

PM 25

45639-86

10-1-99

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U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Pesticide Programs
Registration Division (H7505C)
401 "M" St., S.W.
Washington, D.C. 20460

EPA Reg.
Number:
45639-
86

Date of Issuance:
10-1-99

NOTICE OF PESTICIDE:
____ Registration
X Reregistration

Term of Issuance:
Conditional

Name of Pesticide Product:
Betanex Herbicide

(under FIFRA, as amended)

Name and Address of Registrant (include ZIP Code):

Mr. Jacob J. Vukich
Manager, Regulatory Affairs
AgrEvo USA Company
2711 Centerville Road
Wilmington, DE 19808

Note: Changes in labeling differing in substance from that accepted in connection with this registration must be submitted to and accepted by the Registration Division prior to use of the label in commerce. In any correspondence on this product always refer to the above EPA registration number.

On the basis of information furnished by the registrant, the above named pesticide is hereby registered/reregistered under the Federal Insecticide, Fungicide and Rodenticide Act.

Registration is in no way to be construed as an endorsement or recommendation of this product by the Agency. In order to protect health and the environment, the Administrator, on his motion, may at any time suspend or cancel the registration of a pesticide in accordance with the Act. The acceptance of any name in connection with the registration of a product under this Act is not to be construed as giving the registrant a right to exclusive use of the name or to its use if it has been covered by others.

This product is conditionally reregistered in accordance with FIFRA sec. 3(c)(7)(A) provided that you:

1. Submit and/or cite all data required for registration of your product under FIFRA sec. 3(c)(5) when the Agency requires all registrants of similar products to submit such data; and submit acceptable responses required for reregistration of your product under FIFRA section 4.

2. Under the heading Storage and Disposal revise to read as follows:

Pesticide Storage: Store in original container and keep closed. Store in cool, dry ... open flame.

3. It is recommended that the heading "Use Precautions" be changed to **General Precautions and Restrictions**.

4. Submit one (1) copy of your final printed labeling before you release the product for shipment.

If these conditions are not complied with, the registration will be subject to cancellation in accordance with FIFRA sec. 6(e). Your release for shipment of the product constitutes acceptance of these conditions.

A stamped copy of the label is enclosed for your records.

Signature of Approving Official:

Date:

10-4-99

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Agrevo®

Betanex®

HERBICIDE

FOR AGRICULTURAL USE ONLY

ACCEPTED
with COMMENTS
In EPA Letter Dated:

OCT 1 1999

Under the Federal Insecticide,
Fungicide, and Rodenticide Act,
as amended, for the pesticide
registered under EPA Reg. No.
45639-86



Postemergence Herbicide for Control of Redroot Pigweed
and Other Weeds in Sugar Beets

ACTIVE INGREDIENT:
Desmedipham* 16.0%
INERT INGREDIENTS: 84.0%
TOTAL 100.0%

Contains 1.3 lbs. active ingredient per gallon.
This product contains the toxic inert ingredient
isophorone.
*Ethyl m-hydroxycarbanilate carbanilate (ester)

EPA Reg. No. 45639-86
EPA Est. No. 407-IA-02

KEEP OUT OF REACH
OF CHILDREN
CAUTION

Si usted no entiende la etiqueta, busque a
alguien para que se la explique a usted en
detalle. (If you do not understand this label,
find someone to explain it to you in detail.)

SEE SIDE/BACK PANEL FOR FIRST AID

NET CONTENTS:

FIRST AID

IF IN EYES: 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. Call a poison control center or physician for treatment advice.

IF SWALLOWED: 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 by a poison control center or physician.

IF ON SKIN: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15 to 20 minutes. Call a poison control center or physician for treatment advice.

NOTE TO PHYSICIAN: Please have your medical staff confirm recommendation of gastric lavage. Probable mucosal damage may contraindicate the use of gastric lavage.

