

239-2708

2/4/2011

1/9



U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Pesticide Programs
Registration Division (H7505C)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

EPA Reg. Number:
239-2708

Date of Issuance:
FEB 4 2011

Term of Issuance:
Conditional

Name of Pesticide Product:
Ortho® Home Defense Max®
Wasp & Hornet Killer

NOTICE OF PESTICIDE:

Registration
 Reregistration

(Under FIFRA as amended)

Name and Address of Registrant (include ZIP Code):

The Scotts Company
PO Box 190
Marysville, OH 43040

~~Note: Changes in labeling differing in substance from that accepted in connection with this registration must be submitted to and accepted by the Registration Division prior to use of the label in commerce. In any correspondence on this product always refer to the above EPA registration number.~~

On the basis of information furnished by the registrant, the above named pesticide is hereby registered/reregistered under the Federal Insecticide, Fungicide and Rodenticide Act.

Registration is in no way to be construed as an endorsement or recommendation of this product by the Agency. In order to protect health and the environment, the Administrator, on his motion, may at any time suspend or cancel the registration of a pesticide in accordance with the Act. The acceptance of any name in connection with the registration of a product under this Act is not to be construed as giving the registrant a right to exclusive use of the name or to its use if it has been covered by others.

This product is conditionally registered in accordance with FIFRA sec. 3(c)(7)(A), provided that:

1. You will submit and/or cite all data required for registration/reregistration of your product under FIFRA sec. 3(c)(5) when the Agency requires all registrants of similar products to submit such data; and submit acceptable responses required for reregistration of your product under FIFRA section 4.
2. You will make the following label changes before you release the product for shipment:
 - a) Revise the EPA Registration Number to read "EPA Reg. No. 239-2708."
 - b) The acute toxicity profile for this product is as follows:

Acute oral toxicity	IV
Acute dermal toxicity	IV
Acute inhalation toxicity	IV
Primary eye irritation	III
Primary skin irritation	IV
Dermal sensitization	Negative

Based on the primary eye irritation toxicity (category III), add first aid statement "If in eyes: Hold eye open and rinse slowly and gently with water for 15 to 20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eyes. Call a poison control center or doctor for further treatment advice."

Signature of Approving Official:

Be Branda Alexander for
Richard Gebken Product Manager
Insecticide Branch/Registration Division (7505P)

Date:

Feb 4, 2011

- c) Add "Have the product container or label with you when calling a poison control center or doctor or going for treatment. You may also contact 1-800-xxx-xxxx for emergency medical treatment information" to the *First Aid* statement.
- d) Add "Hazards to Human and Domestic Animals" following the heading *Precautionary Statements*.
- e) Add "Caution. Causes moderate eye irritation. Avoid contact with eyes or clothing. Wear protective eyewear. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet" to the *Precautionary Statements* section.
- f) Add the signal word "Caution" to the front panel of the label on a separate line below the Child Hazard Warning statement "Keep Out of Reach of Children".
- g) Add "Combustible" to the *Physical or Chemical Hazards* section.
- h) Data were not submitted for carpenter bees, therefore a species specific claim against carpenter bees is not supported, and those claims must be removed from the label.
- i) Data were not cited or submitted to support an open ended 2 month 'controls' claim for wasp, therefore such claims must be removed from the label.
- j) Delete the following *Optional Marketing Claims*:
 - a. "Also kills Carpenter Bees"
 - b. "[Creates a] [long lasting] invisible/InvisiShield™ nest treatment to prevent/prevents [new] nest [from being built] [for up to 2 months/8 weeks]"
 - c. "Keeps on working [with residual action] [even after you spray/after spray has dried] [for up to 2 months/8 weeks]"
 - d. "[Up to] 2 months/8 weeks [insect] control, [bug] barrier"
 - e. "Long lasting [insect] control, Long lasting [bug] barrier"
 - f. "Kills/controls and prevents [listed insects] [for up to 2 months/8 weeks]"
 - g. "One application works/kills listed insects/prevents listed insects for up to 2 months/8 weeks"
 - h. "Bug Barrier [Technology]"
 - i. "[Contains/With] InvisiShield™ [Bug} Technology, Barrier [Technology]"
- k) Replace "To the extent allowed by law" with "To the extent permitted by applicable law" in the *Notice* section.

