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1. Article Addressed to:


 MERCY HOSPITAL
 MR ANDY LOCKWOOD
 7500 STATE ROAD
 CINCINNATI OH 45255

2. Article Number

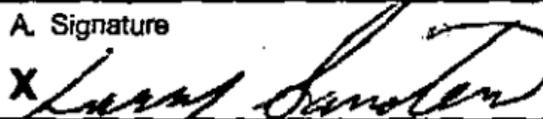
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7007 0220 0001 2491 8193

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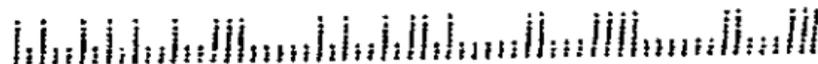
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OHIO EPA

MAY 19 2008



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CATHY ALTMAN
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SOUTHWEST DISTRICT



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City, State, ZIP+4
Circ OH 45255

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- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "*Restricted Delivery*".
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IMPORTANT: Save this receipt and present it when making an inquiry.

PS Form 3800, August 2006 (Reverse) PSN 7530-02-000-9047



State of Ohio Environmental Protection Agency

Southwest District Office

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Dayton, Ohio 45402

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

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-LA
-File

May 12, 2008

Certified Mail

Mercy Hospital
Mr. Andy Lockwood
7500 State Road
Cincinnati, Ohio 45255

RE: Complaint Investigation – Mercy Hospital OHD981526759

Dear Mr. Lockwood:

Thank you for accompanying the Ohio EPA and the Hamilton County General Health District on the March 31, 2008, inspection of Mercy Hospital located at 7500 State Road, Cincinnati, Ohio. At different times during the inspection, Remo Johnson, Ron Malblanc, Bill Carroll and you represented Mercy Hospital. Tony Schoenlein represented Hamilton County. Holly Hillyer, from the Division of Solid and Infectious Waste Management, and I represented the Ohio EPA. The purpose of my visit was to determine your facility's compliance with Ohio's hazardous waste laws as found in Chapter 3734. of the Ohio Revised Code (ORC) and Chapter 3745. of the Ohio Administrative Code (OAC).

During the investigation, Mercy Hospital staff explained that IV bags containing trace amounts of chemo-waste are placed into biohazard (red) containers. If the IV bag contains anything more than trace amounts, it is considered hazardous waste and is placed into a yellow container. The Hospital has designated the yellow containers to mean hazardous waste. Housekeeping will pick up yellow and red containers and take them to the biohazard room. From there, security will take the yellow hazardous waste containers to the hazmat "hut" storage area. In the past, yellow hazardous waste bins have been placed into infectious waste bins and transported off-site by Stericycle for treatment.

Based on the investigation, Ohio EPA has determined that Mercy Hospital has violated the following hazardous waste regulations:

1. **ORC 3734.02(F):**

No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed

under this chapter and rules adopted under it to any other premises, except at or to any permitted hazardous waste facility.

2. **Manifest – general requirements, OAC 3745-52-20(A):** A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal must prepare a uniform hazardous waste manifest, U.S. EPA form 8700-22, and if necessary, U.S. EPA form 8700-22A (the continuation sheet) before transporting the hazardous waste off-site.
3. **Packaging, OAC 3745-52-30:** Before transporting hazardous wastes or offering hazardous wastes for transportation off-site, the generator shall package the waste in accordance with the applicable United States department of transportation regulations on packaging, under 49 CFR Parts 173, 178, and 179.
4. **Labeling, OAC 3745-52-31:** Before transporting hazardous wastes or offering hazardous wastes for transportation off-site, the generator shall label each package of hazardous waste in accordance with the applicable United States department of transportation regulations on hazardous materials under 49 CFR Part 172.
5. **Marking, OAC 3745-52-32(A) and (B):**
 - (A) Before transporting hazardous wastes or offering hazardous wastes for transportation off-site, the generator shall mark each package of hazardous waste in accordance with the applicable United States department of transportation regulations on hazardous materials under 49 CFR 172.
 - (B) Before transporting hazardous wastes or offering hazardous wastes for transportation off-site, the generator shall mark each container of one hundred ten gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 CFR 172.304:

"Hazardous waste – Federal law prohibits improper disposal. If found, contact the nearest police or public safety authority, or the United States Environmental Protection Agency. Generator's name and address _____ Manifest document number _____."
6. **Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities, OAC 3745-270-07(A):** A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in rule 3745-270-40, 3745-270-45, or 3745-270-49 of the Administrative Code. This determination can be made either by testing the waste, or by using knowledge of the waste.

