



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BOARD OF PESTICIDES CONTROL
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Date: March 30, 2023
To: Board of Pesticides Control Members
From: Mary Tomlinson | Pesticides Registrar
Subject: Clarification of Distribution

Background:

Maine pesticide rules permit products no longer registered in Maine to continue to be distributed with certain restrictions. Chapter 20, Section 1(D) states:

“Retailers and end users of pesticides no longer registered in Maine may continue to sell and use those items provided they were properly registered when obtained and such distribution and use is not prohibited by FIFRA or other Federal law.”

Recent inquiries have highlighted confusion as to who qualifies as a retailer, and what does “obtained” mean when selling and using products that are no longer registered. Does an out of state company warehousing product already purchased, but stored out of state until the end user needs it, qualify as a retailer? Does “obtained” mean in “possession of” the product by the retailer or end user or does it include “purchased” when registered, but not delivered until after cancellation?

The intent of Chapter 20 is to reduce the amount of unregistered pesticides in Maine that may result in improper disposal causing increased risk to humans and environmental contamination. By permitting retailers and ends users continued sales and use of pesticides no longer registered in Maine, the risk of improper disposal and associated costs of disposal of obsolete pesticides is reduced. Limiting who can sell these pesticides reduces stockpiling by distributors who sell to retailers. Chapter 20 may also reduce dumping of unregistered pesticides into the channels of trade by companies outside of Maine.

Staff proposes the following clarifications of the language in Chapter 20, Section 1(D):

1. A retailer is a store or warehouse in Maine that sells direct to the end user, not to another retailer or other dealer in the state. Unless a company has a storefront or a warehouse located in Maine and sells directly to the end user, it is not a retailer.
2. Distribution into Maine from any company or warehouse outside the state, including virtual stores, is prohibited when a product is no longer registered or is in discontinuance.

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3. Product that was registered when received and held in stock by retailers within Maine may continue to be distributed until stock is depleted. New product may not be shipped into Maine after the registration expires on Dec. 31 each calendar year.
4. "Obtained" means the retailer or end user in Maine took possession of the pesticide when the pesticide was registered. Product purchased, but not received when registered, may not be shipped into Maine.
5. Pesticides manufactured in Maine may no longer be produced once registration is canceled. However, sales of product in inventory may be sold direct to the end user until supplies are depleted.