3. Within one year from the date of this notice submit the results of studies for the 830.6317 (one year storage stability) and 830.6320 (corrosion characteristics) studies. Observations must be made at 0, 3, 6, 9, and 12 months intervals.
4. The company's website referenced on your label becomes labeling under the Federal Insecticide Fungicide and Rodenticide Act and is subject to review by the Agency. If the websites are false or misleading, the product would be misbranded and unlawful to sell or distribute under FIFRA section 12(a)(1)(E). 40CFR 156.10(a)(5) lists examples of statements EPA may consider false or misleading. Regardless of whether a website is referenced on your product's label, claims made on the website may not substantially differ from those claims approved through the registration process. Should the Agency find or if it is brought to our attentions that a website contains false or misleading statements or claims substantially differing from the EPA approved registration, the website will be referred to the EPA's Office of Enforcement and Compliance Assurance.
5. Please submit three (3) copies of your final printed labeling before releasing the product for shipment. If these conditions are not complied with, the registration will be subject to cancellation in accordance with FIFRA section 6(e). Your release for shipment of the product bearing amended labeling constitutes acceptance of these conditions. A stamped copy of the label is enclosed for your records.

If you have any questions regarding this action, please contact BeWanda Alexander at www.alexander.bewanda@epa.gov or (703) 305-7460.

49

NOTE:

Bold, italicized text is information for the reader and is not part of the label.
[Bracketed information is optional text]. Text separated by / denotes and/or options.

EPA Reg. No. 239-ETNI

Ortho® Home Defense Max® Wasp & Hornet Killer

Alternate Brand Names

Ortho® Home Defense Max® Hornet & Wasp Killer
Ortho® Home Defense® Wasp & Hornet Killer

ACTIVE INGREDIENT:

Bifenthrin*.....0.05%
OTHER INGREDIENTS.....99.95%
TOTAL.....100.00%

*Cis isomers 97% minimum, Trans isomers 3% maximum

KEEP OUT OF REACH OF CHILDREN

See back panel for additional precautionary statements.

NET WEIGHT / WT X oz / X g

Water Based [Aerosol] [*water droplet icon*]

ACCEPTED
with COMMENTS
In EPA Letter Dated
FEB 4 2011
Under the Federal Insecticide,
Fungicide, and Rodenticide Act,
as amended, for the pesticide
registered under EPA Reg. No.
239-2708

PRECAUTIONARY STATEMENTS

ENVIRONMENTAL HAZARDS

This pesticide is extremely toxic to fish and aquatic invertebrates. Drift and run-off from treated areas may be hazardous to aquatic organisms in neighboring areas. To protect the environment, do not allow pesticide to enter or run off into storm drains, drainage ditches, gutters or surface waters. Care should be used when spraying to avoid fish and reptile pets in and around ornamental ponds. Applying this product in calm weather when rain is not predicted for the next 24 hours will help to ensure that wind or rain does not blow or wash pesticide off the treatment area.

PHYSICAL OR CHEMICAL HAZARDS

Contents under pressure. Do not use or store near heat or open flame. Do not puncture or incinerate container. Exposure to temperatures above 130°F may cause bursting. Do not apply this product around electrical equipment due to the possibility of shock hazard.

NOTICE: To the extent allowed by law, buyer assumes all responsibility for safety and use not in accordance with directions.

