

61483-2

10/18/2010

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



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

OCT 18 2010

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

Dr. Hubert R. O'Neal
Regulatory Consultant
KMG-Bernuth, Inc.
9555 W. Sam Houston Pkw. S. Ste 600
Houston, TX 77099

Subject: Dura-Treat 40
EPA Registration No. 61483-2
Application Date: July 12, 2010
EPA Receipt Date: July 20, 2010

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 conditions.

Proposed Amendment:

- Update container disposal statements per PR Notice 2007-4
- Add mitigation language from Pentachlorophenol RED

Conditions

Revise the label as follows:

- 1.) According to PR Notice 2001-1, the "First Aid" statements must be organized such that the most severe route of exposure, as demonstrated by the toxicity classification, is listed first. Based on the Penta RED's acute toxicology profile, the "First Aid" statements must be reorder as follows: If inhaled, If swallowed, If in eyes, if on skin or clothing.
- 2.) The "Precautionary Statements" on page 3 must be updated to be in agreement with the acute toxicity profile outlined in the Penta RED by stating the following:

Fatal if inhaled. Maybe fatal if swallowed. Causes substantial but temporary eye injury. Do not get in eyes, on skin, or on clothing. Do not breathe vapors. Use with adequate ventilation. Wear protective eyewear, clothing, and chemical resistant gloves. Wear half mask elastomeric respirator with the appropriate cartridges and /or filters. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco, or using the toilet.

- 3.) Revise the "User Safety Recommendations" section to be in compliance with PR Notice 2000-5, Mandatory Labeling, by deleting the term, should, and stating *must.* Also, revise the section heading to read "User Safety Instructions."

CONCURRENCES						
SYMBOL						
SURNAME						
DATE						

- 4.) Revise the statement, "All wooden members...receiving treatment," on page 5 to be in compliance with PR Notice 2000-5, Mandatory Labeling, by deleting the term, should, and stating "must."
- 5.) Revise the "Container Disposal" statements by adding the statements, "Nonrefillable container. Do not reuse or refill this container."

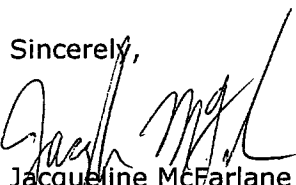
Please Note: If this product is sold in bulk tankers, then the container is exempt from the Container Rule requirements.

General Comments:

A stamped copy of the accepted labeling is enclosed. Submit 1 copy of your final printed label before distributing or selling the product bearing the revised labeling.

Should you have any questions concerning this letter, please contact me at Cambell-mcfarlane.jacqueline@epa.gov or call (703) 308-6416.

Sincerely,



Jacqueline McFarlane
 Product Manager (34)
 Regulatory Management Branch II
 Antimicrobials Division (7510P)

Enclosure: Stamped Label

CONCURRENCES							
SYMBOL							
SURNAME							
DATE							

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.

DURA-TREAT 40
WOOD PRESERVER
UN 1306

A CONCENTRATE PENTA SOLUTION ONLY FOR PRESSURE AND THERMAL TREATMENT OF WOOD

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

ACTIVE INGREDIENTS	
PENTACHLOROPHENOL*	34.0%
OTHER CHLOROPHENOLS AND RELATED INGREDIENTS...	6.0%
OTHER INGREDIENTS.....	60.0%
TOTAL.....	100.0%

Equivalent to 40.0% Technical Pentachlorophenol

EPA Reg. No. 61483-2

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

ACCEPTED
with COMMENTS
EPA Letter Dated:

KEEP OUT OF REACH OF CHILDREN

OCT 18 2010

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

DANGER
61483-2



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 1-800-322-8177 for emergency medical treatment.

Net Contents: _____

KMG-BERNUTH, INC.
9555 W. Sam Houston Pkwy S.
Suite 600
Houston, Texas 77099

**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 must be followed carefully. However, it is impossible to eliminate all risks inherently associated with the use of this product. Ineffectiveness or other unintended consequences may result because of such factors as weather conditions, presence of other materials, or the manner of use or application, all of 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. To the extent consistent with applicable law, **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.

It is **KMG-BERNUTH, INC** intention that to the extent consistent with applicable law, **KMG-BERNUTH, INC** or the Seller shall not 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**.

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.

FOR CHEMICAL EMERGENCY. Spill, leak, fire, exposure, or accident call 1-800-322-8177.

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.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

All personnel handling treated wood or handling treating equipment (including poles/hooks used to retrieve charge cables) that has come in contact with preservative must wear the following PPE:

- washable or disposable coveralls or long-sleeved shirt and long pants,
- chemical resistant gloves, and
- socks plus industrial grade safety work boots with chemical resistant soles.

All personnel cleaning or maintaining the treatment cylinder gasket/equipment or working with concentrate or wood treatment preservative must wear the following PPE:

- washable or disposable coveralls or long-sleeved shirt and long pants,
- chemical resistant gloves,
- socks plus industrial grade safety work boots with chemical resistant soles, and
- a full face shield.

