

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, DC 20460

OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION

September 12, 2023

Luiza Vietri Pereiro UPL NA Inc. Regional Regulatory Manager 630 Freedom Business Center, Suite 402 King of Prussia, PA 19406

Subject: Registration Review Label Mitigation for Fenhexamid

Product Name: CAPTEVATE 68 WDG FUNGICIDE

EPA Registration Number: 70506-449 Application Date: June 14, 2019

Decision Number: 593765

Dear: Luiza Vietri Pereiro

The Agency, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, has completed reviewing all the information submitted with your application to support the Registration Review of the above referenced product in connection with the Fenhexamid Interim Decision, and has concluded that your submission is acceptable. The label referred to above, submitted in connection with registration under FIFRA, as amended, is acceptable.

Should you wish to add/retain a reference to the company's website on your label, then please be aware that the website becomes labeling under the Federal Insecticide, Fungicide, and Rodenticide Act and is subject to review by the Agency. If the website is false or misleading, the product would be misbranded and unlawful to sell or distribute under FIFRA section 12(a)(1)(E). 40 CFR 156.10(a)(5) list examples of statements EPA may consider false or misleading. In addition, regardless of whether a website is referenced on your product's label, claims made on the website may not substantially differ from those claims approved through the registration process. Therefore, should the Agency find or if it is brought to our attention that a website contains false or misleading statements or claims substantially differing from the EPA approved registration, the website will be referred to the EPA's Office of Enforcement and Compliance Assurance.

A stamped copy of your labeling is enclosed for your records. This labeling supersedes all previously accepted labeling. You must submit one copy of the final printed labeling before you release the product for shipment with the new labeling. In accordance with 40 CFR 152.130(c), you may distribute or sell this product under the previously approved labeling for 12 months from the date of this letter. After 12 months, you may only distribute or sell this product if it bears this new revised labeling or subsequently

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approved labeling. "To distribute or sell" is defined under FIFRA section 2(gg) and its implementing regulation at 40 CFR 152.3.

If you have any questions about this letter, please contact Concepción Rodríguez by phone at 202-566-0820, or via email at rodriguez.concepcion@epa.gov.

Sincerely,

Linda Arrington, Branch Chief

Risk Management and Implementation Branch 4

Pesticide Re-Evaluation Division

Office of Pesticide Programs

Enclosure

ACCEPTED

Sep 12, 2023

Under the Federal Insecticide, Fungicide and Rodenticide Act as amended, for the pesticide registered under

EPA Reg. No. 70506-449

Fenhexamid	Group	17	FUNGICIDE
Captan	Group	M	FUNGICIDE

CAPTEVATE® 68 WDG Fungicide

67.9% Water Dispersible Granule

For Use in Water as a Spray for the Control of Gray Mold (*Botrytis cinerea*), Anthracnose (*Colletotrichum* spp.), Spur blight (*Didymella applanata*) and Monilinia Diseases in Various Crops

FOR AGRICULTURAL USE ONLY

Not for Residential Use

ACTIVE INGREDIENTS:	BY WT.
Fenhexamid*	14.3%
Captan**	
Captan Related Derivatives	1.2%
OTHER INGREDIENTS:	
TOTAL:	

Contains 0.143 pounds of fenhexamid and 0.536 lbs of captan per pound of product.

KEEP OUT OF REACH OF CHILDREN

DANGER/PELIGRO

Si usted no entienda la etiqueta, busque alguien para que se la explique a usted en detalle. (If you do not understand the label, find someone to explain it to you in detail.)

[See inside of Booklet for First Aid, additional Precautionary Statements and Directions for Use.]

UPL NA Inc. 630 Freedom Business Center, Suite 402 King of Prussia, PA 19406 EPA Registration No. 70506-449 EPA Establishment No. xxxxxxV001

NET CONTENTS: POUNDS (KILOGRAMS)

FIRST AID		
IF IN EYES:	Hold eye open and rinse slowly and gently with warm water for 15-20 minutes.	
	Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye.	
	Call a poison control center or doctor for treatment advice.	
IF SWALLOWED:	Call poison control center or doctor immediately for treatment advice.	
	Have person sip a glass of water if able to swallow.	
	 Do not induce vomiting unless told so by the poison control center or doctor. 	
	Do not give anything by mouth to an unconscious person.	
IF ON SKIN OR	Take off contaminated clothing.	
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 by mouth-to-mouth if possible.	

^{*} N-(2,3-dichloro-4-hydroxyphenyl)-1-methyl-cyclohexane carboxamide

^{**} N-trichloromethylthio-4-cyclohexene-1,2-dicarboximide

• 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.

