

Support HB 1266

DOR destruction of unauthorized pesticides on marijuana

Rep. KC Becker & Sen. Cooke

What is the approved pesticide list and how was it created?

The Colorado Department of Agriculture (CDA) has worked meticulously alongside public health and industry stakeholders to regulate the application of pesticides on marijuana **without access to the federal regulatory tools** in place, which are available for every other crop. CDA's regulations reflect applicable standards for pesticide use allowing for safe application based on 4 criteria:

1. **The label language allows use** which is important to ensure application does not directly violate the Pesticide Applicators Act
2. **The active ingredient is tolerance exempt.** This means that any level of pesticide residue that remains on the product will not pose a health risk.
3. **The product label allows use on crops for human consumption.** This means the active ingredients of the product have been tested and found to be safe for consumption in laboratory studies.
4. **The active ingredients are allowed for use on tobacco.** This means studies have been performed measuring the amounts and types of chemicals that a person may be exposed to by smoking products containing residues of the active ingredient.

The list has about **200** pesticides available for use on marijuana and is available on CDA's website. This list is continuously updated and improved overtime to reflect public health research.

What is a tolerance limit or maximum residue level?

A **tolerance limit or maximum residue level** is the amount of pesticide residue that can remain on a specific product (in parts per million, parts per billion, etc) that will not pose a health risk to the consumer. These limits are used with other agricultural products but only after extensive research on each crop and the patterns of consumption for that crop. Each limit is specific to a particular crop. There has not been enough research to establish these limits for marijuana due to the many uses (smoking, concentrating, and eating).

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What is a detection level?

A **detection level** is an amount of pesticide that can be detected in a plant when tested. There are many pesticides used in everyday life which can be detected in other products. To date, state officials have held over 20 hours of stakeholder meetings to establish “detection levels” appropriate to avoid “background” detections.

When cases of off-label pesticide use are found and are above detection levels, the Colorado Department of Revenue (DOR) has reasonable grounds to place an administrative hold on such marijuana to ensure that no potentially harmful products make it to consumers.

What is the Investigative Process?

CDA may initiate a formal investigation upon receiving a complaint about potential pesticide misuse on marijuana or based on inspection results.

First, CDA identifies the producer(s) of the marijuana product in question. The investigation includes taking statements, obtaining records, and gathering samples, which are analyzed by a CDA laboratory. **The lab used by CDA is certified to test for pesticides.** CDA then determines if the residues detected is on-label and if not, if it meets detection limits. The testing protocols can tell between pesticide that have been applied recently and “detection” limits.

In accordance with the Governor's Executive Order, CDA advises DOR of any pesticide residues detected that are currently not allowed for use on Marijuana under the Pesticide Applicators Act (PAA) and its rules. Also in accordance with the Executive Order, until scientific assessment establishes which additional pesticides can be safely applied to marijuana, CDPHE HAS DEEMED any marijuana contaminated by a pesticide that does not conform with legal use a risk to public health. DOR is authorized to find such contaminated marijuana a threat to public safety, and DOR investigators then determine if there are reasonable grounds to place an administrative hold on any affected marijuana or marijuana product.

Once investigation by CDA is complete, and a final determination is made that a violation of the PAA has occurred, subsequent investigation and administrative due process by DOR will lead to appropriate administrative remedies, which may include destruction of the marijuana or marijuana products.