statutes. We regularly assist clients in obtaining NPDES permits across a broad range of industries, and in stormwater permitting and wetlands permitting for the
construction and development industries. Our attorneys also assist clients with water quality certifications, including for hydropower plants. We have considerable experience in defending enforcement actions involving wastewater discharges, stormwater discharges, groundwater contamination issues and defending companies and developers in actions involving wetlands permitting and compliance. Our enforcement experience is not only on the federal level, but at the state and local levels as well.

- **CERCLA/Superfund and Remediation Matters (CERCLA).** We have extensive experience in the wide variety of matters and issues arising under CERCLA (or Superfund) and its state counterparts. Over the past 25 years, we have represented clients on all sides of these diverse issues including generators, transporters, disposal companies, chemical and scrap recyclers, current and former property owners, site operators, adjacent landowners, remediation contractors, PRP groups (potentially responsible party groups), container manufacturers and recyclers, and manufacturers and toll manufacturers of chemical products involved in CERCLA actions. We have represented both plaintiffs and defendants in cost recovery actions, petitioned for alternative clean-up standards, filed comments on Superfund rules and policies, debated allocations, and examined the liability features of the statute from virtually every conceivable angle and perspective. Our attorneys have addressed a multitude of issues arising in contribution actions, including consistency with the National Contingency Plan, divisibility of harm, successor liability, statute of limitations, responsible party status (as owner, operator, arranger, transporter), evidentiary bases for liability (truck driver statements, waste tickets, etc.), and expert testimony on volume, toxicity, and remedy drivers. Our CERCLA experience also extends to nearly all state jurisdictions.

- **Community Right to Know (EPCRA).** Our attorneys have experience in all aspects of compliance and enforcement, and recordkeeping and reporting associated with the EPCRA and its Section 311 Extremely Hazardous Substances provisions, Section 312 Hazardous Chemicals Inventory Reporting provisions and the Section 313 Toxic Chemical release Reporting Provisions. We have experience across the country, in a wide range of industries, responding to federal and state enforcement actions with respect to reporting, particularly in the wake of a chemical spill or release, including ammonia releases.

- **Resource Conservation & Recovery Act.** We have deep experience in all facets of RCRA and its implementing regulations and state counterparts. Our robust experience includes compliance counseling, defending enforcement matters, Part B permitting for complex industrial sites; corrective action, and prosecuting and
defending RCRA Citizen Suits. Our experience derives from more than two decades of representing facilities that generate, treat, store, dispose and recycle wastes, facilities with USTs and ASTs, landfills, waste piles, land-farms, OB/OD units, surface impoundments, wastewater treatment units, and incinerators. We have experience in waste characterization, cleanup standards and land disposal issues. Our resume includes all aspects of RCRA rulemaking, defense of countless complex RCRA enforcement actions, and defense and prosecution of citizen suits. In addition to the waste disposal industry we have represented waste transporters in the bulk transport and rail industries, waste recyclers and reclaimers (including solvent recovery and oil reclamation facilities), tire recyclers, metals reclamation facilities (including scrapyards, aluminum recycling and electric arc furnace facilities), waste-to-energy recycling facilities, and cement kilns.

- **UST/AST Issues.** We have deep experience in all facets of the Underground Storage Tank (“UST”) provisions of the Resource Conservation and Recovery Act (“RCRA”), and various state programs addressing underground and aboveground storage tanks and implementing federal RCRA UST regulations and programs. We represent facilities in a broad range of industries which utilize ASTs and USTs in the handling, use, storage and distribution of chemicals, petroleum products and wastes. Our group resume includes experience in federal and state UST/AST rulemaking, defense of countless enforcement actions arising from or relating to the use of USTs/ASTs, and defense of citizen suits relating to USTs/ASTs.

- **Asbestos.** Seyfarth has unique experience in asbestos issues arising under Environmental laws as well as toxic torts relating to asbestos exposure. This includes the mining, manufacturing, use, removal and disposal of asbestos and asbestos containing products, including laws aimed at the protection of workers exposed to asbestos in workplace settings; renovations and construction projects in structures with asbestos; the abatement and disposal of asbestos, and the workers’ compensation, personal injury, and toxic tort liabilities associated with exposure to asbestos. Our unparalleled strength at the federal, state, provincial and local levels in the OSHA/safety aspects of asbestos regulation and liability, combined with experience in the manner in which environmental regulations address asbestos abatement and disposal, places us in a unique position to address the three major areas of asbestos liability: compliance with safety and OSHA regulations addressing workplace exposure; compliance with environmental regulations addressing renovation, reconstruction and abatement, and personal injury/toxic tort litigation involving asbestos exposure.
• **Spill and Release Reporting and Response.** We routinely assist clients in making determinations of whether or not to report a spill or release of a hazardous substance and in developing the appropriate response thereto. We have handled numerous federal enforcement actions against clients accused of failure to report, or late reporting of a release of a broad range of chemicals, including ammonia releases. Our attorneys are experienced in Risk Management Programs and in the complex area of Process Safety Management.

• **Environmental Aspects of Real Property, Corporate and Financing Transactions.** A significant part of our practice involves the environmental aspects of corporate and financial transactions, including conducting and reviewing environmental due diligence, assessing environmental risks associated with contamination, as well as the risks posed by environmental compliance including permitting issues and enforcement matters. Our attorneys have considerable experience in drafting and negotiating environmental provisions in M&A, PSA agreements, and loan documents, as well as stand-alone remediation agreements indemnity agreements and escrow agreements for pre- or post-closing resolution of environmental issues. Additionally, we are familiar with and regularly advise clients on the various types of insurance products available to parties when necessary to overlay additional levels of protection to parties involved in transactions with environmental risks. We have experience in the regulatory and statutory aspects of transactions, including ensuring the transfer of permits between entities is accomplished in a manner acceptable to state and local agencies, and making any regulatory notices for changes in control of ongoing operations. While not necessary in most transactions, when regulators become involved in transactions (either because of an ongoing obligation for remediation or as part of an Order, or because a governmental entity has an interest in the real property or operations) we are effective in facilitating cooperation with regulators. We have obtained Prospective Purchaser Agreements from state agencies for clients seeking confirmation of risk shifting when acquiring properties with environmental issues, and have similarly obtained “comfort letters” from USEPA. We have assisted in and facilitated numerous “No Further Action”-type and closure letters (both pre and post-closing) to mitigate risks between parties and are familiar with most states and many local voluntary and regulatory cleanup programs.

Related News & Insights
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EPA Advance Notice of Proposed Rulemaking on Per- and Polyfluoroalkyl Chemicals

MEDIA MENTIONS 11/29/2019
Ilana Morady quoted in EHS Today

BLOG POST 11/25/2019
Illinois General Assembly Passes Amendments to Recreational Cannabis Law That Help Reduce Employer Liability

Recognition

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