IN CASE OF MEDICAL, ENVIRONMENTAL, OR TRANSPORTATION EMERGENCIES OR INQUIRIES, CALL 1-800-471-0660 (24 HOURS/DAY).

For product inquiry information, call toll free: 1-877-4AGREVO (1-877-424-7386) or visit our worldwide web site at www.us.agrevo.com

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

CAUTION

Harmful if swallowed. Causes moderate eye irritation. Avoid contact with eyes or clothing. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals.

Avoid contamination of food and feedstuffs.

PERSONAL PROTECTIVE EQUIPMENT

Some materials that are chemical-resistant to this product are listed below. If you want more options, follow the instructions for category F on an EPA chemical resistance category selection chart.

Applicators and other handlers must wear:

- ✧ Long-sleeved shirt and long pants
- ✧ Chemical-resistant gloves such as barrier laminate or butyl rubber >13 mils, nitrile rubber >13 mils, or Viton® >11 mils
- ✧ Shoes plus socks
- ✧ Protective eyewear

Follow manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

ENGINEERING CONTROLS STATEMENT

When handlers use closed systems, enclosed cabs, or aircraft in a manner that meets the requirements listed in the Worker Protection Standard (WPS) for agricultural pesticides [40 CFR 170.240 (d) (4-6)], the handler PPE requirements may be reduced or modified as specified in the WPS.

USER SAFETY RECOMMENDATIONS

Users should wash hands before eating, drinking, chewing gum, using tobacco, or using the toilet.

Users should remove clothing immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.

Users should remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as practical, wash thoroughly and change into clean clothing.

ENVIRONMENTAL HAZARDS

THIS PRODUCT IS TOXIC TO FISH. DO NOT APPLY DIRECTLY TO WATER, OR TO 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 APPLY WHEN WEATHER CONDITIONS FAVOR DRIFT FROM AREAS TREATED. DO NOT CONTAMINATE WATER WHEN CLEANING EQUIPMENT OR DISPOSING OF EQUIPMENT WASHWATERS.

PHYSICAL OR CHEMICAL HAZARDS

DO NOT USE OR STORE NEAR HEAT OR OPEN FLAME.

STORAGE AND DISPOSAL

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

STORAGE: Store in original container and keep closed. Store in a cool, dry place. Do not use or store near heat or open flame.

PESTICIDE DISPOSAL: Pesticide wastes are toxic. 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.

WHEN PACKAGED IN PLASTIC CONTAINERS:

Container Disposal: Triple rinse (or equivalent), then offer for recycling or reconditioning; or puncture and dispose of in a sanitary landfill; or by other procedures approved by State and local authorities.

**DO NOT REUSE THIS CONTAINER.
DESTROY WHEN EMPTY.**

[These statements are deleted when SVR packaging is used.]

WHEN PACKAGED IN SVR CONTAINERS:

ECHO SYSTEM® SVR Return Procedure: Return the ECHO SYSTEM SVR container clean (outside only) and empty to the place of business from which the BETANEX® Herbicide was purchased.

This ECHO SYSTEM SVR container is the sole property of AgrEvo USA Company.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. Read the entire Directions for Use before using this product.

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.

For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.

AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted-entry interval.

The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during restricted entry interval (REI) of 24 hours.

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is:

- ✧ Coveralls
- ✧ Chemical-resistant gloves such as barrier laminate, butyl rubber, nitrile rubber, or Viton
- ✧ Shoes plus socks
- ✧ Protective eyewear

GENERAL INFORMATION

When used as directed, BETANEX Herbicide is selective against weeds in sugar beets. Follow label directions carefully to avoid severe injury to sugar beets. For best results, spray weeds in the cotyledon stage which are actively growing and are not under water or heat stress. BETANEX Herbicide will control the following weeds:

