

228-313

11/17/2008

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Mr. Matthew Granahan  
Product Registration  
Nufarm Americas, Inc.,  
150 Harvester Drive, Suite 200  
Burr Ridge, IL 60527

NOV 17 2008

SUBJECT: Application for Pesticide Notification (PRN 98-10)  
Request General Label Change  
EPA Reg. No. 228-313  
Application Dated October 23, 2008

Dear Registrant:

The Agency is in receipt of your Application for Pesticide Notification under Pesticide Registration Notice (PRN) 98-10 dated 10/23/08 for the above product. The Registration Division (RD) has conducted a review of this request for its applicability under PRN 98-10 and finds that the action(s) requested fall within the scope of PRN 98-10. The label submitted with the application has been stamped "Notification" and will be placed in our records.

If you have any questions, please call me directly at 703-305-6249 or Owen F. Beeder of my staff at 703-308-8899.

Sincerely,

A handwritten signature in black ink, appearing to be "Linda Arrington".

Linda Arrington  
Notifications & Minor Formulations Team Leader  
Registration Division (7505P)  
Office of Pesticide Programs

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Please read instructions on reverse before completing form.

Form Approved. OMB No. 2070-0060

<b>EPA</b>	United States <b>Environmental Protection Agency</b> Washington, DC 20460	<input type="checkbox"/> Registration <input type="checkbox"/> Amendment <input checked="" type="checkbox"/> Other	OPP Identifier Number
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**Application for Pesticide - Section I**

<b>1. Company/Product Number</b> 228-313	<b>2. EPA Product Manager</b> Joanne Miller	<b>3. Proposed Classification</b> <input type="checkbox"/> None <input type="checkbox"/> Restricted
<b>4. Company/Product (Name)</b> Horsepower Selective Herbicide	<b>PM#</b> 23	
<b>5. Name and Address of Applicant (Include ZIP Code)</b> Nufarm Americas, Inc. 150 Harvester Drive, Suite 200 Burr Ridge, IL 60527 <input type="checkbox"/> Check if this is a new address		<b>6. Expedited Review.</b> In accordance with FIFRA Section 3(c)(3) (b)(i), my product is similar or identical in composition and labeling to: <b>EPA Reg. No.</b> _____ <b>Product Name</b> _____

**NOTIFICATION**  
NOV 17 2008

**Section - II**

<input type="checkbox"/> Amendment - Explain below.	<input type="checkbox"/> Final printed labels in response to Agency letter dated _____
<input type="checkbox"/> Resubmission in response to Agency letter dated _____	<input type="checkbox"/> "Me Too" Application.
<input checked="" type="checkbox"/> Notification - Explain below.	<input type="checkbox"/> Other - Explain below.

**Explanation:** Use additional page(s) if necessary. (For section I and Section II.)

Label notification consistent and 98-10, see cover letter for detailed explanation. This notification is consistent with the provisions of PR Notice 98-10 and EPA regulations at 40 CFR 152.46, and no other changes have been made to the labeling or the confidential statement of formula of this product. I understand that it is a violation of 18 U.S.C. Sec. 1001 to willfully make false statements to EPA. I further understand that if this notification is not consistent with the terms of PR Notice 98-10 and 40 CFR 152.46, this product may be in violation of FIFRA and I may be subject to enforcement action and penalties under sections 12 and 14 of FIFRA.

