

DATE: January 25, 2005

TO: James Edward, Director Compliance Assistance and Sector Programs Division,
Office of Compliance, Office of Enforcement and Compliance Assurance

FROM: John Gorman, Chief, Compliance Assistance Section
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RE: Compliance Status among Healthcare Facilities in Region 2

Over the past several years, EPA Region 2 (New York, New Jersey, U.S. Virgin Islands, and Puerto Rico) has been implementing a Hospital Environmental Compliance Initiative. In our Region alone, approximately \$1 million in penalties have been assessed from the approximately 40 compliance inspections that have been conducted. An analysis of recent hospital compliance reviews in Region 2 has shown that hospitals are experiencing compliance problems across numerous environmental statutes, with the majority of violations (60%) involving hazardous waste management.

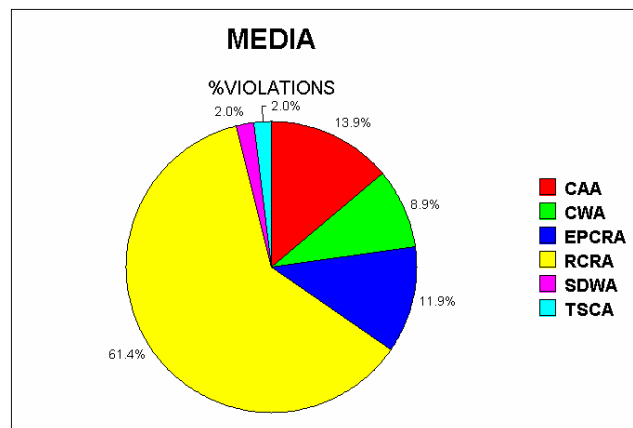
In EPA Region 2, to date we have signed 38 Audit Agreements with individual hospitals and hospital systems covering over 100 facilities. Additional agreements are being developed and more are expected. The Audit Agreements cover all major federal environmental programs including air, water, pesticides, solid and hazardous wastes, emergency planning, Community Right-to-Know and toxic substances control. These healthcare facilities have committed to self-report any violations, correct deficiencies in environmental management, and to take steps to prevent recurrence of violations. EPA, in return, has agreed to waive gravity-based penalties for self-disclosed violations. We have also received 83 self-disclosure reports from hospitals under this initiative. This has resulted in the correction of more than 1100 violations and EPA has waived almost \$9 million in penalties that could have been assessed for these violations.

When conducting compliance inspections, EPA inspectors find that hospitals who were recently visited by JCAHO may conclude they do not have violations. In most cases, the hospital is surprised to find they are in violation of one or more Federal environmental regulations because they assumed that JCAHO would have identified existing violations when the on-site review was conducted. The hospital was not misinformed or misguided by JCAHO but was more likely confused because they assumed that JCAHO auditors were experienced at identifying these types of problems when evaluating the hospital against the standard that relates to compliance with environmental laws and regulations.

In light of our findings we see a strong need to educate the healthcare sector. To do this effectively we should partner with organizations like JCAHO that may be able to help disseminate information and training on environmental compliance. Below is a list of the common violations that EPA has found at hospitals. The Minnesota Pollution Control Agency has also been focusing on healthcare. Information on their findings is included below. We believe the instances of non-compliance are not isolated to Region 2 and Minnesota, but are likely to be occurring nationwide.

Common Violations and Problems Found at Hospitals during Region 2 Inspections

Overview of Environmental Compliance Violations



Summary: Hospitals are experiencing compliance problems across all environmental statutes, with the majority of violations (60%) involving hazardous waste management - RCRA. Further analysis of the RCRA violations reveals that these violations can be broken down as follows:

- 40% are container management violations;
- 32% are violations of generator requirements or general facility standards (contingency plan, training, record keeping, etc.);
- 25% are related to improper identification of hazardous waste (including chemotherapy waste, waste pharmaceuticals, and universal waste); and
- 3% are underground storage tank (UST) violations.

Air Violations/Issues

- Failure to use properly trained and accredited asbestos personnel
- Failure to notify EPA of asbestos removal projects and to keep required documentation/record keeping.
- Failure to properly dispose of asbestos debris.
- Failure to close lids on parts washers when not in use.
- Failure to include spray paint booths and parts degreasers in air permit.

Hazardous Waste Violations/Issues

- Improper or lack of hazardous waste (HW) labeling.
- No or infrequent weekly inspections of HW storage/satellite areas.
- Open containers of HW.
- Improper disposal of chemotherapy drugs.
- Failure to perform or improper HW determinations.
- No or inadequate HW manifests.

- Dumping HW down the drain.
- Improper management of expired pharmaceuticals, paints, etc.
- Lack of contingency plan.
- Lack of or inadequate training of employees in HW management.
- Failure to ensure that HW meets Land Disposal Restrictions.
- Failure to upgrade or close underground storage tanks (USTs) by 12/22/98.
- Malfunctioning leak detection systems on USTs.
- Improper consolidation of wastes from nearby facilities.

Residential Lead Paint Violations/Issues

- Failure to notify residents of lead paint in building or lack of knowledge of any lead hazard.
- Failure to provide EPA's pamphlet, "Protect Your Family from Lead in Your Home."

Water Violations/Issues

- No permit for or noncompliance with wastewater discharges.
- No or inadequate secondary containment of storage tanks.
- Improper disposal down floor drains.
- No Spill Prevention Control and Countermeasure plan.

Common Violations Found at Hospitals during Minnesota Inspections

Air Violations/Issues

- Operating permits not applied for or kept up to date

Hazardous Waste Violations/Issues

- Failure to properly evaluate waste
- Abandonment of hazardous waste/improper disposal
- Improper labeling of hazardous waste
- Improper management of Used Oil
- Hazardous waste containers not managed properly
- Manifest documents not managed properly
- Failure to notify authorities of generator size
- Failure to appropriately recover spills
- Lack of personnel training

Tank Violations

- Failure to notify
- Corrosion protection not tested