

THESE RULES ARE PROPOSED FOR ADOPTION BY THE COMMISSIONER OF THE COLORADO DEPARTMENT OF AGRICULTURE ("CDA") PURSUANT TO HIS AUTHORITY UNDER SECTION 24-20-112(1) C.R.S., AND EXECUTIVE ORDER D 2013-007.

PART 1: EXPLANATION OF PURPOSE AND SCOPE OF RULES

1.01: EXECUTIVE ORDER D 2013-007 DIRECTED THE COLORADO DEPARTMENT OF AGRICULTURE TO DEVELOP A LIST OF SUBSTANCES THAT MAY NOT BE USED IN THE CULTIVATION AND PROCESSING OF MARIJUANA. THESE RULES ONLY ADDRESS SUBSTANCES USED IN THE CULTIVATION OF MARIJUANA, NOT PROCESSING.

PART 2: DEFINITION AND CONSTRUCTION OF TERMS

2.01: AS USED IN THESE RULES, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- a) "HUMAN CONSUMPTION" FOR THE PURPOSES OF THESE RULES MEANS THE CONSUMPTION OF MARIJUANA BY A PERSON THROUGH ORAL INGESTION, ABSORPTION THROUGH THE SKIN OR INHALATION OF MARIJUANA THROUGH SMOKING, VAPORIZATION OR OTHER MEANS.
- b) "PEST" AS DEFINED IN SECTION 35-10-103(9), C.R.S., OF THE PESTICIDE APPLICATORS' ACT, MEANS ANY INSECT, RODENT, NEMATODE, FUNGUS, WEED, OR OTHER FORM OF TERRESTRIAL OR AQUATIC PLANT OR ANIMAL LIFE OR VIRUS, BACTERIA, OR OTHER MICROORGANISM (EXCEPT VIRUSES, BACTERIA, OR OTHER MICROORGANISMS ON OR IN LIVING MAN OR IN OTHER LIVING ANIMALS) WHICH THE COMMISSIONER OR THE ADMINISTRATOR OF THE EPA DECLARES TO BE A PEST.
- c) "PESTICIDE" AS DEFINED IN SECTION 35-10-103(10), C.R.S., OF THE PESTICIDE APPLICATORS' ACT, MEANS ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED FOR PREVENTING, DESTROYING, REPELLING, OR MITIGATING ANY PEST OR ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED FOR USE AS A PLANT REGULATOR, DEFOLIANT, OR DESICCANT; EXCEPT THAT THE TERM "PESTICIDE" SHALL NOT INCLUDE ANY ARTICLE THAT IS A "NEW ANIMAL DRUG" AS DESIGNATED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.
- d) "PLANT REGULATOR" AS DEFINED IN SECTION 35-10-103(11), C.R.S., OF THE PESTICIDE APPLICATORS' ACT, MEANS ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED, THROUGH PHYSIOLOGICAL ACTION, FOR ACCELERATING OR RETARDING THE RATE OF GROWTH OR RATE OF MATURATION OR FOR OTHERWISE ALTERING THE BEHAVIOR OF PLANTS OR THE PRODUCE THEREOF; EXCEPT THAT "PLANT REGULATOR" SHALL NOT INCLUDE SUBSTANCES TO THE EXTENT THAT THEY ARE INTENDED AS PLANT NUTRIENTS, TRACE ELEMENTS, NUTRITIONAL CHEMICALS, PLANT INOCULANTS, AND SOIL AMENDMENTS. ALSO, "PLANT REGULATOR" SHALL NOT BE REQUIRED TO INCLUDE ANY OF THOSE NUTRIENT MIXTURES OR SOIL AMENDMENTS WHICH ARE COMMONLY KNOWN AS VITAMIN-HORMONE HORTICULTURAL PRODUCTS, INTENDED FOR IMPROVEMENT,

MAINTENANCE, SURVIVAL, HEALTH, AND PROPAGATION OF PLANTS, WHICH ARE NOT FOR PEST DESTRUCTION AND WHICH ARE NONTOXIC AND NONPOISONOUS IN THE UNDILUTED PACKAGED CONCENTRATION.