**Section - III**

<b>1. Material This Product Will Be Packaged In:</b>				<b>2. Type of Container</b>	
<b>Child-Resistant Packaging</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Unit Packaging</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Water Soluble Packaging</b> <input type="checkbox"/> Yes <input type="checkbox"/> No			<input type="checkbox"/> Metal <input type="checkbox"/> Plastic <input type="checkbox"/> Glass <input type="checkbox"/> Paper <input type="checkbox"/> Other (Specify) _____
<b>* Certification must be submitted</b> If "Yes" Unit Packaging wgt.    No. per container		If "Yes" Package wgt    No. per container			
<b>3. Location of Net Contents Information</b>		<b>4. Size(s) Retail Container</b>		<b>5. Location of Label Directions</b>	
<input type="checkbox"/> Label <input type="checkbox"/> Container				<input type="checkbox"/> _____	
<b>6. Manner in Which Label is Affixed to Product</b>			<input checked="" type="checkbox"/> Lithograph <input type="checkbox"/> Paper glued <input type="checkbox"/> Stenciled <input type="checkbox"/> Other _____		

**Section - IV**

<b>1. Contact Point (Complete items directly below for identification of individual to be contacted, if necessary, to process this application.)</b>		
<b>Name</b> Matthew Granahan matthew.granahan@us.nufarm.com	<b>Title</b> Registration Manager	<b>Telephone No. (Include Area Code)</b> (630) 455-2048
<b>Certification</b> I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment both under applicable law.		<b>6. Date Application Received (Stamped)</b> _____
<b>2. Signature</b> 	<b>3. Title</b> Registration Manager	
<b>4. Typed Name</b> Matthew Granahan	<b>5. Date</b> 10/23/08	



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**Nufarm Americas Inc.**  
150 Harvester Drive, Suite 200  
Burr Ridge, IL 60527  
Telephone: (630) 455.2000 Facsimile: (630) 455.2001  
www.us.nufarm.com

October 23, 2008

Via Overnight Courier

U. S. Environmental Protection Agency (7504P)  
Document Processing Desk (NOTIF)  
Room S4900, One Potomac Yard  
2777 S. Crystal Drive  
Arlington, VA 22202

**Subject: Horsepower Selective Herbicide  
EPA REG. No. 228-313  
Label Notification per PR 98-10**

Dear Ms. Hobgood:

North Dakota Department of Agriculture wishes for Nufarm to remove the term "PROFESSIONAL" from our label to revise the statement from "FOR USE BY PROFESSIONAL TURF MAINTENANCE PERSONNEL, LANDSCAPING OR COMMERCIAL APPLICATORS ONLY" to "FOR USE BY TURF MAINTENANCE PERSONNEL, LANDSCAPING OR COMMERCIAL APPLICATORS ONLY". We have discussed this with North Dakota Department of Agriculture staff and they agree this approach is acceptable.

We believe this notification is consistent with PRN 98-10 Section II (labeling notifications). This change has been highlighted for ease in review. Nufarm Americas Inc. certifies that no other changes to the label have been made.

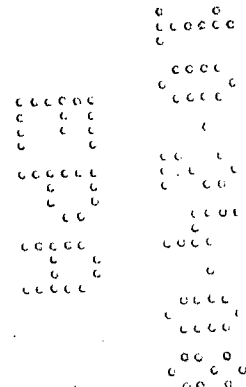
To process this request please find enclosed the following:

- Application for Pesticide Registration EPA form 8570-1
- Revised labeling with areas of change clearly identified (1 copy)
- Revised labeling – clean (1 copy)

If you should have any questions regarding this matter, please feel free to contact me at (630) 455-2048 or [matthew.granahan@us.nufarm.com](mailto:matthew.granahan@us.nufarm.com).

Sincerely,

Matthew Granahan  
Registration Manager  
Nufarm Americas, Inc.



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# HORSEPOWER®

## SELECTIVE HERBICIDE

FOR SELECTIVE BROADLEAF WEED CONTROL IN ORNAMENTAL LAWNS AND TURF GRASSES. CONTROLS BLACK MEDIC, CHICKWEED, CLOVER COCKLEBUR, DANDELION, KNOTWEED, OXALIS, PLANTAIN, THISTLE AND MANY OTHER SPECIES OF BROADLEAF WEEDS; SOME OF WHICH ARE LISTED ON THIS LABEL.

