



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

OFFICE OF
PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

February 6, 2008

Kenneth D. Racke, Ph.D.
Regulatory Leader
Dow AgroSciences LLC
9330 Zionsville Road
Indianapolis, IN 46268

Subject: Add use sites from approved label, plus other labeling revisions per Agency's request
Conserve Fly Bait AF
EPA Reg. No. 62719-508
Applications dated June 1, 2006; May 1, 2006; August 29 & October 18, 2007

Dear Dr. Racke:

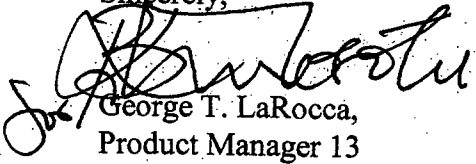
The above referenced labeling, submitted in connection with registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, is acceptable subject to the following comments:

- On the front panel and first bullet under General Use Precautions, revise the statement "Contains the bittering agent, Bitrex" to read "Contains Bitrex"; and delete the last statement of the first sentence ("an intensely bitter by humans."). This statement is considered an "implied safety claim", with no supporting data. Please note that the cited/me-too product's labeling have been revised appropriately.
- Delete the statement "No chemical odor", due to its subjectivity – depending on an individual's senses. Thus, this term is unacceptable, and product labels with this claim should be revised accordingly.
- Under Warranty Disclaimer and Limitation of Remedies, add "*To the extent consistent with applicable law*" to the beginning of the statements "*Seller makes no . . . implied warranty*", "*The exclusive remedy for losses . . .*" and "*Seller shall not be liable . . . loss or damage in writing*" and "*In no case shall seller . . . damages or losses*". Please refer to the following EPA website for further guidance on warranty statements:
<http://www.epa.gov/pesticides/regulating/labels/projects.html>

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Please revise labeling accordingly and submit the final printed label to the Agency. See enclosed copy of the stamped label for your record. If you have any questions, please contact Dr. B.A. Akinlosotu at (703) 605-0653.

Sincerely,



George T. LaRocca,
Product Manager 13
Insecticide Branch
Registration Division (7505P)

Enclosure

(Base label for rigid containers 5 gal or less):

Conserve[®] Fly Bait AF

Granular Fly Control

For control of the adult common fly outdoors around dog kennels, garbage cans and dumpsters, outdoor latrines, dumps, incinerators, compost areas, parks, picnic areas, fairs and camps, zoos, markets, cafes, restaurants, fast food establishments, bakeries, commissaries, supermarkets, warehouses, industrial plants, meat and poultry processing plants, beverage processing plants, canneries and food processing plants, non commercial animal housing (e.g., on hobby farms) and commercial animal housing, including poultry houses, broiler houses, caged poultry, turkeys or rabbits on wire, dairies, dairy barns, milking parlors, milk sheds, loafing sheds, hog farms, pig pens, pig parlors, livestock barns, stock barns, livestock pens, feed lots, fur bearing animal units, horse barns, stables, silos, or other animal handling or feeding facilities.

- Ready to use
- Use straight from the bag [bottle] [container]
- Contains spinosad
- Flexible application methods
- Broadcast application
- Bait station or tray application
- Hang-board or card application
- Paint-on application
- Spray-on application
- Contains the fly attracting pheromone Z-9 tricosene
- With pheromone attractant, special fly bait and fly killer
- Spinosad is biologically derived from the fermentation of saccharopolyspora spinosa, a naturally occurring soil organism
- Bait formula with Z-9 tricosene
- Kills both sexes of flies
- Contains adult fly-sex attractant
- Attracts and kills flies
- Flies feed and die
- Attracts and kills resistant flies
- 1 oz treats 125 sq ft
- No chemical odor
- With a pheromone fly attractant
- Flies feed on the bait and die
- Flies ingest a lethal dose of bait and die
- For use in and around food processing plants
- For use in and around food establishments
- Contains the bittering agent, Bitrex[™]

Active Ingredient:

spinosad (a mixture of spinosyn A and spinosyn D)	0.50%
(Z)-9-tricosene (Pheromone).....	0.04%
Other Ingredients	99.46%
Total	100.00%

U.S. Patent No. 5,362,634 and 5,496,931

Keep Out Of Reach Of Children

**ACCEPTED
with COMMENTS
In EPA Letter Dated:
FEB 6 2007**

**Under the Federal Insecticide,
Fungicide, and Rodenticide Act,
as amended, for the pesticide
registered under EPA Reg. No.
62219-508**

Precautionary Statements

User Safety Recommendations

- Wash hands before eating, drinking, chewing gum, using tobacco, or using the toilet.
- Use of waterproof gloves is recommended when handling this product to avoid staining of skin or clothing.

