

SD Department of Environment and Natural Resources
Waste Management Program

Evidence Disposal

A Guide for South Dakota Law Enforcement and Landfill Operations

March 2021

In the fall of 2019, the South Dakota Department of Environment and Natural Resources (DENR) Waste Management Program (WMP) learned about a Disposal of Evidence Policy recently developed by the North Dakota Department of Environmental Quality*. After follow-up discussions with North Dakota colleagues, WMP staff began conversations with some South Dakota law enforcement agencies (SD Highway Patrol and the Rapid City Police Department), as well as Rapid City Landfill personnel regarding whether a need for a similar policy existed in South Dakota. Those conversations resulted in the development of this guidance document.

Applicability

The purpose of this memorandum is to provide guidance for law enforcement and landfill personnel to ensure seized evidence is properly and securely disposed. This guidance was developed to address regulatory considerations and practical disposal methods, while focusing on the safety of the general public, law enforcement and landfill personnel. Although the impetus behind creating this guidance was to find a safe, expeditious way to dispose of seized drugs, it addresses the management of other materials as well. Disposal of evidence typically involves household quantities of materials; however, some seizures (e.g. marijuana) can result in hundreds of pounds of material. Specific questions regarding a particular waste type or amount may be directed to WMP staff at 605-773-3153.

Key factors regarding evidence disposal involve the amount being disposed (primarily household quantities), and that disposal will occur at state permitted municipal solid waste (MSW) landfills. Disposal of evidence is **not** allowed at restricted use, or construction and demolition debris sites.

Disposal

Procedures outlined below were developed to ensure evidence can no longer be accessed and used. With the exception of controlled substances that are collected through law enforcement sponsored Take-Back Programs (see ‘Other Disposal Considerations’ section, below, and Appendix I – Evidence Types), items managed in accordance with this guidance will be placed in a state permitted MSW landfill. Note: as explained below, Drug Enforcement Administration (DEA) requirements specify that registrants ensure that the disposal of controlled substances meets the non-retrievable standard. For healthcare facilities and agencies conducting Take-Back programs, that standard is currently met only through incineration. Because South Dakota does not currently have any permitted incinerators, controlled substances collected through Take-Back programs must be transported out-of-state to a permitted combustion facility. See also: https://www.epa.gov/sites/production/files/2018-09/documents/signedwheeler_barnes_pharmaceuticaltakebacks.pdf

*DENR acknowledges and thanks Diana Trussell and the ND DEQ for sharing their policy and insights gained through their work on this topic. This document borrows heavily from that effort.

Many items seized as evidence are innocuous, household goods that may include clothes, utensils, toys, furniture and electronics. These items, once rendered no longer useable, may be managed and disposed of as general household waste. To the extent possible, batteries should be removed from electronic devices, collected, and shipped off-site for recycling. Similarly, electronic devices such as computers, printers, etc., should be collected and shipped off-site for recycling.

Unless otherwise indicated, evidence disposal is only allowed under the following conditions:

1. Evidence may only be disposed at MSW landfill facilities that are willing to accept it and agree to the conditions provided in this document. Law enforcement personnel shall contact the MSW landfill to schedule an appointment prior to bringing the material on-site for disposal. In cases of emergency, the landfill should be notified as soon as possible.
2. No evidence may be disposed of via placement in dumpsters or transfer stations.
3. Evidence must be disposed of in the presence of law enforcement.
4. Salvaging/scavenging of evidence is prohibited (Administrative Rules of South Dakota (ARSD) 74:27:13:14).
5. Law enforcement agencies must follow their established protocols for evidence packaging. Evidence must be managed in a manner that is protective of law enforcement and landfill personnel.
6. Evidence may be commingled for disposal provided the options described here are used. The disposal option will depend on the type of evidence. If commingled evidence is subject to more than one disposal option, the most protective option should be chosen.
7. For all disposal options, evidence shall be placed in the designated area as determined by the landfill personnel. Disposal actions, including grinding and placement of material in a bale, must be conducted in the presence of, and to the satisfaction of, law enforcement personnel.
8. Disposal of evidence should take place as soon as practicable. This will avoid the accumulation of evidence within a small area of a landfill, and help minimize storage considerations for law enforcement.
9. If agreed upon by landfill and law enforcement personnel, certain types of evidence may be recycled.

