



United States Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Office of Criminal Enforcement, Forensics and Training

National Enforcement Investigations Center

NEIC

NEICVP1313E01

NEIC CIVIL INVESTIGATION REPORT

Medical City of Lewisville

Lewisville, Texas 75057

Investigation Dates:

December 10-11, 2018

NEIC Team:

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APPENDICES (*NEIC-created)

A	Inspection Notification Email (1 page)
B	Notice of Registration 12-6-2018 (12 pages)
C	MCL Waste List (2 pages)
D	NEIC Photos* (4 pages)
E	2015 Medical City Lewisville Annual Waste Summary (1 page)
F	2016 Medical City Lewisville Annual Waste Summary (1 page)
G	2017 Medical City Lewisville Annual Waste Summary (1 page)
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I	2015 Medical City Lewisville Hazardous Waste Manifests (5 pages)
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and provides a clear indication of the end of this report.**

INVESTIGATION OVERVIEW

PROJECT OBJECTIVE

U.S. Environmental Protection Agency (EPA) Region 6 (Region) requested EPA's National Enforcement Investigations Center (NEIC) to conduct a Resource Conservation and Recovery Act (RCRA) compliance investigation of the Medical City of Lewisville (MCL) hospital located at 500 W Main Street, Lewisville, Texas. The focus of the inspection was to evaluate MCL's hazardous waste generator classification and compliance with the RCRA regulations. NEIC conducted the inspection from December 10-11, 2018.

FACILITY CONTACT INFORMATION

Table 1 lists the primary facility contacts.

Table 1. FACILITY CONTACT INFORMATION		
Name, Title	Phone No.	Email Address
LaSharndra "Sharn" Barbarin Chief Executive Officer	(469) 370-2702	Lasharndra.Barbarin@MedicalCityHealth.com
Christopher Johnson Director, Environmental Services	(469) 370-2622	Christopher.Johnson@MedicalCityHealth.com

FACILITY OVERVIEW

MCL is a general medical hospital. According to the company's website, it provides a variety of medical services, including an emergency room, cancer treatment, labor and delivery, surgery, and rehabilitation services. According to information provided by the facility, the hospital has 757 employees, 186 beds, 10 intensive care unit beds, and 6 emergency room suites. On average, MCL receives 89 new patients per day.

The EPA Envirofacts database lists this facility as a conditionally exempt small quantity generator (CESQG) of hazardous waste under the RCRA identification No. TXD066727843. On December 6, 2018, MCL submitted notification of registration to the Texas Commission on Environmental Quality (TCEQ) updating its generator status to a large quantity generator (LQG). The Envirofacts database has the following North American Industry Classification System (NAICS) code (**Table 2**):

Table 2. APPLICABLE NAICS CODES	
NAICS Code	Description
62211	General medical and surgical hospital

FACILITY OPERATIONS SUMMARY

MCL generates hazardous waste during pharmacy; patient room; laboratory (chemotherapy, histology, pathology, and hematology); radiology; and maintenance activities. The pharmacy and patient rooms generate hazardous waste from unused medications and wrappers from acute hazardous waste (P-listed) medications that are disposed of along with characteristically hazardous (D-listed) wastes and discarded commercial chemicals. These waste streams are comingled in satellite accumulation containers that are collected and consolidated in larger containers for disposal, usually by off-site incineration. The laboratories generate small amounts of waste solvents that are D-listed and F-listed hazardous wastes. The radiology department recycles lead from vests used during X-rays. The maintenance department collects universal waste lamps for consolidation prior to shipment off-site. The maintenance department does some painting with spray cans.

FIELD ACTIVITIES SUMMARY

The focus of the NEIC inspection was the generation and storage of waste at the MCL facility. NEIC inspected the following areas where wastes are generated:

- Satellite accumulation areas associated with medication rooms where medicines are dispensed and where D-listed, P-listed, and U-listed hazardous wastes are accumulated
- Pharmacy
- Chemotherapy laboratory satellite accumulation area
- Histology laboratory and satellite accumulation areas
- Pathology laboratory and satellite accumulation areas
- Hematology laboratory and satellite accumulation areas
- Hazardous waste storage area
- Universal waste storage area
- Maintenance area

NEIC reviewed the following information related to MCL's waste generation and management practices:

- Hazardous waste determinations
- Records used to determine MCL's LQG generator status
- Waste generation, accumulation, and management practices
- Hazardous waste manifests for 2015-2018
- Draft contingency plan
- Draft employee training program
- Hazardous waste storage inspection records

An exit briefing was held at the end of the inspection, and the concerns were communicated to the facility.