[For outdoor residential use [only]] [*tree icon*]

5/9

NOTE:

EPA Reg. No. 239-ETNI

Bold, italicized text is information for the reader and is not part of the label.
[Bracketed information is optional text]. Text separated by / denotes and/or options.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

[OUTDOORS]

To kill wasps, hornets, bees and yellow jackets: [illustrations]

- Wait until dusk or early morning when insects are least active.
- [Stand a safe distance away from the nest and not directly underneath.]
- Make sure you can clearly see the opening of the nest.
- Shake well before using.
- Holding can upright, direct foam into nest opening.
- Completely cover the entire nest. [Foam prevents insects from flying away.] If insects fall out, continue spraying until no more are visible.
- After you apply, leave the area immediately.
- [Wait 24 hours before removing the nest.]
- Keeps new nests from being built [for up to 2 months / 8 weeks].]

To prevent nests from being built [for up to 2 months / 8 weeks]: [illustrations]

- Shake well before using.
- Holding can upright, spray along eaves, around doors and windows, and other outdoor areas.
- Foam will disappear in minutes, but will keep working to prevent new nests from being built in these areas [for up to 2 months / 8 weeks].]

Use Restrictions:

- Do not use inside the home.
- Do not spray in windy conditions.
- Do not allow people and pets in the treated area until spray has dried.
- Avoid unnecessary contact with plant foliage. [Rinse with water if contact occurs.]

[This product is non-staining to most home siding / exterior surfaces depending on the age and cleanliness. Before using in areas where spray may contact home siding, test in an inconspicuous area and re-check in a few hours.]

STORAGE AND DISPOSAL [icon]

PESTICIDE STORAGE: Store in a cool, dry place in an area inaccessible to children and pets.

PESTICIDE DISPOSAL: Do Not Puncture or Incinerate!

If empty: Place in trash or offer for recycling if available.

If partly filled: Call your local solid waste agency for disposal instructions.

[NO CFCs icon]

[CONTAINS NO CFCs WHICH DEplete THE OZONE LAYER

Federal regulations prohibit CFC propellants in aerosols.]

[phone icon]

Questions, Comments or Medical Information?

[¿Preguntas, Comentarios o Información Médica?]

1-800-225-2883

[computer icon]

www.ortho.com

6/9

NOTE:

Bold, italicized text is information for the reader and is not part of the label.

[Bracketed information is optional text]. Text separated by / denotes and/or options.

[Ortho & Your Environment – Your home and yard are places for family and pets to enjoy. That's why Ortho® products are designed with care to provide effective solutions to insect problems inside and outside your home. Please follow instructions for appropriate usage, storage and disposal.]

[The ORTHO Guarantee

If for any reason you, the consumer, are not satisfied with this product, mail us your original proof of purchase to obtain a full refund of your purchase price.]

© 2010 The ORTHO Group. World rights reserved.

[Manufactured for] [Sold by]

The ORTHO Group

P.O. Box 190, Marysville, OH 43040

EPA Reg. No. 239-NEW

EPA Est. 58996-MO-1^A

239-IA-3^B

84064-IA-001^C

085652-OH-1^D

Superscript is first letter of lot number

Part Number TBD

UPC CODE TBD

[STEEL] Symbol

DOT 2Q

ITF Code TBD

[Made in USA]

NOTE:

Bold, italicized text is information for the reader and is not part of the label.
[Bracketed information is optional text]. Text separated by / denotes and/or options.

OPTIONAL MARKETING CLAIMS

- Kills Wasps & Hornets
- Kills Wasps, Hornets, Bees & Yellow Jackets
- Also kills Bees & Yellow Jackets [including Carpenter Bees]
- Also kills Carpenter Bees
- Kills listed stinging listed insects

Foam Claims:

