



BEYOND PESTICIDES

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March 17, 2014

Governor Jay Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504

Dear Governor Inslee,

On behalf of Beyond Pesticides and our members in Washington, we are writing to share a letter that was sent by our organization to the Washington State Department of Agriculture (WSDA) this week regarding the use of pesticides in marijuana production within your state. The letter addresses our legal opinion regarding the allowance of registered pesticides in Washington to produce marijuana and potential violations associated with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and state law. As Washington navigates this issue, we trust that our analysis will provide a legal roadmap for WSDA in adopting a policy that is fully compliant with both state and federal laws governing allowable pesticide use.

We believe, as a matter of public health, that the state must adopt a clear policy that prohibits the use of unregistered pesticides and makes available to the public only those materials under FIFRA that have been determined to be of a nature not requiring regulation under section 25(b). It is our position that, given the federal law and existing regulations, no state has the authority to (i) register a pesticide use not federally registered for an intended use, generally exempt from federal registration, or specifically determined by the U.S. Environmental Protection Agency (EPA), based on findings, to comply with exceptions to FIFRA registration; and (ii) approve or set tolerances for any pesticides that have not been approved specifically for use on cannabis by the EPA. Additionally, EPA does not have the authority to grant any state a local use exemption under section 24(c) of FIFRA. Given these restrictions on states and EPA under the existing framework for regulating pesticide use, it becomes clear that the only pesticides available for use on cannabis in the state of Washington are those that are “of a character unnecessary for regulation” under section 25(b) of FIFRA.

Please take the time to read the attached letter and feel free to reach out to our office should you have any questions or comments regarding its content. I can be reached by email at adamato@beyondpesticides.org or by phone at 202-543-5450.

Thank you in advance for your attention to this important and timely issue. We look forward to working with Washington to ensure a safe and effective policy moving forward.

Sincerely,

Annie D'Amato, Esq.
Legal and Policy Associate