INVESTIGATION OBSERVATIONS

NEIC identified the following observations during the RCRA compliance inspection. NEIC field team members discussed all observations with facility representatives during the closeout meeting unless otherwise noted in the observation description.

These observations are not final compliance determinations. EPA Region 6 will make the final compliance determinations based on its review of this report and other technical, regulatory, and facility information.

Observation: 1
Observation Summary: MCL stored hazardous waste in containers without a permit.
Citation: 30 Texas Administrative Code (TAC) § 335.43(a) [40 Code of Federal Regulation (CFR) §270.1(c)] Permit Required <i>(a) Except as provided in §335.2 of this title (relating to Permit Required), no person shall store, process, or dispose of hazardous waste without first having obtained a permit from the Texas Natural Resource Conservation Commission (now the TCEQ).</i> 30 TAC § 335.69 [40 CFR §262.34] Accumulation time. <i>(a) Generators that comply with the requirements of paragraph (1) of this subsection are exempt from all requirements adopted by reference in §335.112(a)(6) and (7) of this title (relating to Standards), except 40 CFR §265.111 and §265.114. Except as provided in subsections (f) - (h) and (n) of this section, a generator may accumulate hazardous waste on-site for 90 days without a permit or interim status provided that:</i> <i>(4) the generator complies with the following:</i> <i>(A) the requirements for owners or operators in 40 CFR Part 265, Subparts C and D and with 40 CFR §265.16, as adopted by reference in §335.112(a) of this title;</i> <i>(B) all applicable requirements under 40 CFR Part 268, as adopted by reference under §335.431 of this title (relating to Purpose, Scope, and Applicability); and</i> <i>(C) Section 335.113 of this title (relating to Reporting of Emergency Situations by Emergency Coordinator).</i>
Evidence: Appendix A - Inspection Notification Email Appendix B - Notice of Registration 12-6-2018 Appendix C - MCL Waste List Appendix D - NEIC Photos Appendix E - 2015 Medical City Lewisville Annual Waste Summary Appendix F - 2016 Medical City Lewisville Annual Waste Summary

Observation: 1

Appendix G - 2017 Medical City Lewisville Annual Waste Summary
Appendix H - 2018 Medical City Lewisville Annual Waste Summary
Appendix I - 2015 Medical City Lewisville Hazardous Waste Manifests
Appendix J - 2016 Medical City Lewisville Hazardous Waste Manifests
Appendix K - 2017 Medical City Lewisville Hazardous Waste Manifests
Appendix L - 2018 Medical City Lewisville Hazardous Waste Manifests
Appendix M - 2017 and 2018 Annual Waste Summary Weight Conversions

Description of Observation:

On December 4, 2018, NEIC notified MCL that NEIC planned to begin a RCRA compliance inspection of the facility on December 10, 2018 (**Appendix A**). On December 6, 2018, MCL filed an updated "Notice of Registration" (NOR) (**Appendix B**) with the Texas Commission on Environmental Quality, changing its RCRA generator status from conditionally exempt small quantity generator to large quantity generator. The changes were handwritten on the NOR that was last updated on June 13, 2013. Christopher Johnson stated that MCL changed its status to an LQG after he talked to staff at some other hospitals in the Medical City family and determined that it was difficult to operate a hospital as a CESQG. MCL reviewed the amount of hazardous waste that it generates monthly and determined that the hospital is an LQG.

Facilities that generate more than 2.2 pounds of acute hazardous waste per month are classified as LQGs. MCL generates well over 2.2 pounds of acute (P-listed) hazardous waste per month, and the annual reports and waste manifests support that MCL has been an LQG since 2015.

