

## REQUEST FOR ACTION

**To:** Rachel Machi Wagoner  
Director

**From:** Zoe Heller  
Deputy Director, Division of Circular Economy

**Request Date:** November 2, 2023

**Decision Subject:** Consideration of MED-Project's Revised 2022 Annual Report for Home-Generated Sharps Waste

**Action By:** November 20, 2023

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### **Summary of Request**

MED-Project USA (MED-Project) submitted its revised 2022 annual report, titled, *MED-Project 2022 Annual Report; State of California, Sharps (Revised 2022 Annual Report)* on August 21, 2023. This Request for Action presents a summary of staff's analysis regarding MED-Project's *Revised 2022 Annual Report* and MED-Project's home-generated sharps waste stewardship program.

### **Background**

MED-Project is a stewardship organization that, as reported in its *Revised 2022 Annual Report*, represents more than 100 covered entities under its approved stewardship plan for home-generated sharps waste, titled, *A Product Stewardship Plan for Home-Generated Sharps Waste (Plan)*. On December 9, 2021, the Department of Resources Recycling and Recovery (CalRecycle) conditionally approved MED-Project's *Plan* pursuant to Public Resources Code (PRC) section 42032(d)(1) and Title 14 of the California Code of Regulations (14 CCR) sections 18973.1(e) and (g). On November 15, 2022, the *Plan* was approved. MED-Project's *Revised 2022 Annual Report* is required to cover the entire calendar year of 2022 (January 1, 2022, through December 31, 2022).

PRC section 42033.2(a)(1) states that, on or before March 31, 2022, and each year thereafter, a program operator shall submit to CalRecycle a report that describes the stewardship program activities during the previous reporting period of one year. MED-Project submitted its 2022 annual report, titled, *MED-Project 2022 Annual Report; State of California, Sharps (2022 Annual Report)*, on March 31, 2023. CalRecycle determined the *2022 Annual Report* was complete and notified MED-Project on May 1, 2023, pursuant to PRC section 42033.2(d)(1) and 14 CCR section 18973.1(b). On June 21, 2023, CalRecycle conditionally approved MED-Project's *2022 Annual Report* in the Request for Action (RFA), titled, *Consideration of MED-Project's 2022 Annual Report for Home-Generated Sharps Waste (June 2023 RFA)*. On August 21, 2023, MED-Project submitted its *Revised 2022 Annual Report*, which is the subject of this Request for Action. CalRecycle has 90 days to approve, disapprove, or conditionally approve the *2022 Annual Report* pursuant to PRC section 42033.2(d)(2) and 14 CCR section 18973.1.

## **Staff Analysis**

Staff evaluated MED-Project's *2022 Revised Annual Report* to determine whether the requirements of statute, regulations, and MED-Project's *Plan* were met. The sections below present the requirements in the *June 2023 RFA* that CalRecycle required MED-Project to address, followed by a summary of staff's analysis of MED-Project's *Revised 2022 Annual Report* and its home-generated sharps waste stewardship program.

### **Metrics**

**Requirements:** CalRecycle required the *Revised 2022 Annual Report* to meet the following requirements pursuant to 14 CCR sections 18973.5(c)(2) and 18973.1(a), and PRC section 42033.2(a)(1).

- a. Provide a description of the amount of sharps waste containers and mail-back materials that were provided at the point of sale to ultimate users per county pursuant to 14 CCR section 18973.5(c)(2).
- b. Clarify which metrics MED-Project is referring to in the following statement: "the metrics presented in this Annual Report only represent a few months during the Reporting Period as the Program began to gain momentum" pursuant to 14 CCR section 18973.1(a).
- c. Clarify why MED-Project was unable to collect metrics that describe stewardship program activities for the entire reporting period of 2022 pursuant to PRC section 42033.2(a)(1).

**Analysis:** Requirement (a) Not Met, Requirements (b) and (c) Met

Pursuant to 14 CCR section 18972.1(a)(10), "provides or initiates distribution of a sharps waste container and mail-back materials" means one of the following: (A) To provide a sharps waste container and mail-back materials to the ultimate user, at the point of sale or prior, at no cost to the ultimate user; or, (B) To arrange, at the point of sale or prior, for a sharps waste container and mail-back materials to be sent to the ultimate user and arrive within five business days at no cost or inconvenience to the ultimate user; or, (C) Other methods of providing a sharps waste container and mail-back materials to the ultimate user at the point of sale or prior, at no cost to the ultimate user, if the method identified in subpart (A) above is not allowed by law and if the method identified in subpart (B) above is not allowed by law.

