

RCRA Inspection Report

1) Inspector and Author of Report

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U.S. Environmental Protection Agency, Region 4
Enforcement and Compliance Assurance Division
Chemical Safety and Land Enforcement Branch
RCRA Enforcement Section
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2) Facility Information

Lexington VA Health Care System,
Cooper Division
1101 Veterans Drive
Lexington, KY 40502

EPA ID#: KY5360900000
NAICS #: 62211- General Medical and Surgical
Hospitals; 621511- Medical Laboratories

3) Responsible Officials

Leonard Preston
Gems Program Manager
leonard.preston@va.gov

4) Inspection Participants

Leonard Preston, Lexington VA Health
Care System, Cooper Division

Amy McCracken, KDEP
Scott Gerstner, KDEP
Mark Anthony Relon, USEPA

5) Date of Inspection

August 24, 2023 9:10am

6) Applicable Regulations¹

Resource Conservation and Recovery Act (RCRA) Sections 3002 (42 U.S. Code – Annotated U.S.C.A. 6925 and 6927), and 40 Code of Federal Regulation (C.F.R.) Parts 260 - 270, 273, 278, & 279; Kentucky Revised Statutes Title XVIII, Chapter 224, Subchapter 46-Hazardous Waste et seq. (2006), and Title 401 of the Kentucky Administrative Regulations (K.A.R.) Chapters 30 through 38, 43 and 44 (2006).

¹ As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations of those authorized provisions will be to the authorized State program. However, for ease of reference, the federal citations will follow in brackets.

Pursuant to 401 KAR 39:005, Section 1 [40 C.F.R. § 260.10], a generator of greater than 100 kilograms (220 lbs) but less than 1,000 kilograms (2200 lbs) of hazardous waste in a calendar month is a Small Quantity Generator (SQG).

Pursuant to 401 KAR 39:080, Section 3(1) [40 C.F.R. § 273.9], a small quantity handler of universal waste (SQHUW) is a universal waste handler who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, lamps, or aerosol cans, calculated collectively) at any time.

Pursuant to 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by KRS § 224.46-520(1) [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.16(b) or § 262.17(a)], except as required in 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator complies with the satellite accumulation area conditions listed in 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.15] (hereinafter referred to as the “SAA Permit Exemption”).

Pursuant to 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.16)], SQG may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status, as required by [KRS § 224.46-520(1)] [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.16] (hereinafter referred to as the “SQG Permit Exemption”).

7) Purpose of Inspection

The purpose of this inspection was to conduct an unannounced compliance evaluation inspection to determine Lexington VA Health Care System, Cooper Division (hereinafter, “Lexington VA” or the “Facility”) compliance with the applicable requirements of RCRA and the corresponding Kentucky regulations. This was an EPA lead inspection.

8) Facility Description

The Lexington VA is a federal medical center which provides emergency, dental, surgical, intensive, and progressive care. The Lexington VA is part of the VA MidSouth Healthcare Network and operates four outpatient clinics in Berea, Somerset, Morehead, and Hazard, and has a second division in Lexington on Leestown Road.

The facility consists of a main building and a tower building. The two buildings are connected through the first and second floor. The tower building consists of six floors and a basement. The main building consists of four floors. Access to the facility was through security at the front of the entrance while the rest of the facility was through card access facility personnel held.

The Lexington VA is a SQG with their latest notification dated August 17, 2023. The hospital is operating as a healthcare facility under Subpart P. The facility’s waste pharmaceuticals are

collected by Earth Smart Environmental and taken to a TSD facility for disposal. Hazardous wastes generated at the facility include, but are not limited to, the EPA waste codes D001 through D003, D005, D007 through D011, D018, D022, D024, D026, D035, F003, F005, P001, and various U-listed wastes. The facility has a minor source air permit.

Chemotherapy waste such as chemo agents, IVs with residual chemo agents, chemo spill cleanup debris, containers with residual chemo agents and tablets are managed as hazardous and are stored in black containers. Trace chemotherapy waste such as gloves, empty containers, empty syringes, PPE, etc. are managed as non-hazardous and are stored in yellow containers.

