



3008-42

03/17/2003

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

115

OFFICE OF
PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

March 17, 2003

Certified Mail
Return Receipt RequestedJohn Taylor
Osmose Inc.
980 Ellicott Street
Buffalo, NY 14209-2398

RE: Cancellation Order: Termination of Uses

Dear Mr. Taylor:

This letter serves as the final cancellation order in response to certain of your requests under Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, to amend registrations to terminate certain uses of pesticide registrations containing chromated copper arsenic (CCA). In light of issues raised in the comments received regarding the use of CCA to treat wood used for agricultural fence posts and permanent wood foundations, the Agency has decided to defer its action on your request to terminate those uses until the Agency has fully evaluated those uses through its reregistration process. If at any time during the reregistration review the Agency determines it has sufficient information to take an action, that is to either accept or refuse the requests for termination of those uses, the Agency will take appropriate action at that time.

EPA's decision on the portions of your requests upon which it is acting is as follows:

- A) The following manufacturing product registration is amended to delete certain terminated uses effective May 16, 2003:

3008-66

Arsenic Acid 75%

CONCURRENCES

SYMBOL	7510C	7510C	7510C				
SURNAME	rw	web	web				

For the above identified manufacturing-use product, the accepted amended label reads as follows:

"Effective December 31, 2003, this product may only be used (1) for formulation of the following end-use wood preservative products: ammoniacal copper zinc arsenate (ACZA) or chromated copper arsenate (CCA) labeled in accordance with the Directions for Use shown below, or (2) by persons other than the registrant, in combination with one or more other products to make: ACZA wood preservative; or CCA wood preservative that is used in accordance with the Directions for Use shown below.

Effective December 31, 2003, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood-Preservers Association Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3), Poles (C4), Plywood (C9), Wood for Highway Construction (C14), Round, Half Round and Quarter Round Fence Posts (C16), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Lumber and Plywood for Permanent Wood Foundations (C22), Round Poles and Posts Used in Building Construction (C23), Sawn Timber Used To Support Residential and Commercial Structures (C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34). Forest products treated with this product may only be sold or distributed for uses within the AWWPA Commodity Standards under which the treatment occurred."

B) The following end use product registrations are amended to delete certain terminated uses as of May 16, 2003:

3008-17	K-33-C (72%) Wood Preservative
3008-21	Special K-33 Preservative
3008-34	K-33 (60%) Wood Preservative
3008-35	K-33 (40%) Type-B Wood Preservative
3008-36	K-33-C (50%) Wood Preservative
✓ 3008-42	K-33-A (50%) Wood Preservative
3008-72	Osmose Arsenic Acid 75%

For the above identified end-use products, the accepted amended label reads as follows:

"Effective December 31, 2003, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood-Preservers Association Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3), Poles (C4), Plywood (C9), Wood for Highway Construction (C14), Round, Half Round and Quarter Round Fence Posts (C16), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Lumber and Plywood for Permanent Wood Foundations (C22), Round Poles and Posts Used in Building Construction (C23), Sawn Timber Used To Support Residential and Commercial Structures (C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34). Forest products treated with this product may only be sold or distributed for

uses within the AWWPA Commodity Standards under which the treatment occurred."

- C) Further amendments to the product label may be made by **Osmose, Inc.** via notification to the Agency on or before December 1, 2003, to (1) delete the use directions in effect prior to these amendments, and (2) delete the preface phrase "Effective December 31, 2003," from the amended labels such that the statement begins by reading "This product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood-Preservers' Association Standards..." These specific changes may be done via notification.
- D) **Osmose, Inc.** must notify its customers of the amended registrations/labels by certified mail. This is to ensure that those who are affected by the cancellation order are aware of the labeling changes.
- E) 40 CFR 152.132 provides that a distributor (or supplemental registrant) is considered an agent of the registrant for intents and purposes under the act, and both the registrant and the distributor may be held liable for violations pertaining to the distributor product.
- F) The following existing stocks provisions are incorporated as part of this order:

For purposes of this Order, the term "existing stocks" is defined, pursuant to EPA's existing stocks policy (56 FR 29362, June 26, 1991), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation or amendment. Any distribution, sale or use of existing stocks in a manner inconsistent with the terms of the cancellation order or the existing stocks provisions contained in the order will be considered a violation of section 12(a)(2)(K) and/or section 12(a)(1)(A) of FIFRA. The following summarizes the effective dates of cancellation as well as the existing stocks provisions for each product subject to the cancellation order.

