

A close-up photograph of green palm fronds, showing the texture and veins of the leaves. The fronds are arranged in a fan-like pattern, radiating from the bottom left towards the top right. The color is a vibrant green, with some lighter and darker shades creating a sense of depth and movement.

McGuireWoods

**ENVIRONMENTAL ENFORCEMENT &
REGULATORY COUNSELING**

ENVIRONMENTAL ENFORCEMENT & REGULATORY COUNSELING



McGuireWoods' national environmental enforcement and regulatory counseling practice group guides clients through complicated regulatory programs for air, water, waste, natural resources and chemicals, and it helps companies address policy issues regarding climate change, environmental justice and emerging contaminants.

The team defends companies caught in a regulatory morass, and helps them creatively return contaminated property to safe, productive use. In addition, our lawyers translate complex technical and engineering analyses in areas as varied as hazardous air pollutants and reclamation of hazardous waste, and they counsel clients to complete energy projects — power plants, oil and gas, and renewables — on time and under budget.

Our Environmental Enforcement & Regulatory Counseling practice group is proud to be recognized as an elite practice, most recently honored by *Chambers USA* with highly regarded nationwide rankings for Climate Change and Environment, as well as state-based Environment rankings in North Carolina, Virginia, and Washington, DC.

These experienced practitioners draw on their varied backgrounds as former regulators and practicing engineers, while advising and representing clients before Congress and state legislatures and environmental and natural resources agencies. Team members have decades of experience and deep contacts with regulatory agencies — including the Environmental Protection Agency (EPA), U.S. Department of Justice (DOJ), Occupational Safety and Health Administration (OSHA), and Chemical Safety and Hazard Investigation Board (CSB), among others.

Covering the spectrum of environmental law, the team comprises administrative and courtroom litigators working together, as needed, with the firm's environmental litigators for civil enforcement matters and white collar litigators for criminal matters, as well as regulatory compliance counselors and seasoned transactional practitioners. With decades of experience across the country, McGuireWoods defends environmental enforcement proceedings and counsels clients on environmental compliance, advises on development of contaminated property, closes deals, and participates in the administrative process. They also coordinate with colleagues from the firm's lobbying and public affairs subsidiary **McGuireWoods Consulting** to facilitate greater access to decision-makers in legislative bodies and administrative agencies.

McGuireWoods' environmental enforcement and regulatory counseling practice group is recognized as an elite practice, most recently in *Chambers USA*, with highly regarded nationwide rankings for climate change and environment, as well as state-based environment rankings in North Carolina, Virginia and Washington, D.C. Multiple partners are individually ranked in *Chambers USA*, and several were named "Environmental Law MVPs" by Law360 and "Energy & Environmental Trailblazers" by *The National Law Journal*. *The Legal 500 United States*, a premier list of the country's best law firms, commended McGuireWoods for its "strong state, regional and national experience" in environment regulatory and litigation.



HOW WE HELP

Clients turn to McGuireWoods for guidance on environmental law matters through counseling, negotiations, enforcement and litigation. We help clients with permitting new projects, complying with complicated and ever-evolving technical regulatory requirements, auditing and environmental management systems for operating facilities, and defending state and federal enforcement matters and citizen suits. The team counsels clients from the investigative stage to resolution, whether by settlement or vigorous defense in litigation. They advise companies on matters involving remediation and site closure, the rulemaking process and related litigation, crisis management, and support and due diligence for commercial, energy and real estate transactions.

Our lawyers apply challenging technical and engineering concepts to complex environmental law principles, and draw on their technical backgrounds to find practical solutions to environmental problems and explain difficult concepts to clients in easy-to-understand terms. The team achieves results that allow facilities maximum flexibility while still meeting legal requirements, thereby protecting business interests and the environment at the same time.

AREAS OF FOCUS

- Enforcement, including information collection requests, defense and resolution, litigation

- Toxics (Toxic Substances Control Act (TSCA))

- Air (Clean Air Act (CAA) and state analogs)

- Emergency response; Process Safety Management (OSHA); Risk Management Plan program (CAA)

- Climate change

- Environmental justice

- Water (Clean Water Act (CWA) and state analogs, Safe Drinking Water Act (SDWA)

- Emerging contaminants (e.g., EtO, PFAS)

- Natural Resources (Endangered Species Act (ESA), National Environmental Policy Act (NEPA)

- Permitting and defense of permit challenges

- Waste (Resource Conservation and Recovery Act (RCRA)

- Rulemaking comments and related litigation

- Superfund and brownfields; Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); Emergency Planning and Community Right-to-Know Act (EPCRA)

