Registration Jacket 64140-1

Volume 2

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

OFFICE OF
PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

September 25, 2002

McNeil River Enterprises, Inc.
365 Prater Lane
Richmondale, Ohio 45673

Attention: Mr. Randal Prater

Subject: Guard Alaska Bear Repellent
EPA Reg. No. 71545-1
Alleged Illegal Sale of Product
Your memorandum of February 27, 2002

Purpose The purpose of your submission is to file a complaint with the Agency that Defense Manufacturers Inc. (DMI), Axtrom Industries, and other companies were illegally selling your product without your knowledge, with either the U.S. or Canadian label. You alleged that one of the states where product had been sold illegally was Florida because you did not sell the product in this state.

Preliminary review We did a preliminary review of the material submitted to us, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to determine if additional investigation would be productive. We called the telephone numbers provided in your submission and uncovered the following two facts:

1. A company called Safety Technology of Jacksonville, **Florida**, is selling your product on the internet (www.safetytechnology.com/bearspray.htm) as a "20% ultra hot pepper spray". According to our telephone conversation, this company is a legal distributor of your product.

Preliminary review-continued

2. Ray Harding of Ultimate Defense Co (tel 1-800-432-8451), in **Florida**, claims to be able to obtain your product either from you or from Larry Harris of a Washington Laboratories in Canton, Ohio. According to our telephone conversation, you doubted that Washington Laboratories was actually supplying Mr. Harding with product because Washington Laboratories was not suppose to sell product to other companies without your permission.

Conclusions

This preliminary review verifies that your product is being sold from two locations in Florida. In the first example, the sale appears to be legal. In the second example, an investigation would have to be conducted to determine if the sale of your product was actually legal.

Follow-up

Based on the information submitted, we have forwarded the material sent us to Ms. Brenda Mosley of our Office of Compliance Monitoring for possible further action.

Questions

If you have questions about this letter, please contact me at 703-305-5407 (by phone), 703-305-6596 (by fax), or peacock.dan@epa.gov (by E-Mail).

Sincerely yours,

Daniel B. Peacock

Daniel B. Peacock, Biologist
Insecticide-Rodenticide Branch
Registration Division (7504C)

Enclosure

Information downloaded from website

Copy

Brenda Mosley of the Office of Enforcement Compliance Assurance (2245A)

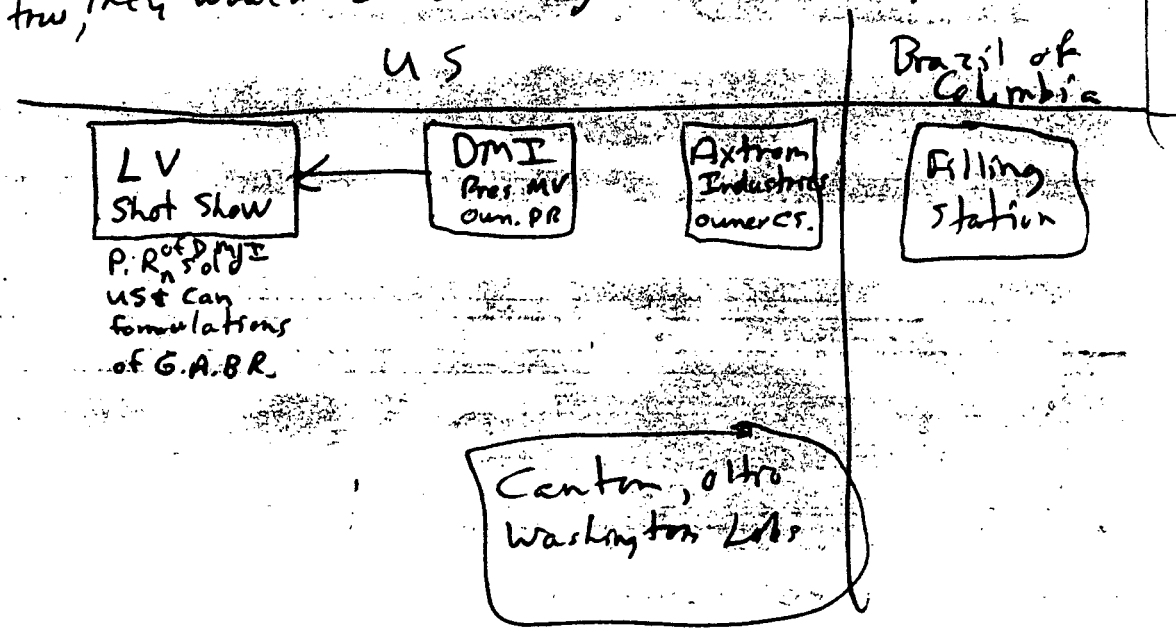
Letter location

Disk 82:A:\Capsaincin\71545-1, 9-25-2002, allegation of illegal sale of Guard Alaska Bear Repellent.wpd, Sep 25, 2002

Complaint – Prater

Complaint | Paul Reyna[1], alleged owner of DMI, sold Canadian and U.S. formulations of Guard Alaska Bear Repellent (EPA Reg. No.) at the February 2001? Las Vegas Shot Show.

Randal Prater alleges that Axtrom Industries is importing Guard Alaska Bear Repellent from Brazil or Columbia where they allegedly have three filling stations, which were alleging moved to one of those countries. [Since Randal Prater ~~made~~ fills his product in Brazil or Columbia, such importation would be illegal. If, true, they would be selling counterfeit product.]



1 Paul Reyna Alleged owner of DMI (Defense Manufacturers Inc.) Home Phone # [redacted] office Phone # 561-795-6747, cell Phone 561-723-4689, incorporated by John Martin, 3150 Sandy Ridge Drive, Clearwater, FL 33761, Paul works for Carl Stauder of Axtrom.

2 Axtrom Industries, old address: 4349 Okeechobee Blvd, Bld E-6, W. Palm Beach, FL; Principal Corporate office: 83 North Ironwood Way, Palm Gardens, FL 33418

3 Carl Stauder Axtrom's owner (cell 561-333-2869);

4 Mauricio Villavhces, President of DMI, works for Carl Stauder of Axtrom Home Phone: [redacted]

Personal privacy information

715 45-1

1.34%

-949.7

TO: DAN PEACOCK

FROM: Randal Prater

dir 904-720-2183, 904-720-2188

9.25 2002

person who sells Safety Technology Jacksonville, FL Tony

9.25

FAX 904-720-0651

350/38

Lot #

DAN, COA

www.safety technology.com

10:20

9-25

Wholesale package - cnf.

office temp dir

Paul Reyna, Phone # 561-795-6747,

CELL # no 561, 723, 4689, Home # [redacted]

do not sell John

WAS selling Guard Alaska Bear Repellent, Candian & U.S. formulations at the Shot Show in Feb. in Las Vegas. He was passing out brochures with my product listed. He claims to own a company called, Defense Manufactures Inc. (DMI) He is getting the product some way through Axtrom Industries. Axtrom only has an office located in Florida. The old adress for Axtrom Industries. was 4349 Okeechobee Blvd., Bld E-6, W. Palm Beach, FL.

73153

Personal privacy information

Defense Manufactures Inc. (DMI)
The Incorporator is: John Martin,
3150 Sandy Ridge Drive, Clearwater, Fl.
33761, The adress for the principal
office of this Corporation is:
83 North Ironwood Way, Palm Gardens,
Florida, 33418

The owner of Axtrom is, Carl
Stauder. The President of D.M.I.
is, Mauricio Villavhces. Mauricio
works for Carl at Axtrom and so
does Paul. Carl + Maricio are in
Columbia at the present. Paul is
leaving the country tomorrow. Axtrom
moved there filling facilities to Brazil
or Columbia. I think their importing
my product into the US. I do not
know how much product they produced

They, all three, are Running or destroying evidence outside The U.S.

1-900-388-1000
new directory assistance

Carl Stauder ~~no~~ cell# 561-333-2807

Mauricio's Home# [redacted]

left message

called 9.25 10.20

I stoped doing business with Axtrom because they made canadian product for me but gave a can of finished product for essay to Cromtex (Marlyn Bensinger) That was not from the premix for the Lot made. I could not trust them.

Sincerely

Randal Prater

Personal privacy information

09/25/02

Reference Files System

Product Data Report

Identification Number: 71545-1 Case Barcode: 062589

Product Name: GUARD ALASKA BEAR REPELLENT

Case Type: R Federal Registration

Company: 71545 MCNEIL RIVER ENTERPRISES, INC.

Product Manager: 04 Meredith Laws
Product Status: A Active
Cancel/Transfer Reason:

Formulation Code: 19 Pressurized Liquid
Toxicity Category: 1 Danger
RCRA Classification: Not Available

Label Date: 00/02
Approval Date: 12/22/98
Cancellation Date: / /
Stocks Date: / /

Transferred: No
Suspended: No

Use Categories	
Terrestrial Food Crop:	No
Terrestrial Feed Crop:	No
Terrestrial Non-Food Crop:	No
Aquatic Food Crop:	No
Aquatic Non-Food Outdoor:	No
Aquatic Non-Food Residential:	No
Aquatic Non-Food Industrial:	No
Greenhouse Food Crop:	No
Greenhouse Non-Food Crop:	No
Forestry:	No
Residential Outdoor:	No
Indoor Food:	No
Indoor Non-Food:	No
Indoor Residential:	Yes
Indoor Medical:	No

Pest Categories	
Non-Pest:	No
Disinfectant:	No
Fungal:	No
Invertebrate:	No
Nematodal:	No
Plant:	No
Vertebrate:	Yes

Miscellaneous Flags	
Restricted Use:	No
Conditional Use:	Yes
Reregistration:	No
Child Resistant Packaging:	No
Special Review:	No

Company Data Report

Company No.: 71545

Name: MCNEIL RIVER ENTERPRISES, INC.

Address: 365 PRATER LANE
RICHMONDALE, OH 45673
USA

Contact: RANOAL PRATER

Phone: (740) 884-4576

Agent: N
Consortium: N
Undeliverable: N

Company Types	Active Flag
Distributor	Y

Your wholesale source for self defense, personal and home protection products, spy and surveillance equipment shipped to your home or business or drop shipped directly to your customer.

Safety Technology

1867 Caravan Trail #105, Jacksonville, FL 32216
(800) 477-1739 (904) 720-2188 Fax (904) 720-0651
e-mail: info@safetytechnology.com

Send this site to a friend!

I am new at distributing your products, and I can say that I am very pleased with your products, prices, and most of all the service I receive from your sales people. Selling your products has been very beneficial to me and my customers. I want to take this time to thank you for giving me such a great opportunity. ***Steve Howell, Erie, PA*** (More kind words from our distributors)

BBB RELIABILITY PROGRAM BBBONLINE

Jacksonville

Why do self-defense and personal protection products sell so well? Because they are high impulse and not readily available in stores. Think about it. Where would you go to buy these types of products? (scroll down to see our products)

Make $100's to $1000's a week selling these products. Full marketing support. You don't even have to stock any products... we will drop ship for you! To learn more, click here!

Only click here if you want to sell our products on the Internet.

Want to learn how to sell at flea markets, gun shows, house parties, mail order, setting up routes, college campuses, setting up dealers to sell for you, seminars, wholesaling, mail order, etc? Order our **Marketing Manual**.

Need Help Selling On the Internet?

If you have a web site, earn commissions by linking to our site.

Do you have the right attitude and knowledge to protect yourself and your loved ones?

The prices on this site are retail prices. Order our **WHOLESALE PACKAGE** for only $5.00. Includes both our catalogs and confidential wholesale prices.

THAWTE Authentic Site Secured by SSL

If you are **not** interested in selling our products, you are still welcome to shop. This site is completely secure using Thawte secured encryption technology.

Stun Guns (Stun Gun Laws)
Talon 80,000-250,000v
Stun Master 100,000-300,000v
Stun Master 625,000v
Stun Batons 300,000-500,000v
Z-Force Slim 100,000-300,000v
Stun/Alarm Flashlight
Cell Phone Stun Gun NEW

Knives
Folding Knives
Pen Knives
Butterfly Knives

Diversion Safes
Beer and Soda Safes
Flower Pot Safe
Wall Socket Safe
Book Safe
Can Safes
Stone Safes
Salad Dressings Safe
Salt Shaker Safe
Peanut Butter Safe

Child Safety
Child Guard Monitor NEW
Baby Home Safety Kit NEW

Pepper Spray
Pepper Shot Pepper Spray
PepperPAGER
Wildfire 15% Pepper Spray

Hidden Cameras

Spy & Surveillance
Digital Surveillance Camera
Spyglasses
Telephone Voice Changer
DeskLamp Hidden Camera

Tasers
Air Taser
M-18 Advanced Taser

Animal Repellers
Mace Canine Repellent
Electronic Dog repeller
Bear Spray

Miscellaneous
The Heart Attack
Crossbow
Throwing Stars
Telescopic Steel Batons
High Velocity Sling Shot
Handcuffs
Kubotans
Gun Lock
Nap Zapper for Drivers
Blowguns
Paintball Gun NEW

Mace Defensive Sprays
Mace Pepper Spray
Mace Pepper Foam
Michigan Approved Sprays
Mace Triple Action Sprays
NEW Mace Hot Walkers

Home Protection
NEW Voice Alert Home Alarm
Motion Alarm with Keypad
Magnetic Door/Window Alarm
95db Glass Breakage Alarm
Big Jammer Door Brace
Electronic Barking Dog
Wireless Infrared Alarm
Sliding Window/Door Alarm
NEW Vibration Door Alarm

Security Metal Scanners
Garrett Super Scanner
Pro-Scan

Safety Lights
7 function LED Laser Lights
Highway Safety Lights
Blinkies
NEW Gamma Ray LED Light

Personal Alarms
Child 95db Mini Alarm
Mace Alarm & Flashlight
2 n 1 Personal Alarm
125db Alarm & Flashlight
Door Stop Alarm

VISA MasterCard American Express Cards PayPal

If you would like to **send a gift certificate** for our products to a friend or family member, you may order below. They will receive an e-mail from us with a gift certificate number that they may redeem when they place an order from our site. Gift certificates are available in the amounts of $10, $20, $50 and $100.

[illegible] $10

Name of person to send to:

E-mail of person to send to: Add

Safety Technology's Privacy Policy

© 1996, 1997, 1998, 1999, 2000, 2001, 2002 Safety Technology, All Rights Reserved

Do you want to sell our products on your own web site?

BACK TO OUR HOME PAGE

Safety Technology

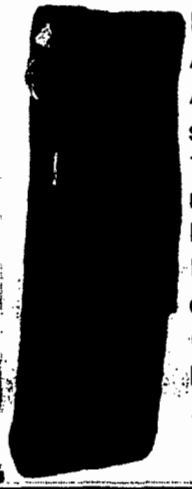
1867 Caravan Trail #105, Jacksonville, FL 32216
(800) 477-1739 (904) 720-2188 Fax (904) 720-0651
e-mail: info@safetytechnology.com

Guard Alaska 20% ultra hot pepper spray has proven so effective repelling bears, it is the only one registered with the **EPA** as a repellent for **ALL SPECIES** of bear!

It is absolutely the most effective and powerful bear defense spray available today.

*If you are interested in **Guard Alaska** for your own use, you may order here. **Shipping Is FREE** (USA orders only) if you order a minimum of **$50.00** from our web site. if your order is less than $50.00, we will add **$6.00** (USA orders) for shipping. If you want to resell Guard Alaska Bear Spray, then order our catalog for our wholesale prices.*

Send this site to a friend!



9 Ounce Supersize with Shotgun fogger delivery.
Range of spray: Approximately 15-20 feet.
Dimensions: Height: 8-3/4" x Width: 2"
An invincible 20% ultra hot pepper spray.
Absolutely the most effective and powerful bear defense spray available today.
This product has proven so effective that it is the only one registered with the EPA as a repellent for ALL SPECIES of bear!
Environmentally safe! Does not contain flammable or ozone depleting substances.
Our formula is scientifically proven superior, and endorsed by the Alaska Science & Technology Foundation.
Six years of extensive testing in the wilds of Alaska.

Add Nylon Holster with metal Belt Clip for $15.00

$39.95 each

Buy Bear Spray

View Shopping Cart

BACK TO OUR HOME PAGE

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

OFFICE OF
PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

350 5-585477
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NOV -8 2001

350 5-585483
38

McNeil River Enterprises, Inc.
750 W. Dimond, Ste 203
Anchorage, AK 99515

Attn: Mr. Randy Prater

Subject: A review of the video tape sent in to the Agency April, 2001
A comparison of inert ingredients listed in a letter dated March 21, 2000.

Attn: Mr. Randy Prater

We have reviewed [redacted] account of her husband's use of your product. Testimonial accounts typically are given little weight by our program, falling far short of controlled research in probative value. With bear deterrents, however, controlled field research is difficult to conduct and potentially very hazardous. Consequently, we pay some attention to testimonials from disinterested parties. If we assume [redacted] account to be an accurate portrayal of actual events, we find no basis for finding any statements on the product's accepted use directions to be in need of modification.

One of your competitors has brought some of your promotional materials to our attention. These items consist of a sheet of paper seemingly captioned "**Sell More Product and Increase Your Profits**"; a sheet of paper bearing the claim "**Life Insurance in a Can!**" and posing the question "**Guard Alaska™ Bear Repellent Why Choose This Product?**"; and a sheet of paper posing the same question ("**Guard Alaska™ Bear Repellent Why Choose This Product?**") and bearing the header "**The Truth About Pepper Spray:**". It appears that these sheets are parts of one or more of your brochures. All of these pages bear objectionable claims and/or questionable statements.

The "**Sell More Product and Increase Your Profits**" page bears the following problematic claims:

1. **Your Best Choice In Defense Guard Alaska™Bear Repellent**;

2. **The Only Formulation Certified to repel <u>ALL</u> Species of Bear**;

3. **No Shelf Life! (no expiration date)**; and

Personal privacy information

4. "...this is the good stuff. If you need such a product, this is the one we recommend. If you sell a product, this is the one that will ensure your customers come home to their families" **Soldier of Fortune Magazine**.

Item 1 states that the Guard Alaska bear spray product is the best of its kind. Any claim of absolute superiority for 71545-1 would be difficult to demonstrate and is unproven at this time. Consequently, the claim is considered to be a "false or misleading comparison with other pesticides". Such claims are expressly prohibited for pesticide labeling in 40 CFR, §156.10(a)(5)(iv).

The claim about being the only product certified for use against "all species of bears" (item 2) is false. All bear pepper sprays registered in the U.S. are labeled for deterring "bears", with no qualifications as to species. Consequently, all of these products could be used against all species of bears which occur in the U.S.

The **"No Shelf Life! (no expiration date)"** claim (item 3) seems to be self-contradictory on its face. **"No Shelf Life!"** actually implies that your product spoils immediately. Based upon other text associated with this and similar claims, it appears to us that what you mean to imply is that your product lasts forever. We doubt that such a claim would be true for any product. Therefore, we strongly suspect that the claim is false.

The **"Soldier of Fortune Magazine"** quotation (item 4) contains another claim of absolute superiority for Guard Alaska, with the added bit of emotional blackmail to retailers that, as customers using any other bear pepper spray might well be killed, selling another brand could make merchants partly responsible for injuries that customers suffer.

One might argue that as long as the item was quoted from a magazine, you are not the party actually making the claim. However, your website posts an item from Soldier of Fortune which, among other things, refers to Guard Alaska bear spray as "the good stuff". That item appears to us to be basically an "infomercial", the content of which seems likely to have been greatly influenced (if not drafted) by McNeill River personnel. In the website item, there are two sentences (not represented by ellipses on the **"Sell More Product and Increase Your Profits"** page) between "*This is the good stuff*" and "If you need such ... families". In context, the quote applies to the Guard Alaska bear spray as well as to your line of (anti-human) personal defense sprays (which are not regulated as pesticides).

The **"Life Insurance in a Can!"** page bears problematic statements and includes pictures of the covers of 5 magazines: Bow & Arrow Hunting, Bow Masters, Hunting, American Survival Guide, and S.W.A.T.. Below those covers are items in quotation marks, with the clear implication being that the statements come from the magazines. As with the Soldier of Fortune quoted discussed above, it seems unlikely in many cases that the statements in the articles are the objective opinions of disinterested individuals who have independently assessed bear sprays.

The Hunting quote ("...arguably the most effective bear deterrent on the market") is

relatively mild, but it would be objectionable on labeling as a misleading and possibly false comparison with other pesticides.

As shown on the **"Life Insurance in a Can!"** page, the Bow & Arrow Hunting quote calls the product "invincible" (among other things). That statement appears to be a false claim of efficacy as no pesticide product ever has been shown to be 100% effective all of the time.

The Bow Masters quote calls the product "one of the most effective" and

one of the only pepper sprays on the market that is also safe to use.

In addition to the aforementioned problems with comparative efficacy claims, we note that claims of safety are forbidden on pesticide labeling under 40 CFR, 156.10(a)(5)(ix). The text quoted on the **"Life Insurance in a Can!"** page was extracted from a boxed item (almost certainly provided by you) which seems to have appeared in the magazine on the same page as a half-page advertisement for 71545-1. Among other things, that ad calls the Guard Alaska bear spray "THE ONLY CHOICE FOR LIFE THREATENING ENCOUNTERS", seemingly a false comparison with certain other pesticides.

As presented on the **"Life Insurance in a Can!"** page, the American Survival Guide quote calls the product "absolutely the most effective defense spray made". This probably false claim of comparative product performance is missing a few words relative to the content of a similar statement found in the American Survival Guide item posted on your website, where the statement reads "absolutely the most effective and powerful bear defense spray made."

The S.W.A.T. quote on the **"Life Insurance in a Can!"** page seems to be refer more to anti-human sprays than to bear sprays. The text conforms reasonably (but not absolutely) accurately to the closing paragraph of the S.W.A.T item that was posted on your website. That item, which seems to have had input from the magazine's staff, misleadingly implies that the anti-human sprays as well as the animal defense sprays are considered to be pesticides.

The remainder of the **"Life Insurance in a Can!"** page bears the following questionable claims:

5. **"This Bear Repellent is the only formulation certified to repel all species of bear"**;

6. "Inert ingredients open pores of skin and mucus [sic] membranes to allow the active ingredient capsaicin to penetrate";

7. **"NO SHELF LIFE!** No separation of inert ingredients from active ingredients;

8. **"Formula Residue will not attract bears"**;

9. **"Special Formula Will Not Freeze"**; and

10. **"Developed and Tested** Six years of extensive product testing in the wilds of Alaska before being brought to market".

We have noted above that your **"all species of bear"** claims (such as item 5) are false.

Regarding the dermatological portion item 6, we note that many parties have told us that bears lack skin pores. If so, the statement could not possibly be true. (If you want us to reconsider this opinion, submit any factual information that you might have concerning the existence of skin pores in bears.) Regarding the remainder of item 6, we again observe that any ingredient which enhances the effectiveness of the claimed active ingredient also would be considered to be a active ingredient. Consequently, we will have to require you to declare one or more additional active ingredients for 71545-1 if you persist with claims of synergistic effects.

We have discussed the problems with **"NO SHELF LIFE!"** claims (e.g., item 7) above.

The **"Formula Residue will not attract bears"** claim (item 8) is not addressed for your 71545-1 product by any competent research data of which we are aware. As the only relevant data that we have seen on bear sprays claimed to contain Oleoresin Capsicum (OC) have suggested that brown bears are attracted to the spray residue, we have no good reason at this point to believe that the same would not be true with your product. While your bear spray was not among those tested by Tom Smith, you have never shown us that its residue does not attract bears.

Regardless of whether the Guard Alaska formula will freeze (item 9), your label prohibits storing the product at less than 32°F. Whether or not the product actually freezes or just loses its oomph as a bear spray at 32°F, the **"Will Not Freeze"** claim implies that the product would protect people no matter how cold it gets (in Alaska, for example). Such a claim seems doubtful to us at this point.

In prior communications, we have commented on your claims (e.g., item 10) of having conducted extensive product performance research. If you cannot document such research, it is reasonable to question whether any research was conducted and, if so, whether it was of adequate quality. Consequently, we regard your claims of "extensive product testing" to be misleading at best and, except for the one videotaped trial, possibly false.

The **"Why Choose This Product?"** and **"The Truth About Pepper Spray"** page touches on many of the themes discussed above. The numbered claims which appear under **"Why Choose This Product?"** are basically the same as those discussed above as items 5-10. The statement ***"All Pepper Sprays are Not Created Equal"*** strikes us as a

true statement intended to mislead readers.

We previously have reviewed various passages that were captioned **"The Truth About Pepper Spray"** and attributed to you. All versions including the one which appears beside **"Why Choose This Product?"** seem to us to stretch **"The Truth"** in places (e.g., a reference to bears having skin pores, claims of synergistic ingredients, harangues against water-based sprays, claims of extensive research and development, an allusion to "the octane rating in gasoline", and a claim that inert ingredients in Guard Alaska can displace water, thereby making the product uniquely effective against animals "wet from rain or other causes").

In our letter of September 12, 2000, we noted that your website contained many questionable, nonfactual, or otherwise statements. We visited the www.guardalaska.com website on October 26, 2000 and were disappointed to find its content to be much as it was when we first visited the site on March 20, 2000. Although the site's content is not considered to be pesticide labeling, it appears to us to consist primarily of advertising. Advertising is regulated under the Federal Trade Act which, among other things, prohibits the making of false or misleading statements in product promotions.

The videotape that you submitted on October 22, 1999, portrays an instance of use of pepper spray that was shown on a tape that you submitted previously. It depicts an instance of apparently successful use of something could not have been the specific formulation that is now registered for 71545-1.

The newspaper accounts that you submitted on October 22, 1999, include one case in which a person saved herself from further harm through use of a pepper spray, many incidents in which firearms were used to kill or drive the bear away, and many maulings and fatalities. Some of the incidents reportedly happened so suddenly that a pepper spray probably would not have been of much use. Actions taken to ward off bears or to limit injuries suffered worked in some incidents and did not in others.

The "take-home" messages seem to be that bears attack humans for various reasons and that whether a particular defense method works depends on circumstances which may include:

- the suddenness of the encounter and the time the human has to respond;
- the distance of separation between bear and human when the encounter occurs;
- the presence of cubs for female bears;
- the presence of food sources and the bear's state of hunger;
- the bear's "reason" (hunger, defense, etc.) for attacking;

- the behavior of the humans in response to the bear's presence;
- the number of humans present;
- the "personality" of the bear; and
- just plain luck.

Chemistry Review: There is not going to be a change in the physical state since the product is going to remain a liquid. Consequently, there will be no additional product chemistry data required; however the pH, density, and flammability must still be addressed on the new CSF. With any significant changes in the product properties, the registrant must inform the Agency.

Questions: If you have any questions or comments about this letter, please contact me at 703-605-0716 (by phone), 703-305-6596 (by fax), or mccann.geri@epa.gov (by E-Mail).

Sincerely yours,

Geraldine R. McCann
Insecticide-Rodenticide Branch
Registration Division (7505C)

Case: 062589 | PRAT - SUBMISSION SUBSYSTEM | Date: 11/08/01
PRIMARY REGISTRATION CASE | Time: 9 58 am

] CASE INFORMATION [

CASE TYPE: REGISTRATION ORIG ACT CD: 160 NEW PROD-"ME TOO"
071545-00001 Guard Alaska Bear Repellent
COMPANY NAME: 071545 MCNEIL RIVER ENTERPRISES, INC.
PRIME CHEM: 070701 Capsaicin (in oleoresin of capsicum) MIX? N
STATUS: Active REGIST:12/22/1998RU: N CRP: N EU: N FORM: TYPE:
PM/RM:04 TINA LEVINE SAFER:

] SUBMISSION INFORMATION [

SUB BC	ACTION	RESPONSE	APPLIED	RECEIVED	RESPONSE
S574440	300 ADMN-LBL REV AMND NO	17 UNCOND REG/A	08/18/99	08/18/99	02/02/00
S577050	350 GENRL CORRES REGISTRA	38 GEN RESP TO	02/24/00	02/24/00	09/12/00
S581497	305 TECH-LBL REV AMND DAT		03/21/00	03/23/00	/ /
S581510	345 TECH-FORMULA CHANGE A	37 NO REPLY NEC	03/15/00	03/23/00	06/10/00
S585477	350 GENRL CORRES REGISTRA		05/22/00	06/05/00	/ /
S585483	350 GENRL CORRES REGISTRA		05/25/00	05/25/00	/ /

DESC: additional information on switching inerts
COMM:
RANKING: 0
(F2)

F1 Help | Select Submission with light bar and presENTERER for
F10 Error | Submission/Data Package listESC press ESC for more choices |≡|↑|↓|

Case: 062589 | PRAT - SUBMISSION SUBSYSTEM | Date: 11/08/01
PRIMARY REGISTRATION CASE | Time: 9 58 am

] CASE INFORMATION [

CASE TYPE: REGISTRATION ORIG ACT CD: 160 NEW PROD-"ME TOO"
071545-00001 Guard Alaska Bear Repellent
COMPANY NAME: 071545 MCNEIL RIVER ENTERPRISES, INC.
PRIME CHEM: 070701 Capsaicin (in oleoresin of capsicum) MIX? N
STATUS: Active REGIST:12/22/1998RU: N CRP: N EU: N FORM: TYPE:
PM/RM:04 TINA LEVINE SAFER:

] SUBMISSION INFORMATION [

SUB BC	ACTION	RESPONSE	APPLIED	RECEIVED	RESPONSE
S574440	300 ADMN-LBL REV AMND NO	17 UNCOND REG/A	08/18/99	08/18/99	02/02/00
S577050	350 GENRL CORRES REGISTRA	38 GEN RESP TO	02/24/00	02/24/00	09/12/00
S581497	305 TECH-LBL REV AMND DAT		03/21/00	03/23/00	/ /
S581510	345 TECH-FORMULA CHANGE A	37 NO REPLY NEC	03/15/00	03/23/00	06/10/00
S585477	350 GENRL CORRES REGISTRA		05/22/00	06/05/00	/ /
S585483	350 GENRL CORRES REGISTRA		05/25/00	05/25/00	/ /

DESC: complaint from Pride Johnson about Guard Alaska's adverti RANKING: 0
COMM: (F2)

F1 Help | Select Submission with light bar and presENTERER for
F10 Error | Submission/Data Package listESC press ESC for more choices |≡|↑|↓|

Case: 062589 | PRAT - SUBMISSION SUBSYSTEM | Date: 11/08/01
PRIMARY REGISTRATION CASE | Time: 9:58 am

] CASE INFORMATION [

CASE TYPE: REGISTRATION ORIG ACT CD: 160 NEW PROD-"ME TOO"
071545-00001 Guard Alaska Bear Repellent
COMPANY NAME: 071545 MCNEIL RIVER ENTERPRISES, INC.
PRIME CHEM: 070701 Capsaicin (in oleoresin of capsicum) MIX? N
STATUS: Active REGIST:12/22/1998RU: N CRP: N EU: N FORM: TYPE:
PM/RM:04 TINA LEVINE SAFER:

] SUBMISSION INFORMATION [

SUB BC	ACTION	RESPONSE	APPLIED	RECEIVED	RESPONSE
S574440	300 ADMN-LBL REV AMND NO	17 UNCOND REG/A	08/18/99	08/18/99	02/02/00
S577050	350 GENRL CORRES REGISTRA	38 GEN RESP TO	02/24/00	02/24/00	09/12/00
S581497	305 TECH-LBL REV AMND DAT		03/21/00	03/23/00	/ /
S581510	345 TECH-FORMULA CHANGE A	37 NO REPLY NEC	03/15/00	03/23/00	06/10/00
S585477	350 GENRL CORRES REGISTRA		05/22/00	06/05/00	/ /
S585483	350 GENRL CORRES REGISTRA		05/25/00	05/25/00	/ /

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F1 Help | Select Submission with light bar and presENTERER for
F10 Error | Submission/Data Package listESC press ESC for more choices |≡|↑|↓|

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STATUS: Active REGIST:12/22/1998RU: N CRP: N EU: N FORM: TYPE:
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S577050	350 GENRL CORRES REGISTRA	38 GEN RESP TO	02/24/00	02/24/00	09/12/00
S581497	305 TECH-LBL REV AMND DAT		03/21/00	03/23/00	/ /
S581510	345 TECH-FORMULA CHANGE A	37 NO REPLY NEC	03/15/00	03/23/00	06/10/00
S585477	350 GENRL CORRES REGISTRA		05/22/00	06/05/00	/ /
S585483	350 GENRL CORRES REGISTRA		05/25/00	05/25/00	/ /

DESC: summary of incident involving Guard Alaska
COMM:

RANKING: 0 (F2)

F1 Help | Select Submission with light bar and presENTERER for
F10 Error | Submission/Data Package listESC press ESC for more choices |≡|↑|↓|

Bill

DP BARCODE: D269108

CASE: 062589 DATA PACKAGE RECORD DATE: 09/20/00
SUBMISSION: S585483 BEAN SHEET Page 1 of 1

* * * CASE/SUBMISSION INFORMATION * * *

CASE TYPE: REGISTRATION ACTION: 350 GENRL CORRES REGISTRATION
RANKING : 10 POINTS ()
CHEMICALS: 070701 Capsaicin (in oleoresin of capsicum) 1.3400%

ID#: 071545-00001 Guard Alaska Bear Repellent
COMPANY: 071545 MCNEIL RIVER ENTERPRISES, INC.
PRODUCT MANAGER: 04 TINA LEVINE 703-308-7055 ROOM: CM2 219
PM TEAM REVIEWER: DANIEL PEACOCK 703-305-5407 ROOM: CM2 221
RECEIVED DATE: 05/25/00 DUE OUT DATE: 09/12/00

* * * DATA PACKAGE INFORMATION * * *

DP BARCODE: 269108 EXPEDITE: N DATE SENT: 09/20/00 DATE RET.: / /
CHEMICAL: 070701 Capsaicin (in oleoresin of capsicum)
DP TYPE: 001
CSF: N LABEL: N

ASSIGNED TO	DATE IN	DATE OUT	
DIV : RD	/ /	/ /	
BRAN: IRB	/ /	/ /	
SECT: PM04	/ /	/ /	
REVR : Dy	9/21/00	10/26/00	RL
CONTR:	/ /	/ /	

ADMIN DUE DATE: 11/29/00
NEGOT DATE: / /
PROJ DATE: / /

* * * DATA REVIEW INSTRUCTIONS * * *

Bill,

Please review this incident involving Guard Alaska in the next few months. NO HURRY.

