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Are You Meeting Your Environmental Obligations?

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...or the Reed Smith attorney with whom you regularly work.

The United States Environmental Protection Agency ("EPA") is alerting hospitals throughout the mid-Atlantic states about their responsibility to comply with environmental laws and regulations. This kind of "alert" is often followed up by EPA self-audit pacts, inspections and a review of facility compliance reports. In fact, on Friday March 5, 2004, EPA Region II announced four self-audit pacts with New York healthcare institutions which require the healthcare institutions to assess their own environmental compliance, and report and correct violations found. The new pacts bring to 18 the total number of pacts reached by EPA Region II with healthcare institutions in New York and New Jersey under EPA's Healthcare Compliance Initiative.

EPA has undertaken this enforcement initiative against hospitals because of EPA's belief that hospitals are not in compliance with *all* federal environmental programs, including air pollution, water pollution, pesticides, solid and hazardous wastes, environmental response, emergency planning and community right-to-know, and toxic substance control. Environmental problems which hospitals face include boilers and furnaces that are not in compliance with the Clean Air Act; inadequate monitoring of underground storage tanks; sewage treatment facilities that are not operating properly; and improper abatement of lead-based paint and asbestos. In addition, hospitals face specific voluntary industry-wide environmental compliance initiatives such as elimination of mercury-containing waste from their waste streams by 2005, and reducing the overall volume of waste (both regulated and non-regulated waste) by 33 percent by 2005 and by 50 percent by 2010.

Here are the top 10 questions you should ask yourself to determine if *your* hospital is meeting its environmental obligations:

1. Who is responsible for ensuring that all hospital operations are in compliance with EPA laws and regulations and that the hospital has all the required approvals, licenses, and permits?
2. Where are documents kept such as required permits, plans, chemical toxicity sheets and monitoring reports which can help prevent illegal releases, address problems in a timely fashion, and provide quick access on proper handling and disposal, as well as respond to questions during inspections?
3. Is an Environmental Management System, or EMS, in place to help the hospital maintain compliance and operate in an environmentally responsible manner through policies, training, tracking, procedures, and organizational structures that support compliance?

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4. Does the EMS track all hospital operations which are covered by environmental regulations, including state and federal regulations? Is the EMS updated on a regular basis to cover new, expanded or changed operations?
5. Does your hospital conduct environmental compliance self-audits?
6. If the hospital conducts compliance self-audits, is a system in place to (a) insure prompt correction of violations; (b) prevent future problems; and (c) elevate compliance problems immediately to hospital officials?
7. Does the hospital have a written policy on protecting public health and the environment through compliance with applicable requirements and conservation programs?
8. How is this policy and other environmental information communicated on a regular basis to others including hospital administration, facility management, patients, and the neighboring community?
9. Are hospital legal advisors familiar with EPA's Supplemental Environmental Projects Policy and EPA's Audit Policy?
10. What has been done to identify and correct environmental problems on land formerly used as disposal sites by the hospital?

Making sure your hospital can answer these questions can help assure that your facility will be EPA-compliant and avoid the costly negotiation and potential exposure of a self-audit pact, or, worse, the costly penalty assessments if the audit should turn up violations.

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Reed Smith's Environmental team can help you answer the questions. With more than 30 years of combined environmental experience and with 263 major hospital systems as clients, Reed Smith's Environmental team can make sure your hospital (whether one location or campuses ranging over an entire state) complies and properly documents compliance with all federal environmental programs applicable to your healthcare institution.

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