



April 11, 2019



Senator Kathleen Taylor, Co-Chair
Representative Jeff Reardon, Co-Chair
Joint Committee on Ways and Means
Subcommittee on Natural Resources
900 Court Street NE
Room H-178
Salem, OR 97301

Dear Co-Chairs:

Thank you for the opportunity to discuss the Oregon Department of Agriculture's cannabis-related work. Below is a response to the Committee's question about testing cannabis samples along with a follow-up on cannabis-related program statistics provided verbally during the hearing.

How long does it take to test cannabis samples?

For a complete test, depending on the compounds and quality of the sample material, it can take as little as 2 days or as long as 4 weeks. The average cannabis sample testing time is between 5-7 days.

Cannabis-related work by program area:

Food Safety Program:

- 522 licenses issued to cannabis food operations represents 2% of 11,646 total licenses
- License costs range from \$300-\$400. Some businesses hold more than one license.
- Cannabis businesses are issued 5 license types (of 39 food safety license types)
 - Cannabis Bakery licenses = 11 (examples: brownies, cookies, chocolates)
 - Cannabis Food Processing licenses = 95 (examples: extracts, concentrates)
 - Cannabis Food Storage Licenses = 19 (examples: warehouse, storage facilities)
 - Cannabis Non-Alcoholic beverage license = 1 (examples: soda, infused water)
 - Cannabis Retail Food Establishment license = 396 (example: typical retail outlet)

Weights and Measures Program:

- Licenses issued to verify accurate operation of class-A scales for cannabis industry increased from 9 devices in 2010 to 3,811 devices in 2018
- Of total cannabis industry devices, 907 high precision class-A scales were added in 2018; 1,344 added in 2017
- Average caseload for a weights and measures inspector is 5,500 devices in the Portland-Metro area (many inspectors in Portland-Metro area only inspect cannabis scales); Salem and Eugene inspectors have a caseload of approximately 3,600 devices
- Class-A scale license fee = \$41



Laboratory Services:

- 14 cannabis-related pesticide investigation cases were processed in 2018 by the ODA Lab
 - 144 cannabis samples were obtained from the 14 cases
 - 348 individual tests were performed on the cannabis samples
 - Average cost to process each sample is \$550
- Data pertains to non-MCAP related cannabis cases—without MCAP, testing for the 100 MCAP cases, based on 10 samples per case, with average costs of \$550/sample, would have resulted in approximately \$550,000 in additional laboratory costs in 2018

Pesticides Program:

- 13,800 pesticide products are currently registered and licensed in Oregon
 - Oregon licensed pesticide applicators, operators, apprentices, consultants, and dealers currently total 14,000
 - In 2018, the program conducted 700 onsite pesticide investigations that included complaint investigations, routine compliance monitoring, and label reviews
 - Pesticide investigator annual caseload is 65
 - ODA has conducted 19 complaint driven cannabis investigations since 2015 that were not eligible for MCAP
- ⇒ Marijuana Compliance Assistance Program (MCAP) is designed to provide education and resources to growers and workers in the new Oregon marijuana industry regarding how pesticides may be used lawfully in the production of marijuana. A grower is eligible for the MCAP the first time that grower exceeds an Active Ingredient Action Level that has been referred by OLCC or OHA. Any subsequent exceedances or if a complaint is filed, it is addressed through the standard pesticide investigation process. Plants subject to an MCAP Consent Order are referred back to the originating agency (OLCC or OHA) for destruction, if needed.

MCAP 2016-2018 totals-to-date:

- Number of growers offered assistance through MCAP to date = 304
- Number of growers who declined MCAP = 8
- Number of growers who did not complete the MCAP process=13
- Entities with repeated Action Level Exceedances = 2

MCAP 2018 program data:

- Number of growers offered assistance through MCAP = 100
- Average number of days to complete MCAP investigation = 35 days
- Average number of days to complete standard pesticide complaint investigation = 334
- Average number of days to complete case resulting in enforcement action = 639

We also highlighted department information to help put the above capacity issues into perspective. ODA is one of the larger licensing agencies in the state with 48,919 licenses currently issued by the various department programs. All programs noted here are primarily funded through Other Funds (Food Safety 76% OF; Weights and Measures 100% OF; Pesticides 85% OF, and Lab Services 46% OF). Please note that the above cost calculations do not reflect administration costs that are also paid through program area Other Fund allocations.

Thank you for the opportunity to respond to the Committee's questions. Please contact me if I may provide additional information.

Sincerely,



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Oregon Department of Agriculture



OREGON CANNABIS

Cannabis and Pesticides



Oregon
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Pesticides Program
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What is a pesticide?