- e) "RETAIL MARIJUANA" MEANS MARIJUANA CULTIVATED UNDER A LICENSE ISSUED BY THE COLORADO DEPARTMENT OF REVENUE, PURSUANT TO TITLE 12, ARTICLE 43.4, C.R.S.
- f) "TOLERANCE" MEANS A LEVEL OF PESTICIDE RESIDUE IN OR ON FOOD THAT THE ENVIRONMENTAL PROTECTION AGENCY HAS DETERMINED WITH REASONABLE CERTAINTY WILL NOT POSE A HAZARD TO PUBLIC HEALTH WHEN USED IN ACCORDANCE WITH LABEL DIRECTIONS.
- g) "USE" AS DEFINED IN SECTION 35-10-103(18), C.R.S., OF THE PESTICIDE APPLICATORS' ACT, MEANS ALL ASPECTS OF THE HANDLING OF PESTICIDES, INCLUDING BUT NOT LIMITED TO THE MIXING, LOADING, APPLICATION OR ADMINISTRATION, SPILL CONTROL, AND DISPOSAL OF A PESTICIDE OR ITS CONTAINER.

PART 3: USE OF PESTICIDES

- 3.01: BOTH STATE AND FEDERAL LAWS REQUIRE THAT PESTICIDES BE APPLIED ACCORDING TO LABEL DIRECTIONS. AS PART OF THE DIRECTIONS FOR USE, LABELS FOR PESTICIDES INTENDED FOR USE ON PLANTS SPECIFY THE CROPS AND/OR SITES TO WHICH THEY CAN BE APPLIED. IN ADDITION, EPA SETS TOLERANCES THAT LIMIT PESTICIDE RESIDUES IN OR ON FOOD TO ENSURE WITH A REASONABLE CERTAINTY THAT NO HARM WILL RESULT FROM AGGREGATE EXPOSURES. CERTAIN PESTICIDES HOWEVER, MAY BE EXEMPTED FROM THIS TOLERANCE REQUIREMENT IF EPA HAS DETERMINED THAT USE IN ACCORDANCE WITH THEIR LABEL DIRECTIONS POSES NO HAZARD TO PUBLIC HEALTH. AS OF THE EFFECTIVE DATE OF THESE RULES, THERE ARE CURRENTLY NO PESTICIDES THAT ARE SPECIFICALLY LABELED OR HAVE PESTICIDE RESIDUE TOLERANCES ESTABLISHED FOR USE ON MARIJUANA BY THE FEDERAL GOVERNMENT OR THE STATE OF COLORADO. THE COLORADO DEPARTMENT OF AGRICULTURE DOES NOT RECOMMEND THE USE OF ANY PESTICIDE NOT SPECIFICALLY TESTED, LABELED AND ASSIGNED A SET TOLERANCE FOR USE ON MARIJUANA BECAUSE THE HEALTH EFFECTS ON CONSUMERS ARE UNKNOWN.
- 3.02: NOTWITHSTANDING THE ABSENCE OF ANY PESTICIDES SPECIFICALLY LABELED FOR USE ON MARIJUANA, SOME PESTICIDES HAVE BROAD LABEL LANGUAGE THAT DOES NOT PROHIBIT THEIR USE ON MARIJUANA AND ARE EXEMPT FROM THE TOLERANCE REQUIREMENTS. THESE RULES ESTABLISH THE CRITERIA UNDER WHICH CERTAIN PESTICIDES MAY BE LEGALLY USED ON RETAIL MARIJUANA IN THE STATE OF COLORADO. TO ASSIST RETAIL MARIJUANA GROWERS, THE DEPARTMENT WILL PUBLISH A LIST OF PESTICIDES THAT IT HAS DETERMINED MEET THESE CRITERIA.
- 3.03: ANY PESTICIDE USED IN THE CULTIVATION OF RETAIL MARIJUANA MUST BE REGISTERED WITH THE COLORADO DEPARTMENT OF AGRICULTURE.

3.04: ANY PESTICIDE REGISTERED WITH THE COLORADO DEPARTMENT OF AGRICULTURE MAY BE USED IN ACCORDANCE WITH ITS LABEL OR LABELING DIRECTIONS FOR THE CULTIVATION OF RETAIL MARIJUANA IN THE STATE OF COLORADO UNDER THE FOLLOWING CONDITIONS:

