

228-525

4/26/2010

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



OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

April 26, 2010

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

Dear Mr. Granahan:

Subject: Amended labeling to add additional marketing claims
EPA Registration No. 228-525
EPA Decision No. 432065
Your submission dated April 2, 2010; resubmission dated April 20, 2010

The amended labeling referred to above, submitted in connection with registration under the Federal Insecticide, Fungicide, and Rodenticide Act, is acceptable with the following comments:

- On page 3, under the "How Much to Apply" section, please add the following statement: "Do not apply more than 0.4 lb. a.i. imidacloprid (410 oz or 3.2 gallons of product) per acre per year."
- On page 5, please change the heading "Optional Performance Guarantees" to "Optional Marketing Claims."
- On page 5, please delete the claim "Guaranteed." Unqualified guarantees are not permitted. As an alternative, you may keep this claim, but you must make a notation referring the user to the "Ortho Guarantee" statement shown on page 8.
- On page 5, delete the words "Complete" and "Total" from the claims "(Complete)(Total) Tree Protection – Roots to Leaves!" and "Complete Bark Protection." 100% control claims are not permitted. In addition, these statements conflict with other statements on the label about potential tree loss.
- On page 5, please delete the claims "Creates a Barrier over the Entire Trees [sic]" and "Insect Barrier for Trees." The word "barrier" implies an outer surface obstruction around the tree, through which insects can not pass; this is a misleading description of how systemic products function.

- On page 5, please delete the claims "Invisishield™ Bug Barrier [sic]" and "Invisishield™ Technology." Also, delete the word "Invisishield™" from the claims "(12 month)(1 year) Invisishield™ Bark Protection (Defense)" and "(12 month)(1 year) Invisishield™ Tree Protection (Defense)." The word "shield" implies an outer surface obstruction around the tree, through which insects can not pass; this is a misleading description of how systemic products function.
- On page 5, delete the claim "Gentle Shower Applicator." The word "gentle" may be construed as an implied safety claim. As an alternative, you may revise the claim to read, "Low-Pressure Shower Applicator."

Please be reminded that 40 CFR Part 156.140(a)(4) requires that a batch code, lot number, or other code identifying the batch of the pesticide distributed and sold be placed on non-refillable containers. The code may appear either on the label or durably marked on the container itself. This information can be added by non-notification per PR Notice 98-10.

Finally, please note that, should you wish to add/retain a reference to the company's website (www.ortho.com) on your label, then the website becomes labeling under the Federal Insecticide Fungicide and Rodenticide Act and is subject to review by the Agency. If the website is false or misleading, the product would be misbranded and unlawful to sell or distribute under FIFRA section 12(a)(1)(E). 40 CFR 156.10(a)(5) list examples of statements EPA may consider false or misleading. In addition, *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. Therefore should the Agency find or if it is brought to our attention that a website contains false or misleading statements or claims substantially differing from the EPA approved registration, the website may be referred to the EPA's Office of Enforcement and Compliance Assurance.

A stamped copy is enclosed for your records. Please submit two copies of your final printed labeling before you release the product for shipment. Your release for shipment of the product constitutes acceptance of these conditions. If these conditions are not complied with, the registration will be subject to cancellation in accordance with FIFRA section 6(e). If you have any questions, please contact Julie Chao by phone at: (703) 308-8735, or by email at: chao.julie@epa.gov.

Sincerely,



Venus Eagle
 Product Manager (01)
 Insecticide-Rodenticide Branch
 Registration Division (7505P)

Enclosure

30410

MALLET® 1.47% CONCENTRATE

PROVIDES 12-MONTH SYSTEMIC PROTECTION AGAINST
DAMAGING INSECTS INCLUDING LEAFMINERS, BEETLES AND BORERS.
HAVING BEAUTIFUL TREES AND SHRUBS HAS NEVER BEEN EASIER.
FOR OUTDOOR RESIDENTIAL USE

ACTIVE INGREDIENT:	
Imidacloprid	1.47%
OTHER INGREDIENTS:	98.53%
TOTAL:	100.00%

Not for sale, sale into, distribution and or use in Nassau, Suffolk, Kings, and Queens counties of New York.