In the event of equipment malfunction, or for door spacer placement, all personnel located within 15 feet of the cylinder opening prior to cylinder ventilation must wear the following PPE:

- washable or disposable coveralls over long-sleeved shirt and long pants,
- chemical resistant gloves,
- socks plus industrial grade safety work boots with chemical resistant soles, and
- a properly fitting half mask elastomeric respirator with appropriate cartridges and/or filters.

Entry to confined spaces is regulated by Federal and/or State Occupational Safety and Health Programs. Compliance is mandated by law. Individuals who enter pressure treatment cylinders or other related equipment that is contaminated with the wood treatment preservative (e.g., cylinders that are not free of the treatment preservative or preservative storage tanks) must wear protective clothing and/or equipment as required by Federal and/or State Occupational Safety and Health Compliance laws.

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USER SAFETY REQUIREMENT

Personnel must leave aprons, protective coveralls, chemical resistant gloves, work footwear, and any other material contaminated with preservative at the treatment facility.

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

Discard clothing and other absorbent material that have been drenched or heavily contaminated with the product's concentrate. Do not reuse them.

Eating, drinking, and smoking are prohibited in the treatment cylinder load-out area, drip pad area, and engineering control room of the wood treatment facilities.

EXCEPTION: Where treating operator control rooms are isolated from the treating cylinders, drip pad, and work tanks, eating, drinking, and smoking (depending on local restrictions) are permitted.

USER SAFETY RECOMMENDATIONS

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

Users should remove clothing/PPE 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 possible, wash thoroughly and change into clean clothing.

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.

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 guidance, 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.

This product:

- is intended for exterior use.
- is not intended for interior home and farm use.
- must not be used for pressure or thermal 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 a concentrate 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. Add one part of DURA-TREAT 40 to nine parts of fuel oil, kerosene, or other hydrocarbon with the desired volatility, and mix well.

APPLICATION RESTRICTIONS:

Pressure treatment in commercial pressure facility allows for the attainment of proper retention and penetration levels and makes the treated wood products suitable for ground contact. 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 pressure treated in a commercial vessel capable of physically 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.

At the conclusion of the treatment, the cylinder must be ventilated by purging the post-treatment cylinder through fresh air exchange. The ventilation process is considered complete after a minimum of 2 volume exchanges based on the empty treatment cylinder volume. The exhaust pipe of the vacuum system or any air moving device utilized in

conducting the air purge must terminate into a containment vessel such as a treating solution work tank or water/effluent tank.

The ventilation process may be accomplished by one of the following methods: 1) activating an air purge system that operates while the cylinder door remains closed; or 2) using a device to open and hold open the cylinder door (no more than 6 inches) to allow adequate ventilation and activating the vacuum pump.

If the second method is utilized, at the conclusion of the treatment, no personnel may be within 15 feet of the cylinder when open (cracked) until the cylinder has been ventilated.

In the event of equipment malfunction, or to place the spacer to hold the door open during venting, only personnel wearing specified PPE are permitted within 15 feet of the cylinder opening prior to ventilation.

After ventilation is complete, the cylinder door may be completely opened.

After treatment, wood must be moved to a drip pad capable of recovering excess preservative until the wood is drip free.

The treatment process must include a final vacuum to remove excess preservative from the wood. The final vacuum must attain a vacuum equal to or greater than the initial vacuum. This vacuum must be held for an appropriate time period based on wood species, retention levels, and commodity treated to remove excess preservative from the wood.

For treated wood that will be used in marine or other aquatic or sensitive environments, a double vacuum must be used. Following the pressure period and once the pentachlorophenol has been pumped back to the work tank, a vacuum shall be applied for a minimum of one and a half hours at not less than 22 inches of Hg (560 Kpa) (adjusted for elevation) of vacuum to recover excess preservative. Then, depending on plant equipment: 1) vacuum for minimum of one and a half hours at not less than 22 inches of Hg (560 KPa)(adjusted for elevation); or 2) steam material for one hour minimum and then pull not less than 22 inches of Hg (560 KPa)(adjusted for elevation) vacuum for a minimum of one and a half hours. Maximum temperature during steaming shall not exceed 240 degrees F (115.5 degrees C), as specified in the Best Management Practices (Aug. 2006) issued by the Western Wood Preservers Association, Southern Pressure Treaters' Association, Timber Piling Council, and Wood Preservation Canada.

As of December 31, 2013, for elevated temperature pressure treatment with pentachlorophenol, automatic, remotely operated devices must be used to open, close, lock and unlock cylinder doors.

As of December 31, 2013, for ambient pentachlorophenol treatments, an automatic locking/unlocking device must be used to accomplish locking and unlocking of the cylinder door.

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Cylinder openings and door pits must use grating and additional measures such as sumps, dams or other devices which prevent or remove spillage of the preservative.

Personnel must not directly handle the charge cables, poles or hooks used to retrieve charge cables, or other equipment that has contacted the preservative without wearing chemical resistant gloves .

As of December 31, 2013, mechanical methods must be used to place/remove bridge rails.

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.