- a) FOR PRODUCTS REGISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY UNDER SECTION 3 OF THE FEDERAL INSECTICIDE, FUNGICIDE, RODENTICIDE ACT:
 - 1) ALL ACTIVE AND INERT INGREDIENT(S) OF THE PESTICIDE PRODUCT ARE EXEMPT FROM THE REQUIREMENTS OF A TOLERANCE, AS ESTABLISHED UNDER 40 C.F.R. PART 180, SUBPARTS D AND E, AND;
 - 2) THE PESTICIDE PRODUCT LABEL ALLOWS USE ON THE INTENDED SITE OF APPLICATION. THE TERM "SITE" FOR PURPOSES OF THIS RULE INCLUDES ANY LOCATION OR CROP THE APPLICATION IS BEING MADE TO, AND;
 - 3) THE PESTICIDE PRODUCT LABEL EXPRESSLY ALLOWS USE ON CROPS OR PLANTS INTENDED FOR HUMAN CONSUMPTION.
 - 4) THE ACTIVE INGREDIENT(S) OF THE PESTICIDE PRODUCT ARE ALLOWED FOR USE ON TOBACCO.
 - 5) NOTWITHSTANDING PARAGRAPH 3, THE COMMISSIONER HAS THE AUTHORITY TO PERMIT THE USE OF A PESTICIDE PRODUCT, THAT DOES NOT EXPRESSLY ALLOW USE ON CROPS INTENDED FOR HUMAN CONSUMPTION IF:
 - i. THE ACTIVE AND INERT INGREDIENTS ARE EXEMPT UNDER 40 C.F.R. PART 180, SUBPARTS D AND E, AND,
 - ii. THE PESTICIDE PRODUCT LABEL ALLOWS USE ON THE INTENDED SITE OF APPLICATION.
 - 6) THE PESTICIDE PRODUCT LABEL SPECIFICALLY ALLOWS USE ON MARIJUANA.
- b) FOR 25(B) MINIMUM RISK PESTICIDE PRODUCTS AS DEFINED IN 40 CFR 152.25(F); THE PESTICIDE PRODUCT LABEL ALLOWS USE ON THE INTENDED SITE OF APPLICATION AND ALLOWS USE ON CROPS OR PLANTS INTENDED FOR HUMAN CONSUMPTION.
- c) FOR PESTICIDE PRODUCTS WITH A COLORADO SPECIAL LOCAL NEED REGISTRATION, ALLOWED UNDER SECTION 24(C) OF THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT; THE COLORADO SPECIAL LOCAL NEED LABEL ALLOWS USE ON RETAIL MARIJUANA.
- d) THE COMMISSIONER MAY PROHIBIT THE USE OF ANY PESTICIDE PRODUCT FOR THE CULTIVATION OF RETAIL MARIJUANA IF HE DETERMINES THAT SUCH USE POSES A SIGNIFICANT THREAT TO PUBLIC HEALTH AND SAFETY OR THE ENVIRONMENT.

PART 4: USE OF FERTILIZERS

4.01: THE STATE FERTILIZER LAW DOES NOT SET FORTH ANY REQUIREMENTS REGARDING THE APPLICATION OR USE OF FERTILIZERS, PLANT AMENDMENTS OR SOIL CONDITIONERS FOR ANY PLANTS, INCLUDING MARIJUANA.

PART 17. THE USE OF PESTICIDES IN THE PRODUCTION OF CANNABIS

17.01: DEFINITION AND CONSTRUCTION OF TERMS FOR PURPOSES OF THIS PART 17, AS USED IN THESE RULES, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- a) "CANNABIS" MEANS A PLANT OF THE GENUS CANNABIS AND ANY PART OF THE PLANT.
- b) "HUMAN CONSUMPTION": FOR THE PURPOSES OF THESE RULES MEANS THE CONSUMPTION OF CANNABIS BY A PERSON THROUGH ORAL INGESTION, ABSORPTION THROUGH THE SKIN OR INHALATION THROUGH SMOKING, VAPORIZATION OR OTHER MEANS.
- c) "TOLERANCE" MEANS A LEVEL OF PESTICIDE RESIDUE IN OR ON FOOD THAT THE ENVIRONMENTAL PROTECTION AGENCY HAS DETERMINED WITH REASONABLE CERTAINTY WILL NOT POSE A HAZARD TO PUBLIC HEALTH WHEN USED IN ACCORDANCE WITH LABEL DIRECTIONS.

