



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

OFFICE OF PREVENTION, PESTICIDES AND TOXIC SUBSTANCES

AUG 0 7 2009

Mr. James L. Kunstman PBI/Gordon Corporation P.O. Box 014090 Kansas City, MO 64101

Subject: Label Notification(s) for Pesticide Registration Notice 2007-4 Revision of Storage and Disposal Statements

Dear Mr. Kunstman:

The Agency is in receipt of your Application(s) for Pesticide Notification under

Pesticide Registration Notice (s) (PRN) 2007-4 dated July 9, 2009 for:

EPA Registration Number 33955-394

Acme Malathion 50% Spray

The Registration Division (RD) has conducted a review of this request for applicability under PRN 2007-4 and find that the label change(s) requested falls within the scope of PRN 2007-4. The label has been date-stamped "Notification" and will be placed in our records.

If you have any questions, at 703 305-5409 or electronically at daniel.dani@epa.gov

Sincerely,

Dani Daniel

Registration Division (7505P)

Insecticide/Rodenticide Branch

Please read instructions on i	everse before completir	na form. Na	MELCATI	ം പ്രസ്ത Appli	oved OM	B No. 2070-0	2060. Approval Expires 2-28-95
≎ EPA	Environme	United State	ຮູ້ທີ່. ction Agency	וע	Reg	gistration nendment	OPP Identifier Number
	A	Application	n for Pesticid	e - Secti	on I		•
Company/Product Num	nber 33955-394		2. EPA I	Product Man Venus	-	3	3. Proposed Classification
Company/Product (Nar Acme	^{ne)} Malathion 50% S	Spray	PM# Pro	duct Mana	ger—Tea	am 1	X Non Restricted
Name and Address of A PBI/Gordon Corpora Post Office Box 0140 Kansas City, Missou	tion 090	^P Code)	6. Expe (b)(i), my	dited Review y product is seg. No.	w. In acco	ordance with	n FIFRA Section 3(c)(3) composition and labeling to:
			Section - II				
Notification - Explain xplanation: Use addition OTIFICATION: abeling notification inal Rule "Pesticion	nal page(s) if necessary	(For section I Registration and Dispos	and Section II.) a Notice (PRN al: Standards i	for Pestici	blication. n below. Labelin de Con	_	ns Required by the and Containment"
Material This Product Wil	I Re Packaged In:		Section - III				
nild-Resistant Packaging Yes* No Certification must be submitted	Unit Packaging Yes No If "Yes" Unit Packaging wgt.	No. per container	Water Soluble Pa Yes No If "Yes" Package wgt.	No. per container	2. Tyl	pe of Contain Metal Plastic Glass Paper	
Location of Net Contents I	nformation tainer	4. Size(s) Reta	ail Container	(1) Impact to	On Lat		·
Manner in Which Label is	Affixed to Product	Lithogra Paper gl	ued d	Other _		coming decorning	
Contact Point (Complete i	tems directly helow for it	dentification of i	Section - IV		any to pro-	res this ann	lication)
ame	Kunstman, Ph.D.		Title Director of F			1	none No. (Include Area Code) 816-460;-3287
I certify that the statem. I acknowledge that any both under applicable is Signature	ents I have made on this knowingly false or misle	eading statemer	ion tachments thereto are it may be punishable 3. Title Director of Re	e true, accura by fine or imp	te and com prisonment		6. Date Application Received (Stamped)
. Typed Name James L.	Kunstman, Ph.D.		5. Date July	9, 2009		*****	, , , , , , , , , , , , , , , , , , , ,



An Employee-Owned Company

1217 WEST 12TH STREET • P.O. BOX 014090 KANSAS CITY, MISSOURI 64101-0090 816-421-4070 • 1-800-821-7925 FAX: 816-474-0462

July 9, 2009

Document Processing Desk (PRN)
Office of Pesticide Programs (7504P)
US Environmental Protection Agency
Room S-4900, One Potomac Yard
2777 South Crystal Drive
Arlington, VA 22202-4501
Attn: Ms. Venus Eagle, Product Manager (1)

Dear Ms Eagle:

Subject: Response to Pesticide Registration Notice (PRN 2007-4), Labeling Revisions Required by the Final Rule "Pesticide Management and Disposal: Standards for Pesticide Containers and Containment".