- Due diligence and support for transactions

WHAT OTHERS SAY

**Nationally recognized for Climate Change and Environment
Environmental law practice recognitions in North Carolina,
Virginia and Washington, D.C.**

— *Chambers USA*

**Nationally recognized in Environmental Litigation and
Environmental Regulatory**

— *Legal 500 United States*

Partner named “Environmental Law MVP” multiple times

— *Law360*

**Multiple partners named
Environmental Law “Lawyers of the Year”**

— *Best Lawyers*

**Multiple partners named
“Energy & Environmental Trailblazers”**

— *The National Law Journal*

REPRESENTATIVE MATTERS

Enforcement

- Represent companies in the electric utility, cement, oil and gas, solid waste, and manufacturing sectors in responding to information collection requests under Section 114 of the CAA and Section 308 of the CWA and defending civil enforcement actions and citizen suits alleging CAA, CWA, and RCRA violations. Team experience includes prevailing on an early motion to dismiss, engaging in extensive discovery and motion practice, and litigating matters in a bench trial and beyond, including to the U.S. Supreme Court. We also have experience negotiating favorable settlements and consent orders to avoid protracted litigation, when appropriate.
- Represent several clients in the defense of confidential criminal environmental enforcement investigations and claims concerning allegations of, among other things, failure to report releases of hazardous substances under the Emergency Planning and Community Right-to-Know Act (EPCRA) and CERCLA, falsification of monitoring records, unpermitted discharges to navigable waters and discharges beyond permit limitations under the CWA.
- Represent a food product manufacturer in defense of criminal environmental enforcement arising out of alleged violations of the CAA and hazardous materials transportation regulation, and in defense of civil enforcement arising out of process safety management requirements under the CAA.
- Represent a major international manufacturer in a national industrial stormwater enforcement action by EPA headquarters, the DOJ and several states, initially involving more than 400 manufacturing locations.
- Counsel a Fortune 100 company defending a criminal and civil enforcement action involving EPA's Lead Renovation, Repair and Painting Rule under the TSCA, resulting in the largest-ever settlement in an enforcement case under that statute by EPA.
- Represented a nutritional supplement manufacturer in proceedings under RCRA, including responding to an EPA request for information and defending against the agency's efforts to initiate civil enforcement. The primary issue was whether a solvent that was used once but still could be used commercially was a solid waste under RCRA. EPA concluded that no enforcement action was warranted.





Clean Air Act

- Represent major industry organizations and individual companies in preparing comments on CAA proposed rules and in related litigation in U.S. Courts of Appeals. Recent matters include filing comments for an electric power generators industry organization and for a natural gas transport organization on EPA's "Good Neighbor Plan" for interstate transport of pollutants; and representing a coalition of clients in the electric generation, cement, and coal industry in challenging that regulation in the D.C. Circuit; filing comments for electric power generators industry organizations on every greenhouse gas rule affecting their emissions promulgated by EPA for the past decade and representing them in litigation of those rules in the D.C. Circuit and the U.S. Supreme Court; filing comments on EPA's proposed revisions to the National Ambient Air Quality Standards for particulate matter; and filing comments on the risk and technology review rule for regulating hazardous air pollutants for electric generating units.
- Assist companies with obtaining Title V permits and permit renewals, including responding to opponents' petitions asking EPA to object and defending EPA denials in federal circuit courts.
- Assist clients in obtaining construction permits for industrial facilities, including several natural gas-fired power plant expansions.
- Advise clients on CAA compliance matters, including preparation for the Regional Haze Program's second implementation period; evaluation of proposed projects under the New Source Review Program; compliance with New Source Performance Standards; Title V reporting and compliance certifications; hazardous air pollutant regulations; compliance with the Greenhouse Gas Reporting Rule; and other issues.

Climate Change

- Represent electric generating companies in lawsuits alleging nuisance and other torts arising from greenhouse gas emissions, including obtaining victories for those companies in the first wave of such cases, culminating in the Supreme Court's opinion in *American Electric Power Co. v. Connecticut*.
- Represent oil companies and a national trade association in lawsuits throughout the country alleging nuisance, tort violations, and violations of state and local consumer protection statutes with regard to climate change.
- Represent trade associations, industry coalitions and companies regarding the use of Section 111 of the CAA to

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regulate greenhouse gas emissions, including the electric generation and coal industry in proceedings concerning the Clean Power Plan and the Affordable Clean Energy Rule, and the oil and gas industry in proceedings concerning EPA's methane rules. These representations include leading state and industry joint defense groups to coordinate responses, obtaining an unprecedented stay of the Clean Power Plan from the U.S. Supreme Court, and arguing on behalf of industry before the en banc D.C. Circuit.

