

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

OFFICE OF PESTICIDE SERVICES

VIRGINIA PESTICIDE DISCONTINUANCE POLICY

**I. Policy as to Registrants With Respect to Previously Registered Products Found in the Channels of Trade**

- A. It is the policy of the Office of Pesticide Services (OPS) not to seek civil penalties or take any other action authorized by law against a party that had previously registered such product if such registrant:
1. had continuously registered the product for two (2) full calendar years after registrant distribution had ceased;
  2. indicated on its registration renewal form that the product had been discontinued;
  3. provided to OPS documentation that distributors (first line) had been sent (no later than twenty one [21] months after the product had been discontinued) notification of the discontinued status of the product, including: (a) the "end" date after which the product may no longer be sold or offered for sale in Virginia; (b) instructions to the distributors to notify retailers (second line) of the "end" date after which the product may no longer be sold or offered for sale in Virginia; and, (c) the procedure for final disposition of any remaining product by the registrant at the end of the discontinuance period; and
  4. within thirty (30) days after receipt of a notice from OPS that the product had been found in the channels of trade after its registration had expired, either re-registered the product or caused the product to be affirmatively removed from the channels of trade.
- B. If the registrant did not perform all of the acts set out above, then OPS reserves its discretion to take any action authorized by law.

**II. Policy as to Distributors and Retailers When Unregistered Products Are Found In The Channels of Trade**

Whenever any unregistered product, whether or not previously registered, is found in the possession of any distributor or retailer, a Letter of Caution and Notice of Stop Sale Order will be issued to that distributor or retailer. The Notice of Stop Sale Order prohibits the sale of such product until the issuance of a Notice of Release as to such product. If the Notice of Stop Sale Order is violated, OPS may initiate any action authorized by law.

**Virginia Pesticide Discontinuance Policy Implementation Procedure**

1. On January 1, 2005 the Policy will formally go into effect.  
For Example: For a product that will enter the discontinuance process beginning in 2005, 2005 will be considered Discontinuance Year 1 (D 1). Discontinuance Year 2 (D 2) will be 2006.
2. The registrant must notify OPS of the intent to discontinue a product during the renewal period prior to the first year of discontinuance.  
Using the Previous Example: The registrant must notify OPS of the intent to discontinue a product prior to January 1, 2005. The registrant must maintain registrations for the calendar years 2005 and 2006.
3. After the second year of discontinuance, the product would no longer be required to be registered. On this date OPS would address any unregistered products found in the channels of trade in accordance with VPDP.  
Using the Previous Example: On January 1, 2007, the product would no longer be required to be registered. For products which have gone through the discontinuance process per VPDP and are found in the channels

of trade after January 1, 2007, the provision of VPDP would apply.

4. The registrant would be expected to notify First Line customers no later than 21 months after the product has entered the discontinuance cycle.

Using the Previous Example: Registrants would be required to notify customers no later than October 1, 2006 that the product has been discontinued.

5. Products currently in various stages of Discontinuance, and therefore not subject to VPDP will be monitored by OPS under the current procedures:
  - a. Discovery of unregistered product by OPS Field Staff.
  - b. Issuance of STOP SALE notices.
  - c. Registrant notification to either:
    - i. Register the product, or
    - ii. Remove the product from the retail shelf.
  - d. OPS may initiate any action authorized by law.