**KEEP OUT OF REACH OF CHILDREN
CAUTION**

SEE BACK PANEL 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

EPA REG. NO. 228-525
EPA EST. NO.

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



NET CONTENTS

000228-00525.20100420.EPA_N

ACCEPTED
With COMMENTS
In EPA Letter Dated:
APR 26 2010
Under the Federal Insecticide, Fungicide
and Rodenticide Act, As amended, for the
pesticide Registered under EPA Reg. No:
228-525

**PRECAUTIONARY STATEMENTS
HAZARDS TO HUMANS AND DOMESTIC ANIMALS
CAUTION**

Causes moderate eye irritation. Avoid contact with eyes or clothing. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, or using tobacco. Remove and wash contaminated clothing before reuse.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Applicators and other handlers must wear:

- Long-sleeved shirt and long pants.
- Shoes plus socks.

FIRST AID	
IF SWALLOWED	<ul style="list-style-type: none"> • Call a poison control center or doctor immediately for treatment advice. • Have person sip a glass of water if able to swallow. • Do not induce vomiting unless told to do so by the poison control center or doctor. • Do not give anything by mouth to an unconscious person.
IF IN EYES	<ul style="list-style-type: none"> • 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 eye. • Call a poison control center or doctor for treatment advice.
HOT LINE NUMBER	
<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>	

ENVIRONMENTAL HAZARDS

This pesticide is toxic to aquatic invertebrates. Do not apply directly to lakes, streams rivers or ponds. Do not dump rinse water into sewers or bodies of water.

DIRECTIONS FOR USE

Read all directions prior to application of the product.

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

Do not apply near lakes, streams, rivers, or ponds. Do not apply to soils which are water-logged or saturated. Bucket or measuring utensils should not be used for any food or drinking water purposes after use with this product.

For use on outdoor trees and shrubs, including listed fruit and nut trees:

- | | | | |
|-----------|--------|---------------|--------|
| Apple | Loquat | Oriental Pear | Pecan |
| Crabapple | Mayhaw | Pear | Quince |

INSECTS CONTROLLED

This product can be used to control the following insects:

- Adelgids
- Aphids
- Vine Weevil Larvae (including Black Vine Weevil)
- Borers:
 - Roundheaded Borers (including Asian Longhorned Beetle and Eucalyptus Longhorned Borer)
 - Flatheaded (including Bronze Birch Alder and Emerald Ash Borers)
- Japanese Beetles, Adult
- Lacebugs
- Leaf Beetles (including Elm Leaf Beetles and Viburnum Leaf Beetles)
- Leafhoppers (including Glassy-winged Sharpshooter)
- Leafminers (including Birch Leafminers)
- Mealybugs
- Pine Tip Moth Larvae
- Psyllids
- Royal Palm Bugs
- Sawfly Larvae
- Scales (including Armored Scale [Suppression] and Soft Scale)
- Thrips
- Whiteflies

HOW TO USE

Determine the amount to use by measuring the distance around the tree trunk or height of the shrub. Pour the required amount into a bucket of water and empty the bucket around the base of the tree/shrub.

HOW MUCH TO APPLY

Trees: 1 ounce per inch of distance around trunk.

Shrubs: 3 ounces per foot of height.

Tree with one trunk

Measure distance (in inches) around tree trunk at chest height. A flexible tape measure is the recommended method [tool]. This is the number of ounces of this product to apply.

Tree with two or more trunks

Measure the distance (in inches) around each tree trunk and add together. Multiply this total by 0.75 to get the required number of ounces of this product to apply. Example: A tree has 4 trunks. They measure 20, 10, 5 and 5 [inches] or a total of 40 [inches]. $40 \times 0.75 = 30$ ounces.

Shrubs

Measure the height of the shrub to the nearest foot. Round any inches down to the nearest foot if less than 6" and up to the nearest foot if greater than 6". Multiply the number of feet by 3 - this is the number of ounces of this product to apply.

HOW TO APPLY

- Fill a bucket or watering can with 1 gallon of water. [For trees with circumference greater than 50", use 2 gallons of water.]
- Shake Well.
- Carefully measure required amount of product into bucket.
- Slowly pour the solution evenly around the tree. For best results, pour as close to the trunk/main stem of the tree/shrub as possible.
- Fill the bucket with clean water and pour it around the trunk as well.

