

The Secret Ingredients in Pesticides: Reducing the Risk

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I. Introduction

Americans are curious label readers. Walk down the aisle of any supermarket, and you will see consumers transfixed as they examine the number of calories in breakfast cereal or the fat content of a candy bar. The federal government has done a fairly good job of providing consumers with essential information on what is in our food and consumer products. But, when it comes to pesticides, toxic materials that are often used in our homes, schools and directly on our food, the federal government has completely dropped the ball by keeping a significant amount of pesticide information secret.

Look at the label on any pesticide product and you will most likely find both "active" and "inert" ingredients listed. The label will identify the active ingredient(s), perhaps with a chemical name, perhaps with a common name. It will also specify the percentage, by weight, of each active ingredient in the product. In comparison, the label will say little about the "inert" ingredients, which can comprise the bulk of the product. The label usually gives only a single percentage figure for all the "inerts", and does not specifically identify any of them. (See Figure 1 for some specimen pesticide labels. We have highlighted the statement of ingredients.) This labeling complies with federal law, as currently interpreted by the United States Environmental Protection Agency (EPA). EPA's regulations require that each *active* ingredient must be identified by "name and percentage by weight," but - at EPA's discretion and with very few exceptions - the label contains only the "total percentage by weight of all *inert* ingredients."¹

******The label will say little about the "inert" ingredients, which can comprise the bulk of the product. ******

Figure 1. Specimen Labels for Some Pesticide Products Showing Statement of Ingredients

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Specimen Label



Specialty Insecticide

*Trademark of Dow AgroSciences LLC

Microncapsulated Insecticide

Controls numerous pests in and around households and other structures and in Food Service Establishments

To be applied only by, or under the supervision of, commercial applicators responsible for pest control programs

Active Ingredient:

chlorpyrifos 0, O-diethyl O-(2,6-dimethylphenyl) phosphorothioate 99%

Inert Ingredients 1%

Total 100%

Contains 1.2 pounds of chlorpyrifos per gallon.



1. Remove the measuring chamber cap and inclusive seal. Replace cap and securely tighten. To measure, add liquid to measuring chamber.
2. Return container to level position. No adjustment is needed.
3. Remove measuring chamber cap and dispense into proper application equipment.

For multiple dose re-treating: Remove the chamber cap and dispense according to directions on side of bottle.

EPA Reg. No. 62718-00

Specimen Label



Specialty Herbicide

*Trademark of Dow AgroSciences LLC

A selective preemergence surface-applied herbicidal control of annual grasses and many broadleaf weeds

- Landscape Ornamentals
- Container Grown Ornamentals
- Field Grown Ornamentals
- Driveway Areas Under Shadehouse Benches
- Ornamental Bulbs
- Ground Covers/Perennials
- Christmas Tree Plantations
- Noncropland and Industrial Sites
- Non-bearing fruit nut trees and non bearing vineyards
- Established Warm Season Turf (including Bahing Bermuda grass, Buffalograss, Centipedegrass, St. Augustinegrass and Zoysiagrass)
- Tall Fescue (warm season grass)

Active Ingredient:

oxalinic 5,5-dimethyl-2,4-dichloro-3,4-dihydro-2H-pyridazin-3(1H)-one 99%

Inert Ingredients 1%

Total 100%

Contains 4.0 pounds of active ingredient per gallon.

EPA Reg. No. 62718-113



CHLORPYRIFOS 1% GRANULE

For outdoor use only. Keep out of reach of children. See directions. For Airs, Flies, Ticks, Fleas, Mosquitoes, Ants, and other outdoor pests.

ACTIVE INGREDIENTS:
Chlorpyrifos Methyl 98.5%
OTHER INGREDIENTS: 1.5%



For more information, please visit our website at www.microandflo.com

Contains Chlorpyrifos Methyl. Active ingredient. Chlorpyrifos Methyl is a systemic insecticide. It is used to control a wide range of outdoor pests including: Fleas, Mosquitoes, Ants, Ticks, and other outdoor pests. It is also used to control indoor pests including: Fleas, Mosquitoes, Ants, Ticks, and other indoor pests. It is also used to control outdoor pests including: Fleas, Mosquitoes, Ants, Ticks, and other outdoor pests. It is also used to control indoor pests including: Fleas, Mosquitoes, Ants, Ticks, and other indoor pests.

KEEP OUT OF REACH OF CHILDREN
CAUTION



DIAZINON 2% LAWN & PERIMETER GRANULES

For outdoor use only. Keep out of reach of children. See directions. For Airs, Flies, Ticks, Fleas, Mosquitoes, Ants, and other outdoor pests.

ACTIVE INGREDIENTS:
Diazinon 98.5%
OTHER INGREDIENTS: 1.5%



KEEP OUT OF REACH OF CHILDREN
CAUTION

It is important to understand the difference between the two types of ingredients and the possible consequences of the different ways in which they are managed by EPA. The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the federal law that governs the registration and labeling of pesticides, defines active ingredients, in general terms, as the chemicals used to control the target pest.² An "inert" ingredient is, according to FIFRA, "an ingredient which is not active."³ Thus, the "inert" ingredients are substances formulated into...the pesticide product for some reason other than their direct effect on the target pest. "Inert" ingredients may serve as carriers for the active ingredients, help dissolve them, preserve them or make them easier to apply.

"Inert" ingredients however, can be toxic. In fact, a chemical may be an active ingredient in one pesticide product, and an "inert" ingredient in another product, depending only on the manufacturer's designation of the pests to be controlled by each product.⁴ According to one count, in which a 1995 list of "inert" ingredients was evaluated, 394 of those chemicals (16% of all "inerts" at that time) were, or had been, registered as active ingredients in pesticide products.⁵ So the differentiation between "active" and "inert" ingredients reflects the purpose they serve in the particular pesticide product, as defined by the pesticide manufacturer.

****** A chemical may be an active ingredient in one pesticide product, and an "inert" ingredient in another product. ******

Unfortunately, many people conclude that the term "inert" refers in some way to the toxicity of those ingredients, and are under the impression that "inert" ingredients have no adverse effects on human health or the environment. This is not the case. The chemicals used as "inerts" include some that are quite hazardous. A consumer would never know however, under current labeling requirements.

The New York State Attorney General's Environmental Protection Bureau first reported on the troublesome issue of "inert" ingredients in pesticide products in 1991.⁶ The fundamental problem identified in that 1991 report is still true today: "inert" ingredients are secret ingredients, the identities of which are not known to those who buy and use the products. Consumers and pest control services alike apply products without knowing their full composition. This situation is unique to pesticides; labeling on foods and other consumer products (such as household cleaners) provides far more complete information. While there have been some significant developments in this area, regrettably, the public is still denied information that should rightfully be provided on the label of all pesticide products.

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II. Inert By Name Alone - The Adverse Effects of "Inert Ingredients"

EPA maintains and publishes a list of substances that may be formulated as "inert" ingredients in pesticide products.⁷ Although the substances are identified and categorized, there is no indication of which "inert" ingredients are formulated in specific pesticide products. EPA currently divides the "inert" ingredients into four groups: "inerts of toxicological concern" (List 1, 8 substances), "potentially toxic inerts, with high priority for testing" (List 2, approximately 100 substances), "inerts of unknown toxicity" (List 3, more than 1900 substances), and a two-part List 4. List 4A includes more than 100 "minimal risk inerts" while List 4B contains more than 300 "inerts" that EPA believes will cause no adverse effects given current use patterns in pesticide products.

****** Pesticide products contain a variety of ingredients that either are known to be toxic or have not been adequately tested for toxicity, and the public is denied knowledge of their presence. ******

EPA uses a limited set of criteria to assign "inert" ingredients to these lists. EPA considers carcinogenicity, adverse reproductive effects, neurotoxicity/chronic effects, developmental toxicity, documented ecological effects and the potential for bioaccumulation.⁸ EPA does not consider such effects as endocrine disruption, allergenic effects and chemical sensitization. Nevertheless, the descriptive titles for these groups reveal a simple truth: pesticide products contain a variety of ingredients that either are known to be toxic or have not been adequately tested for toxicity, and the public is denied knowledge of their presence.