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Environmental Hazards

This product is toxic to aquatic invertebrates. 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 when cleaning equipment or when disposing of equipment washwaters.

Storage and Disposal

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

Pesticide Storage: Store in original container, tightly closed, in a secure place. Keep out of the reach of children and domestic animals. In case of leak or spill, contain material and dispose as waste.

Container Reuse: Nonrefillable container. Do not reuse or refill this container. Offer for recycling if available.

Triple rinse or pressure rinse container (or equivalent) promptly after emptying. **Triple rinse** as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. **Pressure rinse** as follows: Empty the remaining contents into application equipment or a mix tank and continue to drain for 10 seconds after the flow begins to drip. Hold container upside down over application equipment or mix tank and continue to drain for 10 seconds after the flow begins to drip. Hold container upside down over application equipment or mix tank or collect rinsate for later use or disposal. Insert pressure rinsing nozzle in the side of the container, and rinse at about 40 psi for at least 30 seconds. Drain for 10 seconds after the flow begins to drip.

Refer to label booklet for Directions for Use.

Notice: Read the entire label. Use only according to label directions. **Before using this product, read Warranty Disclaimer, Inherent Risks of Use, and Limitation of Remedies at end of label. If terms are unacceptable, return at once unopened.**

In case of emergency endangering health or the environment involving this product, call 1-800-992-5994.

Agricultural Chemical: Do not ship or store with food, feeds, drugs or clothing.

EPA Reg. No. 62719-508

EPA Est. _____

Bitrex™ is a trademark of Macfarlin Smith Ltd.

®Trademark of Dow AgroSciences LLC

Produced for Dow AgroSciences LLC • Indianapolis, IN 46268 U.S.A.

Net Weight __

(Base label for nonrigid containers any size):

Conserve[®] Fly Bait AF

Granular Fly Control

For control of the adult common fly outdoors around dog kennels, garbage cans and dumpsters, outdoor latrines, dumps, incinerators, compost areas, parks, picnic areas, fairs and camps, zoos, markets, cafes, restaurants, fast food establishments, bakeries, commissaries, supermarkets, warehouses, industrial plants, meat and poultry processing plants, beverage processing plants, canneries and food processing plants, non commercial animal housing (e.g., on hobby farms) and commercial animal housing, including poultry houses, broiler houses, caged poultry, turkeys or rabbits on wire, dairies, dairy barns, milking parlors, milk sheds, loafing sheds, hog farms, pig pens, pig parlors, livestock barns, stock barns, livestock pens, feed lots, fur bearing animal units, horse barns, stables, silos, or other animal handling or feeding facilities.

- Ready to use
- Use straight from the bag [bottle] [container]
- Contains spinosad
- Flexible application methods
- Broadcast application
- Bait station or tray application
- Hang-board or card application
- Paint-on application
- Spray-on application
- Contains the fly attracting pheromone Z-9 tricosene
- With pheromone attractant, special fly bait and fly killer
- Spinosad is biologically derived from the fermentation of saccharopolyspora spinosa, a naturally occurring soil organism
- Bait formula with Z-9 tricosene
- Kills both sexes of flies
- Contains adult fly sex attractant
- Attracts and kills flies
- Flies feed and die
- Attracts and kills resistant flies
- 1 oz treats 125 sq ft
- No chemical odor
- With a pheromone fly attractant
- Flies feed on the bait and die
- Flies ingest a lethal dose of bait and die
- For use in and around food processing plants
- For use in and around food establishments
- Contains the bittering agent, Bitrex[™]

Active Ingredient:

spinosad (a mixture of spinosyn A and spinosyn D)	0.50%
(Z)-9-tricosene (Pheromone).....	0.04%
Other Ingredients	<u>99.46%</u>
Total	100.00%

U.S. Patent No. 5,362,634 and 5,496,931

Keep Out Of Reach Of Children

Precautionary Statements

<p>User Safety Recommendations</p> <ul style="list-style-type: none"> ▪ Wash hands before eating, drinking, chewing gum, using tobacco, or using the toilet. ▪ Use of waterproof gloves is recommended when handling this product to avoid staining of skin or clothing.

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Environmental Hazards

This product is toxic to aquatic invertebrates. 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 when cleaning equipment or when disposing of equipment washwaters.

Storage and Disposal

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

Pesticide Storage: Store in original container, tightly closed, in a secure place. Keep out of the reach of children and domestic animals. In case of leak or spill, contain material and dispose as waste.

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EPA Reg. No. 62719-508

EPA Est. _____

Bitrex™ is a trademark of Macfarlin Smith Ltd.