For best results, use this product as part of an overall tree and shrub health care program before problems start. This product can be applied anytime except when the ground is waterlogged or frozen. These conditions inhibit the movement of the product down into the root zone. During prolonged dry periods [spells], water the tree/shrub well the night before making an application.

For severe infestations, treat with a foliar insecticide such as Menace 2.4% ME, then use this product as part of routine care program.

The insecticide dissolved in water moves down through the soil, where it is absorbed by the roots. Once absorbed, it moves up through the tree or shrub providing year-long insect protection. This product even moves into new growth after application, thus protecting it, too! To get complete protection, the insecticide must distribute completely through the tree/shrub. Depending on the size and health of the plant, this may take one week to three months (for very large trees). Rain or water cannot wash off this internal protection.

NOTE: Application to trees heavily infested may not prevent their eventual loss due to existing pest damage and tree stress.

Children and pets may re-enter the treated area after it has dried.

STORAGE AND DISPOSAL

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

PESTICIDE STORAGE: Keep out of reach of children and animals. Store in original container only. Store in a cool, dry place and avoid excess heat.

CONTAINER DISPOSAL: If empty: Nonrefillable container. Do not reuse this container. Place in trash or offer for recycling if available. If partly filled: If product cannot be used as directed, call your local solid waste agency for disposal instructions. Never place unused product down any indoor (including toilet) or outdoor (including sewer) drain.

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.

If you do not agree with or do not accept any of directions for use, the warranty disclaimers, or limitations on liability, do not use the product, and return it unopened to the Seller, and the purchase price will be refunded.

(RV042010-N)

Mallet is a registered trademark of Nufarm Americas Inc.

OPTIONAL PERFORMANCE GUARANTEES

OPTIONAL FRONT PANEL CLAIMS:

- Prevents damage from listed pests
- Insects stop eating when they feed on the plant
- Protects trees and shrubs from damaging insects with one easy treatment
- Helps keep trees and shrubs strong. Protects new growth.
- Controls insects that damage trees and shrubs
- Year-long insect protection for trees and shrubs
- Treats up to X average size trees or Y shrubs
- Systemic insecticide is absorbed through the roots, carried up into the plant and won't wash off
- Prevents insects from damaging trees and shrubs
- Will not harm trees and shrubs
- For use on all ornamental trees, listed fruit & nut trees, and shrubs
- Kills insects & prevents new infestations
- One application protects up to 12 months
- Provides 12-Month Insect Protection
- Rainproof Protection
- Easy to use - Mix in water and pour around Tree/Shrub
- (Complete) (Total) Tree Protection - Roots to Leaves!
- Complete Bark Protection
- Protects down to the Roots!
- Creates a Barrier over the Entire Trees
- Insect Barrier for Trees
- Guaranteed
- Protects from the Roots to the Leaves
- (12-Month) (1 Year) InvisiShield™ Bark Protection (Defense)
- (12-Month) (1 Year) InvisiShield™ Tree Protection (Defense)
- Year Long (Protection) (Defense)
- InvisiShield™ Bug Barrier
- InvisiShield™ Technology
- Rain-Proof Formula
- (Just) Apply Around Plant Base
- Gentle Shower Applicator

InvisiShield is a trademark of O.M. Scotts Company

OPTIONAL DIRECTIONS FOR USE:

Alternate Re-entry Statement

[icon] People and pets may re-enter treated areas after spray has dried.

Product Facts:

PRODUCT FACTS	
Kills Insects	Kills and prevents Adelgids, Aphids, Emerald Ash Borer, Japanese Beetles and other listed insects
Where to Use (Apply)	For use on outdoor trees and shrubs, including listed fruit and nut trees
Amount to Use	Apply for 60 seconds around plant base to treat average tree (12-inch round trunk) or shrub (4 feet tall)
People & Pets	People and pets may re-enter treated areas after spray has dried

OPTIONAL LANGUAGE CONTINUED (SEE BELOW)

OPTIONAL DIRECTIONS FOR USE: (continued)