Clean Water Act

- Counsel to a large municipal government in defense of a pending civil enforcement action by the EPA, a state agency and a local environmental group alleging CWA violations regarding its wastewater system (sanitary sewer overflows) and its municipal separate storm sewer system.
- Advise utility, manufacturing, waste handling, agricultural and other clients in connection with applying for, negotiating, and appealing or defending National Pollutant Discharge Elimination System (NPDES) and nondischarge permits, and stormwater permits.
- Filed an amicus brief in litigation involving promulgation of water quality standards for E. coli as a geometric mean, and in particular, an environmental group's challenge to EPA's position that waste-load allocations need not be expressed as "daily" limits to comply with total maximum daily loads (TMDLs).

CERCLA/Superfund/Brownfields/Cleanup

- Advise a brownfields redeveloper in acquiring and cleaning a former paper manufacturing plant ready to be proposed for inclusion on the federal National Priorities List. The team worked with the client, EPA and the state agency to develop a memorandum of understanding to allow cleanup of the property while protecting the client from federal and state legal cleanup liability. After closing, the team worked with the client to complete the cleanup many years ahead of schedule.
- Represent a Fortune 100 company in addressing historical contamination, including polychlorinated biphenyls (PCBs), with EPA and a state agency, and represented a client in working through complex allocation issues with the other potentially responsible parties involving a former major manufacturing site under CERCLA.

Resource Conservation and Recovery Act/Waste

- Advise national and regional solid waste companies regarding the construction and operation of landfills and transfer facilities for municipal and other solid wastes, as well

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as the disposal or other management of particular categories of wastes, including construction and demolition debris, asbestos, electronics and medical waste.

- Advise clients in the operation and closure of coal ash impoundments and landfills, including the ability to create landfills on top of impoundments, the ability to expand impoundments, the operation of those impoundments in compliance with permit and discharge requirements, defenses against claimed threats from proximity to surface waters, and the timing and scope of the closure of those impoundments.

Natural Resources

- Represent a utility consortium in complying with NEPA related to reconstruction of a transmission line crossing three areas managed by the National Park Service.
- Represent an electric utility company in defending against a challenge to a plant-specific regional haze plan on the ground EPA failed to consult under the ESA.

Environmental Justice

- Successfully represented a supermarket chain in a permitting appeal seeking to halt construction on a \$200 million distribution center project based on environmental justice concerns. The team prevailed on an issue of first impression and won a significant victory for the client when the court held that the permitting process satisfied all applicable environmental justice requirements.
- Experience with the full array of environmental justice services, including addressing environmental justice issues in permitting, under various environmental statutes, in enforcement actions, and in managing environmental disclosures, including in financial materials.
- Prepared comments on behalf of industry clients on EPA's analysis of environmental justice issues in rulemaking proceedings.

Emerging Contaminants (Ethylene Oxide, PFAS)

- National counsel for several Fortune 100 companies advising on PFAS and ethylene oxide issues, such as litigation and risk avoidance, including major chemical, consumer products and heavy manufacturing companies.
- Represented the largest wastewater utility in New Jersey on all PFAS-related regulatory matters and development of a proactive sampling program.

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- Conducted an audit of potential PFAS liability under the CWA, SDWA and CERCLA for a large quasi-governmental entity.

Toxic Substances Control Act

- Counsel to a privately held real estate investment firm defending a civil enforcement action by EPA respecting compliance with TSCA's Lead Renovation, Repair and Painting rule arising out of large-scale renovations performed at a building owned by one of the firm's investments.
- Advised a large regional developer and its equity partner in its discussions with EPA respecting the management of PCBs under TSCA in a variety of building materials on property slated for redevelopment.

Administrative Law Practice

- Represent companies, trade associations and industry coalitions in submitting comments on proposed environmental rules and in litigating the final rules in federal court (whether as petitioners challenging the final rule, intervenor-respondents defending favorable aspects of the rule, or both).
- Represent companies, trade associations and industry coalitions in challenging agency action or defending against third-party challenges to favorable agency action under the Administrative Procedures Act.

Transactional

- Represent the purchaser of a former manufacturing plant in an environmental liability transfer involving a removal action under CERCLA, follow-up remediation under state law and oversight of long-term monitoring associated with landfill closure.
- Routine representation of publicly traded and privately held companies, including private equity sponsors, respecting the acquisition and disposition of companies and assets, including environmental diligence, negotiation of purchase and sale agreements, negotiation of insurance projects to offset risks (including representation and warranty insurance and environmental legal liability policies), and pursuit and defense of post-closing claims relating to environmental matters. Transaction flow across the team is routinely measured in the billions of dollars annually.

