

2217-893

7/7/2010

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

OFFICE OF
CHEMICAL SAFETY AND
POLLUTION PREVENTION

James Kunstman, Ph.D.
PBI/Gordon Corporation
1217 West 12th Street
P.O. Box 014090
Kansas City, MO 64101-0090

JUL - 7 2010

Subject: Label Amendment – Response to PBI/Gordon’s Rebuttal of Reregistration letter dated July 28, 2008 that required changing the signal word from “Caution” to “Warning”
Product Name: EH 1423 Herbicide
EPA Registration Number: 2217-893
Decision Number: 429689

The label amendment referred to above (maintaining the “Caution” signal word and associated language), submitted in connection with registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended is acceptable provide the following changes are made to the product label:

1. Per the acute toxicity review completed in the Registration Division, revise the ‘Hazards to Humans and Domestic Animals’ statement to read as follows:

“CAUTION:
Harmful if absorbed through skin. Harmful if swallowed. Avoid contact with skin, eyes or clothing. Causes moderate eye irritation. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet. Wear long-sleeved shirt, long pants, socks, shoes and gloves. Remove and wash contaminated clothing before reuse.”
2. Delete the word, “General” from the section heading, “General Precautions and Restrictions” as this word is an implied safety claim that makes all associated text unenforceable.
3. Move the three paragraphs that are currently listed after the “When To Apply” section to immediately follow the “Precautions and Restrictions” text as they are also precautions and restrictions.
4. Remove the following advertisement claims, as this product’s formulation has been registered beyond 6 months:
 - a. “New!
 - b. “New and Improved!”

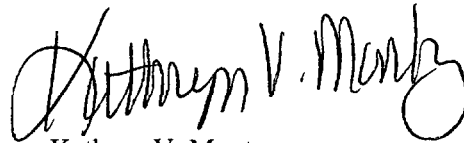
Note: While no additional data is being requested at this time, marketing claims made on the pesticide label must be substantiated by data maintained in your files. If data supporting marketing claims made on the product label is not available then those claims must be removed.

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Note: Should you wish to add/retain a reference to the company's website on your label, then please be aware that 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 will be referred to the EPA's Office of Enforcement and Compliance Assurance.

One copy of the label stamped "Accepted with Comments" is enclosed for your records. Please submit one copy of the final printed label before the product is released for shipment.

Sincerely,



Kathryn V. Montague
Product Manager (23)
Herbicide Branch
Registration Division (7505P)

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EH-1423 HERBICIDE

EPA Reg. No. 2217-893

ACTIVE INGREDIENT:

Mecoprop-p, dimethylamine salt	0.183%
2,4-D, dimethylamine salt	0.197%
Dicamba, dimethylamine salt	0.041%
OTHER INGREDIENTS:	99.579%
TOTAL	100.000%

THIS PRODUCT CONTAINS:

- (+)-(R)-2-(2-methyl-4-chlorophenoxy) propionic acid equivalent 0.151%
 - 2,4-Dichlorophenoxyacetic acid equivalent 0.164%
 - 3,6-dichloro-o-anisic acid equivalent 0.034%
- Isomer Specific by AOAC Methods

ACCEPTED
with COMMENTS
In EPA Letter Dated:
JUL -7 2010
 Under the Federal Insecticide,
 Fungicide, and Rodenticide Act
 as amended, for the pesticide
 registered under EPA Reg. No.

KEEP OUT OF REACH OF CHILDREN

CAUTION

2217-893

STOP! READ THE ENTIRE LABEL FIRST. OBSERVE ALL PRECAUTIONS AND FOLLOW DIRECTIONS CAREFULLY.

PRECAUTIONARY STATEMENTS

Hazards to Humans and Domestic Animals

~~CAUTION: Causes moderate eye irritation. Harmful if swallowed or if absorbed through skin. Avoid contact with skin, 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. Remove and wash contaminated clothing before reuse.~~

Causes moderate eye irritation. Harmful if absorbed through skin. Avoid contact with skin, eyes or clothing. Harmful if swallowed. Wear long-sleeved shirt, long pants, and shoes plus socks. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet.

First Aid	
If in eyes:	<ul style="list-style-type: none"> • Hold eye open and rinse slowly and gently with water for 15-20 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.
If on skin or clothing:	<ul style="list-style-type: none"> • Take off contaminated clothing. • Rinse skin immediately with plenty of water for 15 - 20 minutes. • Call a poison control center or doctor for treatment advice.