As part of the NOR process, facilities are required to report their waste streams to TCEQ. MCL elected to update the hazardous waste codes associated with its waste streams during the 2018 NOR update. The first waste stream on the updated NOR (0001004H) (**Appendix B**, page 5) is associated with P-listed and U-listed waste codes; the following waste codes were associated with 0001004H before and after the 2018 NOR update:

June 13, 2013 to December 6, 2018	After December 6, 2018
D001, D002, D004, D007, D009, D024, P001, P188, U010, U035, U058, U188, U205, U206	D001, D002, D009, D010, D011, D022, D024, P001, P012, P075, P188, U010, U035, U058, U132, U188

MCL described waste stream 0001104H as "Pharmaceutical Waste Medications not able to be used, packaging." It is associated with P-listed hazardous waste codes (i.e., acute hazardous wastes) (**Appendix C**). MCL generates waste managed under waste stream 00101104H in the medication rooms, pharmacy, patient rooms, and chemo lab. Waste stream 0001104H is collected in black satellite accumulation containers located in areas where medicine and chemotherapy drugs are dispensed (**Appendix D**, photos 8 and 9). P-listed hazardous wastes (medicines and their wrapping material) are mixed with other wastes, making the entire waste stream P-listed.

For waste stream 00011004H, MCL reported to TCEQ that it generated the following amounts of hazardous waste in calendar years 2015-2018:

Observation: 1

Calendar Year	Amount generated in pounds
2015 (Appendix E)	3,503
2016 (Appendix F)	3,248
2017 (Appendix G)	3,709
2018 (Appendix H)	4,056

MCL provided NEIC with copies of hazardous waste manifests for calendar years 2015 (**Appendix I**), 2016 (**Appendix J**), 2017 (**Appendix K**), and 2018 (**Appendix L**). MCL listed the volume of waste on the manifests. MCL's consultant, Miller Research, Inc. (Miller), coordinates the disposal of MCL's hazardous wastes. Miller provided documentation on the methodology used to convert the waste's volume measurement to weight (**Appendix M**). The conversion factor is based on the weights of the waste containers that were weighed at the disposal facility. The actual weights of the containers are used when available, and the conversion factor is applied to the remaining containers. **Appendix M** also contains a summary, by weight, of the hazardous waste generated in calendar years 2017 and 2018.

As an LQG, MCL is required to meet the requirements of 40 CFR 265 Subpart C and 40 CFR § 265.16 D [as adopted by reference in 30 TAC § 335.112(a)]. MCL was not complying with the following requirements at the time of the NEIC inspection. MCL was working on implementing the missing requirements:

- Personnel Training [40 CFR §265.16 as adopted by reference in 30 TAC § 335.112(a)]
- Contingency Plan [40 CFR Subpart D as adopted by reference in 30 TAC § 335.112(a)]

MCL had identified that these requirements were missing before the start of the NEIC inspection and had already begun work to implement these requirements.

At the time of the inspection, there was hazardous waste on-site in the container storage area (**Appendix D**, photos 1, 2, and 3).

Observation: 2
Observation Summary: MCL failed to label containers of universal waste fluorescent bulbs with the words “Universal Waste—Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s)”.
Citation: 40 CFR § 273.14 as adopted by reference by 30 TAC §335.261 Labeling/marketing. <i>A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:</i> <i>(e) Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: “Universal Waste—Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s)”.</i>
Evidence: Appendix D - NEIC Photos
Description of Observation: MCL is a small quantity generator (SQG) of universal waste because it does not accumulate 11,000 pounds or more of universal waste at any time. During the inspection, NEIC inspectors observed three containers of wastes lamps that were not labeled with the words “Universal Waste—Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s)” (Appendix D , photos 4 and 5).

Observation: 3
Observation Summary: MCL initialed and dated the hazardous waste storage area inspection log before the inspections were completed.
Citation: 40 CFR § 265.174 as adopted by reference by 30 TAC § 335.112(a)(8) Inspections <i>At least weekly, the owner or operator must inspect areas where containers are stored, except for Performance Track member facilities, that must conduct inspections at least once each month, upon approval by the Director.</i>
Evidence: Appendix N - Hazardous Waste Storage Area Inspection Log
Description of Observation: MCL conducted weekly inspections of the hazardous waste storage area. The log was initialed and dated that the work was performed in advance of the inspection (December 10-31, 2019), but the checklist was not filled out for those dates. (Appendix N).