



ENVIRONMENTAL

FOR AN INSIDE LOOK AT THE LATEST DEVELOPMENTS IN ENVIRONMENTAL LITIGATION, VISIT OUR ENVIRONMENTAL LAW MONITOR BLOG.

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Goldberg Segalla's environmental lawyers' number one priority is to provide sound, strategic solutions to the problems and challenges our clients face. Our practice encompasses the full spectrum of federal, state, and local environmental laws and regulations and their impact on real estate, business and lending transactions, and business operations. With extensive experience helping clients navigate the complexities of the environmental laws and regulations, Goldberg Segalla's attorneys balance your business's environmental responsibilities with the expectations you set and the goals you aim to achieve.

We offer services ranging from regulatory compliance counseling to crisis response and the management of environmental liabilities in corporate, real estate, and financial transactions. Our clients — landowners, oil and gas companies, chemical and product manufacturers, construction contractors and subcontractors, real estate developers, lenders, insurers, and public and private entities — rely on us for our thorough understanding of the laws and regulations on the federal, state, and local level. Our environmental attorneys provide you with practical business-oriented advice on the basis of existing and anticipated legal requirements, and regulatory practice.

We Navigate the Environmental Landscape for You

Goldberg Segalla's decades of collective environmental experience enables us to negotiate with the EPA and state agencies, remediate contaminated properties, attempt to avoid violations and lawsuits, or if needed, litigate disputes. We provide guidance and protect you on many different environmental fronts:

- Environmental due diligence
- Environmental compliance audits
- Prepare for and respond to governmental inspections and enforcement actions
- Environmental compliance and permitting
- Solid and hazardous waste control and remediation
- Environmental concerns related to hydraulic fracturing
- Groundwater contamination and water quality issues
- Air quality
- Vapor intrusion
- Landfills
- Remedial activities and engineering oversight
- Zoning and land use
- Commercial loan closings
- Environmental insurance
- Compliance with transaction-triggered environmental laws

Our commitment to understanding our clients' business needs is reflected in our deep knowledge and

experience with various statutes and laws, including:

- Resource Conservation and Recovery Act (RCRA)
- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, or Superfund)
- Clean Water Act (CWA)
- Clean Air Act (CAA)
- National Historical Preservation Act (NHPA)
- National Environmental Policy Act (NEPA)
- Toxic Substances Control Act
- Spill Prevention, Control, and Countermeasure Plans
- Consumer Product Safety Commission
- State and local statutes and regulations

Innovative Strategies and Solutions for Any Environmental Law Need

We have the federal-level and state-specific experience to help our clients identify, mitigate, and manage any type of environmental issue anywhere they do business. From preventive counsel to crisis management and litigation, we have a track record of successfully developing innovative solutions geared toward managing costs, reducing risk, and furthering each client's long-term goals.

We identify environmental problems — both real and potential — early on.

We help clients understand the federal and state agency requirements that impact them.

We conduct environmental due diligence so you avoid future problems.

We oversee environmental consultants and engineers in the course of remedial activities.

We help you return contaminated sites to their practical and profitable use.

We provide counsel on reporting obligations, analysis of remedial options, and legal oversight of soil, groundwater, air, and surface water cleanup, and compliance obligations.

We evaluate the use of cost-saving cleanup mechanisms, alternative cleanup standards, and risk-based cleanups.

We stay on the cutting edge of issues bearing upon the remediation process.

We are well versed in local and state environmental programs throughout the country, such as New Jersey's Site Remediation Reform Act and its Licensed Site Remediation Professional (LSRP) program.

ENVIRONMENTAL COMPLIANCE

Our advice put into practice has created robust regulatory compliance programs that help clients avoid fines, violations, and penalties, as well as costly litigation and administrative hearings. For example, Goldberg Segalla has developed comprehensive audit programs and environmental management systems for entire industry sectors. In doing so, we have achieved significant savings for our clients — totaling more than \$50 million in fines that were avoided — while providing clients with valuable knowledge to ensure continued compliance into the future.

We have extensive experience with the EPA's Self-Audit Policy, guiding participants through an audit and disclosure process. Our clients have alleviated documented potential health risks and prevented the release of hazardous substances. We help our clients develop strategies for addressing compliance

issues, ensuring workplace and product safety, responding to government inspections, and handling enforcement actions, including representation at administrative agency hearings.