®Trademark of Dow AgroSciences LLC

Produced for Dow AgroSciences LLC • Indianapolis, IN 46268 U.S.A.

Net Weight _____

(Base label for rigid containers greater than 5 gal):

Conserve[®] Fly Bait AF

Granular Fly Control

For control of the adult common fly outdoors around dog kennels, garbage cans and dumpsters, outdoor latrines, dumps, incinerators, compost areas, parks, picnic areas, fairs and camps, zoos, markets, cafes, restaurants, fast food establishments, bakeries, commissaries, supermarkets, warehouses, industrial plants, meat and poultry processing plants, beverage processing plants, canneries and food processing plants, non commercial animal housing (e.g., on hobby farms) and commercial animal housing, including poultry houses, broiler houses, caged poultry, turkeys or rabbits on wire, dairies, dairy barns, milking parlors, milk sheds, loafing sheds, hog farms, pig pens, pig parlors, livestock barns, stock barns, livestock pens, feed lots, fur bearing animal units, horse barns, stables, silos, or other animal handling or feeding facilities.

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- Kills both sexes of flies
- Contains adult fly sex attractant
- Attracts and kills flies
- Flies feed and die
- Attracts and kills resistant flies
- 1 oz treats 125 sq ft
- No chemical odor
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Total	100.00%

U.S. Patent No. 5,362,634 and 5,496,931

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Precautionary Statements

User Safety Recommendations

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- Use of waterproof gloves is recommended when handling this product to avoid staining of skin or clothing.

Environmental Hazards

This product is toxic to aquatic invertebrates. 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 when cleaning equipment or when disposing of equipment washwaters.

Storage and Disposal

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

Pesticide Storage: Store in original container, tightly closed, in a secure place. Keep out of the reach of children and domestic animals. In case of leak or spill, contain material and dispose as waste.

Container Reuse: Refillable container. Refill this container with pesticide only. Do not reuse this container for any other purpose.

Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller. To clean the container before final disposal, empty the remaining contents from this container into application equipment or a mix tank. Fill the container about 10% full with water and, if possible, spray all sides while adding water. If practical, agitate vigorously or recirculate water with the pump for two minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this rinsing procedure two more times.

Refer to label booklet for Directions for Use.

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Net Weight ____

(Label booklet cover):

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Other Ingredients	<u>99.46%</u>
Total	100.00%

U.S. Patent No. 5,362,634 and 5,496,931

Keep Out Of Reach Of Children

Refer to inside of label booklet for additional precautionary information including Directions for Use.

Notice: Read the entire label. Use only according to label directions. Before using this product, read Warranty Disclaimer, Inherent Risks of Use, and Limitation of Remedies at end of Directions for Use. If terms are unacceptable, return at once unopened.

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Net Weight _____

(Page 1 through end):

Precautionary Statements

User Safety Recommendations

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- Use of waterproof gloves is recommended when handling this product to avoid staining of skin or clothing.

Environmental Hazards

This product is toxic to aquatic invertebrates. 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 when cleaning equipment or when disposing of equipment washwaters.

Directions for Use

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

Storage and Disposal

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

Pesticide Storage: Store in original container, tightly closed, in a secure place. Keep out of the reach of children and domestic animals. In case of leak or spill, contain material and dispose as waste.

Nonrefillable rigid containers 5 gallons or less:

Container Reuse: Nonrefillable container. Do not reuse or refill this container. Offer for recycling if available.

Triple rinse or pressure rinse container (or equivalent) promptly after emptying. **Triple rinse** as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. **Pressure rinse** as follows: Empty the remaining contents into application equipment or a mix tank and continue to drain for 10 seconds after the flow begins to drip. Hold container upside down over application equipment or mix tank and continue to drain for 10 seconds after the flow begins to drip. Hold container upside down over application equipment or mix tank or collect rinsate for later use or disposal. Insert pressure rinsing nozzle in the side of the container, and rinse at about 40 psi for at least 30 seconds. Drain for 10 seconds after the flow begins to drip.

Nonrefillable nonrigid containers:

Container Reuse: Nonrefillable container. Do not reuse or refill this container. Offer for recycling if available.

Refillable rigid containers larger than 5 gal:

Container Reuse: Refillable container. Refill this container with pesticide only. Do not reuse this container for any other purpose.

Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller. To clean the container before final disposal, empty the remaining contents from this container into application equipment or a mix tank. Fill the container about 10% full with water and, if possible, spray all sides while adding water. If practical, agitate vigorously or recirculate water with the pump for two minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this rinsing procedure two more times.

