

61483-13

5/26/2009

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

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Dr. Hubert R. O'Neal
KMG-Bernuth, Inc.
4109 Granada Drive
Georgetown, TX 78628-1617

MAY 26 2009

Subject: Organic Arsenical (MSMA) Label Amendment
Product Names ; EPA Reg. Nos.
~~Daconate; 61483-13~~
Daconate 6; 61483-14
Applications dated May 7, 2009

Dear Dr. O'Neal:

The labeling referred to above, submitted in connection with registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, is acceptable provided you make the following revision before you release the product for shipment.

- 1. Labels must include Aerial Spray Drift Management text.

Submit the following confirmatory data to support the use of MSMA on cotton no later than August 30, 2010:

- a. Magnitude of the residue in meat and milk (Guideline 860.1480)
 - i. Registrants must develop confirmatory data that demonstrate no detectable residues of inorganic arsenic will be found in the edible tissues and milk of cows consuming cotton feed items treated with MSMA. Data may be developed in a tiered fashion.
- b. Field rotational crop study (Guideline 860.1900)
 - i. Registrants must provide data demonstrating no residues of inorganic arsenic in food crops (peanuts) that are rotated with cotton. This requirement may be satisfied with data from the open literature or a new study conducted in accordance with Guideline 860.1900.

Continued on Page 2

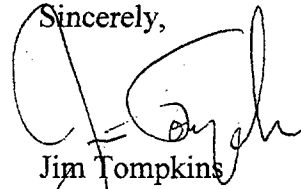
Page 2

Organic Arsenical (MSMA) Label Amendment
EPA Reg. Nos. 61483-13 and 61483-14

Amended labeling will supercede all previously accepted ones. A stamped copy of labeling is enclosed for your records.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Tompkins", written over a circular stamp.

Jim Tompkins
Product Manager 25
Herbicide Branch
Registration Division (7505P)

3/10

ACCEPTED
with COMMENTS
in EPA Letter Dated
MAY 26 2009

Page 1 of 8
Daconate
5/05/09

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

61483-13

Daconate®

MSMA Plus Surfactant for Postemergence Weed Control

ACTIVE INGREDIENT:

Monosodium Acid Methanearsonate35.2%

OTHER INGREDIENTS:64.8%

TOTAL:100.0%

Total Arsenic, all in water-soluble form, expressed as elemental16.3%

Product Contains 4.0 Pounds MSMA Per Gallon

EPA Reg.No. 61483-13

EPA Est. No. 054816-MX-1

KEEP OUT OF REACH OF CHILDREN CAUTION

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.

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. Crop injury, 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

CAUTION

Harmful if swallowed or absorbed through the skin. Avoid contact with eyes, skin or clothing. Avoid breathing vapors or spray mist.

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

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Some materials that are chemical-resistant to this product are butyl rubber, neoprene and polyvinyl chloride (PVC). If you want more options, follow the instructions for category A on an EPA chemical-resistance category selection chart.

All mixers, loaders, applicators and other handlers must wear:

- Long-sleeved shirt and long pants
- Shoes plus socks
- Chemical-resistant gloves

For exposures in enclosed areas:

- A respirator with an organic vapor-removing cartridge with a prefilter approved for pesticides (MSHA/NIOSH approval number prefix TC-23C), or a canister approved for pesticides (MSHA/NIOSH approval number prefix TC-14G), or a NIOSH approved respirator with an organic vapor (OV) cartridge or canister with any N, R, P or HE prefilter.

For exposures outdoors:

- Dust/mist filtering respirator (MSHA/ NIOSH approval number prefix TC-21 C) or a NIOSH approved respirator with any N, R, P or HE filter.

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.

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.

Remove clothing immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.

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.

ENVIRONMENTAL HAZARDS

DO NOT apply directly to water, to areas where surface water is present or to intertidal areas below the mean high water mark.

DO NOT contaminate water by disposal of equipment washwaters.

DO NOT feed treated foliage to livestock or graze treated areas.

DO NOT spray or allow drift onto vegetables, ornamentals or other desirable plants.

DO NOT apply when weather conditions favor drift from target area.

DO NOT contaminate water by cleaning of equipment or disposal of wastes.

DIRECTIONS FOR USE

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

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.

DO NOT apply this product in Florida except on cotton in the counties listed in the cotton use section of the label.

Aerial application is prohibited, except when applying to cotton.

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 the restricted entry interval (REI) of 12 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 made of any waterproof material
- Shoes plus socks
- Protective eyewear

NON-AGRICULTURAL USE REQUIREMENTS

The requirements in this box apply to uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR Part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries, or greenhouses.

Keep children and domestic animals off treated areas until spray has dried or this material has been washed into the soil.

GENERAL INFORMATION

DACONATE is a postemergence herbicide for use on cotton, golf courses, sod farms, and highway rights-of-way (ROW).

DACONATE contains a surfactant (wetting agent) in proper ratio for best results. It is not necessary to add additional surfactant to the spray tank. Local conditions and recommendations vary; consult local agricultural experiment station or extension service weed specialists for recommendations in your area.