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.
<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 1-877-800-5556 for emergency medical treatment advice.</p>	

Environmental Hazards

This pesticide is toxic to fish and aquatic invertebrates and may adversely affect non-target plants. Do not apply directly to water.


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. Application around a cistern or well may result in contamination of drinking water or groundwater.

DIRECTIONS FOR USE

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

GENERAL PRECAUTIONS AND RESTRICTIONS:

- 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.
- Do not allow people or pets to enter the treated area until sprays have dried.

Product Facts		
Container treats up to	50 weeds	6 fluid ounce size
Container treats more than	200 weeds	24 fluid ounce size
Container treats more than	500 weeds	Half gallon size
Container treats more than	1000 weeds	Gallon size
Container treats more than	1333 weeds	1.33 gallon size
KILLS WEEDS	Dandelion, Clover, Chickweed [illustration] and other broadleaf weeds.	
WHERE TO USE	ON LAWNS - Bahiagrass, bentgrass, bermudagrass, buffalograss, centipedegrass, fescue, Kentucky bluegrass, perennial ryegrass, St. Augustinegrass (except 'Floritam') and zoysiagrass [illustration] without harming lawn grasses when used as directed.	
	Questions, Comments or Medical Information Call 1-800-xxx-xxxx www.companyname.com	

Kills weeds in your lawn - won't harm lawn grasses when used according to Directions for Use. EH-1423 Herbicide singles out weeds, enters through leaves and moves inside the weed to the roots.

-OR-

EH-1423 Herbicide kills broadleaf weeds in lawns - roots and all. Kills weeds - not lawn grasses when used according to Directions For Use. Ready-To-Use. No mixing.

WEEDS: [illustration] Bur Clover, Carpetweed, Chickweed, Creeping Charlie, Cudweed, Curly Dock, Dandelion, English Daisy, False Dandelion, Filaree, Florida Pusley, Heartleaf Drymary, Henbit, Oxalis, Pennywort, Plantain, Purslane, Red Sorrel, Sheep Sorrel, Spurge, Spurweed, Thistle, Toadflax, White Clover, Wild Carrot, Wild Geranium, Wild Onion, and other broadleaf weeds.

WHEN TO APPLY: [icon]

- Spray when weeds are actively growing.
- Spray when temperature is below 90°F.
- Hard to kill weeds may require a repeat application in 30 days
- Rain or watering 6 hours after application will not wash away effectiveness.

IMPORTANT: Do not use this product for controlling weeds in vegetable gardens, flower beds or around shrubs or ornamental plants. Do not use on or around fruits, vegetables or flowers. Temporary discoloration may occur on St. Augustinegrass, centipedegrass, and bentgrass lawns. Do not use on 'Floritam' St. Augustinegrass in Florida.

Other Use Precautions: Do not apply as a fine mist because of potential for injury to desirable plants. Do not use this product on or near desirable plants, including within the drip line of the roots of desirable trees and shrubs, since injury may result.

Do not apply directly to or near water, storm drains, gutters, sewers, or drainage ditches. Do not apply within 25 feet of rivers, fish ponds, lakes, streams, reservoirs, marshes, estuaries, bays, and oceans. Do not apply when windy. To prevent product run-off, do not over water the treated area(s) to the point of runoff or apply when raining or when rain is expected that day.

Spot treatments:

Spot treatment is defined as a treatment area no greater than 1,000 sq.ft. per acre. The maximum number of spot treatments is limited to 2 per year with a minimum of 30 days between applications.

-----**OPTION 1 (PNS [II]/Pull 'N Sprayer [II]/SprayMaster)**-----

[Applicator Device Directions]

[Illustration #1]

- Remove sprayer from side carrier and unwrap hose completely.
- Insert (color of plug) plug at end of hose into (color of spout) spout on cap until it clicks.
- Flip up spout

[Illustration #2]

- Point sprayer away from body.
- Grasp sprayer by the handle.
- Slowly pull ring at bottom of sprayer handle until it stops to ready the sprayer.

