



GRETCHEN WHITMER
GOVERNOR

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



LIESL EICHLER CLARK
DIRECTOR

VIA EMAIL

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: December 27, 2022

SUBJECT: Report on the Fiscal Year 2022 Medical Waste Regulatory Program

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 2022.

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
Christopher M. Harkins, Director, State Budget Office
JoAnne Huls, Chief of Staff, Governor's Office
Joe Fedewa, Legislative Affairs, Governor's Office
Marc Rehmann, Policy Director, Governor's Office
Chris Semrinec, 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
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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 2022

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, 2021, to September 30, 2022, fiscal year (FY) 2022.¹

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 (MMD) 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 \$313,000 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

The MWRP was tasked in 2022 with initiating a major information technology project to switch to a new online registration system (MiEnviro) that will be replacing the current registrant database, L2K. L2K will become obsolete in late January 2023. Preparation and facilitation of the transition required a significant amount of staff time. Issues such as data migration,

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.

registrant notification, form development, data cleanup, system testing, etc., became a major focus of the program beginning in June 2022, and continuation of this project is a major focus moving into FY 2023.

In response to the COVID-19 pandemic, the MWRP continued to engage 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 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 registration fees are not adequate to support the recommended annual inspections of the nearly 15,000 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 emergence of COVID-19 as a very contagious virus and the resulting pandemic created a further need for these proposed changes and the need to reengage with the stakeholders to advance these amendments for consideration by the Legislature in 2023. Several noteworthy modifications proposed for the MWRA include the following:

- New language and definitions, including current terminology and language that has been identified as being essential to reflecting changes in the industry 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 continuing COVID-19 restrictions at medical offices in 2022, the approved grant-funded pilot program field activities (inspections) that were to be completed by eight partnering LHDs were hampered in comparison to pre-COVID-19 years. Considering these restrictions, the MWRP, EGLE's administrative staff, and the LHDs worked in a collaborative effort to enable increased flexibility and extend deadlines in the grant contracts to make completion of these activities more feasible.

SUMMARY OF MEDICAL WASTE MANAGEMENT INCIDENT REPORTS

In addition to the resolution of one civil lawsuit to address ongoing issues at a medical waste hauling company that was filed in 2021, three complaints of improper disposal of medical waste were reported and investigated in 2022. All three complaints were successfully resolved by the MWRP, and the civil action was resolved in favor of EGLE.

Biochem Technical Services, LLC, Detroit Metropolitan Area, 2013-2022

Biochem Technical Services, LLC (BTS), was a medical waste management company that repeatedly and egregiously violated medical waste regulations, with violations dating back to 2013. Violations included abandoning medical waste in unregistered locations, such as vacant buildings and self-storage units. After years of informal enforcement efforts failed to gain compliance, the MMD revoked the company's medical waste registration in 2019. The MMD expended approximately \$53,000 of State funds, in 2020, to clean up two illegal storage locations. In September of 2021 a civil action was filed on behalf of the State in the Oakland County Circuit Court, seeking to permanently enjoin BTS and its owner from engaging in any future medical waste collection, transportation, storage, or disposal and to recover the State's cleanup and enforcement costs. In May of 2022 the Oakland County Circuit Court issued a default judgement in the case, granting the relief requested by the State. While all known locations of illegal storage by the company have been cleaned up by the State, and BTS and its owner may not legally work in the medical waste industry, the State's costs remain unpaid. MMD staff continue to explore means to recoup these costs.

I-96 West, Grand Rapids, February 2022

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 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.

Medical Facilities (Hospital-Owned), Grand Rapids, April 2022

The MWRP received a report submitted by an anonymous source indicating that a major hospital system in Grand Rapids was improperly disposing of sharps in regular trash containers. The MWRP investigated the complaint 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.

Municipal Roadway, Saginaw, September 2022

The MWRP received a report of what appeared to be medical waste that had been improperly deposited along the roadway with other solid waste materials by a solid waste truck. The MWRP investigated and found that the materials had fallen off the solid waste truck and confirmed that the waste was personal protective equipment and nylon gloves used in the administration of medical care, but no blood or body fluids were present. The waste was removed, and the incident was closed with no further occurrences.

ACTIVE REGISTRANTS BY FACILITY TYPE (Table 1)

| Facility Type | Active Registrants |
|---|--------------------|
| Private Practice Medical, Dental, and Veterinary Facilities | 8,423 |
| Clinics (e.g., LHDs and Universities) | 578 |
| Funeral Homes/Mortuaries | 759 |
| Nursing Homes, Hospices, County Medical Care Facilities, and Health Maintenance Organizations | 544 |
| Clinical, Analytical, and Research Laboratories | 137 |
| Hospitals | 183 |
| Freestanding Surgical Outpatient Facilities | 135 |
| Mental Health Facilities | 151 |
| Ambulance/Paramedic/Fire Departments | 236 |
| Animal Control Shelters | 2 |
| Pharmacies | 1,438 |
| Other (e.g., Dialysis, Blood Collection, Medical Education, and Body Art) | 2,332 |
| State Facilities | 41 |
| Current Active Registrations | 14,959 |

Source of Information: Medical Waste Program Database, November 2022