MAJOR ACCIDENT AND INCIDENT RESPONSE

Our Clients

Over the last 10 years, we have represented clients in more than 70 major incidents or fatality events throughout the energy, oil and gas, manufacturing, and chemical industries. Our clients range from household names on the Fortune 100 to smaller, regional operators. In the aftermath of a catastrophic accident, our team works closely with company leadership to assess the magnitude and potential long-term impacts of an event. Indeed, as workplace incidents are increasingly criminalized, these incidents warrant attention by skilled legal counsel with a wide range of relevant experience.

Our Services

Our team has worked on many of the most significant recent energy industry accidents, including Deepwater Horizon, the Richmond California refinery fire, the Texas City refinery incident and the Gulf of Mexico Black Elk platform explosion. Our team knows that management of major incidents occurs at two levels within an organization: the tactical—the site response at which the incident occurred, and the strategic—the corporate response.

Our team is prepared to advise companies quickly and efficiently, primarily focusing on three key responsibilities:

- managing onsite interaction with government inspections;
- assisting with timely compliance with applicable legal requirements (e.g., incident reporting requirements, evidence preservation); and
- taking steps to protect the company's legal interests (e.g., prepare for government investigations and third-party litigation, safeguard legal privileges, and work to help the client achieve clarity and accuracy in all communications.

Our team supports the company as a legal advisor, strategic counselor, project manager, communication facilitator and issue spotter. We consider the legal implications of our client's responses to an incident, since almost every decision taken in response to an incident can have serious legal consequences.

Incident Reporting Requirements

Depending upon the type and the severity of the incident, there likely will be government notification requirements. Initial notifications usually must occur within hours of the event with follow-up notifications in specified periods of time. Notification requirements are often fact-specific (e.g., identity of chemical, quantity released, duration of release) depending on the location of the event, the resulting environmental impacts (e.g., whether the release is to air, water or the soil), and the nature and extent of any injuries.

Site Preservation and Evidence Collection

After an incident, a primary concern of any investigating agencies will be the preservation of the incident scene and the collection of relevant evidence. Our team facilitates the preservation of physical equipment and records relevant to both the government investigation and the company's internal investigation. We coordinate the issuance of a preservation order to employees,
assess the need for outside consultants, and develop and execute a records preservation plan.

**Internal Investigations**

Companies often seek to independently investigate the causes of an incident to prevent future similar incidents, to comply with the regulatory requirements, and to self-report or otherwise cooperate with government investigations. Our team coordinates the review and analysis of information as part of the company’s internal investigation. We set up initial information sessions with key personnel, develop the company’s response plan, gauge the company’s willingness to cooperate in the investigation, educate employees on their rights and responsibilities, review potential records’ preservation issues and methods of reporting compliance issues, and develop lists of interviews to conduct and documents to review.

**Enforcement Response**

Our team immediately coordinates with in-house counsel to direct the company’s communication with, and response to, government enforcement agencies. We initiate immediate fact-gathering, prepare for an initial meeting with the relevant agency and coordinate the involvement of employees and other stakeholders.

At the same time, it is imperative that the company establish appropriate controls over the internal investigative process so as not to compromise the legal rights of the company and its employees. Finding a balance between these interests can be challenging, especially in the traumatized atmosphere that often accompanies a major accident. Our team has extensive experience managing the interests at stake in a way that is both sensitive to the interests of the employees and regulators, as well as protective of the legal rights of the company.

**Our Experience**

- Representation of a supermajor in multi-agency investigation following refinery fire, including the Chemical Safety Board (CSB), the US Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), and state and local agencies.
- Representation of a Fortune 50 chemical manufacturer in connection with investigations by the CSB, OSHA, the EPA and other agencies into a four-fatality accident resulting from the release of toxic chemicals, including subsequent enforcement.
- Representation of a Fortune 50 integrated energy company with respect to investigations by the CSB and Cal/OSHA into a refinery explosion.
- Representation of a Fortune 100 refiner with respect to investigations by the CSB, Cal/OSHA and the EPA into a chemical spill and subsequent enforcement.
- Representation of a Fortune 50 integrated energy company with respect to a furnace explosion resulting in a fatality and investigations by OSHA and the EPA, including subsequent enforcement.
- Representation of a Fortune 50 integrated energy company in a Cal/OSHA investigation into a steam pipeline rupture that resulted in serious burn injuries, including subsequent enforcement.
- Representation of a Fortune 100 refiner in an investigation by the CSB and Washington State Department of Labor & Industries into a refinery accident that resulted in seven fatalities.
- Representation of multiple facilities after a major accident and fatality, including response to OSHA inspection, assistance in simultaneous response to CSB and EPA inspections, and assistance in defense of personal injury and property damage lawsuits.
- Representation of a Fortune 50 integrated energy company in investigations by the CSB, Cal/OSHA and the EPA into a refinery fire, including subsequent enforcement.
- Representation of an offshore production company after a rig explosion and fire in response to BSEE civil and criminal investigation, and assistance with defense of related civil litigation.
- Representation of multiple energy companies when they experienced an uncontrolled release from production wells.
- Development of major incident response toolkits and programs for energy companies with upstream and downstream operations.