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11/18/2003

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



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

OFFICE OF
PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

November 18, 2003

Hübert R. O'Neal, PhD
Regulatory Consultant for
KMG-Bernuth, Inc.
11202 Pecan Creek Drive
Houston, TX 77043-4613

Subject: Penta 5 Sure-Treat Wood Protector Wood Preserver
EPA Registration No. 61483-1
Application Date: September 22, 2003
EPA Received Date: September 30, 2003

Dear Dr. O'Neal:

The following amendment, submitted in connection with registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, is acceptable with the conditions listed below:

Proposed Amendment

- Revise First Aid Statements
- Revise Warranty Statement
- Clarification of Hazards to Humans and Domestic Animals Statement
- Revision and Consolidation of Storage and Disposal Statements
- Revised Basic Confidential Statement of Formula (see CSF dated 9/22/03)

Product Chemistry

CONCURRENCES

SYMBOL	7510C						
JRNAME	Stacy						
DATE	11-18-03						

Conditions

Revise the label as follows:

1. Revise "EPA Reg. No. 61481-1" to read "EPA Reg. No. 61483-1" to agree with the product's correct registration number.
2. Delete the statement "...and must be diluted with a diluent petroleum solvent. The product mixes easily with solvents such as kerosene, fuel oil, mineral spirits or petroleum distillates. Solutions containing pentachlorophenol in ranges from 5 to 40% have been used successfully in treating wood to extend its useful service life." This statement contradicts the previous statement which describes this product as ready to use. This product also contains less than 5% pentachlorophenol, making the second part of the statement void.

General Comments

The revised basic confidential statement of formula (CSF), dated September 22, 2003, supersedes all previously accepted basic formulas.

A stamped copy of the labeling accepted with conditions is enclosed. Submit three(3) copies of your final printed labeling before distributing or selling the product bearing the revised labeling.

Should you have any questions or comments concerning this letter, please contact me at 703-308-6422.

Sincerely,



Adam Heyward
Product Manager 34
Regulatory Management Branch II
Antimicrobials Division (7510 C)

RESTRICTED USE PESTICIDE
DUE TO FETOTOXICITY AND ONCOGENICITY IN LABORATORY ANIMALS
For retail sale and use only by Certified Applicators or by persons under their direct supervision and only for those uses covered by the Certified Applicator's certification.

PENTA 5 SURE TREAT
WOOD PROTECTOR WOOD PRESERVER

UN 1306

PROTECTS AGAINST TERMITES, WOOD ROTTING FUNGI, LYCTUS POWDER, POST BEETLES AND OTHER WOOD DEGRADING ORGANISM

A CONCENTRATE PENTA SOLUTION FOR USE IN THE PROTECTION OF WOOD

ACTIVE INGREDIENTS	
PENTACHLOROPHENOL*	4.3%
OTHER CHLOROPHENOLS AND RELATED INGREDIENTS...	0.5%
OTHER INGREDIENTS	95.2%
TOTAL	100.0%

Equivalent to 4.8% Technical Pentachlorophenol

EPA Reg. No. 61481-1

EPA Est. No. 61483-AL-1
54816-MX-1

KEEP OUT OF REACH OF CHILDREN

ACCEPTED
with COMMENTS
EPA Letter Dated:

NOV 18 2003

Under the Federal Insecticide,
Fungicide and Rodenticide Act as
amended for the pesticide,
registered under EPA Reg. No. **DANGER**
61483-1



POISON

FIRST AID

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 give anything by mouth to an unconscious person. Do not induce vomiting unless told to by a poison control center or doctor.

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. Call a poison control center or doctor for treatment advice.

IF ON SKIN OR CLOTHING: 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 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.

NOTE TO PHYSICIAN: This product is a metabolic stimulant. Treatment is supportive. Forced Diuresis may be effective to reduce total body-burden. Treat hyperthermia with physical measures. Do not administer aspirin, phenothiazines or atropine since they may enhance toxicity.

Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may also contact 1-800-424-9300 for emergency medical treatment.

Net Contents: _____

KMG-BERNUTH, INC.
10611 Harwin Drive, Suite 402
Houston, Texas 77036

**CONDITIONS OF SALE AND
LIMITATION OF WARRANTY AND LIABILITY**

NOTICE: Read the entire Directions for Use and Conditions of Sale and Limitation of Warranty and Liability before buying or using this product. If the terms are not acceptable, return the product at once, unopened, and the purchase price will be refunded.

The Directions for Use of this product should be followed carefully. 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 manner of use or application, weather or crop conditions, presence of other materials or other influencing factors in the use of the product, which are beyond the control of **KMG-BERNUTH, INC** or Seller. All such risks shall be assumed by Buyer and User, and Buyer and User agree to hold **KMG-BERNUTH, INC** and Seller harmless for any claims relating to such factors.

KMG-BERNUTH, INC warrants that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated in the Directions for Use, subject to the inherent risks referred to above, when used in accordance with directions under normal use conditions. This warranty does not extend to the use of this product contrary to label instructions, or under abnormal conditions or under conditions not reasonably foreseeable to or beyond the control of Seller or **KMG-BERNUTH, INC**, and Buyer and User assume the risk of any such use. **KMG-BERNUTH, INC MAKES NO WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE NOR ANY OTHER EXPRESS OR IMPLIED WARRANTY EXCEPT AS STATED ABOVE.**