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* * * DATA PACKAGE EVALUATION * * *

No evaluation is written for this data package

* * * ADDITIONAL DATA PACKAGES FOR THIS SUBMISSION * * *

DP BC	BRANCH/SECTION	DATE OUT	DUE BACK	INS	CSF	LABEL

McNeil River Ent., Inc.

FAX TRANSMITTAL

DATE:	May 25, 2000		
TO:	EPA Mr. Dan Peacock	FROM:	Guard Alaska Teresa Castaneda
FAX:	(703) 305-6596	FAX:	602-278-4850
RE:	Consumer Bear Encounter	Pages:	5

MR. PEACOCK:
IN A RECENT E-MAIL FROM YOU, YOU REQUESTED THAT WE FORWARD ALL CONSUMER REPORTS OF BEAR ENCOUNTERS. THIS COUPLE HAD SENT US AN E-MAIL OF THIS ENCOUNTER ABOUT A YEAR AGO, I JUST LOCATED THEM AGAIN REQUESTING A DETAILED REPORT. YOU WILL FIND IT ENCLOSED. IF YOU HAVE ANY QUESTIONS PLEASE DO NOT HESITATE TO CONTACT ME @ (602) 278-1140. BY THE WAY HOW ARE THINGS GOING WITH OUR DOG REPELLENT REGISTRATION?

SINCERELY,
TERESA CASTANEDA/OFFICE MANAGER
GUARD ALASKA PERSONAL PROTECTION SYSTEMS

Personal privacy information

[redacted]

Bear Encounter in Yellowstone National Park:

The Encounter:

Our bear encounter occurred late morning, June 19, 1999 in Yellowstone National Park. After four nights of tent camping, two of which were in the rain, we headed to the Mammoth Hotel for some of the comforts of home. The next morning, we walked over to the Park Service's information center, got a day hike recommendation, and then spent some time in the Back Country office, inquiring the permitting process, camping in bear country, and swapping bear stories. About mid-morning, we began our day hike on the Beaver Ponds Loop Trail, just above the Mammoth Lodge. We were not too far into the hike when the switchbacks turned into a fairly level trail, with the ground falling away downhill to the right of the trail, and conversely sloping uphill to the left side of the trail. After being told by so many people the importance of letting a bear know you are around and know that you are human, we made sure that we carried on a loud conversation while we hiked. During conversation lulls, we would even clap our hands and say imaginative things like "Its just us humans, Mr. Bear."

On this level part of the trail, with my husband in the lead, he turned around to make a point about the current topic of conversation, and said "Oh (expletive), it's a bear!" Looking over my shoulder, down below the trail, he spotted this bear digging at the base of a tree. Unfortunately, the bear looked up as my husband spotted him (we are calling our bear a "him" but we don't know). We estimate that at this time we were approximately 100 feet away from the bear. We began walking backward on the trail, away from the bear, and expected him to do the same (walk away from us). Instead, he left the base of the tree, and ran up the hill to our trail. He slowed to a walk once on the trail, and we continued walking, trying not to make eye contact, speaking in a steady voice to the bear. The bear continued to walk towards us, closing ground. The bear did not act aggressively, did not stand on his legs, did not paw at the ground, but instead, approached us very confidently with no apparent fear. The bear was beautiful; cinnamon colored fur with golden eyes. We estimate the bear would have stood five to six feet tall had it stood, and guessed it was 300 pounds. We did not notice a hump behind his neck, so we assumed this bear was a black.

The bear was less than 30 feet away, and my husband instructed me to pull the Guardalaska bear spray can from the outside water bottle mesh holder on his day pack. As I gave him the can, he also told me that we were in a bad position with the wind, and instructed me to back up the hill to gain a better angle if we had to use the spray. As we were backing up the hill, the bear reached the spot where we left the trail, stopped and looked up the hill. At that point the bear was only about 12 to 15 feet away from my husband (I was another 10 feet or so further up the hill). My husband fired what he intended to be "test" shot, just to make sure that the aerosol worked. (We didn't follow

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the instructions about testing it ahead of time). From my vantage point, I could see that the red blast just reached the bear's head from this quick "test" shot. It did not fully cover the bear's face.

The amount of spray that did reach the bear's face was apparently enough. He shook his head from side to side several times, and then loped further down the trail. We began walking backwards on the hillside towards the trailhead, now parallel with the trail, and about 30 feet higher than the trail. We watched as the bear left the trail and came up the hill, and then turn and started walking towards us. At this point, there was probably 100 yards between us. Even though in bear terms, this distance is nothing, it felt much safer than the mere feet that separated us just a minute earlier. We continued to walk backward, at a faster pace, and the bear continued to advance towards us. At this point, I zoomed out the 300 mm lens, and fired off a few shaky shots with my Nikon hanging around my neck. As I was shooting, the bear turned uphill, and ran off.

We were relieved to see that he changed direction, moving away from us. This whole ordeal lasted five minutes, and I don't have to say how long those five minutes felt. We scrambled down to the trail, and began walking quickly in the direction of the trail head. We have read enough about bears to know that rather than giving up, the bear could have gone higher, circled in front of us, and surprised us as we headed back to the car. We were very happy to run into another couple on the trail. We related our story to them, and they agreed that the smart thing was for the four of us to walk together back to the parking lot.

Why Bear Spray?

At the time of the Yellowstone trip, we had been married almost seventeen years. Since my husband works for an airline, it's easy for us to travel from our home in Atlanta to the West. We own a small condo in Crested Butte, Colorado, and we've spent most of our vacations in the Rockies and Cascades, day hiking, mountaineering, river rafting, and camping.

In all of those years, we've never seen a bear in the wild, except for a siting from a raft on the Middle Fork of the Salmon. My husband had seen plenty of bears in the 70's when he spent all of his vacations in Yosemite. In September 1998, we had a bit of a wake-up call, as a friend and I sighted a bear on a day hike near Crested Butte. The bear never saw us, and aside from dropping our packs, we probably did everything wrong in that situation, including climbing a tree. Realizing how unprepared I was, we obtained "bear" brochures from the forest service, and did some reading about what to do in "bear country."

On June 14, 1999, we left Atlanta, flew to Salt Lake, rented a Blazer and drove north towards Yellowstone. As we usually do, we had no set itinerary, with a general goal of going through Yellowstone and then northward to Montana. The first night in Yellowstone, we found out that it was a bad idea to not plan ahead as almost all campgrounds were full. A great young couple from Boulder offered to share their campsite with us at Indian Creek. We gratefully accepted, and just before dusk, the

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campground host came around and spoke to us very seriously about following the rules with regards to bears. He stated that a grizzly sow and her cubs had been sited the day before just across the river from our campsite. My husband and I discussed strategy if a bear tried to get into our tent. It was a sobering end to a beautiful day.

The next day we called ahead and made reservations at Bridge Bay Campground. The weather turned bad, and we found ourselves staying dry at the Hamilton Store at Fishing Village. After the cautioning we received at the Indian Creek campground, my husband asked the sporting goods clerks if they sold bear spray. Some of the reading we had done indicated that the red pepper spray was fairly effective against bears, and was the only weapon legal to carry on park land. Sure enough, the Hamilton Store had the "hair spray" size can of Guardalaska spray, and said it could be ours for $45. I had a sharp intact of breath and said "$45!" and my husband threw down his credit card and said we would take one. It was the best $45 we've ever spent.

As a pilot, my husband likes to have strategies in place, in the event we found ourselves in a bad situation. Since we did not have a bear spray holster, we decided to store the bear spray in the outside mesh water bottle compartment on my husband's day pack. It was stored on his left side so that he would reach for it with his right hand. I was to follow his instructions without hesitation, and always to stay behind him. As frightened as we were, having planned ahead made all the difference in the world. Since he was holding his palm size camcorder in his right hand, he instructed me to pull the bear spray out of the pack and we handed off the two items to each other.

Aftermath:

Once we were safely in the parking lot at the Hot Springs, we went to the same Back Country office we had left a few hours before. We made a full written report, and were treated very respectfully by the young rangers in the office. Our report should be on file there.

My quick series of photos were developed, and the transparencies show the bear coming towards us and then running uphill at the end of the encounter. The photos are not sharp, and now we wonder if the bear was a black or a grizzly. Probably was a black.

Since Yellowstone, we've read a number of books about bears, including Herrero's Bear Attacks and McMillion's Mark of the Grizzly, and seen PBS features on bears. We count ourselves very lucky that we had the bear spray in an accessible place, and that the bear spray seemed to make the bear rethink his strategy. Had we not had the spray, we are convinced that we would have had a very different outcome to our encounter. We also thank God for protection. There is nothing like having only a little bit of air and ground separating you from an animal very capable of killing you.

Later in July and August, I spent six weeks in Crested Butte, Colorado with the friend who was with me when we sited the bear in September 1998. Curiously, there were bears everywhere in Crested Butte—big paw prints on the window at the Mt. Crested Butte bus

stop, bears in town looking for food, even a bear that ran through the breezeway at our condominium building. Neither my friend, my husband or I would leave the condo without our cans of bear spray, even though our other friends teased us for being unnecessarily cautious.

Comic Relief:

My husband was holding his palm-size camcorder when he spotted the bear. When we backed up the hill and I gave him the bear spray, he gave me the camcorder and told me to train it on the bear. My automatic reaction was to hit the record button, so I turned the camera off, as he already had it turned on. Otherwise we would have had good video of the bear spraying.

In addition, my Nikon with a 120 to 300mm zoom lens was hanging around my neck. I wanted to take a photo as we and the bear were on the trail (it was so close! It would have been a full head shot!). It would have been so simple to remove the lens cap and press the shutter release without moving the camera. All I could think about though was the character in *The Lost World* who took the pictures of the dinosaurs and spooked the whole herd. I didn't want to do anything that could further provoke this bear!

[redacted]

Personal privacy information

IRB BRANCH REVIEW - TSS

Record Number(s)

D269107
D269108

9/20/00 10/26/00
IN OUT

EFFICACY

FILE OR REG. NO. 71545-1

PETITION OR EXP. PERMIT NO.

DATE DIV. RECEIVED 6/5/00, 5/25/00

DATE OF SUBMISSION 5/22/00, 5/25/00

DATE SUBMISSION ACCEPTED 9/20/00

TYPE PRODUCTS(S): I, D, H, F, N, R, S

DATA ACCESSION NO(S). none

PRODUCT MGR. NO. 04

PRODUCT NAME(S) GUARD ALASKA BEAR REPELLENT

COMPANY NAME McNeill River Enterprises, Inc

SUBMISSION PURPOSE competitor's complaints, testimonial

CHEMICAL & FORMULATION 1.34% Capsaicin and related capsaicinoids aerosol

Efficacy Review: GUARD ALASKA© BEAR REPELLENT, 71545-1
McNeill River Enterprises, Inc.
Anchorage, AK 99515

200.0 INTRODUCTION

200.1 Uses

1.34% "Capsaicin and Related Capsaicinoids" ("Made from ***20% Oleoresin of Capsicum by volume***") aerosol proposed for Federally registered to

"be used only to deter bears which are attacking or appear likely to attack humans."

200.2 Background Information

See efficacy reviews of 8/17/98, 10/21/98, 12/10/98, 2/25/99, 4/12/99, and 8/20/99 for 71545-1, as well as the efficacy review of 12/29/97 of a pre-application submission (CORR. 289443) pertaining to this product. See also the efficacy review of 6/30/99 for 55541-2, the Counter Assault bear repellent product registered to Bushwacker Backpack & Supply Co., Inc., of Missoula, MT. See also EPA's letter of 8/3/99 to McNeill River. That letter includes material borrowed from the efficacy review of 6/30/99 for 55541-2. See also the efficacy review of 9/5/00 for 71920-1, the BearGuard product registered to Guardian Personal Security Products, Phoenix, AZ. See also EPA's letter of 9/12/00 for 71545-1. That letter includes comments about the advertising for 71745-1 which were taken from the efficacy review of 9/5/00 for 71920-1. Guardian had objected to many claims made for the Guard Alaska product.

The 71545-1 product was accepted for Federal registration on 12/22/98. Its current container label was "ACCEPTED with COMMENTS" on 2/26/99.

This review considers McNeill River's FAX-ed submission of 5/25/00 concerning an account of actual use of the product and Bushwacker Backpack's inquiry of 5/22/00 concerning promotional statements being made about Guard Alaska products.

For this review, I have been asked by Dan Peacock or IRB to look at these two submissions. On the "BEAN SHEET", Peacock acknowledges that we have commented on McNeill River's claims in the past but says that prior comments have not covered all "of the offending material".

201.0 DATA SUMMARY

The item regarding use of the product was forwarded to EPA by a Teresa Castaneda, who identifies herself as "Office Manager" for Guard Alaska Personal Protection Systems. The account is from [redacted] of Atlanta, GA, but reportedly took place on 6/19/99 in Yellowstone National Park.

According to her account [redacted] and her husband Bob encountered a cinnamon-colored bear, which they took to be a black bear, while on a day hike in Yellowstone. The bear began approaching them as they backed up, first on the trail and then up the hillside off of the trail to one side. As the bear continued to approach, [redacted] who was behind her husband, handed him a can of Guard Alaska, which they had purchased while at Yellowstone. With the bear an estimated 12-15 feet away, [redacted] test-fired the can. To the [redacted] surprise and relief, the bear reacted by shaking its head and moving further away from them.

Although the bear did not completely leave the area, the scariest part of the encounter was over; and the two were able to get back to their vehicle. The incident appears to have "sold" [redacted] on the idea of using bear pepper sprays.

Historically, we have held little regard for testimonial accounts of pesticide use and have insisted that applicants and registrants supply efficacy data (when required) from controlled research studies. Circumstances are somewhat different for bear repellents due to the policy compromises that EPA made in 1998 in order to get some of these products registered and to the logistical and ethical difficulties inherent to setting up experimental efficacy trials for bear repellents. It is difficult to predict when actual use situations will occur, without either provoking bears (which labels prohibit) or waiting in "ambush" at places where bears congregate (e.g., garbage dumps). Ambush procedures also do not replicate use situations. Even with world, time, funds, and personnel enough to conduct replicated actual use trials, it would not be wise to include the usual control encounters (involving no spray and/or placebo spray) when humans are in potentially life threatening situations.

Against this backdrop, I have agreed to assess user's testimonial accounts for what they might be worth. Generally, the accounts submitted are much like [redacted] Person encounters bear and feels threatened. Person sprays product at bear one or more times. Bear stops approach, attack, nearby activity, etc. Person is

able to get away with little or no physical harm. Person claims that product saved him/her/them. Clearly, this is how the product is supposed to work. However, accounts of such incidents would be easy to fictionalize; and we have only the registrants, the news media, or survivors of unthwarted attacks as potential sources for accounts of unsuccessful uses. Thus far, we have only obtained negative accounts from news sources and those obtained were for unregistered products only. This situation might change over time.

[redacted] account is consistent with the claims made for this product and is not inconsistent with the product's "**DIRECTIONS FOR USE**" section, including the claim that the canister fires repellent for at least 15-20 feet. This account has a familiar "ring" to it, perhaps because I skimmed it before (for which I have no clear memory), because I read another version of it previously (hopefully for the same product), or because testimonial accounts tend to be similar. On 10/25/00, I looked for earlier accounts of the [redacted] incident in the file for 71545-1 but did not find any.

As noted in some of the efficacy reviews mentioned under "Background Information", EPA and competitors have taken great exception to the veracity and/or appropriateness of various claims and other statements which have appeared in labeling and advertising for Guard Alaska Bear Repellent and/or in McNeill River's website. My prior comments on such text generally have been relayed to the company via EPA's letters. Bushwacker's submission of 5/22/00 includes more items with questionable claims. These items include:

- a sheet of paper seemingly captioned "**Sell More Product and Increase Your Profits**";
- a sheet of paper bearing the claim **"Life Insurance in a Can!"** and posing the question "**Guard Alaska™ Bear Repellent Why Choose This Product?**"; and
- a sheet of paper posing the same question ("**Guard Alaska™ Bear Repellent Why Choose This Product?**") and bearing the header "**The Truth About Pepper Spray:**".

Although presented to us as separate sheets, these items might have been taken from one promotional brochure. Someone, presumably Pride Johnson of Bushwacker, has marked the sheets variously in pink highlighter, in chartreuse highlighter, and with penciled-in comments. I find more on the sheets to complain about than what Johnson has noted.

The first sheet ("**Sell More Product and Increase Your Profits**") is geared toward retailers who might consider selling bear repellents. I will not comment on the claims on that sheet which only pertain to sales prospects. I will comment on the following claims:

1. *Go Ahead* **Ask Him For A Second Chance**;

2. **Your Best Choice In Defense Guard Alaska™Bear Repellent**;

3. **The Only Formulation Certified to repel ALL Species of Bear**;

4. **No Shelf Life! (no expiration date)**; and

5. "...this is the good stuff. If you need such a product, this is the one we recommend. If you sell a product, this is the one that will ensure your customers come home to their families" **Soldier of Fortune Magazine**.

Item 1 strikes me as being an appropriate statement in that it expresses the purpose for using the product without guaranteeing a result.

Item 2 would be inappropriate for pesticide labeling as it states that the Guard Alaska bear spray product is the best of its kind. To my knowledge, the claim of absolute superiority for 71545-1 is unproven and would constitute a "false or misleading comparison with other pesticides". Such claims are expressly prohibited for pesticide labeling in 40 CFR, §156.10(a)(5)(iv).

In past reviews, I have discussed various versions of McNeill River's claims about Guard Alaska being the only product that is accepted for use against all species of bears (item 3). Such claims are "false and misleading". All bear pepper sprays registered in the U.S. are labeled for deterring "bears", with no qualifications as to species. Prior to submission of [redacted] testimonial, the only product-specific information that McNeill River provided for Guard Alaska was a videotape of a single use of a product purported to be theirs (but not with the current formulation for 71545-1). While McNeill River's Randal Prater has asserted on many occasions that he has conducted extensive field trials with his formulation(s) and with other commercially offered bear sprays, he has been unable to provide any documentation of such alleged research.

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The "**No Shelf Life! (no expiration date)**" claim (item 4) seems to be self-contradictory on its face. "**No Shelf Life!**" actually implies that the product spoils immediately, but McNeill River clearly means for it to imply that the product lasts forever. In its website, McNeill River claims that EPA did not require them to put an expiration data on containers of 71545-1.

The "**Soldier of Fortune Magazine**" quotation (item 5) provides another claim of absolute superiority for Guard Alaska, with the added bit of emotional blackmail that, as customers using any other bear pepper spray might well be killed, selling another brand could make merchants partly culpable for injuries that customers suffer. One might argue that as long as the item is quoted from a magazine, McNeill River is not the party making the claim. However, McNeill River has had a Soldier of Fortune item which refers to Guard Alaska bear spray as "the good stuff" posted on its website. As discussed in the efficacy review of 3/31/00, that item was basically an "infomercial" probably written or dictated in large part by the company. It seems at least as likely as not that the text quoted as having been from the magazine originated with the company. In the website item, there are two sentences (not represented by ellipses on the "**Sell More Product and Increase Your Profits**") between "*This is the good stuff*" and "If you need such ... families". In context, the quote applies to the Guard Alaska bear spray and to McNeill River's line of (anti-human) personal defense sprays -- products that are not regulated as pesticides.

The **"Life Insurance in a Can!"** page bears problematic statements and Includes pictures of covers of 5 magazines. The magazines illustrated are Bow & Arrow Hunting, Bow Masters, Hunting, American Survival Guide, and S.W.A.T.. Below these covers are items in quotation marks, with the clear implication being that the statements come from the magazines. As with the Soldier of Fortune quote discussed above, any conclusions that the statements are the objective opinions of disinterested individuals who have independently assessed bear sprays would probably be overdrawn. Items from all of these magazines (except Hunting, perhaps) were posted on McNeill River's website when I visited it on 3/20/00. I discussed those items in the efficacy review of 3/31/00.

Curiously, the Hunting quote ("...arguably the most effective bear deterrent on the market") is one of the least objectionable of the 5 quotes that are shown. As shown on the **"Life Insurance in a Can!"** page, the Bow &

Arrow Hunting quote calls the product "invincible" (among other things). However, that quote did not appear in the item from that magazine that was posted on McNeill River's website on 3/20/00.

The Bow Masters quote calls the product "one of the most effective" and

> one of the only pepper sprays on the market that is also safe to use.

Claims of safety are forbidden on pesticide labeling under 40 CFR, 156.10(a)(5)(ix). The text quoted on the **"Life Insurance in a Can!"** page was extracted from a boxed item (almost certainly provided by the company) which appeared in the magazine on the same page as a half-page advertisement for 71545-1. Among other things, that ad calls the Guard Alaska bear spray "THE ONLY CHOICE FOR LIFE THREATENING ENCOUNTERS".

As presented on the **"Life Insurance in a Can!"** page, the American Survival Guide quote calls the product "absolutely the most effective defense spray made." As presented on the item found on the American Survival Guide item found on McNeill River's website on 3/20/00, the statement was "absolutely the most effective and powerful bear defense spray made." It seems that McNeill River misquoted this source (which had implied that the statement was Prater's and not their own to begin with).

The S.W.A.T. quote on the **"Life Insurance in a Can!"** page seems to be talking more about anti-human sprays than bear sprays. The text conforms reasonably (but not absolutely) accurately to the closing paragraph of the S.W.A.T item that was posted on McNeill River's website on 3/20/00. That item seems to have had input from the magazine's staff and misleadingly implies that the anti-human sprays as well as the animal defense sprays are considered to be pesticides. The article is mainly about anti-human sprays, which are regulated (somewhat) by the Consumer Product Safety Commission rather than EPA.

The remainder of the **"Life Insurance in a Can!"** page bears the following questionable claims (with much highlighting and penciled-in material from Johnson):

6. **"This Bear Repellent is the only formulation certified to repel all species of bear"**;

7. "Inert ingredients open pores of skin and mucus [sic] membranes to allow the active ingredient capsaicin to penetrate";

8. "**NO SHELF LIFE!** No separation of inert ingredients from active ingredients;

9. "**Formula Residue will not attract bears**";

10. "**Special Formula Will Not Freeze**"; and

11. "**Developed and Tested** Six years of extensive product testing in the wilds of Alaska before being brought to market".

I already have addressed "**all species of bear**" claims (item 6).

Johnson penciled in "bears do no have pores" above the item 7 claim. In addition to that problem with the statement, I should observe that any ingredient which enhances the effectiveness of the claimed active ingredient also would be considered to be an active ingredients (e.g., Piperonyl Butoxide in conjunction with Pyrethrins). Consequently, we will have to require McNeill River to declare additional active ingredients for 71545-1 if the company persists with claims of synergistic effects.

I have discussed the "**NO SHELF LIFE!**" claim (4 and 8) above. In the latter presentation, the quoted text is followed by the parenthetical sentence "Most competing product products carry a two year shelf life." To the extent that such a statement might be true, the appearance of expiration dates on competitors' cans might a credit to them. On this point, Johnson has penciled in "There is not a company that I know of that has less than 3 years". (In telephone conversations, Prater has told me that certain ingredients used by other companies are likely to go bad over time, and/or propellent is expected to leak out of containers over time. Such effects seem plausible, but whether they occur with others' products and not with Prater's might be another story.)

The "**Formula Residue will not attract bears**" claim (item 9) alludes to research by Tom Smith of the U.S. Geological Survey. In 1998, Smith reported that brown bears were attracted to, and even rolled in, substrates which had been sprayed with (pre-U.S.-registration versions of) bear sprays claimed to contain Oleoresin Capsicum (OC). The basic effect was reported in a published article (see

efficacy review of 2/25/99) and shown in a videotape (which another registrant submitted to EPA). While Smith hypothesized that oils from OC were responsible for the effect, follow-up trials that might have demonstrated this conclusively were not conducted. Smith's results caused consternation among makers of OC sprays and other interested parties, especially after the same registrant who had sent us the videotape widely claimed that her product had not attracted bears in Smith's tests. Subsequently, there has been some grudging admission that the effect might be real; but the registrant who supplied the videotape (and fuel to the war of words) has been completely discredited due to the facts that Smith did not test her product at all and that she made false representations about the composition of her product. (She claimed to use one active ingredient but actually made the product with another.)

McNeill River's product was not among those tested by Smith, but the company has never shown us that its residue will not attract bears.

I do not know, offhand, whether the Guard Alaska formula will freeze (item 10). Near the claim that it will not, Johnson has penciled in "contradicts label claim of not using below 32°F". Regardless of whether the product actually freezes or just loses its oomph as a bear spray at 32°F, the "**Will Not Freeze**" claim implies that the product would protect people no matter how cold it gets (in Alaska, for example).

I have previously noted McNeill River's failures to document alleged product performance research. Johnson has penciled in a number of comments ("DATA?", "By whom?", "Scientifically Tested?", and "Peer Review?") which betray a feeling that one should not simply take the company's word that "extensive product testing" occurred. We do not take the company's word on this one either.

The "**Why Choose This Product?**" and "**The Truth About Pepper Spray**" page touches on many of the themes discussed above. The numbered claims which appear under "**Why Choose This Product?**" are basically the same as those discussed above as items 6-11. The statement "***All Pepper Sprays are Not Created Equal***" strikes me as a true statement intended to mislead readers. Beside this page's rendition of "**Formula Residue will not attract bears**", Johnson has penciled in "ALL OC based formulation uses a Food Product". This implies that Johnson feels that Guard Alaska would be no less likely to attract bears than would any other currently

registered and available OC-based bear spray.

In prior reviews, I have reviewed various passages that were captioned "**The Truth About Pepper Spray**" and attributed to Prater. The version on the pages submitted by Johnson is similar to the others that I have reviewed (e.g., the version on the McNeill River website on 3/20/00 and discussed in the efficacy review of 3/31/00). In all versions, "**The Truth**", as I understand it, is stretched a bit, including references bears' pores, synergistic ingredients, water-based sprays, the company's research, and "the octane rating in gasoline", as well as claims that inert ingredients in Guard Alaska can displace water, thus making the product effective against animals "wet from rain or other causes." Perhaps Prater believes that he has told "**The Truth**".

I visited the "www.guardalaska.com" website again on 10/26/00 and found its content to be much as it was on 3/20/00, including a misspelling of "capsaicinoids" (as "capsinoids") in "**The Truth**".

Promotional brochures are not considered to be pesticide labeling unless they accompany pesticide products in commerce. However, all advertising is regulated under the Federal Trade Act (FTA), which is administered by the Federal Trade Commission (FTC). The FTA also prohibits the making of "false or misleading" statements, although FTC's interpretations of what constitutes such statements might differ a bit from EPA's. Regardless of whether they make false or misleading statements on labeling or in advertising, McNeill River Enterprises would be well advised to halt the practice.

Under the authority of the FTA, the FTC can require those who make questionable statements to provide information which supports such statements or to refrain from making them in the future. I have worked with the FTC on a few occasions (primarily regarding ultrasonic devices claimed to repel rodents). I am not aware of what, if anything, the FTC might have done already regarding purported bear repellents or internet advertising in general.

202.0 CONCLUSIONS

<u>To Bushwacker</u>

Thank you for bringing McNeill River Enterprises' promotional material to our attention. The items pertaining to the Guard Alaska bear-deterrent product include statements which are highly questionable as to

accuracy and which would not be permitted to be made on pesticide labeling. We will look into this situation further.

To McNeill River Enterprises, Inc.

We have reviewed [redacted] account of her husband's use of your product. Testimonial accounts typically are given little weight by our program, falling far short of controlled research in probative value. With bear deterrents, however, controlled field research is difficult to conduct and potentially very hazardous. Consequently, we pay some attention to testimonials from disinterested parties. If we assume [redacted] account to be an accurate portrayal of actual events, we find no basis for finding any statements on the product's accepted use directions to be in need of modification.

One of your competitors has brought some of your promotional materials to our attention. These items consist of a sheet of paper seemingly captioned "**Sell More Product and Increase Your Profits**"; a sheet of paper bearing the claim **"Life Insurance in a Can!"** and posing the question "**Guard Alaska™ Bear Repellent Why Choose This Product?**"; and a sheet of paper posing the same question ("**Guard Alaska™ Bear Repellent Why Choose This Product?**") and bearing the header "**The Truth About Pepper Spray:**". It appears that these sheets are parts of one or more of your brochures. All of these pages bear objectionable claims and/or questionable statements.

The "**Sell More Product and Increase Your Profits**" page bears the following problematic claims:

1. **Your Best Choice In Defense Guard Alaska™Bear Repellent**;

2. **The Only Formulation Certified to repel ALL Species of Bear**;

3. **No Shelf Life! (no expiration date)**; and

4. "...this is the good stuff. If you need such a product, this is the one we recommend. If you sell a product, this is the one that will ensure your customers come home to their families" **Soldier of Fortune Magazine**.

Item 1 states that the Guard Alaska bear spray product is the best of its kind. Any claim of absolute superiority for 71545-1 would be difficult to demonstrate and is unproven at this time. Consequently, the claim is considered to be a "false or misleading comparison with other pesticides". Such claims are expressly prohibited for pesticide labeling in 40 CFR, §156.10(a)(5)(iv).

The claim about being the only product certified for use against "all species of bears" (item 2) is false. All bear pepper sprays registered in the U.S. are labeled for deterring "bears", with no qualifications as to species. Consequently, all of these products could be used against all species of bears which occur in the U.S.

The "**No Shelf Life! (no expiration date)**" claim (item 3) seems to be self-contradictory on its face. "**No Shelf Life!**" actually implies that your product spoils immediately. Based upon other text associated with this and similar claims, it appears to us that what you mean to imply is that your product lasts forever. We doubt that such a claim would be true for any product. Therefore, we strongly suspect that the claim is false.

The "**Soldier of Fortune Magazine**" quotation (item 4) contains another claim of absolute superiority for Guard Alaska, with the added bit of emotional blackmail to retailers that, as customers using any other bear pepper spray might well be killed, selling another brand could make merchants partly responsible for injuries that customers suffer.

