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New York State Department of Environmental Conservation
Division of Solid and Hazardous Materials
Bureau of Pesticide Management, Room 498
Pesticide Product Registration Section
50 Wolf Road, Albany, New York 12233-7257
Phone: (518) 457-7446 • FAX: (518) 485-8990
Website: www.dec.state.ny.us/website/dshm/pesticide/pesticide.htm



March 15, 2000

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sherri McElroy
The Scotts Company
14111 Scottslawn Rd.
Marysville, OH 43041

Dear Ms. McElroy,

Re: Change of Registration Status for Ortho Grub-B-Gon (EPA Reg. No. 239-2667)
Contact Person: Robin Hackett

The New York State Department of Environmental Conservation, Pesticide Product Registration Section has re-evaluated the registration status of all New York State registered products containing the active ingredient, halofenizide.

The active ingredient, halofenizide, was accepted for registration and technically reviewed in a registration decision dated May 28, 1998. The initial registration evaluated a product and label use directions intended for the commercial setting with use by professional applicators only. Due to concerns regarding leachability of the product, the Department placed a prohibition against sales and use in Nassau and Suffolk Counties of Long Island, New York.

Since May 1998, the Department has received applications to register halofenizide containing products for the homeowner markets. The products also have a Long Island sales and use prohibition. The Department has registered one product for use by the homeowner while requiring and reviewing an extensive marketing plan. The plan was developed to limit distribution, sales and use to upstate New York only.

These plans have proven unsuccessful because the product has appeared on the shelves of retail establishments in Long Island.



Ms. Sherri McElroy

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Pursuant to the Department's authority under Title 7 of Article 33 of the Environmental Conservation Law and Section 326.23 of 6NYCRR, the Department is taking the following action.

In order to make the transition from general use to restricted use as easy as possible and per our verbal agreement between Scotts and this Department, your product, Ortho Grub-B-Gon (EPA Reg. No. 239-2667) will be reclassified from general use to restricted use effective September 30, 2000. All remaining product must be removed from the store shelves for sale in any general retail store and placed in storage. The product will be gathered for pick up by a Scotts representative, or designee, and will be removed entirely from the state by no later than December 30, 2000.

We remind you existing labeling states Ortho Grub-B-Gon may not be sold or used in Nassau or Suffolk counties of New York State but may be sold in upstate New York until September 30, 2000.

According to New York State Department of Environmental Conservation Regulations 6NYCRR 326.3(a): "It shall be unlawful for any person to distribute, sell, offer for sale, purchase for the purpose of resale, or possess for the purpose of resale, any restricted pesticide unless said person shall have applied for, and been issued a commercial permit." Should you require information to obtain a commercial permit, please contact Mr. Al Muench, Chief, Pesticide Certification Section, at (518) 457-7482.

Additionally, Title 12 of Environmental Conservation Law Article 33, the Pesticide Reporting Law (PRL), requires all certified commercial pesticide applicators to report information annually to the Department regarding each pesticide application they make. **Pesticide manufacturers are required to annually report all sales of restricted use pesticide products in or into New York (See specifically, ECL 33-1207).** If no sales are made within New York State, a report still must be filed with the Department indicating this is the case. If you need information relating to the Pesticide Reporting Law, or annual report forms, please visit the Department's website at <http://www.dec.state.ny.us> or call 1-888-457-0110 (toll free within New York State). Out-of-State callers may contact the Pesticide Reporting Section at (518) 457-3542.

If you have any questions regarding this action, please contact Maureen P. Serafini, Chief, Pesticide Product Registration, at (518) 457-7446.

Sincerely,



Ed Dassatti

Chief

Bureau of Pesticides Management