**NOTIFICATION**

**NOV 17 2008**

CONTAINS MCPA, TRICLOPYR AND DICAMBA

**ACTIVE INGREDIENTS:**

Dimethylamine Salt of 2-Methyl-4-Chlorophenoxyacetic Acid*	48.99%
Triethylamine Salt of 3,5,6-Trichloro-2-Pyridinyloxyacetic Acid**	5.59%
Dimethylamine Salt of Dicamba (3,6-Dichloro-o-Anisic Acid)***	4.82%

<b>OTHER INGREDIENTS:</b>	40.60%
<b>TOTAL:</b>	100.00%

By Isomer Specific AOAC Method, Equivalent to:

*2-Methyl-4-Chlorophenoxyacetic Acid	40.0%, 3.80 lbs./gal.
**3,5,6-Trichloro-2-Pyridinyloxyacetic Acid	4.0%, 0.38 lbs./gal.
***3,6-Dichloro-o-Anisic Acid	4.0%, 0.38 lbs./gal.

**FOR USE BY TURF MAINTENANCE PERSONNEL, LANDSCAPING OR COMMERCIAL APPLICATORS ONLY**

**KEEP OUT OF REACH OF CHILDREN  
DANGER - PELIGRO**

Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle.  
(If you do not understand the label, find someone to explain it to you in detail.)

**SEE INSIDE BOOKLET FOR FIRST AID AND ADDITIONAL PRECAUTIONARY STATEMENTS**

For Chemical Spill, Leak, Fire, or Exposure, Call CHEMTREC (800) 424-9300  
For Medical Emergencies Only, Call (877) 325-1840

NOTE: Spanish language is optional

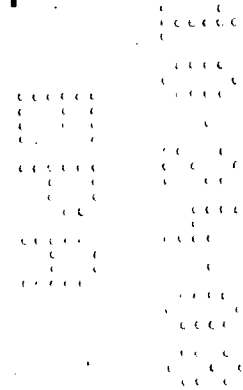
EPA REG. NO. 228-313  
EPA EST. NO. 228-IL-1

Manufactured For  
NUFARM AMERICAS INC.  
150 Harvester Drive  
Burr Ridge, IL 60527



NET CONTENTS      GALS.

000228-00313.20081023.EPA.N



**PRECAUTIONARY STATEMENTS  
HAZARDS TO HUMANS AND DOMESTIC ANIMALS  
DANGER - PELIGRO**

Corrosive. Causes irreversible eye damage. Harmful if swallowed or absorbed through skin. Do not get in eyes, on skin or on clothing. Wear face shield or goggles when mixing and loading this product. Avoid contact with eyes, skin or clothing.

**PERSONAL PROTECTIVE EQUIPMENT (PPE):**

Some materials that are chemical-resistant to this product are Butyl rubber ≥14 mils. If you want more options, follow the instructions for category A on an EPA chemical-resistance category selection chart.

**Mixers, loaders, applicators, flaggers, and other handlers must wear:**

- Long-sleeved shirt and long pants,
- Protective eyewear (goggles or face shield)
- Shoes plus socks, and
- Chemical-resistant gloves made of any waterproof materials.
- Chemical-resistant headgear for overhead exposure.

Follow manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables exist, use detergent and hot water. Keep and wash PPE separately from other laundry.

<b>USER SAFETY RECOMMENDATIONS</b>	
<b>Users Should:</b>	
<ul style="list-style-type: none"> <li>• Wash hands before eating, drinking, chewing gum, using tobacco, or using the toilet.</li> <li>• Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.</li> <li>• Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.</li> </ul>	

<b>NON-AGRICULTURAL USE REQUIREMENTS</b>	
<p>The requirements in this box apply to uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR Part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries or greenhouses.</p> <p>Do not enter or allow people or pets to enter the treated field until sprays have dried.</p>	