One might argue that as long as the item was quoted from a magazine, you are not the party actually making the claim. However, your website posts an item from Soldier of Fortune which, among other things, refers to Guard Alaska bear spray as "the good stuff". That item appears to us to be basically an "infomercial", the content of which seems likely to have been greatly influenced (if not drafted) by McNeill River personnel. In the website item, there are two sentences (not represented by ellipses on the "**Sell More Product and Increase Your Profits**" page) between "*This is the good stuff*" and "If you need such ... families". In context, the quote applies to the Guard Alaska bear spray as well as to your line of (anti-human) personal defense sprays (which are not regulated as pesticides).

The **"Life Insurance in a Can!"** page bears problematic statements and includes pictures of the covers of 5 magazines: Bow & Arrow Hunting, Bow Masters, Hunting,

American Survival Guide, and S.W.A.T.. Below those covers are items in quotation marks, with the clear implication being that the statements come from the magazines. As with the Soldier of Fortune quoted discussed above, it seems unlikely in many cases that the statements in the articles are the objective opinions of disinterested individuals who have independently assessed bear sprays.

The Hunting quote ("...arguably the most effective bear deterrent on the market") is relatively mild, but it would be objectionable on labeling as a misleading and possibly false comparison with other pesticides.

As shown on the **"Life Insurance in a Can!"** page, the Bow & Arrow Hunting quote calls the product "invincible" (among other things). That statement appears to be a false claim of efficacy as no pesticide product ever has been shown to be 100% effective all of the time.

The Bow Masters quote calls the product "one of the most effective" and

> one of the only pepper sprays on the market that is also safe to use.

In addition to the aforementioned problems with comparative efficacy claims, we note that claims of safety are forbidden on pesticide labeling under 40 CFR, 156.10(a)(5)(ix). The text quoted on the **"Life Insurance in a Can!"** page was extracted from a boxed item (almost certainly provided by you) which seems to have appeared in the magazine on the same page as a half-page advertisement for 71545-1. Among other things, that ad calls the Guard Alaska bear spray "THE ONLY CHOICE FOR LIFE THREATENING ENCOUNTERS", seemingly a false comparison with certain other pesticides.

As presented on the **"Life Insurance in a Can!"** page, the American Survival Guide quote calls the product "absolutely the most effective defense spray made". This probably false claim of comparative product performance is missing a few words relative to the content of a similar statement found in the American Survival Guide item posted on your website, where the statement reads "absolutely the most effective and powerful bear defense spray made."

The S.W.A.T. quote on the **"Life Insurance in a Can!"** page seems to be refer more to anti-human sprays than to bear sprays. The text conforms reasonably (but not absolutely) accurately to the closing paragraph of the S.W.A.T item that was posted on your website. That item, which seems to

have had input from the magazine's staff, misleadingly implies that the anti-human sprays as well as the animal defense sprays are considered to be pesticides.

The remainder of the **"Life Insurance in a Can!"** page bears the following questionable claims:

5. "**This Bear Repellent is the only formulation certified to repel all species of bear**";

6. "Inert ingredients open pores of skin and mucus [sic] membranes to allow the active ingredient capsaicin to penetrate";

7. "**NO SHELF LIFE!** No separation of inert ingredients from active ingredients;

8. "**Formula Residue will not attract bears**";

9. "**Special Formula Will Not Freeze**"; and

10. "**Developed and Tested** Six years of extensive product testing in the wilds of Alaska before being brought to market".

We have noted above that your "**all species of bear**" claims (such as item 5) are false.

Regarding the dermatological portion item 6, we note that many parties have told us that bears lack skin pores. If so, the statement could not possibly be true. (If you want us to reconsider this opinion, submit any factual information that you might have concerning the existence of skin pores in bears.) Regarding the remainder of item 6, we again observe that any ingredient which enhances the effectiveness of the claimed active ingredient also would be considered to be a active ingredient. Consequently, we will have to require you to declare one or more additional active ingredients for 71545-1 if you persist with claims of synergistic effects.

We have discussed the problems with "**NO SHELF LIFE!**" claims (e.g., item 7) above.

The "**Formula Residue will not attract bears**" claim (item 8) is not addressed for your 71545-1 product by any competent research data of which we are aware. As the only relevant data that we have seen on bear sprays claimed to contain Oleoresin Capsicum (OC) have suggested that brown bears are attracted to the spray residue, we have no good reason at

this point to believe that the same would not be true with your product. While your bear spray was not among those tested by Tom Smith, you have never shown us that its residue does not attract bears.

Regardless of whether the Guard Alaska formula will freeze (item 9), your label prohibits storing the product at less than 32°F. Whether or not the product actually freezes or just loses its oomph as a bear spray at 32°F, the "**Will Not Freeze**" claim implies that the product would protect people no matter how cold it gets (in Alaska, for example). Such a claim seems doubtful to us at this point.

In prior communications, we have commented on your claims (e.g., item 10) of having conducted extensive product performance research. If you cannot document such research, it is reasonable to question whether any research was conducted and, if so, whether it was of adequate quality. Consequently, we regard your claims of "extensive product testing" to be misleading at best and, except for the one videotaped trial, possibly false.

The "**Why Choose This Product?**" and "**The Truth About Pepper Spray**" page touches on many of the themes discussed above. The numbered claims which appear under "**Why Choose This Product?**" are basically the same as those discussed above as items 5-10. The statement "***All Pepper Sprays are Not Created Equal***" strikes us as a true statement intended to mislead readers.

We previously have reviewed various passages that were captioned "**The Truth About Pepper Spray**" and attributed to you. All versions including the one which appears beside "**Why Choose This Product?**" seem to us to stretch "**The Truth**" in places (e.g., a reference to bears having skin pores, claims of synergistic ingredients, harangues against water-based sprays, claims of extensive research and development, an allusion to "the octane rating in gasoline", and a claim that inert ingredients in Guard Alaska can displace water, thereby making the product uniquely effective against animals "wet from rain or other causes").

In our letter of September 12, 2000, we noted that your website contained many questionable, nonfactual, or otherwise statements. We visited the www.guardalaska.com website on October 26, 2000 and were disappointed to find its content to be much as it was when we first visited the site on March 20, 2000. Although the site's content is not

considered to be pesticide labeling, it appears to us to consist primarily of advertising. Advertising is regulated under the Federal Trade Act which, among other things, prohibits the making of false or misleading statements in product promotions.

William W. Jacobs
Biologist
Insecticide-Rodenticide Branch
October 26, 2000

Bill

DP BARCODE: D269107

CASE: 062589 DATA PACKAGE RECORD DATE: 09/20/00
SUBMISSION: S585477 BEAN SHEET Page 1 of 1

* * * CASE/SUBMISSION INFORMATION * * *

CASE TYPE: REGISTRATION ACTION: 350 GENRL CORRES REGISTRATION
RANKING : 10 POINTS ()
CHEMICALS: 070701 Capsaicin (in oleoresin of capsicum) 1.3400%

ID#: 071545-00001 Guard Alaska Bear Repellent
COMPANY: 071545 MCNEIL RIVER ENTERPRISES, INC.
PRODUCT MANAGER: 04 TINA LEVINE 703-308-7055 ROOM: CM2 219
PM TEAM REVIEWER: DANIEL PEACOCK 703-305-5407 ROOM: CM2 221
RECEIVED DATE: 06/05/00 DUE OUT DATE: 09/23/00

* * * DATA PACKAGE INFORMATION * * *

DP BARCODE: 269107 EXPEDITE: N DATE SENT: 09/20/00 DATE RET.: / /
CHEMICAL: 070701 Capsaicin (in oleoresin of capsicum)
DP TYPE: 001
CSF: N LABEL: N

ASSIGNED TO	DATE IN	DATE OUT	ADMIN DUE DATE: 11/29/00
DIV : RD	/ /	/ /	NEGOT DATE: / /
BRAN: IRB	/ /	/ /	PROJ DATE: / /
SECT: PM04	/ /	/ /	
REVR : [illegible]	9/21/00	10/26/00 DBJ	
CONTR:	/ /	/ /	

* * * DATA REVIEW INSTRUCTIONS * * *

Bill,

In my attempts to clean up my backlog, I found this letter from Pride Johnson complaining about Guard Alaska's advertising. In our recent letter to Randy of 9/12/2000, we covered many, but not all, of the offending material.

There is no hurry of this one but we should reply in a few months. Sorry for not getting it to you sooner.

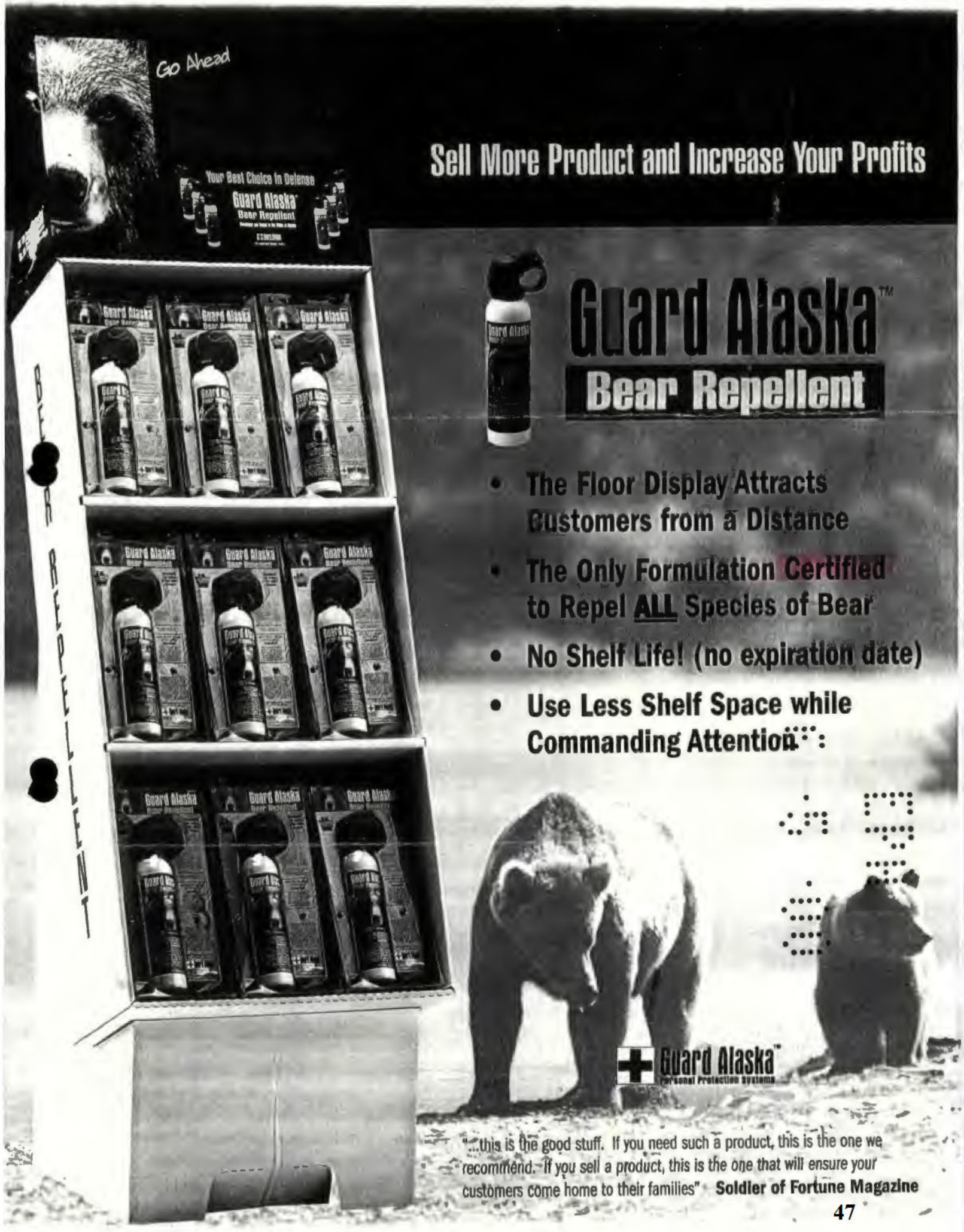
Dan Peacock

* * * DATA PACKAGE EVALUATION * * *

No evaluation is written for this data package

* * * ADDITIONAL DATA PACKAGES FOR THIS SUBMISSION * * *

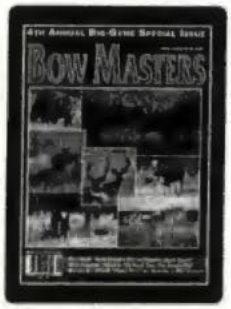
DP BC	BRANCH/SECTION	DATE OUT	DUE BACK	INS	CSF	LABEL


Go Ahead
Your Best Choice In Defense
Guard Alaska
Bear Repellent
Sell More Product and Increase Your Profits
Guard Alaska™
Bear Repellent
• The Floor Display Attracts Customers from a Distance
• The Only Formulation Certified to Repel ALL Species of Bear
• No Shelf Life! (no expiration date)
• Use Less Shelf Space while Commanding Attention
Guard Alaska™
Personal Protection Systems
"...this is the good stuff. If you need such a product, this is the one we recommend. If you sell a product, this is the one that will ensure your customers come home to their families" Soldier of Fortune Magazine

"Life Insurance in a Can!"

What They Are Saying...

"...invincible...an effective and powerful defense sprays against bears."



"...one of the most effective bear repellent pepper sprays on the market...one of the only pepper sprays on the market that is also safe to use."

"...arguably the most effective bear deterrent on the market."

"...absolutely the most effective defense spray made."

"...the bottom line is that all sprays are not created equal. When purchasing a self-defense spray, we urge all readers to take interest the degree of quality and effectiveness, the same you would with your firearms. Your life may depend on it!"

Guard Alaska™ Bear Repellent

Why Choose This Product?

This Bear Repellent is the only formulation certified to repel all species of bear.

bears do not have pores

1. **IT WORKS!**
   Inert Ingredients open pores of skin and mucus membranes to allow the active ingredient capsaicin to penetrate.
2. **NO SHELF LIFE!**
   No separation of inert ingredients from active ingredients. (Most competing products carry a two year shelf life).
3. **LARGER SIZE**
   255gr Canister

   There is not a company that I know of that has less than 3 years
4. **Formula Residue will not attract bears**
5. **Special Formula Will Not Freeze** – contradicts label claims of not freezing below 32°F
6. **Developed and Tested**
   Six years of extensive product testing in the wilds of Alaska before being brought to market.

DATA?
By Whom?
Scientifically Tested?
Peer Review?

Guard Alaska™ Personal Protection Systems

McNeil River Enterprises, Inc.
750 W. Dimond, Suite #203 • Anchorage, Alaska 99515 • P/907-349-6868 • F/907-349-7818
www.guardalaska.com

EPA Registration Number 71545-1

Guard Alaska™ Bear Repellent

Why Choose This Product?

This Bear Repellent is the only formulation certified to repel all species of bear.

1. **IT WORKS!**
   Inert Ingredients open pores and mucus membranes before the active ingredient capsaicin penetrates.
2. **NO SHELF LIFE! (no expiration date)**
   No separation of inert ingredients from active ingredients. (Most competing products carry a two year shelf life).
3. **LARGER SIZE**
   255gr Canister

   ALL OC based repellents uses a Food Product
4. **Formula Residue will not attract bears**
5. **Special Formula Will Not Freeze**
6. **Developed and Tested**
   Six years of extensive product testing in the wilds of Alaska before being brought to market.

The Truth About Pepper Spray

In any aerosol product, there are three components; The active ingredient, the carrier or base, and the propellant. In pepper spray the active ingredient is capsaicin, not oleoresin capsicum(OC). The total capsaicin in a pepper spray can be thought of in the same manner as the octane rating in gasoline. It is in reality the qualitative strength rating of pepper spray. In the past, Schoville Heat Units (SHU's) was a rating used as a marketing ploy to sell pepper sprays. SHU's are determined by a taste test and are not recognized by the E.P.A. or any laboratory in the industry because of their obvious inaccuracy.

A pepper spray that reads 10%, 15% or 20% tells the consumer that, by volume, the formula contains that respective percent of OC. The percent of OC does not tell the consumer the qualitative strength of the active ingredient — capsaicin. The A.O.A.C. method for testing oleoresin capsicum is the only method recognized worldwide. The three capsaicinoids that make up the percent of total capsaicin are the following: Capsaicin(%C); Dihydro-capsaicin(%DHC); and Nordihydrocapsaicin(%NDC).

The carrier/base is also a significantly important, integrated part of the pepper spray. Historically, distilled water, vegetable oil or mineral oil has been used as a carrier for pepper sprays. It is well known that water is the antidote to capsaicin. Those pepper sprays using distilled water as their carrier are usually priced very low and found to be ineffective. Animals, as like humans, possess oils and fatty tissues on their skin to protect them from burns and damage caused by the suns harmful UV rays. Vegetable and mineral oil do nothing more than add additional protection to the skin and mucous membranes, thus reducing the overall effectiveness or the active ingredient, capsaicin. It is also known that capsaicin can be destroyed by the suns UV rays within a period of 48 hours, leaving nothing more than the carrier, be it vegetable oil or mineral oil, which alone attracts all bear species.

The last component of pepper spray is the propellant. The propellants sole purpose is to dispense both the active ingredient and the carrier. The propellant should be an environmentally safe ingredient that does not contain flammable or ozone depleting substances.

In our research, we at McNeil River Enterprises, Inc., Manufacturer of Guard Alaska© Personal Protection Systems, have found that capsaicin alone will not deter an aggressive animal attack or human assailant. Guard Alaska products are unique from all other pepper sprays. Instead of the conventional carriers used, our products contain a carrier/base that removes the protective oils from the skin and mucous membranes, and actually opens the pores of the skin, allowing the active ingredient -- capsaicin to penetrate, thus increasing its overall effectiveness. Our carrier has a greater density than that of water, thus allowing it to displace water. This is a desirable trait for use when the animal or human assailant is wet from rain or other causes.

McNeil Enterprises, Inc. does not recognize SHU's nor do we advertise SHU's on our products. Under the pesticide/repellent act, the E.P.A. requires the percentage of total capsaicin (not OC) to be 1%. Guard Alaska products go over and above the E.P.A. standard for total capsaicin by maintaining a 1.3% capsaicin total in all of our products.

5/22/00

Dan;

FYI Attached.

I don't want to make a formal complaint.

I trust your agency is trying to end this type of misinformation.

Best Regards,
Pride

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

OFFICE OF
PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

November 7, 2001

305
11

S-581497

McNeil River Enterprises, Inc.
750 West Dimond, Suite 203
Anchorage, Alaska 99515

Attention: Mr. Randal Prater

Subject Guard Alaska Bear Repellent
EPA Reg. No. 71545-1
Your letter of March 21, 2000

In the above letter, you requested that the Agency determine what data would be required if you substituted a List 1 Inert currently on your Confidential Statement of Formula (CSF) for another inert, a recommendation that we made at the time of registration. We have reviewed this request from a chemistry, acute toxicity, and efficacy viewpoint and have the following comments:

A. Chemistry

1. The substitution would be acceptable provided that you submitted the following data for the proposed formulation with the new inert:
   - ph
   - density
   - flammability
2. If these data indicate a significant change in the product properties, you would have to submit complete product specific chemistry data.

B. Acute toxicity We believe that the substitution would be acceptable without the submission of any more data. However, we will review the CSF when it is submitted as part of a complete amendment request.

C. Efficacy You will need to submit new spray pattern data, showing the

1. height and width of the spray pattern at different distances,
2. distance (in feet) of the spray cloud
3. amount of time (in seconds) needed to evacuate the can, and
4. number of one (1) second bursts of product from a single can.

EPA contact **If you have any questions about this letter, please contact me by phone (703-305-5407), fax (703-305-6596), or E-Mail (peacock.dan@epa.gov).**

Sincerely,

DBP

Daniel B. Peacock, Biologist
Insecticide-Rodenticide Branch
Registration Division (7504C)

Letter location Disk 58,A:\Capsaicin\71545-1 Nov 6, 2001.wpd,November 6, 2001

DATE OUT: 28 Nov 2000

SUBJECT: **EP [x] MP [ ] PRODUCT CHEMISTRY REVIEW**
DP BARCODE No.: D268932
REG./File Symbol No.: 71545-1
PRODUCT NAME: Guard Alaska Bear Repellent
COMPANY: McNeil River Enterprises, Inc.

TO: PM #04, Tina Levine/Daniel Peacock
Insecticide-Rodenticide Branch
Registration Division (7505C)

FROM: Bruce F. Kitchens, Chemist
Technical Review Branch
Registration Division (7505C)

Bruce F. Kitchens
28 Nov 2000

INTRODUCTION:

The registrant, McNeil River Enterprises, Incorporated, is amending the registration of the registered end-use product, Guard Alaska Bear Repellent. The amended formulation reflects the deletion and addition of inert ingredients. The active ingredient in this product is capsaicin its related capsaicinoids at 1.34% a.i. and is intended for use as a bear repellent. Since there was no amended CSF included in this package, the reviewer consulted the PM Team member and it was determined that the registrant has not submitted an official request to amend the registration, but was attempting to determine if additional product chemistry data were required if one inert ingredient was substituted for another inert ingredient. The Technical Review Branch (TRB) has been asked to review this submission.

SUMMARY OF FINDINGS:

TRB has reviewed this submission and reports the following findings:

1. The inert ingredient the registrant proposes to use is cleared for use in formulated products.

2. The new inert ingredient has the same function or purpose in the formulation and has the same nominal concentration as the previous inert ingredient. At this time, TRB is not able to determine if there are significant changes in the physical and chemical properties of the product.

CONCLUSIONS:

TRB has reviewed this submission and concludes the following:

1. There is not going to be a change in the physical state since the product is going to remain a liquid. Consequently, there will be no additional product chemistry data required. Inform the registrant that pH, density, and flammability must be addressed on the new CSF. If there are any significant changes in product properties, the registrant must inform the Agency.

CONFIDENTIAL APPENDIX

EP [x] MP [ ] PRODUCT CHEMISTRY REVIEW

BARCODE No.: D268932 **REG./File Symbol No.:** 71545-1
PRODUCT NAME: Guard Alaska Bear Repellent
Reviewer: BKitchens **Company:** McNeil River Enterprises, Inc.

The inert ingredient, [redacted] is cleared for use in formulated products. [redacted]

Guard Alaska®

Bear Repellent

ACTIVE INGREDIENT
Capsaicin and Related Capsaicinoids* 1.34 %
Inert Ingredients 98.66 %
TOTAL 100.00 %

* Made from Oleoresin of Capsicum

KEEP OUT OF REACH OF CHILDREN

DANGER

Strong, temporary irritant to eyes, nose and skin. Wash thoroughly with soap and water after handling. Do not allow children to use this product. See back panel for additional precautionary statements.

DO NOT SEEK OUT ENCOUNTERS WITH BEARS. THIS PRODUCT IS A BEAR ATTACK REPELLENT WHICH MAY PROTECT USERS IN SOME UNEXPECTED CONFRONTATIONS WITH BEARS BUT MAY NOT BE EFFECTIVE IN ALL SITUATIONS OR PREVENT ALL INJURIES. READ THIS ENTIRE LABEL BEFORE TAKING THIS PRODUCT INTO AREAS WHERE BEAR MIGHT BE ENCOUNTERED.

EPA EST. No. 36213-MD-002 EPA Registration No. 71545-1

Net Weight: 9 Ounces

PRECAUTIONARY STATEMENTS

HAZARDS TO HUMANS & DOMESTIC ANIMALS

DANGER: May cause irreversible eye damage if sprayed in the eye. Contact through squirting or rubbing the eyes may cause irritation and damage. Avoid contact with skin or clothing. Wash thoroughly with soap and water after handling.

FIRST AID

IF IN EYES: Hold eyelids open and flush with steady, gentle stream of water for 15 minutes. Call medical attention at the first sign of redness or irritation. Wash with plenty of soap and water. Get medical attention if irritation persists. Before calling the poison control center, be ready to provide information about the product. Do not induce vomiting. Do not give anything by mouth to an unconscious person.

PHYSICAL OR CHEMICAL HAZARDS

Contents under pressure. Do not puncture or incinerate container. Exposure to temperatures above 130°F may cause bursting.

ENVIRONMENTAL HAZARDS

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 by cleaning of equipment or disposal of wastes.

GENERAL USE INFORMATION

Do not use in a way that will contact persons, domestic animals, or wildlife. Do not use in a way that will contact food, feed or foodstuffs. Do not use in a way that will contact any other plants and animals that are not intended to be treated.

STORAGE AND DISPOSAL

STORAGE: Store in a cool, dry place away from heat or open flame. Do not puncture or incinerate. Do not expose to temperatures above 130°F. Do not store below 32°F.

DISPOSAL: Securely wrap or package in original container and dispose in trash. Contents under pressure. Do not puncture or incinerate.

Manufactured by:
Wildlife Research Laboratories, Inc.
P.O. Box 2000, Salt Lake Municipal Airport, Salt Lake City, UT 84110
Chemical Emergency Hotline: 1-800-535-5053
Open 24 hours a day, 7 days a week.

ACCEPTED
with COMMENTS
in EPA Letter Dated:

FEB 2 ' 2000

Under the Federal Insecticide

10966

DP BARCODE: D268932

CASE: 062589 DATA PACKAGE RECORD DATE: 09/12/00
SUBMISSION: S581497 BEAN SHEET Page 1 of 1

* * * CASE/SUBMISSION INFORMATION * * *

CASE TYPE: REGISTRATION ACTION: 305 TECH-LBL REV AMND DATA RE
RANKING : 20 POINTS ()
CHEMICALS: 070701 Capsaicin (in oleoresin of capsicum) 1.3400%

ID#: 071545-00001 Guard Alaska Bear Repellent
COMPANY: 071545 MCNEIL RIVER ENTERPRISES, INC.
PRODUCT MANAGER: 04 TINA LEVINE 703-308-7055 ROOM: CM2 219
PM TEAM REVIEWER: DANIEL PEACOCK 703-305-5407 ROOM: CM2 221
RECEIVED DATE: 03/23/00 DUE OUT DATE: 09/29/00

* * * DATA PACKAGE INFORMATION * * *

DP BARCODE: 268932 EXPEDITE: N DATE SENT: 09/12/00 DATE RET.: / /
CHEMICAL: 070701 Capsaicin (in oleoresin of capsicum)
DP TYPE: 001
CSF: Y LABEL: Y

ASSIGNED TO	DATE IN	DATE OUT	
DIV : RD	/ /	/ /	ADMIN DUE DATE: 12-12-00 02/09/01
BRAN: TRB	/ /	/ /	NEGOT DATE: / /
SECT: CHEM	/ /	/ /	PROJ DATE: / /
REVR :	/ /	/ /	
CONTR:	/ /	/ /	

* * * DATA REVIEW INSTRUCTIONS * * *

Similarity Clinic

Co wants to switch from [redacted]
Originally, we would not allow [redacted] because it was an ozone depleter. Then they switched to TCE. Since it was a List A, we asked the co to find a replacement ingredient.

Dan Peacock
305-5407

* * * DATA PACKAGE EVALUATION * * *

No evaluation is written for this data package

* * * ADDITIONAL DATA PACKAGES FOR THIS SUBMISSION * * *

DP BC	BRANCH/SECTION	DATE OUT	DUE BACK	INS	CSF	LABEL

With substitution of [redacted] in the formulation, is additional Prod. Chem. data required?

Inert ingredient information may be entitled to confidential treatment

Background
① 1/11/2000
~~formula~~ formula request
③ one 1/19/2000 eye & skin

McNeil River Enter., Inc.
750 W. Dimond, Ste. 203
Anchorage, Alaska 99515
907-349-6868 or
1-888-419-9695
907-349-7818 fax

Manufacturers of Guard Alaska Personal Protection Systems

March 21, 2000

S 581497

Mr. Dan Peacock (7505C)
U.S. Environmental Protection Agency
Office of Pesticide Programs
401 M Street, SW
Washington, DC 20460

Reference: Guard Alaska® Bear Repellent (EPA Reg. No. 71545-1)
Comparison of two inert ingredients

Dear Dan:

Attached is a comparison of two inert ingredients – the one used in the testing and the proposed substitute.

Please call me at 1-888-419-9695 or Cathy Rice at 703-847-7407 if you have any questions or if I may be of further assistance.

Sincerely,

Catherine R.
for Randal Prater
President

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

OFFICE OF PREVENTION,
PESTICIDES AND TOXIC
SUBSTANCES

14/December/2000
MEMORANDUM

Subject: Guard Alaska bear Repellent
EPA Reg. No.: 71545-1
DP Barcode: D268934
Case No: 062589
PC Code: 070701 Capsaicin (in oleoresin of capsicum)

From: John C. Redden, Team Leader JCR
Technical Review Branch
Registration Division (7505C)

To: Daniel Peacock, PM Team 04
Insecticide-Rodenticide Branch
Registration Division (7505C)

Applicant: McNeil River Enterprises, Inc.
750 W. Dimond, Suite 203
Anchorage, AK 99515

FORMULATION FROM LABEL:

Active Ingredient(s):	% by wt.
Capsaicin	1.34
Inert Ingredient(s):	98.66
Total:	100%

ACTION:

The company wants to change from trichloroethylene to [redacted] As trichloroethylene is List A, the PM asked them to switch inerts. Do they have to repeat the acute toxicity tests required for registration?

BACKGROUND:

No Updated CSF showing the change from trichloroethylene to [redacted] was submitted with this action.

CONCLUSION:

The signal word for [redacted]. TRB can made a tentative call that the company **may** not have to repeat the acute toxicity studies. However, TRB needs to see an updated CSF before, we can make a final call.

Inert ingredient information may be entitled to confidential treatment

#10962

P BARCODE: D268934

CASE: 062589 DATA PACKAGE RECORD DATE: 09/12/00
SUBMISSION: S581497 BEAN SHEET Page 1 of 1

* * * CASE/SUBMISSION INFORMATION * * *

CASE TYPE: REGISTRATION ACTION: 305 TECH-LBL REV AMND DATA RE
RANKING : 20 POINTS ()
CHEMICALS: 070701 Capsaicin (in oleoresin of capsicum) 1.3400%

ID#: 071545-00001 Guard Alaska Bear Repellent
COMPANY: 071545 MCNEIL RIVER ENTERPRISES, INC.
PRODUCT MANAGER: 04 TINA LEVINE 703-308-7055 ROOM: CM2 219
PM TEAM REVIEWER: DANIEL PEACOCK 703-305-5407 ROOM: CM2 221
RECEIVED DATE: 03/23/00 DUE OUT DATE: 09/29/00

* * * DATA PACKAGE INFORMATION * * *

DP BARCODE: 268934 EXPEDITE: N DATE SENT: 09/12/00 DATE RET.: / /
CHEMICAL: 070701 Capsaicin (in oleoresin of capsicum)
DP TYPE: 001
CSF: Y LABEL: Y

ASSIGNED TO	DATE IN	DATE OUT	
DIV : RD	/ /	/ /	ADMIN DUE DATE: ~~02/09/01~~ 12-12-00
BRAN: TRB	/ /	/ /	NEGOT DATE: / /
SECT: TOX	/ /	/ /	PROJ DATE: / /
REVR :	/ /	/ /	
CONTR:	/ /	/ /	

* * * DATA REVIEW INSTRUCTIONS * * *

Tox,

Similarity Clinic

Note: See comment on chem bean sheet.

Co want to change "TCE" to [redacted] to see they have to repeat the 2 acute tox tests required for registration.

dan peacock

* * * DATA PACKAGE EVALUATION * * *

No evaluation is written for this data package

* * * ADDITIONAL DATA PACKAGES FOR THIS SUBMISSION * * *

DP BC	BRANCH/SECTION	DATE OUT	DUE BACK	INS	CSF	LABEL
268932	TRB/CHEM	09/12/00	02/09/01	Y	Y	Y

Inert ingredient information may be entitled to confidential treatment

Background
① 1/11/2000
~~formula~~ formula request
③ one 1/19/2000
eye & skin

McNeil River Enter., Inc.
750 W. Dimond, Ste. 203
Anchorage, Alaska 99515
907-349-6868 or
1-888-419-9695
907-349-7818 fax

Manufacturers of Guard Alaska Personal Protection Systems

March 21, 2000

S-581497

Mr. Dan Peacock (7505C)
U.S. Environmental Protection Agency
Office of Pesticide Programs
401 M Street, SW
Washington, DC 20460

Reference: Guard Alaska® Bear Repellent (EPA Reg. No. 71545-1)
Comparison of two inert ingredients

Dear Dan:

Attached is a comparison of two inert ingredients – the one used in the testing and the proposed substitute.

