

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

EMERGENCY RULE

19 CSR 100-1.150 Marijuana Waste Disposal

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services is authorized to regulate and control the operations of Medical and Marijuana Facilities. This rule explains how licensed and certified facilities should dispose of any excess or unusable marijuana waste, unwanted marijuana product, or any waste from the facility.

EMERGENCY STATEMENT: This emergency rule serves to implement and enforce Article XIV and to ensure the right to, availability, and safe use of marijuana product. This emergency rule is necessary to protect a compelling governmental interest since Amendment 3 to the Missouri Constitution made significant changes to the regulation of marijuana, and new rules will be needed to effectuate those changes. As a result, the Department of Health and Senior Services finds a compelling governmental interest, which requires emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Health and Senior Services believes this emergency rule is fair to all interested persons and parties under the circumstances. If an emergency is not enacted, there would be no rules explaining how the new provisions of Article XIV of the Missouri Constitution apply, and there would be much confusion as to the processes and procedures related to licensure and regulation of the marijuana industry. This emergency rule was filed January 20, 2023, becomes effective February 3, 2023, and expires August 1, 2023.

(1) Unused marijuana or marijuana product and any solid and liquid wastes generated during marijuana product production and processing must be stored, managed, and disposed of in accordance with applicable state, tribal, local, and municipal laws and regulations. Licensees must keep records of the final disposition of all such wastes for at least five (5) years or longer if required by federal, state, local law.

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(2) Each licensee shall maintain a marijuana waste disposal log indicating the date and time, location, method of destruction, mixing medium, and agent ID(s) of the employee(s) who destroyed the product.

(3) Wastewater generated during marijuana product production and processing must be disposed of in compliance with applicable state, tribal, local, and municipal laws and regulations.

(4) Marijuana waste must be stored securely before final disposition, which can be done within the facility in areas designated for disposal activities or, if necessary, outside the facility in a locked, tamper-resistant receptacle.

(5) Wastes from the production and processing of marijuana plants must be evaluated against state hazardous waste regulations to determine if those wastes qualify as hazardous waste. It is the responsibility of each licensee to properly evaluate their waste to determine if it is a hazardous waste per 40 CFR 262.11.

(A) All solid waste, as defined by 40 CFR 261.2, must be evaluated under the hazardous waste regulations, including:

1. Waste from marijuana flowers, trim, and solid plant material used to create an extract;

2. Waste solvents, pesticides, and other similar materials used in the cultivation, infused product manufacturing, or testing process;

3. Discarded plant waste, spent solvents, and laboratory wastes from any marijuana processing or quality assurance testing; and

4. Marijuana extract that fails to meet quality testing.

(B) Marijuana flowers, trim, and solid plant material are not in themselves considered hazardous waste unless they have been treated or contaminated with a hazardous waste constituent.

(C) If a licensee's waste qualifies as a hazardous waste, then that waste is subject to the applicable hazardous waste management standards.

(D) Marijuana product waste that does not qualify as hazardous waste per 40 CFR 262.11 including plant waste, such as, stalks, leaves, and stems, must be rendered unusable prior to leaving a facility.

1. Marijuana product waste that does not qualify as hazardous may be rendered unusable by grinding and incorporating the marijuana product waste with other nonhazardous ground materials so the resulting mixture is at least fifty percent (50%) nonmarijuana waste by volume. Material used to grind with the marijuana may be either compostable waste or noncompostable waste. Other methods to render marijuana waste unusable must be approved by the department in writing before implementation.

2. Marijuana product waste that has been rendered unusable may be delivered to a permitted solid waste facility for final disposition. Other final disposition locations must be approved in writing by the department before implementation.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. A proposed rule covering this same material is published in this issue of the Missouri Register.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.