

61483-2

11/01/2011

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



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

JAN - 6 2011

Dr. Hubert R. O'Neal. Ph.D.
KMG-Bernuth, Inc.
9555 W. Sam Houston Pkwy S., Ste.600
Houston, TX 77099

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

Subject: Dura-Treat 40 Wood Preserver
EPA Registration Number 61483-2
Application Date: December 17, 2010
EPA Receipt Date: December 27, 2010

Dear Dr. O-Neal:

This acknowledges receipt of your notification, submitted under the provisions of FIFRA section 3 (c) 9 and PR Notice 98-10.

Proposed Notification

Revise label to provide clarifying language to directions

General Comments

Based on review of submitted materials, your notification to revise the use directions for clarity is acceptable and has been placed in your file for future reference.

If you have further questions concerning this letter, then please contact me at (703) 308-6416 or by email at campbell-mcfarlane.jacqueline@epa.gov or Killian Swift at (703) 308-6346 or by email at swift.killian@epa.gov. When you are submitting information or data in response to this letter, send a copy of this letter to accompany the submission in order to facilitate processing.

Sincerely,

Handwritten signature of Jacqueline Campbell-McFarlane
Jacqueline Campbell-McFarlane
Product Manager 34

Regulatory Management Branch II

Administrative Division (7510P)

CONCURRENCES								
SYMBOL								
SURNAME								
DATE								

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2013

Please read instructions on reverse before completing form

Form Approved OMB No. 2010-060. Approval expires 2-28-98

United States EPA Environmental Protection Agency Washington, DC 20460	<input type="checkbox"/> ts the Agency lin OPP Identifier Number
	<input type="checkbox"/> Amendment
	<input checked="" type="checkbox"/> Other

Application for Pesticide - Section 1

1. Company/Product Number 61483-2	2. EPA Product Manager Jacqueline McFarlane	3. Proposed Classification
4. Company/Product (Name) Dura-Treat 40 Wood Preserver	PM# 34	<input type="checkbox"/> None <input checked="" type="checkbox"/> Restricted
5. Name and Address of Applicant (Include Zip Code) KMG-Bernuth, Inc. 9555 W. Sam Houston Pkw. S. Ste 600 Houston, Texas 77099 <input type="checkbox"/> Check if this is a new address	6. Expedited Review. In accordance with FIFRA Section 3(c)(3)(b)(i), my product is similar or identical in composition and labeling to: EPA Reg. No. _____ Product Name _____	

Section - II

<input type="checkbox"/> Amendment - Explain Below.	<input type="checkbox"/> Final printed labels in response to Agency letter dated October 18, 2010
<input type="checkbox"/> Resubmission in response to Agency letter dated _____	<input type="checkbox"/> "Me Too" Application
<input type="checkbox"/> Notification - Explain below.	<input checked="" type="checkbox"/> Other - Explain below.

Explanation: Use additional page(s) if necessary. (For section I and section II.)

Notification submission for minor label change to clarify use instructions.
The minor change is on Page 5 of the label.

Section - III

1. Material This Product Will Be Packaged In:			
Child-Resistant Packaging <input type="checkbox"/> Yes <input type="checkbox"/> No <i>* Certification must be submitted</i>	Unit Packaging <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes" Unit Packaging Wt. _____ No. per container _____	Water Soluble Packaging <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes" Package Wt. _____ No. per container _____	2. Type of container <input type="checkbox"/> Metal <input type="checkbox"/> Plastic <input type="checkbox"/> Glass <input type="checkbox"/> Paper <input type="checkbox"/> Other (specify _____)
3. Location of Net Contents Information <input type="checkbox"/> Label <input type="checkbox"/> Container		4. Size(s) Retail Container	5. Location of Label Directions
6. Manner in Which Label is Affixed to Product		<input type="checkbox"/> Lithograph <input type="checkbox"/> Paper glued	<input type="checkbox"/> Stenciled <input type="checkbox"/> Other _____

Section - IV

1. Contact Point (Complete items directly below for identification of individual to be contacted, if necessary, to process this application.)		
Name Dr. Hubert R. O'Neal	Title Regulatory Consultant	Telephone No. (Include Area Code) (713) 819-3932
Certification I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law.		6. Date Application Received (Stamped)
2. Signature <i>Dr. Hubert R. O'Neal</i>	3. Title Regulatory Consultant	
4. Typed Name Dr. Hubert R. O'Neal	5. Date December 17, 2010	

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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

KEEP OUT OF REACH OF CHILDREN



DANGER

POISON

FIRST AID

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 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.

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 77099-2168

NOTIFICATION
Date Reviewed: 1/6/10
Reviewed By: RS

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**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**.

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PRECAUTIONARY STATEMENTS

HAZARDS TO HUMANS AND DOMESTIC ANIMALS

DANGER

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 products, or using the toilet.

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.

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 INSTRUCTIONS

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

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

Users must 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.

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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 up 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 must 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

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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.

Supplemental Labeling for Pentachlorophenol (P8-05)
EPA Reg. No. 61483-2

Pentachlorophenol (P8-08) is registered only for pressure and thermal treatment of wood. Wood treaters must not knowingly pressure treat wood commodities that are not encompassed by the following use category tables, which provides examples (not all inclusive) from the American Wood Protection Association (AWPA) Use Category System, as set forth in the most current edition of the AWPA Book of Standards. Pentachlorophenol should not be used to treat materials intended for interior use other than laminated beams installed under conditions that could potentially cause decay and to which 2 coats of urethane or similar sealer are applied.

AWPA Commodity Specification: Crossties and Switch Ties	
AWPA Use Category	Commodity Examples
UC 4A, 4B, and 4C	Crossties and Switch Ties, produced from all wood species recognized by AWPA for this commodity. Manufactured to meet AWPA specifications.

AWPA Commodity Specification: Posts	
AWPA Use Category	Commodity Examples
UC4A	Posts, round, 1/2 and 1/4 round for highway construction (including guide, sign and sight) and farm fencing
UC4B	Posts, round, 1/2 and 1/4 round for highway construction (including guardrail posts, spacer blocks), farm fencing, and for road salt/brine storage Posts, round, 1/2 and 1/4 round for building construction Round posts, for structural members in agricultural uses

AWPA Commodity Specification: Poles	
AWPA Use Category	Commodity Examples
UC 4A, 4B, and 4C	Utility poles (including laminated) Poles for highway and agricultural construction, lighting, building structural use

Note: poles may be glue-or mechanically-laminated

AWPA Commodity Specification: Piling	
AWPA Use Category	Commodity Examples
UC 4C	Foundation and Land & Fresh Water Piles

AWPA Commodity Specification: Wood Composites	
AWPA Use Category	Commodity Examples
UC 1, 2, and 3B	Composite lumber for structural uses Glue- or nail-laminated structural members Plywood for agriculture, and farm use
UC 4A	PSL & LVL composite lumber for highway construction Members (laminates) Plywood for bridge and farm/agricultural use
UC 4B	Plywood for marine use in salt water splash zones Plywood for road salt/brine storage, highway construction materials Composite lumber for bridge and highway construction Glue-laminate members (important structural or saltwater splash)
UC4C	Composite (PSL & LVL) lumber highway structural use Members (laminates) for critical structural uses

Note: laminates can be glued or mechanically fastened and can be treated before or after lamination

Note: PSL = parallel strand lumber, LVL = laminated veneer lumber

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