[Illustration #3]

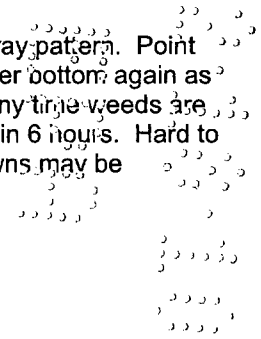
- Twist nozzle at end of sprayer to adjust spray pattern.

[Illustration #4]

- Press and hold button on sprayer to begin spraying.
- Pull ring at sprayer bottom again as needed to continue spraying.

HOW TO USE:

Follow illustrations and instructions above. Twist nozzle at end of sprayer to adjust spray pattern. Point sprayer away from body and press sprayer button to begin spraying. Pull ring at sprayer bottom again as needed to continue spraying. Aim at center of weed and spray to lightly cover. Spray any time weeds are actively growing. Do not apply when rain or temperatures over 90°F are expected within 6 hours. Hard to control weeds may require repeat applications in 30 days. Weeds in newly seeded lawns may be sprayed after lawn has been mowed 3 times.



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HOW TO APPLY: [icon]

- Twist nozzle at end of sprayer to open [wide spray, medium spray, or stream].
- Point sprayer away from body and press spray button to begin spraying.
- Pull ring at sprayer bottom again as needed to continue spraying.
- Aim at center of weed and spray to lightly cover.

[OPTIONAL REUSE AND REFILL INSTRUCTIONS:

Only for PNS [II], Pull 'N Spray [II], SprayMaster [1.33 gallon]

To refill EH-1423 Herbicide: Add entire contents of EH 1421 Herbicide (EPA Reg. No. 2217-xxx) container (8 fl.oz) to this empty 1.33 gallon container. Add 160 fl.oz. (5 quarts) of clean tap water.

-----**OPTION 2 (QCS)**-----

Quick Connect Sprayer Package Design Directions:

NOW with Quick Connect Sprayer. 1. Pull sprayer from bottle. 2. Pull [color] hose connector and coil from sprayer handle. 3. Insert hose connector into [color] sprout on cap until it clicks into place. 4. Flip up spout. Turn sprayer nozzle to open, and spray.

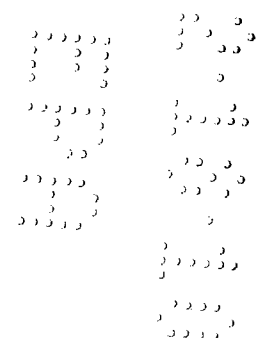
Quick Connect Sprayer. 1. Remove sprayer. Pull cord ALL THE WAY OUT. 2. Insert red plug into spout (on cap) until it clicks. 3. Flip up spout. Open nozzle at end of sprayer.

HOW TO USE:

Turn sprayer nozzle to open. Adjust spray nozzle to give a coarse spray. Aim at center of weed and spray to wet. Spray any time weeds are actively growing. Do not apply when rain or temperatures over 90°F are expected within 6 hours. Hard to control weeds may require repeat applications in 30 days. Weeds in newly seeded lawns may be sprayed after lawn has been mowed 3 times.

HOW TO APPLY: [icon]

- Turn sprayer nozzle to open.
- Adjust sprayer nozzle as desired.
- Aim at center of weed and spray to lightly cover.



STORAGE AND DISPOSAL

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

[Following to be used with all Storage Text) Keep from freezing. Keep pesticide in original container. Do not put into food or drink containers. Avoid contamination of feed and foodstuffs. Store in a cool, dry place, preferably in a locked storage area.

PESTICIDE STORAGE: [For PNS [II], Pull 'N Spray [II], SprayMaster] Completely discharge/dispense product in sprayer prior to storage. Twist sprayer nozzle to the OFF position. Flip down [color of spout] spout on cap. **NO NEED TO DISCONNECT SPRAYER HOSE FROM CAP.** Place sprayer back inside carrier on bottle with the nozzle facing down.

PESTICIDE STORAGE: [For Quick Connect Sprayer and bottle] Flip down spout to close. No need to disconnect trigger sprayer. Close nozzle on trigger sprayer. Snap sprayer back in place.

PESTICIDE STORAGE: [For conventional trigger sprayers larger than 24 fl.oz.] Place trigger sprayer under handle on container to keep sprayer above the level of contents.

PESTICIDE STORAGE: [For conventional trigger sprayers] Rotate nozzle to closed position. -OR- Turn sprayer nozzle to "OFF".