<b>FIRST AID</b>	
<b>IF IN EYES</b>	<ul style="list-style-type: none"> <li>• Hold eye open and rinse slowly and gently with water for 15 to 20 minutes.</li> <li>• Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye.</li> <li>• Call a poison control center or doctor for treatment advice.</li> </ul>
<b>IF SWALLOWED</b>	<ul style="list-style-type: none"> <li>• Call poison control center or doctor immediately for treatment advice.</li> <li>• Have person sip a glass of water if able to swallow.</li> <li>• Do not induce vomiting unless told to do so by the poison control center or doctor.</li> <li>• Do not give anything by mouth to an unconscious person.</li> </ul>
<b>IF ON SKIN OR CLOTHING</b>	<ul style="list-style-type: none"> <li>• Take off contaminated clothing.</li> <li>• Rinse skin immediately with plenty of water for 15 to 20 minutes.</li> <li>• Call a poison control center or doctor for treatment advice.</li> </ul>

<b>HOT LINE NUMBER</b>	
<p>Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may also contact 1-877-325-1840 for emergency medical treatment information.</p>	

<b>NOTE TO PHYSICIAN</b>	
<p>This product is corrosive to the eyes. Probable mucosal damage may contraindicate the use of gastric lavage.</p>	

**ENVIRONMENTAL HAZARDS**

This pesticide may be toxic to fish, aquatic invertebrates and aquatic plants. Do not apply directly to water, to areas where surface water is present, or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwater or rinsate. Drift and runoff may be hazardous to aquatic organisms in water adjacent to treated areas. Runoff of this product will be reduced by avoiding applications when rainfall is forecasted to occur within 48 hours.

This chemical has properties and characteristics associated with chemicals detected in groundwater. The use of this chemical in areas where soils are permeable, particularly where the water table is shallow, may result in groundwater contamination.

### DIRECTIONS FOR USE

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

This product is for use on Ornamental Turf Lawns (Residential, Industrial and Institutional), Parks, Cemeteries, Athletic Fields and Golf Courses (Fairways, Aprons, Tees\* and Roughs) and similar turf areas. Not for use on turf being grown for resale or other commercial use as sod, or for commercial seed production or for research purposes. \*Excluding Bentgrass Tees.

**Entry Restrictions:** Do not allow people or pets to enter treated area until sprays have dried.

**Application Restrictions:** Avoid contact with eyes, skin, or clothing during and after application. Do not apply this product in a way that will contact any person or pet, either directly or through drift. Keep people and pets out of the area during application. This product may cause skin sensitization reactions in some people.

**Residential Turf Restrictions:** Do not apply more than 3-1/8 gallons of product/acre per year.

The maximum application rate is 3.2 pints of product (1.5 lb ae) per acre per year.

Limit two applications per year with a minimum retreatment interval of 21 days.

Aerial application is prohibited.

### USE PRECAUTIONS

Avoid drift of spray mist to vegetables, flowers, ornamental plants, shrubs, trees and other desirable plants. Do not pour spray solutions near desirable plants. Do not use on Carpetgrass, Dichondra, nor on lawns or turf where desirable clovers are present. Avoid fine mists. Use lawn type sprayer with coarse spray as wind drift is less likely. Avoid contact with exposed feeder roots of ornamentals and trees. Maximum control of weeds will be obtained from spring or early fall applications when weeds are actively growing. Use the higher rate for hard-to-control weeds. Do not exceed specified dosages for any area; be particularly careful within the dripline of tree and other ornamental species. Do not apply to newly seeded grasses until well established. Avoid broadcast applications when air temperature exceeds 90°F. When using small, spot treatment applications in temperature over 90°F, turf injury may occur.

When treating Carpetgrass and St. Augustine grass, avoid broadcast applications when air temperature exceeds 80°F. When air temperatures exceed 80°F, limit application to spot treatment only.