Acme Malathion 50% Spray (EPA Reg. No. 33955-394)

I. Labeling notification per Pesticide Registration Notice (PRN) 2007-4:

- 1. We ask to revise the disposal instructions and to adopt the exact language of Pesticide Registration Notice (PRN 2007-4), Labeling Revisions Required by the Final Rule "Pesticide Management and Disposal: Standards for Pesticide Containers and Containment." One (1) copy of the annotated labeling is enclosed for your review. Please refer to page 4 of the draft labeling.
- 2. Certification: This notification is consistent with the guidance PR Notice 2007-4 and the requirements of EPA's regulations at 40 CFR 156.10, 156.140, 156.144, 156.146, and 156.156. 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 any false statement to the EPA. I further understand that if this amended labeling is not consistent with the terms of 40 CFR 156.10, 156.140, 156.144, 156.146, and 156.156, this product may be in violation of FIFRA and I may be subject to enforcement action and penalties under Section 12 and 14 of FIFRA.

II. Labeling notification for Pesticide Registration Notice (PRN) 2008-1

1. We ask to revise the environmental hazards section of the labeling and to adopt the exact language of (PRN) Pesticide Registration Notice (PRN 2008-1), Environmental Hazard Labeling Statements on Outdoor Residential Use. Please refer to page 2 of the draft labeling.

2. Certification: This notification is consistent with the guidance PR Notice 2008-1 and the requirements of EPA's regulations at 40 CFR 156.10, 156.80, and 40 CFR152.46, 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 any false statement to the EPA. I further understand that if this notification is not consistent with the guidance of PRN 2008-1 and the requirements of 40 CFR 156.10, 40 CFR 156.80, and 40 CFR 152.46, this product may be in violation of FIFRA and I may be subject to enforcement action and penalties under Section 12 and 14 of FIFRA.

III. Labeling notification per PRN 98-10:

- 1. **New York State restriction:** We ask to add one use restriction required by New York State Department of Environmental Conservation for this product. The labeling requirement is stated in a letter prepared by Paula McBath and dated May 18, 2009. Please refer to page 3 of the draft labeling.
- 2. Certification: 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 any false statement to the 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 Section 12 and 14 of FIFRA.

IV. Enclosures:

- 1. Application for Pesticide Amendment (EPA Form 8570-1)
- 2. One (1) copy of the draft labeling
- 3. One(1) copy of the letter from the New York State Department of Environmental Conservation

If you have any questions, please call me at 816-460-6292 or contact me at <u>jkunstman@pbigordon.com</u>.

Sincerely,

James L. Kunstman, Ph.D.

Director of Regulatory Services

Van I Zunt



New York State Department of Environmental Conservation

Division of Solid and Hazardous Materials

Bureau of Pesticides Management, 11th Floor Pesticide Product Registration Section 625 Broadway, Albany, New York 12233-7257

Phone: (518) 402-8768 • Fax: (518) 402-9024

Website: http://www.dec.ny.gov E-Mail: ppr@gw.dec.state.ny.us



May 18, 2009

DELIVERY CONFIRMATION

[Company # 2217]

Ms. Linda Dannaldson
PBI- Gordon Corporation
P.O. Box 014090
Kansas City, Missouri 64101-0090

Dear Ms. Dannaldson,

Re: Intent to Deny Your Application to Renew the Registration of Four Pesticide Products.

Note: Please submit a copy of this letter with your response.

The New York State Department of Environmental Conservation (Department) has completed its review of your renewal application received August 20, 2008. Your submission has been deemed administratively complete. However, the products listed below are **unacceptable** for the reasons stated:

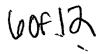
Formec 80 Turf & Ornamental Fungicide (EPA Reg. No. 2217-426) - The product is labeled "Not for Use by Homeowners" and as such the Department intends to restrict this product within thirty days of notification to your Company. The Department takes this action to ensure that only trained applicators, and not homeowners, can purchase and use this product.

