



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



LIESL EICHLER CLARK
DIRECTOR

VIA E-MAIL

TO: Governor Gretchen Whitmer
Senate Health Policy and Human Services Committee Members
Senate Environmental Quality Committee Members
Senate Natural Resources Committee Members
House Health Policy Committee Members
House Natural Resources and Outdoor Recreation Committee Members
Elizabeth Hertel, Director, Department of Health and Human Services

FROM: Liesl Eichler Clark, Director 

DATE: March 8, 2022

SUBJECT: Medical Waste Regulatory Program Report

In accordance with Section 13827(3)(b) of the Medical Waste Regulatory Act (MWRA), Part 138 of the Public Health Code, 1978 PA 368, as amended, attached is the Department of Environment, Great Lakes, and Energy's (EGLE) report on the Medical Waste Regulatory Program for fiscal year 2021.

Various types of facilities in Michigan, including hospitals, dental offices, funeral homes, body art facilities, and many others, generate regulated medical waste. The primary function of the MWRA and the program is to safeguard public health and the environment from exposure to potential hazards resulting from the improper handling, storage, treatment, and/or disposal of regulated medical waste. In addition to an introduction and brief history of the MWRA and the program, this annual report includes information regarding funding and operation of the program, current initiatives, program developments, incident summaries, and registrant statistics.

If you need further information, please contact Elizabeth M. Browne, Director, Materials Management Division, at 517-284-6551; or you may contact me at 517-512-5992.

Attachment

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cc/att: Kathryn Summers, Director, Senate Fiscal Agency
Mary Ann Cleary, Director, House Fiscal Agency
Chris Harkins, Director, State Budget Office
JoAnne Huls, Chief of Staff, Governor's Office
George W. Cook, III, Legislative Affairs Director, Governor's Office
Marc Rehmann, Policy Director, Governor's Office
Ben Dawson, Senate Fiscal Agency
Austin Scott, House Fiscal Agency
Jacques McNeely, State Budget Office
Zach Hendrix, State Budget Office
Aaron B. Keatley, Chief Deputy Director, EGLE
Amy Epkey, Senior Deputy Director, EGLE
Travis Boeskool, Legislative Liaison, EGLE
Paul McDonald, EGLE
Dale Shaw, EGLE
Elizabeth M. Browne, EGLE
Tracy Kecskemeti, EGLE
Rhonda S. Oyer, EGLE
Andrew Shannon, EGLE



MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

Legislative Report

MEDICAL WASTE REGULATORY PROGRAM REPORT

Report Period:
Fiscal Year 2021

Authority:
Medical Waste Regulatory Act,
Part 138 of the Public Health Code,
1978 PA 368, as Amended

INTRODUCTION

The Medical Waste Regulatory Act (MWRA), Part 138, of the Public Health Code, 1978 PA 368, as amended, was enacted in 1990, in response to incidents of medical waste washing ashore on the beaches of Lake Erie and Lake Michigan. Administrative rules were adopted in 2000. The MWRA authorizes State regulatory oversight of medical waste producing facilities, including the identification and registration of these facilities, investigations of reported violations of the MWRA, and enforcement of the statute.

Section 13827(3)(b) of the MWRA requires that an annual report be submitted to the Governor, the standing committees in the Senate and the House of Representatives with jurisdiction over public health matters, and the Department of Health and Human Services. This report is for the period of October 1, 2020, to September 30, 2021, fiscal year (FY) 2021.¹

The purpose of the MWRA is to safeguard public health by preventing human exposure to physical injury or contraction of communicable diseases that may result from the improper management of potentially infectious medical waste. The regulations also serve to protect Michigan's environment and natural resources.

PROGRAM FUNDING

The Department of Environment, Great Lakes, and Energy (EGLE), Materials Management Division's Medical Waste Regulatory Program (MWRP), is funded through registration fees collected from medical waste producing facilities (see Table 1, Active Registrants by Facility Type). Registration fees are set in statute, vary by facility type, and range from \$50 to \$150. Registrations are valid for a three-year period and are renewable under the same fee structure. Registration fees over the last three-year period generated an average of \$332,000 in annual revenue. This level of funding limits the MWRP to processing registrations, responding to complaints, working with a limited number of local health departments (LHDs) through approved grant funding allocations to perform inspections, and providing technical assistance to the regulated community and public.

Funds received are deposited into the Medical Waste Emergency Response Fund. The statute allows for the use of these funds for administration of core MWRP functions, including processing registrations, providing routine compliance assistance to medical waste producing facilities, contracted field inspection activities performed by LHDs, investigating reports of improper management and releases of medical waste into the environment, and remediation actions to have improperly disposed medical waste removed, treated, and properly disposed.

IMPLEMENTATION/EFFECTIVENESS OF THE REGULATIONS

In response to the COVID-19 pandemic, the MWRP engaged in various non-routine activities to promote public safety and protect public health. These activities included providing regulatory interpretations to industry stakeholders and needed regulatory flexibility to address supply chain shortages of sharps containers. In addition, the MWRP developed guidance documents and

¹ The Interdepartmental Medical Waste Advisory Council, as described in Section 13827, was eliminated by Executive Order No. 2009-28, effective July 31, 2009. Responsibility for the completion and submission of annual reports, as required under the MWRA, was assigned to Medical Waste Regulatory Program staff by the former Michigan Department of Environmental Quality, Executive Office.

assisted the public and the regulated community with questions and concerns related to appropriate facility safety protocols, the effective use of personal protective equipment, and guidance on appropriate health care waste disposal protocols.

