

New York State Pesticide Regulations for Agricultural Production of Cannabis and Hemp

June 2024

Pesticide Product Registration

A pesticide is defined in our regulations in 6 NYCRR Section 325.1(a) as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant or desiccant. Pesticide products include insecticides, herbicides, fungicides, rodenticides, disinfectants, antimicrobials, and sanitizers, as well as repellents and growth regulators.

All pesticide products must either be registered with the United States Environmental Protection Agency (USEPA) or classified as Minimum Risk Pesticides, which are specifically exempted from registration. All pesticide products sold, distributed, offered for sale or used in NYS must also be registered with the New York State Department of Environmental Conservation (DEC), unless exempt from USEPA registration as a Minimum Risk Pesticide product.

Minimum Risk Pesticides are often referred to as “25(b)’s” since they are exempt from registration by the USEPA in accordance with Section 25(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). To be exempt from registration these pesticides must conform to the specific exemption criteria outlined by the USEPA (<http://www.epa.gov/minimum-risk-pesticides/conditions-minimum-risk-pesticides>). DEC does not require the registration of Minimum Risk Pesticide Products and currently does not review or approve Minimum Risk Pesticide labeling. However, a product that does not conform to all exemptions in the USEPA guidelines would not be considered a Minimum Risk Pesticide and would require USEPA registration as well as subsequent NYS registration. All other NYS pesticide use regulations still apply to Minimum Risk Pesticides.

To determine if a pesticide is registered with NYS, you may visit DEC’s New York State Pesticide Administration Database (NYSPAD) at <https://extapps.dec.ny.gov/nyspad/> to confirm a product's registration status. In addition to pesticide registration, all registered pesticide products and pesticide products exempted from registration MUST be used in accordance with the product's label.

Products not labeled for use as a pesticide cannot be used as pesticides. For example, vinegar cannot be purchased at a grocery store and used as a weed killer, because that would be considered use of a pesticide.

Pesticide Products for Use on Cannabis

The legal sale and use of cannabis have not been recognized at the federal level. Therefore, there are no USEPA-registered pesticides specifically labeled for use in the production of cannabis, except for a few products registered for use on industrial hemp. An alternative may be to use registered pesticide products that have generally worded labels that would not preclude the product from use on cannabis and hemp.

The following criteria **are used by the DEC to determine** if federally registered pesticides are suitable for use on cannabis and/or hemp:

- Pesticide product has a specific tolerance listed for Hemp or is exempted from the requirement of a tolerance; **and**
- The label has language that allows the use of the pesticide with the same or similar application method; **and**
- The label has broad language that allows the use of the pesticide on similar crops; **and**
- The label has directions for similar site of application. For example, products must be labeled for greenhouse or indoor use if used in a greenhouse or indoor.

In response to numerous inquiries regarding the acceptability of pesticide products registered in NYS for use on cannabis and/or industrial hemp, the DEC has added pesticide use designations of “CANNABIS” and “HEMP” to our NYSPAD database <https://extapps.dec.ny.gov/nyspad/>. Pesticide product labels reviewed and deemed acceptable for use are noted in the “Pesticide Use” field with “CANNABIS” and/or “HEMP”. In addition, a designation was also added to indicate if the label specifically lists “HEMP” as a target crop on the EPA stamped “accepted” label. This designation is “HEMP (EPA LABEL)” in the “Pesticide Use” field. The NYSPAD database can be searched for these new pesticide use designations and the results can be exported to a separate file. The following illustrates the designations in the “Pesticide Use” field dropdown:

Bureau of Pesticides Management - Information Portal

The screenshot shows the Bureau of Pesticides Management - Information Portal search interface. The 'Pesticide Use' dropdown menu is open, displaying the following options: AQUATIC, CANNABIS, COMMERCIAL, COVID-19 (EPA), DOMESTIC ANIMALS, GREENHOUSE, HEMP, and HEMP (EPA LABEL). The interface includes search filters for Product EPA Registration Number, Names, Registrant, Ingredients, and Other. The 'Pesticide Use' field is currently set to 'CANNABIS'. The 'Pesticide Type' field is currently set to 'HEMP (EPA LABEL)'. The 'Showing' section displays '0% ACII' and 'EPA Reg. N'. The 'Restrictions' section is partially visible.

Minimum Risk Pesticides can also be used in the production of cannabis and hemp if they can be legally used on food. Products intended for use on food-use sites (i.e., used on food, food crops, food-contact surfaces, or animal feed commodities) can only include active ingredients with applicable tolerances or tolerance exemptions in 40 CFR 180 <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-180> . These requirements fall under section 408 of the Federal Food, Drug, and Cosmetic Act and EPA's implementing regulations at 40 CFR 180. The EPA lists of eligible Minimum Risk Pesticide ingredients indicates whether they are acceptable for food use or not. There are a number of products that meet this requirement.

It is recommended that before using any product, the proposed product label and other relevant information be submitted for review by staff from DEC's Bureau of Pesticides Management. If there are any questions regarding the acceptability of a federally registered pesticide product and/or a Minimum Risk Pesticide product, please contact the Pesticide Product Registration Section at ppr@dec.ny.gov or call 518-402-8768.