Please call me at 1-888-419-9695 or Cathy Rice at 703-847-7407 if you have any questions or if I may be of further assistance.

Sincerely,

Catherine R.
for Randal Prater
President

Dan Peacock on 09/20/2000 01:33:31 PM

To: randy@guardalaska.com, cbrice@erols.com
cc:
Subject: Guard Alaska Bear Repellent, EPA Reg. No. 71545-1
Review of 12 Month Storage Stability Study

Randy and Cathy,

I looked at the storage stability test (T-12) submitted to support the above product.

Chromtec completed the test in November 1998 about the time that McNeil River changed its formula. So the data are for an unregistered formula. After a decision is made about your latest formula change, you must redo the test. After a year, submit the data, which must include the a description of the test and samples taken and analyses made at 0, 3, 6, 9, and 12 months.

Dan Peacock
705-5407

McNeil River Enter., Inc.
750 W. Dimond, Ste. 203
Anchorage, Alaska 99515
907-349-6868 or
1-888-419-9695
907-349-7818 fax

450484-00

Manufacturers of Guard Alaska Personal Protection Systems

February 23, 2000

Mr. Dan Peacock (7505C)
U.S. Environmental Protection Agency
Office of Pesticide Programs
401 M Street, SW
Washington, DC 20460

Reference: Guard Alaska® Bear Repellent (EPA Reg. No. 71545-1)
Submission of 12-month storage stability study

Dear Dan:

Attached are three copies of the following study:

45048401 Storage Stability and Corrosion Characteristics for Guard Alaska® Bear Repellent
T=12 months

Please call me at 1-888-419-9695 or Cathy Rice at 703-847-7407 if you have any questions or if I may be of further assistance.

Sincerely,

Cathy R.

for Randal Prater
President

Pages 67-70 Access to FIFRA Registration Data is restricted under FIFRA section 10(g)

356 5-577050
30

September 12, 2000

McNeil River Enterprises, Inc.
750 West Dimond, Suite 203
Anchorage, Alaska 99515

Attention: Mr. Randal Prater

Subject: Guard Alaska Bear Repellent
EPA Reg. No. 71545-1
Review of Website

One of your competitors has brought your website to our attention. We have reviewed the material, especially the page on the Guard Alaska product (71545-1), the section titled "The Truth", and the "Articles" section. We find much of the information to be questionable at best and some of it to be unsubstantiated or untrue. We previously have commented to you regarding some similar statements that appeared on items of unaccepted labeling (see our letter of August 23, 1999).

The page for the Guard Alaska product itself includes the following objectionable material:

1. "**Ultramag Shotgun Series**" (caption)

2. "An invincible 20% ultra hot pepper spray."

3. "Absolutely the most effective and powerful bear defense spray available today."

4. "This product has proven so effective that it is the only one registered with the EPA as a repellent for ALL SPECIES of bears."

5. "Environmentally safe! Does not contain flammable or ozone depleting substances.

6. "Our formula is scientifically proven superior, and endorsed by the Alaska Science & Technology Foundation.

7. "Six years of extensive testing in the wilds of Alaska."

In our letter of August 23, 1999, we commented on the term "**Shotgun**" and the "20%" claim. The claim "invincible" would be proven false by a single product failure, and we seriously doubt that any pesticide product would be 100% effective 100% of the time.

Claims to the effect that Guard Alaska is the most effective bear repellent are considered to be false or misleading comparisons with other pesticides. We also doubt that you have data which conclusively demonstrate your product's superiority. You have submitted no such data to us.

The assertion that Guard Alaska is the only product that EPA registered "as a repellent for ALL SPECIES of bears" is false. All bear deterrents registered in the U.S. are claimed to deter "bears", without qualification as to species.

EPA accepted Guard Alaska for registration. EPA does not "certify" anything further about the product and does not "endorse" it or any other pesticide product.

Safety claims are categorically prohibited for pesticide products.

Verbally and in print, you have repeatedly claimed to have done extensive testing. All that we have seen from you regarding efficacy testing of a product purported to be Guard Alaska (certainly not its current formulation) is one videotaped demonstration by bow hunters. If you have no records or reports of "six years" of "extensive" testing, you have no good way to document that any such research took place, let alone what its results were.

The section of the website called "The Truth" seems to have been misnamed as it also contains many questionable statements and a great deal of unsubstantiated conjecture.

Your representations as to the reasons for your product's alleged superiority to those marketed by others are not substantiated by data that have been submitted to us. We especially question statements to the effect that your product opens bears' pores. We have seen no biological information which suggests that such is the case. (See comments on this topic in our letter of August 23, 1999.)

Several of the 6 items in the "Articles" section appear to be "info-mercials" and none seems to have looked at your various claims critically.

Requirements for pesticide labels prohibit the sorts of statements that we find objectionable on your website. Truth-in-advertising requirements are administrated under the Federal Trade Act, which also prohibits making false or misleading statements.

Over the past two years, we have paid attention to your criticisms of literature for and other aspects of bear deterrents other than Guard Alaska. In some cases, we have taken actions based on information that you have provided. In turn, others have leveled criticisms related to

Guard Alaska. The only way that this finger-pointing will stop will be if people focus on their own products and stop taking pot-shots at other products, whether named or unnamed, in promotional items. What you could reasonably say about Guard Alaska is that you believe that it repels bears and you believe that it works for several stated reasons. In stating those reasons, you should clearly indicate what you know to be true and what is speculative.

If any of the above comments no longer apply to your website, you may ignore those comments. If you have questions about this letter, please contact me at 703-305-5407 (by phone), 703-305-6596 (by fax), or peacock,dan@epa.gov (by E-Mail).

Sincerely,

Daniel B. Peacock, Biologist
Insecticide-Rodenticide Branch
Registration Division (7504C)

A:\Bear Deterrents\71545-1-Website.wpdSeptember 12, 2000

IRB BRANCH REVIEW - TSS

Record Number(s)

D266973
D266974
D267021
D267083

6/26/00
6/27/00
IN 6/29/00 OUT 9/5/00

EFFICACY

FILE OR REG. NO. 71920-1

PETITION OR EXP. PERMIT NO.

DATE DIV. RECEIVED 3/7/00, 4/21/00, 3/9/00, 5/3/00

DATE OF SUBMISSION 3/6/00, 4/20/00, 3/7/00, 4/27/00

DATE SUBMISSION ACCEPTED 6/26/00, 6/26/00, 6/27/00, 6/29/00

TYPE PRODUCTS(S): I, D, H, F, N, R, X S

DATA ACCESSION NO(S). no new efficacy data

PRODUCT MGR. NO. 05

PRODUCT NAME(S) BEARGUARD-BEAR DETERRENT

COMPANY NAME Guardian Personal Security Products

SUBMISSION PURPOSE "proposed" labeling and assorted label claims

CHEMICAL & FORMULATION @.)% "Capsaicin and related capsaicinoids" aerosol

file for
71545-1

Efficacy Review: BEARGUARD™, 71920-R
Guardian Products
Phoenix, AZ 85027

200.0 INTRODUCTION

200.1 Uses

2.0% "Capsaicin and related capsaicinoids*" aerosol product Federally registered "**to deter bears which are attacking or appear likely to attack humans**".

200.2 Background Information

See efficacy reviews of 1/25/99, 3/9/99, 3/16/99, and 12/27/99. This product was registered on 3/18/99. No revised labels or label components have been accepted subsequently.

See also 1/24/00 and 3/30/00 reviews of inquiries (data package D261874 and CORR. #292749, respectively) regarding promotional statements being made for UDAP Pepper Power, which is supposed to be a subregistration ("distributor product") of 71920-1 marketed by Universal Defense Alternative Products (aka "UDAP Industries") of Bozeman, MT. In those reviews, I found that promotional statements on various elements of UDAP's labeling -- some of which were never submitted for 71920-1 -- were highly objectionable.

This review discusses the items listed and described below.

1. A submission of 3/6/00 made by Amy Plato Roberts of Technology Sciences Group, Inc., on behalf of Guardian Products. The materials from this submission that were sent to me include a cover letter, an amendment form, a copy of the BEARGUARD label accepted on 3/18/99, a statement announcing the commencing of studies of storage stability and corrosion characteristics, and copies of two testimonial letters and a copy of a newspaper item regarding reportedly successful use of UDAP Pepper Power.

2. A submission of 3/7/00 from Roberts on behalf of Guardian Products. The materials from this submission that were sent to me include a cover letter, a copy of an e:mail from Dan Peacock (IRB) to Mark Matheny of UDAP ("bearman@udap") regarding objectionable promotional statements, and assorted items used to promote sales of bear pepper sprays (Counter Assault, 5541-2; Guard Alaska, 71545-1) not in the Guardian "family".

3. A submission of 4/20/00 made by Amy Plato Roberts of Technology Sciences Group, Inc., on behalf of Guardian Products. The materials from this submission that were sent to me include a cover letter, an amendment form, a copy of the BEARGUARD label accepted on 3/18/99, assorted elements of labeling and advertising that are to be used (and/or being used) for UDAP Pepper Power Bear Deterrent, 79120-1-72007.

4. A letter of 4/27/00 from Pride Johnson, President of Counter Assault's company. With his letter, Johnson enclosed elements of labeling and advertising for UDAP Pepper Power Bear Deterrent (71920-1-72007) which he finds to be objectionable.

5. Paper copies of internet versions of articles on bear pepper sprays which recently appeared in Backpacker magazine (also to be reviewed separately as CORR. #293341).

Products claimed to protect humans from other humans are not considered to be pesticides because humans are not considered to be pests under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Products claimed to protect people from attacks by relatively large animals (e.g., bears, dogs) must be registered as pesticides. Although this registration requirement has been in place for nearly 40 years, manufacturers of bear pepper sprays enjoyed more than a decade of sales life as unregistered pesticides before the first product of this type, Counter Assault (55541-2), was registered on May of 1998. Prior to that time, the products were being sold with some knowledge and even some official winking by government agencies, most notably the Park Service (which equipped its personnel with unregistered products) and the EPA (which, responding to political interference by a U.S. Senator from Alaska and others, blunted a 1993 enforcement action properly initiated by an agency of Alaska's State government).

Since May of 1998, EPA has taken a number of enforcement and other regulatory actions which have resulted in 5 Federal Registrations for bear pepper sprays (one of which now is subject to a stop-sale order) and some improvements in labeling. One problem common to these products has been the use of unreviewed elements of labeling in addition to the accepted container label in various commercial presentations of the products. Another common problem has been the making of false and misleading statements on such unreviewed labeling and in other promotional materials (including store displays which, by accompanying pesticide products in commerce, also qualify as labeling). Three of the first four submissions discussed in this review are

related in one way or another to such labeling issues. The Backpacker items represent one publication's attempt to make sense of the various bear-deterrent products now available and the claims made for them.

There are a number of existing prohibitions -- (FIFRA, §2(q)(1)(A), §12(a)(1)(E); 40 CFR, §156.10(a)(5) -- against making "*False or misleading statements*" on labeling. The statements and graphics found to be objectionable in past reviews of products of this type generally have fallen into the categories listed below.

1. "A false or misleading statement concerning the composition of the product" [40 CFR, §156.10(a)(5)(i)];

2. "A false or misleading statement concerning the effectiveness of the product as a pesticide or device" [40 CFR, §156.10(a)(5)(ii)];

3. "A false or misleading comparison with other pesticides or devices" [40 CFR, §156.10(a)(5)(iv)];

4. "Any statement directly or indirectly implying that the pesticide or device is recommended or endorsed by any agency of the Federal Government" [40 CFR, §156.10(a)(5)(v)]; and

5. "A true statement used in such a way as to give a false or misleading impression to the purchaser" [40 CFR, §156.10(a)(5)(vii)].

201.0 DATA SUMMARY

Submission of 3/6/00

The testimonial items report use of the Pepper Power product in two separate incidents by an Eric Burge of Bozeman, MT, and a Sylvio Saucier of Madawaska, ME. The newspaper item (Joan Haines, Bozeman Daily Chronicle, Friday, October 8, 1999) pertains to the Burge incident.

Burge's item is an "e:mail" to Mark Matheny of UDAP dated "Monday, October 11, 1999". Burge writes that the incident took place on 10/6/99 and occurred when he "startled 3 large grizzlies, a sow and two nearly mature cubs." In charging Burge, the 3 bears reportedly covered an estimated 30 yards "in little more than a second" until they were within 10 yards of him, whereupon the "sow continued her charge while the two others hung up". Burge writes that he fired the unit 3 times -- when the sow was estimated

distances of 20', 10-12', and 7-8' away. Burge states that a cross wind carried the product off target for the most remote spraying, but the third attempt "nailed her square in the face and she stopped cold." She soon "bolted over the rise" with the cubs "right on her heels."

Burge adds that he carries Pepper Power with him instead of the ".357 magnum" that he used to use and that he prefers the prospect of saving himself and the bear to the likely outcome with a firearm. He adds that the pepper spray is lighter to tote and "faster and easier to employ under duress" than a firearm. He also thanks Matheny

> for creating such a valuable and ecological conscience product. Your efforts are truly saving lives, and not just human!

Haines's newspaper account of the same event adds that the incident occurred at 9,200' elevation, that Burge claimed to have been aware that grizzlies were in the area, and that he might have made the incident more likely because he was "stealthing into the wind" while bow-hunting. Burge told the reporter, "If I would have had a gun, I would have used it." Burge apparently also told the reporter that he thought that he had exhausted about half of the container's contents in dealing with the grizzlies.

Although Robert's letter of 3/6/00 claims the testimonials to be relevant to 71920-1-72007 (UDAP's distributor product), neither Burge's e:mail or the newspaper account of the incident clearly identifies the product used as a distributor version of 71920-1, as opposed to whatever it was that UDAP sold prior to EPA's regulatory actions against unregistered products. Haines describes the product used as

> the largest size and strongest mixture of UDAP, a pepper spray manufactured in Bozeman.

If the reporter's information is correct, what Burge used might be an old product or something purporting to be 71920-1-72007 that might or might not be identical to 71920-1 (which a distributor product is required to be). The only labels that we have seen for 71920-1-72007 indicate that the product is made in Arizona.

Saucier's account was communicated in the form of a letter dated 9/25/99. The incident reportedly occurred on 8/30/99. Saucier reported having climbed into a tree stand in the late afternoon for the purpose of "hunting black bear, over bait, in Maine." A mother and cubs came along. The cubs reportedly went for the bait and the sow for

Saucier's stand before moving to the bait herself. The mother then seemingly sent her cubs up a tree while she stood her ground to defend them against "a large bear" whose approach she apparently had sensed. Saucier thought about shooting the "large bear" but was not presented an angle appropriate for a bow shot. The mother drove the "larger bear" away, went back to the bait,

> apparently settling down and guarding it, maybe for the night.

Seeking not to spend the night in the tree, Saucier decided to use Pepper Power to drive the sow away. Saucier reports that the

> when the orange and strong smelling fog hit her, she took off instantly and very fast, twenty-five yards from my stand and stayed there because her cubs were still up the tree.

The sow did not charge as Saucier cautiously left the area. Saucier's account does not describe the firing distance, duration, or number of "shots" needed to deter the sow. He also does not clearly identify the product as 71920-1-72007.

Submission of 3/7/00

Roberts' submission of 3/7/00 was made in response to Peacock's e:mail of 3/6/00 to Matheny concerning promotional statements which included claims not accepted for 71920-1, including various false and misleading statements implying product superiority and endorsement of the product by EPA. After stating that "the advertising materials mentioned were removed from circulation" 3 days before Peacock's e:mail, Roberts devotes much of her letter and enclosures to it to charging UDAP's and BEARGUARD'S competitors with the same type of promotional tactics for which UDAP had been criticized. Thus, began another round of "the pot calling the kettle 'black'" for bear deterrents.

Regarding Counter Assault (55541-2), Roberts brings to our attention table entitled "**BEAR SPRAY Comparison February 2000**" and a short website item. This table presents columns for the 3 bear deterrents registered and legally available at that time (Counter Assault, Guard Alaska, and the Bearguard group, including Pepper Power and Bear Peppermace. The information in the table is claimed to have been taken from

product labeling, brochures and EPA notifications as of February 2000.

The rows include various product attributes, for many of which -- at least to some ways of thinking -- Counter Assault seems to come out at or near the top of the comparison chart. While it would not be illegal to make valid comparisons among products, a great deal of information would be needed -- more than a label or advertisement is likely to have -- to present such comparisons in context and to keep them from being false or misleading. The "**BEAR SPRAY Comparison February 2000**" includes comparisons that are false and misleading, some of which are true statements which might give false impressions to readers.

In the "Ingredients/Attributes" row, the reader learns that while Counter Assault is made in Montana, Guard Alaska is made in Maryland and the BearGuard group in Arizona (not Bozeman, MT). If not an appeal to provincialism among Montana customers, this bit of technically irrelevant information would seem to be an attempt to imply that a bear spray from "real" bear country would be more authentic than, say an "Alaska" product from Maryland.

The second row, called "Meets All IGBC guidelines" gives a "Yes" for Counter Assault and "No" entries for the other two products. What is not mentioned is that the IGBC (International Grizzly Bear Committee, or something close to that) designed its guidelines based upon the attributes of the Counter Assault product. Consequently, only that product could possibly meet "All IGBC guidelines". We have no evidence on hand which indicates that meeting all of those guidelines is necessary for an effective bear pepper spray, let alone the best.

The third row compares claimed net weights, showing Counter Assault's to be intermediate to those claimed for the other two products.

The fourth row compares total capsaicinoid claims, with Counter Assault's being intermediate and BearGuard's highest. However, the percent of Capsaicin (likely the hottest capsaicinoid compound in the products) is lowest for Counter Assault. Among other things, this makes the fourth row misleading by presenting (perhaps) true information in a way that would give a false impression to the reader.

The fifth row indicates that all 3 products are claimed to be "Derived from (OC) Oleoresin Capsicum"; and the sixth

row claims that all 3 come out of their containers as a "Megaphone Shaped Cloud". As no differences are claimed among the products, there is little to discuss here, save for the possibility that the claims presented as equivalent might be false for one or more of the products.

The seventh row pertains to "Minimum Range" and presents the spray range claims that appear on the accepted labels for the products (30' for BearGuard and Counter Assault and 15-20' for Guard Alaska). These figures were derived from studies intended to show spray patterns at various distances from the source. The distances accepted as label claims were the maximum distances from which the product clearly created a large pattern on a surface held essentially perpendicular to the spay angle. Therefore, use of the heading "Minimum Range" is incorrect for all 3 products. Even if claimed as a maximum range (or maximum effective range), the information could be judged to be misleading because we do not have enough information on hand to indicate that such differences in range would be of practical value in protecting humans. (Intuitively, range should matter, especially over short distances such as 5-10'. Whether a product delivered over 30' really is more protective than one with a 15-20' range has not been shown in any study of which I am aware.)

The eighth row ("Time of Continuous Spray") presents data from labels concerning the time of continuous spraying that it takes to evacuate a container. These numbers show Counter Assault (7 sec) as being intermediate to Guard Alaska (9 sec) and BearGuard (4 sec). While there may be some actual differences among these products in time to total evacuation, I must note here that the ways in which this measure was taken may have varied between products. I suspect that the BearGuard studies were most conservative in this regard because the watch was stopped as soon as the size and speed of the spray cloud began to wane (and the experimenter judged the output to be possibly of diminished efficacy). Units were still hissing when the watches were stopped. If the other units were timed for the total duration of hissing, the times reported for them would have been longer than those conservatively reported for BearGuard. However, the evacuation times claimed on the labels reportedly were confirmed in tests conducted by Backpacker magazine.

The ninth row factually indicates that all 3 products are "EPA Registered".

The 10th row indicates that, unlike the other two products, Guard Alaska lacks a "Glow in the Dark Safety Wedge". I am not sure what is true here, but I was unable to induce the

orange cap used on a container proposed for a bear deterrent glow in the dark.

The 11th row indicates that only Counter Assault has the following seemingly desirable characteristic; "Safety cable tie prevents accidents in stores". If the safety wedge could be subverted in the package presentation, this claim might be appropriate. If other products are packaged in such a way that they cannot go off spontaneously or when people "fiddle" with displayed products, the claim that the cable tie is needed to keep "accidents in stores" from happening would be misleading.

The 12th row claims that Counter Assault and at least the UDAP version of 71920-1 have the characteristic: "Elastic String prevents loss of Safety Wedge".

The Counter Assault webpage mainly indicates that the product is registered in the U.S. and in Canada and that there are prohibitions and other special considerations associated with transporting pepper sprays in aircraft. The information of U.S. registration is presented under the heading "**EPA Certification**" which, to me, implies more than simple registration and, to others, might imply Federal endorsement.

A runner at the top of the page reads "Counter Assault -- to stop aggressive attacks". The claim "to stop" implies 100% efficacy or that stopping "aggressive attacks" is the intended purpose for using the product. As no bear deterrent has been shown or suggested to be 100% effective, such a claim is false and misleading. Clearly stating that the product is intended to stop bear attacks would be acceptable. The phrase "aggressive attacks" is too vague and implies that the product would work against species not listed on its accepted label. (It might indeed, but the label should be broadened before the advertising is.)

The Counter Assault webpage shown seems to have a few "hot buttons" which, if clicked upon, might lead to pages of additional claims, some of which might be objectionable. No other pages for Counter Assault were included in the materials sent for my review.

While the "**BEAR SPRAY Comparison February 2000**" and Counter Assault webpage are objectionable here and there, they are "small potatoes" in that regard compared to the material from the Guard Alaska website. I have reviewed and commented on material from the Guard Alaska website and McNeill River's promotional material in past reviews, including one of 3/31/00 which was based on a tip supplied

by Karl Scholz of Guardian Products. I suspect that EPA already has communicated to Scholz and McNeill River Enterprises, Inc. about that material, which I got hold of by visiting the website on 3/20/00 and 3/30/00 and via website items that Dan Peacock downloaded and sent to me along with Scholz's letter. In case EPA has not corresponded with Scholz and McNeill River about the items (and to the extent that what Roberts supplied differs from what I found), I will go over the materials that Roberts supplied, importing and adapting text from the 3/31/00 review of 71545-1 as necessary to save time and facilitate discussion.

Scholz brought McNeill River's website to EPA's attention via an e:mail of 2/24/00 in which, among other things, he made the comments shown below.

> What controls (other than the controls which govern ethical business) does the EPA place on registered products? I mean, guard alaska is gonna kick our butts with their advertising unless we can address their ads point-by-point and show how our product is better.
>
> We use stronger OC (which the public already knows to ask for...but which we don't address in our ads on the strength of Amy's [Plato Roberts] counsel).
>
> We have more range.
>
> We make our own product.
>
> And what is this about "all species of bears?" Which species should a consumer NOT use our products on?

With the review package for Scholz's letter, Peacock provided some print-outs from the website (made on or before 3/20/00). The text on some of the pages was very faint. Upon visiting the site on 3/30/00, I discovered that certain pages have a blue background with white text. My efforts at printing such pages produced even fainter text than Peacock's (whose version can be read at the risk of severe eyestrain). I visited McNeill River's website on 3/20/00 and found that it had its own menus and some rather ingenious action graphics. One of these is a rotating cube in the "Articles" section of the website. To see a particular article, one may click on a panel of the rotating cube to enter a particular "Article". This is not easy to do, especially if one is interested in seeing the full range of "Articles" provided. Fortunately, I was able

to get into 6 distinct items using the alternative method of clicking on the publication's names where they appeared near the left margin of one of the screens. Basically white text on a black background, the "Articles" printed legibly.

The website information that I considered previously and that which Roberts supplied is replete with questionable statements about the Guard Alaska product and about bear biology. The page for the Guard Alaska product itself includes the following objectionable material:

1. "**Ultramag Shotgun Series**" (caption)

2. "An invincible 20% ultra hot pepper spray."

3. "Absolutely the most effective and powerful bear defense spray available today."

4. "This product has proven so effective that it is the only one registered with the EPA as a repellent for ALL SPECIES of bears."

5. "Environmentally safe! Does not contain flammable or ozone depleting substances.

6. "Our formula is scientifically proven superior, and endorsed by the Alaska Science & Technology Foundation.

7. "Six years of extensive testing in the wilds of Alaska."

In the pre-regulated history of bear pepper sprays, there evidently were certain catch phrases that entrepreneurs conditioned customers to look for. "**Shotgun**" (item 1) is one such claim. Previously, I have encountered it on labeling and/or other literature for several products, including Guard Alaska. Presumably, it is intended to convey impressions that the spray behaves like a shotgun blast and/or that it affects bears like a shotgun blast would. As neither appears to be completely correct, the claim should be considered to be "false and misleading", as described in 40 CFR, §156.10(a)(5)(ii).

While both a shotgun and an aerosol spray would expand in cross-sectional coverage over distance from the source, the similarities end there. The particles delivered by the aerosol become smaller and smaller over distance traveled, with some remaining airborne and being carried off by moving air. Shot would stay about the same size, be affected only somewhat by winds, and sink rapidly over

time. A bear hit with an aerosol pepper spray would be likely to experience burning in the eyes (and perhaps temporary blindness or disorientation) and respiratory difficulties. A bear hit in the eyes with a shotgun blast could be blinded permanently and perhaps killed.

The "invincible" claim (item 2) also is a false or misleading statement about product efficacy. No one can guarantee 100% efficacy for a pesticide product as there are too many things that could go wrong. Wind and accuracy are two potential problems for users of bear sprays, and there also is a chance that a container will turn out to be a "dud".

The "20%" part of item 2 probably refers to the proportion of the product that is OC extract. It greatly exceeds the product's total capsaicinoid label claim and would be misleading if compared to the capsaicinoid claim for any other product. As OC extracts may vary in composition and hotness, relative OC concentrations may not be valid indicators of relative effectiveness among products.

The claim "Absolutely the most effective and powerful bear defense spray available today" (item 3), is unproven and constitutes a "false or misleading comparison with other pesticides". Such claims are expressly prohibited for pesticide labeling in 40 CFR, §156.10(a)(5)(iv).

The "proven so effective" and "only one registered ... as a repellent for ALL SPECIES of bears" claim (item 4) is false in its first part and false and misleading in its second. The only product-specific information that McNeill River provided for Guard Alaska was a videotape of a single use against a black bear of a product purported to be theirs. While that use was successful, one such trial falls well short of justifying the claim "proven so effective". Since that tape was made, the formulation of Guard Alaska has been modified (to change inerts).

Randal Prater of McNeill River has told me on several occasions that he performed extensive testing of various existing products and candidate formulations before deciding how to make Guard Alaska. I asked him to submit whatever accounts he might have of such research, but he claimed not to have written any. Consequently, there does not seem to be any way to document whether such research took place, let alone to assess its thoroughness and results.

No one's product was tested against polar bears as far as I am aware. The label for BearGuard (71920-1, Guardian's product) claims efficacy against "bears". So do the labels

for Guard Alaska (71545-1), Counter Assault (55541-2), and the stop-saled Bear Pause (71768-1). There is no evidence in the jacket for 71545-1.that EPA has accepted any labeling for that product which specifically claims it to be effective against all species of bears. However, the unqualified claim "bears" implies effectiveness against all bear species; and that claim appears on the labels of all Capsaicin-containing bear sprays registered in the U.S.

The "Environmentally safe!" claim (item 5) is of the sort of safety claims that are categorically prohibited under 40 CFR, §156.10(a)(5)(ix). The same could be said of "Does not contain flammable or ozone depleting substances." The Confidential Statement of Formula (CSF) and product chemistry data supplied for 71545-1 should be checked to determine whether the claims about lack of flammability and ozone depletion are even true statements.

The claim "Our formula is scientifically proven superior" (item 6) seems to me to be both false and misleading on its face and by virtue of its implied favorable comparison with unnamed competitors' products. Prater has not documented the research that he claims to have performed and, even if he had, the claim "scientifically proven superior" would be a tough one to establish. I have no idea whether Guard Alaska actually was "endorsed by the Alaska Science & Technology Foundation" (whatever that is), but such a claim strikes me as being misleading at best. No information is provided regarding what one must do to gain the endorsement of that body. For all we know, that endorsement may be available for a small contribution, may have been given to anyone who asks, or may have been given to several products claimed to deter bears. Whether the AS&TF conducted any relevant testing of bear deterrents also has not been established before EPA.

The claim "Six years of extensive testing in the wilds of Alaska" (item 7) also is not established before EPA. All that I know for sure about testing is that McNeill River sent us a videotape of one application of what might have been an old version of Guard Alaska.

The section of the website called "The Truth about Pepper Spray" (submitted by Roberts and found by me on 3/20/00) also contains many questionable statements and a great deal of unsubstantiated conjecture.

The first two paragraphs of "The Truth" discuss the make-up of a typical bear repellent, state that Capsaicin is the principal active component of Oleoresin Capsicum (OC) sprays and note that rating composition by percent of OC (rather than percent of Capsaicin) in a mixture can be

misleading, as can assessing hotness by use of Scoville Heat Units (SHUs). Compared to the rest of "The Truth" according to McNeill River Enterprises, this stuff is relatively mild.

The third paragraph goes into McNeill River's (unsubstantiated) beliefs that pepper sprays which use distilled water or vegetable oils as carriers are rendered ineffective by the presence of such substances. It also opines that residual vegetable oils deposited on substrates following use of pepper sprays containing such ingredients can attract bears. (Tom Smith of the U.S. Geological Survey in Alaska put forth such a theory in 1998, providing data and videotaped evidence that were not inconsistent with the theory but were not definitive either.)

The fourth paragraph states that propellents are important to successful use of the product and should not be ozone depleters or flammable substances. I have no disagreement with such positions.

The fifth paragraph gets heavily into McNeill River's unsubstantiated claims that they have done extensive testing of Guard Alaska and their position that substances in their formulation fight through bears' ocular mucous membranes and open bears' pores. (Others have told me that, like other Carnivora, bears lack skin pores.) McNeill River also claims that inert ingredients in Guard Alaska can displace water, thus making the product effective against animals "wet from rain or other causes." That claim also is unsubstantiated.

The last paragraph reads as follows:

> McNeill Enterprises, Inc., does not recognize SHU's nor do we advertise SHU's on our products. Under the pesticide/repellant act, the EPA requires the percentage of total capsaicin (not OC) to be 1%. Guard Alaska products go over and above the E.P.A. standard for total capsaicin by maintaining a 1.3% capsaicin total in all of our products.

Actually, the 1.3% level claimed for the product is the total capsaicinoid concentration rather than the percent of the product comprised of Capsaicin alone.

The information supplied by Roberts on 3/7/00 includes a 4-page item entitled "<u>What makes our product stand out?</u>" ("News & Info" button). This item contains a number of questionable claims about Guard Alaska products without clear delineation of what is intended to pertain to the

Guard Alaska bear deterrent and the Guard Alaska products claimed to protect people from other people. The item refers to EPA testing, which would only be relevant to the bear deterrent product because we do not regulate anti-human products.

Via a convoluted paragraph, McNeill River implies that "Guard Alaska" does not degrade. Elsewhere, the item discusses the problems associated with claiming OC concentrations and hotness in terms of SHU's.

The item also states,

> We do not use vanltlyl [sic] pelargonamide, V/P) [sic] a synthetic man made compound found in pepper sprays as a cheap replacement for Capsaicin.

The item goes on to present a "**Press Release - November 23, 1999 -- Missoula, Montana**" pertaining to EPA's stop-sale of Bear Pause (ChemArmor, Missoula, MT) for using Vanillyl Pelargonamide (VP) as the active ingredient while claiming that the product contained "a purified form of capsaicin". (The false claim of active ingredient was the essential reason for issuing the stop-sale.)