Annual sowthistle	<i>Sonchus oleraceus</i>
Black nightshade	<i>Solanum nigrum</i>
Hairy nightshade	<i>Solanum sarrachoides</i>
Coast fiddleneck	<i>Amsinckia intermedia</i>
Common chickweed	<i>Stellaria media</i>
Common lambsquarters	<i>Chenopodium album</i>
Common ragweed	<i>Ambrosia artemisiifolia</i>
Groundcherry	<i>Physalis lanceifolia</i>
London rocket	<i>Sisymbrium irio</i>
Nettleleaf goosefoot	<i>Chenopodium murale</i>
Prostrate pigweed	<i>Amaranthus gracizans</i>
Purslane	<i>Portulaca oleracea</i>
Redroot pigweed	<i>Amaranthus retroflexus</i>
Shepherdspurse	<i>Capsella bursa-pastoris</i>
Wild buckwheat	<i>Polygonum convolvulus</i>
Wild mustard	<i>Brassica kaber</i>

USE PRECAUTIONS

DO NOT APPLY BETANEX HERBICIDE TO SUGAR BEETS LATER THAN 75 DAYS PRIOR TO HARVEST.

DO NOT EXCEED A TOTAL OF 12 PINTS BETANEX PER ACRE PER SEASON.

DO NOT APPLY THIS PRODUCT THROUGH ANY TYPE OF IRRIGATION SYSTEM.

BETANEX MAY CAUSE BEET INJURY IF THE CROP IS UNDER STRESS FROM ONE OR MORE OF THE FOLLOWING CONDITIONS:

- ✧ Rapid climatic changes from cool, overcast days, to hot (80°F or over) bright days. When the air temperature is, or is likely to be, above 80°F on the day of spraying, application should be made in the late afternoon when the temperature is decreasing
- ✧ Frost within 3 days prior to application or 7 days following treatment
- ✧ Windy conditions or drought
- ✧ Use of a preplant or preemergence herbicide or other chemicals
- ✧ Insect or disease injury
- ✧ Close cultivation

If stress conditions are present, delay application in order to give plants a chance to recover.

IMPORTANT: BETANEX Herbicide may cause temporary growth retardation and/or chlorosis or tipburn on sugar beets. Sugar beets usually resume normal growth within 10 days.

DO NOT OVERTREAT: The use of higher than recommended rates may cause beet injury and/or carry over problems when tank mixed with Norton® SC Herbicide.

Do not spray while dew is present.

Rainfall or sprinkler irrigation within 6 hours of spraying may reduce weed kill.

Do not allow spray drift to contact adjacent crops which may be injured by spray drift.

PRACTICES TO LOWER THE POTENTIAL FOR SPRAY DRIFT

Avoiding spray drift at the application site is the responsibility of the applicator. The interactions of many equipment- and weather-related factors determine the potential for spray drift. The applicator and the grower are responsible for considering all these factors when making decisions.

The following drift management requirements must be followed to avoid off-target drift movement from aerial applications to agricultural field crops. These requirements do not apply to forestry applications, public health uses, or to applications using dry formulations.

1. The distance of the outer most nozzles on the boom must not exceed $\frac{3}{4}$ the length of the wingspan or rotor.
2. Nozzles must always point backward, parallel with the air stream, and never be pointed downward more than 45 degrees.

Where States or Tribes have more stringent regulations, they should be observed.

The applicator should be familiar with, and take into account, the information covered in the *Aerial Drift Reduction Advisory Information*.