Depending upon the type of evidence and the method of disposal offered by a particular MSW landfill, three disposal methods are outlined below (see also Appendix II for a summary of disposal options for the various evidence types):

Option A – Grinding or Blending (followed by disposal in a landfill cell)

Waste Types: Alcoholic Beverages, Dangerous Weapons (non-firearms), Firearms (inoperable), Fireworks (rendered inactive), “Household” Waste (clothes, furniture, toys, etc.), Marijuana (large and small amounts), Mushrooms, Paper Files, Tobacco, Vehicle Parts.

This option ensures that evidence is mixed at a minimum ratio of 50% evidence:50% non-evidence material; it may be used for large amounts of marijuana, but may be suitable for other materials as well. Mixture or treatment of the evidence may take place through:

- Grinding, in conjunction with other residential solid waste, including evidence that is considered household waste.
- Blending with materials such as food waste, grease, biosolids, or other materials approved by DENR.

Once ground or blended, evidence will be placed in the associated landfill cell; the landfill shall immediately place a minimum of one (1) foot of Municipal Solid Waste (MSW) or soil cover material (e.g. clean soil, contaminated soil, street sweepings, etc.) on top of the evidence. Law enforcement must be satisfied that the material has been rendered non-accessible.

If grinding is used and the evidence is not rendered completely non-accessible, a landfill compactor or other piece of heavy equipment shall be used to place a layer of MSW or cover material at least one (1) foot thick over the evidence prior to running directly over the evidence a minimum of three passes. Law enforcement must be satisfied that the material has been rendered non-accessible.

Option B – Balefill Facilities and Standard Landfill-Cell Burial

Waste Types: Alcoholic Beverages, Biohazardous/Non-Infectious Waste, Dangerous Weapons (non-explosive), Drug Paraphernalia/Needles and Syringes, Firearms (inoperable), Fireworks (rendered inactive), Household (typical) Items, Marijuana, Mushrooms, Paper and Paper Files, Pharmaceuticals/Prescription Medications (seized), Propane Tanks (empty), Tobacco, Vehicle Parts.

For balefill facilities, evidence may be placed in the hopper of the baler and MSW added to make a bale. The baled MSW must be encapsulated in an Envirobale bag or similar type material so that the evidence is not visible. As an alternative, non-encapsulated evidence must be covered with at least two bales of MSW in the disposal area. Law enforcement must be satisfied that the material has been rendered non-accessible.

For standard landfills, packaged evidence should be placed into a trash bag or other container such as a box, plastic tote or bucket, and taken to the landfill. A landfill compactor or other piece of heavy equipment shall be driven directly over the evidence a minimum of three passes. When the landfill compactor has completed the three passes, law enforcement shall be given the opportunity to visually confirm the evidence has been rendered non-accessible. Once law enforcement is satisfied, the landfill shall immediately place a minimum of one (1) foot of Municipal Solid Waste (MSW) or soil cover material (e.g. clean soil, contaminated soil, street sweepings, etc.) on top of the evidence. Law enforcement must be satisfied that the material has been rendered non-accessible.

Option C – Balefill Facilities and Standard Landfill-Cell Burial

Waste Types: Ammunition, Carfentanil/Carfentanyl, Cocaine, E-Cigarette Cartridges/Nicotine-Containing Vaping Liquids, Ecstasy, Fentanyl, Heroin, LSD, Methamphetamine, PCP, Pharmaceuticals/Prescription Medications (seized), Synthetic Drugs.

*Note: As stated under Condition #5 of the **Disposal** section above, and the **Evidence Packaging** section below, law enforcement must have established procedures in place that take into consideration the safety of those who may come into contact with evidence at the landfill.*

For both balefill and standard landfill-cell burial facilities, evidence types listed above should be placed into a secondary container such that the evidence does not fill the container greater than half-full (50 percent) by volume. Upon arrival at the landfill the container should be filled with waste paint (if available), another undesirable material (e.g. leachate, biosolids, sludge, etc.), or water and sealed shut. If law enforcement is not able to safely prepare the evidence in a manner that will allow it to be thoroughly exposed to a mixing agent, other disposal options should be considered (see **Other Disposal Considerations**, below).