Avoid application to Centipede or St. Augustine grasses unless turf injury can be tolerated. The suitable use of this product on non-recommended turf species may be determined by treating a small area at any rate/acre which does not exceed 3 pints/acre. Prior to treatment of larger areas, the treated area should be observed for any sign of turf injury for a period of 30 days of normal growing conditions to determine the phytotoxicity and efficacy to the treated area. The user assumes the responsibility for any plant damage or other liability resulting from the use of this product on species not recommended on this label.

**For optimum results:** (1) avoid applying during excessively dry or hot periods unless irrigation is used; (2) turf should not be mowed 1 to 2 days before and following application; (3) reseed no sooner than 3 to 4 weeks after application of this product. Adding oil, wetting agent, or other surfactant to the spray may be used to increase effectiveness on weeds but doing so may reduce selectivity to turf resulting in turf damage. Clean and rinse spray equipment using soap or detergent and water, and rinse thoroughly before reuse for other sprays.

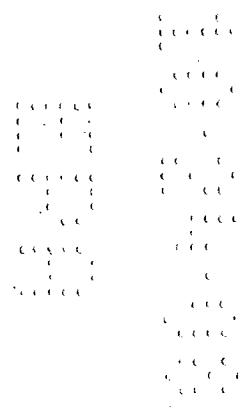
### SPRAY DRIFT MANAGEMENT

Avoiding spray drift at the application site is the responsibility of the applicator. The interaction of many equipment and weather related factors determine the potential for spray drift. The applicator and the grower are responsible for considering all these factors when making decisions.

Apply only as a medium or coarser spray (ASAE standard 572) or a volume mean diameter of 300 microns or greater for spinning atomizer nozzles.

Apply only when the wind speed is 2-10 mph at the application site.

Do not apply with a nozzle height greater than 4 feet above the crop canopy for ground boom application.



**WEEDS CONTROLLED**

Alfalfa	Dog fennel	Mayweed	Spurweed
Amaranth	Dragonhead mint	Milkweed	Starbur
Aster	Evening primrose	Morningglory	Stinging nettle
Beadstraw	Field pennycress	Mustard	Stitchwort
Bedstraw	Fleabane	Nightflowering catchfly	Stunkweed
Beggartick	Florida pusley	Nightshade	Sumpweed
Beggarweed	Frenchweed	Oxalis(Stricta and corniculata)	Sunflower
Bindweed	Galinsoga	Parsley-piert	Tansy ragwort
Bitter sneezeweed	Geranium	Pennywort	Teasel
Black medic	Goatsbeard	Peppergrass	Teaweed
Bladder campton	Goldenrod	Pepperweed	Texas blueweed
Bracken fern	Goosefoot	Pigweed	Thistle
Broomweed	Gromwell	Plantain	Toadflax
Buckhorn	Ground ivy	Poison hemlock	Trumpetcreeper
Buckwheat	Halfshrub sundrop	Poison ivy	Velvetleaf
Buffalobur	Hawkweed	Poison oak	Veronica
Burclover	Healall	Pokeweed	Vetch
Burcucumber	Heartleaf drymary	Poorjoe	Waterhemlock
Burdock	Hemp sesbania	Prickly sida	Waterhemp
Bursage	Hempnettle	Prickly lettuce	Whitebrush
Buttercup	Henbit	Puncturevine	Wild violet
Canada thistle	Horsenettle	Purslane	Wild radish
Carpetweed	Horseweed	Ragweed	Wild onion
Catnip	Ironweed	Red sorrel	Wild aster
Catsear	Jerusalem artichoke	Red clover	Wild carrot
Chamise	Jimsonweed	Redevine	Wild lettuce
Chamomile	Knapweed	Redstem	Wild garlic
Chickweed	Knapwood	Rubberweed	Wild geranium
Chicory	Knawel	Sheep sorrel	Wood sorrel
Cinquefoil	Knotweed	Shepherdspurse	Wormwood
Clover	Kochia	Sicklepod	Yankeeweed
Cocklebur	Ladysthumb	Smartweed	Yarrow
Coffeeweed	Lambsquarter	Snakeweed	Yellow starthistle
Cornflower	Lespedeza	Sowthistle	Yellow rocket and many other broadleaf weeds.
Cornspeedwell	Little starwort	Speedwell	
Croton	Mallow	Spiderwort	
Daisy	Marc's Tail	Spikeweed	
Dandelion	Marshelder	Spurge	
Dock	Matchweed	Spurry	

