



Air Quality

Kaplan Kirsch & Rockwell has extensive experience with the spectrum of Clean Air Act and state regulatory programs, including mobile source emission regulations, stationary source permitting, greenhouse gas regulation, conformity, air toxics, and air quality planning. Our technical understanding of these air quality regulations enables us to provide targeted and strategic advice to clients to work through complex air quality challenges, as well as effective representation before agencies and courts. We have represented a wide range of industries, including airports, gas-fired power plants, cogeneration facilities, automotive and trucking, aircraft, other non-road sources, power plants, natural gas facilities, oil refineries, chemical plants, mining facilities, and dust control. In addition, we serve on boards and commissions relating to air quality planning and implementation.

Representative Cases

EELI v. Epel, 793 F.3d 1169 (10th Cir. 2015) (addressed air quality impacts of coal and renewable power generation in discovery for Commerce Clause litigation)

Tinicum Township v. U.S. Dept. of Transp., 685 F. 3d 288 (3d Cir. 2012) (successfully defended air quality and conformity analyses for airport development)

South Coast Air Quality Management District v. BP West Coast Products, LLP, No. BC291876 (Cal. Super. 2003) (represented AQMD in action against oil company for repeated violations of state air quality laws)

U.S. v. Williams Field Services, C.A. No. 02B0199 (D. Colo. 2002) (represented defendant in negotiation of Consent Decree relating to alleged Clean Air Act violations at a gas processing plant within a Native American reservation)

Com. of Va. v. E.P.A., 108 F.3d 1397 (D.C. Cir. 1997) (represented motor vehicle manufacturing trade association in successful challenge to Environmental Protection Agency (EPA) regulations regarding motor vehicle emissions standards)

Conservation Law Foundation, Inc. v. Busey, 79 F.3d 1250 (1st Cir. 1996) (represented local government in Clean Air Act challenge to military base conversion)

U.S. v. General Motors, No. 95CV02215 (D.D.C. 1995) (represented defendant in negotiation of Consent Decree regarding pollution controls for several automobile and truck models)

Representative Experience

Airports

- Counseled airports on complex air quality challenges by proposed airfield, terminal, and ground access projects and proposed operational rules at Los Angeles, Las Vegas, Philadelphia, Chicago, Seattle, Naples, Palm Beach, and other airports; addressed issues regarding criteria and air toxic emissions from non-road sources and stationary sources under permitting regulations, the Clean Air Act's conformity regulations, National Environmental Protection Act (NEPA), and the California Environmental Quality Act.
- Advised airports and local entities on the extent to which the federal Clean Air Act or other requirements may preempt airport or other local air quality initiatives.



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Stationary Source Permitting

- Advised clients on a range of stationary source permit requirements for gas-fired power plants, cogeneration facilities, heating and cooling plants, fuel facilities, ethanol plants, and similar infrastructure in California, Colorado, Illinois, Pennsylvania, and other states.

Highway Development

- Addressed complicated transportation conformity, NEPA, and air toxics issues associated with highway development in states including California, Colorado, Illinois, Indiana, Nevada, and Pennsylvania.

Alternative Fuels and Vehicles

- Represented private and public entities developing and promoting alternative fuel technology, alternative fuel requirements, and vehicle conversions.

Compliance and Enforcement

- Advised public and private sector clients in enforcement and compliance matters arising under air quality regulations, including:
 - Alleged Clean Air Act Title V permit condition violations at a major international airport.
 - Alleged false claims under the False Claims Act stemming from claimed Title V deficiencies at three major international airports.
 - Alleged installation of mobile source “defeat devices.”
 - Alleged violations of Prevention of Significant Deterioration permit requirements at natural gas treatment plants.
 - Negotiation of an amendment to a New Source Review Consent Decree on behalf of the purchaser of an oil refinery.
 - Compliance with risk management, safety, and permit requirements for metals and chemical plants.
 - Alleged Prevention of Significant Deterioration and New Source Review permit violations by large Midwestern power producers.

Other Projects

- Addressed general conformity and NEPA air quality analyses in a range of public lands, water project, and other developments.