ENVIRONMENTAL LAND USE AND DEVELOPMENT

We understand the critical importance of identifying environmental land use issues prior to entering into a business or real estate transaction. We focus on maximizing the developer's ability to use land to its fullest potential while minimizing environmental liability and permit requirements. Our attorneys are skilled at navigating the complexities of state and federal environmental laws and regulatory requirements that govern land use, and work closely with environmental consultants, engineers, and state agencies on a broad range of issues generated by the regulation of development in wetlands, flood hazard zones, and natural wildlife habitats.

ENVIRONMENTAL LITIGATION

In conjunction with members of the firm's other practice groups, our environmental attorneys handle all phases of civil litigation, enforcement and penalty actions, and administrative proceedings on environmental issues. We practice in state and federal courts and before administrative agencies and other regulatory bodies, arbitration tribunals, and mediators. We are fully experienced in litigating issues of site remediation liability and cost recovery under state and federal statutes and allocation of responsibility among multiple PRPs. Our litigators in the environmental arena can handle CERCLA/Superfund, state spill statutes, natural resource damages (NRD) cases, and criminal defense matters.

ENVIRONMENTAL INSURANCE COVERAGE

Our attorneys are experienced in representing insurers in complex, multiparty coverage disputes that arise out of environmental contamination and pollution. Outside of the litigation context, we also advise clients on drafting and analyzing commercial pollution, general liability, special pollution and site specific pollution coverages. Our experience touches all coverage aspects, including:

- Allocation of costs
- Choice-of-law
- Exhaustion
- Insolvency
- Interpretation of the pollution exclusions
- Negotiation of cost share and commutations of policies
- Notice
- Number of occurrences
- Self-insured retentions
- Scope of damages
- Successor liability
- Trigger of coverage scenarios
- Ultimate net loss
- Waiver and estoppel
- What constitutes a "suit"

HYDRAULIC FRACTURING

As high-volume hydraulic fracturing opens up the potential to tap into vast natural gas resources, public and private businesses are discovering a wealth of opportunities — as well as a host of new legal and regulatory challenges. Drawing from our breadth of experience, we provide proactive advice to help clients manage the risks associated with this potential new era of domestic energy exploration and production, as well as guide them through complex municipal and regulatory issues or protect their interests in the event of a dispute, accident, or claim.

ENVIRONMENTAL COMPLIANCE AUDITS

As the body of environmental regulations grows in complexity, new industries are targeted by state environmental agencies and the U.S. Environmental Protection Agency (EPA). Industries that faced little or no regulatory interest are now seeing widespread inspection and enforcement actions. It is more important than ever for operators of private and public facilities to take a proactive approach to environmental compliance. Taking action *before* an inspection occurs is critical to avoiding expensive response costs and potential penalties.

Members of Goldberg Segalla's Environmental Practice Group have the ability to explain on a practical level complex environmental regulations to help clients understand and manage their environmental compliance needs, including facilitating relationships with appropriate vendors and consultants to ensure long-term, sustainable compliance. Our experience ranges from the development of comprehensive audit programs and environmental management systems for entire industry sectors to educating stand-alone operators on their waste streams and permitting needs.

In addition, Goldberg Segalla attorneys have extensive experience with the EPA's Self-Audit Policy, guiding participants through an audit and disclosure process. In return for participation, the government waives penalties it would have assessed if it had discovered the reported violations. Most states have similar "clean slate" initiatives designed to promote voluntary compliance. Depending on the state, an environmental compliance audit can result in a waiver or significant reduction in penalties. As an experienced leader in the audit field we can develop new compliance programs from scratch or improve long-established programs.

Involving Goldberg Segalla is good for the environment and good for business. Our clients have alleviated documented potential health risks and prevented hazardous substances from being released. We have also achieved significant savings for our clients — totaling more than \$50 million in fines that were avoided — while providing our clients with valuable knowledge to ensure continued compliance into the future.

