



THE ADMINISTRATIVE WATCH

ADMINISTRATIVE WATCH ADDRESSES ENVIRONMENTAL, HEALTH & SAFETY ISSUES

BCCZ

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MEDICAL FACILITIES AT RISK FOR ENVIRONMENTAL ENFORCEMENT ACTIONS

The United States Environmental Protection Agency Regions I and II (New England, New York and New Jersey) recently began targeting medical facilities as a major priority for multi-media inspection and enforcement efforts. As part of this effort, Region I and II are sending inspectors to hospitals and other healthcare facilities to examine compliance with all environmental regulations.

The violations commonly identified by EPA at medical facilities include: failure to comply with rules governing asbestos management and related documentation; improper management and storage of hazardous waste (including mercury, chemicals, radio nuclides, solvents and anesthetic gases); lack of or inadequate health and safety plans (including contingency plans and Spill Prevention Control and Countermeasure Plans); illegal disposal of wastes down drains; and failure to obtain permits for wastewater discharges. Region II has already sent letters to hundreds of medical facilities warning of imminent multi-media inspections and has issued more than \$1 million in penalties to medical facilities since the compliance initiative began. In one case, Region II sought penalties from a medical facility for alleged hazardous waste violations totaling \$214,420 and in another sought \$137,500 where a medical facility failed to obtain a permit for a wastewater discharge as required by the Clean Water Act. In addition, Region II has entered into twenty-one "self-audit" agreements with hospitals in New Jersey and New York.

While Region II has led the enforcement initiative against medical facilities, other Regions may soon begin investigating the environmental compliance of medical facilities. For example, according to a spokesperson for Region III (Pennsylvania, West Virginia, Delaware and Virginia), the Region is "very interested in the compliance program developed by Region II."

BCCZ believes that medical facilities should begin to prepare now for the possibility of a multi-media inspection. Pre-inspection preventative measures should include: (1) a comprehensive facility-wide compliance audit, according to certain legal controls to preserve the confidentiality and privileges; (2) a review of the audit findings and implementation of necessary measures to correct any violations; (3) an evaluation of the benefits and risks of voluntarily reporting any violations under EPA's audit policy (which allows for a reduction in penalties where voluntary disclosure of a violation has occurred); and (4) mandatory multi-media inspection training sessions for employees likely to be involved in the multi-media inspection.

If you have any questions regarding EPA's new compliance initiative targeting medical facilities or the steps you can take to prepare for a multi-media inspection, please do not hesitate to contact Michele Gutman at 412-394-5425 or any of the other attorneys in the Environmental, Health and Safety Services Group.

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