The "inert" ingredients in pesticides are associated with a wide range of adverse health effects. Some of these chemicals are suspected carcinogens, others have been linked to other long-term health problems such as central nervous system disorders, liver and kidney damage and birth defects. The so-called "inert" ingredients can also cause short-term health effects such as eye and skin irritation, nausea, dizziness and respiratory difficulty. If found in other products, many are specifically listed as hazardous substances and require a hazardous waste permit for proper disposal. See Box 1 for more details on the toxicity of some "inerts."

Box 1.	Some Adverse Health Effects Of A Sampling of Inert Ingredients*
Chemical	Effects
Chloroethane	Irritation of eyes; abdominal cramps, nausea, vomiting;

	liver and kidney damage; nervous system dysfunction; blood cell disorders; suspected carcinogen.
Cresols	Skin irritation, burns, and inflammation; irritation of eye, permanent damage and blindness; pneumonia; pancreatitis; central nervous system disorders; kidney failure.
Dibutylphthalate	Irritation of eyes and throat; photophobia, conjunctivitis, nausea, dizziness.
Dimethylphthalate	Irritation of eyes, mouth, nose, throat; dizziness, abdominal pain, nausea, vomiting, diarrhea; central nervous system depression; reduced respiratory rate; paralysis, coma.
Epichlorhydrin	Skin and eye irritation, conjunctivitis, corneal clouding; nausea, vomiting, fatigue; liver and kidney damage; inflammation of lungs, chronic bronchitis, death by respiratory paralysis; mutagen; fetotoxic.
Isophorone	Irritation of skin, nose, throat, respiratory system; lung congestion and degeneration; central nervous system disorders; kidney and liver damage; suspected carcinogen.
Naphthalene**	Nausea, vomiting, diarrhea, blood in urine, dermal sensitivity; hemolytic anemia; convulsions and coma. In newborns: brain damage with uncoordinated movements, disturbances in vision, hearing, feeding and speech.
Phenol	Irritation of eyes, nose, throat; headache, dizziness, fainting, abdominal pain, nausea, vomiting, diarrhea; damage to liver, kidney and heart; chromosomal aberrations and damage; mutagen.
Toluene	Skin, eye and respiratory irritation; abdominal pain, headache, nausea, dizziness, drowsiness, hallucinations; anemia; liver disorders and enlargement; central nervous system dysfunction; coma and death.
<p>* Each of these chemicals is listed as a "Hazardous Waste" under Superfund regulations and is subject to special disposal restrictions.</p> <p>** Naphthalene is also registered as an active ingredient in some pesticide products.</p> <p>Sources: U. S. Environmental Protection Agency, Integrated Risk Information System. http://www.epa.gov/iris/subst/index.html National Toxicology Program, Chemical Health and Safety Data, http://ntp-server.niehs.nih.gov/main_pages/chem-hs.html U. S. Public Health Service, Agency for Toxic Substances and Disease Registry, <i>Toxicological Profiles</i> at http://www.scorecard.org</p>	

III. Inert Ingredients are Generally the Bulk of Pesticide Products Sold

Pesticides are widely used throughout the United States in both agriculture and non-agricultural settings (e.g. in and around homes, offices, public buildings, schools, and recreational areas). According to EPA market estimates for 1996 and 1997, about 4.5 billion pounds of chemicals are used as pesticides in a typical year. That is equivalent to 17 pounds of pesticide per capita.⁹ According to EPA's 1997 market estimates, the "professional" non-agricultural market, including industrial, commercial and governmental entities, used 129 million pounds of conventional pesticides. Homeowners used another 76 million pounds of conventional pesticides in 1997.¹⁰

These remarkable numbers, however, represent only the weight of the *active* ingredients. The total weight of products produced, which would include the active ingredients plus the "inerts", is not reported. At least in the homeowner sector, however, the total amount of "inert" ingredients far outweighs the weight of active ingredients. If the joint total of all toxic ingredients were reported, the number would be many times higher.

In 1990, 1997 and 1999, the Attorney General's office conducted three separate market surveys to investigate the percent by weight of "inert" ingredients in pesticides readily available to the general public in New York State (i.e. used by "homeowners"). See Box 2 for summary results. In the Spring and Summer of 1990, we visited a number of home and garden centers, supermarkets and other retail outlets and examined the labels of 85 different pesticide products, recording the percentage of "inerts" by weight (see Appendix 1). When we visited large home improvement centers in 1997 (Appendix 2) and 1999 (Appendix 3), we also noted the identity of any "inert" ingredients identified on the labels of the pesticide products then offered for sale. In 1999, some products identified the non-active ingredients as "other ingredients" rather than "inert ingredients." (As is discussed in greater detail later in this report, there is no difference between "inert" and "other" ingredients, and the information about "other ingredients" is tabulated here as "inerts.") Few products identified any of the "inert" (or "other") ingredients, and not one of the labels identified all of the ingredients in the product.

***** *Surveys disclosed that almost three quarters of the pesticide products contained at least 95% "inerts" by weight. ******

These surveys disclosed that almost three quarters of the pesticide products contained at least 95% "inerts" *by weight*. Based on EPA's estimate of total use of "homeowner" conventional pesticides (76 million pounds in 1997), hundreds of millions, perhaps billions, of pounds of "inert" ingredients are applied to homes, gardens and lawns by homeowners in the United States each year. Additional amounts are applied in the agricultural, commercial, industrial and governmental sectors. As a result, the public is exposed to these "inert" ingredients, whether or not we choose to use pesticides. Pesticide "inert" ingredients, like active ingredients, are in our food, in the air, in our homes and workplaces- almost anywhere we go. And with very few exceptions, we cannot find out what "inert" ingredients are formulated in specific pesticide products. This is true for the general public, for the professionals we hire to control pests, and for the farmers who grow our food. None of us is privy to that information.

Box 2: Summary of Market Surveys of Inerts in Some Commonly Available Pesticide Products*			
	1990	1997	1999
Total # products examined	85	81	113
Products containing:			
99% or more inerts**	33%	57%	48%
95% or more inerts	71%	70%	72%
90% or more inerts	76%	78%	90%
Less than 50% inerts	2%	5%	2%
Some inerts identified on label	-----	15%	10%
All Inerts Identified on label	-----	0%	0%

* Results of three surveys conducted in 1990, 1997 and 1999. See Appendices 1, 2 & 3 for full list of percent inerts by product.

**Percentage of inerts by total weight of product.

I. Many Hazardous Chemicals Used as Inert Ingredients Are Regulated Under Other Laws

Another indication of the hazards associated with many "inert" ingredients is the extent to which those chemicals are regulated under other laws. Congress has passed, and EPA implements, laws that regulate pollutants in our air¹¹ and our water¹² as well as laws that identify chemicals found at Superfund sites,¹³ which must be reported to state and local emergency planning and response

committees,¹⁴ or which must be reported to EPA's Toxic Chemical Release Inventory.¹⁵ Many "inert" ingredients are recognized to be sufficiently toxic to merit regulation under these laws. More than 200 chemicals used as "inert" ingredients are considered to be hazardous pollutants in air and/or water. More than 80 "inerts" are chemicals that must be reported under EPA's Toxic Chemical Release Inventory. More than 20 "inerts" are on EPA's list of priority pollutants found at Superfund sites, and 14 are considered "extremely hazardous substances," which must be reported to emergency planning and response committees. Furthermore, 127 chemicals used as "inert" ingredients are classified by the Occupational Safety and Health Administration as occupationally hazardous chemicals.¹⁶

****** More than 200 chemicals used as "inert" ingredients are considered to be hazardous pollutants in air and/or water. ******

II. EPA Policies and Practices Enforce Secrecy

A review of the history of EPA policies and practices in regard to "inerts" reveals both the magnitude of the problem and EPA's failure to respond it effectively. FIFRA reserves exclusive authority over pesticide labels to EPA. The states or local governments cannot change label content or design. Prior to 1987, EPA did not require the identification of any "inert" ingredients on pesticide product labels and testing of "inert" ingredient toxicity was very limited. Only "inert" ingredients in food use pesticides were tested, and even those were only tested for their short term health effects, i.e. acute toxicity. (They were not, however, tested for their long-term, chronic, toxicity.) In 1987, EPA announced an "Inerts Strategy" designed to eliminate the most toxic "inert" ingredients from use, require improved label disclosure of "inert" ingredients, and increase the toxicity testing required for "inerts." Central to the strategy was the classification of "inert" ingredients into five categories:

List 1: Inerts of Toxicological Concern

List 2: Potentially Toxic Inerts, High Priority for Testing

List 3: Inerts of Unknown Toxicity

List
4A: Minimal Risk Inerts

List 4B: Inerts that will not adversely affect public health or the environment given current use patterns

****** Prior to 1987, EPA did not require the identification of any "inert" ingredients on pesticide product labels and testing of "inert" ingredient toxicity was very limited. ******

One early and positive development, which apparently resulted from implementation of this strategy, was that registrants removed many of the "inert" ingredients included on List 1 from their products. As part of the Inerts Strategy, EPA mandated that all products containing, as an "inert" ingredient, any of the substances on List 1 must identify the substance by name on the product label. At the time of original listing, there were almost 60 chemicals on List 1. today there are fewer than 10. Their removal from pesticide products was good news for public health.