AERIAL DRIFT REDUCTION ADVISORY INFORMATION Information On Droplet Size

The most effective way to reduce drift potential is to apply large droplets. The best drift management strategy is to apply the largest droplets that provide sufficient coverage and control. Applying larger droplets reduces drift potential, but will not prevent drift if applications are made improperly, or under unfavorable environmental conditions. (See *Wind, Temperature and Humidity, and Temperature Inversions.*)

Controlling Droplet Size:

- **Volume** – Use high flow rate nozzles to apply the highest practical spray volume. Nozzles with higher rated flows produce larger droplets.
- **Pressure** – Do not exceed the nozzle manufacturer's recommended pressures. For many nozzle types lower pressure produces larger droplets. When higher flow rates are needed, use higher flow rate nozzles instead of increasing pressure.
- **Number of Nozzles** – Use the minimum number of nozzles that provide uniform coverage.
- **Nozzle Orientation** – Orienting nozzles so that the spray is released parallel to the airstream produces larger droplets than other orientations and is the recommended practice. Significant deflection from horizontal will reduce droplet size and increase drift potential.
- **Nozzle Type** – Use a nozzle type that is designed for the intended application. With most nozzle types, narrower spray angles produce larger droplets. Consider using low-drift nozzles. Solid stream nozzles oriented straight back produce the largest droplets and the lowest drift.

Boom Length:

For some use patterns, reducing the effective boom length to less than $\frac{3}{4}$ of the wingspan or rotor length may further reduce drift without reducing swath width.

Application Height:

Applications should not be made at a height greater than 10 feet above the top of the largest plants unless a greater height is required for aircraft safety. Making applications at the lowest height that is safe reduces exposure of droplets to evaporation and wind.

Swath Adjustment:

When applications are made with a crosswind, the swath will be displaced downward. Therefore, on the up and downwind edges of the field, the applicator must compensate for this displacement by adjusting the path of the aircraft upwind. Swath adjustment distance should increase, with increasing drift potential (higher wind, smaller drops, etc.).

Wind:

Drift potential is lowest between windspeeds of 2 to 10 mph. However, many factors, including droplet size and equipment type determine drift potential at any given speed. Application should be avoided below 2 mph due to variable wind direction and high inversion potential. NOTE: Local terrain can influence wind patterns. Every applicator should be familiar with local wind patterns and how they affect spray drift.

Temperature and Humidity:

When making applications in low relative humidity, set up equipment to produce larger droplets to compensate for evaporation. Droplet evaporation is most severe when conditions are both hot and dry.

Temperature Inversions:

Avoid applications during a temperature inversion because drift potential is high. Temperature inversions restrict vertical air mixing, which causes small suspended droplets to

remain in a concentrated cloud. This cloud can move in unpredictable directions due to the light variable winds common during inversions. Temperature inversions are characterized by increasing temperatures with altitude and are common on nights with limited cloud cover and light-to-no wind. They begin to form as the sun sets and often continue into the morning. Their presence can be indicated by ground fog; however, if the fog is not present, inversions can also be identified by the movement of smoke from a ground source or an aircraft smoke generator. Smoke that layers and moves laterally in a concentrated cloud (under low wind conditions) indicates an inversion, while smoke that moves upward and rapidly dissipates indicates good vertical air mixing.

The pesticide should be applied when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, nontarget crops) is minimal (e.g., when wind is blowing away from sensitive areas).

MIXING THE SPRAY:

MAKE SURE THE SPRAYER IS CLEAN.

BETANEX emulsifiable concentrate formulation contains sufficient wetting agents for optimum coverage. Do not add additional wetting agents or other spray adjuvants except as specified on the micro-rate supplemental label. Add sufficient water to fill the lines, then add the desired amount of BETANEX Herbicide and the remaining quantity of water with the bypass agitator running. Bypass agitation is sufficient; mechanical agitation is not necessary. Only use freshly prepared spray emulsions.

Always spray immediately after preparing the spray solution. Prepare only enough spray solution to last less than four hours.

RATES OF APPLICATION

MULTIPLE (LOW RATE) APPLICATIONS

(ALL SUGAR BEET AREAS EXCEPT CALIFORNIA):

Multiple (low rate) applications of BETANEX Herbicide may be applied by air or ground to sugar beets to control early germinating weeds. The first application must be applied when the earliest emerging weeds have reached cotyledon size. See *Chart 1* for broadcast rates. For broadcast applications with ground equipment, apply in 10 to 20 gallons of water per acre. Use 5 to 15 gallons of water per acre with aerial application. See *Chart 2* for equivalent band rates. Any weeds which are not completely controlled by the first treatment will usually be checked and controlled by repeat applications. The repeat application should be made 5 to 7 days after the preceding application, or when another flush of weeds germinates. If the second application is delayed, conventional treatment will be necessary; see *Conventional Applications*.