For balefill facilities, containerized evidence should be placed in the disposal area and covered with at least two bales of MSW. Law enforcement must be satisfied that the material has been rendered non-accessible.

For standard landfills, a landfill compactor or other piece of heavy equipment shall place a layer of MSW or cover material at least two (2) feet thick over the evidence prior to running directly over the evidence a minimum of three passes. When the landfill compactor has completed the three passes, law enforcement shall be given the opportunity to visually ensure the evidence has been rendered non-accessible. Once law enforcement is satisfied, the landfill shall immediately place an additional two (2) feet of MSW or soil cover material on top of the evidence.

Other Disposal Considerations

Incineration: Incinerators disposing of solid waste and hazardous waste (“waste disposal incinerators”) are strictly regulated. In South Dakota, solid waste incinerators are regulated under the state’s solid waste rules found in ARSD 74:27:14. Hazardous waste incinerators are subject to the state’s hazardous waste requirements found in ARSD 74:28. In addition, these units also need to meet state air quality requirements, found in ARSD 74:36. Currently, no permitted waste disposal incinerators operate in South Dakota. Federal DEA regulations specify that pharmacies and healthcare facilities must ensure that controlled substances are rendered non-retrievable when disposed of. Currently the only method approved by DEA that meets that non-retrievable standard is incineration. For homeowners, that standard will be met by taking an unwanted pharmaceutical to law enforcement collection points during a community Take-Back collection program, or by placing the pharmaceutical into a designated receptacle at a local pharmacy or clinic. Those items will be sent to a permitted incinerator for disposal.

Flushing/Sewering: This method of disposal is only available to residents/individuals to dispose of certain unwanted pharmaceuticals in their own homes. Although the federal Food and Drug Administration (FDA) and the DEA allow residents to dispose of certain unwanted medicines by flushing into the sewer system, both agencies encourage residents to instead dispose of them through local pharmaceutical Take-Back programs or by placement in a receptacle located at a neighborhood clinic or pharmacy, established specifically for residential pharmaceuticals. Pharmaceuticals obtained through evidence seizures may not be flushed into the sewer.

Evidence Packaging

Law enforcement agencies have established protocols for standardized evidence packaging that includes packages that can be sealed, opened for testing and resealed. The purpose of the packaging is to preserve evidence and reduce the risk of exposure to law enforcement personnel and laboratory staff while handling the evidence. That packaging typically includes, but is not limited to: cardboard boxes, coverable plastic containers, glass sample jars, heat-sealable plastic bags, manila envelopes, metal paint cans, paper bags, paper envelopes, and resealable plastic bags.

It is preferred that evidence items remain in the original, sealed packaging. However, if necessary for safety reasons, or to ensure the material is effectively rendered non-retrievable, evidence may be removed from its original packaging for disposal purposes (for example, controlled substances could be removed from packaging to ensure the substances would come into contact with the additive agent used to render it non-accessible). Law enforcement may also consider making arrangements with a licensed transporter to dispose of the waste at a facility permitted to incinerate these wastes.

Appendix I provides a list of evidence types typically managed by law enforcement. This list may not be exhaustive; therefore, should questions arise regarding how a particular piece of evidence should be disposed, please contact DENR's Waste Management Program at 605-773-3153.

Appendix II provides a summary chart, outlining the disposal methodologies, and the types of evidence that may be disposed in each category.

Appendix III provides a list of South Dakota's permitted Municipal Solid Waste Landfills.

Appendix I

Evidence Types

The types of evidence listed below, in alphabetical order, are described briefly, followed by the recommended disposal method as specified in Options A – C. Please contact the DENR Waste Management Program at 605-773-3153 with any questions, or regarding disposal of evidence not included on this list.

Alcoholic Beverages

Alcoholic beverages, including but not limited to glass and plastic containers, and metal cans, are exempt from the evidence packaging requirements in Condition #5 listed in the **Disposal** section of this document. Disposal must be in accordance with Options A or B.

Ammunition

Ammunition of any kind must be disposed of in accordance with Option C.

Animal Carcasses

Animal carcasses of any size or variety are exempt from the evidence packaging requirements specified in Condition #5 of the **Disposal** section of this document. Disposal must be in accordance with South Dakota's Solid Waste Rules, found in ARSD 74:27:13:17.