Trimec Classic Broadleaf Herbicide (EPA Reg. No. 2217-543) – The product labeling on file as AAccepted@ by New York State on 9/14/06, does not comply with the United States Environmental Protection Agency (USEPA) stamped AAccepted@ label dated 07/25/06. Please submit electronic labeling in .pdf format via e-mail. Please ensure that the corrected final product labeling complies with the USEPA stamped AAccepted@ label or more current accepted labeling. Please include USEPA stamped label or other documentation if different from the above, to support the submitted product labeling. You may also submit this information by mail and by including a CD.

Gordon's Liquid Weed & Feed 15-0-0 (EPA Reg. No. 2217-742) – This product is being goluntarily cancelled at the federal level and therefore should be put into "discontinued status" in New York State.

Please submit a written statement (e-mail is fine) requesting this product to be put into discontinued status.

2.



Power Zone Broadleaf Herbicide for Turf (EPA Reg. No. 2217-834) - The product labeling on file as AAccepted@ by New York State on 10/16/06, does not comply with the United States Environmental Protection Agency (USEPA) stamped AAccepted@ label dated 10/23/07. Please submit electronic labeling in .pdf format via e-mail. Please ensure that the corrected final product labeling complies with the USEPA stamped AAccepted@ label or more current accepted labeling. Please include USEPA stamped label or other documentation if different from the above, to support the submitted product labeling. You may also submit this information by mail and by including the electronic label on a CD.

Gordon's Malathion 50% Spray (EPA Reg. No. 33955-394) & Groundwork Concentrate Mosquito & Fly Killer (EPA Reg. No. 33955-394) – These two products are labeled for homeowner use in spraying areas around domestic dwellings and as such New York State is limiting the use of homeowner products in residential automatic misting systems. Please add the statement "In New York State - Not for Use in Automatic Misting Systems" bolded and prominently displayed in the "Directions for Use" section by your next label printing or by your next renewal date.

Stronghold PGR (EPA Reg. No. 2217-802) – The Department is considering restricting all products which contain the active ingredients Ammonium salt of Imazethapyr (chemical code 128923) and/or Ammonium salt of Imazapyr (chemical code 128821) due to impacts to groundwater. PBI Gordon has added a statement to this product label which informs the user that the product cannot be used in Nassau and Suffolk Counties, New York. The Department is in the process of evaluating whether product restriction is required to ensure that the product is used according to the label by a trained applicator. You will be notified of our decision prior to the beginning of the next use season.

Within 30 days from receipt of this letter you may make the necessary corrections and/or submit the documentation requested above. If you do not submit the requested documentation, or if you submit the requested documentation and there are still deficiencies in your application, the review will be terminated and your application for re-registration of these products, will be denied.

The Department takes this action because New York State will not register labels inconsistent with the most current USEPA stamped AAccepted@ labels or variations allowed by 40 CFR Sections 152.130 and 152.132.

Please be aware that any unregistered product may **not** be sold, offered for sale, distributed, or used in New York State.

Should you have any questions regarding this letter, please contact me, at (518) 402-8768.

Paula J. McBath
Environmental Chemist II
Pesticide Product Registration Section

Certification with Respect to Label Integrity

I certify that the information (including, but not limited to, text, tables, and graphics) contained in the electronic file identified below by file name and submitted with this certification is the same information as that on the paper copies of these documents included with this submission.

PROPOSED LABEL			
EPA Registration #	Date Submitted to EPA	Electronic file name	
33955-394	7/9/2009	033955-00394.20090709.notif-proposed	

I certify that the statements that I have made on this form are true, accurate, and complete. I acknowledge that any knowingly false or misleading statements may be punishable by fine or imprisonment or both under applicable law.

Ja I Zut	07/09/2009
Signature	Date
James L. Kunstman, Ph.D.	
Name (typed)	
Director, Regulatory Services	
Title	

80412

NOTIFICATION AUG 07 2009

ACME MALATHION SPRAY

EPA Reg. No. 33955-394

ACTIVE INGREDIENT:

Malathion: O,O-dimethyl phosphorodithioate of diethyl mercaptosuccinate 50%
INERT INGREDIENTS: 50%
TOTAL 100%

KEEP OUT OF REACH OF CHILDREN

Contains xylene range aromatic petroleum solvent.