Implementation of the Inerts Strategy developed slowly, and not without problems. In 1991, the EPA Inspector General reported on an investigation of EPA's implementation of its Inerts Strategy. The Inspector General reported that:

EPA has not ... enforced the 1987 Inerts Strategy requirements for inerts with toxic effects.... EPA identified 68 inerts as potentially toxic, and assigned them to a high priority for testing EPA has no specific procedures or timetables for insuring that these inerts are reviewed.

EPA is not sure how many chemicals registrants are using as inert ingredients because the inerts were not accurately coded into... [the EPA database] [T]here were about 600 registrations for which ... the chemical name was not available.¹⁷

EPA responded to this 1991 criticism of its implementation of the Inerts Strategy quite ineffectively. According to a 1993 internal memo from the EPA Inspector General's office, corrective actions originally scheduled for completion in 1992 or 1993 had been delayed until 1995 or beyond. For example, attempts to develop a computer database for "inert" ingredients had failed, and further development of the system was contingent upon further funding.¹⁸ Only recently did the system start operation, yet it still provides only limited search capabilities with which EPA can now, for example, identify products containing a particular "inert" ingredient. More refined searches, which might identify products with an "inert" ingredient at a specific percent of product weight, are not yet feasible.¹⁹

In 1996, EPA began a Consumer Labeling Initiative intended to improve consumer labeling of pesticides and other consumer products. As part of the Consumer Labeling Initiative, EPA interviewed consumers to evaluate the impact of current labels. In EPA's own words, "the interviews demonstrated that many consumers have a misleading impression of the term 'inert ingredient,' believing it to indicate water or other harmless ingredients."²⁰ With that finding, EPA was perfectly situated to act decisively to remedy the misconceptions fostered by years of deceptive terminology and secrecy. The remedy was clear: mandate that the identity of all ingredients be clearly stated on all pesticide labels.

****** EPA interviews demonstrated that many consumers have a misleading impression of the term 'inert ingredient,' believing it to indicate water or other harmless ingredients. ******

EPA did not see it quite so clearly. Instead of providing the public with the necessary information, it issued a 1997 notice proclaiming a new policy:

Effectively immediately, EPA will permit (and encourages) registrants and applicants for registration to substitute the more neutral term "Other Ingredients" on their pesticide labels and in other materials describing the pesticide product.²¹

Even this very weak and voluntary initiative has, to date, resulted in few changes. Of 113 pesticide products examined in our 1999 market survey (Appendix 3), 12 bore labels using "Other Ingredients" rather than "Inert Ingredients." Only one of those labels gave any indication of what the "other ingredients" were ("petroleum distillates") and "petroleum distillates" were labelled on other products as "inert ingredients." EPA's response to the problem identified in the 1996 Consumer Labeling Initiative has been profoundly ineffective. Consumers are still kept in the dark on the identity of the full composition of pesticide products, and are left to speculate as to the significance of EPA's differentiation between different types of ingredients.

****** Despite Inspector General criticisms, consumers are still kept in the dark on the identity of the full composition of pesticide products.***

On what basis does EPA grant this extraordinary secrecy to the identity of the so-called "inert" ingredients? Clearly, it is within the Agency's power to require the

identification of "inert" ingredients on pesticide product labels. In fact, EPA did so as part of its Inerts Strategy of the late 1980's when it required the identification of all "inert" ingredients included on List 1. By the same authority, it could and should extend that requirement to all "inert" ingredients.

EPA's apparent deference to the pesticide industry desire for confidentiality over the public's right to know is inconsistent with the labeling requirements for other consumer products such as non-prescription drugs, foods and cosmetics. The labels on these products require much more complete disclosure of ingredients, allowing the public to make informed decisions about their purchase and use. Where some confidentiality is permitted, as in the case of some ingredients in cosmetics, the manufacturer is required to petition for that protection as part of the label approval process, and before the product reaches the marketplace. (See Box 3 for additional information on the requirements for labeling of non-prescription drugs, foods and cosmetics.)

Box 3:

Labeling Requirements For Other Consumer Products

While the labeling requirements for other common consumer products, such as non-prescription drugs, foods and cosmetics may be limited in some aspects, and certainly could be improved to provide even more public disclosure, they provide for a much more informative label than that found on pesticide products under EPA's current regulatory practice. A brief review of the laws and regulations governing these products reveals these important differences.

Non-Prescription Drugs: (See Food, Drug and Cosmetic Act, 21 U.S.C. 352(e)(1)§502(e) and 21 CFR 201.10)

All active ingredients must be labeled by name and quantity. All inert ingredients must be labeled and listed in alphabetical order.

Foods: (See Food, Drug and Cosmetic Act, 21 U.S.C. 343 § 403(i), and 21 CFR 101 et seq.)

All ingredients are required to be identified in descending order of percent composition by weight. Ingredients that comprise less than 2% of the total

weight of the product can be listed at the end of the ingredient list with a statement stipulating that all ingredients in the identified group are present as less than 2% of the total product weight.

Water added to foods must be listed in its appropriate weight order.

Preservatives must be listed by their usual common name. Flavorings can be identified individually by common name or as a broader classification such as "spice" or "natural flavor." Certified colors must be identified by their certified name, while other colors may be identified by a common name or "article color." Only "incidental additives," which are components included at an insignificant level and which have no function in the final product, need not be listed. Notwithstanding the large quantities generally present, inert ingredients in pesticides would not qualify for this sort of exemption since they are formulated into the product for a purpose.

Cosmetics: (See Food, Drug and Cosmetic Act, 21 U.S.C. 362 §602, and 21 CFR 701 et seq.)

As is the case for foods, all ingredients in cosmetics must be listed in descending order of weight in the product. Fragrances and flavors are treated as they are in foods, as are "incidental ingredients." There is a provision under which a manufacturer may apply for exemption from public disclosure [21 CFR 720.8(a)] and list a particular ingredient as an "other ingredient."

The burden rests on the petitioner to provide a request that includes a full statement of the factual and legal grounds for the request including all data and other information on which the petitioner relies (21 CFR 720.8).

Furthermore, the petitioner is required to submit information unfavorable to the request. In making a determination about trade secret status, the Food and Drug Administration considers the following factors:

1. The extent to which the identity of the ingredient is known outside petitioner's business; by employees and others involved in petitioner's business.
2. Measures taken by the petitioner to guard the secrecy of the information.
3. The value of the information about the identity of the claimed trade secret ingredient to the petitioner and competitors.
4. Expenditures by the petitioner to develop the ingredient.
5. The ease or difficulty with which the identity of the claimed trade secret ingredient could be properly acquired or duplicated by others.