MED-Project's *2022 Annual Report* included the amount of sharps waste containers and mail-back materials distributed to point of sale sites rather than the amount of sharps waste containers and mail-back materials that were provided to ultimate users at the point of sale. Page 8 of MED-Project's *Revised 2022 Annual Report* states that "Sharps Mail-Back Packages distributed to non-online Point of Sale Sites during the Reporting Period were provided to Ultimate Users" based on "MED-Project's experience... that non-online Point Of Sale Sites are good faith participants in its program." MED-Project must take further action to conclusively determine whether these two metrics are equivalent, instead of relying on its "experience." Therefore, requirement (a) is not met. CalRecycle expects that MED-Project will collect metrics for sharps waste containers and mail-back materials provided at the point of sale to ultimate users per county and report the metrics in subsequent annual reports, pursuant to 14 CCR section 18973.5(c)(2).

Additionally, in its *2022 Annual Report*, MED-Project stated that “the metrics presented in this Annual Report only represent a few months during the Reporting Period as the Program began to gain momentum,” but did not specify which metrics it is referring to. In its *Revised 2022 Annual Report*, MED-Project provided additional detail that appears to suggest it is referring to all metrics. Therefore, requirement (b) is met.

Annual reports must describe all stewardship program activities during the previous reporting period of one year pursuant to PRC section 42033.2(a)(1). In its *Revised 2022 Annual Report*, MED-Project clarifies that it was unable to collect metrics for the entire 2022 reporting period because it focused on program implementation for the first eight months of 2022 and collected data after its 270-day full program implementation deadline on September 5, 2022. Therefore, MED-Project met requirement (c).

### **Mail-Back Program**

Requirement: CalRecycle required the *Revised 2022 Annual Report* to meet the following requirement pursuant to 14 CCR sections 18973.1(a) and 18973.3(f)(2), and PRC section 42032.2(d)(F)(i).

- a. Clarify why the number of Ultimate Users purchasing Sharps that were provided information on Program usage at the Point of Sale (2.2 million) is greater than the number of sharps waste containers and mail-back materials that were distributed to point of sale sites and initiated at the point of sale (13,023). MED-Project is required to provide or initiate the distribution of a sharps waste container and mail-back materials at the point of sale.

#### Analysis: Requirement (a) Met

According to MED-Project’s *2022 Annual Report*, 8,536 “Sharps Mail-Back Packages” were initiated at the point of sale through the ordering systems and 4,487 “Sharps Mail-Back Packages” were distributed to point of sale sites, for a total of 13,023 packages.

Page 8 of MED-Project’s *2022 Annual Report* stated that, “Through Point of Sale Sites, there were over 2,200,000 times that Ultimate Users purchasing Sharps were provided information on Program usage at the Point of Sale.” MED-Project did not explain in its *2022 Annual Report* why the number of times that ultimate users who were “provided information on program usage at the point of sale” (2.2 million) is significantly greater than the number of sharps waste containers and mail-back materials that were distributed to point of sale sites and initiated at the point of sale (13,023).

In its *Revised 2022 Annual Report*, MED-Project clarifies that the number of mail-back packages issued to ultimate users is less than the number of times information was provided to ultimate users because ultimate users may decline the point of sale site’s offer to provide or initiate distribution of a sharps container and mail-back materials. MED-Project provided several potential reasons why ultimate users may have declined the offer after receiving program information.

Although MED-Project met requirement (a), CalRecycle encourages MED-Project to seek further understanding on why ultimate users are declining to participate and develop solutions to increase ultimate user participation in its home-generated sharps waste stewardship program.

### **Transportation and Disposal**

Requirements: CalRecycle required the *Revised 2022 Annual Report* to meet the following requirements pursuant to 14 CCR sections 18973.5(d)(1), 18973.1(a), and 18973.5(d)(3).

- a. Include a description in the annual report of the methods used to transport and dispose of home-generated sharps waste, including a description of the mechanism(s) to track the collection, transportation, and disposal of home-generated sharps waste.
- b. Clarify the list of disposal facilities provided in the annual report.

Analysis: Requirements (a) and (b) Met

MED-Project's *2022 Annual Report* did not describe the methods used to transport and dispose of consolidated waste and includes only a partial description of the mechanism(s) used to track the transportation and disposal of home-generated sharps waste. MED-Project's *Revised 2022 Annual Report* includes a description of its transportation and disposal methods for home-generated sharps waste, including a description of the mechanism(s) to track the collection, transportation, and disposal. Thus, MED-Project met requirement (a).

In addition, MED-Project clarifies the list of disposal facilities in its *Revised 2022 Annual Report*, acknowledging that these facilities are referred to as "treatment facilities" in its *Plan*. Staff confirmed that the two facilities listed in MED-Project's *Revised 2022 Annual Report*, MedSharps LLC and Stericycle, Inc. Vernon, provide both treatment and disposal services. Therefore, MED-Project met requirement (b).