Controlled substances are regulated by the FDA and U.S. DEA. Infectious materials (empty syringes and ampoules) that are not hazardous including sharps are collected in red bio-hazardous waste containers.

Pharmaceutical waste containers are staged at locations throughout the hospital based on the probability that such waste will be generated. Waste disposal instructions are posted in all the facility's satellite accumulation areas (SAAs). Typically, satellite accumulation areas in each department are located in specially designated rooms for medicine preparation and waste accumulation. Rooms are either kept locked or under strict supervision. Facility personnel transport full containers of waste to the 180-day central accumulation area.

VA provides training on proper handling and disposal of pharmaceuticals, as needed, for clinical staff and pharmacy staff. The VA's Facility's Learning Resource Center facilitates training during new employee orientation and during nursing orientation training.

9) Previous Inspection History

Kentucky Department of Environment Protection (KDEP) conducted one RCRA CEI at the subject facility between 2020 and 2023 and found no violations during that inspection, which was conducted on February 7, 2023.

10) Opening Conference

On August 24, 2023, EPA inspector Mark Anthony Relon, accompanied by KDEP inspectors Amy McCracken and Scott Gerstner, arrived at Lexington VA at approximately 9:10am. Leonard Preston, Gems Program Manager, immediately received the inspectors. Leonard Preston and the inspectors prepared for the opening conference. The inspectors introduced themselves, showed their credentials to Leonard Preston, and explained the purpose of the visit.

The inspectors described the anticipated use of equipment (digital camera) during the inspection and provided a request for records. The EPA inspector explained that the Small Business Regulatory Enforcement Fairness Act's classification of a "small business" is generally set by the Small Business Administration using the business' SIC/NAICS code and annual receipts or number of employees. A copy of the EPA's information sheet for small businesses can be found at <https://www.epa.gov/sites/production/files/2017->

06/documents/smallbusinessinfo.pdf. The EPA inspector also discussed the company's ability, pursuant to 40 C.F.R. § 2.203, to assert a business confidentiality claim for information submitted to EPA. The company did not assert a business confidentiality claim.

Leonard Preston provided an overview of the facility's history and current operations during the opening conference. The inspection participants also discussed health and safety protocols and required personal protective equipment before Facility representative led the inspectors on a tour of the Facility operations.

11) Inspection Observations

Medication Room

Lexington VA manages a SAA in the Medication Room for managing hazardous waste pharmaceuticals that are generated by medical consumption or medical processing equipment. The inspectors observed one 2-liter container and one 1-gallon container in this SAA. The 1-gallon container was located adjacent to the medicine inventory, and it was equipped with a flip top self-closing dispenser lid, which was closed (Figure 1). The container was labeled hazardous waste pharmaceuticals and identified with an indication of the hazards of the contents. The 2-liter container was located adjacent to medical equipment, and it was equipped with a self-closing dispenser lid, which was closed (Figure 2). The container was labeled hazardous waste pharmaceuticals and identified with an indication of the hazards of the contents.

Laboratory

Lexington VA manages a SAA in the Laboratory for managing hazardous waste pharmaceuticals that are generated by medical consumption or medical processing equipment. The inspectors observed one 20-liter container in this SAA. The container was located under a laboratory table, and it was equipped with a cap lid, which was closed (Figure 3). The container was labeled hazardous waste "Cytology stains and Alcohol" and identified with an indication of the hazards of the contents.

Lexington VA also manages universal waste aerosol cans in the Laboratory.

The inspectors observed one container of universal waste aerosol cans in this area during the inspection. The box of aerosol cans, which was closed and marked with an accumulation start date, was labeled universal waste aerosol cans.

Pharmacy

Lexington VA manages a SAA in the Pharmacy for managing hazardous waste pharmaceuticals that are generated by medical consumption or medical processing equipment. The inspectors needed to sign in for access to this area due to facility protocols. Inspectors observed one 2-gallon container and one 5-gallon container in this SAA. The 2-gallon container was located in the Compounding Suite area, and it was equipped with a cover lid, which was closed. The

container was labeled hazardous waste and identified with an indication of the hazards of the contents.