EPA, however, takes the opposite approach with "inert" ingredients in pesticides. Products routinely go to market with labels that fail to identify the "inert" ingredients, and citizens must file a freedom of information request in an attempt to determine the composition of products already in use. Upon receipt of such a request, EPA contacts the registrant (or other party submitting the inert ingredient for registration) to inquire if they wish to assert confidentiality. If they so desire, they may then assert confidentiality and submit substantiation for that claim. In the meantime, the freedom of information requestor must wait. According to EPA, requests for disclosure of "inert" information can take "as little as six weeks" but may take as much as several years.²²

The federal courts have already spoken on the issue of confidentiality for pesticide "inert" ingredients in the context of the Freedom of Information Act (FOIA)²³, and have ruled in decisively favor of public disclosure of "inert" ingredients. In 1996, the United States District Court for the District of Columbia ruled on a suit filed by the Northwest Coalition for Alternatives to Pesticides (NCAP) and others against EPA.²⁴ NCAP had previously submitted a FOIA request to EPA in which they requested information about the "inert" ingredients in six pesticide products. EPA initially denied the request, and when NCAP appealed, EPA revealed only that one product contained water. No further information on the identity or quantity of other "inert" ingredients was provided. After EPA's rejection of further efforts to obtain the requested information, NCAP sued in federal court. In his October 11, 1996 ruling, United States District Judge James Robertson agreed with NCAP that EPA had improperly relied on unsubstantiated claims by manufacturers that the identity of the ingredients was "trade secret" or "confidential business information." The court also ruled that EPA and the manufacturers had failed to show that competitive harm would occur from the release of the majority of chemicals in the pesticide products that were the subject of the lawsuit. Accordingly, the court ruled that, with limited exceptions, EPA must now provide information about the identity of "inert" ingredients in pesticide products in response to FOIA requests. By clarifying that the "inert" ingredients in pesticide products are not exempt from the FOIA, the court cracked open the door to EPA's secret files.

****** A federal judge ruled that EPA had improperly relied on unsubstantiated claims by manufacturers that the identity of the ingredients was "trade secret" or "confidential business information."***

The court's ruling in the NCAP case did not, however, mandate that the information be provided on the label of the product. It only directed EPA to respond more appropriately to freedom of information requests. The process of getting information from EPA in this fashion can still be extraordinarily slow and difficult. On April 5, 1999, the Attorney General's office filed a freedom of information request with EPA, requesting the identity and total percent by weight of each "inert" ingredient in each of the pesticide products identified in our 1999 market survey (see Appendix 3 for complete list).²⁵ On April 29, 1999, EPA responded that our request was "initially denied" because EPA determined that our request²⁶ "... may encompass confidential commercial information which is exempt from disclosure..." under the FOIA. EPA stated that it would first consult with the businesses affected by our inquiry and then issue a final confidentiality determination on our request. Clearly, despite the ruling of the federal court, EPA's continued practices deny the public meaningful access to this important information.

Yet, even if EPA were to respond correctly to FOIA requests, such compliance would be far from adequate. Individuals experiencing adverse reactions to pesticide exposure, emergency responders, and physicians should have full ingredient information at hand, *on the product label*. Nor is it practical for individuals faced with a pest infestation and contemplating the use of pesticide products or pest control services to be required to file freedom of information requests, and then wait months or years to obtain the information needed to make informed decisions. They have a right to full disclosure on the product label.

****** Individuals experiencing adverse reactions to pesticide exposure, emergency responders, and physicians should have full ingredient information at hand, on the product label. ******

Recognizing that Judge Robertson's ruling had limited although positive impact, the New York State Attorney General and others filed a petition with EPA on January 20, 1998²⁷ requesting that EPA change its labeling regulations to require that all ingredients, including "inert" ingredients, be disclosed on pesticide labels.

NCAP and almost 200 other citizens's groups filed a parallel petition.²⁸ These petitions argue that EPA has the discretion, under FIFRA and EPA's existing regulations, to require disclosure of all ingredients on pesticide labels regardless of their target organism or purpose. EPA's labeling regulations clearly state that "the Administrator may require the name of any inert ingredients(s) to be listed in the ingredient statement if he determines that such ingredients *may* pose a hazard to man or the environment."²⁹

As is clear in this report, and indeed in the descriptive titles assigned by EPA to the lists of "inerts," there is abundant support for a finding by the Administrator that inert ingredients do or may *pose* a hazard to man or the environment. In mandating the disclosure of only List 1 Inerts (an EPA creation), EPA in no way exhausted its discretion under the labeling regulations. The List 1 Inerts are those of *known* toxicological concern. This reflects the application of a much higher disclosure threshold than the standard of "*may pose a hazard to man or the environment.*" EPA lacks sufficient evidence to preclude the possibility of hazard to humans or the environment for the vast majority of the remaining "inerts," and therefore could, and should, require the label disclosure of their identity and quantity in specific pesticide products.

****** EPA lacks sufficient evidence to preclude the possibility of hazard to humans or the environment for the vast majority of the remaining "inerts," and therefore could, and should, require the label disclosure of their identity and quantity in specific pesticide products. ******

In response, EPA has expressed concern that FIFRA provides protection of trade secrets or confidential information. However, that protection is tempered by provisions within FIFRA that balance the statute's protection of trade secret information against the public's right to know, where such disclosure is "necessary to carry out the provisions of [FIFRA]."³⁰ Those provisions, of course, include require pesticides to bear labels that include detailed ingredients statements,³¹ information critical to the public.

By letter dated November 1, 1999, EPA informed the New York State Attorney General's office that it declined, (for the moment) to make the requested changes in the labeling requirements. In March 2000, the Attorney General's office wrote back to EPA, requesting clarification of EPA's November 1999 letter. We requested that EPA respond in writing and clearly state whether its original response was an unambiguous denial of our petition or a decision not to decide at

this time.³² On April 20, 2000 EPA responded that "a definitive decision on the petition at this juncture is premature."³³ (See Box 4 for a summary of EPA's position.) EPA had determined that it needed advice on "how to strike a balance between information needs of consumers and the confidentiality concerns of registrants." In order to obtain such advice, EPA is establishing an "Inert Disclosure Stakeholder Workgroup" within its Pesticide Program Dialog Committee (PPDC) to "... advise the PPDC on ways to make information on pesticide inert ingredients more available to the public"³⁴ Presumably, the PPDC, acting on the advice of the Inerts Disclosure Stakeholder Workgroup, will provide suggestions to EPA on appropriate measures to be adopted in regard to the disclosure of "inert" ingredients. This process will likely move slowly.

EPA has invited a group of 20 individuals to participate on the Inerts Disclosure Stakeholder Workgroup. The New York State Attorney General's office is represented in the Stakeholder Workgroup, and will continue to pursue full label disclosure and press for prompt action. Our participation in that advisory process will not constrain us from further legal action as may be appropriate.

Box 4. EPA's Justification for Continued Secrecy

EPA's denial of the Attorney General petition did not specifically ground its concern about the protection of trade secrets or confidential information in any specific provision of FIFRA. However, the agency's position apparently arises from FIFRA Section 10, 7 U.S.C. § 136h, "Protection of trade secrets and other information." This section contains a number of somewhat contradictory provisions, some of which favor public disclosure and others of which shield certain pesticide information from the public on trade secret grounds.

Reflecting these internal contradictions, Section 10, subsection (b) establishes, but limits, trade secret protection for pesticide formulas under FIFRA. Subsection (b) provides that:

[T]he Administrator shall not make public information which in the Administrator's judgment contains or relates to trade secrets or commercial or financial information obtained from a person and

privileged or confidential, except that, when necessary to carry out the provisions of this subchapter, *information relating to formulas of products* acquired by authorization of this subchapter *may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.*

(Emphasis added.) Subsection (d) then details a broad range of information about pesticides (including their "separate ingredients") that cannot be kept from the public as trade secrets, but does specify that this limitation on secrecy does not, in and of itself, authorize disclosure of the identity and quantity of inert ingredients:

All information concerning the objectives, methodology, results, or significance or any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including, but not limited to, data on safety to fish and wildlife, humans and other mammals, plants, animals, and soil, and studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public. This paragraph does not authorize the disclosure of any information that:

* * *

(C) discloses the identity or percentage quantity of any deliberately added inert ingredient of a pesticide, unless the Administrator has first determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment. 7 U.S.C. § 136h(d)(1).

Thus, proponents of non-disclosure are correct that FIFRA does provide a degree of confidentiality for the identity and quantity of inert ingredients. However, that protection must yield to the public's right to know where "the Administrator has ... determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment." As demonstrated above, the Attorney General petition has presented the Administrator with abundant evidence that the current labeling system, which prevents the consumer from knowing the identity and amounts of inert ingredients being released into the environment, poses unreasonable risks of injury to health or the environment. EPA would act well within the

discretion afforded it under Section 10 and other provisions of FIFRA to issue regulations requiring the disclosure of inert ingredients' identities and quantities on labels.¹

¹ To the extent that those arguing that FIFRA prohibits requiring disclosure of inert ingredients are correct, the statute could be amended in several ways to mandate dissemination of this important information to the public. The basic labeling provisions, 7 U.S.C. §§ 136(n) and (q), could be amended to require that "ingredient statements" include the name and percentage of each inert ingredient, and Section 10(d)(1), 7 U.S.C. §§ 136h(d)(1) (set forth in part above) could be amended by eliminating subsection (d)(1)(C), which prohibits disclosure of inerts unless the Administrator first finds disclosure necessary to protect against an unreasonable risk of injury to health or the environment. Alternatively, some leeway could be maintained to accommodate legitimate trade secret concerns about inert identities and quantities by making this information presumptively available to the public, but allowing registrants to make an affirmative showing on a product by product basis that disclosure would in fact reveal legitimately confidential information.