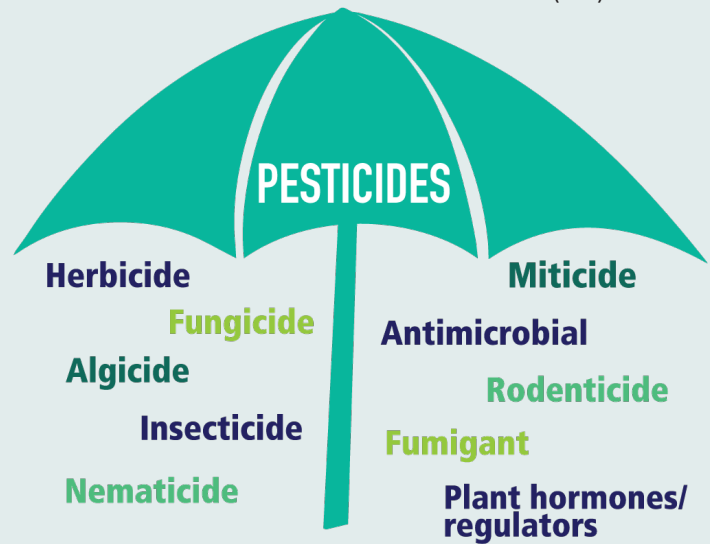
- Anything that kills, repels, or mitigates a pest
- Includes plant growth hormones/regulators

What is an active ingredient?

The chemical in a pesticide product that does the killing, repelling, or mitigating is the active ingredient.

What is a tolerance?

The US Environmental Protection Agency (EPA) sets limits on the amount of pesticides that may remain in or on food. These limits on pesticides left on foods are called "tolerances." There are no tolerances for cannabis. <https://oda.fyi/NPICtolerance>



What pesticides can I use on cannabis?

You can use any pesticide listed on the Oregon Department of Agriculture's (ODA) guide list according to label directions.

<https://oda.direct/CannabisPesticides>

Products on the list meet the following criteria:

- Exempt from a tolerance by US EPA
- Intended for unspecified food crops
- Passed a pyrolysis test

If you think you have a product that meets the criteria, but is not on the list, contact ODA's Pesticides Program and they will review the product.

**Organic and OMRI listing
DOES NOT automatically make it
approved for use on cannabis!**

**Many organic products have tolerances
established for use on food crops
and would not be on ODA's guide list for
pesticides and cannabis.**

Why are most pesticides not labeled for use on cannabis?

- Cannabis is illegal under federal law
- Risk assessments to establish a tolerance have not been completed for use on cannabis

The US Environmental Protection Agency (EPA) registers and regulates pesticides. For food crops, the EPA sets a tolerance. In order to set tolerances, the EPA completes a risk assessment, looking at the various ways we may be exposed to the pesticide. The risk assessment is also used to evaluate and approve the language that appears on pesticide labels to ensure safe use.

The State of Oregon regulates pesticide use under the Oregon Pesticide Control Act and rules established under the Act. It is a violation of state and federal law to use pesticides in a manner that is inconsistent with label directions. Because the EPA has not done any risk assessments with cannabis, Oregon is limited in what pesticides can be used legally.

Required testing: What are action levels?

All cannabis must be tested for the presence of a number of different contaminants, including pesticides. Action levels indicate a level of pesticides that, when exceeded, is considered sufficient to warrant regulatory or remedial action under Oregon cannabis regulations.

An overview of the testing rules for marijuana:

<https://oda.fyi/OHAmarijuanatesting>

An overview of the testing rules for industrial hemp:

<https://oda.direct/hemp>

Potential problems: Pesticide investigations

ODA pesticide investigations may begin because:

- Another agency makes a referral
- ODA receives a complaint
- There is a reason to believe misuse is happening

ODA may collect and analyze plant material for compliance tests, if necessary.

Action levels are NOT tolerances.

If you fail testing for an action level—

above action level—you will not be allowed to sell your product. The Oregon Liquor Commission (OLCC) or the Oregon Health Authority (OHA) will refer you to the Oregon Department of Agriculture (ODA) Pesticides Program.

Products must be legal for use.

Even if the result of an ODA Pesticides Program inspection test is **below** the action level—if the product is not legal for use, the crop will not be allowed to go to market. Illegal use of pesticides may also affect your license with OLCC or OHA.

Remember!

- Only use pesticides on ODA's guide list for pesticides and cannabis.
- Always follow the pesticide label directions.
- If you fail a pesticide test you will be referred to the ODA Pesticides Program for investigation under the Oregon Pesticide Control Act, ORS 634.

Questions about a label or product?

We know it is confusing – call us first! **(503) 986-4635**

We can help you understand how to use a product including things like:

- Is the product allowed for use on cannabis?
- Where can I apply the product?
- What rate do I use?

We cannot make pest-specific product recommendations.

Training and licensing

It's unlikely you need a license to apply pesticides. To learn about classes being offered on pesticide application and safety, visit:

<https://oda.direct/PesticideApplicatorClasses>

Some local community colleges also offer classes.

Growers must provide Worker Protection Standard (WPS) training to their employees. You must be a licensed pesticide applicator or have completed approved specialized training in order to train workers or handlers under the WPS.

<https://oda.direct/WPS>

Additional pesticide resources

National Pesticide Information Center (NPIC)

NPIC provides objective, science-based information about pesticides and pesticide-related topics to enable people to make informed decisions.

<http://npic.orst.edu>

Oregon OSHA Consultative Services

OR-OSHA consultation services are free and confidential. Consultations in workplace safety, industrial hygiene, and ergonomics can help you reduce accidents and related costs and help you develop a comprehensive program to manage safety and health.

<http://osha.oregon.gov/consult>