

## **The Pesticide Conundrum with Hemp**

Under federal regulations the present status of hemp as a crop remains in legal limbo, which greatly complicates regulations of pesticides that can be used on the crop. This is largely due to Cannabis having been regulated as an illegal drug since 1937. With the passage of the 2013 Farm Bill, this situation regarding Cannabis grown for hemp changed in some important respects. Specifically, Section 7606, often referred to as the Polis-Massie-Blumenauer amendment, provided a means for Universities to research hemp (but not marijuana!) and for it to be commercially grown where state laws allowed it to be produced.

However, hemp as a crop is not yet fully accepted under federal regulations. And regards to issues involving pesticides, it is the responsibility of a federal agency, the Environmental Protection Agency, to make final decisions on what specific pesticides can be used on any crop.

The EPA reviews every pesticide label and makes the ultimate decision on whether the label claims are acceptable, based on exhaustive testing related to issues of human safety, environmental effects and other important considerations. Any product sold for the use of controlling some pest - be it fungus, insect, weed or anything else - is legally classified as a pesticide. Under federal law *any pesticide must only be used on a crop/site for which it is specifically labeled*; these use directions are specified on the label.

The central problem is that due to the regulatory uncertainty hemp is not yet recognized as a legitimate crop by the EPA. The “crop” hemp does not presently exist. Therefore, no pesticides can list hemp as a crop on which it can be used.

Under laws regulating pesticide use in the United States, the use of any pesticide on a *crop/site not specified on the label directions is a violation of law*. Since hemp is not yet a federally recognized crop, use of most all pesticides cannot be applied to the crop. Furthermore, any such uses would then, by definition, always result in the presence of illegal residues of a pesticide on the crop. Normally, when agricultural products are found to have been treated with an illegal pesticide they are considered to have illegal residues that prohibit them from commerce and may subject them to seizure and destruction.

### **Use of Pesticides on Cannabis under State Laws**

Under longstanding pesticide law, all pesticide labels – along with all allowable uses – are approved by the Environmental Protection Agency. However, both Washington and Colorado, the first two states to legalize recreational Cannabis, have developed interim lists of pesticides that are “acceptable” for Cannabis production (including hemp) under state guidelines.

These lists of pesticides that are state approved are ones that have been determined “not in violation” of federal law. In establishing the lists of pesticides deemed not in violation of law to use (“acceptable”) on Cannabis, both states have used many of the same general criteria, including (but not limited to):

- The federally approved label allows for use on unspecified crops and/or plants (e.g., “flowering plants”, “other crops”) and;

- The federally approved label allows use at the intended site (e.g., outdoor use, indoor use) of application, and;
- The federally approved label directions do not prohibit use on crops or plants intended for human consumption.

Although both states have essentially resolved the pesticide issue in a similar manner and most all of the allowable pesticides are similar in both states, there are some differences with specific products. For example, under Colorado regulations most allowable pesticides must also be allowed for use on tobacco.

For specific information on rules, regulations and policy regarding the use of pesticides on all hemp and other Cannabis crops in **Colorado** visit the Colorado Department of Agriculture website *Pesticide Use in Cannabis Product Information*  
<https://www.colorado.gov/pacific/agplants/pesticide-use-cannabis-production-information>

For specific information on rules, regulations and policy regarding the use of pesticides on hemp and other Cannabis crops in **Washington** visit the Washington website *Pesticide and Fertilizer Use on Marijuana in Washington*  
<http://agr.wa.gov/pestfert/pesticides/pesticideuseonmarijuana.aspx>