The item also presents a "**Press Release - November 1, 1998 -- Anchorage, AK & Phoenix, AZ**" pertaining to the initial registration of "Guard Alaska Bear Repellent Spray". The account is replete with claims concerning alleged "extensive testing both in the field and laboratories", Guard Alaska's being the only product "certified by the EPA as a repellent for ALL SPECIES of bear", problems with water-based pepper sprays, "UltraMag Shotgun Series", and "an invincible 20%". The bear product also is claimed to be

> "absolutely the most effective and powerful bear defense spray made."

These claims are objectionable as being unsubstantiated or outright false and misleading.

The information supplied by Roberts also includes a 3-page item entitled "**Our products can STOP a bear in its tracks. Imagine what it can do to an attacker**".

This item pertains to animal deterrents and "personal protection" products. Like the other McNeill River items, this one is loaded with unsupported claims and attempts at emotional blackmail. These are listed and discussed below.

1. "Six years of testing in the wilds of Alaska!"

   This one might be false. As noted above, McNeill River has never documented any testing except for one videotaped trial alleged to be of (an earlier version) of their bear product.

2. **"For instantly disabling an assailant and stopping an assault."**

   This one is somewhat misleading, but seems to imply use against people. When properly delivered any pepper spray should temporarily incapacitate a human attacker. However, the user could miss; the attacker could somehow be protected from or be impervious to the agent; or the container mechanism could fail. The words might seem to imply no failures, although their presentation as a "For" phrase rather than a sentence also could be construed as having it mean what the product is intended to do rather than what it reliably does.

3. **"Our pepper spray products contain the hottest active ingredient available."**

   This seems to be a false and misleading claim of comparison with unnamed other products. All of the pepper sprays still legally available are claimed to be derived from OC (which might not be "**the hottest active ingredient available**", even if one assumes the context of active ingredients that might be used in bear sprays and personal defense sprays).

4. **"They actually open the pores of the skin and penetrate the mucous membranes."**

   As noted above, claims of this nature are likely to be false as far as bears are concerned. Humans do have pores. Whether any Guard Alaska product opens them and such action contributes to product efficacy is irrelevant to the labeling issues under discussion for 71545-1 and 71920-1.

5. **"These are the MOST effective products available on the market today. Used for stopping personal assaults from stalkers, muggers, rapists, thieves, bears, badgers, dogs, etc... ANY animal or human will be instantly disabled."**

   This text is especially troubling due to the many unsubstantiated favorable comparisons with unnamed products and mix bear claims with claims for deterring humans as well as types ("**badgers, dogs, etc... ANY animal**"). Although there are reasons to expect that the bear product might be useful against other types of animals, the company has neither presented data supporting such claims nor been granted them on any accepted labeling. The efficacy of some of the "personal protection" product presentations against bears and other animals might be very limited.

6. **"Unlike the other manufacturers of personal defense sprays, Guard Alaska products contain no ineffective ingredients. Water-based sprays are, by their nature, ineffective (water is the natural antidote for the active ingredient, capsaicin. Imagine that - the antidote as part of the formula...) Oil-based sprays tend to bead-up and roll off the intended surface and are flammable, and alcohol based sprays are extremely flammable."**

   We have seen nothing which substantiates any of this conjecture which, at the very least, should be regarded as false or misleading on the basis of claiming favorable product comparisons.

7. **"Guard Alaska's formula is scientifically proven superior, and endorsed by the Alaska Science & Technology Foundation. Our sprays are very different from the others. The contain the hottest active ingredient available in a base that actually opens the pores of the skin for incredible stopping power.... Our sprays also penetrate the mucous membranes, making them the most effective available."**

   These sentences represent more of the same type of questionable assertions regarding mode of action, claims of absolute effectiveness, and allegations of superior performance to unnamed competitor's products.

8. **"Our products have undergone extensive field testing in the wilds of Alaska and are EPA certified to repel bears in the wild. If our product will stop a wild bear, a human assailant pales in comparison."**

   This stuff is false and misleading. As noted above, the field testing is unsubstantiated and, according to Prater himself, unsubstantiatable. EPA has registered the product but has not "certified" it to do anything and does not endorse it or any other pesticide product. The inferences that the bear deterrent product should be used against humans and/or that the "personal protection" products are as effective as the bear repellent (against whatever) are especially troublesome as they might cause people to hurt themselves or other people unduly by using too much or too little product for the job.

9. **"Have the satisfaction and peace-of-mind in knowing that you possess the safest, most effective and highest quality defense spray sold anywhere."**

   These are false and misleading claims of comparative safety [prohibited by 40 CFR, §156.10(a)(5)(x)], efficacy, and composition.

10. "Every year in the United States, over 1 million people are assaulted. Over 100,000 are raped. DON'T BECOME A STATISTIC! Be prepared. Protect yourself. Protect your loved ones. Use Guard Alaska Pepper Spray."

    This is emotional blackmail: "Use our product or else!"

11. **"Be safe. Be prepared!"**

    Ditto.

12. **"Guard Alaska. Because our quality could be your last line of defense."**

    Ditto.

13. **"NO ONE should be without their HOT LIPS!!!"** [brand name for purse-size personal protection product line]

    Ditto.

If I were a competitor of McNeill River in the bear deterrent and/or "personal protection" spray business, I

would be highly upset by the unsubstantiated statements and outright falsehoods found on that company's website. Such outrage would not excuse my responding in kind, however, although additional motivation to do so might arise from concern over what the outlandish statements might do to my own sales curve. Because the statements are so outlandish, at least some potential customers might see through them. Because some might not and to deter other companies from resorting to the same tactics, we (EPA) should to what we can to fix the problem. We can write to the company about it, but we might have to include the Federal Trade Commission (FTC) in the loop because much of the problem is associated with advertising rather than labeling.

In the review of 3/31/00 pertaining to McNeill River's website, I also reviewed the items in the "Articles" section of McNeill River's website. These are cited and discussed below, with the text being reported from the review of 3/31/00 and only slightly edited.

Anonymous. (1999) The truth about pepper sprays. Hunting, April, 1999.

Anonymous? (1999) Guard Alaska. **"EDITOR'S GRAB BAG"** item in May, 1999, edition of Bow & Arrow Hunting magazine.

McLean, D. (date not indicated) "Guard Alaska" section of "Omega Proving Ground" article (perhaps). Soldier of Fortune magazine.

Anonymous (1999) Guard Alaska O.C. spray. S.W.A.T, May, 1999.

Anonymous. (1999) Guard Alaska Personal Protection Pepper Sprays. American Survival Guide, March, 1999.

Anonymous. (1999) Bear repellent -- safe two ways. Bow Masters, May, 1999.

The item from Hunting essentially parrots the information from the website page called "The Truth". The "article" is really an "info-mercial".

The Bow & Arrow Hunting piece has the appearance of journalism, but seems devoid of critical thinking as it quotes Prater as stating that the product "opens the pores, making it the most effective on the market." Without quotation marks, the article includes the paragraph shown below.

> The first product developed was Guard Alaska Bear Repellent Spray. It is so effective that the EPA certifies it as a repellent for all species of bears.

At the bottom of the page, there is a side-view picture of someone spraying product from a container which has the appearance of the sort used for bear pepper sprays. The pictures caption is nonsensical:

> A demonstration of the power of the 20 percent potency of the Guard Alaska McNeill River Defense Spray, which is intended for use against bears.

The "20 percent" that has been alleged for Guard Alaska refers to the proportion of the product that is supposed to be Oleoresin Capsicum. The OC level would have nothing to do with the spray pattern.

The Soldier of Fortune item is another info-mercial which talks about opening pores, denigrates competitive products categorically (without mentioning any specific ones). It also claims certification by EPA ("as a repellent for all species of bear") and use of Guard Alaska products by

> the U.S. postal service, the U.S. Fish and Wildlife Service in Alaska, the U.S. Army in Alaska and all types of outdoorsmen.

The flavor of this item is apparent from its opening paragraph, which reads as shown below.

> The merchandisers of some products make a point to assure buyers their fine products have never been tested on animals. Not so Guard Alaska, whose product is not only tested on animals -- they videotaped the animal's response, retreat and remorse to demonstrate the efficacy of their product and their confidence in it at short range. Guard Alaska sells bear repellent and their product is not only the best on the market it is probably the only one that is actually effective on bears and other large carnivores who are programmed not to retreat at irritation, but only in response to overwhelming, searing pain.

The S.W.A.T item appears to have been written by the magazine's staff. The item plugs Guard Alaska products a bit and buys into some of McNeill River's rhetoric. The article also discusses registration requirements and the 1/15/99 cut-off for sales of unregistered bear repellents.

The American Survival Guide item includes a picture of probably the same person using the product as in the Bow and Arrow item, but the view is from the person's other side. The item quotes Prater extensively and hits the usual points: "six years of extensive testing", "certified by EPA as a repellent for all species of bears", "water is the antidote for pepper spray", and, of course,

> breaks down the naturally occurring oils in the skin and opens the pores, making it the most effective product on the market.

The Bow Masters item is a 4-paragraph insert which appears on the same page of the magazine as a true advertisement for Guard Alaska bear repellent. The insert is pretty much an advertisement itself, shamelessly plugging the product and inaccurately stating that "Recent legislation" provided the impetus for EPA to require that bear repellents be registered. (Registration of animal repellents -- including attack repellents -- has been required since the early 1960's, but it was not until the mid-to-late 1990's that real progress toward getting bear repellents registered was made. Such progress was due almost entirely to the indefatigable efforts of Dan Peacock.)

The first paragraph of the Bow Masters insert includes false and misleading claims about efficacy and safety:

> Guard Alaska, one of the most effective bear repellent pepper sprays on the market, which has actually been tested against the big bears of Alaska, is now recognized as one of the only pepper sprays on the market that is also safe to use.

After reviewing the Guard Alaska information on McNeill River's website. I can see why Scholz was concerned. The various items are replete with information that would not be permitted on labeling. Such statements probably also are not permitted in advertising in general. The Federal Trade Act (FTA) prohibits making "false and misleading" statements in advertising. Under the authority of the FTA, the Federal Trade Commission (FTC) can require those who make questionable statements to provide information which supports such statements or to refrain from making them in the future. I have worked with the FTC on a few occasions (primarily regarding ultrasonic devices claimed to repel rodents). I suspect that FTA cases have their own histories and interpretations.

We should probably contact the FTC to see what they might have done regarding purported bear repellents or internet

advertising in general. There has been much talk in the media recently about whether to "regulate the internet" or even to tax it. There also is increased general recognition that the "information superhighway" has great potential for doing harmful things as well as good things. Anyone who is "on line" can pretty much put anything out for public consumption regardless of whether it is true or the effects that it might have on others. We should see what we can do to persuade McNeill River to be more factual on its website.

Submission of 4/20/00

In this submission, Roberts proposes to have elements of labeling accepted for BearGuard so that they may be used for the market presentation of "**UDAP** pepper ***power™ bear*** deterrent" (as presented on the proposed new labeling) in "clamshell" packaging. To this end, Roberts submitted a stamped copy of the current accepted container label for BearGuard (71920-1), a copy of the container label reportedly now being used for UDAP Pepper Power (71920-1-72007), and 5 copies of the Pepper Power label that is to be inserted into the clamshell which is to hold a container of the product and (at least some of the time) a "Hip Holster" for carrying the container in a way that would seem to facilitate rapid use.

Content issues aside, this amendment application cannot be accepted at this time because any amendment to a registered product must be proposed for the parent product rather than the distributor product. Guardian Products would have to propose additional labeling for 71920-1 which, if accepted, could also be used by distributors of the product, such as UDAP.

The container label for 71920-1-72007 is formatted somewhat differently than that for 71920-1, but the only difference of potential significance is the omission from the Pepper Power label of the BearGuard label's center panel emphasis of the prohibition against puncturing or incinerating containers. However, both labels bear such prohibitions under "**PHYSICAL OR CHEMICAL HAZARDS:**". As both labels list "071920-AZ-001", it is implied that both products are made in Arizona rather than Montana.

The main problem with the clamshell insert label is that it is for "**UDAP** pepper ***power™ bear*** deterrent". That is not its only problem, however. The proposed label also bears objectionable claims and testimonials which have more to do with the history of unregistered bear sprays than they have to do with any version of BearGuard that has been

registered and on the market since 3/18/99. An example of the latter is the story of Matheny's own attack by a bear on 9/25/92 and his companion's alleged use "of a small 4 oz. can of pepper spray" to save him. Another example is a testimonial captioned "**UDAP's Bear Spray proven effective!!!**" which is attributed to a Nate Vance of "Teton Wilderness Outfitting, WY". Vance claims to have twice saved his own hide by using "*Pepper **Power***". That testimonial is at least a year old (I recall reviewing it in the Spring of 1999) and consequently almost certainly pertains to a preregistration version of "*Pepper **Power***".

Another problem with the label is that it refers readers to a publication and similar(?) internet item called "***Bear Safety Tips***" which was not submitted for review. Any publication other than official government publications referred to by any element of labeling also are considered to be labeling.

The questionable statements on the proposed UDAP clamshell label are listed and discussed below.

1. "***STOPS aggressive attacks***"

   With no qualifications, the phrase implies 100% efficacy and, therefore, could be considered false or misleading.

2. "***Wisdom is Better than Strength!***"

   While this statement may often be true, it seems to be used misleadingly here in the sense of comparison of this product with alternative approaches such as use of a firearm (strength?) or a different bear pepper spray (it's wisest to use UDAP). By providing context, it might be possible to include the thought on the label; but with context, the impact of the statement would be diminished (and appropriately so).

3. "***Thank you for Being Prepared with the Leader in Bear Defense Pepper Sprays***"

   No basis is established for showing this product to be the "leader" of anything, let alone, as the sentence implies, the deserving leader by being the best such product. According to representations made to us, this product is not even an original (ostensibly being identical to BearGuard and Bear Peppermace). With 2 other supposedly identical offerings on the market, at best this product could only be tied for the mythical

lead. Therefore, this claim is both false and misleading.

4. "***Highest % Active Ingredients***"

   This is a true statement used to mislead. The total percent of capsaicinoids claimed for the BearGuard family is higher than the claims made for Counter Assault and Guard Alaska. This fact does not necessarily make, as the statement clearly intends to imply, the UDAP product better than any of the others; and it would be tied with BearGuard and BearPeppermace in total capsaicinoid concentration claimed.

5. "***Hottest Formula Made***"

   See discussion of the preceding item.

6. "***EPA Registered***"

   The appearance of an EPA registration number on the label is sufficient evidence of EPA registration. The additional claim seems to reflect an attempt to imply EPA endorsement.

7. All references to unreviewed and, therefore, unaccepted material on "***Bear Safety Tips***" whether as a booklet or on a website

8. "**Bear Attack**" story

   The product involved in this tale could not possibly have been what is being offered for sale as "**UDAP** pepper ***power***™ ***bear*** deterrent".

9. The claim "**UDAP's Bear Spray proven effective!!!**" and the testimonial paragraph which follows it

   Testimonials are not adequate substitutes for efficacy data and, therefore, have no place on pesticide labeling. The age of this particular account also is such that its relevance to the formulation that is supposed to be used in "**UDAP** pepper ***power***™ ***bear*** deterrent" seems questionable and would probably be difficult to verify.

The material to which I have objected includes most of what is proposed for the clamshell insert label except for the "**DIRECTIONS FOR USE**". Those directions would be acceptable if identical to those accepted for BearGuard, but they are

not because the directions refer to the product as UDAP. The directions also refer to figures which do not appear on the clamshell label (but do on the container label).

Roberts' submission of 4/20/00 also included an item which blue-marker handwriting describes as a "Sample dealer hand-out that shows picture of complete packaging". This item bears the objectionable and alarming statements listed and discussed below.

1. "**New Tamper-proof package**"

   The packaging depicted probably could be damaged by a strong person or by anyone using assorted implements such as car keys. "**Tamper-evident**" would be a more appropriate description of the packaging than "**Tamper-proof**".

2. "***NEW PACKAGE!***"

   This claim could be made as long as it were true. For pesticide products, our convention has been to permit "New!" claims to be made for only one year from the time that the change is introduced.

3. "**Proven in dozens of wildlife attacks**"

   No evidence of anywhere near "**dozens**" of "attacks" has been presented to us and those that have been presented are not documented as to the formulation used. One of the two testimonials discussed above did not even involve an attack but rather Saucier's (appropriate) desire not to be treed for a night. The parent product is registered only for deterring bears, not all "**wildlife**".

4. "**Preferred by Backcountry Outfitters & Professionals**"

   No evidence has been submitted that supports the implication that "**UDAP** pepper ***power***™ ***bear*** deterrent" is the bear pepper spray of choice for "**Backcountry Outfitters & Professionals**". Vance claims to be such a person, but he is just one (and possibly a crony of Matheny).

5. "**HOTTEST FORMULA MADE**"

   As noted above, "hottest" might not necessarily mean "best".

6. "EPA Registered"

As noted above, might imply endorsement, although the text is relatively inconspicuous and less inappropriate on a "dealer hand-out" than on a label which bears a registration number.

7. **"OUR BEAR DETERRENT SPRAYS ARE EPA REGISTERED FOR 2000 IN THE FOLLOWING 45 STATES:**

AL	**GA**	**MD**	**NH**	**OK**	**UT**
AK	**ID**	**MA**	**NJ**	**OR**	**VA**
AZ	**IN**	**MI**	**NM**	**PA**	**VT**
AR	**IN**	**MN**	**NY**	**SC**	**WA**
CO	**KS**	**MO**	**NC**	**SD**	**WV**
DC	**KY**	**MT**	**ND**	**TN**	**WI**
DE	**LA**	**NE**	**OH**	**TX**	**WY**
FL	**ME**	**NV**			

Anticipated in CA by June 2000

(CANADA Inquiries Welcome)"

To my own knowledge, free-ranging bears occur in many of the States listed; but some of the listings surprise me. The only bears that I have heard of in Washington, DC, are confined at the National Zoo. I suppose that DC residents might find it convenient to buy this product before they visit nearby areas (e.g., in VA, WV, and PA) where bears occur. However, this long list of State registrations -- not to mention the one "**Anticipated**" for California and the "**Inquiries Welcome**" from Canada -- suggests an aggressive marketing strategy that might seek customers wanting to use the product against more than just bears. Canada has had a problem with use of pepper sprays as potential offensive weapons in the commission of crimes. It might not be long before the same problem becomes common here.

Johnson's Letter of 4/27/00

Johnson reports having purchased "**a packaged canister of UDAP's Pepper Power**" on 4/18/00 and supplied photocopies of the front panel of the container label plus "**supplemental labeling on the insert card**" in the product's packaging. The visible portion of the container label corresponds in

content and appearance to what Roberts included with her submission of 4/20/00 except for the insertion of the following below the name of the product: "**CANADIAN Reg. No. 255**[2-3 more blurred digits]". The portions of the "**supplemental labeling on the insert card**" the Johnson submitted are essentially identical to the clamshell insert label that Roberts indicated that "UDAP Industries is proposing...." If Johnson's representations concerning how and when he obtained the labeling are accurate, UDAP already was using that labeling. (Note my treatment of the "NEW PACKAGE!" claim under "CONCLUSIONS".)

Johnson takes issue with the presentation of Canadian registration information ("**we were not permitted to do so by EPA**"), various claims made on the "**supplemental labeling on the insert card**", the allusion to "**A free bear booklet**" on the insert label, that UDAP's website allegedly alludes "**to 'Dangerous animals and makes other erroneous statements**", and the "**many misleading statements**" which appear in "**UDAP's brochures**" which allegedly are offered "**at the point of purchase**".

Johnson goes on to request that EPA take prompt and stern enforcement action ("**an immediate stop-sale and recall**" plus "**a meaningful fine**"), especially because other outfits (such has Counter Assault) have been told not to make such statements and because

> **UDAP and Guardian Security Products KNOW that all labeling and supplemental labeling MUST have prior EPA registration before it can be put into the market.**

Johnson calls for fairness and "trying to ensure 'a level playing field'", an expression that has quickly become hackneyed for bear deterrent marketers). He also states, "**I want you to follow your own laws**" and notes that the short market season for bear deterrents means that the "**illegal advertising methods**" employed by his competitors can have great impact if not stopped immediately.

Johnson is correct that the Canadian registration number has no business being a container product labeled as required by EPA and not as required by Canada. He is also correct about registrant's documents to which labels refer also being considered to be labeling and in objecting to the testimonials. (Someone -- probably Johnson -- handwrote "Counter Assault" with an arrow pointing to the

words "can of pepper spray" in the testimonial concerning Matheny's experience.)

The specific claims to which Johnson objects include some to which I also objected ("***Hottest Formula Made!***", "***Highest % Active Ingredients***", "***Leader in Bear Defense Pepper Sprays***") and one ("***As seen on the Discovery Channel!***") that I did not object to (having not seen the item mentioned). I suppose that the last of these claims could be seen as an attempt to bootleg an endorsement from a supposedly "with-it" entity. I objected to a few statements that Johnson did not mention specifically.

Backpacker Magazine Items

I have been asked to review internet versions of the Backpacker items cited and discussed individually below.

Morris, M. (2000a) The great bear spray shoot out. 2 pp.

In this item, which consists of 4 paragraphs and a table, Morris claims to have "conducted nozzle-to-nozzle" tests of "all five EPA-registered sprays" in order

> To see how the various bear deterrents work in real backwoods conditions (minus the bear).

The products tested were BearGuard (71920-1), UDAP Pepper Power (71920-1-72007), Bear Peppermace (71920-1-61311), Counter Assault (55541-2) and Guard Alaska (71545-1).

On "a sunny 75°F day with very little wind", two containers for each product (at least 225 g of material claimed) were

> fired from a platform 32 inches high over sheets of white paper that were 4 feet wide and stretched 40 feet beyond the platform.

The sheets of paper were laid horizontally on the ground rather than vertically at various fixed distances from the canister as was done for most tests of these products that I reviewed.

Cans were fired at ambient temperature in full and half-full conditions. Cans chilled to 30°F were fired in the full condition. Backpacker also apparently checked out label claims for time to evacuate containers and confirmed the label claims. The results obtained for spray distance are summarized in the table below.

PRODUCT		SPRAY DISTANCE		
	Label Claim	Full 75°F	½ Full 75° F	Full 30° F
BearGuard	≤30'	>40'	15'	>20'
Bear Peppermace	none	24'	15'	16'
UDAP Pepper Power	≤30'	26'	18'	13'
Counter Assault	≤30'	35'	16'	20'
Guard Alaska	15-20'	18'	12'	13'

Because Backpacker measured spray distances on sheets of paper lying on the ground, apparently parallel to the nozzle orientation, it is not clear that this trial can be taken as sufficiently similar to the tests reported to us by registrants to be considered to refute the spray pattern data that I reviewed. It is puzzling nonetheless that the performance characteristics differed considerably among the 3 products (BearGuard, Bear Peppermace, and UDAP Pepper Power) that are supposed to be identical. As summarized in the table below, Morris' qualitative descriptions of spray patterns also

CHARACTERISTIC		VERSION OF 71920-1	
	BearGuard	Bear Peppermace	UDAP Pepper Power
"Spray Pattern"	"Big, spreading cloud at 6 to 22 feet"	"Moderately dense cloud"	"Diffuse cloud starting at 6 feet"
"Comments"	"The biggest, most far-reaching spray cloud of all..."	Nothing remarkable, nothing unremarkable"	"Spray drifted to the left despite lack of breeze..."

The differences reported for these products, as well as the reported lack of a distance claim for Bear Peppermace, make me wonder if they actually are identical. We should collect market and ready-for-shipment samples and have them analyzed for composition to see what's going on. It could

be a shelf life problem or true differences in composition. It is interesting that the 3 reportedly identical products had different retail prices ($44.95 for BearGuard, $34.95 for Bear Peppermace, and $39.95 for UDAP Pepper Power).

Morris, M. (2000b) Packin Heat. 4 pp.

Among other things, this item includes a picture which appears to illustrate the testing situation described by Morris (2000a). The item also alludes to the preliminary field trial by Tom Smith of the U.S. Geological Survey in which brown bears appeared to be attracted to residues from OC sprays. That study was conducted before any bear pepper sprays were Federally registered.

Stephen Herrero, a Canadian bear expert, is cited as the authority for Morris' conclusion that there is a "qualified 'yes'" to the question "**Does bear spray really work?**". Herrero cautioned that such a product is no substitute for being careful when in bear country.

In a folksy sort of way, Morris indicates why EPA requires that capsaicinoid concentration rather than OC levels be claimed on labels and comments briefly on the BearPause stop-sale. She also talks about what to do "If you actually spray yourself" (water, cooking oil, "relax and wait it out").

Under the heading "**How To Pick the Right Spray**", Morris mentions the Interagency Grizzly Bear Committee (IGBC), Tom Smith, and EPA and presents a list of 8 bulleted items, some of which clearly did not come from EPA. We did not recommend choosing a product that comes out in a "shotgun-cloud pattern" by that description and, as noted above, have attempted to remove references to "shotgun" patterns because aerosol outputs and shotgun blasts have little in common. We also did not recommend at least a 25' spray range or 6 seconds of spray time as we have registered products which do not meet one of the other of those targets. I suspect that these recommendations came from the IGBC and that they were made from experience with using bear pepper sprays and/or with knowledge that the Counter Assault product exceeds the distance and times indicated.

Other recommendations that did not come from EPA but which make sense are to replace cans "every 3 years to ensure against degradation and depressurization" and to replace any can that "drops below 75 percent of its original weight."

Apparently pulling from several sources, Morris recommends against spraying people and campsite articles (because "OC spray attracts bears 'like Catnip'"), against test-firing units in camp, in favor of firing the with the nozzle oriented "slightly down and in front of the approaching bear", in favor of firing "a brief shot when the bear is about 50 feet away" plus subsequent shots aimed at its eyes and nose if the bear keeps coming, and leaving "quickly" but without running if the bear changes its behavior or retreats. The recommendation against treating campsite articles is consistent with the labels for registered bear deterrents.

Dorn, J. (2000) *A contrarian's view* **"Pepper Belongs in the Kitchen"** 2 pp.

Perhaps a portion of the Morris (2000b) item, this one is cited separately because of its different author and point of view.

Aggrandizing himself as "a pacifist, a vegetarian, and a gun-hater", Dorn states that he does not carry bear spray. Perhaps he hopes that the bears he meets also are pacifists and vegetarians, their not liking guns seeming certain.

Either Dorn's or Morris' (2000b) item ends with a section called "*Preventative Measures* **Common Sense: Better than Spray**". This section includes 7 bulleted items which inform readers of the things that they should do so that they never need to spray bears. This list includes the usual stuff about making noise, avoiding areas and times of days where and when bears are likely to be about, and being careful about placement of foods near campsites.

I believe that the spray pattern article (Morris, 2000a) raises questions about the alleged identity of BearGuard, Bear Peppermace, and UDAP Pepper Power. As the marketing of anything other than the formulation accepted for 71920-1 would be illegal, I recommend that market samples of these 3 product offerings be collected to determine which, if any, of them represent the real product formulation. We also should evaluate that labeling being used for the 3 products.

If interest, determinations, and funds are insufficient to support sample collection, product testing, and a full-blown enforcement case, we could try writing a letter to Guardian Security indicating that we found the Backpacker test results for the BearGuard family to be "puzzling" and that it is Guardian's responsibility to ensure that all of its distributors act with in the narrow limits provided for

distributor products. I do not favor that approach due to its wimpiness and its possible rewarding of illegal activities.

We have stop-saled a bear deterrent product (Bear Pause, 71768-1) because the company lied to us (and to everyone else) about its formulation. What we might have with the BearGuard family of products are lies to us (and discerning label readers, at least) about product composition via representations that the distributor products are identical to 71920-1 and possibly about the percent of active ingredient. Considering the much lower retail price for Bear Peppermace, one must wonder whether that product contains the same active ingredient complex at the same concentration as is claimed for 71920-1. It is possible that these outfits have slapped new distributor labels on old cans of the preregistration version of UDAP and/or Bear Peppermace so as not to have to "eat" old inventory. Investigations might show that these entities have done nothing wrong (on the formulation side of things) and reveal other reasons for the differences in performance among these supposedly identical products. Considering the gross differences among the product in the Backpacker tests and the general nature of our dealings with those who market bear repellents, I feel that the possibility of some sort of foul play is sufficiently great here to warrant a proper investigation.

202.0 CONCLUSIONS

To Guardian Products and/or Amy Roberts

1. The testimonial accounts submitted on March 6, 2000, of use of pepper sprays attributed to UDAP suggest that the product(s) involved were used successfully by Messrs. Burge and Saucier. The account by Burge provided more detail on actual use of the product than did Saucier's.

   There is nothing in the accounts from either of these gentleman which clearly documents use of the 71920-1-72007 product rather than some unregistered offering sold under the name of UDAP either prior to or following registration of BearGuard. We also are troubled by the statement in the newspaper account by Haines that the spray product that Burge used was manufactured in Bozeman, MT, rather than Phoenix, AZ.

2. We applaud the representation in your letter of March 7, 2000, to the effect that UDAP Industries -- which distributes 71920-1 under the number 71920-1-72007 -- "will no longer distribute the advertising materials"

upon which the Agency commented in an e:mail of March 6, 2000.

We also have examined the materials provided with your letter pertaining to the promotion of the Counter Assault and Guard Alaska bear pepper sprays. We found a few troublesome statements in the Counter Assault items and many in those pertaining to Guard Alaska. We have communicated with the registrants of those products regarding acceptable and unacceptable claims and will continue to do so as objectionable materials come to our attention. Keep in mind that mistakes made by others do not justify responses in kind on your part.

3. The "proposed" clamshell label insert submitted on April 20, 2000 is totally unacceptable because it pertains to a distributor product rather than to the parent product, BearGuard.

   Even if the "UDAP" references were changed to "BearGuard" references, there would still be many problems with this "proposed" labeling. The "proposed" clamshell insert label also bears objectionable claims and testimonials which have more to do with the history of unregistered bear sprays than they have to do with any version of BearGuard that has been registered and on the market since March 18, 1999. An example of the latter is the story of Mark Matheny's own attack by a bear on September 9, 1992 and his companion's alleged use "of a small 4 oz. can of pepper spray" to save him. Another example is a testimonial captioned "**UDAP's Bear Spray proven effective!!!**" which is attributed to a Nate Vance of "Teton Wilderness Outfitting, WY". Vance claims to have twice saved himself by using "*Pepper **Power***". Due to the age of that testimonial -- which we have seen before -- it almost certainly pertains to a preregistration version of "*Pepper **Power***".

   Another problem with the "proposed" clamshell label is that it refers readers to a publication and similar(?) internet item called "***Bear Safety Tips***" which was not submitted for review. Any publication other than official government publications referred to by any element of labeling also are considered to be labeling.

   The questionable statements on the "proposed" UDAP clamshell label are listed and discussed below.

a. "***STOPS aggressive attacks***"

With no qualifications, the phrase implies 100% efficacy and, therefore, could be considered false or misleading.

b. "***Wisdom is Better than Strength!***"

While this statement may often be true, it seems to be used misleadingly here in the sense of comparison of this product with alternative approaches such as use of a firearm (strength?) or a different bear pepper spray (implying that "It's wisest to use UDAP"). By providing appropriate context, it might be possible to include the thought on the label.

c. "***Thank you for Being Prepared with the Leader in Bear Defense Pepper Sprays***"

No basis is established for showing this product to be the "leader" of anything, let alone, as the sentence implies, the deserving leader by being the best such product. According to representations made to us, this product is not even an original (ostensibly being identical to BearGuard and Bear Peppermace). With 2 other supposedly identical offerings on the market, at best this product could only be tied for the mythical lead. Therefore, this claim is both false and misleading.

d. "***Highest % Active Ingredients***"

This is a true statement used to mislead. The total percent of capsaicinoids claimed for the BearGuard family is higher than the claims made for Counter Assault and Guard Alaska. This fact does not necessarily make, as the statement clearly intends to imply, the UDAP product better than any of the others; and it would be tied with BearGuard and BearPeppermace in total capsaicinoid concentration claimed.

e. "***Hottest Formula Made***"

See discussion of the preceding item.

f. "***EPA Registered***"

The appearance of an EPA registration number on the label is sufficient evidence of EPA registration. The additional claim seems to reflect an attempt to imply EPA endorsement.

g. All references to unreviewed and, therefore, unaccepted material on "***Bear Safety Tips***" whether as a booklet or on a website

Any publication (other than certain types of official government publications) to which labels and/or labeling refer is also considered to be labeling and, therefore, must be reviewed and accepted before such references may be made.

h. "**Bear Attack**" story

As noted above, the product involved in this tale could not possibly have been what is being offered for sale as "**UDAP** pepper ***power***™ ***bear*** deterrent".

i. The claim "**UDAP's Bear Spray proven effective!!!**" and the testimonial paragraph which follows it

Testimonials are not adequate substitutes for efficacy data and, therefore, have no place on pesticide labeling. As noted above, the relevance of this account to the formulation that is supposed to be used in "**UDAP** pepper ***power***™ ***bear*** deterrent" is questionable and would probably be difficult to verify.

j. "***As seen on the Discovery Channel!***"

This is another allusion to a non-official media item which is implied to show the product in a favorable light.