General Information

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Conserve® Fly Bait AF granular fly control is intended for control of the adult common fly outdoors around the following: dog kennels, garbage cans and dumpsters, outdoor latrines, dumps, incinerators, compost areas, parks, picnic areas, fairs and camps, zoos, markets, cafes, restaurants, fast food establishments, bakeries, commissaries, supermarkets, warehouses, industrial plants, meat and poultry processing plants, beverage processing plants, canneries and food processing plants, non-commercial animal housing (e.g., on hobby farms) and commercial animal housing, including poultry houses, broiler houses, caged poultry, turkeys or rabbits on wire, dairies, dairy barns, milking parlors, milk sheds, loafing sheds, hog farms, pig pens, pig parlors, livestock barns, stock barns, livestock pens, feed lots, fur bearing animal units, horse barns, stables, silos, or other animal handling or feeding facilities. Conserve Fly Bait AF can also be used indoors, but only in areas where animals cannot come into contact with or ingest the granules. See specific use instructions and practices below. This product's active ingredient, spinosad, is biologically derived from the fermentation of *Saccharopolyspora spinosa*, a naturally occurring soil organism.

General Use Precautions

- Conserve Fly Bait AF contains the bittering agent, Bitrex™, an intensely bitter substance intended to prevent inadvertent consumption by humans. Conserve Fly Bait AF also contains a fluorescent pigment that makes the bait more attractive to flies. Use of waterproof gloves is recommended when handling Conserve Fly Bait AF to avoid staining of skin or clothing.
- Keep in original container and store out of direct sunlight in a cool and dry location. To preserve effectiveness, reseal container immediately after measuring and using the product.
- Do not allow Conserve Fly Bait AF to contact food, feedstuffs, water, milk and milking utensils. Protect exposed food; feedstuffs, water, milk and milking utensils where necessary to avoid contamination. Do not use where milk is processed or stored.
- Apply Conserve Fly Bait AF only in locations inaccessible to children, livestock animals and pets where bait granules cannot be picked up or where animals and pets cannot lick surfaces on which the bait has been placed.
- Conserve Fly Bait AF bait stations or trays and hang-boards/cards must be located at least 4 feet above the ground.
- Do not feed garbage treated with Conserve Fly Bait AF to animals.
- Except for station or hang-board/card placement, do not use in food/feed areas of food handling establishments, restaurants, or other areas where food/feed is commercially prepared or processed. Do not use in serving areas while food is exposed or facility is in operation. Serving areas are areas where prepared foods are served such as dining rooms, but excluding areas where foods may be prepared or held.
- Can be used in non-food/non-feed areas of food handling establishments such as garbage rooms, lavatories, floor drains (to sewers), entries, vestibules and hallways, offices, locker rooms, machine rooms, basements, boiler rooms, garages, utility rooms, mop closets and storage rooms (after canning or bottling).

Insecticide Resistance Management

Spinosad, the active ingredient in Conserve Fly Bait AF, has a novel mode of action and has shown no cross resistance with existing chemistries. However, experience has shown that the overuse of effective insecticides can lead to a build up of resistance to virtually any insecticide.

To preserve the effectiveness of Conserve Fly Bait AF as a fly pest control product, the following actions are recommended:

- Whenever possible, use an Integrated Pest Management Program including use of screens, sanitation and manure management, and preservation of predators.
- If chemical control is warranted, monitor the fly population carefully and target early infestations.
- Do not use less than the recommended labeled dose rate.
- If sequential treatments are required, rotate Conserve Fly Bait AF with at least 1 or 2 other products that have a different active ingredient (Conserve Fly Bait AF, then product A, then product B, then back

to Conserve Fly Bait AF, etc.) and, if necessary, with a product that has a different method of control such as space sprays.

- Conserve Fly Bait AF should not be applied more than 7 times in any 12-month period.

Application Timing, Rate and Placement

Apply Conserve Fly Bait AF at the rate of 12 to 16 oz of bait per 2000 sq ft (6 to 8 oz per 1000 sq ft) of the total floor area of the infested building or use site. Start baiting early before the population of adult flies has reached an unacceptable level. A knockdown space or surface spray product may be used to rapidly control an initially high adult fly population. Remove manure where possible or consider the use of a larvicide treatment. Regardless of application method used, it is important to place the required amount of Conserve Fly Bait AF only in infested areas where flies are observed to be resting or feeding. Place Conserve Fly Bait AF on clean paper if floor is limed.

Bait Application Methods

One or a combination of the following bait presentation methods may be used:

Scatter Bait: Scatter Conserve Fly Bait AF evenly outdoors on surfaces where flies are observed to be resting or feeding such as, but not limited to, windowsills, tops of walls, edges or walkways, floor, ground, etc. Do not put into piles.

