



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

AUGUST 16, 2023

Nicole Ratigan
Senior Environmental Specialist
Omnicare of Albuquerque
9019 Washington Street NE, Ste., B1
Albuquerque, NM, 87113

**RE: NOTICE OF VIOLATION WITH PROPOSED PENALTIES
OMNICARE OF ALBUQUERQUE
EPA ID# NMR000016279**

Dear Nicole Ratigan,

On March 10, 2021, the New Mexico Environment Department (“NMED”) conducted a hazardous waste Compliance Evaluation Inspection (“Inspection”) at Omnicare of Albuquerque (“Omnicare”), located at 9019 Washington Street NE., Ste., B1, Albuquerque, New Mexico (“Facility”). Omnicare specializes in long-term pharmaceutical distribution to assisted living facilities and skilled nursing homes, offering pharmaceutical delivery services to these facilities. The Facility generates hazardous waste associated with expired, damaged, or spilled medications.

Based on observations and review of the information obtained, NMED has determined that your Facility is a Large Quantity Generator (“LQG”) of hazardous waste as defined in 40 Code of Federal Regulations (“CFR”) 262.13. Furthermore, NMED has determined that Omnicare has violated the New Mexico Hazardous Waste Management Regulations (“HWMR”) 20.4.1 New Mexico Administrative Code (“NMAC”) as specified below.

NMED inspectors observed the following violations:

1. Failure to keep containers of universal waste lamps closed to ensure no breakage. Specifically, NMED Inspectors observed one open four-foot cardboard box containing

spent fluorescent lamps in the 90-day storage area. This is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR 273.13(d)(1).

Corrective Action: This violation was corrected at time of inspection.

2. Failure to conduct weekly inspections of the 90-day storage area. Specifically, weekly inspections were missing for the following 9 weeks: May 16-22 (2020), September 1-7 (2020), September 8-13 (2020), August 29-September 4 (2020), September 12-18 (2020), November 14-20 (2020), November 21-27 (2020), January 2-8 (2021), and January 30-February 5 (2021). This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.17(a)(1)(v).

Corrective Action: Omnicare must conduct weekly inspections of the 90-day storage area moving forward. Please provide NMED with a plan to ensure weekly inspections will be conducted consistently.

3. Storage over 90-days and without a permit. Specifically, NMED has determined that Omnicare was storing containers in the Central Accumulation Area (“CAA”) for greater than 90 days. Manifests indicated Omnicare had not transported hazardous waste off site for longer than 90 days. This is a violation of 20.4.1.300 NMAC incorporating 262.17(a) and 20.4.1.900 NMAC, incorporating 40 CFR 270.1(c).

Corrective Action: Omnicare must transport hazardous waste within 90-days or apply for a permit. Please provide NMED a plan to ensure hazardous waste is not stored on site longer than 90 days.

In accordance with NMSA 1978, Section 74-4-10, NMED may: (1) issue a Compliance Order requiring compliance immediately or within a specified time period or assess a civil penalty for any past or current violations of up to \$10,000 per day of non-compliance for each violation, or both; or (2) commence a civil action in District Court for appropriate relief, including a temporary or permanent injunction. Any such order may include a suspension or revocation of any permit issued by NMED.

In the two inspections performed prior to this Inspection, NMED documented violations at your facility that resulted in informal enforcement. On January 15, 2013, NMED observed four violations including hazardous waste characterization, failure to label hazardous waste containers with an accumulation start date, failure to obtain an EPA Identification Number, and failure to pay applicable hazardous waste fees. On September 25, 2017, NMED observed two violations for failures to properly utilize a hazardous waste manifest shipping document, and failure to properly label hazardous waste containers. Your repeated disregard for state regulations governing the management of hazardous waste poses a greater risk to human health and the environment. Due to the severe nature of the violations listed above, NMED will

Ms. Ratigan
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propose a civil penalty for these violations in a separate Notice of Proposed Penalty letter, which will follow as a separate document.

Please note that your facility will appear on the NMED's Enforcement Watch as a result of this NOV (see: <https://www.env.nm.gov/enforcement-watch/>). Further, NMED will issue a press release to local media highlighting your facility as appearing on this webpage. Your facility will remain on the Enforcement Watch website as an active matter until this matter is fully resolved, including the payment of the assessed civil penalty.

Any action taken in response to this letter does not relieve Omnicare of its obligation to comply with any other applicable laws and regulations. Pursuant to the NMED Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to issue Notices of Violation under the Hazardous Waste Act and HWMR's to the Chief of the Hazardous Waste Bureau.

If you have any questions regarding this letter, please contact Frank Rodarte of my staff at 505-690-5047 or by email at frank.rodarte@env.nm.gov.

Sincerely,

Ricardo Maestas Digitally signed by Ricardo
Maestas
Date: 2023.08.16 11:25:46 -06'00'

Ricardo Maestas
Acting Chief
Hazardous Waste Bureau

RM: fr

cc: Tyre Jameson, NMED HWB
Frank Rodarte, NMED HWB
Aaron Coffman, NMED HWB
Levi Cole, NMED District I Manager
Andrew Knight, NMED OGC

file: Library # 3923



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Senior Environmental Specialist
Omnicare of Albuquerque
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**RE: NOTICE OF PROPOSED PENALTIES
OMNICARE OF ALBUQUERQUE
EPA ID# NMR000016279**

Dear Nicole Ratigan:

On March 10, 2021, the New Mexico Environment Department (“NMED”) conducted a hazardous waste Compliance Evaluation Inspection (“Inspection”) at Omnicare of Albuquerque (“Omnicare”), located at 9019 Washington Street NE., B1, Albuquerque, New Mexico (“Facility”). The Notice of Violation (“NOV”) issued simultaneously with this proposed penalty letter describes the violations observed during the Inspection.

Pursuant to the New Mexico Hazardous Waste Act (“HWA”), NMSA 1978, §§ 74-4-1 to 14, NMED proposes to assess a civil penalty of \$43,450.00 to settle the violations of the HWA and the Hazardous Waste Management Regulations (“HWMR”) set forth in the NOV. The following civil penalties were assessed:

- | | |
|---|-------------|
| 1. Failure to keep containers of universal waste lamps closed to ensure no breakage, which is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR 273.13(d)(1). | \$330.00 |
| 2. Failure to conduct weekly inspections of the 90-day storage area, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.17(a)(1)(v). | \$21,120.00 |
| 3. Storage without a permit, which is a violation of 20.4.1.300 NMAC incorporating 262.17(a) and 20.4.1.900 NMAC, incorporating 40 CFR 270.1(c). | \$22,000.00 |

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If you would like to discuss the civil penalty, please contact Frank Rodarte, Hazardous Waste Bureau, by telephone at 505-690-5047 or by e-mail at frank.rodarte@env.nm.gov within 30 days of receipt of this notice to schedule an informal conference concerning resolution of this matter. If no response is received from you within 30 days, a Stipulated Final Order will be prepared for your signature to settle the case.

Sincerely,

Ricardo Maestas

Digitally signed by Ricardo
Maestas
Date: 2023.08.16 11:34:01 -06'00'

Ricardo Maestas
Acting Chief
Hazardous Waste Bureau

RM: fr

cc: Tyre Jameson, NMED HWB
Frank Rodarte, NMED HWB
Aaron Coffman, NMED HWB
Levi Cole, NMED District I Manager
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