HOW TO USE	
Determine the amount of product needed according to chart below. Pour the required amount into a bucket of water and empty the bucket around the base of the tree/shrub.	
HOW MUCH TO APPLY	
Tree with 1 trunk	<ul style="list-style-type: none"> • Measure distance (in inches) around tree trunk at chest height (a flexible tape measure is recommended). • This is the number of ounces of this product to apply.
Tree with 2 or more trunks	<ul style="list-style-type: none"> • Measure distance (in inches) around each tree trunk and add together. • Multiply this total by 0.75 to get the required number of ounces of this product to apply. <p>Example: A tree has 4 trunks. They measure 20, 10, 5 and 5 [inches] or a total of 40 inches. $40 \times 0.75 = 30$ ounces.</p>
Shrubs	<ul style="list-style-type: none"> • Measure the height of the shrub to the nearest foot. • Multiply the number of feet by 3. This will be the number of ounces of this product to apply.
HOW TO APPLY	
<ul style="list-style-type: none"> • Fill a bucket or watering can with 1 gallon of water (for large trees with circumference greater than 50 inches, use 2 gallons of water). • Shake bottle well. • Carefully measure required amount of product into bucket. • Slowly pour the solution evenly around the tree. For best results, pour as close to the trunk/main stem of the tree/shrub as possible. • Fill the bucket with clean water and pour it around the trunk as well. 	

OPTIONAL LANGUAGE CONTINUED (SEE BELOW)

OPTIONAL DIRECTIONS FOR USE: (continued)

HOW TO USE	
Determine the amount of product needed to treat your tree or shrub by following the steps below. Apply the required amount of product around the base of the tree or shrub.	
STEP 1 - DETERMINE AMOUNT OF PRODUCT NEEDED	
[icon] Tree with 1 trunk	<ul style="list-style-type: none"> • Measure distance (in inches) around tree trunk at chest height (a flexible tape measure is recommended). • This is the number of ounces of this product to apply.
[icon] Tree with 2 or more trunks	<ul style="list-style-type: none"> • Measure distance (in inches) around each tree trunk and add together. • Multiply this total by 0.75 to get the required number of ounces of this product to apply. Example: A tree has 4 trunks. They measure 20, 10, 5 and 5 [inches] or a total of 40 inches. $40 \times 0.75 = 30$ ounces.
[icon] Shrubs	<ul style="list-style-type: none"> • Measure the height of the shrub to the nearest foot. • Multiply the number of feet by 3. This will be the number of ounces of this product to apply.
STEP 2 - DETERMINE TOTAL SPRAY TIME	
The gentle shower applicator applies approximately 1 ounce of product every 5 seconds. $\text{Number Ounces (Step 1)} \times 5 \text{ Seconds} = \text{Total Time to Apply}$ Example - 12 ounces are needed (from Step 1). $12 \text{ ounces} \times 5 \text{ seconds} = 60 \text{ Total Seconds}$ Apply for approximately 60 seconds to plant base.	
HOW TO APPLY	
Connect	<ul style="list-style-type: none"> • Shake bottle well. • Connect sprayer to hose. • Turn on water.
Spray	<ul style="list-style-type: none"> • To begin spraying, point nozzle at the base of the tree/shrub you want to treat. Bend small plastic tab down and turn knob to ON position. • Apply evenly around the tree/shrub as close to the trunk/main stem as possible. • Spray for as long as calculated in the "HOW TO USE" section.
Finish	<ul style="list-style-type: none"> • Stop spraying, turn knob to OFF position. • Turn off water. • Relieve water pressure by bending the plastic tab down and turning knob to ON position until water slows to a drip. Then, turn knob back to OFF position. • Disconnect sprayer from hose.

Optional Language:

THE ORTHO® GUARANTEE: If for any reason you are not satisfied with this product, mail us proof of purchase to obtain a full refund of your purchase price.

Designed for Independent Retailers

Notice: To the extent consistent with applicable law, buyer assumes all risks of use, storage or handling of this product not in accordance with directions.

Questions, Comments, Medical Information Call 877-332-0748

HYPERLINK "http://www.ortho.com" www.ortho.com

Alternate "Amount to Use" section for the concentrate product:

Amount to Use	Tree: 1 ounce per inch of distance around trunk Shrub: 3 ounces per foot of plant height
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