### **Actual Expenses from Reporting Period**

Requirements: CalRecycle required the *Revised 2022 Annual Report* to meet the following requirement pursuant to 14 CCR sections 18973.1(a) and 18973.5(q).

- a. Clarify why \$467,833 in departmental administrative fee costs are listed as an actual expense incurred.

Analysis: Requirement (a) Met

MED-Project's *2022 Annual Report* listed departmental administrative fee costs of \$467,833 as an actual expense incurred, although CalRecycle did not issue MED-Project an invoice during the 2022 reporting period. In its *Revised 2022 Annual Report*, MED-Project clarifies that the departmental administrative fees are included as an estimate due to its accrual accounting method. MED-Project states that the departmental administrative fees included in its *Revised 2022 Annual Report* are based on a fee estimate provided by CalRecycle. Staff verified that MED-Project's estimate of \$467,833 in departmental administrative fees is reasonable based on CalRecycle's fee estimate. Therefore, MED-Project met requirement (a).

## **Feedback from Interested Parties**

CalRecycle solicited public input on MED-Project's *Revised 2022 Annual Report* from August 23, 2023, through September 6, 2023, and did not receive any public comments.

## **Action**

Pursuant to PRC section 42033.2(e) and 14 CCR section 18973.1, I hereby:

- Approve MED-Project's *Revised 2022 Annual Report*.
- Conditionally approve MED-Project's *Revised 2022 Annual Report*.
- Disapprove MED-Project's *Revised 2022 Annual Report*.
- Disapprove MED-Project's *Revised 2022 Annual Report* and refer MED-Project to CalRecycle's Waste Permitting, Compliance, and Mitigation Division for potential enforcement.

**Signed by:** Rachel Machi Wagoner, Director

**Dated:** November 20, 2023

## **Attachments:**

Documents listed below are posted to CalRecycle's website.

1. [MED-Project 2022 Annual Report, State of California, Sharps](https://www2.calrecycle.ca.gov/Docs/Web/125274) (August 21, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/125274>
  - a. [Attachment A – Requests and Distribution by County](https://www2.calrecycle.ca.gov/Docs/Web/125280) (August 21, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/125280>
  - b. [Attachment B – Daily Impressions for Digital Media](https://www2.calrecycle.ca.gov/Docs/Web/125283) (August 21, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/125283>
  - c. [Attachment C – List of Sharps Covered Entities](https://www2.calrecycle.ca.gov/Docs/Web/125286) (August 21, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/125286>
  - d. [Attachment D – List of Sharps Covered Products](https://www2.calrecycle.ca.gov/Docs/Web/125289) (August 21, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/125289>
  - e. [Attachment E – Local Agency Reimbursements](https://www2.calrecycle.ca.gov/Docs/Web/125292) (August 21, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/125292>
2. [MED-Project 2022 Annual Report, State of California, Sharps](https://www2.calrecycle.ca.gov/Docs/Web/123369) (March 31, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/123369>
  - a. [Attachment A – Requests and Distribution by County](https://www2.calrecycle.ca.gov/Docs/Web/123375) (March 31, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/123375>
  - b. [Attachment B – Daily Impressions for Digital Media](https://www2.calrecycle.ca.gov/Docs/Web/123381) (March 31, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/123381>
  - c. [Attachment C – List of Sharps Covered Entities](https://www2.calrecycle.ca.gov/Docs/Web/123387) (March 31, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/123387>
  - d. [Attachment D – List of Sharps Covered Products](https://www2.calrecycle.ca.gov/Docs/Web/123390) (March 31, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/123390>
  - e. [Attachment E – Local Agency Reimbursements](https://www2.calrecycle.ca.gov/Docs/Web/123393) (March 31, 2023)  
<https://www2.calrecycle.ca.gov/Docs/Web/123393>
3. [A Product Stewardship Plan for Home-Generated Sharps Waste](https://www2.calrecycle.ca.gov/Docs/Web/122100) (August 22, 2022)  
<https://www2.calrecycle.ca.gov/Docs/Web/122100>
  - a. [Appendix A – Participating Covered Entities](https://www2.calrecycle.ca.gov/Docs/Web/122106) (August 22, 2022)  
<https://www2.calrecycle.ca.gov/Docs/Web/122106>

- b. [Appendix B – Covered Products](https://www2.calrecycle.ca.gov/Docs/Web/122109) (August 22, 2022)
- 4. [Consideration of MED-Project's 2022 Annual Report for Home-Generated Sharps Waste](https://www2.calrecycle.ca.gov/Docs/Web/123897) (June 21, 2023)