**ORNAMENTAL LAWNS AND TURF**

Apply this product at the rate of 2 to 3 pints in 20 to 240 gallons of water per acre (0.73 to 1.10 fluid ounces in 0.5 to 5.5 gallons of water per 1,000 square feet) to control weeds growing in turf grasses planted to Bluegrass, Fescue, Rye, Bent (excluding golf course greens and tees), Bahia, Bermuda and Zoysia.

**Herbi™ Controlled Droplet Applicator:** Add 1-1/2 to 2-1/4 pints of this product to the 5 pint Herbi™ bottle, then fill with water to make 5 pints of mixture or substitute 1/2 pint of a surfactant for water while agitating the solution.

While walking at approximately 1 pace (3 feet) per second, spray entire contents over 33,000 square feet (3/4 of an acre). Do not overlap (double coverage) at edge of spray patterns. Reduced rates (use 1/2 of rate shown above) of this product must be applied when grass is stressed from heat, drought, etc.

**Controlled Droplet Applicators - (CDA), Atomizers, and Spinning Disk Applicators:** Use this product at the rate of 2 to 3 pints per acre (0.73 to 1.10 fluid ounces per 1,000 square feet) in sufficient water to assure coverage (1 to 4 gallons of water per acre is normal for this type of equipment).

**NOTE:** For all grasses (1) Do not overlap spray patterns; (2) Use reduced rates if grass is stressed from heat, drought, etc.; and (3) Follow CDA equipment spray instructions.

### COMPATIBILITY

This product can be mixed with some liquid fertilizers or liquid iron materials. Because liquid fertilizers and liquid iron differ in pH, free ammonia content, density, salt concentration and percentage of water, a compatibility test (given below) is recommended prior to mixing in the application equipment. All regulations, either State or Federal, relating to the application of liquid fertilizers or liquid iron and this product must be strictly followed. The following compatibility test should always be performed prior to full-scale mixing.

1. Pour 18 ounces of water into a quart jar.
2. Add 1 ounce of either the liquid fertilizer or liquid iron to be used.
3. Add 1 ounce of this product.
4. Close jar and shake well.
5. Watch the mixture for several seconds after shaking and check again after 30 minutes.
6. If the mixture does not show signs of separating, the combination may be used. If the mixture foams excessively, gels, separates or gets very thick, do not combine for field application.
7. Compatibility may be improved by the use of a compatibility agent. Some suggested compatibility agents to try are Kalo Laboratories Complex, Hopkins Chemical's Unite, Farm Chemicals Inc.'s Compat, Harcros Chemicals' T-Mulz 734-2, Rigo Company's Rigo Compatibility Agent, Witco Chemical's Sponto 168D, Amoco Oil's Amoco Spray Mate and Universal Co-op.'s Chem-Link. These agents are all used in the same manner. Follow the previously outlined test procedures and add 1/6 ounce of the compatibility agent between steps (the compatibility agent must be added to the fertilizer or iron before adding this product).
8. If the mixture does not separate, gel, foam or get very thick, it may be used for field application. Mix only the amount to be sprayed. Do not allow to stand overnight.

### STORAGE AND DISPOSAL

Do not contaminate water, food or feed by storage or disposal.

**PESTICIDE STORAGE:** Always store pesticides in a secured warehouse or storage building. Store at temperatures above 32°F. If allowed to freeze, remix before using. This does not alter this product. Containers should be opened in well-ventilated areas. Keep container tightly sealed when not in use. Do not stack cardboard cases more than two pallets high. Do not store near open containers of fertilizer, seed or other pesticides.