Industries Under the Regulatory Microscope

State and federal enforcement has been increasing. The EPA secured \$840 million for enforcement in 2014 and the President proposed a \$40 million increase in 2015. Our Environmental Compliance Audits are particularly well-suited for previously untargeted entities who may face an investigation, such as:

- Hospitals
- Nursing homes
- Other health care facilities

Pharmacies
Grocery stores
Retail stores
Manufacturers of industrial and consumer products
Ports and harbors
Trucking and other transportation companies
And other industries not previously targeted for environmental enforcement

Our team maintains respected working relationships with the EPA and state regulators, monitors their activity, and keeps a close eye on industries these agencies may identify as posing particular environmental and public health concerns.

For example, in Region 2 (which includes New York and New Jersey), the EPA recently focused its attention on the health care industry, placing hospitals, nursing homes, and other facilities at heightened risk for one of the estimated 21,000 on-site federal compliance inspections the EPA conducts each year. The retail sector, including supermarkets, big-box stores, and pharmacies, is a target for 2015.

A Collaborative Process

Our Environmental Compliance Audit is highly collaborative and proactive. We connect a team of attorneys and engineering consultants with a select group of representatives from the client's staff in order to train staff members to assist in the audit — an approach that not only reduces costs by limiting the number of outside professionals necessary to conduct the audit, but also leaves the client with a staff trained and experienced to minimize potential noncompliance well into the future. Our commitment to teaching compliance at every step in the audit process sets us apart from others in the industry.

A Track Record of Success

Our experienced team has implemented Environmental Compliance Audits for hundreds of clients across the country. As an example, our compliance audits of more than 300 colleges and universities resulted in an average savings of approximately \$750,000 in potential fines. One institution faced over \$11 million in potential penalties that were waived by the EPA due to our involvement.

So far, our Environmental Compliance Audits have helped clients identify and properly manage more than 100 tons of hazardous waste, along with permanent changes in the routine management of these waste streams to keep them out of landfills and sanitary sewers. Clients have properly disposed of approximately 68 tons of legacy hazardous waste and 40 tons of legacy non-hazardous chemical waste at permitted licensed facilities, recycled approximately 42 tons of batteries and fluorescent lights, managed more than 2.5 million gallons of petroleum products, removed 62 underground storage tanks, and remediated at least 10 sources of groundwater and soil contamination — all without having to pay a penny in penalties or fines.

Contact Us

For more information on how your company may benefit from our Environmental Compliance Audits, please contact:

Troy A. Bataille (860.760.3311; tbataille@goldbergsegalla.com)

HYDRAULIC FRACTURING

As high-volume hydraulic fracturing (also known as hydrofracking) opens up the potential to tap into vast natural gas resources from the Marcellus Shale and other formations, public and private entities are discovering a wealth of business opportunities — as well as a host of new legal and regulatory challenges.

But these challenges aren't new for Goldberg Segalla — and when they arise, we are ready and well positioned to help.

Our attorneys are experienced in all types of regulatory, environmental, commercial, and liability-related issues that may impact municipalities, insurers, oil and gas companies, construction contractors and subcontractors, transportation companies, wastewater treatment companies, chemical and product manufacturers, or others in connection with hydrofracking operations.

With our strong presence in New York and Pennsylvania and our extensive, nationwide reach, we frequently advise and represent clients in these sectors on matters involving:

- Commercial agreements

- Contractual and regulatory obligations

- Environmental, mass tort, and toxic tort claims, including claims of adverse environmental impact, exposure to radioactivity, drinking water contamination, and fear of contracting cancer (medical monitoring claims)

- Insurance coverage analysis and dispute resolution

- Land use, zoning, and preemption issues

- Property damage, product liability, design defect, business interruption, personal injury, and negligence claims

- Property rights and leasing disputes

- Worksite injury and workers' compensation claims

Our team is also experienced in representing our clients' interests before agencies such as the New York State Department of Environmental Conservation (DEC) and the U.S. Environmental Protection Agency (EPA), and we have handled cases involving relevant regulations such as the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Clean Water Act.

Our hydrofracking team mobilizes the extensive capabilities of a number of Goldberg Segalla practice groups, including:

- Business and Commercial

- Construction

- Environmental and Complex Torts Coverage

Product Liability
Toxic Tort and Environmental
Transportation
Workers' Compensation
Zoning and Land Use

Drawing from this breadth of experience, we can provide proactive advice to help clients manage the risks associated with this potential new era of domestic energy exploration and production, as well as guide them through complex municipal and regulatory issues or protect their interests in the event of a dispute, accident, or claim.

Please contact Andrew J. Scholz for more information.