Biohazardous Waste/Infectious Waste Material

Biohazardous waste material includes, but is not limited to DNA evidence (see also *Infectious Waste Material* (below)). Disposal must be in accordance with Option B.

Disposal of pandemic (e.g. Ebola, Tuberculosis) contaminated waste material is prohibited in landfills without being rendered non-infectious. Please contact the DENR Waste Management Program at 605-773-3153 regarding questions regarding this waste stream.

Carfentanil or Carfentanyl

Carfentanil, also known as Carfentanyl, comes in several forms including blotter paper, powder, crystals, tablets, patches, and sprays. Although its appearance may resemble powdered cocaine or heroin, it is 10,000 times more potent than morphine and 100 times more potent than fentanyl.

Carfentanil/Carfentanyl in any form must be disposed of in accordance with Option C.

Chemicals

Chemicals of any kind should be disposed of in accordance with the chemical's safety data sheet (SDS). For questions regarding the disposal of chemicals, please contact the DENR Waste Management Program at 605-773-3153.

Cocaine

Cocaine often appears as a fine white, crystalline powder, although it can come in the form of crystals or liquid.

Cocaine in any form must be disposed of in accordance with Option C.

Dangerous or Deadly Weapons

Dangerous weapon or deadly weapon is defined in South Dakota Codified Laws (SDCL) 22-1-2 as any firearm, stun gun, knife, or device, instrument, material, or substance, whether animate or inanimate, which is calculated or designed to inflict death or serious bodily harm, or by the manner in which it is used is likely to inflict death or serious bodily harm.

Dangerous weapons must be rendered inoperable and then may be recycled or disposed of in accordance with Option A or B.

Destructive Devices

Destructive device is defined in SDCL 22-1-2 as any bomb, grenade, explosive missile, or similar device or any launching device; or any breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited.

Destructive devices meeting the definition of Explosive Compounds (see below) are prohibited from disposal in landfills. Some MSW landfills may allow law enforcement to utilize the facility for the safe detonation of these devices. Please see Attachment III for a list of landfill facilities.

Drug Paraphernalia (used or potentially used)

Drug paraphernalia, which may include needles and syringes, is defined in SDCL 22-42A-1 as any equipment, products, and materials of any kind which are primarily used, intended for use, or designed for use by the person in possession of them, in planting, ..., packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body any controlled substance or marijuana... (see SDCL 22-42A-1 for full definition and items included in the definition).

Drug paraphernalia must be disposed of in accordance with Option B. Unused materials consisting of glass and plastics, may be disposed as typical household waste.

Electronic Nicotine Delivery Systems (ENDS), E-Cigarettes, Vaping Liquids

Electronic nicotine delivery systems, also known as electronic or E-cigarettes, typically consist of a liquid cartridge, atomizer, and a battery component.

E-cigarettes and associated vaping liquid cartridges should have the battery component removed, then disposed of in accordance with Option C.

Ecstasy

Ecstasy, also known as "E", chemical name Methylenedioxyamphetamine (MDMA), typically comes in capsule or tablet form, but it can also be found as a salt, loose or crushed crystals, gel caps, or a liquid.

Ecstasy must be disposed of in accordance with Option C.

Explosives

An explosive is defined in SDCL 22-1-2 as any substance, or combination of substances, that is used for the purpose of detonation and which, upon exposure to any external or internal

force or condition, is capable of a relatively instantaneous release of gas and heat. The term does not include “permissible fireworks,” as defined by SDCL 34-37-5.

Explosive compounds and/or explosive devices of any kind are prohibited from disposal in landfills. Some MSW landfills may allow law enforcement to utilize the facility for the safe detonation of explosive compounds/devices. Please see Attachment III for a list of landfill facilities.

Fentanyl

Fentanyl can exist in various forms, including liquid, lozenge, powder, tablets, transdermal patches or spiked on blotter paper.

Fentanyl in any form must be disposed of in accordance with Option C.

Firearms

Firearms are defined in SDCL 22-1-2 as any weapon from which a projectile or projectiles may be discharged by gunpowder.

Firearms of any kind are prohibited from being disposed of in landfills unless rendered inoperable by law enforcement prior to disposal. Firearms rendered inoperable must be disposed of in accordance with Option A or B.