WARNING

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

PRECAUTIONARY STATEMENTS

Hazards to Humans and Domestic Animals

WARNING: Harmful if swallowed. Avoid breathing spray mists or vapors. Avoid contact with skin. Thoroughly wash after handling and before eating or smoking. Avoid contamination of feed and food stuffs. Do not treat areas frequented by children and do not allow children in treated areas until the spray has dried. Do not apply this product in such a manner as to directly or through drift expose workers or other persons. The area being treated must be vacated by unprotected persons.

First Aid	
If swallowed:	 Immediately call a poison control center or doctor. Do not induce vomiting. Do not give any liquid to the person. Do not give anything by mouth to an unconscious person.
If inhaled:	 Move person to fresh air. If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to-mouth if possible. Call a poison control center or doctor for further treatment advice.
If in eyes:	 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 o	n	skin	or
on	C	lothi	ing:

- 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.

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.

NOTE TO PHYSICIAN: Contains petroleum distillate - vomiting may cause aspiration pneumonia. This product may cause cholinesterase inhibition. Atropine is antidotal. 2-PAM may be effective as an adjunct to atropine. Malathion is an organophosphate insecticide/miticide.

Environmental Hazards

This pesticide is toxic to fish, aquatic invertebrates, and aquatic life stages of amphibians. For terrestrial uses, do not apply directly to water, or to areas where surface water is present, or to intertidal areas below the mean high water mark. Drift and runoff may be hazardous to aquatic organisms in areas near the application site. Do not contaminate water when disposing of equipment washwater.

This product is highly toxic to bees exposed to direct treatment on blooming crops or weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

[Environmental Hazards (alternate per PRN 2008-1)

This pesticide is toxic to fish, aquatic invertebrates, and aquatic life stages of amphibians. Drift and runoff may be hazardous to aquatic organisms in areas near the application site. To protect the environment, do not allow pesticide to enter or run off into storm drains, drainage ditches, gutters or surface waters. Applying this product in calm weather when rain is not predicted for the next 24 hours will help to ensure that wind or rain does not blow or wash pesticide off the treatment area. Rinsing application equipment over the treated area will help avoid runoff to water bodies or drainage systems.

This product is highly toxic to bees exposed to direct treatment on blooming crops or weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.]

Physical Or Chemical Hazards

Do not use or store near heat or open flame.

DIRECTIONS FOR USE

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

Not for use on plants being grown for sale or other commercial use, or for commercial seed production, or for research purposes.

For use on plants intended for aesthetic purposes, ornamental gardens or parks, or lawns and grounds.

In New York State: Not for use in residential automatic misting systems

Site	Pests	Amount In 1 Gallon of Water	Days to Harvest (1)	Comments	
Tomatoes	Spider Mites Aphids	3 tsp.	1	Make one or more foliar applications a needed.	
Beans (Dry & Succulent)	Mexican Bean Beetles, Spider Mites, Leafhoppers	3 tsp.	1	Make one or more foliar applications a needed.	
Peas	Pea Aphids	3 tsp.	3	Make one or more foliar applications. Do not use pea vines for forage.	
White Potatoes	Aphids	3 tsp.		Make one or more foliar applications a needed.	
Cabbage, Kale, and Mustard	Aphids, Imported Cabbageworm	3 tsp.	7	Make full cover applications. Repeat as necessary.	
Broccoli and Turnip	Cabbageworm	3 tsp.	3	Make full cover applications. Repeat as necessary.	
Flowers, Ornamentals,	Oyster Shell Scale, Euonymus Scale	1 tsp.		Apply in summer when infestation occurs. Repeat in 10-12 days.	
Shrubs	Aphids, White Fly, Thrips, Mealy Bugs, Japanese Beetle(Adult), Four Lined Plant Bug, Rose Leafhopper, Potato Leafhopper	1½ tsp.		For scales, apply when crawlers have settled on foliage. Injury may occur on Ferns, Hickory, Viburnum, Lantana, Crassula and Canareti Juniper. Slight injury has also been reported on Boston fern, Pteris fern, and Maidenhair fern, Petunia,	
	Bagworms, Juniper Scale	2 tsp.		Small leaf spirea, Spirea, White pine and Maples.	
	Soft Brown Scale	2½ tsp.		,	
T- 100	Pine Needle Scale	4 tsp.			