4. Your submission of April 20, 2000 also included an item which blue-marker handwriting describes as a "Sample dealer hand-out that shows picture of complete packaging". This item bears the objectionable statements listed and discussed below.

a. "**New Tamper-proof package**"

The packaging depicted probably could be damaged by a strong person or by anyone using something like

car keys. "**Tamper-evident**" would be a more appropriate description of the packaging than "**Tamper-proof**".

b. "***NEW PACKAGE!***"

This claim could be made as long as it were true. For pesticide products, our convention has been to permit "New!" claims to be made for only one year from the time that the change is introduced. We have reasons to believe that this "***NEW PACKAGE!***" has had a history of use already and, therefore, that it no longer is new.

c. "**Proven in dozens of wildlife attacks**"

No evidence of anywhere near "**dozens**" of "attacks" has been presented to us and those that have been presented are not documented as to the formulation used. One of the two testimonials submitted on March 6, 2000, and discussed above did not even involve an attack but rather Silvio Saucier's (appropriate) desire not to be treed for a night. Furthermore, the parent product is registered only for deterring bears, not all "**wildlife**".

d. "**Preferred by Backcountry Outfitters & Professionals**"

No evidence has been submitted that supports the implication that "**UDAP** pepper ***power***™ ***bear*** deterrent" is the bear pepper spray of choice for "**Backcountry Outfitters & Professionals**". Mr. Vance, whose testimonial appears on the "proposed" clamshell label, claims to be such a person; but he is only one. We saw a few more accounts in earlier submissions. Whether those accounts pertained to the formulation that is supposed to be used in this product in 2000 is questionable.

e. "**HOTTEST FORMULA MADE**"

As noted above, "hottest" might not necessarily mean "best".

f. "EPA Registered"

As noted above, this statement might imply endorsement, although the text is relatively

inconspicuous and less inappropriate on a "dealer hand-out" than on a label which bears a registration number. We would certainly want dealers to know which bear deterrents are registered because they are the only ones that it is legal to sell.

g. **"OUR BEAR DETERRENT SPRAYS ARE EPA REGISTERED FOR 2000 IN THE FOLLOWING 45 STATES:**

AL	**GA**	**MD**	**NH**	**OK**	**UT**
AK	**ID**	**MA**	**NJ**	**OR**	**VA**
AZ	**IN**	**MI**	**NM**	**PA**	**VT**
AR	**IN**	**MN**	**NY**	**SC**	**WA**
CO	**KS**	**MO**	**NC**	**SD**	**WV**
DC	**KY**	**MT**	**ND**	**TN**	**WI**
DE	**LA**	**NE**	**OH**	**TX**	**WY**
FL	**ME**	**NV**			

Anticipated in CA by June 2000
(CANADA Inquiries Welcome)"

To our knowledge, free-ranging bears occur in many of the States listed; but some of the listings are surprising (e.g., DC). This long list of State registrations -- not to mention the one "**Anticipated**" for California and the "**Inquiries Welcome**" from Canada -- suggests a marketing strategy that might seek customers wanting to use the product against more than just bears. The product should not be used for any other purpose.

We are surprised and disappointed to have received a submission that was so obviously inappropriate as yours of April 20, 2000. The "supplemental labeling" could not possibly have been accepted because it was not for the parent product and many of the claims proposed on it are clearly of the sorts expressly prohibited under 40 CFR, §156.10(a)(5).

5. Someone has brought to our attention labeling for UDAP Pepper Power that was claimed to have been purchased before your submission of April 20, 2000. That labeling included essentially the same clamshell label that you "proposed" inappropriately on April 20, 2000, and a container label for the U.S. version of the product which bore the registration number for Canada. It is illegal to use labeling that has not been

accepted and to use another country's registration number on a label for a product registered in the U.S. Were that product taken to Canada, we suspect that the product would be found to be violative in nearly all respects as their labeling requirements differ from ours.

[NOTE TO DAN PEACOCK: Although the Backpacker tests were conducted using horizontal targets rather than vertical ones, the different results obtained for BearGuard (71920-1), Bear Peppermace (71920-1-61311), and UDAP Pepper Power (71920-1-72007) do not seem to be consistent with the 3 product's being identical (as they are required to be). As noted under "DATA SUMMARY", I feel that a full enforcement investigation would be the appropriate way to approach this situation. Therefore, my recommendation is not to say anything to Guardian Products about the Backpacker results at this time. If you find no other support for this approach, I can help you draft text that would let the registrant know that we are "puzzled" by the results, "very concerned" about what they might mean, considering that a distributor product must be "formulated identically to its parent product".]

Reply to McNeill River

One of your competitors has brought your website to our attention, again. We have reviewed the material, especially the page on the Guard Alaska product (71545-1), the section titled "The Truth", and the "Articles" section. We find much of the information to be questionable at best and some of it to be unsubstantiated or untrue. We previously have commented to you regarding some similar statements that appeared on items of unaccepted labeling (see our letter of August 23, 1999).

[NOTE TO DAN PEACOCK: If another letter was sent following my review of 3/31/00, that letter also should be mentioned here. This material could be pared down considerably if the objectionable items are no longer in the website, which should be checked for content at the time you work on the outgoing letter.]

The page for the Guard Alaska product itself includes the following objectionable material:

1. "**Ultramag Shotgun Series**" (caption)

2. "An invincible 20% ultra hot pepper spray."

3. "Absolutely the most effective and powerful bear defense spray available today."

4. "This product has proven so effective that it is the only one registered with the EPA as a repellent for ALL SPECIES of bears."

5. "Environmentally safe! Does not contain flammable or ozone depleting substances.

6. "Our formula is scientifically proven superior, and endorsed by the Alaska Science & Technology Foundation.

7. "Six years of extensive testing in the wilds of Alaska."

Presumably, the "**Shotgun**" claim is intended to convey impressions that the spray behaves like a shotgun blast and/or that it affects bears like a shotgun blast would. As neither appears to be completely correct, the claim is considered to be "false and misleading", as described in 40 CFR, §156.10(a)(5)(ii).

The "invincible" claim (item 2) also is a false or misleading statement about product efficacy. No one can guarantee 100% efficacy for a pesticide product as there are too many things that could go wrong. Wind and accuracy are two potential problems for users of bear sprays, and there also is a chance that a container will turn out to be a "dud".

The "20%" part of item 2 seems to refer to the proportion of the product that is Oleoresin Capsicum (OC) extract. It greatly exceeds the product's total capsaicinoid label claim and would be misleading if compared to the capsaicinoid claim for any other product. As OC extracts may vary in composition and hotness, relative OC concentrations may not be valid indicators of relative effectiveness among products.

The claim "Absolutely the most effective and powerful bear defense spray available today" (item 3), is unproven and constitutes a "false or misleading comparison with other pesticides". Such claims are expressly prohibited for pesticide labeling in 40 CFR, §156.10(a)(5)(iv).

The "proven so effective" and "only one registered ... as a repellent for ALL SPECIES of bears" claim (item 4) is false in its first part and false and misleading in its second. The only product-specific information you have provided for Guard Alaska was a videotape of a single use against a black bear of a product purported to be yours. While that use was successful, one such trial falls well short of justifying the claim "proven so effective". Since that tape was made, the formulation of your product has been changed.

While you have told us on various occasions that you performed extensive testing of various existing products and candidate formulations before deciding how to make Guard Alaska, you also have indicated that you have no documentation or written accounts of any such research. As there does not seem to be any way to document whether such research took place, let alone to assess its thoroughness and results, all claims about such testing are inappropriate.

No one's product was tested against polar bears as far as we are aware. The labels for BearGuard (71920-1), Guard Alaska (71545-1), Counter Assault (55541-2), and even the stop-saled Bear Pause (71768-1) all claimed that the products were effective against bears, with no qualifications as to species. The unqualified claim "bears" implies effectiveness against all bear species; and that claim appears on the labels of all Capsaicin-containing bear sprays registered in the U.S. Statements to the contrary, such as item 4, are false.

The "Environmentally safe!" claim (item 5) is of the sort of safety claims that are categorically prohibited under 40 CFR, §156.10(a)(5)(ix). The same is true of "Does not contain flammable or ozone depleting substances."

The claim "Our formula is scientifically proven superior" (item 6) is both false and misleading on its face and by virtue of its implied favorable comparison with unnamed competitors' products. You have not documented the research that you claim to have performed and, even if you had, the claim "scientifically proven superior" would be a tough one to establish. We have no idea whether Guard Alaska actually has been "endorsed by the Alaska Science & Technology Foundation" or what might be needed to gain such an endorsement.

The claim "Six years of extensive testing in the wilds of Alaska" (item 7) also is not established before EPA. All that we know for sure about testing is that you sent us a videotape of one application of what might have been an old version of Guard Alaska.

The section of the website called "The Truth about Pepper Spray" also contains many questionable statements and a great deal of unsubstantiated conjecture.

The first two paragraphs of "The Truth" discuss the make-up of a typical bear repellent, state that Capsaicin is the principal active component of Oleoresin Capsicum (OC) sprays and note that rating composition by percent of OC (rather than percent of Capsaicin) in a mixture can be misleading, as can assessing hotness by use of Scoville Heat Units (SHUs). Compared to the rest of "The Truth" according to McNeill River Enterprises, these paragraphs are relatively mild.

The third paragraph goes into McNeill River's (unsubstantiated) beliefs that pepper sprays which use distilled water or vegetable oils as carriers are rendered ineffective by the presence of such substances. It also opines that residual vegetable oils deposited on substrates following use of pepper sprays containing such ingredients can attract bears. (Tom Smith of the U.S. Geological Survey in Alaska put forth such a theory in 1998, providing data and videotaped evidence that were not inconsistent with the theory but were not definitive either.)

The fifth paragraph mentions your unsubstantiated claims that you have done extensive testing of Guard Alaska and your position that substances in your formulation fight through bears' ocular mucous membranes and open bears' pores. (Others have told us that, like other Carnivora, bears lack skin pores.) You also claim that inert ingredients in Guard Alaska can displace water, thus making the product effective against animals "wet from rain or other causes." Such claims also are unsubstantiated, but all components of a pesticide formulation claimed to contribute to its effectiveness must be listed as active ingredients.

The last paragraph of "The Truth" claims "a 1.3% capsaicin total in all of our products." Actually, the 1.3% level claimed for your product is the total capsaicinoid concentration rather than the percent of the product comprised of Capsaicin alone.

The 4-page item entitled "<u>What makes our product stand out?</u>" ("News & Info" button) contains a number of

questionable claims about Guard Alaska products without clear delineation of what is intended to pertain to the Guard Alaska bear deterrent and the Guard Alaska products claimed to protect people from other people. The item refers to EPA testing, which would only be relevant to the bear deterrent product because we do not regulate anti-human products.

This item also states,

> We do not use vanltlyl [sic] pelargonamide, V/P) [sic] a synthetic man made compound found in pepper sprays as a cheap replacement for Capsaicin.

The item goes on to present a "**Press Release - November 23, 1999 -- Missoula, Montana**" pertaining to EPA's stop-sale of Bear Pause (ChemArmor, Missoula, MT) and also presents a "**Press Release - November 1, 1998 -- Anchorage, AK & Phoenix, AZ**" pertaining to the initial registration of "Guard Alaska Bear Repellent Spray". The latter account is replete with claims concerning alleged "extensive testing both in the field and laboratories", Guard Alaska's being the only product "certified by the EPA as a repellent for ALL SPECIES of bear", problems with water-based pepper sprays, "UltraMag Shotgun Series", and "an invincible 20%". The bear product also is claimed to be

> absolutely the most effective and powerful bear defense spray made.

These claims are objectionable as being unsubstantiated or outright false and misleading.

The 3-page item entitled "**Our products can STOP a bear in its tracks. Imagine what it can do to an attacker**" misleadingly pertains both to animal deterrents and "personal protection" products. Like the other McNeill River items, this one is loaded with unsupported claims and attempts at emotional blackmail. These are listed and discussed below.

1. "Six years of testing in the wilds of Alaska!"

   You have not presented any documentation of any testing except for one videotaped trial alleged to be of (an earlier version) of their bear product.

2. "**For instantly disabling an assailant and stopping an assault.**"

This one is somewhat misleading, but seems to imply use against people. When properly delivered almost any pepper spray should temporarily incapacitate a human attacker. However, the user could miss; the attacker could somehow be protected from or be impervious to the agent; or the container mechanism could fail. The words might seem to imply no failures, although your use of a "For" phrase rather than a sentence also could be construed as meaning what the product is intended to do rather than what it reliably does.

3. **"Our pepper spray products contain the hottest active ingredient available."**

   This is a false and misleading claim of comparison with unnamed other products. All of the bear pepper sprays still legally available are claimed to be derived from Oleoresin Capsicum (which might not be "**the hottest active ingredient available**", even if one assumes the context of active ingredients that might be used in bear sprays and/or personal defense sprays).

4. **"They actually open the pores of the skin and penetrate the mucous membranes."**

   As noted above, claims of this nature are likely to be false as far as bears are concerned. Humans do have pores. Whether any Guard Alaska product opens them and whether such action contributes to its efficacy are irrelevant to 71545-1.

5. **"These are the MOST effective products available on the market today. Used for stopping personal assaults from stalkers, muggers, rapists, thieves, bears, badgers, dogs, etc... ANY animal or human will be instantly disabled."**

   This text is especially troubling due to the many unsubstantiated favorable comparisons with unnamed products and the mixing of bear claims with claims for deterring humans as well as types ("**badgers, dogs, etc... ANY animal**"). Although there are reasons to expect that the bear product might be useful against other types of animals, you have neither presented data supporting such claims; nor have you been granted them on any accepted labeling. The efficacy of some of the "personal protection" product presentations against bears and other animals might be very limited.

6. **"Unlike the other manufacturers of personal defense sprays, Guard Alaska products contain no ineffective ingredients. Water-based sprays are, by their nature, ineffective (water is the natural antidote for the active ingredient, capsaicin. Imagine that - the antidote as part of the formula...) Oil-based sprays tend to bead-up and roll off the intended surface and are flammable, and alcohol based sprays are extremely flammable."**

   We have seen nothing which substantiates any of this conjecture which, at the very least, should be regarded as false or misleading on the basis of claiming favorable product comparisons.

7. **"Guard Alaska's formula is scientifically proven superior, and endorsed by the Alaska Science & Technology Foundation. Our sprays are very different from the others. The contain the hottest active ingredient available in a base that actually opens the pores of the skin for incredible stopping power.... Our sprays also penetrate the mucous membranes, making them the most effective available."**

   These sentences represent more of the same type of questionable assertions regarding mode of action, claims of absolute effectiveness, and allegations of performance superior to that of unnamed competitors' products.

8. **"Our products have undergone extensive field testing in the wilds of Alaska and are EPA certified to repel bears in the wild. If our product will stop a wild bear, a human assailant pales in comparison."**

   This material is false and misleading. As noted above, the field testing is unsubstantiated and, according to you, unsubstantiatable. EPA has registered the product but has not "certified" it to do anything and does not endorse it or any other pesticide product. The inferences that the bear deterrent product should be used against humans and/or that the "personal protection" products are as effective as the bear repellent (against whatever) are especially troublesome as they might cause people to hurt themselves or other people unduly by using too much or too little product for their particular needs.

9. **"Have the satisfaction and peace-of-mind in knowing that you possess the safest, most effective and highest quality defense spray sold anywhere."**

   These are false and misleading claims of comparative safety [prohibited by 40 CFR, §156.10(a)(5)(x)], efficacy, and composition.

10. "Every year in the United States, over 1 million people are assaulted. Over 100,000 are raped. DON'T BECOME A STATISTIC! Be prepared. Protect yourself. Protect your loved ones. Use Guard Alaska Pepper Spray."

    This is emotional blackmail which essentially implies, "Use our product or else!"

11. **"Be safe. Be prepared!"**

    More emotional blackmail.

12. **"Guard Alaska. Because our quality could be our last line of defense."**

    More emotional blackmail.

13. **"NO ONE should be without their HOT LIPS!!!"**

    Still more emotional blackmail.

We are not surprised that your competitors in the bear deterrent and/or "personal protection" spray business are highly upset by the unsubstantiated statements and outright falsehoods found on your website. Because many of the statements are so outlandish, at least some potential customers might see through them; but many might not.

Several of the 6 items in the "Articles" section of your website appear to be "info-mercials" and none seems to have looked at your various claims critically.

Requirements for pesticide labels prohibit the sorts of statements that we find objectionable on your website. Truth-in-advertising requirements are administrated under the Federal Trade Act, which also prohibits making false or misleading statements.

Over the past two years, we have paid attention to your criticisms of literature for and other aspects of bear deterrents other than Guard Alaska. In some cases, we have taken actions based on information that you have provided.

In turn, others have leveled criticisms related to Guard Alaska. The only way that this finger-pointing will stop will be if people focus on their own products and stop taking pot-shots at other products, whether named or unnamed, in promotional items. What you could reasonably say about Guard Alaska is that you believe that it repels bears and you believe that it works for several stated reasons. In stating those reasons, you should clearly indicate what you know to be true and what is speculative.

Reply to Pride Johnson (Counter Assault)

The "UDAP Pepper Power" labeling that you sent to us on April 27, 2000, included claims, testimonial statements, and references to an unreviewed publication. You indicated that you found such items to be unacceptable as well as inconsistent with what we had told you in past communications. We find the claims that you identified, plus others, to be unacceptable.

We agree that any document to which labeling refers would also be considered to be labeling that would have to be reviewed and accepted before other product labeling could refer to that. In addition, such documents could not be amended unless we reviewed and accepted the new version. The only exception to this policy would be if accepted labeling referred to official publications of certain Federal or State agencies, as indicated in §2(p)(2)(B) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

Clearly, we do not want any registrant to make false or misleading statements in labeling or (other) promotional materials. In this context, we discuss your table "**BEAR SPRAY Comparison February 2000**" and a short website item, both of which were brought to our attention earlier this year. The table presents columns which compare the 3 bear deterrents that were registered and legally available at that time (Counter Assault, Guard Alaska, and the BearGuard group, which also includes Pepper Power and Bear Peppermace. While it would not be illegal to make valid comparisons among products, a great deal of information would be needed -- more than a label or advertisement is likely to have -- to present such comparisons in context and to keep them from being false or misleading. The "**BEAR SPRAY Comparison February 2000**" makes a few comparisons that are false and misleading, some of which are true statements which might give false impressions to readers.

We do not know your reasons for indicating that Counter Assault is made in Montana, Guard Alaska is made in

Maryland, and the BearGuard group in Arizona. Whether or yuo are appealing to provincialism among Montana customers, this bit of information might be construed as implying that a bear spray from "real bear country" (or "grizzly country") would be more authentic or otherwise better than, say, an "Alaska" product from Maryland. Where an aerosol product is made seems irrelevant to us. How it is made would be a different story.

The second row, called "Meets All IGBC guidelines" gives a "Yes" for Counter Assault and "No" entries for the other two products. What is not mentioned is that the IGBC essentially designed its guidelines based upon the attributes of the Counter Assault product. Consequently, only that product could possibly meet "All IGBC guidelines". We have no evidence on hand which indicates that meeting all of those guidelines is necessary for an effective bear pepper spray, let alone the best.

The fourth row compares total capsaicinoid claims, with Counter Assault's being intermediate and BearGuard's highest. However, the percent of Capsaicin (likely the hottest capsaicinoid compound in the products) is lowest for Counter Assault. Among other things, this fact makes the fourth row misleading by presenting (hopefully) true information in a way that would give a false impression to the reader.

The seventh row pertains to "Minimum Range" and presents the spray range claims that appear on the accepted labels for the products (30' for BearGuard and Counter Assault and 15-20' for Guard Alaska). These figures were derived from studies intended to show spray patterns at various distances from the source. The distances accepted as label claims were the maximum distances from which the product clearly created a large pattern on a surface held essentially perpendicular to the spay angle. Therefore, use of the heading "Minimum Range" is incorrect for all 3 products. Even if claimed as a maximum range (or maximum effective range), the information could be judged to be misleading because we do not have enough information on hand to indicate that such differences in range would be of practical value in protecting humans. (Intuitively, range should matter, especially over short distances such as 5-10'. Whether a product delivered over 30' really is more protective than one with a 15-20' range has not been shown in any study of which we are aware.)

The eighth row ("Time of Continuous Spray") presents data from labels concerning the time of continuous spraying that it takes to evacuate a container. These numbers show Counter Assault (7 sec) as being intermediate to Guard

Alaska (9 sec) and BearGuard (4 sec). While there may be some actual differences among these products in time to total evacuation, the ways in which this measure was taken may have varied among products. These times were supported, however, by a recent article in Backpacker in test for which similar procedures probably were used for all products.

The 11th row indicates that only Counter Assault has the following seemingly desirable characteristic; "Safety cable tie prevents accidents in stores". If the safety wedge could be subverted in the package presentation, this claim might be appropriate. If other products are packaged in such a way that they cannot go off spontaneously or when people "fiddle" with displayed products, the claim that the cable tie is needed to keep "accidents in stores" from happening would be misleading.

The Counter Assault webpage mainly indicates that the product is registered in the U.S. and in Canada and that there are prohibitions and other special considerations associated with transporting pepper sprays in aircraft. The information on U.S. registration is presented under the heading "**EPA Certification**" which, to us, implies more than simple registration and, to some readers, might imply Federal endorsement.

A runner at the top of the page reads "Counter Assault -- to stop aggressive attacks". The claim "to stop" might infer 100% efficacy or that the purpose of the product is to stop "aggressive attacks". As no bear deterrent has been shown or suggested to be 100% effective, such a claim is false and misleading. Clearly indicating that stopping attacks by bears is the reason for using the product (as opposed to the guaranteed result of such use) would be acceptable. The expression "aggressive attacks" is inappropriate because it does not confine the claim to the target species (bears) claimed on accepted labeling.

The Counter Assault webpage shown seems to have a few "hot buttons" which, if clicked upon, might lead to pages of additional claims, some of which might be objectionable. You should go through the entire site and remove all objectionable statements.

William W. Jacobs
Biologist
Insecticide-Rodenticide Branch
September 5, 2000

IRB BRANCH REVIEW - TSS

Record Number(s)

D264204

IN 3/20/00 OUT 3/31/00

EFFICACY

FILE OR REG. NO. 71545-1

PETITION OR EXP. PERMIT NO.

DATE DIV. RECEIVED 2/24/00

DATE OF SUBMISSION 2/24/00

DATE SUBMISSION ACCEPTED 3/20/00

TYPE PRODUCTS(S): I, D, H, F, N, R, X S

DATA ACCESSION NO(S). none

PRODUCT MGR. NO. 04

PRODUCT NAME(S) GUARD ALASKA BEAR REPELLENT

COMPANY NAME McNeill River Enterprises, Inc.

SUBMISSION PURPOSE competitors complaints

CHEMICAL & FORMULATION 1.34% Capsaicin and related capsaicinoids aerosol

Efficacy Review: GUARD ALASKA© BEAR REPELLENT, 71545-1
McNeill River Enterprises, Inc.
Anchorage, AK 99515

200.0 INTRODUCTION

200.1 Uses

1.34% "Capsaicin and Related Capsaicinoids" ("Made from ***20% Oleoresin of Capsicum by volume***") aerosol proposed for Federally registered to

"be used only to deter bears which are attacking or appear likely to attack humans."

200.2 Background Information

See efficacy reviews of 8/17/98, 10/21/98, 12/10/98, 2/25/99, 4/12/99, and 8/20/99 for 71545-1, as well as the efficacy review of 12/29/97 of a pre-application submission (CORR. 289443) pertaining to this product. See also the efficacy review of 6/30/99 for 55541-2, the Counter Assault bear repellent product registered to Bushwacker Backpack & Supply Co., Inc., of Missoula, MT. See also EPA's letter of 8/3/99 to McNeill River. That letter includes material borrowed from the efficacy review of 6/30/99 for 55541-2. The 71545-1 product was accepted for Federal registration on 12/22/98. Its current container label was "ACCEPTED with COMMENTS" on 2/26/99.

This review pertains to McNeill River's website information concerning this and other products (human vs. human self-defense sprays). The website was brought to EPA's attention by Karl Scholz of Guardian Personal Security Products, Inc., Phoenix, AZ. Guardian is the registrant for BearGuard, 71920-1, and is a competitor to McNeill River. Scholz brought McNeill River's website to EPA's attention via an e:mail of 2/24/00 in which, among other things, he made the comments shown below.

> What controls (other than the controls which govern ethical business) does the EPA place on registered products? I mean, guard alaska is gonna kick our butts with their advertising unless we can address their ads point-by-point and show how our product is better.
>
> We use stronger OC (which the public already knows to ask for...but which we don't address in our ads on the strength of Amy's counsel).
>
> We have more range.

We make our own product.

And what is this about "all species of bears?" Which species should a consumer NOT use our products on?

(The "Amy" mentioned above is Guardian's registration consultant, Amy Plato Roberts.)

For this review, I have been asked by Peacock to look at McNeill River's website "and provide feedback to the company". With the review package, Peacock provided some print-outs from the website (made on or before 3/20/00). The text on some of the pages was very faint. Upon visiting the site on 3/30/00, I discovered that certain pages have a blue background with white text. My efforts at printing such pages produced even fainter text than Peacock's (whose version can be read at the risk of severe eyestrain).

201.0 DATA SUMMARY

I visited McNeill River's website on 3/20/00. The website has its own menus and some rather ingenious action graphics. One of these is a rotating cube in the "Articles" section of the website. To see a particular article, one may click on a panel of the rotating cube to enter a particular "Article". This is not easy to do, especially if one is interested in seeing the full range of "Articles" provided. Fortunately, I was able to get into 6 distinct items using the alternative method of clicking on the publication's names where they appeared near the left margin of one of the screens. Basically white text on a black background, the "Articles" printed legibly.

The website is replete with questionable statements about the Guard Alaska product and about bear biology. The page for the Guard Alaska product itself includes the following objectionable material:

1. "**Ultramag Shotgun Series**" (caption)

2. "An invincible 20% ultra hot pepper spray."

3. "Absolutely the most effective and powerful bear defense spray available today."

4. "This product has proven so effective that it is the only one registered with the EPA as a repellent for ALL SPECIES of bears."

5. "Environmentally safe! Does not contain flammable or ozone depleting substances.

6. "Our formula is scientifically proven superior, and endorsed by the Alaska Science & Technology Foundation.

7. "Six years of extensive testing in the wilds of Alaska."

It seems that in the pre-regulated history of bear pepper sprays, there were certain catch phrases that entrepreneurs conditioned customers to look for. "**Shotgun**" (item 1) is one such claim. Previously, I have encountered it on labeling and/or other literature for several products, including Guard Alaska. Presumably, it is intended to convey impressions that the spray behaves like a shotgun blast and/or that it affects bears like a shotgun blast would. As neither appears to be completely correct, the claim should be considered to be "false and misleading", as described in 40 CFR, §156.10(a)(5)(ii).

While both a shotgun and an aerosol spray would expand in cross-sectional coverage over distance from the source, the similarities end there. The particles delivered by the aerosol become smaller and smaller over distance traveled and tend to remain airborne and be carried off by moving air. Shot would stay about the same size, be affected only somewhat by winds, and sink rapidly over time. A bear hit with an aerosol pepper spray would be likely to experience burning in the eyes (and perhaps temporary blindness or disorientation) and respiratory difficulties. A bear hit in the eyes with a shotgun blast could be blinded permanently and perhaps killed.

The "invincible" claim (item 2) also is a false or misleading statement about product efficacy. No one can guarantee 100% efficacy for a pesticide product as there are too many things that could go wrong. Wind and accuracy are two potential problems for users of bear sprays, and there also is a chance that a container will turn out to be a "dud".

The claim "Absolutely the most effective and powerful bear defense spray available today" (item 3), is unproven and constitutes a "false or misleading comparison with other pesticides". Such claims are expressly prohibited for pesticide labeling in 40 CFR, §156.10(a)(5)(iv).

The "proven so effective" and "only one registered ... as a repellent for ALL SPECIES of bears" claim (item 4) is false in its first part and false and misleading in its second.

The only product-specific information that McNeill River provided for Guard Alaska was a videotape of a single use of a product purported to be theirs. While that use was successful, I feel that one such trial falls well short of justifying the claim "proven so effective". Since that tape was made, the formulation of Guard Alaska has been modified (to change inerts).

Randal Prater of McNeill River has told me on several occasions that he performed extensive testing of various existing products and candidate formulations before deciding how to make Guard Alaska. I asked him to submit whatever accounts he might have of such research, but he claimed not to have written any. Consequently, there does not seem to be any way to document whether such research took place, let alone to assess its thoroughness and results.

No one's product was tested against polar bears as far as I am aware. The label for BearGuard (71920-1, Guardian's product) claims efficacy against "bears". So do the labels for Guard Alaska (71545-1), Counter Assault (55541-2), and the stop-saled Bear Pause (71768-1). There is no evidence in the jacket for 71545-1 that EPA has accepted any labeling for that product which specifically claims it to be effective against all species of bears. However, the unqualified claim "bears" implies effectiveness against all bear species; and that claim appears on the labels of all Capsaicin-containing bear sprays registered in the U.S.

The "Environmentally safe!" claim (item 5) is of the sort of safety claims that are categorically prohibited under 40 CFR, §156.10(a)(5)(ix). The same could be said of "Does not contain flammable or ozone depleting substances." The Confidential Statement of Formula (CSF) and product chemistry data supplied for 71545-1 should be checked to determine whether the claims about lack of flammability and ozone depletion are even true statements.

The claim "Our formula is scientifically proven superior" (item 6) seems to me to be both false and misleading on its face and by virtue of its implied favorable comparison with unnamed competitors' products. Prater has not documented the research that he claims to have performed and, even if he had, the claim "scientifically proven superior" would be a tough one to establish. I have no idea whether Guard Alaska actually was "endorsed by the Alaska Science & Technology Foundation", but such a claim strikes me as being misleading at best. No information is provided regarding what one must do to gain the endorsement of that body. For all we know, that endorsement may be available for a small contribution, may have been given to anyone who

asks, or may have been given to several products claimed to deter bears. Whether the ASTF conducted any relevant testing of bear deterrents also has not been established before EPA.

The claim "Six years of extensive testing in the wilds of Alaska" (item 7) also is not established before EPA. All that I know for sure about testing is that McNeill River sent us a videotape of one purported application of Guard Alaska.

The section of the website called "The Truth" also contains many questionable statements and a great deal of unsubstantiated conjecture.

The first two paragraphs of "The Truth" discuss the make-up of a typical bear repellent, state that Capsaicin is the principal active component of Oleoresin Capsicum (OC) sprays and note that rating composition by percent of OC (rather than percent of Capsaicin) in a mixture can be misleading, as can assessing hotness by use of Scoville Heat Units (SHUs). Compared to the rest of "The Truth" according to McNeill River Enterprises, this stuff is relatively mild.

The third paragraph goes into McNeill River's (unsubstantiated) beliefs that pepper sprays which use distilled water or vegetable oils as carriers are rendered ineffective by the presence of such substances. It also opines that residual vegetable oils deposited on substrates following use of pepper sprays containing such ingredients can attract bears. (Tom Smith of the U.S. Geological Survey in Alaska put forth such a theory in 1998, providing data and videotaped evidence that were not inconsistent with the theory but were not definitive either.)

