



**STATE OF MAINE**  
**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**  
**BOARD OF PESTICIDES CONTROL**  
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To: Board of Pesticides Control Members  
 From: Mary Tomlinson, Pesticides Registrar/Water Quality Specialist  
 RE: Label language interpretation/policy for FIFRA EXEMPT (25b) Pesticides  
 Date: May 3, 2017

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In 1996, EPA exempted minimum risk pesticides from federal regulation under FIFRA 152.25(f). These products are pesticides, but do not require registration at the federal (EPA) level. They are not tested for safety or efficacy, are not subjected to any regulatory review, and reports to the EPA of any adverse reactions resulting from their use are not required. Labeling of these pesticides has become increasingly problematic, particularly with regard to skin-applied repellents and lawn and garden pesticides.

The Pesticide Control Act of 1975 has not been revised to reflect the new reality of minimum risk pesticides. A few states have established, by statute or policy, specific minimum labeling requirements for these pesticides. In general these align with the accepted minimum EPA labeling standards. An informal coalition of eight states, of which Maine is a leading member, has agreed on a set of these minimum labeling standards. Some of the states have statutory support for the enforcement of all the standards, but Maine is not one of those.

Companies take advantage of the vagueness in the Code of Federal Regulations and inconsistency among state pesticide registration programs to avoid commonly accepted labeling standards. Typically this includes unsubstantiated claims promoting the “safety” of their products, the omission of an appropriate signal word (“Caution” is the lowest-risk signal word) and the Child Hazard Statement (“Keep Out of Reach of Children,” also known as the “KOOROC” statement). For pesticides for which federal labeling is required, these statements must be prominent on the front of the label, grouped together, and set off from other text or graphic content. Some registrants try to meet these requirements by placing these statements inconspicuously among other text on the back of the product label or in associated labeling materials. We do not believe that this is sufficiently protective, especially given the intense demand among some consumers for “safe” control or repellent materials. These products are pesticides. Their use is not without risk, and we believe that the labels and labeling should accurately reflect that fact, even for this lower-risk category of products.

Title 7 §605 and §607 are silent on specific labeling language related to minimum risk pesticides because this class did not exist when the law was written. Because these sections address pesticides in general, they have been interpreted to also apply to minimum risk pesticides. A label without a signal word and KOOROC statement has been considered to be misbranded under §605(2)(B-1) “Lack of certain information. As applied to any pesticide means that: The label does not contain a

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*warning or caution statement that may be necessary and that, if complied with, together with any requirements imposed under FIFRA, Section 3(d), would be adequate to protect health and the environment;”* Due to a lack of clarity, companies are strongly encouraged to add these components, but registrations have not been withheld if the company fails to comply.

We request that the Board provide definitive guidance allowing us to require the minimum protective language of “caution” and the KOOROC statement, as described above, for all pesticide products registered in Maine. We suggest language such as the following to accomplish this goal:

*“the Board requires that all pesticides, including products classified as low-risk, generally recognized as safe, 25(b), or any other materials for which pesticidal claims are made, to have at a minimum the signal word ‘CAUTION’ and the statement “Keep Out of the Reach of Children” prominently displayed on the front of the label, grouped together, and with sufficient prominence relative to other front panel text and graphic material to ensure that they will not be overlooked under customary conditions of purchase and use as per the guidance set forth in 40 CFR 156.60(b).”*