III. Secrecy Surrounding So-Called Inert Ingredients Contributes to Deceptive Advertising Claims

The Attorney General's office has prosecuted scores of cases involving deceptive advertising claims for pesticides and pest control services. In many of these cases, pesticide producers and pest control services were using the secrecy surrounding "inerts" to their advantage when advertising claims about the health and environmental impacts of pesticides.

For example, in advertising for its Roundup products, the Monsanto Company made various claims about the characteristics of the formulated product, and sought to substantiate the claims with data on the active ingredient alone. In fact, some of those claims were false as they related to the "inert" ingredients. For example, although they implied that Roundup was not toxic to fish, the "inert" surfactant (which helps to spread the active ingredient over the surface of foliage) in Roundup is "highly toxic" to some fish, according to data Monsanto submitted to EPA.³⁵ Furthermore, the implication that claims for the product can be based

on the characteristic of a single component is misleading. In November 1996, Monsanto signed an Assurance of Discontinuance with the Attorney General's office in which the company agreed to cease and desist from making these and other deceptive claims, and paid \$75,000 in penalties.

****** Pesticide producers and pest control services were using the secrecy surrounding "inerts" to their advantage when advertising claims about the health and environmental impacts of pesticides. ******

Similarly, the Chevron Chemical Corporation advertised its "Orthoganics" line of products as a "brand new line of products composed of naturally occurring pesticides and organic fertilizers." When pressed, the company could not demonstrate that the "inert" ingredients in the Orthoganic brand pesticides were also naturally occurring. Chevron agreed to stop making these and other deceptive claims, and paid a penalty of \$50,000. (Assurance of Discontinuance signed December 1993).

The Attorney General's office has also obtained more than one hundred Assurances of Discontinuance from pest control services that made advertising claims about the health and environmental impacts of their services, including that the products applied. Those claims were deceptive for a number of reasons, including that the applicators could not substantiate them since they, like the rest of the public, were ignorant of the full composition of the pesticide products used. As long as such secrecy is maintained, the public will remain ill-prepared to guard against this sort of deception and businesses will risk running afoul of the law, be that by intent or by ignorance.

IV. Conclusion

As a result of the secrecy allowed by EPA, the public is kept in the dark on many of the chemicals that compose pesticide products. Although the labels identify the active ingredients, most pesticide products are composed largely of ingredients designated "inert" only as a result of statutory definition. The identities of these ingredients are withheld from the public. Pesticide registrants know what is in these products, as does EPA. Competitors who wish to determine the composition of products have the resources to do so through reverse engineering. But the average citizen who is exposed to these products is kept uninformed. Although the courts have provided guidance on the release of the identity of "inerts" in response to freedom of information requests, the EPA has not availed itself fully

of the courts' guidance. The information must be available when needed, when decisions on pesticide use are made, and when quick response to pesticide poisonings is imperative. Despite lawsuits and petitions, despite the concerns expressed by the public, and despite the clear need for full label disclosure, EPA still accords unprecedented protection to the identity of certain ingredients. The protection EPA gives pesticides -- poisons -- goes well beyond that accorded other common consumer products and is inconsistent with the public interest.

****** Despite lawsuits and petitions, despite the concerns expressed by the public, and despite the clear need for full label disclosure, EPA still accords unprecedented protection to the identity of certain ingredients.***

V. **Recommendations**

By the end of 2000, EPA should revise its labeling policies and practices to require the full disclosure of all pesticide ingredients, regardless of the purpose they serve in the formulation. The label must inform the public, and the identity of the ingredients is a fundamental element of the information that should be available.

In the meantime, the public must recognize that any decision to use a pesticide, or to otherwise be exposed to pesticides, is a decision made in ignorance. We do not know the identity of the chemicals to which we are exposed. We cannot make informed individual decisions on the acceptability of those exposures, a basic element in the maintenance and protection of our own health. And when adverse reactions occur, we must stand by and wait until the information necessary for proper diagnosis and treatment is obtained from other sources.

One sure way to avoid the hazards of exposure to these secret ingredients is to avoid exposure to pesticides. Pest management is not synonymous with pesticide use. Pests can be controlled in a variety of ways, and of all the alternatives, toxic chemicals should be the last resort. There is a long history of mechanical, physical, and biological controls effectively addressing pest problems. Using these non-toxic alternatives, the problems associated with secret "inert" ingredients in pesticide problems can be minimized. The ultimate resolution, however, remains in the hands of EPA.

IX. Appendices

Appendix 1: Percent inerts in some pesticide products (1990)*

HOUSEHOLD PESTICIDE	MANUFACTURER	PERCENT INERT
Ant, Roach, and Spider Killer	Dexol Industries	99.5
Aphid and Mite Attack	Ringer Corp.	97.96
Crawling Insect Attack	Ringer Corp.	99.56
Flea Kill Fogger	The d-Con Co. Inc.	98.35
Hyponex Bug Spray	Hyponex Corp.	99.78
Insecticidal Soap for Indoor Plants	Safer, Inc.	98.0
Mite Killer	Safer, Inc.	98.0
No-Roach	Gaston Johnston Corp.	82.034
Ortho Flea-B-Gon	Chevron Chemical Co.	99.17
Ortho Hi-Power Ant, Roach & Spider Killer	Chevron Chemical Co.	95.11
Ortho Hornet & Wasp Killer	Chevron Chemical Co.	99.50
Raid Ant & Roach Killer	S.C.Johnson & Sons Inc.	99.10
Raid Flying Insect Killer	S.C.Johnson & Sons Inc.	99.2
Raid Fogger II	S.C.Johnson & Sons Inc.	85.0
Raid Fumigator	S.C.Johnson & Sons Inc.	87.4
Raid House and Garden Bug Killer	S.C.Johnson & Sons Inc.	97.504
Spectracide Garden, Rose & Household Plant Spray	Kenco Chem. & Mfg. Corp.	99.5
Spectracide Home Insect Control	Kenco Chem. & Mfg. Corp.	99.17
Spectracide Indoor Fogger	Kenco Chem. & Mfg. Corp.	99.40
Spectracide Wasp and Hornet Killer	Kenco Chem. & Mfg. Corp.	99.3664
Wasp and Hornet Attack	Ringer Corp.	99.56
LAWN CARE FUNGICIDE		
Lawn and Turf Fungicide	Faesy & Besthoff, Inc.	92.0
Lawn Disease Preventer	Glorion Corp.	95.0

Lawn Fungicide	Lebanon Chemical Corp.	99.945
LAWN CARE HERBICIDE		
2-Way Green Power	Lebanon Chemical Corp.	96.52
Balan 2, 5G	Elanco Products Co.	97.5
Expel Dandelion Killer	Lebanon Chemical Corp.	97.92
Longlife Weed and Feed	Frank's Nursery & Crafts	99.9845
Preen'n Green	Lebanon Chemical Co.	99.26
Spectracide Grass and Weed Killer	Kenco Chem. & Mfg. Corp.	99.7
Step 1 Crab Grass Prevention	O.M.Scott & Sons Co.	99.85
Step 2 Weed Control	O.M.Scott & Sons Co.	97.205
Super Turf Builder Plus 2	O.M.Scott & Sons Co.	97.66
Super Turf Builder Plus Halts	O.M.Scott & Sons Co.	98.97
Surety Weed and Feed Plus	Howard Johnson Ent. Inc.	99.063
Team 2G	Elanco Products Co.	98.0
XL 2G	Elanco Products Co.	98.9
LAWN CARE INSECTICIDE		
Bugout	Lebanon Chemical Corp.	98.86
Chinch Bug & Grub Preventer	Glorion Corp.	97.28
Deluxe Weed and Feed	Glorion Corp.	97.28
Grub Buster	Free Flow Fertilizer	98.5
Insect Control	O.M.Scott & Sons Co.	96.40
Lawn Insect Control	Glorion Corp.	98.86
Lawn Insect Control	O.M.Scott & Sons Co.	94.16
Lawn Insecticide	Free Flow Fertiliz	95
Lawn Insecticide	Greensweep Household Products	58.5
Longlife Lawn & Garden Insecticide	Frank's Nursery & Crafts	95.000
Oftanol	Glorion Corp.	98.5
Spectracide Lawn & Garden Insect		