The fourth paragraph states that propellents are important to successful use of the product and should not be ozone depleters or flammable substances. I have no disagreement with such positions.

The fifth paragraph gets heavily into McNeill River's unsubstantiated claims that they have done extensive testing of Guard Alaska and their position that substances in their formulation fight through bears' ocular mucous membranes and open bears' pores. (Others have told me that, like other Carnivora, bears lack skin pores.) McNeill River also claims that inert ingredients in Guard Alaska can displace water, thus making the product effective against animals "wet from rain or other causes." That claim also is unsubstantiated.

The last paragraph reads as follows:

> McNeill Enterprises, Inc., does not recognize SHU's nor do we advertise SHU's on our products. Under the pesticide/repellant act, the EPA requires the percentage of total capsaicin (not OC) to be 1%. Guard Alaska products go over and above the E.P.A. standard for total capsaicin by maintaining a 1.3% capsaicin total in all of our products.

Of note in this context is the product chemistry review on Guard Alaska that was completed by (the recently retired) Alfred Smith on 11/9/99. Smith expressed concern that the samples tested were only at 80.6% and 85.8% of the nominal capsaicinoid concentration (1.34%) in the trials run 3 and 6 months into the Storage Stability study. Smith notes that no results of an initial analysis were reported and does not mention any data for a 12-month analysis. The actual Capsaicin levels determined in the 3-month (1.08%) and 6-month (1.15%) analyses were below the default lower certified limit (nominal minus 5%), which essentially corresponds to the actual lower certified limit claimed (1.27%). However, the label claim is for "Capsaicin and related capsaicinoids" rather than for Capsaicin alone.

The items in the "Articles" section of McNeill River's website are cited and discussed below.

Anonymous. (1999) The truth about pepper sprays. Hunting, April, 1999.

Anonymous? (1999) Guard Alaska. "**EDITOR'S GRAB BAG**" item in May, 1999, edition of Bow & Arrow Hunting magazine.

McLean, D. (date not indicated) "Guard Alaska" section of "Omega Proving Ground" article (perhaps). Soldier of Fortune magazine.

Anonymous (1999) Guard Alaska O.C. spray. S.W.A.T, May, 1999.

Anonymous. (1999) Guard Alaska Personal Protection Pepper Sprays. American Survival Guide, March, 1999.

Anonymous. (1999) Bear repellent -- safe two ways. Bow Masters, May, 1999.

The item from Hunting essentially parrots the information from the website page called "The Truth". The "article" is really an "info-mercial".

The Bow & Arrow Hunting piece has the appearance of journalism, but seems devoid of critical thinking as it quotes Prater as stating that the product "opens the pores, making it the most effective on the market." Without quotation marks, the article includes the paragraph shown below.

> The first product developed was Guard Alaska Bear Repellent Spray. It is so effective that the EPA certifies it as a repellent for all species of bears.

At the bottom of the page, there is a side-view picture of someone spraying product from a container which has the appearance of the sort used for bear pepper sprays. The pictures caption is nonsensical:

> A demonstration of the power of the 20 percent potency of the Guard Alaska McNeill River Defense Spray, which is intended for use against bears.

The "20 percent" that has been alleged for Guard Alaska refers to the proportion of the product that is supposed to be Oleoresin Capsicum. The OC level would have nothing to do with the spray pattern.

The Soldier of Fortune item is another info-mercial which talks about opening pores, denigrates competitive products categorically (without mentioning any specific ones). It also claims certification by EPA ("as a repellent for all species of bear") and use of Guard Alaska products by

> the U.S. postal service, the U.S. Fish and Wildlife Service in Alaska, the U.S. Army in Alaska and all types of outdoorsmen.

The flavor of this item is apparent from its opening paragraph, which reads as shown below.

> The merchandisers of some products make a point to assure buyers their fine products have never been tested on animals. Not so Guard Alaska, whose product is not only tested on animals -- they videotaped the animal's response, retreat and remorse to demonstrate the efficacy of their product and their confidence in it at short range. Guard Alaska sells bear repellent and their product is not only the best on the market it is probably the only one that is actually effective on bears and other large carnivores who are programmed not to retreat at irritation, but only in response to overwhelming, searing pain.

The S.W.A.T item appears to have been written by the magazine's staff. The item plugs Guard Alaska products a bit and buys into some of McNeill River's rhetoric. The article also discusses matters such as registration requirements and the 1/15/99 cut-off for sales of unregistered bear repellents.

The American Survival Guide item includes a picture of probably the same person using the product as in the Bow and Arrow item, but the view is from the person's other side. The item quotes Prater extensively and hits the usual points: "six years of extensive testing", "certified by EPA as a repellent for all species of bears", "water is the antidote for pepper spray", and, of course,

> breaks down the naturally occurring oils in the skin and opens the pores, making it the most effective product on the market.

The Bow Masters item is a 4-paragraph insert which appears on the same page of the magazine as a true advertisement for Guard Alaska bear repellent. The insert is pretty much an advertisement itself, shamelessly plugging the product and inaccurately stating that "Recent legislation" provided the impetus for EPA to require that bear repellents be registered. (Registration of animal repellents -- including attack repellents -- has been required since the early 1960's, but it was not until the mid-to-late 1990's that real progress toward getting bear repellents registered was made. Such progress was due almost entirely to the indefatigable efforts of Dan Peacock.)

The first paragraph of the Bow Masters insert includes false and misleading claims about efficacy and safety:

> Guard Alaska, one of the most effective bear repellent pepper sprays on the market, which has actually been tested against the big bears of Alaska, is now recognized as one of the only pepper sprays on the market that is also safe to use.

After reviewing the Guard Alaska information on McNeill River's website. I can see why Scholz is concerned. The various items are replete with information that would not be permitted on labeling. Such statements probably also are not permitted in advertising in general. The Federal Trade Act (FTA) prohibits making "false and misleading" statements in advertising. Under the authority of the FTA, the Federal Trade Commission (FTC) can require those who make questionable statements to provide information which supports such statements or to refrain from making them in the future. I have worked with the FTC on a few occasions

(primarily regarding ultrasonic devices claimed to repel rodents). I suspect that FTA cases have their own histories and interpretations.

We should probably contact the FTC at some point to see what they might have done regarding purported bear repellents or internet advertising in general. There has been much talk in the media recently about whether to "regulate the internet" or even to tax it. There also is increased general recognition that the "information superhighway" has great potential for doing harmful things as well as good things. Anyone who is "on line" can pretty much put anything out for public consumption regardless of whether it is true or the effects that it might have on others. If we cannot do anything more, perhaps each item that is really a commercial should be labeled as such and prefaced with a general disclaimer that the server should have to use. A mild disclaimer of that sort might read as shown below

> The following item may contain information that is not correct. Reader discretion is advised.

In the meantime, we should see what we can do to persuade McNeill River to be more factual on its website.

202.0 CONCLUSIONS

<u>To Guardian Personal Security Products</u>

Thank you for bringing McNeill River Enterprises' website to our attention. Items pertaining to the Guard Alaska bear-deterrent product include statements which are highly questionable as to accuracy and which would not be permitted to be made on pesticide labeling. We will see what we can do about this situation.

<u>To McNeill River Enterprises, Inc.</u>

One of your competitors has brought your website to our attention. We have reviewed the material, especially the page on the Guard Alaska product (71545-1), the section titled "The Truth", and the "Articles" section. We find much of the information to be questionable at best and some of it to be unsubstantiated or untrue. We previously have commented to you regarding some similar statements that appeared on items of unaccepted labeling (see our letter of August 23, 1999).

The page for the Guard Alaska product itself includes the following objectionable material:

1. "**Ultramag Shotgun Series**" (caption)

2. "An invincible 20% ultra hot pepper spray."

3. "Absolutely the most effective and powerful bear defense spray available today."

4. "This product has proven so effective that it is the only one registered with the EPA as a repellent for ALL SPECIES of bears."

5. "Environmentally safe! Does not contain flammable or ozone depleting substances.

6. "Our formula is scientifically proven superior, and endorsed by the Alaska Science & Technology Foundation.

7. "Six years of extensive testing in the wilds of Alaska."

In our letter of August 23, 1999, we commented on the "**Shotgun**" business and the "20%" claim. The claim "invincible" would be proven false by a single product failure, and we seriously doubt that any pesticide product would be 100% effective 100% of the time.

Claims to the effect that Guard Alaska is the most effective bear repellent are considered to be false or misleading comparisons with other pesticides. We also doubt that you have data which conclusively demonstrate your product's superiority. You have submitted no such data to us.

The assertion that Guard Alaska is the only product that EPA registered "as a repellent for ALL SPECIES of bears" is false. All bear deterrents registered in the U.S. are claimed to deter "bears", without qualification as to species.

EPA accepted Guard Alaska for registration. EPA does not "certify" anything further about the product and does not "endorse" it or any other pesticide product.

Safety claims are categorically prohibited for pesticide products.

Verbally and in print, you have repeatedly claimed to have done extensive testing. All that we have seen from you regarding efficacy testing of a product purported to be Guard Alaska (certainly not its current formulation) is one videotaped demonstration by bow hunters. If you have no

records or reports of "six years" of "extensive" testing, you have no good way to document that any such research took place, let alone what its results were.

The section of the website called "The Truth" seems to have been misnamed as it also contains many questionable statements and a great deal of unsubstantiated conjecture.

Your representations as to the reasons for your product's alleged superiority to those marketed by others are not substantiated by data that have been submitted to us. We especially question statements to the effect that your product opens bears' pores. We have seen no biological information which suggests that such is the case. (See comments on this topic in our letter of August 23, 1999.)

Several of the 6 items in the "Articles" section appear to be "info-mercials" and none seems to have looked at your various claims critically.

Requirements for pesticide labels prohibit the sorts of statements that we find objectionable on your website. Truth-in-advertising requirements are administrated under the Federal Trade Act, which also prohibits making false or misleading statements.

Over the past two years, we have paid attention to your criticisms of literature for and other aspects of bear deterrents other than Guard Alaska. In some cases, we have taken actions based on information that you have provided. In turn, others have leveled criticisms related to Guard Alaska. The only way that this finger-pointing will stop will be if people focus on their own products and stop taking pot-shots at other products, whether named or unnamed, in promotional items. What you could reasonably say about Guard Alaska is that you believe that it repels bears and you believe that it works for several stated reasons. In stating those reasons, you should clearly indicate what you know to be true and what is speculative.

William W. Jacobs
Biologist
Insecticide-Rodenticide Branch
March 31, 2000

Articles

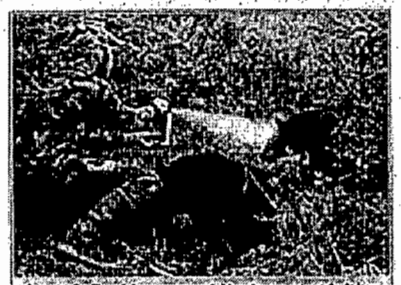
Protect Yourself!

Articles

Bow & Arrow
Bow Masters
Hunting
Soldier
Survival
S.W.A.T.

THE SCIENCE OF BEAR PROTECTION DEMYSTIFIED...

The Truth About Pepper Sprays



Caught On Tape! As a successful hunter prepares to take some photographs, he is forced to repel another bear with Guard Alaska pepper spray.

When it comes to protection in "bear country," more and more outdoorsmen are turning to pepper sprays. In non-handgun-friendly countries, pepper spray may be the only bear deterrent at the hunter's disposal, however, it is important to know the facts about the pepper spray you purchase. Many sprays are not only ineffective at stopping bears, but may agitate already dangerous brutes to heightened levels of aggression.

In any aerosol there are three components: the active ingredient, the carrier (or base) and the propellant. In pepper spray the active ingredient is called capsaicin, not oleoresin capsicum (OC). The total amount of capsaicin in a pepper spray can be thought of much like an octane rating on gasoline; it is the qualitative strength rating. In the past, Scoville Heat Units (SHUs) were a rating used as a marketing ploy. SHUs are determined by a taste test and are not recognized by the Environmental Protection Agency or any testing laboratory in the pepper spray industry because of their obvious inaccuracy.

A pepper spray that reads 10, 15 or 20 percent tells the consumer that by volume, the formula contains that respective percent of OC. The percent of OC does not represent the qualitative strength of the true active ingredient, capsaicin.

The carrier used to deliver the deterrent is also significantly important. Historically, distilled water, vegetable oil or mineral oil have been used as carriers for pepper sprays. It is well-known that distilled water is an antidote for capsaicin. Those pepper sprays using distilled water as a carrier are usually very low-priced and are ineffective. Mineral or vegetable oil carriers are also inferior due to the fact that animals, like humans, have natural oils on their skin and in their mucous membranes to protect them from airborne irritants. Vegetable and mineral oils do nothing more than add additional protection to the skin and mucous membranes, thus reducing the overall effectiveness of capsaicin.

The final component of an aerosol spray is the propellant. Its purpose is to disperse the active ingredient and carrier. The propellant should be environmentally safe and not contain ozone depleting substances.

Armed with these facts, the outdoorsman should be able to find an effective pepper spray for protection from bears.

HOT STUFF

Mc Neil River Enterprises has developed arguably the most effective bear deterrent on the market. Guard Alaska personal protection systems are uniquely engineered instead of using industry standard conventional carriers (water or oil), Guard Alaska products contain a carrier/base that breaks down the protective oils in the skin and membranes of the target, opening pores and allowing capsaicin to penetrate, thus increasing its overall effectiveness. Additionally, the Guard Alaska carrier has a greater density than water—allowing it to displace water. This is a desirable trait in pepper spray when the animal or assailant is wet.

MONTANA SETS POLICY

GUIDELINES REVISED FOR NONRESIDENT HUNTERS

The Montana Fish, Wildlife and Parks Commission has taken final action on the rules for selling nonresident combination hunting licenses in 1999 and the rules concerning refunds requested by nonresidents who have purchased those licenses.

The nonresident license rate, with one exception, keeps the prices for the various nonresident "combination" hunting licenses at the same amounts they were for 1998. The one exception is that a Deer Combination License in the "outfitter-sponsored, variable-priced" category will cost $745 in 1999, an increase of $25.

The refund policy approved by the commission sets the guidelines by which license fees are refunded to nonresident hunters who find themselves unable to use the licenses they purchase. Under the revised policy, 100 percent of the cost of a license would be refunded in the event of the death of the purchaser. Ninety percent of the purchase price would be refunded in the event of medical emergencies or the death of family members, and 80 percent of the cost would be refunded to a hunter who requests the refund for any reason prior to August 1. After August 1, and until the opening of the general hunting season, 50 percent of the license purchase price would be granted for reasons other than death and medical emergencies.

Articles

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EDITOR'S GRAB BAG

having one of these radios could mean your partner telling you that he just saw "the big one" heading in your direction.

For more information, contact The Farrell Group, Dept. B&AH, #9 The Pines Court, St. Louis, MO 63141. Or call (314)-453-9998/Fax (314) 453-9979.

Guard Alaska

After six years of extensive testing both in the field and laboratories, Guard Alaska Personal Protection Systems is launching their product lines worldwide.

Randal Prater, an Alaskan native for 22 years, developed the product line. Prater was acutely aware that many so-called bear repellents on the market were ineffective on all species and, at worst, useless.

The first product developed was Guard Alaska Bear Repellent Spray. It is so effective that the EPA certifies it as a repellent for all species of bear.

"In pepper spray, the active ingredient is capsaicin, not oleoresin capsicum (OC)," Prater said. "The total capsaicin in a pepper spray can be thought of as the octane rating of gasoline. It is in reality the qualitative strength rating of pepper spray. "Some of the pepper sprays on the market today use water as a carrier for the oleoresin capsicum," Prater said. "You see water is the antidote for pepper spray. Can you imagine a product that uses the antidote as the carrier?"

Prater said some manufacturers also use an oil base. "That's just as bad because it can bead up and roll off, especially if the animal or other threat is wet," he said.

Still others advertise heat units. "What the public doesn't know is that the heat test is merely a taste test," Prater said. "It doesn't measure the efficacy of the product."

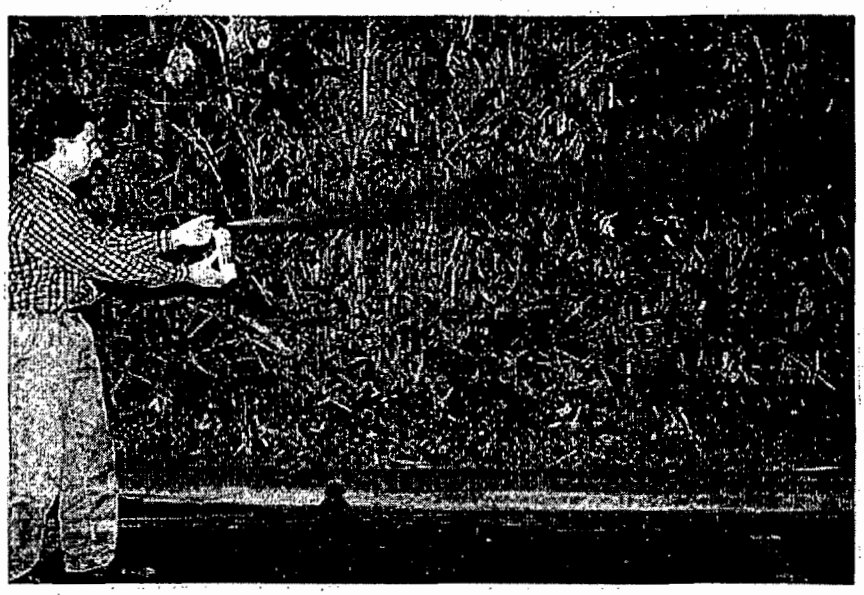
According to Prater, Guard Alaska conducted laboratory testing to ensure that their entire product line of personal defense sprays exceeds the standards set by the EPA.

Prater confirmed that Guard Alaska's carrier is not water or oil based, but he refused to divulge the actual content, saying simply that it's the company's "trade secret." He said, however, that the Guard Alaska's carrier contains a component that "breaks down the naturally occurring oils in the skin and mucus membranes and opens the pores, making it the most effective product on the market."

The Guard Alaska line includes the Ultramag Shotgun Series, an "invincible" 20 percent ultra hot pepper spray, packaged in 9-ounce super size (a quick release belt holster for this product is also available) and has been described as an effective and powerful defense spray against bears.

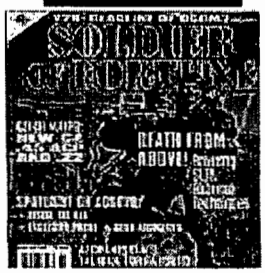
The other series in the Guard Alaska pepper sprays all have 10 percent "ultra hot pepper spray" and include the Magnum Series of key chain attachable hard plastic case containers which can hold replaceable 1/2-ounce to 1 1/2-ounce size spray canisters, which are also sold in hard plastic case; the Hot Lips Series of 1/2-ounce to 3/4-ounce spray canisters, sold either in the regular containers or with soft plastic carrying case that can be attached to a key chain or clipped on clothing; and the Night Shift Series designed for security guards and night watchmen and available in 2-ounce spray and soft carry case; 2-ounce spray foam and soft carry case; and in 4-ounce spray and case and 4-ounce spray foam and case.

Guard Alaska products are being used in four states by the US Postal Service; the US Army in Anchorage; the US Fish and Wildlife Service in the Alaska National Parks, and by many hunters and outdoors enthusiasts.



A demonstration of the power of 20 percent potency of the Guard Alaska McNeil River Defense Spray, which is intended for use against bears.

Protect Yourself!



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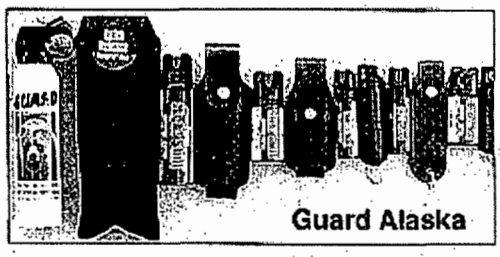
Guard Alaska

by Don McLean

The merchandisers of some products make it a point to assure buyers their fine products have never been tested on animals. Not so Guard Alaska, whose product is not only tested on animals — they videotaped the animal's response, retreat and remorse to demonstrate the efficacy of their product and their confidence in it at short range. You see, Guard Alaska sells bear repellent and their product is not only the best on the market it is probably the only one that is actually effective on bears and other large carnivores who are programmed not to retreat at irritation, but only in response to overwhelming, searing pain.

Guard Alaska is the good stuff, not to be confused with so-called "bear repellents" that are ineffective, some which even have carriers that actually *attract* bears. Starting with an oleoresin capsicum formulation that isolates the noxious fraction of the natural compound, Guard Alaska then uses a proprietary carrier that does not weaken the strength of the functional ingredient. This proprietary carrier also works to open pores of the skin, and remove protective mucous from the eyes and other mucous membranes of the target. Having covered these crucial points heretofore blithely ignored by the



industry, Guard Alaska then compounds their OC sprays in 10% for personal or police use or against small animals — and 20% for serious threats such as bears or other large carnivores.

Tested in the laboratory (for quality and purity), and in the field (*on bears*), the Guard Alaska products are the only ones certified by the EPA as a repellent for all species of bear. Their products are in use by the U.S. postal service, the U.S. Fish and Wildlife Service in Alaska, the U.S. Army in Alaska and all types of outdoorsmen. It is now available in the lower 48. At the request of the armed forces, there is an ongoing R&D project to develop a system to repel boarders from HumVees and other personnel carriers.

The Guard Alaska O/C products are suitable for personal protection against large animals (20% ultra-hot pepper), for police use (10% Night Shift series in liquid or foam), and for general personal protection (3/4-ounce Magnum, 1-1/2-ounce Magnum, and 3/4-ounce Hollips with keychain holster). All units have available either a top-quality holster or split-ring canister carrier. Shelf life is excellent — an important consideration for a product you hope to never have to use.

This is the good stuff. Some sprays will deter an assailant who is fighting for your life: These products will deter an assailant who is fighting for his life! If you need such a product, this is the one we recommend. If you sell such a product, this is the one that will ensure your customers come home to their families.

For More Information Contact:

Guard Alaska, Personal Protection Systems
750 W. Dimond, Suite 203
Anchorage, Alaska 99515
Ph (907) 349-6868
Fax (907) 349-7818

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Articles

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GUARD ALASKA O.C. SPRAY

All O.C. Sprays Are Not Created Equal

– Staff Report

These two canisters of "Night Shift" from Guard Alaska are suitable for police officers. The larger canister is designed for duty use, while the smaller version is ideal for detectives and other plainclothes personnel. The small "Hot Lips" with holster is suitable for purse carry.

Those individuals who travel in bear country should take a close look at Guard Alaska products. This fire extinguisher-type canister contains 20% O.C., and has proven effective on both brown and black bear species.

Oleoresin capsicum (O.C.) spray, commonly referred to as "pepper spray," has become very popular with both law enforcement officers and the general public as a less-than-lethal-force alternative.

One company that produces a high-quality O.C. spray, Guard Alaska Personal Systems, has recently come to the attention of *S.W.A.T.* Magazine. As a result, we have learned a few things about O.C. spray that we would like to pass along to our readers.

To begin with, it is our understanding that O.C. sprays are considered to be pesticides, and must therefore be registered with the Environmental Protection Agency (EPA) as such. Any product that claims to stop dogs, bears, etc., that is not registered with the EPA and/or does not meet EPA standards must stop all sales and distribution as of January 15, 1999. Distribution may only resume when the product has been registered and the EPA's standards have been met. This came as quite a surprise to the *S.W.A.T.* staff, and we're sure that most of our readers are unaware of the situation as well.

Apparently, one of the problems with O.C. sprays is that many manufacturers in the industry use Scoville Heat Units (SHUs) as a means of determining how "hot" a pepper spray is. SHUs are designated by subjective taste tests rather than by scientific examination, therefore what may be extremely hot to one person may be mild to another. Due to the inaccuracy of SHUs, this method of rating is not recognized by the EPA. And although a product may be rated as 10%, 15% or 20% O.C., this does not tell a consumer the actual strength of the active ingredient—it only tells the percentage.

Guard Alaska, who, at the time of this writing, is one of two companies registered with the EPA, relies on laboratory analysis to ensure that its products contain quality O.C. It neither recognizes nor advertises SHUs on its products.

Another potential problem with O.C. sprays is the "carrier," that portion of the spray which carries the O.C. to its intended target. Some manufacturers use distilled water as the carrier for their products. Those of you who have taken a class on O.C. will remember that the antidote for someone who has been sprayed is copious amounts of water. Is it a good idea to spray a hostile opponent with O.C. and the antidote at the same time? We think not.

Other manufacturers may use vegetable or mineral oil as the carrier. Animals and humans have natural oils in their skins to protect them from burns and harmful UV rays from the sun. If vegetable or mineral oil is used as the carrier for O.C., it may then be possible that the carrier is actually providing some degree of protection to the skin and mucous membranes.

Guard Alaska uses a unique proprietary carrier that is heavier than water (and will therefore displace water from the target) and is not oil-based. In fact, Guard Alaska's solution actually opens the pores of the skin, enabling the O.C. to penetrate faster and more effectively.

The bottom line is that all O.C. sprays are *not* created equal. When purchasing a self-defense spray, we urge all readers to take interest the degree of quality and effectiveness, the same way you would with your firearms. Your life may depend on it!

SOURCES:
GUARD ALASKA PERSONAL PROTECTION SYSTEMS
750 W. Diamond, Suite 203
Anchorage, AK 99515
(888) 419-9695

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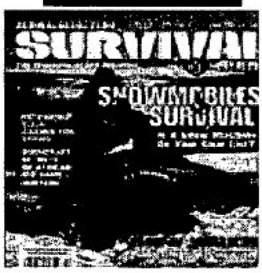

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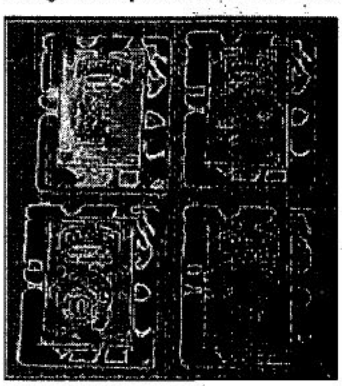
NEW PRODUCTS

Ranger Digest Books

The Ranger Digests, Volumes I-VII, are billed as "a no b—s— series of handbooks loaded with tips, tricks, and ideas on how to live and thrive in a military outdoor environment through field expedient know-how." The books offer advice and instruction with illustrations on "how to take a dump in the woods, improvise, modify and improve military and civilian outdoor gear, commercial products to buy, combat survival techniques, reducing field boredom, leadership tips, military jokes, stories, and much more, including tips, tricks and ideas from other Ranger Digest readers (soldiers, survivalists, outdoorsmen, etc.). These are not your typical boring military manuals, they contain the really important stuff that only experience can teach. Each volume contains entirely different information." Ranger Digest VIII should be published early this year. The price of each books is $5 postpaid. Inquire about the titles available on ordering. These were all written by "Ranger Rick," Richard F. Tscheme, a retired US Army soldier and graduate of the US Army Ranger School, the French Army Commando School and the Belgium Army Commando School. His awards include the US Army Ranger Tab, Master Parachutist Wings, Drill Instructor Badge, Expert Rifleman Badge, Jungle Expert Patch, Overseas Ribbons and other US and foreign military medals. For more information or to order contact Rick's Books, 11 Poppy Lane, West Grove, PA 19390; phone 610-869-8353; fax 610-869-4776; e-mail: http://www.rangerBooks@hotmail.com .



Guard Alaska Personal Protection Pepper Sprays

After six years of extensive testing both in the field and laboratories, Guard Alaska Persona Protection Systems is launching their product line in the lower 48 states as well as world wide. This product line was developed by Randal Prater. Randy has lived in Alaska for 22 years and was acutely aware of the fact that many so-called bear repellents on the market were at best ineffective on all species, and at worst, were useless. The first product developed was Guard Alaska Bear Repellent Spray. This product has proven so effective that it is certified by the EPA as a repellent for all species of bear. In a statement he puts out Prater notes that, "in pepper spray the active ingredient is capsaicin, not oleoresin capsicum (OC). The total capsaicin in a pepper spray can be thought of as the octane rating of gasoline. It is in reality the qualitative strength rating of pepper spray." Some of the pepper sprays on the market today use water as a carrier for the oleoresin capsicum, Prater states. "You see, water is the antidote for pepper spray. Can you imagine a product that uses the antidote for a carrier? Some of them use an oil base. That's just as bad because it can bead up and roll off, especially if the animal or other threat is wet. Still others advertise heat units. What the public doesn't know is that the heat test is merely a taste test. It in no way measures the efficacy of the product. We have done laboratory testing to insure our entire product line of personal defense sprays exceeds the standards set by the EPA. And though I will tell you our carrier is not water or oil based, I won't tell what it is, that's our trade secret. I will tell you it breaks down the naturally occurring oils in the skin and mucus membranes and opens the pores, making it the most effective product on the market." The Guard Alaska line includes the Ultramag Shotgun Series, an "invincible" 20 percent ultra hot pepper spray, packaged in 9-ounce super size

(quick release belt holster for this product also available) and said to be "absolutely the most effective and powerful bear defense spray made." The other series in the Guard Alaska pepper sprays all have 10 percent "ultra hot pepper spray" and include the Magnum Series of key chain attachable hard plastic case containers which can hold replaceable 1/2-ounce to 1 1/2-ounce size spray canisters, either sold by themselves or with hard plastic case; the Hot Lips Series of 1/2-ounce to 3/4-ounce spray canisters, sold either by themselves or with soft plastic carrying case that can be attached to a key chain or clipped on clothing; and the Night

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Kuiu Island's Big Black Bears

Bear Repellent – Safe Two Ways

Guard Alaska, one of the most effective bear repellent pepper sprays on the market, which has been actually tested against the big bears of Alaska, is now recognized as one of the only pepper sprays on the market that is also safe to use.

Recent legislation requires all bear repellent sprays to have Environmental Protection Agency (EPA) registration before they can be legally sold in the United States. The EPA has concluded that bear repellents which were not tested and registered according to EPA standards could be too weak to serve as effective bear deterrents, and thus result in death or serious injury to their human users from the undeterred bears. And since bears that maul or kill humans are tracked down and destroyed, it could also result in unnecessary bear deaths. Many manufacturers did not use modern methods of chemical analysis to measure the proper amount of active ingredients in their products, and those unregistered products were not able to ensure proper consistency or stability.

The Guard Alaska Ultra Mag Shotgun Series Bear Repellent from McNeil River Enterprises Inc. met all EPA standards and is registered and available for sale. This spray contains 1.3% of capsaicin, the active ingredient found in pepper spray, in a base that is heavier than water and that removes the protective oils from the skin and mucous membranes, allowing the capsaicin to penetrate for greater effectiveness. Guard Alaska's formulation is the first nonflammable EPA-registered bear repellent spray that is environmentally safe. It is also effective on all North American bear species.

For more information, contact Guard Alaska, Phone 1-888-419-9695, Fax (907) 349-7818, www.guardalaska.com.

Inside the Island's many long coves: They are nothing more than jagged volcanic rock awash in heavy surf, a combination that can tear the prop off an outboard or mercilessly swamp a skiff unless it is handled with great skill. The "sand" ashore is not the fine-grained kind you see in tanning commercials, but pebbles covered with slick kelp and moss, full of small sticks and large, slippery-as-grease logs. Working the skiffs in among the rocks in the pounding surf is really dangerous, and isn't recommended for those without the right equipment or skill born of years of experience.

Results Speak For Themselves

How did it go? Let's just say that each of us got a bear with a perfect hide that squared over seven feet, with a skull that ranged from 19 to 20½ inches. All shots were taken at moderate distances after stalking the bruins on foot. It was an incredible week of bear hunting, but typical of the hunting in southeast Alaska.

On the final evening, as we returned to the big boat at dark, the stars overpowered the deep black of the night sky. And then, as if on cue, the northern lights danced for us, lighting up both the night and our hearts. Where else but in Alaska can sportsmen still find such untouched wilderness filled with such an abundance of wildlife and beauty?