~~If empty: Do not reuse this container. Place in trash or offer for recycling if available.~~

~~If partly filled: Call you local solid waste agency for disposal instruction. Never place unused product down any indoor or outdoor drain.~~

PESTICIDE DISPOSAL AND CONTAINER HANDLING: Nonrefillable container. Do not reuse or refill this container. **If empty:** Place in trash or offer for recycling if available. **If partly filled:** Call your local solid waste agency or www.website.com for disposal instructions. Never place unused product down any indoor or outdoor drain.

☎ Questions, Comments or Medical Information call 1-800-xxx-xxxx
www.companyname.com

LIMITED WARRANTY AND DISCLAIMER

FOR USE ONLY AS DIRECTED.

TO THE EXTENT CONSISTENT WITH APPLICABLE LAW THE MANUFACTURER NEITHER MAKES NOR INTENDS ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PERTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED. IN NO CASE, TO THE EXTENT ALLOWED BY LAW, SHALL THE MANUFACTURER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT. If these terms are not acceptable, return this product unopened immediately to the point of purchase, and the purchase price will be refunded in full. The terms of this Limited Warranty and Disclaimer cannot be varied by any written or verbal statements or agreements at the point of sale or elsewhere.

APPENDIX

1. Statements which may appear on different label components depending on packaging configuration.

- See next panel for additional Precautionary Statements and First Aid
- Net Contents: _____



- EPA Est. No. _____

2. Advertising claims that may be presented on container labeling, advertisements, brochures, and other marketing/sales promotional materials:

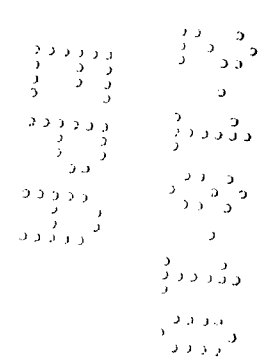
- Kills: Dandelion, Clover, Plantain, Chickweed, Oxalis, Spurge, Henbit, English Daisy, Wild Onion and (Many) Other Listed Weeds/Broadleaf Weeds.
- For Home Lawns Only
- [icon] OUTDOOR USE ONLY
- [water droplet icon] WATER BASED
- KILLS BROADLEAF LAWN WEEDS - ROOTS AND ALL
- READY-TO-USE—NO MIXING

Formula Claims

- Use to control weeds everywhere around (or in) your lawn and garden.
- Kills weeds in patios, driveways, sidewalks and other non-lawn areas.
- Kills weeds down to the root.
- Kills broadleaf weeds in your lawn.
- Won't harm most lawn grasses when used as directed.
- Ideal for spot treating individual lawn weeds.
- Rain proof in hours.
- Kills Dandelion, Clover and Other Broadleaf Weeds—Won't harm lawns when used as directed.
- Kills Weeds - Not Lawn Grasses
- Kills Weeds - Not Lawns, Rain Proof in Hours

Applicator Claims

- Now with Quick Connect Sprayer
- Quick Click Sprayer
- Quick & Easy to Use
- No Leaks or Mess
- Easy to Store
- EASY-TO-USE
- The easier way to spray
- 33% more than 1 gallon size
- Precise control for maximum accuracy
- Consistent spray for maximum accuracy
- No more tired hands
- Revolutionary [new] applicator
- Change the way you spray
- Ideal for large or small jobs
- Great for large or small jobs
- Precise control—sprays only what you want
- Adjustable spray nozzle for maximum control
- Adjustable spray pattern for maximum control
- Cut your time spent spraying in half
- You're always ready to spray
- It's always ready to spray
- Targets weeds in tight places
- Save time and energy
- Saves time and energy
- New! (6 months)
- Improved [Applicator]/Improved [Application]!
- Improved Applicator System!/Improved Application System!
- Improved Applicator Device!/Improved Application Device!



- New and Improved! (6 months)
- Improved [!]
- NEW (PNS [II]/Pull 'N Spray [II]/SprayMaster) the easy way to spray
- No pumping, just pull
- The easier way to kill weeds
- Refillable
- Pull out slowly
- NOW/NEW refillable lawn weed control [kill] system [de+vice]

DOCUMENT CONTROL INFORMATION

1. **Unique Label Identifier:** 002217-00893.20090520.amend-proposed.doc
2. **Reason for Issue:** Respond to EPA comments, PRN 2007-4