Control (granular)

Kenco Chem. & Mfg. Corp. 95

Spectracide Lawn & Garden

Insect Control (liquid)

Kenco Chem. & Mfg. Corp.	18.7	
Step 3 Insect Control	O.M.Scott & Sons Co.	96.40
GENERAL HERBICIDES		
2 in 1 Crabgrass Preventer	Glorion Corp.	98.78
AAtrex 4L	CIBA-GEIGY Corp.	57.0
Arsenal	American Cyanamid Co.	72.4
Chopper	American Cyanamid Co.	72.4
Ortho Kleenup Super Edger	Chevron Chemical Co.	99.50
Prowl	American Cyanamid Co.	57.7
GARDEN FUNGICIDE		
Dexol Bordeaux Mixture	Dexol Industries	87.35
Garden Fungicide	Safer, Inc.	99.6
Pipron L.C.	Elanco Products Co.	17.6
Rubigan E.C.	Elanco Prodcuts Co.	87.5
GARDEN INSECTICIDE		
Liquid Sevin	Faesy & Besthoff, Inc.	77.5
Ortho 3-Way Rose & Flower Care	Chevron Chemical Co.	98.85
Rose & Flower Spray or Dust	Bonide Chemical Co. Inc.	84.5
Spectracide Rose & Garden Insect Killer	Kenco Chem. & Mfg. Corp.	99.88
OUTDOOR INSECTICIDE		
Abate 1-SG	American Cyanamid Co.	99
Amdro	American Cyanamid Co.	99.12
Cygon 400	American Cyanamid Co.	56.5
Gypsy Moth Biological Control	Acme Burgess Inc.	99.14
Mosquito Attack	Ringer Corp.	50
Ortho Diazinon Soil & Foliage Dust	Chevron Chemical Co.	96
Ortho Diazinon Plus Insect Spray	Chevron Chemical Co.	75
Ortho Home Orchard Spray	Chevron Chemical Co.	62.5
Ortho Isotox Insect Killer	Chevron Chemical Co.	90.6
Ortho Orthene Systemic Insect Control	Chevron Chemical Co.	90.6

Ortho Rose & Flower Insect Killer	Chevron Chemical Co.	99.70
Ortho Sevin	Chevron Chemical Co.	95
Raid Yard Guard	S.C.Johnson & Sons Inc.	99.125
Yard and Garden Insect Attack	Ringer Corp.	99.56
PET CARE		
Hartz 2 in 1 Flea and Tick	The Hartz Mountain Corp.	99.332
INSECT REPELLENT		
Cutter Insect Repellent	Miles Laboratory	67
Off	S.C.Johnson & Sons Inc.	85.00
Ortho Outdoor Insect Fogger	Chevron Chemical Co.	91.385
MOLLUSCICIDE		
Deadline	Pace National Corp.	96
Ortho Slug-geta	Chevron Chemical Co.	98
* Based on a market survey of conventional pesticide products sold at several retail outlets during the Spring and Summer of 1990.		

Appendix 2: Percent inert ingredients in some pesticide products (1997)*

Products	EPA Reg. #	% Inerts	Inerts Identified
LAWN AND GARDEN INSECTICIDES			
Combat Outdoor Ant Killing Stakes	64240-3	99.00	
Cygon Systemic Insecticide	4-256	76.6	
Ortho Diazinon Granules	239-2375	98	
Ortho Diazinon Plus Insect Spray	239-2364	75	aromatic petroleum distillates (% not stated)
Ortho Dursban Ready - Spray Outdoor Flea & Tick Killer	239-2633	95.62	
Ortho Hornet & Wasp Killer	239-2390	99.50	petroleum distillates (% not stated)
Ortho Isotox Insect Killer Formula IV	239-2595	91.5	
Ortho Orthene Systemic Insect Control	239-2461	90.6	

Ortho Rose Pride Systemic Rose & Flower Care	239-2134	99	
Ortho Sevin Carbaryl Insecticide Garden Dust	239-2181	95	
Ortho Sevin Liquid Carbaryl Insecticide 2	239-2628	78.7	
Ortho Tomato & Vegetable Insect Killer	239-2497	99.78	
Raid Yard Guard (Outdoor Fogger)	4822-309	99.1325	sodium nitrate (% not stated)
Real-Kill Diazinon Insect Killer Spray Concentrate	8845-92-478	75.0	aromatic petroleum distillates (% not stated)
Sevin Insect Control	65636-127-4	99.874	
Spectracide Lawn & Garden Insect Control - Diazinon Insect Spray	8845-92	75.0	aromatic petroleum distillates (% not stated)
Spectracide Rose & Garden Insect Killer	478-46-8845	99.96	
Spectracide Termite & Ant Control Concentrate	62719-56-8845	87.4	aliphatic & aromatic petroleum solvents (% not stated)

LAWN AND GARDEN HERBICIDES

Ortho Brush-B-Gon Poison Ivy, Poison Oak, and Brush Killer 3	239-2515	99.30	
Ortho Brush-B-Gon Poison Ivy, Poison Oak & Brush Killer Concentrate	239-2491	92	
Ortho Crabgrass Killer Formula II	239-2510	91.6	
Ortho Grass-B-Gon Grass Killer Formula II	239-2620	99.52	
Ortho Ground Clear Super Edger Grass & Weed Control	239-2516	99.50	
Roundup Sure Shot Foam	239-2652	99.04	
Roundup Weed & Grass Killer	239-2638	99.04	
Safer Brand Superfast Weed & GrassKiller	42697-22	97.00	
Safer Brand Garden Fungicide	42697-17	99.60	
Spectracide Grass & Weed Killer Concentrate	9688-106-8845	96.95	

OTHER - LAWN AND GARDEN			
Fruit Tree Spray	4-107	68.47	
Fruit & Vegetable Garden Dust	4-107	68.47	
Moletox	4-285	98	
Ortho Home Orchard Spray	239-568	62.5	
Ortho Rose Pride Funginex	239-2435	93.5	
Ortho Rose Pride Orthenex Insect & Disease Control	239-2476	99.536	
Rose & Flower Dust	4-59	84.5	
Rose Spray II	4-122	69.70	petroleum distillate (% not stated)
Spectracide Immunex	100-773- 8845	98.45	
INDOOR INSECTICIDES			
Combat Superbait Ant Baits	64248-2- 64240	99	
Enforcer Carpenter Ant Killer Concentrate (also sold as Enforcer Over Nite Pest Control Concentrate)	432-733- 40849	74.0	Xylene Range Aromatic solvent (% not stated)
Enforcer Concentrate for Fleas	40849-54	98.70	
Enforcer Exterminator Plus One-Year Flea Control	40849-64	35.00	
Enforcer Flea Fogger	40849-56	99.015	
Enforcer Flea Killer for Carpets III	40849-61	99.7	
Hot Shot Fogger	478-126- 8845	99.4	
Hot Shot Maxattract Roach Bait	9688-67- 8845	99.50	
Hot Shot Roach & Ant Killer 2	9688-86- 8845	99.94	
Ortho Ant-Stop Ant Killer Bait 2	506-137- 239	99.75	
Ortho Ant-Stop Ant Killer Dust	239-2517	99	
Ortho Home Defense	62719- 197-239	99.19	
Ortho Home Defense Flying &	239-2512	99.5	petroleum distillate, Xylene, or