Fireworks

Fireworks must be rendered unusable/inactive (e.g. by immersing in water) prior to disposal. Fireworks rendered inactive may be disposed of in accordance with Option A or B.

Heroin

Heroin can be a liquid, powder (black, brown, rose gray, or white), or a black sticky substance known as black tar heroin.

Heroin in any form must be disposed of in accordance with Option C.

Household Waste

Solid waste derived from households, including single and multiple residences.

Solid waste consisting of “typical” household materials should be disposed of in accordance with the landfill’s daily protocols. Household waste can be comingled with certain types of evidence to serve as a “diluting” or “mixing” component (particularly when evidence is being grinded by the facility prior to official disposal – e.g. Option A).

Infectious Waste Material (non-commercial)

Infectious waste, also referred to as biohazardous or medical waste, can include needles, syringes, blood, body fluids, and materials saturated with blood or body fluids.

Infectious waste material must be disposed of in accordance with Option B. For animal-infectious waste, please contact the DENR Waste Management Program at 605-773-3153 for disposal options.

LSD

Lysergic acid diethylamide, also known as LSD, can come in the form of absorbent paper, capsules, crystals, gelatin squares, liquid and small tablets.

LSD in any form must be disposed of in accordance with Option C.

Marijuana or Marihuana (Cannabis)

Marijuana appears as a brown, green or gray mixture of dried, shredded leaves, stems, seeds and flowers. It can also include other *Cannabis* products known as sinsemilla, hashish, hash oil, Tetrahydrocannabinol (THC) oil, as well as a wax similar to lip balm. Marijuana and other *Cannabis* products can also be found as ingredients in various foods, oils, sprays and tinctures.

Marijuana and other *Cannabis* products, including but not limited to edibles, hash, hash oil, and THC oil, must be disposed of in accordance with Options A or B.

Methamphetamine

Methamphetamine, also known as meth, usually comes in the form of a crystalline white powder; however, it can come in other colors such as brown, orange, pink or yellow-gray. It can be in crystalline, pill, tablet or liquid form. Crystal meth usually appears as clear, chunky crystals.

Methamphetamine in any form must be disposed of in accordance with Option C.

Mushrooms

Psychoactive fungi, better known as hallucinogenic mushrooms, can come in fresh form, dry, preserved, or as dry powders or capsules. Most psychoactive fungi are small, brown or tan-colored mushrooms.

Psychoactive fungi in any form must be disposed of in accordance with Options A, B or C.

Needles and Syringes (Sharps)

(See also Infectious Waste Materials) Needles and syringes must be disposed of in accordance with Option B.

Paper Files

Paper files, including shredded paper, are exempt from the packaging requirements in Condition #5 listed in the **Disposal** section of this document, and may be disposed of in accordance with Options A or B.

PCP/Phencyclidine

PCP, chemical name Phencyclidine, is a white crystalline powder that can come in a variety of colors. It may be in powder, pill, table, capsule or liquid form.

PCP in any form must be disposed of in accordance with Option C.

Pharmaceuticals/Prescription Medications – Seized

Prescription medications in any form must be disposed of in accordance with either Option B or C.

Pharmaceuticals/Prescription Medications – Take Back Programs

Prescription medications from Take-Back Programs must be disposed of in accordance with federal DEA requirements and state Hazardous Waste regulations (ARSD 74:28:27:01, adopting 40 CFR Part 266 – Subpart P Pharmaceutical Waste Rules). Disposal at a state permitted MSW landfill is not allowed.

Propane Tanks

Propane cylinders may be used to store anhydrous ammonia, used by illegal drug manufacturers to make “crank”, a methamphetamine.

Propane tanks, if empty, may be recycled or disposed of in accordance with Option B.

Sharps

See Needles and Syringes and Infectious Waste Materials.

Synthetic Drugs (not including marijuana)

Synthetic drugs, including but not limited to synthetic cathinones or “bath salts,” synthetic hallucinogens, and ecstasy, can come in many forms, including mixed with herbs, powder, tablets, and liquids.

Synthetic drugs in any form must be disposed of in accordance with Option C.

Tobacco

Tobacco and tobacco products (not including E-cigarette vaping liquids) come in many forms including, but not limited to, cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own loose tobacco.