17.02: PESTICIDE USE ON CANNABIS: THESE RULES ESTABLISH THE CRITERIA UNDER WHICH CERTAIN PESTICIDES MAY BE LEGALLY USED ON CANNABIS IN THE STATE OF COLORADO. TO ASSIST CANNABIS GROWERS, THE DEPARTMENT WILL PUBLISH A LIST OF PESTICIDES THAT IT HAS DETERMINED MEET THESE CRITERIA. AS OF THE EFFECTIVE DATE OF THESE RULES, THERE ARE CURRENTLY NO PESTICIDES THAT ARE SPECIFICALLY LABELED OR HAVE PESTICIDE RESIDUE TOLERANCES ESTABLISHED FOR USE ON MARIJUANA BY THE FEDERAL GOVERNMENT OR THE STATE OF COLORADO. THE COLORADO DEPARTMENT OF AGRICULTURE DOES NOT RECOMMEND THE USE OF ANY PESTICIDE NOT SPECIFICALLY TESTED, LABELED AND ASSIGNED A SET TOLERANCE FOR USE ON MARIJUANA BECAUSE THE HEALTH EFFECTS ON CONSUMERS ARE UNKNOWN.

17.03: ANY PESTICIDE USED IN THE CULTIVATION OF CANNABIS MUST BE REGISTERED WITH THE COLORADO DEPARTMENT OF AGRICULTURE.

17.04: ANY PESTICIDE REGISTERED WITH THE COLORADO DEPARTMENT OF AGRICULTURE MAY BE USED IN ACCORDANCE WITH ITS LABEL OR LABELING DIRECTIONS FOR THE CULTIVATION OF CANNABIS IN THE STATE OF COLORADO UNDER THE FOLLOWING CONDITIONS:

- a) FOR PRODUCTS REGISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY UNDER SECTION 3 OF THE FEDERAL INSECTICIDE, FUNGICIDE, RODENTICIDE ACT:
 - 1) ALL ACTIVE AND INERT INGREDIENT(S) OF THE PESTICIDE PRODUCT ARE EXEMPT FROM THE REQUIREMENTS OF A TOLERANCE, AS ESTABLISHED UNDER 40 C.F.R. PART 180, SUBPARTS D AND E, AND;
 - 2) THE PESTICIDE PRODUCT LABEL ALLOWS USE ON THE INTENDED SITE OF APPLICATION. THE TERM "SITE" FOR PURPOSES OF THIS RULE INCLUDES ANY LOCATION OR CROP THE APPLICATION IS BEING MADE TO, AND;
 - 3) THE PESTICIDE PRODUCT LABEL EXPRESSLY ALLOWS USE ON CROPS OR PLANTS INTENDED FOR HUMAN CONSUMPTION.

- 4) THE ACTIVE INGREDIENT(S) OF THE PESTICIDE PRODUCT ARE ALLOWED FOR USE ON TOBACCO.
 - 5) NOTWITHSTANDING PARAGRAPH 3, THE COMMISSIONER HAS THE AUTHORITY TO PERMIT THE USE OF A PESTICIDE PRODUCT, THAT DOES NOT EXPRESSLY ALLOW USE ON CROPS INTENDED FOR HUMAN CONSUMPTION IF:
 - i. THE ACTIVE AND INERT INGREDIENTS ARE EXEMPT UNDER 40 C.F.R. PART 180, SUBPARTS D AND E, AND;
 - ii. THE PESTICIDE PRODUCT LABEL ALLOWS USE ON THE INTENDED SITE OF APPLICATION.
 - 6) THE PESTICIDE PRODUCT LABEL SPECIFICALLY ALLOWS USE ON CANNABIS.
- b) FOR 25(B) MINIMUM RISK PESTICIDE PRODUCTS AS DEFINED IN 40 CFR 152.25(F); THE PESTICIDE PRODUCT LABEL ALLOWS USE ON THE INTENDED SITE OF APPLICATION AND ALLOWS USE ON CROPS OR PLANTS INTENDED FOR HUMAN CONSUMPTION.
 - c) FOR PESTICIDE PRODUCTS WITH A COLORADO SPECIAL LOCAL NEED REGISTRATION, ALLOWED UNDER SECTION 24(C) OF THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT; THE COLORADO SPECIAL LOCAL NEED LABEL ALLOWS USE ON CANNABIS.
 - d) THE COMMISSIONER MAY PROHIBIT THE USE OF ANY PESTICIDE PRODUCT FOR THE CULTIVATION OF CANNABIS IF HE DETERMINES THAT SUCH USE POSES A SIGNIFICANT THREAT TO PUBLIC HEALTH AND SAFETY OR THE ENVIRONMENT.

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