

Dear Members of the Cannabis Advisory Committee (CAC) and the Department of Cannabis Control (DCC),

The following public comment is based on the public comment I submitted a few months ago during the OAL review of the combined DCC regulations. Regrettably, none of my reasonable and necessary changes were amended into the regulations by the OAL review, and it remains illegal to recycle cannabis waste in California.

Thank you so much for your efforts to streamline and improve the cannabis regulations in California as part of your consolidation into the Department of Cannabis Control. As a stakeholder who has been engaged with the BCC, CDPH, CDFA, and other regulatory agencies over many years since the initial passage of the MMRSA and all the way through the MAUCRSA era, I can see you have been listening to our comments and you have made considerable improvements. My past comments and this current comment, have focused and will focus on the critically important issue of cannabis waste processing - namely, legalizing the recycling and reuse of cannabis waste, specifically ewaste like vape pens and batteries. While recycling is something we all can agree is a good thing and is universally supported, representatives from the BCC admitted to me it was accidentally banned by their regulations.

Since I last submitted public comments to the CAC in 2019, the cannabis industry has redoubled their efforts to be as sustainable as current regulations allow. For example, while the National Cannabis Industry Association (NCIA) was not involved in my efforts in 2018 and 2019, since then, I co-authored a [whitepaper](#) for them highlighting how the industry can be more sustainable and how businesses and regulators can help. Between that guidance from the NCIA, [legislation](#) and [regulations](#) I got passed in Colorado legalizing cannabis waste recycling, and the model bill I have drafted based on those changes in Colorado - the DCC has numerous resources to craft better regulations that did not exist two years ago. Now we need your help to go further, which is why I am submitting this public comment, to ask for your partnership in legalizing what is universally agreed should be legal - the recycling of cannabis waste.

While there are major improvements to the new **§17223. Waste Management** over the previous BCC/CDPH/CDFA regulations, some work still needs to be done to make it workable for cannabis reuse and recycling. Thank you for removing the highly-problematic “unrecognizable and unusable” requirement for waste from the regulations released on June 15th, that was perhaps the biggest barrier to recycling cannabis waste, because once something is rendered “unrecognizable” it also is rendered unrecyclable. As the terms “unrecognizable” and “unusable” do still appear throughout the regulations, those terms MUST be defined. Absent a definition, the term “unusable” can create the same barriers to recycling that “unrecognizable” did. For example, when it comes to vape waste, what is unusable? Does that mean once a cartridge is separated from its battery it is unusable, or does more need to be done? Logically, it cannot be used without a battery, so that seems sufficient.

The DCC regulations are clear that recycling must be disposed of by “A recycling center as defined in California Code of Regulations, title 14, section 17402.5(d),” what about the collection of cannabis waste? Currently, the primary point of cannabis waste collection is dispensaries, especially when it comes to vape products, where numerous brands have take back programs akin to extended producer responsibility programs, like those for paint, batteries, and other products. When I surveyed over a dozen dispensaries around the Bay Area before the pandemic, I found that just over 50% were recycling on site using about a half dozen different companies, and the other half felt that recycling on site would be a compliance issue when audited. Does **§17223. Waste Management** support these sort of dispensary take back programs? If not, language must be included to legalize that method of collection. Beyond dispensaries, airports commonly will collect huge amounts of cannabis waste from travelers who do not wish to break federal law and discard cannabis products at amnesty bins. **§17223. Waste Management** needs to clearly allow for that waste stream

to also be recycled and reused. Another common source of cannabis waste is hotels, where tourists will abandon cannabis waste rather than bringing it to a dispensary or to the airport; **§17223. Waste Management** should seek to allow hotels to also serve as points of collection for waste reuse and recycling.

An important part of collecting cannabis waste is securing that waste during collection. While **§17223. Waste Management(c)** contains guidance on waste collection, some key information is missing, such as how often waste should be collected for processing by a waste hauler. Please add language requiring regular removal of cannabis waste, such as once every thirty days, this prevents cannabis waste from building up at licensed facilities and ensures regular disposal. Additionally, while **§17223. Waste Management(c)** states that containers must be “secured” there is no language about containers being designed to mitigate odors. As odors are a frequent nuisance complaint about cannabis businesses, efforts should be taken to ensure that secured waste receptacles take steps to mitigate the odors of cannabis waste.

Beyond just looking at the cannabis regulations themselves, we need to consider other state code sections that relate to recycling and cannabis. A common issue that cannabis companies run into when trying to recycle is that recyclers and waste haulers are not willing or not legally able to take cannabis waste due to the presence of minute amounts of cannabis residue (like the oil left clinging in a vape cartridge or the crumbs at the bottom of a jar of bud). While the regulations released on June 15th contained plain language making it clear that cannabis vapes could be recycled with residue inside, that language was stricken from the September 8th emergency regulations. Please add the following sentence back to **§17223. Waste Management**, “Nothing in this subsection shall be construed to require vape cartridges to be emptied of cannabis oil prior to disposal, provided that the vape cartridge itself is unusable at the time of disposal.” So long as cannabis operators make a good-faith effort to remove all residue it should be recyclable or reusable without question (just like how alcohol bottles are not required to be free of every drop of alcohol to be recycled).

The September 8th emergency regulations define “Cannabis waste” as “any material intended for disposal that contains cannabis but is not otherwise considered a hazardous waste.” According to [CalRecycle](#), “Batteries are considered hazardous waste in California when they are discarded. This includes ... all other batteries, both rechargeable and single-use.” Legally, how are the batteries used in cannabis vaporizers defined? Definitionally, cannabis waste cannot be hazardous waste but the battery portion of a vape also does not contain any cannabis, so is it cannabis waste? Cannabis operators need clarity around this to know how to properly recycle their vape waste and not run afoul of state hazardous waste rules.

I look forward to answers to these questions in the forms of further improvements to the regulations. I can tell you have been listening to us for the past few years and I trust you will continue to listen to our comments. The future of the legal cannabis industry and the health of California’s environment hang in the balance.

I can be reached by email at mitchellrcolbert@gmail.com or by phone at (415) 666-5499. I have attached a copy of my cannabis waste recycling [model bill](#), which was written with the support of state cannabis regulators, executives of national waste-focused non-profits, cannabis waste processors, and other experts.

Best wishes,
Mitchell Colbert
Head of Social and Environmental Impact
Vessel