**PRODUCT DISPOSAL:** Pesticide wastes are acutely hazardous. If container is damaged or if pesticide has leaked, contain all spillage. Absorb and clean up all spilled material with granules or sand. Place in a closed labeled container for proper disposal. Improper disposal of excess pesticide, spray mixtures, or rinsate is a violation of Federal law. If these wastes cannot be disposed of by use according to label instructions, contact your State Pesticide or Environmental Control Agency, or the Hazardous Waste representative at the nearest EPA Regional Office for guidance.

**CONTAINER DISPOSAL:** Triple rinse (or equivalent). Then offer for recycling or reconditioning, or puncture and dispose of in a sanitary landfill, or by other procedures approved by State and local authorities. Plastic containers are also disposable by incineration, or if allowed by State and local authorities, by burning. If burned, stay out of smoke.

### WARRANTY DISCLAIMER

The directions for use of this product must be followed carefully. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, (1) THE GOODS DELIVERED TO YOU ARE FURNISHED "AS IS" BY MANUFACTURER OR SELLER AND (2) MANUFACTURER AND SELLER MAKE NO WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND TO BUYER OR USER, EITHER EXPRESS OR IMPLIED, OR BY USAGE OF TRADE, STATUTORY OR OTHERWISE, WITH REGARD TO THE PRODUCT SOLD, INCLUDING, BUT NOT LIMITED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, USE, OR ELIGIBILITY OF THE PRODUCT FOR ANY PARTICULAR TRADE USAGE. UNINTENDED CONSEQUENCES, INCLUDING BUT NOT LIMITED TO INEFFECTIVENESS, MAY RESULT BECAUSE OF SUCH FACTORS AS THE PRESENCE OR ABSENCE OF OTHER MATERIALS USED IN COMBINATION WITH THE GOODS, OR THE MANNER OF USE OR APPLICATION, INCLUDING WEATHER, ALL OF WHICH ARE BEYOND THE CONTROL OF MANUFACTURER OR SELLER AND ASSUMED BY BUYER OR USER. THIS WRITING CONTAINS ALL OF THE REPRESENTATIONS AND AGREEMENTS BETWEEN BUYER, MANUFACTURER AND SELLER, AND NO PERSON OR AGENT OF MANUFACTURER OR SELLER HAS ANY AUTHORITY TO MAKE ANY REPRESENTATION OR WARRANTY OR AGREEMENT RELATING IN ANY WAY TO THESE GOODS.

### LIMITATION OF LIABILITY

TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, IN NO EVENT SHALL MANUFACTURER OR SELLER BE LIABLE FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OR FOR DAMAGES IN THEIR NATURE OF PENALTIES RELATING TO THE GOODS SOLD, INCLUDING USE, APPLICATION, HANDLING, AND DISPOSAL. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, MANUFACTURER OR SELLER SHALL NOT BE LIABLE TO BUYER OR USER BY WAY OF INDEMNIFICATION TO BUYER OR TO CUSTOMERS OF BUYER, IF ANY, OR FOR ANY DAMAGES OR SUMS OF MONEY, CLAIMS OR DEMANDS WHATSOEVER, RESULTING FROM OR BY REASON OF, OR ARISING OUT OF THE MISUSE, OR FAILURE TO FOLLOW LABEL WARNINGS OR INSTRUCTIONS FOR USE, OF THE GOODS SOLD BY MANUFACTURER OR SELLER TO BUYER. ALL SUCH RISKS SHALL BE ASSUMED BY THE BUYER, USER, OR ITS CUSTOMERS. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, BUYER'S OR USER'S EXCLUSIVE REMEDY, AND MANUFACTURER'S OR SELLER'S TOTAL LIABILITY SHALL BE FOR DAMAGES NOT EXCEEDING THE COST OF THE PRODUCT.