A list of weeds controlled with DACONATE includes:

- | | |
|---|--|
| Bahiagrass (<i>Paspalum sp.</i>) | Guineagrass (<i>Panicum sp.</i>) |
| Barnyardgrass (<i>Echinochloa crus-galli</i>) | Jimsonweed (<i>Datura stramonium</i>) |
| Beggartick, hairy (<i>Bidens pilosa</i>) | Johnsongrass (<i>Sorghum halipense</i>) |
| Brachiaria spp. | Morningglory (<i>Ipomoea spp.</i>) |
| Broomsedge | Mustard, wild |
| Chickweed (<i>Stellaria media</i>) | Nutsedge (<i>Cyperus sp.</i>) |
| Cocklebur (<i>Xanthium spinosum</i>) | Oats, wild (<i>Avena fatua</i>) |
| Crabgrass, large (<i>Digitaria sp.</i>) | Pigweed (<i>Amaranthus sp.</i>) |
| Crabgrass, smooth (<i>Digitaria sp.</i>) | Puncturevine (<i>Tribulusterrestris</i>) |
| Dallisgrass (<i>Paspalum dilatatum</i>) | Purslane, common |
| Dandelion (<i>Taraxacum officinale</i>) | Ragweed (<i>Ambrosia spp.</i>) |
| Dayflower (<i>Commelina sp.</i>) | Sandbur (<i>Cenchrus sp.</i>) |
| Fall Panicum (<i>Panicum dichotomiflorum</i>) | Sicklepod (<i>Cassia obtusifolia</i>) |
| Fiddleneck (<i>Amsinckia sp.</i>) | Sorrel, Wood (<i>Oxalis sp.</i>) |
| Florida Beggarweed (<i>Desmodium tortuosum</i>) | Spurge (<i>Euphorbia sp.</i>) |
| Foxtail (<i>Setaria sp.</i>) | Witchgrass (<i>Panicum capillare</i>) |
| Goosegrass (<i>Eleusine indica</i>) | |

Mixing Instructions: Fill the spray tank with half the required amount of water and, with pump or agitator operating, add the recommended amount of DACONATE herbicide and continue filling the tank with balance of water and mix thoroughly.

DO NOT store spray solution in tank overnight. Clean application equipment thoroughly after use by flushing with water in a safe place.

Application Methods: DACONATE should be applied with a low-volume, properly calibrated sprayer having satisfactory pumping and bypass action. ADJUST NOZZLES TO KEEP SPRAY OFF COTTON FOLIAGE AND IN A MANNER TO ALLOW MAXIMUM COVERAGE OF WEEDS. Adequate coverage is very important for effective weed control.

Apply during warm weather when weeds are in an active stage of growth.

DO NOT apply this product through any type of irrigation equipment.

COTTON (Postemergent use only)

DACONATE is useful as a postemergence spray for control of the weeds listed above. Mix DACONATE at the rate of 4 pints in 40 gallons of water for application to one acre when weeds are small. Only 1 application at 2 lbs ai/A is allowed per season, except when a salvage operation is needed.

If a salvage operation is needed (i.e., if pigweed escapes the first application), then a second or repeat application at 2 lbs ai/A is allowed.

A second or repeat application, if needed, should be timed 1 to 3 weeks after the first application. Apply only as a salvage operation. Apply only to healthy rapidly growing cotton 3 inches high, but no later than 6 inches high or early square, whichever occurs first. Preference should be given to directed spray. In order to minimize injury, the second application should be made as a directed spray when possible.

Do not make more than two (2) applications per season.

Do not apply more than a total of 4 lbs ai/A per season.

Do not apply pre-plant to cotton.

Do not apply within 50 feet of permanent water bodies or aquatic habitat, including, but not limited to, lakes, reservoirs, rivers, streams, marshes, ponds, and estuaries.

Do not apply in Florida except on cotton grown in the following counties: Calhoun, Columbia, Escambia, Gadsden, Hamilton, Holmes, Jackson, Jefferson, Okaloosa, Santa Rosa, Suwannee, Walton, and Washington.

GOLF COURSES

For newly constructed golf courses, one broadcast application is allowed. Mix DACONATE at 4 pints in 40 gallons of water for application to one acre.

For all other applications to golf courses, only spot treatments (100 square feet maximum per spot) are allowed. A spot treatment must not exceed 25% of total golf course acreage per year.

After December 31, 2013, applications to golf courses are prohibited.

SOD FARMS

Only 2 broadcast applications are allowed per season. Mix DACONATE at 4 pints in 40 gallons of water for application to one acre. Do not apply within 25 feet of permanent water bodies or aquatic habitat, including, but not limited to, lakes, reservoirs, rivers, streams, marshes, ponds, and estuaries.

After December 31, 2013, applications to sod farms are prohibited.

HIGHWAY RIGHTS-OF-WAY (ROW)

Only 2 broadcast applications are allowed per season. Mix DACONATE at 4 pints in 40 gallons of water for application to one acre. Do not apply within 100 feet of permanent water bodies or aquatic habitat, including, but not limited to, lakes, reservoirs, rivers, streams, marshes, ponds, and estuaries. After December 31, 2013, applications to highway rights-of-way are prohibited.

STORAGE AND DISPOSAL

DO NOT contaminate water, food or feed by storage or disposal.

PESTICIDE STORAGE: Store in cool dry location in original container.

PESTICIDE DISPOSAL: Wastes resulting from the use of this product may be disposed of on site or at an approved waste disposal facility. Open dumping is prohibited.

CONTAINER DISPOSAL: DO NOT reuse empty container. Triple rinse (or equivalent) and offer for recycling or reconditioning, or puncture and dispose of in a sanitary landfill, or incinerate, or, if allowed by state and local authorities, by burning. If burned, stay out of smoke.

RETURNABLE REFILLABLE CONTAINERS: If DACONATE is packaged in a returnable refillable container, then, after use, do not rinse container. Return container intact to point of purchase. This container must only be refilled with DACONATE. DO NOT REUSE THE CONTAINER FOR ANY OTHER PURPOSE. Before refilling, inspect thoroughly for damage such as cracks, punctures, abrasions, and damaged or worn threads on closure devices. Check for leaks after refilling and before transport.

DACONATE® is a trademark of KMG-BERNUTH, INC.