Crawling Insect Killer			Xylene Range Aromatic Solvent (% not stated)
Raid Ant Baits Plus	4822-356	99.50	
Raid Ant & Roach Killer 14	4822-403	99.100	petroleum distillates (% not stated)
Raid Fogger	1021-1558-4822	99.115	
Raid Fumigator	4822-278	87.4	
Raid House & Garden Bug Killer	4822-38	98.70	
Raid Max Plus Egg Stoppers	4822-400	9	
Raid Max Plus Roach Bait	4822-411	99.472	
Real-Kill Ant & Roach Killer 2	9688-86-478	99.94	
Real-Kill Dursban Ant, Flea, & Tick Killer Spray Concentrate	9688-95-478	95.25	
Real-Kill Foaming Wasp, Hornet & Yellow Jacket Killer	9688-62-478	99.70	sodium nitrite (% not stated)
Real-Kill Home Insect Control	9688-80-478	99.99	
Real-Kill Indoor Flea Fogger 2	8845-123-478	99.115	
Real-Kill Indoor Fogger	8845-123-478	99.115	
Safer Brand Home Patrol	42697-38	99.75	
Safer Brand Household Insecticidal Soap	42679-2	98.00	
Spectracide Ant Shield Home Barrier Granules	9688-83-8845	99.75	
Spectracide Bugstop	9688-81-8845	99.975	
Spectracide Wasp & Hornet Killer II	9688-62-8845	99.70	sodium nitrite (% not stated)
TAT Ant Trap	506-137	99.75	
RODENTICIDES			
d-CON Mouse Prufe II	3282-65	99.99	
d-CON Ready Mixed Baitbits	3282-81	99.995	
Enforcer Exterminator Plus Rat & Mouse Weather Bait	12455-5-40849	99.995	

Enforcer Rat Kill II	10182-337-40849	99.995	
Enforcer Rat & Mouse Killer	7173-128-40849	99.995	
Hot Shot Sudden Death Brand Mouse Killer I	8845-125	99.99	
Revenge Rodent Smoke Bomb	9086-4	11	
REPELLANTS			
Hinder Deer & Rabbit Repellent	64864-26	86.2	
RO-PEL Animal, Rodent, & Bird Repellent	45735-2	99.9	
Shot-Gun Mole Repellent	64439-1-4	34.0	
XP-20 Deer & Rabbit Repellent	65636-92-46260	90.00	
Enforcer Ant & Insect Barrier Treatment	769-726-40849	99.00	
* Survey of all 81 pesticide products found in a large home improvement center in New York City, November 1997.			

Appendix 3: Percent inerts in some pesticide products (1999)*

Products	EPA Reg. #	% Inerts	Inerts Identified **
LAWN AND GARDEN HERBICIDES			
Crabgrass & Broadleaf Weed Killer	2217-709-4	68.85	
Green Sweep (Weed & Feed Spray)	239-2640	93.15***	
Ortho Brush-B-Gon Poison Ivy, Poison Oak & Brush Conc.	239-2491	92	
Ortho Brush-B-Gon Poison Ivy, Poison Oak & Brush Killer	9688-89-478	92	

Ortho Clear Triox - Total Vegetation Killer	239-2622	99.22	2-(4,5-dihydro-4-methyl-4-(1-methylethyl)5-oxo-1H-imidazole-2-yl)-3-pyridinecarboxylic acid(0.06%)
Ortho Concentrated Weed-B-Gon	239-2510	92	
Ortho Grass-B-Gon Grass Killer Formula II	239-2620	99.52	
Ortho Ground Triox - Total Vegetation Killer	239-2657	94.92***	
Ortho Lawn Weed Killer	2217-570-239	85.05	
Ortho Ready Spray Lawn Weed Killer	239-2664	85.05	
Ortho Weed-B-Gon Crabgrass Killer Formula	239-2510	91.6	
Preen Weed Control	961-280	98.53	
Premium Crabgrass Control & Lawn Fertilizer	62719-152-557	98.75	
Real Kill Grass & Weed Killer	9688-126-478	99.76***	
Roundup Sure Shot Foam	239-2652	99.04	
Roundup Weed & Grass Killer	239-2638	99.04	
Safer Brand Superfast Weed & Grass Killer	42697-22	97	
Scotts Turf Builder & Weed Control	538-28	97.58	
Spectracide Lawn & Garden Insect Control - Diazinon	8845-92	77.6	
Spectracide Weed Stop	478-121-8845	81.91	
Spectracide Weed & Grass Killer	9688-126-8845	99.76***	
Spring Crabgrass Control	62719-137-961	98	
Ultra Vigoro Weed & Feed	271-819-8660	99.02	
Vigoro Premium Lawn Fertilizer w/ Weed Control	228-301-557	99.06	

LAWN AND GARDEN INSECTICIDES

Carpenter Ant Control Spray	9591-124-5	99	Petroleum distillate
Carpenter Ant Dust	62719-54-5	99	
Combat Outdoor Ant Killing Granules	64240-25	99	
Combat Outdoor Ant Killing Stakes	64240-30	99.99	
Enforcer Ant & Insect Barrier Treatment	62719-14-40849	99.5	
Grub Control w/Dylox Insecticides	3125-406-961	93.8	
Ortho Bug-B-Gon Garden Dust	239-2181	95 ^{***}	
Ortho Diazinon Ultra Insect Spray	239-2643	77.6	
Ortho Dursban Ready Spray Outdoor Flea & Tick Killer	239-2633	95.62	
Ortho Isotox Insect Killer Formula IV	239-2595	91.5	
Ortho Multipurpose Daconil	239-2522	70.4 ^{***}	
Ortho Orthene Systemic Insect Control	239-2461	62.5	
Ortho Rose & Flower Insect Killer	239-2668	99.988	
Ortho Rose Pride Systematic Rose & Flower Care	239-2134	99	
Ortho Rose Pride - Rose & Flower Insect Killer	239-2498	99.78	
Ortho Sevin Branch Carbaryl Insecticide Garden Dust	239-2181	95	
Ortho Sevin Liquid Brand Carbaryl Insecticide 2	239-2628	78.7	
Ortho Tomato & Vegetable Insect Killer	239-2497	99.78	
Raid Yard Guard (Outdoor Fogger)	4822-394	99.632	Sodium nitrate
Real Kill Diazinon Insect Killer Spray Concentrated	8845-92-478	75 ^{***}	Aromatic petroleum distillates
Real-Kill Diazinon Soil &	239-2651	98 ^{***}	

Turf Insecticide			
Safer Insecticidal Soap	42697-1	50.48	
Safer Rose&Flower Insect Killer Spray	36488-33-42697	98.5	
Safer Yard & Garden Insect Killer	42697-33	98.973	
Scotts Turf Builder w/ Insect Control	538-254	97.58	
Sevin Insect Control	65636-127-4	99.874	
Spectracide Diazinon Soil & Turf Insecticide	8845-95-478	95	
Spectracide Dursban Granules	9688-88-8845	99	
Spectracide Termite & Ant Control Concentrated	62719-56-8845	87.4	Aliphatic & aromatic petroleum solvents
Vigoro Lawn Insect Control and Fertilizer	8660-11	96.66	
Vigoro Premium Insect Control	557-1980	99.36	
OTHERS			
Fruit & Vegetable & Flower Garden Dust	4-30	76.6	
Fungonil	675-72-2-4	99.913	
Moletox	4-285	98	
Ortho Bug-Geta Snail & Slug Killer	239-2561	98 ^{***}	
Ortho Rose Pride Funginex	239-2435	93.5	
Ortho Rose Pride Orthenex Insect & Disease Control	239-2476	99.536	
Ortho Rose Pride Othenex Insect & Disease Control	239-2594	92	
Rose & Flower Dust	4-59	84.5	
Rose Spray II	4-122	69.7	Petroleum distillate
Spectracide Immunex Multi-Purpose Fungicide (Concentrated)	9688-123-8845	98.45	

INDOOR INSECTICIDES			
Black Flag Roach Barrier & Killer	11715-184-69421	96.5	
Combat Quick Kill Roach Bait	64240-33	99.97	
Enforcer Concentrate for Fleas	40849-54	99.015	
Hot Shot Ant Kill Plus	9688-79-8845	99.92	
Hot Shot Flying Insect Killer	9688-111-8845	99.2	
Hot Shot Fogger	478-126-8845	99.4	
Hot Shot Kitchen Bug Killer	9866-114-8845	98.75	
Hot Shot Maxattrax Roach Bait	9688-67-8845	99.5	
Hot Shot Roach & Ant Killer 2	9688-86-8845	99.94	
Mosquito Beater	4-123	95	
No-Escape	4-364	99.188	Petroleum distillate
Ortho Ant-Stop Ant Killer Spray	239-2524	99.6	Petroleum, xylene range aromatics
Ortho Ant-Stop Killer Bait 2	506-137-239	99.75	
Ortho Ant-Stop Killer Dust	239-2517	99	
Ortho Bug-B-Gon	239-2630	99.925	
Ortho Home Defense	627-197-239	99.5	
Ortho Home Defense Flying & Crawling	239-2512	99.5	Petroleum distillate, xylene, Insect Killer & xylene range aromatic solvent
Ortho-Klor Insect & Termite Killer	4675-19-478	87.4	
Raid Ant Baits Plus	4822-356	99.5	
Raid Commercial Flying Insect Kill	4822-85	97.68	
Raid Commercial Flying Insect Killer	4822-36	97.6	