- Foaming barrier helps trap insects in the nest
- Blanketing foam [formula]
- Blanketing foam covers insects [in their nest]
- [Blanketing foam is] great for treating nests
- Blanketing foam sticks to the nest
- Foam [spray] stays where you spray it / on the nest
- Foam [spray] lets you see where you've sprayed [it]
- Delivers a powerful foam spray
- [Thick / blanketing] foam covers the nest [and doesn't drip off]
- [Thick / blanketing] foam clings to the nest [and doesn't drip off]
- [Thick / blanketing] foam stays on the nest [and doesn't drip off]
- [Thick] foam covers the nest opening
- [Thick] foam fills the nest opening
- [Thick] foam expands into cracks and crevices
- Insects can't hide from the [expanding] foaming formula
- Foam / foaming formula gets into hard to reach places
- Foaming / blanketing formula creates a barrier around the nest
- Foaming spray!
- Sticky / entrapping foam helps stop insects in seconds / fast
- Sticky / entrapping foam kills listed insects in seconds / fast
- Foam disperses / disappears quickly / fast
- Foam dries quickly / fast
- Foam prevents insects from flying away [while it kills them]
- [Foam] targets / kills wasps and hornets at their source

Speed of Kill Claims:

- Kills [listed insects] on contact [Guaranteed]
- Fast acting [formula]
- Fast / quick knock down
- Fast / quick kill
- Kills [listed insects] in seconds
- Kills [listed insects] fast
- Starts killing [listed insects] in seconds
- Starts killing [listed insects] on contact
- Starts killing [listed insects] fast

NOTE:

Bold, italicized text is information for the reader and is not part of the label.
[Bracketed information is optional text]. Text separated by / denotes and/or options.

Nest Prevention Claims:

- Kills the listed insects you have and prevents [new] nests from being built [for up to 2 months / 8 weeks]
- Protects against / prevents / stops [new] nests [from being built] [for up to 2 months / 8 weeks]
- [Creates a] [long lasting] invisible / InvisiShield™ nest barrier to prevent / prevents [new] nests [from being built] [for up to 2 months / 8 weeks]
- [Creates a] [long lasting] invisible / InvisiShield™ nest treatment to prevent / prevents [new] nests [from being built] [for up to 2 months / 8 weeks]
- Keeps on working [with residual action] [even after you spray / after spray has dried] [for up to 2 months / 8 weeks]
- Works two / 2 ways / Dual Action: [1]) Kills listed insects fast / on contact and [2]) Prevents [new] nests [from being built] [even after spray has dried] [for up to 2 months / 8 weeks]
- No more [new] nests [for up to 2 months / 8 weeks]
- Keeps [new] nests away [for up to 2 months / 8 weeks]
- Creates a barrier to keep [new] nests from being built [for up to 2 months / 8 weeks]

Length of Residual Claims:

- Long lasting [insect] control
- Long lasting [bug] barrier
- [Up to] 2 months / 8 weeks [insect] control
- [Up to] 2 months / 8 weeks [bug] barrier
- Kills / controls and prevents [listed insects] [for up to 2 months / 8 weeks]
- Prevents / stops / protects against [new] nests [for up to 2 months / 8 weeks]
- One application works / kills listed insects / prevents listed insects for up to 2 months / 8 weeks

9/19

NOTE:

Bold, italicized text is information for the reader and is not part of the label.
[Bracketed information is optional text]. Text separated by / denotes and/or options.

Other Claims:

- Non / not-flammable
- Odor free
- Unscented
- Leaves no odor
- No lingering [chemical] odor
- Dries fast / clear / clean
- No [sticky] mess
- No [oily / greasy] residue
- Non-staining
- Guaranteed [results] [kill]
- Easy to use / hold applicator
- Continuous spray
- 16 foot range
- Sprays up to 16 feet
- Reaches one-story eaves / nests
- Reaches nests under roof eaves, around garages, doorways, windows, and other outdoor areas
- Bug Barrier [Technology]
- [Contains / With] InvisiShield™ [Bug] Technology]
- [Contains / With] InvisiShield™ [Bug] Barrier [Technology]
- [Helps] protect your home from listed stinging insects
- People and pets may re-enter treated areas after spray has dried [icon]
- New! **To be used for six months following commercial introduction of product**

Universal substitution:

- Insect(s) = Bug(s)