Commercial Communication

- Review and advise clients on environmental and climate statements in filings required by the SEC for publicly traded companies, on companies' websites, and in commercial communications, including compliance with the Federal Trade Commission's Green Guides.

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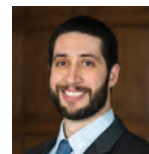
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ENVIRONMENTAL LITIGATION

Environmental matters that are filed (or end up) in trial courts and similar forums require a well-rounded litigation team. McGuireWoods' environmental regulatory attorneys, who are litigators in their own right, work with the firm's seasoned environmental litigators to provide clients with a cohesive team that can leverage the skills and experience with complicated regulations and administrative law necessary for these types of cases. The environmental litigation team has broad, national experience. Below are key contacts. Additional members of the environmental litigation team are [listed here](#).

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ABOUT OUR ENVIRONMENTAL LITIGATION PRACTICE GROUP

McGuireWoods' environmental litigators draw on deep legal and industry experience to deliver strategic counsel to clients where they do business. They successfully litigate environmental and toxic tort cases in state and federal courts throughout the United States, including nearly all federal appellate courts and the U.S. Supreme Court. The team leads vast and overlapping discovery, navigates novel legal theories, defeats class certification, tackles complex technical and scientific issues, and manages difficult facts. These lawyers also know the ins and outs of EPA and DOJ policies and procedures, and work closely with the agencies staff and counsel to negotiate responses to investigations and enforcement actions.

ABOUT OUR PRODUCT LIABILITY AND MASS TORT PRACTICE GROUP

McGuireWoods' product liability and mass tort litigators leverage decades of experience successfully defending leading companies in high-stakes litigation. They represent clients in cases involving automobiles and automotive products, food and beverage products, electronic devices, lithium-ion batteries, medical devices, power tools, outdoor power equipment, recreational products, chemicals, tobacco products, pharmaceuticals, aircrafts, trains, building products, and other consumer and industrial products. They defend cases arising from alleged exposure to toxic substances including PFAS, asbestos, lead, silica, latex, mold, formaldehyde, benzene, solvents, PCBs, VOCs and other chemicals. The team guides clients through recalls, labeling disputes and investigations by the Consumer Product Safety Commission, EPA, California Air Resources Board, and other regulatory and law enforcement agencies. In addition, the team advises clients on comprehensive risk management issues from state, national and global perspectives.

ABOUT OUR GOVERNMENT INVESTIGATIONS AND WHITE COLLAR LITIGATION DEPARTMENT

McGuireWoods' Government Investigations and White Collar Litigation Department is a nationally recognized team of more than 80 attorneys representing Fortune 100 and other companies and individuals in civil and criminal investigations and enforcement matters at federal and state levels. The senior team includes a former deputy attorney general of the United States, former U.S. attorneys, more than a dozen federal prosecutors, and an associate counsel to the president of the United States. Strategically centered in Washington, D.C., McGuireWoods' government investigations and white collar litigation team is an elite practice most recently honored in *Chambers USA* with a highly regarded nationwide ranking for corporate crime and investigations, honored twice as a White Collar Practice Group of the Year by *Law360*, and consistently ranked among the world's leading investigations firms in the *Global Investigations Review 100* guide to top cross-border investigations practices. *The Legal 500 United States*, a premier list of the country's best law firms, also commended McGuireWoods for the "exceptional quality" of its powerhouse white collar litigation practice.

ABOUT McGUIREWOODS

McGuireWoods has 1,100 lawyers in 21 offices across the United States and other countries. Over its 189-year history, the firm has earned the loyalty of its many longstanding clients with a deep understanding of their businesses and broad skills in complex regulatory and compliance matters, high-stakes disputes and transactional matters. For more than a decade, McGuireWoods has been ranked on BTI Consulting Group's "Client Service 30" list of law firms serving Fortune 1,000 companies — elite firms singled out for client service excellence based on unprompted feedback from corporate counsel. For more information visit www.mcguirewoods.com.

ABOUT McGUIREWOODS CONSULTING

McGuireWoods Consulting is a full-service public affairs firm offering federal, state and local government relations, infrastructure and economic development, strategic communications and grassroots mobilization services. McGuireWoods Consulting is a subsidiary of the McGuireWoods law firm, and since 2010, has been ranked in the top 20 among the 1,900 government relations firms in Washington, D.C., by *The National Law Journal*.

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