



COLORADO
Department of Revenue
Enforcement Division - Marijuana
455 Sherman Street, Suite 390
Denver, CO 80203

November 12, 2015

INDUSTRY-WIDE BULLETIN: 15-10

RE: EXECUTIVE ORDER DIRECTING STATE AGENCIES TO ADDRESS THREATS TO PUBLIC SAFETY POSED BY MARIJUANA CONTAMINATED BY PESTICIDE

Dear Marijuana Industry Stakeholders:

On November 12, 2015, the Governor of the State of Colorado issued the attached Executive Order directing the Colorado Department of Revenue, among other state agencies, to address threats to public safety posed by marijuana contaminated by pesticide. Also included with this Industry-Wide Bulletin is the Office of Marijuana Coordination's Statewide Marijuana Pesticides Policy Statement regarding Colorado's pesticides regulations and application on marijuana. This Industry-Wide Bulletin is intended to provide Licensees with notice of the Governor's directives to the Colorado Department of Revenue's Marijuana Enforcement Division ("Marijuana Enforcement Division").

Please review all of the information contained in and attached to this Industry-Wide Bulletin to ensure that your business is compliant with all applicable laws and rules.

The Executive Order's directives were the result of a collaborative effort between the Governor's Office, Colorado Department of Public Health and Environment, Colorado Department of Agriculture, and Colorado Department of Revenue, and provides much needed clarity on the use of pesticides and role of the Marijuana Enforcement Division upon identification of pesticide use in violation of the Pesticide Applicator's Act or "Criteria for Lawful Pesticide Application on Marijuana".

The Marijuana Enforcement Division is committed to working closely with the Colorado Department of Agriculture, Colorado Department of Public Health and Environment, and Licensees in enforcing applicable laws and rules and in implementing the directives of the Executive Order.

Please be aware that this Industry-Wide Bulletin and attached content is not intended to constitute legal advice or replace a Licensee's responsibility to read, understand, and maintain full compliance with all relevant laws and rules. If you have any specific questions about any legal matter you should consult your attorney or other professional legal services provider(s).

Thank you,

W. Lewis Koski
Director
Marijuana Enforcement Division

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John W. Hickenlooper
Governor

D 2015-015

EXECUTIVE ORDER

Directing State Agencies to Address Threats to Public Safety Posed by Marijuana Contaminated by Pesticide

Pursuant to the authority vested in the Governor of the State of Colorado, and in particular, pursuant to Article IV, Section 2 of the Colorado Constitution, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order directing state agencies to address threats to public safety posed by marijuana contaminated by pesticide.

I. Background and Purpose

Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, the Environmental Protection Agency (the "EPA") regulates pesticides that are sold and distributed in the United States. Before a pesticide can be distributed, the EPA performs a comprehensive scientific risk assessment of the product. The EPA's evaluations are conducted to prevent potential harm to humans, wildlife, and the environment. The EPA also evaluates and approves the language that appears on each pesticide label to ensure safe use of the product.

Because marijuana remains a schedule 1 narcotic under the Controlled Substances Act, the EPA has neither assessed the potential health hazards posed by treating marijuana with pesticides, nor has it authorized the application of any pesticide specifically for use on marijuana.

The State of Colorado regulates pesticide use pursuant to the Colorado Pesticide Applicators' Act and rules promulgated under the Act. It is a violation of state and federal law to use pesticides in a manner that is inconsistent with the EPA's label directions or otherwise unsafe. When a pesticide is applied to a crop in a manner that is inconsistent with the pesticide's label (an "Off-Label Pesticide"), and the crop is contaminated by that pesticide, it constitutes a threat to the public safety.

Until scientific assessment establishes which additional pesticides can be safely applied to marijuana, marijuana contaminated by an Off-Label Pesticide shall constitute a threat to the public safety.

II. Declaration and Directives

1. The Colorado Department of Health and Environment (“CDPHE”) shall hereby deem all marijuana contaminated by an Off-Label Pesticide a risk to public health, and the Department of Revenue is authorized to find such contaminated marijuana a threat to public safety.
2. Several executive branch agencies, including CDPHE, the Colorado Department of Agriculture (“CDA”) and the Colorado Department of Revenue (“DOR”) are statutorily charged with executing state policy governing cultivation and sale of marijuana. These agencies are hereby directed to utilize all existing investigatory and enforcement authorities established by law to protect against threats to the public safety posed by contaminated marijuana including, but not limited to, placing contaminated marijuana on administrative hold and destroying contaminated marijuana pursuant to existing law.

III. Duration

This Executive Order shall remain in full force and effect until amended or rescinded by further executive order or otherwise superseded by Colorado law.



GIVEN under my hand and the
Executive Seal of the State of
Colorado this 12th day of
November, 2015.

A handwritten signature in blue ink, which appears to read "John Hickenlooper". The signature is fluid and cursive, written over a white background.

John W. Hickenlooper
Governor



Statewide Marijuana Pesticides Policy Statement
November 12, 2015

1. Colorado's pesticides regulations for all crops are enforced in strict accordance with the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), rules and guidance promulgated pursuant to FIFRA, and the Colorado Pesticide Applicators' Act.
2. A pesticide registered with the Colorado Department of Agriculture ("CDA") may be used in accordance with its label directions for the cultivation of marijuana in the state of Colorado under the following conditions:
 - a. The label allows for use on unspecified crops and/or plants (e.g. "bedding plants," "flowering plants," "other crops");
 - b. The label allows for use at the intended site of application (e.g. allowed use in greenhouses);
 - c. The label directions do not prohibit use on crops or plants for human consumption; and
 - d. Use of the pesticide complies with rules promulgated by CDA governing pesticide use on marijuana.
3. CDA has developed an extensive list of pesticides that meet these criteria, available at: <https://www.colorado.gov/pacific/agplants/pesticide-use-marijuana-production>.
4. In light of the numerous ways marijuana can be ingested and the extent to which marijuana can be concentrated prior to consumption, the health risk posed by the application of pesticides in violation of the aforementioned criteria is cause for concern. The Colorado Department of Public Health and Environment ("CDPHE") is authorized to advise the Colorado Department of Revenue Marijuana Enforcement Division ("MED") on which course of action best protects public health. Until scientific assessment establishes which additional pesticides can be safely applied to marijuana, CDPHE shall deem any marijuana contaminated by a pesticide that does not meet the aforementioned criteria a risk to public health, and MED is authorized to find such contaminated marijuana a threat to public safety.
5. In the event the misapplication of pesticides on marijuana is identified by CDPHE, CDA, MED, or any other authority, it is CDPHE's policy to strongly advise that MED place an administrative hold on the affected crop(s) and any resulting products pending further investigation and process.
6. If additional investigation confirms that pesticides were applied to marijuana in violation of the aforementioned criteria, CDPHE strongly advises that MED work with the Licensee, within the bounds of existing procedure, to voluntarily destroy the affected marijuana and any products containing that marijuana. If the affected marijuana inventory is not voluntarily destroyed, MED shall consider additional administrative action against the licensee.

Signed,

Don Brown | Commissioner | Colorado Department of Agriculture
Barbara Brohl | Executive Director | Colorado Department of Revenue
Dr. Larry Wolk | Executive Director & Chief Medical Officer | Colorado Department of Public Health and Environment