Tobacco in any form is exempt from the evidence packaging requirements in Condition #5 listed in the **Disposal** section, and must be disposed of in accordance with Options A or B.

Vehicle Parts

Vehicle parts, including but not limited to, headlights, seat belts, and taillights, are exempt from the packaging requirements in Condition #5 of the **Disposal** section of this document, and may be recycled or disposed of in accordance with Option A or B.

Appendix II

Disposal Options for Types of Evidence

Summary A - Listed alphabetically by waste type

Waste Type	Disposal Option A	Disposal Option B	Disposal Option C
Alcoholic Beverages	X	X	
Ammunition			X
Biohazardous/Non-infectious Waste		X	
Carfentanil/Carfentanyl			X
Cocaine			X
Dangerous Weapons (non-explosive, non-firearm)	X	X	
Drug Paraphernalia (used), Needles, Syringes		X	
E-cigarette cartridges, used (batteries removed)			X
Ecstasy			X
Fentanyl			X
Firearms (inoperable)	X	X	
Fireworks (rendered inactive)	X	X	
Heroin			X
Household (typical) Items	X	X	
Infectious (non-commercial) Waste		X	
LSD			X
Marijuana	X	X	
Methamphetamines			X
Mushrooms	X	X	X
Paper & paper files	X	X	
PCP			X
Pharmaceuticals, Prescription Medications – seized		X	X
Propane tanks – empty (if not recycled)		X	
Sharps/Needles, Syringes		X	
Synthetic Drugs			X
Tobacco	X	X	
Vehicle Parts (if not recycled)	X	X	

Disposal Options for Types of Evidence

Summary B – Listed by disposal method

Waste Type	Disposal Option A	Disposal Option B	Disposal Option C
Alcoholic Beverages	x	x	
Dangerous Weapons (non-explosive, non-firearm)	x	x	
Firearms (inoperable)	x	x	
Fireworks (rendered inactive)	x	x	
Household (typical) Items	x	x	
Marijuana	x	x	
Paper & paper files	x	x	
Tobacco	x	x	
Vehicle Parts (if not recycled)	x	x	
Biohazardous/Non-infectious Waste		x	
Drug Paraphernalia (used), Needles, Syringes		x	
Infectious (non-commercial) Waste		x	
Propane tanks – empty (if not recycled)		x	
Sharps/Needles, Syringes		x	
Pharmaceuticals, Prescription Medications – seized		x	x
Mushrooms	x	x	x
Ammunition			x
Carfentanil/Carfentanyl			x
Cocaine			x
E-cigarette cartridges, used (batteries removed)			x
Ecstasy			x
Fentanyl			x
Heroin			x
LSD			x
Methamphetamines			x
PCP			x
Synthetic Drugs			x

Appendix III

South Dakota Landfills

Belle Fourche Landfill
Dirk Hoffman, Public Works Dir.
(605) 892-3414

Brown County Landfill
Mike Scott, Landfill Manager
(605) 626-4019

Mitchell Landfill
Kevin Roth, Street & Sanitation Supt.
(605) 995-8465

Pierre Landfill
Valerie Keller, Solid Waste Manager
(605) 773-7434

Roberts County Landfill
Randy Deutsch, Landfill Manager
(605) 698-7362

Southern Missouri Landfill
Mike Wentland, Landfill Manager
(605) 487-9542

Vermillion Landfill
Tim Taggart, Solid Waste Director
(605) 677-7059

Watertown Landfill
Mike Boerger, Supt. Of Wastewater & Solid Waste
(605) 882-6219

Brookings Landfill
Todd Langland, Director of Solid Waste
(605) 693-3667

Custer-Fall River WMD Landfill
Kerry Barker, Contract Landfill Operator
(605) 662-7760

NW South Dakota Regional Landfill
Connie Bootz, Executive Director
(605) 374-3246

Rapid City Landfill
Jeff Barber, Solid Waste Superintendent
(605) 355-3496

Sioux Falls Landfill
Don Kuper, Landfill Superintendent
(605) 367-8162

Tri-County Landfill
Larry McManus, Landfill Manager
(605) 864-4535

Walworth County Landfill
Landfill Manager
(605) 762-3316