

241-418

07-12-2010

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

**OFFICE OF
PREVENTION,**

PESTICIDES AND

TOXIC

SUBSTANCES

July 12, 2010

Dr. Craig Kleppe
Product Registration Manager
BASF
26 Davis Drive
North Carolina 27709-3528

RE: ADMINISTRATIVE LETTER DATED OCTOBER 23, 2009; SUPPLEMENTAL LABEL AMENDMENT TO DECREASE PHI IN TOMATOES TO 21 DAYS, EXPIRING DECEMBER 31, 2011; PROWL ® H₂O HERBICIDE, EPA REG. NO. 241-418; A.I. – PENDIMETHALIN

Your amended label registration to decrease the pre-harvest interval (PHI) in tomatoes from 70 days to 21 days is approved with comments in this supplemental label expiring December 31, 2011:

1. On the first page, under the ingredient statement, change "FOLLOWCROP" to "FOLLOW-UP CROP", if that is your intent.
2. Remove the entire "CROP INJURY DISCLAIMER", because it is false and misleading. See 40CFR156.10(a)(5), and 40CFR152.112(e). Your Conditions of Sale and Warranty statement already discuss the "...impossible to eliminate all risk inherently associated with the use of this product."
3. On page 2, under "Directions For Use", second sentence, add "per acre" after "...in 10 or more gallons of water..."
4. On page 2, under "Application Instructions", post-directed use is described under the same use directions for air application, and this is then prohibited in the following third paragraph, as it is not possible to air apply on established crop without contacting plants. For clarity, under

“Application Instructions”, separate the use directions into “Ground Application” and “Air Application”, and their specific use directions.

Based on the proposed label, air application can only be broadcasted on bare ground prior to planting transplanted tomatoes – if this is correct, so state it.

Submit the revised final supplemental label with the changes described above for compliance review under 40CFR152.108. Distribution or release of this supplemental label without all the above supplemental label changes may constitute a violation of FIFRA, and enforcement action may be taken.

For additional assistance in this matter, please contact Phil Errico at 703-305-6663/errico.philip@epa.gov .

Regards,



James A. Tompkins PM-25
Herbicide Branch/Registration Division 7505P

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ACCEPTED
with COMMENTS
In EPA Letter Dated

JUL 12 2010

BASF

The Chemical Company

Under the Federal Insecticide,
Fungicide, and Rodenticide Act
as amended, for the pesticide
registered under EPA Reg. No. ²⁴¹⁻⁴¹⁸

PROWL H₂O
herbicide

**Supplemental
Label**

For use on tomatoes with reduced preharvest interval

This supplemental label expires December 31, 2011.

EPA Reg. No. 241-418

Active Ingredient*:

pendimethalin: N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine 38.7%

Other Ingredients: 61.3%

Total: 100.0%

*1 gallon contains 3.8 pounds of pendimethalin formulated as an aqueous capsule suspension.

OBSERVE AND FOLLOW ALL APPLICABLE DIRECTIONS, RESTRICTIONS, WORKER PROTECTION STANDARD REQUIREMENTS, PRECAUTIONARY STATEMENTS, MIXING AND APPLICATION INSTRUCTIONS, AND FOLLOWCROP RESTRICTIONS ON THE Prowl® H₂O herbicide MAIN CONTAINER LABEL BEFORE USING.

CROP INJURY DISCLAIMER

Prowl H₂O use may result in crop injury, loss or damage to certain crops under a number of conditions, including but not limited to agronomic, cultural, mechanical, and environmental. Numerous risks of loss or damage to certain crops may be associated with the use of Prowl H₂O, even when directions for use are followed completely. The user or grower should take all such risks into consideration before deciding to apply the product. **BASF recommends testing on a small portion of the target crop to determine if damage is likely to occur.** Each grower who is considering the product for such use should test Prowl H₂O in order to determine its suitability. A grower should use Prowl H₂O only to the extent that, in his sole opinion, the benefit of Prowl H₂O use outweighs the potential injury to the grower's crop.

In addition, many factors can affect crop growth and/or yield, including but not limited to insects, diseases, weed competition, poor seed quality, improper planting depth, mechanical cultivation, poor weather (such as freezing or excessive wind, rain, heat, or cold), lack of or excessive moisture, crusting, fertility, or hardpans. Risk of loss or damage to crops may be associated with the use of Prowl H₂O and contribute to poor stands due to failure of the crop to emerge, swelling of roots or other below-ground plant parts, less vigorous plant growth and development, and reduction in yield potential. Prowl H₂O may also cause injury to sensitive rotational crops.

E-SUBMISSION

Directions For Use

It is a violation of federal law to use this product in a manner inconsistent with its labeling. **DO NOT** apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application.

Refer to the **Prowl[®] H₂O herbicide** container label, EPA Reg. No. 241-418, for complete **Directions For Use** and all applicable restrictions and precautions. User must have the full **Prowl H₂O** container label and this supplemental label in possession at the time of pesticide application.