FOR 24-HOUR MEDICAL EMERGENCY ASSISTANCE CALL Rocky Mountain Poison and Drug Safety: 1-866-673-6671.

FOR 24-HOUR CHEMICAL EMERGENCY (Spill, Leak, Fire or Accident) ASSISTANCE

CALL CHEMTREC: 1-800-424-9300 or 1-703-527-3887.

For Product Use Information: 1-800-438-6071

PRECAUTIONARY STATEMENTS

HAZARDS TO HUMANS AND DOMESTIC ANIMALS

DANGER: Causes irreversible eye damage. Do not get in eyes. Harmful if swallowed or inhaled. Avoid contact with skin, eyes and clothing. Prolonged or frequently repeated skin contact may cause allergic reaction in some individuals.

PERSONAL PROTECTIVE EQUIPMENT (PPE) Some materials that are chemical-resistant to this product are polyethylene and polyvinyl chloride.

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

- Long-sleeved shirt and long pants,
- Shoes plus socks,
- Chemical-resistant gloves made of waterproof material (except flaggers, applicators driving motorized equipment),
- Chemical-resistant apron when mixing loading, cleaning up spills, cleaning equipment or otherwise exposed to concentrate,
- Protective eyewear.

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

When handlers use closed systems or enclosed cabs 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/PPE 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

This pesticide is toxic to fish and aquatic invertebrates. Drift and runoff may be hazardous to aquatic organisms in neighboring areas. 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 when cleaning equipment or 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.

Carefully read and understand the Directions for Use and restrictions before applying this product.

Do not apply this product in any 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.

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 on this label about personal protective equipment (PPE), notification to workers, 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 entry into treated areas during the restricted entry interval (REI) of 24 hours for almond, cherry and strawberry and 48 hours for blueberry and raspberry.

PPE required for early entry into 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, shoes plus socks, chemical resistant gloves made of waterproof material, protective eyewear.

EYE PROTECTION

To mitigate eye irritation concerns from post-application exposures, the Agency is requiring that, for at least seven days following the application of captan,

- 1.at least one container designed specifically for flushing eyes is available in operating condition at the WPS-required decontamination site for workers entering the area treated with captan, and
- 2. workers are informed orally, in a manner they can understand:
 - --that residues in the treated area may be highly irritating to their eyes,
- --that they should take precautions, such as refraining from rubbing their eyes, to keep the residues out of their eyes,
- --that if they do get residues in their eyes, they should immediately flush their eyes with the eyeflush container that is located at the decontamination site, and
 - --on how to operate the eyeflush container.

DOUBLE NOTIFICATION

Notify workers of the application by warning them orally and by posting warning signs at entrances to treated areas.

PRODUCT USE INFORMATION

CAPTEVATE® 68 WDG Fungicide is a multi-site fungicide that has both locally systemic and protectant properties. **CAPTEVATE 68 WDG Fungicide** controls key diseases on almonds, blueberries, cherries, raspberries and strawberries. Use this product in a program with other products to provide season-long protection and minimize the risk of resistance development. Apply as directed in the "APPLICATION" section using sufficient water to obtain thorough coverage of plants. Under severe disease conditions, use maximum rates and shorter application intervals as specified on the label. Dense foliage or excessive growth will often prevent adequate coverage; adjust spray volumes accordingly.

Avoiding spray drift from foliar applications is the responsibility of the applicator. The interaction of many equipmentand weather-related factors determine the potential for spray drift from foliar applications. To protect water resources, the applicator and the grower are responsible for considering all these factors when making decisions.

RESISTANCE MANAGEMENT

While there is no indication of cross-resistance between the active ingredients in this product and other fungicides, appropriate resistance management strategies such as a blocking program, alternation or tank mixture with other fungicides used for the diseases controlled are recommended. Do not apply more than two consecutive applications of **CAPTEVATE 68 WDG Fungicide** or any product containing the active ingredient fenhexamid. After the second application, use an alternative fungicide effective in controlling the labeled diseases for two applications before reapplying any product containing the active ingredient fenhexamid. Consult your local crop advisor for appropriate rotation recommendations. To avoid the development of resistant strains, DO NOT apply **CAPTEVATE 68 WDG Fungicide** at rates lower than recommended on this label.