In no event shall **KMG-BERNUTH, INC** or Seller be liable for any incidental, consequential or special damages resulting from the use or handling of this product. **THE EXCLUSIVE REMEDY OF THE USER OR BUYER, AND THE EXCLUSIVE LIABILITY OF KMG-BERNUTH, INC AND SELLER FOR ANY AND ALL CLAIMS, LOSSES, INJURIES OR DAMAGES (INCLUDING CLAIMS BASED ON BREACH OF WARRANTY, CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE) RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT SHALL BE THE RETURN OF THE PURCHASE PRICE OF THE PRODUCT OR, AT THE ELECTION OF KMG-BERNUTH, INC OR SELLER, THE REPLACEMENT OF THE PRODUCT.**

KMG-BERNUTH, INC and Seller offer this product, and Buyer and User accept it, subject to the foregoing conditions of sale and limitations of warranty and of liability, which may not be modified except by written agreement signed by a duly authorized representative of **KMG-BERNUTH, INC.**

with COMMENTS
to Seller Dated:

NOV 18 2003

Registered under EPA Reg. No. 61483-1

PRECAUTIONARY STATEMENTS

HAZARDS TO HUMANS AND DOMESTIC ANIMALS

DANGER

Maybe fatal if swallowed, inhaled, or absorbed through skin. Causes skin and eye irritation. Causes delayed chemical burns. Do not get in eyes, on skin or on clothing. Do not breathe vapors, spray mist, or dust. Use with adequate ventilation. Do not take internally. Wash thoroughly after skin contact, before eating, drinking, use of tobacco products, or using restrooms.

The U. S. EPA has determined that pentachlorophenol can produce defects in the offspring of laboratory animals. Exposure to pentachlorophenol during pregnancy should be avoided.

Applicators must wear a long sleeved shirt, long pants along with gloves and an apron which are impervious to the wood treatment formulations (e.g., Polyvinyl acetate (PVA), Polyvinyl chloride (PVC), or Neoprene) in all situations where dermal contact is expected (e.g., during the actual application process and when handling freshly treated wood).

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).

Individuals who manually open cylinder doors must wear gloves and a respirator.

Individuals who enter pressure treatment cylinders and other related equipment that is contaminated with wood treatment formulation (e.g., cylinders that are in operation or are not free of the treatment solution) must wear protective clothing (including overalls, jackets, gloves, and boots) impervious to the wood treatment formulation, and a respirator.

Protective clothing must be changed when it shows signs of contamination. Applicators must leave all protective clothing, workshoes or boots, and equipment at the plant. Worn-out protective clothing and workshoes or boots must be left at the treatment plant and disposed of in any general landfill, in the trash, or in any other manner approved for pesticide disposal.

NOTE TO USER: As used on this label, the term "respirators" means properly fitting, well-maintained, half-mask canister or cartridge respirators which are MSHA/NIOSH-approved for organic vapors and acid gases. Examples of acceptable materials for protective clothing (e.g., gloves, overalls, jackets, and boots) required during application and handling of pentachlorophenol are polyvinyl acetate (PVA), polyvinyl chloride (PVC), neoprene, NBR (Buna-N), and nitrile. In addition, plastic-coated disposable coveralls impervious to dust are acceptable for dust protections.

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ENVIRONMENTAL HAZARDS

This product is toxic to fish and wildlife. 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 contaminate water by cleaning of equipment or disposal of wastes.

Do not discharge effluent containing this product into lakes, streams, ponds, estuaries, oceans or other waters unless and in accordance with requirements of a National Pollutant Discharge Elimination System (NPDES) permit, and that the permitting authority has been notified in writing prior to discharge. Do not discharge effluent containing this product to sewer systems without previously notifying a local sewage treatment plant authority. For guidelines, contact your State Water Board or Regional Office of the EPA.

PHYSICAL AND CHEMICAL HAZARDS

Do not use or store near heat or open flames. Close container after each use.

The registrant has complied with all terms and conditions of the registration governing the composition of this product as approved by the United State Environmental Protection Agency under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act. The use of this product for any purpose other than those stated on the label, including use of this product in the manufacture or formulation of other pesticide products or in repackaging of the product, is prohibited.

DIRECTIONS FOR USE

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

ACCEPTED
with COMMENTS
EPA Letter Dated:
NOV 18 2003
Under the Federal Insecticide,
Fungicide, and Rodenticide Act as
amended, and the pesticide,
Penta 5 Sure Treat, Reg. No. 614831

This product: is intended for exterior use.
is not intended for home and farm use.
must not be used for pressure or dip treating logs used in the construction of log homes except laminated beams or building components which are in ground contact and are subject to decay or insect infestation and where two coats of an appropriate sealer are applied. Urethane, shellac, latex, epoxy, enamel and varnish are acceptable sealers for pentachlorophenol treated wood.

This product is ready to use. and must be diluted with a diluent petroleum solvent. The product mixes easily with solvents such as kerosene, fuel oil, mineral spirits or petroleum distillates. Solutions containing pentachlorophenol in ranges from 5 to 40% have been used successfully in treating wood to extend its useful service life. To protect dry and/or seasoned lumber, timbers, posts, poles and other wooden members before construction and before placing in contact with the soil, the wood should be treated in a commercial vessel capable of physically (by pressure, temperature or time) impregnating the wood and providing adequate penetration and retention. If temperature or time is used as the treating parameter, treat for 12 to 48 hours or until effective retention and penetration is achieved.

All wooden members should be free of bark before receiving treatment.

STORAGE AND DISPOSAL

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

STORAGE: KEEP AWAY FROM FIRE. DO NOT STORE NEAR OPEN FLAME. Storage of this product in unheated vessels is possible. Viscosity increases as temperature decreases. Avoid temperatures above 150 F. Containment areas are required. Observe all safety precautions. Do not contaminate with other materials. Do not mix with other pesticides or preservatives. Wear protective clothing, gloves and goggles when handling.

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.

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.

ACCEPTED
WITH COMMENTS
In EPA Letter Dated

NOV 18 2003

Registered Product No. 61483-1