Raid Concentrated Deep Reach Fogger	4822-452	98.284 ^{***}	
Raid Flea Killer Plus	4822-273	99.015	
Raid Fumigator	4822-278	87.4	
Raid House & Garden Bug Killer	4822-38	98.7	
Raid Indoor Flea Fogger	1021-1623-478	99	
Raid Max Plus Egg Stoppers	4822-400	9	
Raid Max Plus Roach Bait	48822-411	99.472	
Real Kill Dursban Ant,Flea & Tick Killer Spray (Concentrated)	9688-95-478	95.25	
Real Kill Dursban (Ant, Flea & Tick Killer)	9688-95-478	95.25	
Real Kill Indoor Fogger	8845-123-478	99.115	
Real Kill Malathion Insect Killer Spray	4615-19-478	50	
Real-Kill Ant & Roach Killer 2	9688-86-478	99.94	
Real-Kill Foaming Wasp, Hornet & Yellow Jacket Killer	9688-62-478	99.7	Sodium nitrite
Real-Kill Home Insect Control	9688-80-478	99.99	
Safer Brand Home Patrol	42697-38	99.75	
Spectracide Ant Shield Home Barrier Granules	9688-83-8845	99.75	
Spectracide Bugstop	9688-81-8845	99.975	
Spectracide Dursban Multi-purpose Insect Spray Concentrated	8845-30	94 ^{***}	
Spectracide Wasp & Hornet Killer II	9688-62-8845	99.7	Sodium nitrite
TAT Ant Trap	506-137	99.75	
RODENTICIDES			

d-CON Mouse Pruf II	3282-65	99.995	
d-CON Ready Mixed Baitbits	3282-81	99.995	
Enforcer Rat & Mouse Killer	7173-128-40849	99.995	
Zep Commercial Rat & Mouse Killer	182-337-40849	99.995	
REPELLANTS			
XP-20 Deer & Rabbit Repellent	6536-92-46260	90	
Hinder Deer & Rabbit Repellent	64864-26	86.2	
Shot-Gun Mole Repellent	64439-1-4	34	
MOLLUSCICIDE			
Ortho Bug-Geta Snail & Slug Killer	39-2561	98***	
* Survey of all 113 conventional pesticide products found in a large home improvement center in New York City, May, 1999.			
** Unless specified here, the quantity of each inert ingredient was not stated on product label.			
*** These products used the term "Other Ingredients" rather than "Inert Ingredients" on the label.			

X. Endnotes:

¹ 40 CFR 156.10(g)(1).

² 7 U.S.C. 136.2(a).

³ 7 U.S.C. 136.2(m).

⁴ 52 Fed.Reg. 13305, 13307, 1987.

⁵ Northwest Coalition for Alternatives to Pesticides, "Worst Kept Secrets: Toxic Inert Ingredients in Pesticides" p.3, 1998.

⁶ New York State Attorney General's Office, "The Secret Hazards of Pesticides: Inert Ingredients." This report, originally published in June 1991, and subsequently revised, is now out of print.

⁷ For EPA's current list of "inert" ingredients, see <http://www.epa.gov/opprd001/inerts/lists.html>.

⁸ 52 Fed. Reg. 13305, 133306.

⁹ U.S. EPA, "Pesticide Industry Sales and Usage - 1996 and 1997 Market Estimates," 73-R-99-001 1999.

¹⁰ EPA classifies pesticides as one of several "types." "Conventional pesticides" are chemicals developed and produced exclusively or primarily for use as pesticides. "Other pesticide chemicals" are those registered as pesticides but used primarily for other purposes, such as sulfur and petroleum. EPA also recognizes three other "types" of pesticides- "wood preservatives," "specialty biocides" and "chlorine/hypochlorites." See U.S. EPA, "Pesticide Industry Sales and Usage - 1996 and 1997 Market Estimates," 73-R-99-001, 1999.

¹¹ Federal Clean Air Act, 42 U.S.C. 7401 et seq.

¹² Federal Clean Water Act, 33 U.S.C. 121 et seq.

¹³ 42 U.S.C. §9604(i), Superfund Amendments and Reauthorization Act, Section 110.

¹⁴ 42 U.S.C. §11002(a), Superfund Amendments and Reauthorization Act, Section 302A.

¹⁵ 42 U.S.C. §11023(a), Superfund Amendments and Reauthorization Act, Section 313.

¹⁶ Northwest Coalition for Alternatives to Pesticides, "Worst Kept Secrets: Toxic Inert Ingredients in Pesticides," p.4, 1998.

¹⁷ U.S. EPA, Office of the Inspector General, "Inert Ingredients in Pesticides," Audit Report E1EPF1-05-0117-1100378, Sept. 27, 1991.

¹⁸ Memo from Michael Simmons, Associate Assistant Inspector General for Internal and Performance Audits to Victor J. Kimm, Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances, Sept. 17, 1993.

- ¹⁹ Personal communication from Kerry Leifer, Inerts Team Leader, U.S. EPA Office of Pesticide Programs, Jan. 10, 1999.
- ²⁰ U.S. EPA, "Use of Term 'Inert' in the Label Ingredients Statement." Pesticide Regulation Notice 97-6, Nov. 1, 1997: http://www.epa.gov/oppmsd1/PR_Notices/pr97-6.html.
- ²¹ *Ibid.*
- ²² U.S. EPA, Office of Pesticide Programs, "Status Report for PPDC: 'Inert' or 'Other' Ingredients in Pesticide, Products." December 31, 1998 update: <http://www.epa.gov.oppfead/cb/ppdc/inert.htm>.
- ²³ Freedom of Information Act, 5 U.S.C. 552.
- ²⁴ Northwest Coalition for Alternatives to Pesticides v. Browner, Slip op. D.D.C. October 11, 1996.
- ²⁵ Letter from Assistant Attorney General Andrew J. Gershon to Freedom of Information Officer, Office of Pesticide Programs, U.S. EPA, April 5, 1999.
- ²⁶ Letter from Richard D. Schmitt, Acting Director - Information Resources and Services Division, Office of Pesticide Programs, U.S. EPA to Assistant Attorney General Andrew J. Gershon, April 29, 1999.
- ²⁷ Petition of New York, Alaska, Connecticut, Guam, Massachusetts, Minnesota, New Hampshire and Wisconsin To Require Disclosure of "Inert" Ingredients on Pesticide Labels, filed January 20, 1998. By letter dated November 22, 1999, Illinois joined the Petition.
- ²⁸ Petition To Require Disclosure of Inert Ingredients On Pesticide Product Labels, by the Northwest Coalition for Alternatives to Pesticides, the Western Environmental Law Center and 180 others, filed on January 20, 1998. In June 1999, EPA was notified that an additional 80 groups had joined the Petition.
- ²⁹ 40 C.F.R. § 156.10(g)(1).
- ³⁰ *Id.*
- ³¹ 7 U.S. C. § 136h(q)(1)(F) and (2)(A).

³² Letter from Assistant Attorney General Andrew Gershon to Deputy Assistant Administrator Susan H. Wayland, March 16, 2000.

³³ Letter from Acting Administrator Susan H. Wayland to Assistant Attorney General Andrew Gershon, April 20, 2000.

³⁴ Letter from Susan H. Wayland, Deputy Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances, U.S. EPA to Assistant Attorney General Andrew J. Gershon, November 1, 1999.

³⁵ United States Environmental Protection Agency, "Reregistration Eligibility Decision for Glyphosate - September 1993" EPA 738-R-93-014.

source:

http://www.oag.state.ny.us/press/reports/inerts/table_of_contents.html 9aug01

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