The effective date of the cancellation effectuating the use terminations is May 16, 2003. **Osmose, Inc.**'s voluntary requests for termination of uses had requested that EPA allow use of the previous (unamended) labels for a period of 60 calendar days from the date on which the particular affected registrant receives EPA's approval of the amendments. The Agency is granting this request by making the effective date of cancellation 60 calendar days following the date of this cancellation order. You were notified of the signing of the cancellation order and of the required changes to labels on the date the order was signed by telephone and facsimile transmission. This 60 day period is intended to allow a sufficient period of time for an orderly transition to the amended labels without disrupting supply and availability of product. On or after May 16, 2003, any sale, distribution or use of existing stocks by **Osmose, Inc.** of these affected products is prohibited. Sale, distribution, or use by persons other than **Osmose, Inc.** may continue until supplies are exhausted. Additionally, sale, distribution, or use of the stocks in the channels of trade by persons other than **Osmose, Inc.** may continue until depleted, provided any sale, distribution or use is in accordance with the existing label of that product.

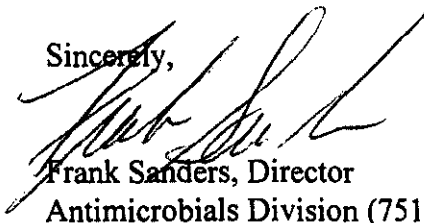
G) Approval of Amended Labels

The Agency is approving, subject to certain modifications, the proposed label amendments for the products listed in sections A and B, submitted on February 11, 2002. The attachments to this cancellation order include the accepted labels and set forth the specific language the labels must contain. (See also sections A and B of this order, as applicable.)

Stamped copies of the labels are enclosed for your records. Submit three (3) copies of the revised final printed labels before distributing/selling these products.

If you have any questions, please do not hesitate to contact the Product Manager, Mr. Adam Heyward (703.308.6422), or the Chemical Review Manager, Dr. B. A. Akinlosotu (703.605.0653).

Sincerely,



Frank Sanders, Director
Antimicrobials Division (7510C)

cc: Connie Welch, Chief
Regulatory Management Branch II

Attachments

DIRECTIONS FOR USE

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

(For Pressure Plant Use Only)

OSMOSE K-33-A is designed for the pressure impregnation of wood to provide protection against decay, termites and marine borers (Limnoria and Teredo).

Processes used to apply inorganic arsenic formulations shall leave no visible surface deposits on the wood, as defined by AWWA Standard C-1 and AWWA Standards, LP2 and LP22. (Visible surface deposits means a surface residue or crystallization on the treated wood. Small isolated or infrequent spots of chemical on otherwise clean wood shall be allowed.)

Effective December 31, 2003, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood Preservers' Association Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3) Poles (C4), Plywood (C9), Wood for Highway Construction (C14), Poles, Piles and Posts Used as Structural Members on Farms and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Round Poles and Posts Used in Building Construction (C23), Sawm Timber Used to Support Residential and Commercial Structures (C24), Saw Crossarms (C25), Structural Glued Laminated Members and Laminations Beams Girders (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34). Forest products treated with this product may only be sold or distributed for use within the AWWA Commodity Standards under which the treatment occurred.

ENVIRONMENTAL HAZARDS

This product is toxic to fish and wildlife. Do not apply directly to water, areas where surface water is present or to intertidal areas below the mean high water mark. Do not apply where runoff is likely to occur. Do not contaminate water when disposing of equipment washwaters.

Do not discharge effluent containing this product into lakes, streams, ponds, estuaries, oceans or public waters unless in accordance with the requirements of a National Pollutant Discharge Elimination System (NPDES) permit and the permitting authority has been notified in writing prior to discharge. Do not discharge effluent containing this product to sewer treatment plant authority. For guidance contact your State Water Board or Regional Office of the EPA.

PHYSICAL OR CHEMICAL HAZARDS

Do not use, pour, spill or store near heat or open flame.

Note to User: Examples of acceptable materials for protective clothing (eg. gloves, overalls, jackets, and boots) required during application and handling of inorganic arsenicals are vinyl, polyvinyl chloride (PVC), neoprene, NBR (Buna-N), rubber and polyethylenes.

STORAGE AND DISPOSAL

STORAGE: Do not contaminate water, food or feed by storage or disposal. Open dumping is prohibited. Do not reuse empty container.

PESTICIDE DISPOSAL: Pesticide wastes are acutely hazardous. Improper disposal of excess pesticide, spray mixture, 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 approved state and local procedures.

