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## ENVIRONMENTAL LAW

### EPA Report on Enforcement and Compliance Results for 2014

BY KATE CAMPBELL

*Special to the Legal*

On Dec. 18, 2014, the U.S. Environmental Protection Agency (EPA) released its annual report on enforcement and compliance results for fiscal year 2014, summarizing significant enforcement actions and achievements across a variety of agency programs and industry sectors. In its press release announcing the report, the EPA stated that its achievements for 2014 reflected the agency's focus on large cases—a mission designed specifically to “driv[e] industry compliance” and maximize the impact on public health and the environment. Cynthia Giles, assistant administrator for the EPA's Office of Enforcement and Compliance Assurance, explained: “By taking on large, high-impact enforcement cases, the EPA is helping to level the playing field for companies that play by the rules, while maximizing our ability to protect the communities we serve across the country.”

According to the report, the EPA enforcement actions for the 2014 fiscal year resulted in:

- Private companies investing more than \$9.7 billion in actions and equipment to control pollution and to clean up contaminated sites.
- \$163 million in combined federal, administrative and civil judicial penalties and criminal fines.



**KATE CAMPBELL** is an attorney with the environmental, energy and land use law and litigation firm of Manko, Gold, Katcher & Fox in Bala Cynwyd, Pa. She can be reached at 484-430-2316 or [kcampbell@mankogold.com](mailto:kcampbell@mankogold.com).

• \$453.7 million in commitments from potentially responsible parties to clean up Superfund sites, and an additional \$57.7 million to reimburse the EPA for past costs and to replenish the Superfund.

The EPA also touted major achievements in reducing air emissions released from coal-fired power plants and from industrial flares at refineries and chemical plants, in addition to discharges of raw sewage and contaminated stormwater in cities nationwide through green infrastructure and other innovative approaches. And though not included in the 2014 statistics, the agency reported the largest cleanup settlement ever achieved, with Kerr-McGee Corp. and certain affiliates, including Anadarko Petroleum Corp., paying more than \$4.4 billion toward environmental cleanups across the country.

In our region, the EPA reported initiating over 500 new cases in 2014 in Region 2 (covering New Jersey, New York, Puerto Rico and the U.S. Virgin Islands) and Region 3 (covering Maryland, Pennsylvania, Virginia,

West Virginia and Washington, D.C.). Perhaps not surprisingly, Region 2 saw some of the highest numbers in terms of pollution reduction. Among other things, Region 2 surpassed all other regions in the agency's estimate of quantities of hazardous waste treated, minimized or properly disposed of at over 56 million pounds, and was ranked third in the country for the cleanup of contaminated aquifers or other waters, estimated at over 19 million cubic yards. (On this latter point, Region 4 (covering the Southeast) surpassed all others, with close to 800 million cubic yards of contaminated waters to be cleaned up in the region, although this figure appears to be associated entirely with a single site.)

Looking behind the numbers a bit, a comparison of actual results with the EPA's 2014 targets and a review of enforcement trends over time prove interesting. Though there are some exceptions, the EPA largely met or exceeded its stated goals for 2014 in terms of cases initiated and concluded, quantities of pollution reduced or eliminated, and dollars for penalties, fines, compliance measures and future cleanup activities. But when comparing graphic results from 2014 with those from the 2011-13 fiscal years, 2014 overall appears to have been a quieter enforcement year for the agency. In its report, the EPA offered several explanations. For example, in terms of pollution

reduction, the EPA indicated that because enforcement “addresses the biggest sources of pollution first,” the “amount of pollution reduced through the EPA’s enforcement cases will decline over time.” The EPA also indicated that the number of cases initiated and resolved in 2014 as well as the number of federal inspections conducted throughout the year—both of which were lower than in past years—were attributable at least in part to the government shutdown at the beginning of the year, in addition to budget reductions.

So, with 2014 behind us, what might we see for 2015? Likely a continuation of the same. The EPA’s national enforcement initiatives remain unchanged from those set for fiscal years 2011-13, which the agency has announced as follows:

- Keeping raw sewage and contaminated stormwater out of our nation’s waters.
- Preventing animal waste from contaminating surface and ground waters.
- Cutting toxic air pollution that affects communities’ health.
- Reducing widespread air pollution from the largest sources, especially

the coal-fired utility, cement, glass and acid sectors.

- Reducing pollution from mineral processing operations.
- Ensuring energy extraction sector compliance with environmental laws.

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In addition to these initiatives, it is also anticipated that the EPA will continue its focus on effectuating cleanups in large-scale urban waterways affected by legacy sediment contamination, as highlighted regionally by the agency’s activity in the

Lower Passaic River in Newark, N.J., and the Gowanus Canal in Brooklyn, N.Y., among others.

Of course, how much the EPA can achieve in each of these areas in the coming year remains to be seen, and the EPA will no doubt face serious challenges in this regard. On Dec. 13, 2014, just days before the EPA issued its 2014 enforcement report, Congress finally passed a spending bill to carry the federal government through September 2015. The bill, which calls for \$60 million in budget reductions for the EPA, marks the fifth straight year of budget cuts for the agency, and will reportedly require the EPA to reduce its staffing to levels that have not been seen since 1989.

For more information on the EPA’s 2014 enforcement and compliance results, visit <http://goo.gl/rcovVK>. •

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