



MEMORANDUM

TO: Peter Mlynarik, Chair, and
Members of the Board

DATE: July 12, 2017

FROM: Erika McConnell, Director
Marijuana Control Board

RE: Regulations Project – Waste Disposal

The Board opened a regulations project on waste disposal on June 9, 2016. The minutes of that meeting state

Mark Springer motions to propose a regulations project regarding a potential expansion of the current definition of disposal of both marijuana and marijuana waste, to include incineration.

Brandon Emmett seconds the motion.

Peter Mlynarik requests that as many methods get addressed in this project as possible so that the board does not have to revisit this.

Motion carries unanimously.

As many regulations projects were proposed at that meeting, Director Franklin requested that the board choose two to concentrate on, and this project was never started.

On February 2, 2017, Chief Investigator Hoelscher requested some changes to the waste disposal section in his enforcement report, and a regulations project was opened.

Summary: This regulation requires a written request for a retest or reuse of a failed sample, adds marijuana and marijuana product that is either unfit for sale/consumption or expired to the list of what is marijuana waste, and requires notification of upcoming waste disposal to be in writing rather than through the tracking system. This regulation does not address the issue of incineration, as I am unsure of the board's direction with regard to that topic.

Recommendation: Revise to address incineration if desired, and put out for public comment.

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.660. Failed materials; retests

(a) If a sample tested by a marijuana testing facility does not pass the required tests based on the standards set out in 3 AAC 306.645, including a visual foreign matter inspection, the marijuana establishment that provided the sample shall

(1) dispose of the entire harvest batch or production lot from which the sample was taken **in accordance with 3 AAC 306.740**; and

(2) document the disposal of the sample using the marijuana establishment's marijuana inventory tracking system.

(b) If a sample of marijuana fails a required test, any marijuana plant trim, leaf, and other usable material from the same plants automatically fail the required test. The board or director may approve a **written request, on a form prescribed by the board,** to allow a batch of marijuana that fails a required test to be used to make a carbon dioxide- or solvent-based extract. After processing, the carbon dioxide- or solvent-based extract must pass all required tests.

(c) If a marijuana cultivation facility or a marijuana product manufacturing facility **submits a written request on a form prescribed by the board** [PETITIONS] for a retest of marijuana or a marijuana product that failed a required test, the board or director may authorize a retest to validate the test results. The marijuana cultivation facility or a marijuana product manufacturing facility shall pay all costs of a retest.

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121

3 AAC 306.740. Waste disposal

(a) A marijuana establishment shall store, manage, and dispose of any solid or liquid waste, including wastewater generated during marijuana cultivation production, processing, testing, or retail sales, in compliance with applicable federal, state, and local statutes, ordinances, regulations, and other law.

(b) Marijuana waste must be rendered unusable for any purpose for which it was grown or produced before it leaves a marijuana establishment. Marijuana waste includes

(1) marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent;

(2) solid marijuana sample plant waste in the possession of a marijuana testing facility;

(3) marijuana or marijuana product that has been deemed by the board or the director in accordance with these regulations, or by licensee, as unfit for sale or consumption;

(4) expired marijuana products; and

(5) other waste as determined by the board.

(c) A marijuana establishment shall

(1) [IN THE MARIJUANA INVENTORY TRACKING SYSTEM REQUIRED UNDER 3 AAC 306.730,] give the board notice **in writing** not later than three days before making the waste unusable and disposing of it; however, the director may authorize immediate disposal on an emergency basis; and

(2) keep a record of the final destination of marijuana waste made unusable.

MCB Draft Regulation: Waste Disposal

(d) Marijuana plant waste must be made unusable by grinding the marijuana plant waste and mixing it with at least an equal amount of other compostable or non-compostable materials. A marijuana establishment may use another method to make marijuana waste unusable if the board approves the method in advance. Material that may be mixed with the marijuana waste includes

(1) compostable materials including food waste, yard waste, vegetable based grease or oils, or other wastes approved by the board when the mixed material can be used as compost feedstock or in another organic waste method such as an anaerobic digester with approval of any applicable local government entity; or

(2) non-compostable materials including paper waste, cardboard waste, plastic waste, oil, or other wastes approved by the board when the mixed material may be delivered to a permitted solid waste facility, incinerator, or other facility with approval of any applicable local government entity.

(e) If marijuana or a marijuana product is found by, or surrendered to, a law enforcement officer including a peace officer or an airport security officer, the officer may dispose of the marijuana or marijuana product as provided in this section or by any method that is allowed under any applicable local ordinance. (Eff. __/__/____. Register____)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121