For resistance management, please note that **Captevate 68WDG Fungicide** contains both a Group 17 Fungicide (fenhexamid) and Group M Fungicide (captan). Any fungal population may contain individuals naturally resistant to **Captevate 68WDG Fungicide** and other Group 17 or Group M fungicides. A gradual

or total loss of pest control may occur over time if these fungicides are used repeatedly in the same fields. Appropriate resistance-management strategies should be followed.

To delay fungicide resistance, take one or more of the following steps:

- Rotate the use of **Captevate 68WDG Fungicide** or other Group 17 or Group M fungicides within a growing season sequence with different groups that control the same pathogens.
- Use tank-mixtures with fungicides from a different group that are equally effective on the target pest when such use is permitted. Use at least the minimum application rate as labeled by the manufacturer.
- Adopt an integrated disease management program for fungicide use that includes scouting, uses
 historical information related to pesticide use, and crop rotation, and which considers host plant
 resistance, impact of environmental conditions on disease development, disease thresholds, as
 well as cultural, biological and other chemical control practices.
- Where possible, make use of predictive disease models to effectively time fungicide applications. Note that using predictive models alone is not sufficient to manage resistance.
- Monitor treated fungal populations for resistance development.
- Contact your local extension specialist or certified crop advisor for any additional pesticide resistance management and/or IPM recommendations for specific crops and pathogens.
- For further information or to report suspected resistance contact UPL NA, Inc. (UPL) at 1-800-438-6071. You can also contact your pesticide distributor or university extension specialist to report resistance.

COMPATIBILITY OF MIXTURES

This product is believed to be compatible with most commonly used fungicides, insecticides, micronutrients, growth regulators and spray adjuvants, with the exception of oils and strongly alkaline materials. Alkaline materials such as spray lime, lime sulfur and Bordeaux mixture will reduce the fungicidal activity of **CAPTEVATE 68 WDG Fungicide**. DO NOT apply **CAPTEVATE 68 WDG Fungicide** in combination with or immediately before or closely following oil sprays. DO NOT allow oil sprays on adjacent crops to drift onto crops that have been or will shortly be treated with **CAPTEVATE 68 WDG Fungicide**. Consult specific product labels for additional information. It is always advisable to conduct a tank mix compatibility test when you plan to mix this product with other products. To determine the physical compatibility of this product with other products, use a jar test: Using a quart jar, add the proportionate amounts of the products to approximately one quart of water with agitation. Add dry formulations first, then flowables, then emulsifiable concentrates last. After thorough mixing, allow this mixture to stand for 5 minutes. If the combination remains mixed or can be readily remixed, it is physically compatible. Once compatibility has been proven, use the same procedure for adding required ingredients to the spray tank. It is suggested that combinations be used on a small number of plants before treating large areas.

PREPARATION OF SPRAY SOLUTION

Read COMPATIBILITY OF MIXTURES section prior to any tank mixing with this product. Begin with clean equipment. Add sufficient clean water to the spray tank for one-half of the mix load. Start tank agitation. Add and properly suspend the necessary amount of product before adding any other products. Agitate to ensure thorough mixing while adding the remaining required water. If desired, add a high quality wetting agent or other spray adjuvant, approved for use on your crop, to spray solutions according to the manufacturer's use instructions. Properly suspend and dilute CAPTEVATE 68 WDG Fungicide prior to the addition of any adjuvant. When an adjuvant is to be used with this product, UPL recommends the use of a Chemical Producers and Distributors Association (CPDA) certified adjuvant. Consult the adjuvant label or manufacturer for crop tolerance and safety information when used with this product. Maintain agitation during mixing. DO NOT allow the spray mixture to stand without agitation. Apply with properly calibrated spray equipment. If agitation is stopped for any reason, the spray solution must be thoroughly re-mixed prior to any further use.

APPLICATION AND RATE CALCULATIONS

Prepare only the amount of spray solution needed to treat the area to be sprayed. Maintain agitation during application. Apply immediately after the spray solution is prepared. If there is any delay in application, continue mix agitation. DO NOT allow the spray mixture to stand without agitation. If agitation is stopped for any reason, the spray solution must be thoroughly re-mixed prior to any further use. Rainfall or overhead irrigation within 2 hours of application will necessitate re-treatment.

Proper calibration and operation of spray equipment is essential for successful spraying. Consult the spray equipment

manufacturer's operators manual, spray nozzle catalogs, and/or your crop advisor for more information.

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

Consult State Agricultural Experiment Stations or State Agricultural Extension Service for additional information, as the time of applications needed will vary with the local conditions.

SPRAY DRIFT MANAGEMENT

Avoiding spray drift at the application site is the responsibility of the applicator. The interaction of many equipment-and-weather-related factors determine the potential for spray drift. The applicator and the grower are responsible for considering all these factors when making decisions.

