

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

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TO: Marijuana Cultivators
FROM: Commissioner John Lebeaux
REGARDING: Pesticide Use on Marijuana
DATE: 11/30/22

BACKGROUND

In 2017, with the legalization of marijuana under the passage of Chapter 55 of the Acts of 2017 ("Act"), the Massachusetts Department of Agricultural Resources ("MDAR") anticipated that pests and how to control pests would be of concern to cultivators relative to the health and value of any crop as pesticides are used as one of the many tools to control pests. Under the Act and in accordance with M.G.L. c. 132B, the Massachusetts Pesticide Control Act, MDAR retains jurisdiction over pesticides within the Commonwealth.

At that time, the United States Environmental Protection Agency ("EPA") did not allow the use of a registered pesticide on marijuana or hemp because there were no products labeled for such use. M.G.L. c. 132B, Section 6A also limits all pesticides to be used in accordance with the label. Because of this, the use of pesticides on marijuana or hemp was initially prohibited in Massachusetts. With the passing of the Agricultural Improvement Act of 2018 ("2018 Farm Bill"), which removed hemp from the Controlled Substance list, pesticide manufacturers have been able to amend pesticide labels to include hemp and as such there are now EPA registered products that include hemp.

POLICY CHANGE

Pesticide Use on Marijuana

MDAR understands that the difference between hemp and marijuana is a legal one and that both originate from the same plant and in many cases are being produced, manufactured, and used for the same purposes (i.e., topical, edible, smokable). Because hemp and marijuana are both cannabis and only distinguished through law by the THC level, MDAR will allow the use on hemp to extend to marijuana as well, provided such use is in accordance with this Pesticide Use on Marijuana Policy ("Policy"). Only the use of pesticides on marijuana done in accordance with this Policy will be deemed compliant with M.G.L. c. 132B, Section 6A.

Upon reviewing some of the registered pesticide product labels for hemp, MDAR noticed a difference in application rates when looking at hemp and tobacco. Since marijuana may be used to smoke, MDAR needs to ensure that the proper rates are being used in cases where this may occur. Additionally, MDAR has concerns regarding worker safety protection requirements when applying these products inside, as a greenhouse setting identified on a label is not the same type of structure as the industrial settings in which much marijuana cultivation takes place.

Under this Policy, MDAR will allow the use of pesticides on marijuana provided that **ALL** of the following conditions are met:

- Product needs to be registered with EPA;

- Product needs to be registered for use in Massachusetts;
- Product needs to be labeled for both hemp and tobacco;
- When a product has 2 different rates for hemp and tobacco, the applicator MUST use the lower of the 2 rates;
- Product MUST be without “Days to Harvest” for indoor use in order to address worker safety concerns for indoor use;
- The active ingredient MUST be food tolerance exempt; and
- Product MUST be labeled for use on hemp in a greenhouse if being used on marijuana cultivated in an indoor setting.

Pesticide Use on Hemp

There are no additional conditions outside of M.G.L. c. 132B and 333 CMR placed on the use of the products labeled for hemp. All uses on hemp must comply with all label requirements on whatever EPA registered pesticide is selected, which must also be registered for use in Massachusetts.

Use of Pesticides

When using pesticides on either marijuana or hemp, an individual making the application is subject to all the requirements under M.G.L. 132B and 333 CMR 2.00 through 14.00. Additionally, applicators must ensure they are following the Worker Protection Standards (“WPS”) for individuals that are using pesticides and handling any material that has been treated.