Mercy Hospital caused shipments of hazardous to be sent off-site by a transporter that is not registered to transport hazardous waste. The hazardous waste was managed by a facility that does not maintain a hazardous waste facility operation permit. In addition, the shipments did not comply with transport requirements, were not accompanied by a hazardous waste manifest, and land

disposal restriction form. **Therefore, Mercy Hospital is in violation of ORC 3734.02(F), OAC 3745-52-20(A), OAC 3745-52-30, OAC 3745-52-31, OAC 3745-52-32(A) and (B), and 3745-270-07(A).**

To return to compliance, immediately begin managing and disposing of hazardous waste appropriately.

7. **Accumulation time of hazardous waste, OAC 3745-52-34(A)(2) and (3):**

(A)(2) The date upon which each period of accumulation and/or treatment begins is clearly marked and visible for inspection on each container.

(A)(3) While being accumulated and/or treated on-site, each container and tank is labeled clearly with the words "Hazardous Waste."

Mercy Hospital failed to comply with this regulation by not properly labeling and dating the hazardous waste container located in the hazmat "hut" storage area. **Therefore, Mercy Hospital is in violation of OAC 3745-52-34(A)(2) and (3).**

To return to compliance properly label and date hazardous waste containers.

8. **Inspections, OAC 3745-66-74:** The owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. The owner or operator must record inspections in an inspection log or summary.

Mercy Hospital failed to comply with this regulation by not conducting weekly inspections of hazardous waste containers. **Therefore, Mercy Hospital is in violation of OAC 3745-66-74.**

To return to compliance, immediately begin weekly inspections of all hazardous waste containers.

General Comments

1. During the investigation, Mercy provided a copy of a manifest for waste shipped to Environmental Enterprises, Inc. (EEI) on March 14, 2008. Mercy was unaware, until Ohio EPA pointed it out, that the waste was shipped as non-hazardous. According to information from EEI, eleven (11) yellow bins were placed into four (4) drums for shipment as non-hazardous waste. Ohio EPA has concerns regarding the profiling and packaging of this waste. This issue requires further review and will be addressed in a separate letter.

2. Please be aware that P waste codes as listed in OAC 3745-51-33 (e.g., epinephrine, nicotine, coumadin, nitroglycerine) are considered acute hazardous wastes. As such there are specific requirements for those wastes:

(A) Per OAC 3745-51-05(E), if a generator generates a total of one kilogram of acute hazardous waste in a calendar month, the generator must comply with large quantity generator standards.

Mr. Andy Lockwood
May 12, 2008

- (B) Per OAC 3745-51-07(B)(3), A container or inner liner removed from a container that has held an acute hazardous waste listed in rule 3745-51-31, 3745-51-32, or paragraph (E) of rule 3745-51-33 of the Administrative Code is empty if:
- (a) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;
 - (b) The container or inner liner has been cleansed by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or
 - (c) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container, has been removed.

Epinephrine residue that remains in a syringe after an injection is considered to have been used for its intended purpose and would not be classified as a listed hazardous waste. However, containers of unused epinephrine or other containers that may have held epinephrine would be an acute hazardous waste requiring proper hazardous waste disposal.

I will conduct a follow up inspection to verify that Mercy Hospital has abated the violations listed above. If you have any questions, please call me at (937) 285-6093.

Sincerely,



Cathy L. Altman
Division of Hazardous Waste Management

cc: Dinah Crawford, DHWM-SWDO/SWDO File
Holly Hillyer, DSIWM
Tony Schoenlein, Hamilton County Public Health

NOTICE:

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.