Station/Tray Bait: Spread Conserve Fly Bait AF evenly onto the station or tray in a thin uniform layer, avoiding heaps. To optimize bait distribution, it is recommended to hang or place 8 to 10 stations or trays per 2000 sq ft of floor space or other use site in areas where flies are observed to be resting or feeding. Do not put into piles. Stations or trays must be located at least 4 feet above the ground.

Hang-Board/Card Bait: For hang-board/card application, lightly moisten one side of the board/card with beaten eggs, beer, cola, or starch-based wallpaper glue. While still wet, sprinkle Conserve Fly Bait AF onto the card to ensure adherence of the granules using 3.5 oz of bait per 10 sq ft of hang-board/card. Allow the surface to dry and then shake off any non-adhered granules. An alternative application method for applying Conserve Fly Bait AF to hang-boards/cards is to use the paint or spray on methods described below. Use a total of 50 sq ft of hang-boards/cards per 2000 sq ft of area. To optimize bait distribution, it is recommended to hang or place 8 to 10 individual boards/cards per 2000 sq ft of floor space or use site where flies are observed to be resting or feeding (up to 25 may be used depending upon the size of the board/card). Hang-boards/cards must be located at least 4 feet above the ground.

Paint On Bait: In a bucket mix 12 to 16 oz of Conserve Fly Bait AF into 1/2 to 1 qt of warm water and stir vigorously until granules are completely dissolved. Use a paintbrush or roller to apply the dilution to surfaces where flies are observed to be resting or feeding. Treated areas may be continuous or made up of separate spot treatments. The finished dilution is sufficient for an area of 2000 sq ft of floor space or use site. **Conserve Fly Bait AF contains a fluorescent pigment. Do not apply to surfaces where discoloration cannot be tolerated.**

Spray On Bait: In a bucket mix 12 to 16 oz of Conserve Fly Bait AF into 1 qt of warm water and stir vigorously until granules are completely dissolved. Do not attempt to mix the granules and water in the spray equipment. Pour the mixture into a sprayer (such as, but not limited to, pump up compression, etc.) only after all the granules have completely dissolved. Apply the dilution to surfaces where flies are observed to be resting or feeding. Treated areas may be continuous or made up of separate spot treatments. The finished dilution is sufficient for an area of 2000 sq ft of floor space or use site.

Prepare only enough for use and apply immediately. Shake the mixture prior to and during application. Thoroughly rinse spray equipment, including hose and nozzle, immediately after application to avoid clogging of spray equipment from build-up of dry residues. **Conserve Fly Bait AF contains a fluorescent pigment. Do not apply to surfaces where discoloration cannot be tolerated.**

Terms and Conditions of Use

If terms of the following Warranty Disclaimer, Inherent Risks of Use, and Limitation of Remedies are not acceptable, return unopened package at once to the seller for a full refund of purchase price paid. Otherwise, use by the buyer or any other user constitutes acceptance of the terms under Warranty Disclaimer, Inherent Risks of Use and Limitation of Remedies.

Warranty Disclaimer

Seller warrants that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated on the label when used in strict accordance with the directions, subject to the inherent risks set forth below. SELLER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER EXPRESS OR IMPLIED WARRANTY.

Inherent Risks of Use

It is impossible to eliminate all risks associated with use of this product. Lack of performance or other unintended consequences may result because of such factors as use of the product contrary to label instructions (including conditions noted on the label, such as unfavorable temperature, soil conditions, etc.), abnormal conditions (such as extreme weather conditions), presence of other materials, the manner of application, or other factors, all of which are beyond the control of Seller. All such risks shall be assumed by Buyer.

Limitation of Remedies

To the extent permitted by law, the exclusive remedy for losses or damages resulting from this product (including claims based on contract, negligence, strict liability, or other legal theories), shall be limited to, at Seller's election, one of the following:

1. Refund of purchase price paid by buyer or user for product bought, or
2. Replacement of amount of product used.

Seller shall not be liable for losses or damages resulting from handling or use of this product unless Seller is promptly notified of such loss or damage in writing. In no case shall Seller be liable for consequential or incidental damages or losses.

The terms of the Warranty Disclaimer, Inherent Risks of Use, and Limitation of Remedies cannot be varied by any written or verbal statements or agreements. No employee or sales agent of the Seller is authorized to vary or exceed the terms of the Warranty Disclaimer or this Limitation of Remedies in any manner.

®Trademark of Dow AgroSciences LLC
Bitrex™ is a trademark of Macfarlin Smith Ltd.

EPA accepted: __/__/__