

January 2016

INTERNAL MANAGEMENT DIRECTIVE

Use of Pesticides for Production of Cannabis in Oregon

DISCLAIMER

This IMD is not a final agency action and does not create any rights, duties, obligations, or defenses, implied or otherwise, in any third parties. This directive should not be construed as a rule, although some of it may describe existing state laws. The recommendations contained in this directive should not be construed as a requirement of rule or statute.

This directive is intended solely as guidance for employees of the Oregon Department of Agriculture. It does not constitute rulemaking by the Director of ODA and may not be relied upon to create an enforceable right or benefit, substantive or procedural, enforceable at law or in equity, by any person. With written managerial approval, ODA employees may deviate from this directive.

ODA anticipates revising this document from time to time as conditions warrant, including if there are changes in federal or state law or policy.

Pesticide products have not been tested to determine their potential health effects if used on cannabis, that will be smoked or otherwise consumed, and thus the health risks to consumers are unknown. Possible health risks to pesticide handlers, applicators, and post-application workers in cannabis production settings are also unknown, because use on cannabis constitutes a new use pattern for which exposure assessments have not been conducted. Although assessments may have been conducted on other crops, by including products on this list, ODA makes no assurances of their safety or effectiveness when used on cannabis and will not be responsible or liable for any such use.

PURPOSE

This IMD is intended to aid ODA employees in assisting growers in identifying pesticides that growers may be able to use for the production of cannabis (including marijuana and industrial hemp) in Oregon. For example, this IMD aids in distinguishing those pesticide products that have labels that do not prohibit use on cannabis from those that do not allow such use.

IDENTIFYING PESTICIDES

Agricultural Crop and Unspecified Food Crop Directions

ODA employees are directed to consider cannabis grown in Oregon to be an agricultural crop, and to be an unspecified food crop for the purposes of assessing risk to human health.

Pesticide Use on Cannabis Growing in Oregon

ODA employees may identify pesticides that satisfy the following criteria:

1. The active ingredient is exempt from the requirement of a tolerance on all food crops,

and

January 2016

2. The product label includes directions for use on:
 - Unspecified food crops (bedding plants, outdoor or enclosed facility), or
 - Unspecified home garden plants, or
 - Unspecified herbs (bedding plants, outdoor or enclosed facility) or
 - Unspecified plants or crops,

and

3. Where as, data generated from pyrolysis studies have not led to an exceedance in the level of concern (LOC) or other parameters and have not resulted in EPA denying use of the active ingredient on tobacco.

Prior to Planting Cannabis Outdoors:

ODA employees may identify pesticides for use outdoors prior to planting if the label for a broad spectrum pesticide (e.g., broad-spectrum herbicide, soil fumigant) does not specify on the pesticide label the crops to be planted post-application.

Prior to Planting Cannabis in an Enclosed Facility (Such as a Greenhouse):

ODA employees may identify pesticides to control microorganisms on surfaces (such as benches, floors, pallets, skids, pots, tools) if it is an antimicrobial pesticide (e.g., disinfectant, sanitizer) and labeled for such use.

Product List

ODA employees may compile a list of pesticides that growers may be able to use for cannabis production in Oregon. Any such list will be posted on ODA's website and will be updated at least biannually. A searchable list of these products, if any, will also be available from the Washington State University Pesticide Information Center Online (PICOL) database (cru66.cahe.wsu.edu/LabelTolerance.html).

The intent of the list is to assist growers. The list is not an endorsement or recommendation to use these products in the production of cannabis in Oregon.

GENERAL INFORMATION REGARDING REGISTRATIONS

Pesticide Registrations

EPA Approved Registrations

For pesticides that require federal registration by the U.S. Environmental Protection Agency (EPA) under Section 3 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), cannabis will not be specifically listed as a crop on the pesticide label. Registration by both EPA and ODA is required prior to sale or distribution of such pesticides.

Exempt from EPA Registration

For minimum risk pesticides that are exempt from federal registration under FIFRA Section 25(b), cannabis will likely not be specifically listed as a crop on the pesticide label. ODA

January 2016

registration is required prior to the sale or distribution of any FIFRA 25(b) pesticide sold or distributed in the State of Oregon.

State Granted Registrations

For pesticides that may be considered by ODA for registration under FIFRA Section 24(c) Special Local Need* (SLN) by ODA:

To be considered for an SLN registration, an application will need to be submitted to ODA by the product registrant or by a third party authorized by the registrant. The application will need to demonstrate that there is a "special local need" in Oregon and comply with existing ODA requirements for all SLN registrations:

<http://www.oregon.gov/ODA/shared/Documents/Publications/PesticidesPARC/SpecialLocalNeedPesticideRegistration.pdf>

* A special local need (SLN) is defined as "an existing or imminent pest problem within a State for which the State lead agency (ODA), based upon satisfactory supporting information has determined that an appropriate federally registered pesticide is not sufficiently available".

For marijuana: Based on EPA's criteria, ODA employees will consider a request for an SLN registration for use on marijuana only for federally registered pesticides having adequate data to support the following:

- Use on food crops (preferably including hops and/or mint).
- Use on tobacco.
- Use with the same application method(s) as the SLN application.
- Use on crops that have agronomic characteristics and worker handling exposures that are similar to marijuana.
- For marijuana grown indoors, use in an enclosed structure (such as a greenhouse).
- For marijuana grown outdoors, use on a field-grown crop.

ADJUVANTS

ODA employees may identify any spray adjuvant that is labeled for use on food crops for use with a pesticide that is applied to cannabis, as long as the intended use is allowed by the spray adjuvant label (for example, adhering to adjuvant label restrictions for use only with herbicides or some other category of pesticide).