⁽¹⁾Days to harvest refers to the interval or the number of days before harvest for the last application of malathion.

MOSQUITOES, FLIES & OTHER SMALL FLYING INSECTS OUTDOORS:

Use 11 tablespoons of product per gallon of water, fuel oil, or diesel oil and spray yard, lawn, patio or other outdoor area using a fine mist spray. Repeat as needed. Do not apply oil solutions to ornamentals, injury may occur. Do not contaminate foods, dishes, or utensils.

Site	Pests	Amount Per Gallon ¹	Comments
Oite	1 6313	Amount rei Ganon	Comments
Yards, Lawns, Recreational Areas (Outdoors Only)	Mosquitoes, Adult Flies Flying Insects	11 Tablespoons	Apply as a fog or spray. Repeat as needed. Do not apply oil solutions to ornamental species as injury may occur. Apply around yards, homes, walls and fences

STORAGE AND DISPOSAL

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

PESTICIDE STORAGE: Store in original container in a locked storage area inaccessible to children and domestic animals.

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.

LIMITED WARRANTY AND DISCLAIMER

The manufacturer warrants only that the chemical composition of this product conforms to the ingredient statement given on the label, and that the product is reasonably suited for the labeled use when applied according to the Directions for Use.

THE MANUFACTURER NEITHER MAKES NOR INTENDS ANY OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE EXPRESSLY DISCLAIMED. This limited warranty does not extend to the use of the product inconsistent with label instructions, warnings or cautions, or to use of the product under abnormal conditions such as drought, excessive rainfall, tornadoes, hurricanes, etc. These factors are beyond the control of the manufacturer or the seller. Any damages arising from a breach of the manufacturer's warranty shall be limited to direct damages, and shall not include indirect or consequential damages such as loss of profits or values, except as otherwise provided by law.

The terms of this Limited Warranty and Disclaimer cannot be varied by any written or verbal statements or agreements. No employee or agent of the seller is authorized to vary or exceed the terms of this Limited Warranty and Disclaimer in any manner.

APPENDIX

	tatements which may appear on different label components depending on packaging
on	figuration.
•	See next panel for additional Precautionary Statements and First Aid
•	Net Contents:
	FPA Est No

- 2. Advertising claims that may be presented on container labeling, advertisements, brochures, and other marketing/sales promotional materials:
 - Kills/Controls Insects: aphids, mealybugs, whitefly, scale, bagworms, spider mites, leafhoppers, beetles, flies, mosquitoes, and other listed insects.
 - Use On: Flowers, shrubs, vegetables on yards, lawns and recreational areas outdoors.
 - ? Information: 1-XXX-XXX-XXXX.
 - + [First Aid Cross] 1-XXX-XXX-XXXX
 - One guart (32 fluid ounces) of product makes up to 189 gallons of spray.
 - One pint (16 fluid ounces) of product makes up to 94 gallons of spray.
 - Protects flowers, shrubs and vegetables.
 - · Controls tough outdoor insects
 - · Broad-spectrum insect control
 - [Graphics] of various listed insects.
 - Kills/Controls mosquitoes outdoors.

120412

- Use on vegetables up to one week or less before harvest.
- For flies and garden insects
- For Flies and Garden Insects
- Even Gets Mosquitoes
- · For outdoor use only
- For garden and lawn insects
- Effective control for flies & mosquitoes
- Apply as fog or spray in yards, patios or other outdoor areas

DOCUMENT CONTROL INFORMATION

- 1. Unique Label Identifier: 033955-00394.20090709 notif-proposed-clean.doc
- 2. Reason for Issue: NY misting statement, PRN 2007-4, PRN 2008-1