RESTRICTED USE PESTICIDE

DUE TO ACUTE TOXICITY AND BECAUSE THIS PRODUCT CONTAINS ARSENIC AND/OR CHROMIUM COMPOUNDS SOME TYPES OF WHICH HAVE BEEN ASSOCIATED WITH TUMOR DEVELOPMENT IN HUMANS. For retail sale to and use only by certified applicators or persons under their direct supervision, and for those uses covered by the certified applicator's certification.

OSMOSE K-33-A (50%) WOOD PRESERVATIVE

(For Pressure Plant Use Only)
(Not For Use Or Storage In or Around The Home)

ACTIVE INGREDIENTS:

Arsenic Pentoxide.....	8.20%
Chromic Acid.....	32.75%
Copper Oxide.....	9.05%

INERT INGREDIENTS:

	Total	100.00%
Arsenic as Elemental Arsenic	5.36%	
Water Soluble Arsenic as Elemental.....	5.36%	



KEEP OUT OF REACH OF CHILDREN

DANGER POISON



STATEMENT OF PRACTICAL TREATMENT

IF SWALLOWED: Induce vomiting by touching the back of the throat with finger. Avoid aspiration of vomit. Do not induce vomiting of an unconscious person. Call a physician immediately.

IF INHALED: Remove victim to fresh air. Apply respiration if indicated. Call a physician immediately.

IF ON SKIN: Remove contaminated clothing and wash affected area with soap and water.

IF IN EYES: Flush eyes with plenty of water. Call a physician immediately.

SEE SIDE PANEL FOR ADDITIONAL PRECAUTIONARY STATEMENTS

EPA EST. NO. 3008-TN-1

3008-SC-1

3008-OR-1

3008-CN-1

EPA REG. NO. 3008-42

MANUFACTURED BY:

Osmose.

Osmose, Inc.
980 Ellicott Street
Buffalo, New York
14209

NET CONTENTS: 600 Pounds (240 lbs. Oxide Basis, Min.)

PRECAUTIONARY STATEMENTS HAZARDS TO HUMANS AND DOMESTIC ANIMALS DANGER: POISONOUS IF SWALLOWED OR ABSORBED THROUGH THE SKIN

Causes eye and skin irritation. Do not breathe vapor. Do not get in eyes, on skin, or on clothing. Wash thoroughly after handling and before eating or smoking. Wear eye protection devices and protective clothing and rubber gloves in all situations where dermal contact is expected. In case of contact flush skin or eyes with plenty of water. For eyes get medical attention. Wash clothing before reuse. Do not breathe spray mist.

Applicators must wear gloves impervious to the wood treatment formulation in all situations where dermal contact is expected (e.g. handling freshly treated wood and manually opening cylinder doors).

Individuals who enter pressure treatment cylinders and other related equipment that is contaminated with the wood treatment solution (e.g. cylinders that are in operation or are not free of the treatment solution) must wear protective clothing, including overalls, jacket, gloves and boots, impervious to the wood treatment formulation. In addition, individuals who enter pressure-treatment cylinders must wear properly fitting, well-maintained, high efficiency filter respirators, MSHA/NIOSH-approved for inorganic arsenic, if the level of inorganic arsenic in the plant is unknown or exceeds 10 micrograms per cubic meter or air (10 ug/m³) average over an 8-hour work period. Air monitoring programs, procedures and record retention and submission must be conducted in accordance with the instructions on the attached labeling material.

Applicators must not eat, drink, or use tobacco products during those parts of the application process that may expose them to the wood treatment formulation (e.g. manually opening/closing cylinder doors, moving trams out of cylinders, mixing chemicals, and handling freshly treated wood).

Wash thoroughly after skin contact, and before eating, drinking, use of tobacco products, or using restrooms.

Protective clothing must be changed when it shows signs of contamination. Applicators must leave protective clothing and workshoes or boots and equipment at the plant. Worn-out protective clothing and workshoes or boots must be left at the plant and disposed of in a manner approved for pesticide disposal and in accordance with state and federal regulations.

Individuals in the work area of an arsenical wood treatment plant must wear properly fitting, well-maintained high efficiency filter respirators, MSHA/NIOSH-approved for inorganic arsenic, if the level of inorganic arsenic in the plant is unknown or exceeds 10 micrograms per cubic meter of air (10 ug/m³) average over an 8 hour work period. Air monitoring programs, procedures and record retention and submission must be conducted in accordance with the instructions on the attached labeling material.

2/02

ACCEPTED
with COMMENTS
EPA Letter Dated:

MAR 17 2003

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

5/5

3008-CN-1 3008-42