Inspectors asked facility personnel if the 5-gallon container was used to contain hazardous waste since there were no labels or indication of the hazards of the contents present on the container. Facility personnel stated that the container was used only for emptied medicine containers and sent for recycling.

Emergency Department

Lexington VA manages a SAA in the Emergency Department for managing hazardous waste pharmaceuticals that are generated by medical consumption or medical processing equipment. The inspectors observed four (4) 1-liter containers in this SAA. The containers were located under medicine inventory, and they were equipped with self-closing dispenser lids, which were closed (Figure 4). The containers were labeled hazardous waste and identified with an indication of the hazards of the contents (Figure 5).

Inspectors observed two 10-gallon containers in a second SAA. The containers were located in another separate section of the emergency department, and they were equipped with latch lids, which were closed (Figure 6). The containers were named hazardous waste pharmaceuticals and identified with an indication of the hazards of the contents (Figure 7).

CAA#1

Lexington VA manages one hazardous waste CAA in an area near the electrical room. The area was identified with a sign which read “danger, hazardous waste storage.” Lexington VA manages ignitable waste in this CAA, and the inspectors observed “No Smoking” signs at the front door.

The CAA is equipped with an internal communications or alarm system capable of providing immediate emergency instruction to facility personnel; it is equipped with a device capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams; it is equipped with portable fire extinguishers, fire control equipment, spill control equipment, and decontamination equipment; and it is equipped with water to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray system. No hazardous waste containers were observed in this CAA due to recent shipment pickup.

Lexington VA also manages universal waste aerosol cans in CAA#1.

The inspectors observed one container of universal waste aerosol cans in this area during the inspection. The box of aerosol cans, which was closed and marked with an accumulation start date, was labeled universal waste aerosol cans, and was dated May 30, 2023.

CAA#2

Lexington VA manages another hazardous waste CAA in a metal container storage room located outside and adjacent to the facility. The area was identified with a sign which read “danger, hazardous waste storage.” Lexington VA manages ignitable waste in this CAA, and the inspectors observed “No Smoking” signs outside the metal container storage room.

The CAA is equipped with an internal communications or alarm system capable of providing immediate emergency instruction to facility personnel; it is equipped with a device capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams; it is equipped with portable fire extinguishers, fire control equipment, spill control equipment, and decontamination equipment; and it is equipped with water to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray system.

Inspectors observed one 55-gallon container, seven (7) 5-liter containers, four (4) 2-gallon containers, one 3.75-liter container, and one 2-gallon container of corrosive hazardous waste in CAA#2. Each container was labeled hazardous waste, marked with an accumulation start date, and identified with an indication of the hazards of the contents.

12) Records Review

Inspectors conducted the records review outside the respective Facility in another parent facility. The parent facility was the Leestown Division office. Inspectors asked facility personnel if this was standard protocol to have files not present physically at the designated facility. Facility personnel stated that they have access to the records in a timely fashion due to the facility personnel involved with both facilities and managing the records within the Leestown office. Inspectors recommended facility personnel to keep physical documents present at the intended facility.

Local Authority Arrangements:

The facility provided documentation on arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or the Local Emergency Planning Committee.

Training Records:

The inspectors reviewed facility job descriptions and employee names were provided. Each description included the requisite skill, education, or other qualifications, and duties of facility personnel assigned to that position.

Lexington VA provided a written description of the type and amount of both introductory and continuing training to be given to each person filling the positions listed above. The inspectors reviewed records of employee hazardous waste training completed in 2020 through 2023.

Waste Manifest and Land Disposal Restriction (LDR) Records:

The inspectors reviewed available hazardous waste manifest records and land disposal restriction forms for shipments of hazardous waste sent since 2020. Hazardous waste manifest records show that D001, F003 hazardous waste “flammable liquid (Methanol, Xylenes),” and D001, D002 hazardous waste “corrosive liquid, flammable (Sodium Hydroxide, Ethanol),” are routinely shipped to DLD Environmental Service, Inc. (MID092947926) and Drug and Laboratory Disposal, Inc. (MID092947928), and the most recent shipment was made on August 14, 2023.