The use of pesticides in the commercial production of cannabis and hemp have been determined by DEC to be an agricultural application. Therefore, registered pesticide labels must contain an "Agricultural Use" statement referencing the federal Worker Protection Standard (WPS). Minimum Risk Pesticides will not contain an "Agricultural Use" box. When using a registered pesticide product containing the "Agricultural Use" statement on the label, requirements for compliance with the WPS will need to be determined.

Information regarding the WPS and how to comply can be found at: <https://www.epa.gov/pesticide-worker-safety/agricultural-worker-protection-standard-wps> , <https://www.pesticideresources.org/wps/> , or by contacting the Pesticide Enforcement & Compliance Assurance Section at pestcomp@dec.ny.gov or call 518-402-8727.

Pesticide Applicator Certification Requirements

The application of pesticides in the production of an agricultural commodity on property owned or rented by the applicator or the applicator's employer is considered the private application of pesticides. Pesticide applicator certification is granted by the DEC. Certification as a private pesticide applicator is required to apply restricted use pesticides; however, the private application of general use pesticides does not require certification. In some instances, the private application of restricted use pesticides may be made under the direct supervision of a private applicator by properly trained individuals. Records of all restricted use pesticide applications by private applicators, must be retained for three years and be available for inspection by DEC when requested.

Pesticide applications to produce agricultural commodities that do not meet the definition of a private applications are classified as commercial pesticide applications. Commercial pesticide applications require commercial pesticide certification as a commercial applicator or a commercial technician. Both certified commercial applicators and technicians can apply general

use pesticides. However, certified commercial technicians must work under the direct supervision of a certified commercial applicator when applying restricted use pesticides. In some instances, commercial pesticide applications may be made by properly trained individuals while under the direct supervision of a certified commercial pesticide applicator. Commercial pesticide applicators must keep a record of all pesticide applications, and those records must be retained for three years and be available for inspection by DEC when requested. In addition, certified commercial pesticide applicators must report their pesticide applications to DEC by February 1 each calendar year in accordance with the requirements of the Pesticide Reporting Law. Furthermore, the commercial application of pesticides may require a pesticide business registration.

To become certified private pesticide applicator in NYS, an individual would need to qualify for and pass a core and category certification exam. An individual can qualify for the private applicator certification exam if they are at least 17 years of age and have one of the following:

- one year of full-time experience within the last three years in the use of pesticides in the category of private applicator certification they are seeking, OR
- a college degree in a related field with course work covering the topics required by regulation, OR
- completion of a DEC approved 30-hour eligibility course, OR
- one year of verifiable experience as a certified commercial applicator in category 1a agricultural plant pest control or category 3a ornamental, shade tree and turf pest control.

In order to become a Certified Commercial Pesticide Applicator or Certified Commercial Pesticide Technician in NYS an individual would need to qualify for and pass a core and category certification exam and meet the eligibility requirements applicable to a certified commercial pesticide applicator or certified commercial pesticide technician.

An individual can qualify for the certified commercial technician certification exam if they are at least 17 years of age and have one of the following:

- at least two years of verifiable experience as an apprentice working under the supervision of a commercial applicator certified in the category of the certification they are seeking, OR
- a college degree in a related field with course work covering the topics required by regulation, OR
- completion of a DEC approved 30-hour eligibility course,

An individual can qualify for the certified commercial pesticide applicator exam if they have one of the following:

- at least one year of verifiable experience as a technician with an additional 12 hours of category-specific recertification training, or has two years of verifiable experience as a technician and has not had the technician certification suspended, revoked or modified and petitions the department for full certification; OR

- at least three years of verifiable full-time experience within the last five years as an apprentice working in the category or categories of commercial pesticide application in which the individual is seeking certification; OR
- at least three years of verifiable experience within the past five years as a certified private pesticide applicator in a corresponding private category and has successfully passed the appropriate commercial category examinations.

Individuals residing in and currently certified by another state with which NYS has a signed reciprocity agreement, may obtain certification without taking the NYS examinations. Information about reciprocity and a list of states with which NYS has reciprocity agreements can be found on DEC's website at: <https://dec.ny.gov/regulatory/permits-licenses/chemical-petroleum-lng-pesticide-permits/pesticide-applicator-technician-guidance/certification/applying-for-reciprocal-pesticide-certification>, or by contacting the Pesticide Reporting & Certification Section at pestmgt@dec.ny.gov or call 518-402-8748.

Information regarding approved courses and upcoming certification exams can be found on our NYSPAD Portal at: <https://extapps.dec.ny.gov/nyspad/>. You may also contact the Pesticide Reporting & Certification Section at pestmgt@dec.ny.gov or call 518-402-8748.

For general questions regarding pesticide use for cannabis production please contact the Bureau of Pesticides Management Pesticide Enforcement and Compliance Assurance Section at pestcomp@dec.ny.gov or 518-402-8727.