To avoid excessive phytotoxicity to fall-planted sugar beets south of the Tehachapi Mountains in California when temperatures are above 85°F, apply BETANEX at the rate of 1 pint per acre (broadcast equivalent). Evening applications are recommended.

BETANEX Herbicide applied postemergence in a tank mix with NORTON SC Herbicide (see *Chart 3*) broadens and enhances the control of troublesome weeds. In addition, it provides control of Ladysthumb (*Polygonum persicaria*) and Pennsylvania smartweed (*Polygonum pennsylvanicum*).

For further information, contact your County Agricultural Agent, Farm Advisor or AgrEvo USA Company.

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CHART 1 DOSAGE CHART FOR MULTIPLE (LOW RATE) BROADCAST APPLICATIONS

Weed Stage*	Pints/Acre Broadcast		
	BETANEX ALONE	BETANEX + NORTRON SC	
Cotyledon	1.5-3.0	1.5	+ 0.25
2 leaf	2.0-3.0	2.0	+ 0.33
4 leaf	3.0-4.5	3.0	+ 0.5

*Applications should begin at the cotyledon stage of the weeds.

*Higher dosage rates could be required, depending on the advancement of the weed stage.

*Do not exceed 1.5 pt./acre when sugarbeets are at or less than the cotyledon stage.

*Early two true-leaf sugar beets tend to be the most susceptible to phytotoxicity.

CHART 2 BETANEX DOSAGE CHART FOR BAND APPLICATION

Broadcast Equivalent	Band Width	Band Rate — Row Spacing (fluid ounces)			
		22"	24"	28"	30"
1.50 pints/acre	5"	5.5	5.0	4.3	4.0
	7"	7.6	7.0	6.0	5.6
2.0 pints/acre	5"	7.3	6.7	5.7	5.3
	7"	10.2	9.3	8.0	7.5
3.0 pints/acre	5"	10.9	10.0	8.6	8.0
	7"	15.3	14.0	12.0	11.2
4.5 pints/acre	5"	16.4	15.0	12.9	12.0
	7"	22.9	21.0	18.0	16.8
6.0 pints/acre	5"	21.8	20.0	17.1	16.0
	7"	30.5	28.0	24.0	22.4
7.5 pints/acre	5"	27.3	25.0	21.4	20.0
	7"	38.2	35.0	30.0	28.0

CHART 3 NORTRON SC DOSAGE CHART FOR MULTIPLE (LOW RATE) BAND APPLICATIONS

Broadcast Equivalent	Band Width	Band Rate — Row Spacing (fluid ounces)			
		22"	24"	28"	30"
0.25 pints/acre	5"	0.9	0.8	0.7	0.7
	7"	1.3	1.2	1.0	0.9
0.33 pints/acre	5"	1.2	1.1	0.9	0.9
	7"	1.7	1.5	1.3	1.2
0.5 pints/acre	5"	1.8	1.7	1.4	1.3
	7"	2.5	2.3	2.0	1.9

CONVENTIONAL APPLICATIONS

By Ground: Apply BETANEX Herbicide at the rate of 4.5 to 7.5 pints per acre in 20 to 50 gallons of water broadcast basis. For band application, see Chart 2.

By Air: Apply BETANEX Herbicide at the rate of 4.5 to 7.5 pints per acre using 5 to 15 gallons of spray per acre.

