Hogan Lovells

Administrative Procedure Act

Companies in highly regulated industries have an interest in ensuring that federal agencies act lawfully, explain their actions sufficiently, and treat similarly situated entities fairly. The Administrative Procedure Act (APA) keeps federal agencies within these bounds.

The unique nature of APA litigation presents opportunities and challenges that are best navigated by lawyers who handle such cases routinely.

APA challenges may be filed in either trial or appellate courts, depending on the agency action challenged. They frequently involve the need for emergency relief. And they require litigation counsel to have a deep understanding of both the regulatory environment and the unique procedures of APA challenges. APA litigation thus draws on three of the firm's core strengths: regulatory know-how, appellate litigation, and trial litigation.

Combining substantive regulatory experience and familiarity with litigation involving the government, our APA team routinely challenges actions taken by the full alphabet of federal agencies. We file lawsuits when agencies exceed their authority, seek emergency relief when clients face imminent threats, and we can help you craft persuasive comments on agency proposals to build a record that best positions you for future legal challenge.

What sets us apart: The APA team knows our clients' regulatory environment and how best to protect their interests.

Contacts

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Practices

Commercial Litigation

Representative experience

We represented the petitioner in a challenge to an FCC order regarding eligibility for bidding credits in a spectrum auction.

We represented a pharmaceutical company in a challenge to FDA's denial of orphan drug exclusivity.

We represented the intervenor in a challenge to FERC's approval of a natural gas facility.

We represented the plaintiff in a challenge to CMS's decision to reimburse a biologic as a multiple source drug.

We have represented many pharmaceutical companies in challenges to FDA's administrative decisions, including denials of various types of exclusivity and approvals of generic drugs.