

# Municipalities, Farmers, and Manufacturers Targeted by EPA's New Enforcement Initiatives

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## **Municipalities and those involved in animal feeding and food manufacturing operations take heed: heightened EPA scrutiny is coming your way!**

Every three years, the U.S. Environmental Protection Agency ("EPA") selects National Enforcement Initiatives to focus its resources and influence state enforcement

trends. The EPA recently updated its National Enforcement Initiatives, outlining what it sees as national environmental problems with significant non-compliance. To address these problems, beginning October 1, 2016, EPA will continue four of its current National Enforcement Initiatives, add two new initiatives, and expand one to include a new area of focus.

Water quality and enforcement are at the top of the EPA's list. With an extensive network of 17 river basins, North Carolina has a concentration of water quality issues that will be the target of EPA enforcement. The enforcement efforts will make scrutiny of municipalities, farmers, and manufacturers a top priority.

### **Municipal Systems Stormwater Runoff and Discharges**

The EPA began focusing on stormwater after years of addressing contaminated wastewater under the Clean Water Act. In the past, industrial, municipal, and construction stormwater across the country have been subject to tighter controls. Now the EPA is stepping up its effort to target inadequately controlled stormwater runoff and discharges from municipal sewer systems as well as raw sewage overflows common during heavy storms.

### **Farm Animal Waste**

With its renewed enforcement initiative, the EPA appears poised to direct its focus on farms, which have long been the target of environmental interest groups such as the Waterkeeper Alliance. A specific focus is likely to be concentrated animal feeding operations ("CAFOs") and their impact on natural resources and local communities. Because CAFOs have large numbers of livestock and poultry raised in confined areas, significant volumes of animal waste are generated. If operations are improperly managed, the excess nutrients and pollutants from the collected animal waste have the potential to contaminate surface water and, in unusual circumstances, groundwater.

In North Carolina, part of meeting proper waste management standards means obtaining proper wastewater permits issued by the state's Department of Environmental Quality ("DEQ") and in some cases a federal discharge permit.

### **Industrial Wastewater from Food Processing, Metals Manufacturing, Chemical Manufacturing, and Mining**

Keeping industrial pollutants out of America's waters is a new EPA initiative for 2017-2019. Although the EPA has been regulating industrial point source discharges for over 40 years, it has now identified specific industries in an effort to reduce unauthorized discharges. The focus will be on the following industries:

- Food processing;
- Metals manufacturing;
- Chemical manufacturing; and,
- Mining.

The EPA will utilize its new electronic compliance monitoring and data reporting requirements, passed in late 2015, to provide regulators with timelier and more consistent data about wastewater discharges. Increased monitoring and public transparency likely will result in more aggressive enforcement.

In addition to the initiatives in the municipal, manufacturing and farming sectors, the EPA will continue initiatives in the air, energy extraction, and hazardous chemical arenas as well. Be prepared to see an expansion of efforts to cut hazardous air pollutants, enforcement of energy extraction regulations, and a new initiative to reduce the risks of accidental releases of hazardous materials at industrial and chemical facilities.

In summary, the regulated community, particularly in the targeted industries, should expect to see increased agency scrutiny from the EPA and the DEQ, and can benefit from proactive identification and correction of compliance deficiencies. Consideration of the benefits of third-party auditing in consultation with legal counsel can keep enforcement at bay.

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