Apply only as a medium or coarser spray (ASAE standard 572).

Apply only when the wind speed is 2-10 mph at the application site.

Apply using ground equipment only (such as boom type, air blast, hand gun or mist blower sprayer). For ground boom application, do not apply with a nozzle height greater than 4 feet above the crop canopy. Where states have more stringent regulations, they should be observed. For food crops, thorough coverage of all flowers and fruiting parts is essential for control of blossom and fruit infections caused by *Botrytis* and *Monilinia* spp.

SPRAY DRIFT ADVISORIES

THE APPLICATOR IS RESPONSIBLE FOR AVOIDING OFF-SITE SPRAY DRIFT.
BE AWARE OF NEARBY NON-TARGET SITES AND ENVIRONMENTAL CONDITIONS.

IMPORTANCE OF DROPLET SIZE

An effective way to reduce spray drift is to apply large droplets. Use the largest droplets that provide target pest control. While applying larger droplets will reduce spray drift, the potential for drift will be greater if applications are made improperly or under unfavorable environmental conditions.

Controlling Droplet Size – Ground Boom

- Volume Increasing the spray volume so that larger droplets are produced will reduce spray drift. Use the highest practical spray volume for the application. If a greater spray volume is needed, consider using a nozzle with a higher flow rate.
- Pressure Use the lowest spray pressure recommended for the nozzle to produce the target spray volume and droplet size.
- Spray Nozzle Use a spray nozzle that is designed for the intended application. Consider using nozzles designed to reduce drift.

BOOM HEIGHT – Ground Boom For ground equipment, the boom should remain level with the crop and have minimal bounce.

SHIELDED SPRAYERS

Shielding the boom or individual nozzles can reduce spray drift. Consider using shielded sprayers. Verify that the shields are not interfering with the uniform deposition of the spray on the target area.

TEMPERATURE AND HUMIDITY

When making applications in hot and dry conditions, use larger droplets to reduce effects of evaporation.

TEMPERATURE INVERSIONS

Drift potential is high during a temperature inversion. Temperature inversions are characterized by increasing temperature with altitude and are common on nights with limited cloud cover and light to no wind. The presence of an inversion can be indicated by ground fog or by the movement of smoke from a ground source or an aircraft smoke generator. Smoke that layers and moves laterally in a concentrated cloud (under low wind conditions) indicates an inversion, while smoke that moves upward and rapidly dissipates indicates good vertical air mixing. Avoid applications during temperature inversions.

WIND

Drift potential generally increases with wind speed. AVOID APPLICATIONS DURING GUSTY WIND CONDITIONS. Applicators need to be familiar with local wind patterns and terrain that could affect spray drift.

Boom-less Ground Applications:

Setting nozzles at the lowest effective height will help to reduce the potential for spray drift.

Handheld Technology Applications:

Take precautions to minimize spray drift.

Do not replant food crops other than those for which the product is labeled within 30 days following the last application.

When using any product containing the active ingredients fenhexamid or captan, the maximum seasonal application amount must be respected. The tables below list equivalent active ingredient (AI) rates for **CAPTEVATE 68 WDG Fungicide** and maximum application amounts for reference.

	Contains	
1 lb (0.679 lb Al)	0.143 lb Al	0.536 lb Al
CAPTEVATE 68 WDG Fungicide	Fenhexamid	Captan

Cron	Maximum Use Rate Per Crop Cycle		
Crop	Fenhexamid	Captan	
Almond	3.0 lb Al	20 lb Al	
Blueberry	3.0 lb Al	35 lb Al	
Cherry	3.0 lb Al	14 lb Al	
Raspberry	3.0 lb Al	10 lb Al	
Strawberry	3.0 lb Al	24 lb Al	

ALMONDS (Except in California)			
Diseases	Application Rate	Application Timing	
Blossom blight, twig blight (Monilinia spp.)	3.5 – 5.25 lbs/A (2.4 - 3.6 lb Al/A)	 Pink bud Full bloom Petal fall Up to 28 days after petal fall 	

Notes:

- PHI = 30 days
- · Apply in sufficient water to obtain complete coverage of flowers, fruit and twigs
- Do not make more than 2 consecutive applications. Refer to the Resistance Management section for rotation quidelines.
- Minimum application interval is 7 days.
- Do not apply more than 21.0 lbs (14.3 lbs ai) per acre per year.
- Do not apply more than 1 crop cycle per year.

