

Cannabis Business Blog

LCB Updates List of Approved Pesticides

By Emily Gant on 6.8.16 | Posted in Marijuana producer, Marijuana retailers, Washington State

With reports of significant non-approved pesticide use by some in the industry, the LCB has increased its focus upon pesticides.

In addition to emergency regulations addressing [product recalls](#) and [pesticide action levels](#), the LCB (via the Washington State Department of Agriculture) recently amended the [list of approved pesticides](#). Specifically, the WSDA added 29 pesticides to the list of allowable products and removed 27 products.

Bottom line: Make sure that your house is in order. Confirm that your current stock of pesticides only includes those on the WSDA's approved list. Note that you may "use up" any existing inventory of the 27 pesticides removed from the list, but cannot purchase additional amounts of these products. Also, we are seeing increasing volumes of pesticide-related disputes and lawsuits, and will address how to best protect your business from pesticide litigation in a future post.

Warning Regarding Federal Law: The possession, distribution, and manufacturing of marijuana is illegal under federal law, regardless of state law which may, in some jurisdictions, decriminalize such activity under certain circumstances. Penalties for violating federal drug laws are very serious. For example, a conviction on a charge of conspiracy to sell drugs carries a mandatory minimum prison term of five years for a first offense and, depending on the quantity of marijuana involved, the fine for such a conviction could be as high as \$10 million. In addition, the federal government may seize, and seek the civil forfeiture of, the real or personal property used to facilitate the sale of marijuana as well as the money or other proceeds from the sale. Although the U.S. Department of Justice (DOJ) recently rescinded its guidance regarding prioritization of criminal prosecutions of individuals and entities operating in compliance with effective state regulatory systems, DOJ left in place long standing guidance to federal prosecutors regarding how to exercise this discretion. Individuals and companies are cautioned to consult with experienced attorneys regarding their exposure to potential criminal prosecution before establishing business operations in reliance upon the passage of state laws which may decriminalize such activity. Federal authority to prosecute violations of federal law as crimes or through seizures and forfeiture actions is not diminished by state law. Indeed, due to the federal government's jurisdiction over interstate commerce, when businesses provide services to marijuana producers, processors or distributors located in multiple states, they potentially face a higher level of scrutiny from federal authorities than do their customers with local operations.

Tags: approved pesticides, emergency regulations, LCB, marijuana products, non-approved pesticide, pesticide action levels, pesticide litigation, product recalls, Washington State Liquor and Cannabis Board