Apply the 4.5 to 7.5 pint rates only to sugar beets past the two true-leaf stage. Use the 7.5-pint rate only on well-established sugar beets which are not under stress. The stage of growth of the weeds is very important for satisfactory control. For best results, spray when the weeds are at the two true-leaf stage or smaller, are actively growing and are not under water or heat stress.

In order to avoid phytotoxic spray drift to nontarget crops during application of BETANEX, the following buffer zones should be observed:

Cotton, Potatoes, Sunflowers, Sorghum, Wheat	50 feet
Blackeye beans, Cabbage, Flax	100 feet
Lettuce, Rape, Tomatoes	300 feet

DO NOT APPLY WHEN WIND SPEED IS OVER 10 MILES PER HOUR. AVOID APPLICATIONS WHEN CONDITIONS FAVOR DRIFT.

REPEAT APPLICATION OF BETANEX: For control of later germinating weeds, make a second application of BETANEX Herbicide; use 4.5 to 6 pints of BETANEX. Allow at least 7 days between first and second applications. Apply when sugar beets have at least 4 leaves. For best results, use the higher rate and spray when weeds are at the two true-leaf stage. Apply lower rates when the sugar beets are under stress as explained in the *Use Precautions* section.

TANK MIX COMBINATIONS

When tank mixing, read and follow the label for each tank mix product used for precautionary statements, directions for use, weeds controlled, geographic, and other restrictions. Use in accordance with the most restrictive of label limitations and precautions. No label dosage should be exceeded. This product cannot be mixed with any product containing a label prohibition against such mixing.

BETANEX Herbicide can be tank mixed with the following broadleaf herbicides for improved broadleaf weed control if application timing is correct for the tank mix products.

Herbicide	Use Rate (pt./A)
Stinger®*	0.25–0.50
BETAMIX®	See Chart 4
PROGRESS®	See Chart 4

*The BETANEX + Stinger tank mix should be applied when sugar beets are in the two true-leaf stage or larger.

CHART 4

DOSAGE CHART FOR TANK MIXES OF BETAMIX OR PROGRESS WITH BETANEX

Desired Rate (Pints/acre Broadcast)	BETAMIX + BETANEX (Pints/acre Broadcast)	PROGRESS + BETANEX (Pints/acre Broadcast)
1.13	0.57 + 0.57	0.43 + 0.57
1.25	0.63 + 0.63	0.47 + 0.63
1.33	0.67 + 0.67	0.50 + 0.67
1.50	0.75 + 0.75	0.56 + 0.75
1.75	0.88 + 0.88	0.66 + 0.88
2.25	1.13 + 1.13	0.85 + 1.13
3.25	1.63 + 1.63	1.22 + 1.63
5.0	2.50 + 2.50	1.88 + 2.50

TRADEMARK INFORMATION

Betanex, Betamix, and Progress are registered trademarks of Hoechst Schering AgrEvo GmbH.

Viton is a registered trademark of DuPont Company.

Stinger is a registered trademark of DowElanco.

IMPORTANT: READ BEFORE USE

By using this product, user or buyer accepts the following conditions, warranty, disclaimer of warranties and limitations of liability.

CONDITIONS: The directions for use of this product are believed to be adequate and should be followed carefully. However, because of extreme weather and soil conditions, manner of use and other factors beyond AgrEvo USA Company's control, it is impossible for AgrEvo USA Company to eliminate all risks associated with the use of this product. As a result, crop injury or ineffectiveness is always possible. All such risks shall be assumed by the user or buyer.

DISCLAIMER OF WARRANTIES: THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, WHICH EXTEND BEYOND THE STATEMENTS MADE ON THIS LABEL. No agent of AgrEvo USA Company is authorized to make any warranties beyond those contained herein or to modify the warranties contained herein. AgrEvo USA Company disclaims any liability whatsoever for incidental or consequential damages, including, but not limited to, liability arising out of breach of contract, express or implied warranty (including warranties of merchantability and fitness for a particular purpose), tort, negligence, strict liability or otherwise.

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