The Office of the Auditor General's performance audit of the MWRP, from October 1, 2012, through September 20, 2015, found that the current fees are not adequate to support the recommended annual inspections of the over 14,800 registered medical waste producers. To address this and other findings, the MWRP convened the Medical Waste Stakeholder Advisory Group in 2017 to help review the current regulations and support the legislative amendment process by suggesting needed modifications to the statute. The goal of this review was to ensure Michigan has a modern, comprehensive program that is able to address issues, such as the protection of public health and emerging diseases that may be easily transmissible and result in high rates of mortality. The recent emergence of COVID-19 as a very contagious virus and the resulting pandemic have created further need for these proposed changes and also the need to reengage with the stakeholders to advance these amendments for consideration by the Legislature in 2022. Several noteworthy modifications proposed for the MWRA include the following:

- New language and definitions, including current terminology and language, which have been identified as being essential to reflecting the changes in the industry that have taken place since the enactment of the legislation in 1990.
- Changes that would allow EGLE to engage in additional partnerships with LHDs through grant allocations to allow for more inspections of medical waste producing facilities.
- Changes that would allow expanded use of funding for compliance assistance through education and outreach initiatives.
- Provisions to expand the authority of EGLE to pursue escalated enforcement and issue penalties for facilities that fail to comply with the regulations.
- Removal of outdated and/or confusing information that is no longer relevant to or needed by the industry.
- Expansion of the medical waste categories that are subject to regulation in line with emerging trends in diseases that may affect public health.

Due to COVID-19 restrictions at medical offices in 2021, the approved grant-funded pilot program field activities (inspections) that were to be completed by five partnering LHDs were hampered in comparison to previous years. Medical offices and other sites were closed to these activities until very recently. Considering these restrictions, the MWRP and EGLE's administrative staff worked in a collaborative effort to enable increased flexibility and extend deadlines in the grant contracts to make these activities more feasible. These five grants were extended until the end of December 2021. Reports documenting inspection activities completed were submitted by participating LHDs. Program staff have reviewed this documentation, and grant payments have been issued as appropriate.

SUMMARY OF MEDICAL WASTE MANAGEMENT INCIDENT REPORTS

In addition to the filing of one lawsuit to address ongoing issues at a medical waste hauling company, three complaints of improper disposal of medical waste were reported and investigated in 2021. All three complaints were successfully resolved by the MWRP, and the civil action related to the lawsuit is ongoing.

Medical Waste Hauling Service (Ongoing) – 2018-2021

A civil action was filed by the Department of Attorney General (DAG) in 2021 in an effort to prevent further improper storage of medical waste by a medical waste hauler/disposal service that has repeatedly engaged in storing medical waste in excess of 90 days at various locations in the Detroit metropolitan area. The offender has repeatedly engaged in improper storage of medical waste, with the latest known violations occurring in 2020. This case was referred for escalated enforcement to the DAG in an effort to prevent further incidents of improper storage of medical waste by the defendant. The registration for the defendant was revoked through the administrative process in 2019. This case remains open, pending final resolution of the lawsuit.

I-96 Expressway – March 2021

The MWRP was made aware of an incident where a solid waste hauling company had lost some waste, which consisted of used personal protection equipment from a healthcare facility along the highway in Kent County. Staff worked with the Michigan Department of Transportation (MDOT) and a third-party disposal company to promptly remove and properly dispose of the waste materials. This incident was unintentional and isolated in nature. No further problems were reported.

Hospital System – June 2021

The MWRP received a report submitted by an anonymous source indicating that a major hospital system in the Detroit area was discharging liquid human blood and body fluids into several Michigan waterways, and the water was subsequently moving into Lake Erie. The MWRP investigated by interviewing several key hospital staff members and reviewed documentation and policies to determine if the allegations had any validity. The allegations were found to be unsubstantiated. This case was considered resolved and was closed.

Veterinary Clinic – June 2021

A complaint was received by the MWRP that a veterinary clinic was not disposing of medical waste appropriately. The complainant stated it appeared medical waste had been improperly disposed of with other solid waste materials by the owner. The complaint was investigated by the MWRP and was determined to be partially valid. Staff promptly consulted with the owner, deficiencies were identified, and procedures for the disposal of medical waste were corrected. The complaint was closed.

ACTIVE REGISTRANTS BY FACILITY TYPE (Table 1)

Facility Type	Active Registrants
Private Practice Medical, Dental, and Veterinary Facilities	8,354
Clinics (e.g., LHDs and Universities)	576
Funeral Homes/Mortuaries	760
Nursing Homes, Hospices, County Medical Care Facilities, and Health Maintenance Organizations	543
Clinical, Analytical, and Research Laboratories	130
Hospitals	181
Freestanding Surgical Outpatient Facilities	128
Mental Health Facilities	123
Ambulance/Paramedic/Fire Departments	232
Animal Control Shelters	3
Pharmacies	1,418
Other (e.g., Dialysis, Blood Collection, Medical Education, and Body Art)	2,437
State Facilities	45
Current Active Registrations	14,930

Source of Information: Medical Waste Program Database, November 2021