BLUEBERRIES			
Disease	Application Rate	Application Timing	
Gray mold (Botrytis cinerea)	3.5 – 4.7 lbs/A (2.4 – 3.2 lb Al/A)	 For Gray mold control, begin applications at 10% bloom Continue applications through harvest Applications should be made every 7 – 10 days or when conditions favor disease development 	
Mummyberry (Monilinia vaccinii-corymbosi) Anthracnose (Colletotrichum spp.)	4.7 lbs/A (3.2 lb Al/A)	 For Mummyberry and Anthracnose control, begin applications at early green tip and pink bud. Continue applications through harvest. Applications should be made every 7-10 days or when conditions favor disease development. 	

Notes:

- PHI = 0 days.
- Do not make more than 2 consecutive applications. Refer to the Resistance Management section for rotation guidelines.
- Do not apply more than 21.0 lbs (14.3 lbs ai) per acre per year.
- Do not apply on more than 1 crop cycle per year.

CHERRIES (Except California)		
Disease	Application Rate	Application Timing
Brown rot, Leaf spot, Blossom blight, Twig blight (<i>Monilinia</i> spp.)	3.75 lbs/A (2.55 lb Al/A)	Early bloom.Late bloom.2 weeks after petal fall.Up to day of harvest.
Gray mold (Botrytis cinerea)	3. 5 lbs/A (2.38 lb Al/A)	 Early bloom. Then every 7-10 days or when conditions favor disease development. Up to day of harvest,

Notes:

- PHI = 0 day.
- Do not make more than 2 consecutive applications. Refer to the Resistance Management section for rotation guidelines.
- Do not apply more than 18.75 lbs (12.75 lbs ai) per acre per year.
- Do not apply more than 1 crop cycle per year.

RASPBERRIES		
Disease	Application Rate	Application Timing
Gray mold (<i>Botrytis cinerea</i>) Spur blight (<i>Didymella applanata</i>)*	3. 5 lbs/A (2.38 lb Al/A)	 For Gray Mold control, begin applications at 10% bloom. For Spur Blight and
Anthracnose (Colletotrichum spp.)		Anthracnose control, begin applications when blossoms are in bud (young canes are 8-10" long).
		Continue applications through harvest.
		Applications should be made every 7-14 days or when conditions favor disease development.

Notes:

- PHI = 3 days.
- Do not make more than 2 consecutive applications. Refer to the Resistance Management section for rotation guidelines.
- Do not apply more than 17.5 lbs (11.9 lbs ai) per acre per year.
- Do not apply more than 1 crop cycle per year.
 - * Not for use in California

STRAWBERRIES		
Disease	Application Rate	Application Timing
Gray mold (Botrytis cinerea)	3.5 - 5.25 lbs/A (2.4 – 3.6 lb Al/A)	 For Anthracnose control, begin applications at flower bud emergence For Gray mold control, begin applications at early bloom Continue applications every 7-10 days or apply when conditions favor disease development, up to the day of harvest
Anthracnose (Colletotrichum spp.)	5.25 lbs/A (3.6 lb Al/A)	 For Anthracnose control, begin applications at flower bud emergence. Continue applications every 7-10 days or apply when conditions favor disease development, up to the day of harvest.

Notes:

- PHI = 0 days
- Do not make more than two consecutive applications. Refer to the Resistance Management section for rotation guidelines
- Do not apply more than 21.0 lbs (14.3 lbs ai) per acre per crop cycle.
- When plastic mulch is used, do not apply within 16 feet (5 meters) of naturally vegetated or aquatic areas.
- Do not apply more than 1-2 crop cycles per year.
- Do not apply more than 41.0 lbs (28.6 lbs ai) per acre per year.

STORAGE AND DISPOSAL

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

PESTICIDE STORAGE: Store in a cool, dry place. Protect from excessive heat. Do not store or transport near food or feed

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

CONTAINER DISPOSAL: Nonrefillable container. Do not reuse or refill this container. Offer bag for recycling if available, or dispose of bag in a sanitary landfill, or if allowed by State and local authorities, by burning. If burned, stay out of smoke.

IMPORTANT INFORMATION READ BEFORE USING PRODUCT 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 reflect the opinion of experts based on field use and tests, and must be followed carefully. It is impossible to eliminate all risks 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 UPL NA Inc or Seller. Handling, storage, and use of the product by Buyer or User are beyond the control of UPL NA Inc and Seller. To the extent consistent with applicable law, all such risks shall be assumed by Buyer and User, and Buyer and User agree to hold UPL NA Inc and Seller harmless for any claims relating to such factors.

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