Prowl H₂O is a selective herbicide for controlling most annual grasses and certain broadleaf weeds as they germinate. Uniformly apply **Prowl H₂O** with properly calibrated ground equipment in 10 or more gallons of water, or 20 or more gallons of liquid fertilizer per acre, or by aircraft in a minimum of 5 gallons of water per acre. Use sprayers equipped with nozzles that provide accurate and uniform application.

Adequate rainfall or irrigation after application prior to weed seedling germination will provide the most effective weed control.

Always perform a mixing test to check the compatibility of **Prowl H₂O** with all potential tank mix partners.

Follow all precautions and restrictions on the labels of all products applied in combination with **Prowl H₂O**. Always follow the most restrictive label.

Endangered Species Protection

This product may have effects on federally listed threatened or endangered plant species or their critical habitat. When using this product, you must follow the measures contained in the Endangered Species Protection Bulletin for the county or parish in which you are applying the pesticide. To determine whether your county or parish has a Bulletin, and to obtain that Bulletin, consult <http://www.epa.gov/espp/>, or call 1-800-447-3813 no more than 6 months before using this product. Applicators must use Bulletins that are in effect in the month in which the pesticide will be applied. New Bulletins will generally be available from the above sources 6 months prior to their effective dates.

If endangered plant species occur in proximity to the application site, the following mitigation measures are required:

- If applied by ground, leave untreated buffer zone of 200 feet. The product must be applied using a low boom (20 inches above the ground) and ASAE fine to medium/coarse nozzles.
- If applied by air, leave untreated buffer zone of 170 feet. Must use straight-stream nozzles (D-6 or larger); wind can be no more than 8 mph; and release height must be 15 feet or less.

SPRAY DRIFT. Avoiding spray drift at the application site is the responsibility of the applicator and the grower. The interaction of many equipment-related and weather-related factors determines the potential for spray drift. The applicator and the grower are responsible for considering all these factors when making decisions. It is the responsibility of the applicator to avoid spray drift onto nontarget areas.

Application Instructions

Uniformly apply **Prowl H₂O** by ground or air as a broadcast preplant incorporated application, or as a broadcast preplant surface application prior to transplanting tomatoes, or as a post-directed application to transplanted or established direct-seeded tomatoes.

DO NOT apply prior to direct-seeded tomatoes.

DO NOT apply postemergence over the top of or to foliage of tomatoes because severe injury may occur. **Prowl H₂O** can be applied as a post-directed spray on the soil at the base of the plant, beneath plants, and between rows. Avoid direct contact with foliage or stems. Be sure roots of transplants are established. Following the post-directed spray and when sufficient rainfall or irrigation does not occur to activate the herbicide, mechanically incorporate at the time of blocking and thinning or at layby. **Prowl H₂O** should be applied prior to weed germination. **EMERGED WEEDS WILL NOT BE CONTROLLED BY THIS TREATMENT.**

Prowl H₂O applied at 2.0 to 3.0 pts/A may aid in the control or suppression of the following weeds when used as part of a comprehensive weed management program:
black nightshade, hairy nightshade.

Prowl H₂O Use Rate

Soil Texture*	Broadcast Rate (pts/A)
Coarse	1.0 to 1.5
Medium	1.5 to 2.0
Fine	1.5 to 3.0

* See the **Prowl H₂O** main container label for soil texture classifications.

Restrictions and Limitations

- **DO NOT** apply more than 3.0 pints **Prowl H₂O** per acre per season.
- **DO NOT** apply **Prowl H₂O** within 21 days before harvest.
- Avoid root contact with **Prowl H₂O**-treated soil when placing transplants into furrow or hole or injury may occur.
- **DO NOT** plant lettuce within 6 months after a **Prowl H₂O** application if the rows were covered with plastic.

Conditions of Sale and Warranty

The **Directions For Use** of this product reflect the opinion of experts based on field use and tests. The directions are believed to be reliable and must be followed carefully. However, it is impossible to eliminate all risks inherently associated with the use of this product. Crop injury, ineffectiveness or other unintended consequences may result because of such factors as weather conditions, presence of other materials, or use of the product in a manner inconsistent with its labeling, all of which are beyond the control of BASF CORPORATION ("BASF") or the Seller. To the extent consistent with applicable law, all such risks shall be assumed by the Buyer.

BASF warrants that this product conforms to the chemical description on the label and is reasonably fit for the purposes referred to in the **Directions For Use**, subject to the inherent risks, referred to above.

TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, BASF MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY OF FITNESS OR MERCHANTABILITY OR ANY OTHER EXPRESS OR IMPLIED WARRANTY.

TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, BUYER'S EXCLUSIVE REMEDY AND BASF'S EXCLUSIVE LIABILITY, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, SHALL BE LIMITED TO REPAYMENT OF THE PURCHASE PRICE OF THE PRODUCT.

TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, BASF AND THE SELLER DISCLAIM ANY LIABILITY FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL OR INDIRECT DAMAGES RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT.

BASF and the Seller offer this product, and the Buyer and User accept it, subject to the foregoing **Conditions of Sale and Warranty** which may be varied only by agreement in writing signed by a duly authorized representative of BASF.

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The Chemical Company