Inspectors asked facility personnel about a missing return manifest (Tracking No. 019852769JFK). Facility personnel stated that they do have all return manifests present, but current mailing protocols delay the records management process. Facility personnel stated that it was present at their office at the time of the inspection but could not provide it at that time due to records management. Inspectors recommended facility personnel during the closing conference for changing the mailing system to alleviate delayed records management processes.

Weekly Inspection Records:

The inspectors reviewed Lexington VA’s available records of inspections of the hazardous waste central accumulation area (CAA) since 2020. The inspection log includes a checklist to record observations about leaking containers and for deterioration of containers caused by corrosion or other factors. The inspection log includes a checklist to record observations about aisle space, complete container labels, closed lids and bungs, condition of containers, container stacking, container storage time, housekeeping, emergency communication, fire extinguisher, spill response kit, etc. The records include the date and time of the inspection and the name, signature and initials of the employee conducting the inspection. Employees do routinely record inspection observations and subsequent follow-up actions on the inspection log. No inspection records were provided for the week(s) of May 30, 2023 to the date of the inspection for CAA#1. No inspection records were provided for the week(s) of May 9, 2023 to the date of the inspection for CAA#2.

Pursuant to 401 KAR 39:080, Section 1(1) [40 C.F.R. § 262.16(b)(2)(iv)], which is a condition of the SQG Permit Exemption, a generator is required to, at least weekly, inspect central accumulation areas looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

13) Closing Conference

The inspectors conducted the exit meeting at 12:50pm with Leonard Preston, Dr. Watts, and Angela Hutchinson. During this meeting, the inspectors stated their preliminary conclusions of the inspection. Lexington VA agreed to provide manifest records. On August 24, 2023, after the inspection, Leonard Preston provided manifest records in an email to Mark Anthony Relon, Amy McCracken, and Scott Gerstner.

14) **List of Attachments**

Attachment 1 – Photo Log:

15) **Signed**

MARK ANTHONY RELON Digitally signed by MARK ANTHONY
RELON
Date: 2023.12.22 10:39:18 -08'00'

Mark Anthony Relon
Environmental Engineer

16) **Concurrence**

LAURIE DIGAETANO Digitally signed by LAURIE DIGAETANO
Date: 2023.12.23 17:41:22 -05'00'

for Araceli B. Chavez
RCRA Enforcement Section

Attachment 1 – Photo Log

7 Photos taken on: August 24, 2023

Photos taken by: Amy McCracken

Photos taken with: KDEP provided photos of facility walkthrough/observations

**Attachment 1- Lexington VA Health Care System, Cooper Division
RCRA CEI Photographs**



Figure 1: 10:00 AM Medication Room
One 1-gallon container with hazardous waste label and indication of the hazards of the contents observed.



Figure 2: 10:00 AM Medication Room
One 2-liter container with hazardous waste label and indication of the hazards of the contents observed.



Figure 3: 10:08 AM Laboratory
One 20-liter container with hazardous waste label and indication of the hazards of the contents observed.



Figure 4: 10:27 AM Emergency Department
Four (4) 1-liter containers with hazardous waste labels and indications of the hazards of the contents observed.

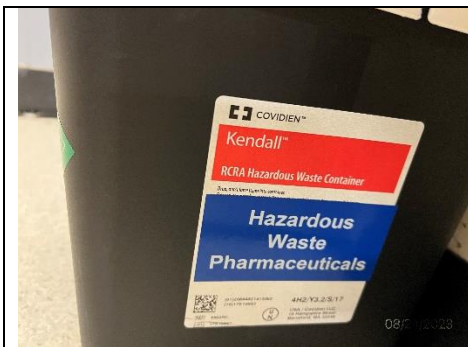


Figure 5: 10:28 AM Emergency Department
Side profile for one of four of the 1-liter containers observed (i.e., compressed gases).



Figure 6: 10:28 AM Emergency Department
Two 10-gallon containers with hazardous waste labels and indications of the hazards of the contents observed.



Figure 7: 10:28 AM Emergency Department
Side profile for one of two 10-gallon containers
observed.