You can rest assured that I'll be back, again and again.

THE NEED FOR BEAR REPELLENT IS THE SAME
GUARD ALASKA THE ONLY CHOICE FOR LIFE THREATENING ENCOUNTERS

Guard Alaska™
Personal Protection Systems

- Alaska's #1 choice in bear repellent.
- Only EPA reg. #71545-1. The EPA has essentially concluded that unregistered bear repellents could result in death or serious injury to humans, also the needless death of bears.
- Dealer Inquiries welcome
- Because our quality could be the last line of defense.
- Guard Alaska means proven knock down power.

McNeil River Enterprises, Inc.
P.O. Box 233002 • Anchorage • Alaska 99523
www.guardalaska.com

Phone: (907) 349-6868 • Toll Free: (888) 419-9695 • Fax: (907) 349-7818

BUT STRENGTH AND RELIABILITY HAVE CHANGED FOREVER.

DP BARCODE: D264204

CASE: 062589 DATA PACKAGE RECORD DATE: 03/20/00
SUBMISSION: S577050 BEAN SHEET Page 1 of 1

* * * CASE/SUBMISSION INFORMATION * * *

CASE TYPE: REGISTRATION ACTION: 350 GENRL CORRES REGISTRATION
RANKING : 5 POINTS ()
CHEMICALS: 070701 Capsaicin (in oleoresin of capsicum) 1.3400%

ID#: 071545-00001 Guard Alaska Bear Repellent
COMPANY: 071545 MCNEIL RIVER ENTERPRISES, INC.
PRODUCT MANAGER: 04 TINA LEVINE 703-308-7055 ROOM: CM2 219
PM TEAM REVIEWER: DANIEL PEACOCK 703-305-5407 ROOM: CM2 221
RECEIVED DATE: 02/24/00 DUE OUT DATE: 06/13/00

* * * DATA PACKAGE INFORMATION * * *

DP BARCODE: 264204 EXPEDITE: N DATE SENT: 03/20/00 DATE RET.: / /
CHEMICAL: 070701 Capsaicin (in oleoresin of capsicum)
DP TYPE: 001
CSF: N LABEL: N

ASSIGNED TO	DATE IN	DATE OUT	ADMIN DUE DATE: 05/29/00
DIV : RD	/ /	/ /	NEGOT DATE: / /
BRAN: IRB	/ /	/ /	PROJ DATE: / /
SECT: PM04	/ /	/ /	
REVR : [illegible]	3/20/00	3/31/00 GBJ	
CONTR:	/ /	/ /	

* * * DATA REVIEW INSTRUCTIONS * * *

Bill,

Guardian Personal Security Products, whose advertising you are currently reviewing, has complained about the website of Guard Alaska.

Could you review that website and provide feedback to the company?

dan Peacock

* * * DATA PACKAGE EVALUATION * * *

No evaluation is written for this data package

* * * ADDITIONAL DATA PACKAGES FOR THIS SUBMISSION * * *

DP BC	BRANCH/SECTION	DATE OUT	DUE BACK	INS	CSF	LABEL

guardianproducts@worldnet.att.net on 02/24/2000 06:06:58 PM

Please respond to guardianproducts@worldnet.att.net

To: Dan Peacock/DC/USEPA/US@EPA
cc:
Subject: Guard Alaska - Shotgun Pepper Spray for ultimate bear defense!

Dan Peacock:

Hi Dan. According to Amy Roberts we have some very strict guidelines about what we can and cannot say in our advertising. Such as:

1. We can't talk about "percentage of OC" as a sales pitch

2. We can't make claims that are not supported on the label.

Let me know if that is actually the way things are. She's really got us scared...she used phrases like "...false advertising" and "stop sale" and "recall" when describing what would happen to us if EPA caught us advertising a registered bear attack deterrent spray using verboten methods.

So we haven't.

BUT... (here is the other shoe dropping), it seems that no one else in our industry got the same lectures. Here is an example of one guy's webpage.

http://www.guardalaska.com/bearspray.htm

I guess my question is this: What controls (other than the controls which govern ethical business) does the EPA place on registered products? I mean, guard alaska is gonna kick our butts with their advertising unless we can address their ads point-by-point and show how our product is better.

We use stronger OC (which the public already knows to ask for...but which we don't address in our ads on the strength of Amy's counsel).

We have more range.

We make our own product.

And what is this about "all species of bears?" Which species should a consumer NOT use our products on?

Thanks.

Karl Scholz

Protect Yourself!

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The Truth

Products

News & Info

Bear Facts

Articles

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Email

EPA Certified 71545-1

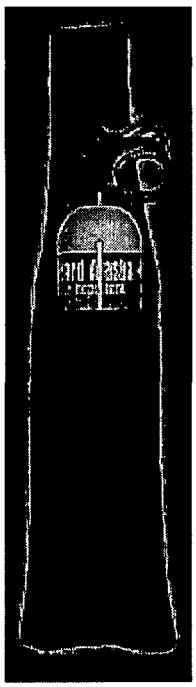
Ultramag Shotgun Series

- Shipping Info

Add to Shopping Cart
(you can always remove it later)

Secure Online Ordering

Accessories - Holsters



Add to Shopping Cart (you can always remove it later)	Add to Shopping Cart (you can always remove it later)

Next Item
Show all items

Guard Alaska products are manufactured with
McNeil River Enterprises, Inc.

Made in the USA

Protect Yourself!

The Truth
Products
News & Info
Bear Facts
Articles
Contest
Email

THE TRUTH
ABOUT
PEPPER SPRAY
BY RANDALL PRATER

In any aerosol product, there are three [illegible] ingredient, the carrier or base, and the propellant. [illegible] the active ingredient is capsaicin, not oleoresin [illegible] The total capsaicin in a pepper spray can be [illegible] manner as the octane rating in gasoline. It is [illegible] qualitative strength rating of pepper spray. [illegible] Heat Units (SHU's) was a [illegible] used as a [illegible] pepper sprays. SHU's are determined by a [illegible] recognized by the E.P.A. or any laboratory [illegible] of their obvious inaccuracy.

A pepper spray that reads 10%, 15% or 20% [illegible] that, by volume, the formula contains that respec[illegible] OC. The percent of OC does not tell the consumer [illegible] strength of the active ingredient -- capsaicin. The [illegible] for testing oleoresin capsicum is the only method [illegible] worldwide. The three cansinoids that make up [illegible] capsaicin are the following: Capsaicin(%C), Dihydro-capsaicin(%DHC); and Nordihydro[illegible]

The carrier/base is also a significantly important [illegible] the pepper spray. Historically, distilled water [illegible] mineral oil has been used as a carrier for pepper [illegible] known that water is the antidote to capsaicin [illegible] sprays using distilled water as their carrier are [illegible] low and found to be ineffective. Animals, as [illegible] oils and fatty tissues on the [illegible] to protect [illegible] damage caused by the sun's harmful UV rays. [illegible] mineral oil do nothing more than add [illegible] skin and mucous membranes, thus reducing [illegible] effectiveness of the active ingredient, capsaicin [illegible] that capsaicin can be destroyed by [illegible] of 48 hours, leaving nail [illegible] oil or mineral oil, which alone attracts all [illegible]

The last component of pepper spray is [illegible] propellant's sole purpose is [illegible] and the carrier. The propellant should be [illegible] ingredient that does not contain flammable [illegible] substances.

In our research, we at McNeil River Enterprises [illegible] of Guard Alaska® Personal Protection Systems [illegible] capsaicin alone will not deter an aggressive [illegible] assailant. Guard Alaska products are unique [illegible] sprays. Instead of the conventional carriers [illegible] contain a carrier/base that [illegible] the [illegible] and mucous membranes, and actually open [illegible] allowing the active ingredient — capsaicin to [illegible] increasing its overall effectiveness. Our carrier [illegible] density than that of water, thus allowing [illegible] a desirable trait for use when the animal [illegible] from rain or other causes.

McNeil Enterprises, Inc. does not recognize [illegible] advertise SHU's on our products. Under the [illegible] the E.P.A. requires the [illegible] 1%. Guard Alaska [illegible] for total capsaicin by maintaining a 1.5% [illegible] our products.

Rancul Prater

President,
McNeil River Enterprises, Inc.

Guard Alaska products are manufactured [illegible]
McNeil River Enterprises, Inc.

The Truth Products News/Info Bear Facts Articles Contest Email

VP Operations
Guardian Personal Security Products, LLC

· bearspray.htm

Protect Yourself!

View Cart
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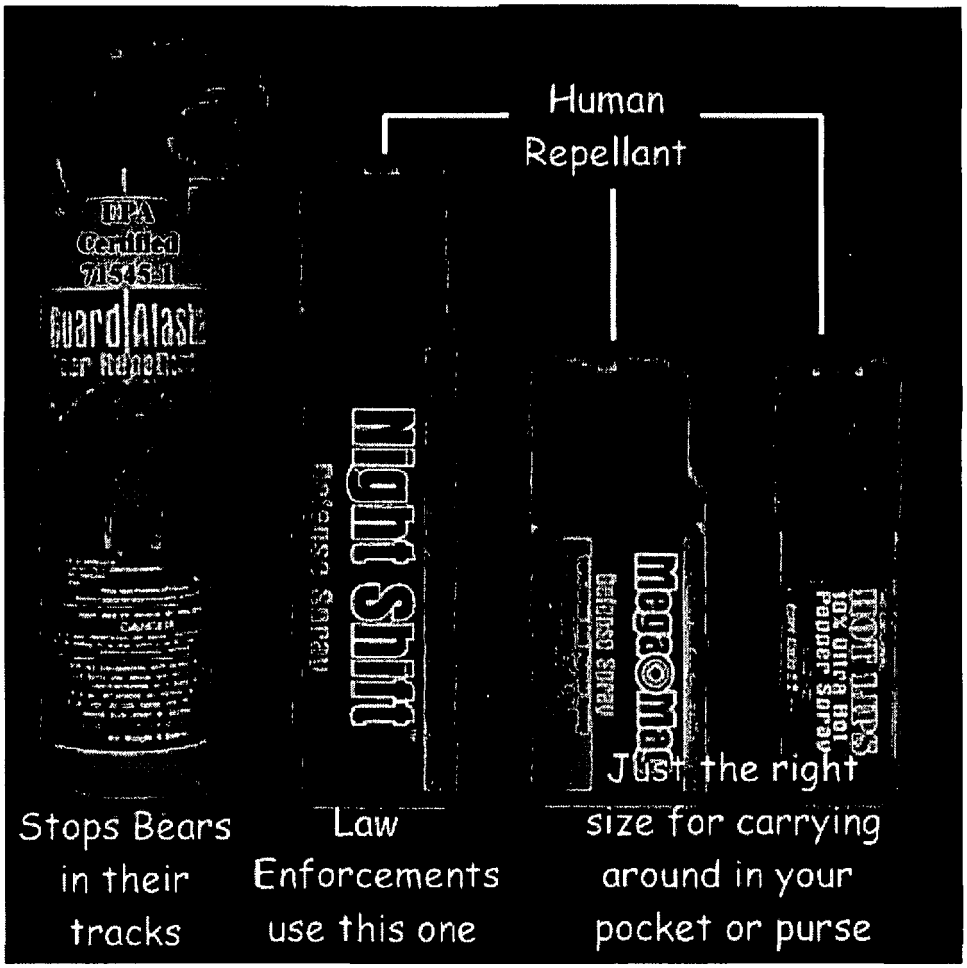


[redacted]

Contact Information

sales@guardalaska.com
dealerinfo@guardalaska.com
randy@guardalska.com
tc@guardalaska.com
vc@guardalaska.com
tw@guardalaska.com

[redacted]

Guard Alaska products are manufactured [illegible]
[illegible] Rivers Enterprises, Inc.

View Cart The Truth Products News/Info Bear Facts Articles Contest Email

B

File

McNeil River Enter., Inc.
750 W. Dimond, Ste. 203
Anchorage, Alaska 99515
907-349-6868 or
1-888-419-9695
907-349-7818 fax

Manufacturers of Guard Alaska Personal Protection Systems

June 22, 2000

Mr. Dan Peacock (7505C)
U.S. Environmental Protection Agency
Office of Pesticide Programs
401 M Street, SW
Washington, DC 20460

Reference: Guard Alaska® Bear Repellent (EPA Reg. No. 71545-1)
Canadian Registration

Dear Dan:

Attached is PMRA Certificate of Registration on Guard Alaska® Bear Repellent. The PCP number is 26529; registered June 2, 2000.

Please call me at 1-888-419-9695 or Cathy Rice at 703-847-7407 if you have any questions or if I may be of further assistance.

Sincerely,

Cathy R.

for Randal Prater
President

Health Canada / Santé Canada

HC PROTECTED
PROTÉGÉ SC

Application for New or Amended Registration
Under the *Pest Control Products Act*

Demande d'homologation ou de modification d'homologation
En vertu de la *Loi sur les produits antiparasitaires*

1. Date entered - Date d'entrée: 99.10.13
2. Submission nb. - Nº de la demande: 1999-1746

- Incomplete packages will be returned.
- Cheques submitted in payment of fees must be made payable to the Receiver General and accompany this application.
- Please print clearly.
- Leave shaded areas blank.

- Les dossiers incomplets seront retournés.
- Les chèques d'acquittement des droits doivent être faits à l'ordre du Receveur général et être joints à la présente demande.
- Prière d'écrire lisiblement en lettres moulées.
- Ne pas écrire dans les espaces ombrés.

3. Product name - Nom du produit: GUARD ALASKA BEAR REPELLENT
4. Registration no. - Nº d'homologation: 26529

5. Applicant name and mailing address - Nom et adresse postale du demandeur: CAT. Distributing Ltd #103, 1150 Hillside dr. Kamloops, BC V2E-2N1
Telephone no. - Nº de téléphone: 250-851-[redacted] 3652
Fax no. - Nº de télécopieur: 250-851-8667

6. Registrant name and address (as on label) - Nom et adresse du titulaire (comme sur l'étiquette): Monell River Enterprises Inc, 750 W Dimond, Suite 203, Anchorage, AK 99515
Telephone no. - Nº de téléphone: 907-349-6868
Fax no. - Nº de télécopieur: 907-349-7818

7. Canadian agent name and address - Nom et adresse de l'agent canadien: CCT-1
Telephone no. - Nº de téléphone:
Fax no. - Nº de télécopieur:

8. Application for - Demande pour: [X] New / Nouvelle [ ] Amended / Modification [ ] Reinstated / Rétablissement

9. Proposed classification - Classification proposée: [ ] Domestic / Domestique [ ] Commercial / Commerciale [ ] Restricted / Restreinte [ ] Manufacturing / Concentré de fabrication [ ] Technical / Technique

10. Type of product - Code(s) / Type de produit - Code(s): ARP

11. Type of review - Check all boxes which apply to your submission. If unsure, consult the Submission Screening Section.
Type d'examen - Cochez toutes les cases qui s'appliquent à votre demande. En cas de doute, communiquez avec la Section d'examen préliminaire.

Category A - Catégorie A
[X] New active ingredient / Nouvelle matière active
[ ] Major new use / Nouvel usage principal
[ ] URMUR / PHULDU
[ ] Other / Autre

Category B - Catégorie B
[X] New product / Nouveau produit
[ ] Product amendment - Modification du produit
[ ] Import Maximum Residue Limits (MRL) / Limites maximales de résidus pour les importations
[ ] Technical Grade Active Ingredient / Matière active de qualité technique
[X] End-Use Product and/or Manufacturing Concentrate / Préparation commerciale ou concentré de fabrication
[ ] Other / Autre
[ ] Source
[ ] Spécifications / Spécifications
[ ] Change in product chemistry / Changement(s) dans les propriétés chimiques du produit
[ ] Label change / Changement(s) sur l'étiquette
[ ] Conversion/Extension of Temporary or Limited-Term Registration / Conversion/prolongation d'une homologation temporaire ou à période limitée

Category C - Catégorie C
[ ] Minor formulation ammendment (eg. change in fragrance/dye) / Changement mineur de la formulation (p. ex. odeur, colorant)
[ ] Reinstatement of lapsed registration / Rétablissement d'une homologation périmée
[ ] Master Product / Produit étalon
[ ] Label Improvement Program / Programme d'amélioration des étiquettes
[ ] Transfer of ownership / Transfert de propriété
[ ] Initial Product / Produit initial
[ ] Amend product name / Changement du nom du produit
[ ] Minor Use label amendment PMRA request; registrant request / Modification d'étiquette - Programme des emplois limités, à la demande de l'ARLA; du titulaire
[ ] Minor label amendment / Changement mineur apporté à l'étiquette
[ ] Other / Autre

Category D - Catégorie D
[ ] IMEP / PIPAFE
[ ] New Master Copy based on Master Product Regn. No. / Nouvelle copie étalon basée sur le produit étalon portant le nº d'homol. →

12. Amount of fee enclosed - Montant ci-joint: 1434.00

Cheque # 0360 [illegible] BC 99.10.13

13. In compliance with the *Pest Control Products Act*, application is hereby made for the registration of a control product as outlined in this application, product specification form and labelling. It is certified that the information is true and complete.

Conformément à la *Loi sur les produits antiparasitaires*, nous demandons l'homologation de ce produit tel qu'il est décrit dans la présente formule, celle des spécifications du produit et sur l'étiquette. Nous attestons que ces renseignements sont véridiques et complets.

Applicant's signature - Signature du demandeur: [signature]
Printed name - Nom en lettres moulées: SEAN CATERER
Date: 8/4/99

14. Registration has been granted subject to the following conditions: - L'homologation a été accordée sous réserve des conditions suivantes:

Pursuant to the application and attachments and subject to amendments (if any) made therein, registration is granted and the above registration number is hereby assigned.

Conformément à cette demande et aux pièces jointes, et sous réserve des modifications qui lui sont apportées (s'il y a lieu), l'homologation est accordée et le nº d'homologation ci-dessus attribué.

This certificate is for the registration period ending December 31
Ce certificat est valable pour la période d'homologation prenant fin le 31 décembre 2005

Note: This registration is not an endorsement or an approval by Health Canada of this control product.

N.B. : Cette homologation ne constitue ni une acceptation ni une approbation de ce produit antiparasitaire par Santé Canada.

Registration officer - Agent d'homologation: [signature]
Date: June 2, 2000
Officer's remarks - Remarques: [illegible]

Distribution: 1 Pest Management Regulatory Agency - File / Agence de réglementation de la lutte antiparasitaire 2 Certificate / Certificat 3 Applicant / Demandeur

file

Guard Alaska™
Personal Protection Systems

Corporate Headquarters
McNeil River Enterprises, Inc.
P.O. Box 233002
Anchorage, Alaska 99523

345 5-58 15 10
37

MARCH 15, 2000

6/10/2000

Mr. Dan Peacock (CM-2 H7505C)
Office of Pesticide Programs (Team 14)
US Environmental Protection Agency
Ariel Rios Bldg.
1200 Pennsylvania Ave. NW
Washington, DC 20460

Reference: Guard Alaska Bear Repellent (EPA Reg. No. 71545-1)
Guard Alaska Dog Repellent (EPA File Symbol 71545-E)
Revised CSF-addition of new manufacturer.

Dear Dan:

Attached are the revised Confidential Statement of Formula for Guard Alaska Bear Repellent and Guard Alaska Dog Repellent. We have added Axtrom Industries as a third producer. No other changes have been made.

I hope that this addition can be reviewed in a timely manner. Please call me at 602-278-1140 if I may be of further assistance to you.

Sincerely,

Randal Prater

Randal Prater
Pesident

Z 564 243 383

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail *(See reverse)*

Sent to McNeil River Fort	
Street & Number	
Post Office, State, & ZIP Code	
Postage	$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	$
Postmark or Date	

153

PS Form **3800**, April 1995

Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services *(See front).*

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier *(no extra charge).*

2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.

3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.

4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.

5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.

6. Save this receipt and present it if you make an inquiry.

102595-98-B-P005

PS Form **3800**, April 1995 *(Reverse)*

February 2, 2000

S-569661
345/11

CERTIFIED MAIL

McNeil River Enterprises, Inc.
750 West Dimond, Suite 203
Anchorage, AK 99515

Attention: Mr. Randal Prater

Subject: Guard Alaska Bear Repellent
EPA Reg. No. 71545-1
Review of Storage Stability Data
Your submission of May 18, 1999

We have reviewed your storage stability data (MRID No. 448320-01 and -02) and have the following comments. These studies were unacceptable because there were no data for 0, 9, and 12 months. Was this study terminated at 6 months or will we be receiving data for a full year? These data were a condition of our granting your registration of December 22, 1998.

The data that were submitted suggested that your product was degrading too rapidly. However, because the data were incomplete, it is impossible to know.

Please respond within 30 days to this letter. Indicate the steps that you are taking to correct this problem. From other correspondence, we know that you are considering a major modification of your formula. In that case, it would be better to rerun the test on the new formula.

Attached is a copy of our review. If you have any questions about this letter, please contact me by phone (703-305-5407), fax (703-305-6596), or E-Mail (peacock.dan@epa.gov).

Sincerely,

DBP

Daniel B. Peacock, Biologist
Insecticide-Rodenticide Branch
Registration Division (7504C)

C:\capsaici\71545-1 Storage-Stability.wpdFebruary 2, 2000

DATE November 09, 1999

SUBJECT: **EP [x] MP [ ] PRODUCT CHEMISTRY REVIEW**
DP BARCODE No.D260161 Reg./File Symbol No. 71545-1
PRODUCT NAME Guard Alaska Bear Repellent
COMPANY McNeil River Enterprise, Inc.

FROM Alfred Smith, Chemist
Technical Review Branch/RD (7505C)

TO: Daniel Peacock, PM Team 04
Insecticide Branch/RD (7505C)

INTRODUCTION

The Registrant has submitted product chemistry information on storage stability and corrosion characteristics for the End-Use Product (EP), Guard Alaska Bear Repellent. The EP contains 1.34% Capsaicin as the active ingredient.

FINDINGS

1. The Storage Stability study shows 1.08% capsaicin after 3 months storage (MRID 44832001) and 1.15% capsaicin after 6 months storage (MRID 44832002). Physical examinations showed no corrosion or degradation after three and six months of storage.

2. No analyses were provided for capsaicin at the initiation of the storage period (zero time). The EP has a declared capsaicin content of 1.34%. By assuming 1.34% capsaicin content at the initiation of the storage study, then 80.6% of the declared amount of capsaicin was present at three months and 85.8% capsaicin was present at 6 months. This information shows a degradation or loss of 14 - 19% capsaicin during 3 - 6 months storage.

3. The loss of capsaicin exceeds the allowable limit of (+/-) 5% for products whose declared active ingredient is between 1.0% and 20%.[See 40 CFR 158.175(b)2 - Certified Limits].

CONCLUSIONS

1. The Storage Stability and Corrosion Characteristics studies are acceptable. However, the storage stability study suggests that the active ingredient capsaicin degrades rapidly during storage of 3 - 6 months. The degradation, or loss or active ingredient, results in active ingredient levels outside the permitted certified limits.

2. In view of the fact that the End-Use Product is an EPA-registered product, the enforcement personnel should be informed of this product.

DP BARCODE: D260161

CASE: 062589 DATA PACKAGE RECORD DATE: 10/13/99
SUBMISSION: S569661 BEAN SHEET Page 1 of 1

* * * CASE/SUBMISSION INFORMATION * * *

CASE TYPE: REGISTRATION ACTION: 345 TECH-FORMULA CHANGE AMND
RANKING : 5 POINTS ()
CHEMICALS: 070701 Capsaicin (in oleoresin of capsicum) 1.3400%

ID#: 071545-00001 Guard Alaska Bear Repellent
COMPANY:
PRODUCT MANAGER: 04 TINA LEVINE 703-308-7055 ROOM: CM2 219
PM TEAM REVIEWER: DANIEL PEACOCK 703-305-5407 ROOM: CM2 221
RECEIVED DATE: 10/13/99 DUE OUT DATE: 01/11/00

* * * DATA PACKAGE INFORMATION * * *

DP BARCODE: 260161 EXPEDITE: N DATE SENT: 10/13/99 DATE RET.: / /
CHEMICAL: 070701 Capsaicin (in oleoresin of capsicum)
DP TYPE: 001
CSF: N LABEL: N

ASSIGNED TO	DATE IN	DATE OUT	ADMIN DUE DATE: 11/27/99
DIV : RD	/ /	/ /	NEGOT DATE: / /
BRAN: TRB	/ /	/ /	PROJ DATE: / /
SECT: CHEM	/ /	/ /	
REVR :	/ /	/ /	
CONTR:	/ /	/ /	

* * * DATA REVIEW INSTRUCTIONS * * *

Chemist,

Please review this storage stability and corrosion characteristics data for this product.

Dan Peacock, 305-5407

* * * DATA PACKAGE EVALUATION * * *

No evaluation is written for this data package

* * * ADDITIONAL DATA PACKAGES FOR THIS SUBMISSION * * *

DP BC	BRANCH/SECTION	DATE OUT	DUE BACK	INS	CSF	LABEL

5-58 9661 345

review date

71548-1

MAY 26 1999

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Pesticide Programs

MCNEIL RIVER ENTERPRISES, INC.
750 W. DIMOND, STE.203
ANCHORAGE, AK 99515

Report of Analysis for Compliance with PR Notice 86-5

Thank you for your transmittal of 05/20/99. Our staff has completed a preliminary analysis of the material. The results are provided as follows:

Your submittal was found to be in full compliance with the standards for submission of data contained in PR Notice 86-5. A copy of your bibliography is enclosed, annotated with Master Record ID's (MRIDs) assigned to each document submitted. Please use these numbers in all future references to these documents. Thank you for your cooperation. If you have any questions concerning this data submission, please raise them with the cognizant Product Manager, to whom the data have been released.

448320-00

McNeil River Enter., Inc.
750 W. Dimond, Ste. 203
Anchorage, Alaska 99515
907-349-6868 or
1-888-419-9695
907-349-7818 fax

Manufacturers of Guard Alaska Personal Protection Systems

May 18, 1999

Mr. Dan Peacock (CM-2 H7505C)
Office of Pesticide Programs (Team 14)
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Reference: Guard Alaska® Bear Repellent (EPA Reg. No. 71545-1)
Submission of Storage Stability Studies

Dear Dan:

Attached are three copies of the following studies:

- Storage Stability and Corrosion Characteristics for Guard Alaska® Bear Repellent
  T = 3 months **44832001**

- Storage Stability and Corrosion Characteristics for Guard Alaska® Bear Repellent
  T = 6 months **44832002**

Please call me at 1-888-419-9695 if you have any questions or if I can be of further assistance.

Sincerely,

Catherine R

for Randal Prater
President

300/17 5-574460

February 2, 2000

McNeil River Enterprises, Inc.
750 West Dimond, Suite 203
Anchorage, AK 99515

Attention: Mr. Randal Prater

Label 2-2-2000

Subject: Guard Alaska Bear Repellent
EPA Reg. No. 71545-1
Your letter of August 18, 1999

The labeling referred to above, submitted in connection with registration under the Federal Insecticide, Fungicide, and Rodenticide Act, is acceptable. A stamped copy of the label is enclosed for your record.

Sincerely yours,

DPM

Dan Peacock, Biologist
Insecticide-Rodenticide Branch
Registration Division (H7504C)

C:\capsaici\71545-1 final printed label.wpdFebruary 2, 2000

08·18·99

EPA

Guard Alaska®

Made in U.S.A.

Bear Repellent

ACTIVE INGREDIENT:
Capsaicin and Related Capsaicinoids* ..... 1.34 %
Inert Ingredients ..... 98.66 %
TOTAL ..... 100.00 %

*Made from Oleoresin of Capsicum

This product contains the toxic inert ingredient, trichloroethylene.

KEEP OUT OF REACH OF CHILDREN

DANGER

Strong, temporary irritant to eyes, nose and skin. Wash thoroughly with soap and water after handling. Do not allow children to use this product. See back panel for additional precautionary statements.

DO NOT SEEK OUT ENCOUNTERS WITH BEARS. THIS PRODUCT IS A BEAR ATTACK REPELLENT WHICH MAY PROTECT USERS IN SOME UNEXPECTED CONFRONTATIONS WITH BEARS BUT MAY NOT BE EFFECTIVE IN ALL SITUATIONS OR PREVENT ALL INJURIES. READ THIS ENTIRE LABEL BEFORE TAKING THIS PRODUCT INTO AREAS WHERE BEAR MIGHT BE ENCOUNTERED.

EPA EST. No. 36213-MD-002 EPA Registration No.: 71545-1

Net Weight: 9 Ounces

PRECAUTIONARY STATEMENTS

HAZARDS TO HUMANS & DOMESTIC ANIMALS

DANGER: May cause irreversible eye damage if sprayed in the eye. Contact through touching or rubbing the eye may result in moderate eye irritation. Avoid contact with skin or clothing. Wash thoroughly with soap and water after handling.

FIRST AID

IF IN EYES: Hold eyelids open and flush with steady, gentle stream of water for 15 minutes. Get medical attention. **IF ON SKIN:** Wash with plenty of soap and water. Get medical attention, if irritation persists. **Notice:** California has determined that a chemical contained in this product causes cancer based on tests performed on laboratory animals.

PHYSICAL OR CHEMICAL HAZARDS

Contents under pressure. Do not use or store near heat or open flame. Do not puncture or incinerate container. Exposure to temperatures above 130° F may cause bursting.

ENVIRONMENTAL HAZARDS

Do not apply directly to water. Do not contaminate water by disposing of unused material.

DIRECTIONS FOR USE

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

USE RESTRICTIONS: This product may be used only to deter bears which are attacking or appear likely to attack humans. This product is a bear attack repellent which may protect users in some unexpected confrontations with bears but may not be effective in all situations or prevent all injuries. **Do not spray this product on tents, other objects, or on clothing since such use has no deterrent effect on bears. Do not seek out encounters with bears or intentionally provoke them.** Do not eat or allow to be eaten any food or feed materials which may become contaminated with this product.

This product has a range of 15-20 feet (about 5-6 meters). The canister empties in approximately 9 seconds.

APPLICATION DIRECTIONS: Study the procedures and directions for using this product before taking this product into bear country.

To Use: 1. Remove the orange safety clip. 2. Point spray opening at bear's face 3. Press firmly on trigger and release spray in short bursts.

For this product to be fully effective, you must engulf the bear's face, especially the eyes, nose, and mouth. This product generally has a range of approximately 15 to 20 feet. Wind and other conditions may alter the range or effectiveness. Shield your eyes and face if you must face into the wind. Use with caution. Contents will cause pain and temporary impairment to eyes, nose, mouth, and lungs. Individuals who suffer from asthma or emphysema may have a more severe reaction.

STORAGE & DISPOSAL

STORAGE: Store only in original container in a secured area inaccessible to children and pets. Do not store above 120° F or below 32° F.

DISPOSAL: Securely wrap container in several layers of newspaper and discard in trash. Contents under pressure, do not puncture or incinerate can.

Manufactured for:
McNeil River Enterprises, Inc.
750 W Dimond, Suite 203 Anchorage, AK 99515
Chemical Emergency Hotline: 1-800-535-5053
Open 24 hours a day, 7 days a week.

ACCEPTED
with COMMENTS
in EPA Letter Dated:

FEB 2 2000

Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for the pesticide registered under EPA Reg. No. 71545-1

S-574440

McNeil River Enter., Inc.
750 W. Dimond, Ste. 203
Anchorage, Alaska 99515
907-349-6868 or
1-888-419-9695
907-349-7818 fax

Manufacturers of Guard Alaska Personal Protection Systems

August 18, 1999

Mr. Dan Peacock (CM-2 H7505C)
Office of Pesticide Programs (Team 14)
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Reference: Guard Alaska® Bear Repellent (EPA Reg. No.: 71545-1)
Submission of additional labels

Dear Dan:

In response to your request, attached are seven additional copies of the label. Please call me at 1-888-419-9695 if you have any questions or if I may be of further assistance.

Sincerely,

for Randal Prater
President

January 19, 2000

345/11 5-573208

McNeil River Enter., Inc.
750 W. Dimond, Ste. 203
Anchorage, Alaska 99515

Attention: Mr. Randal Prater

Subject: Guard Alaska Bear Repellent
EPA Reg. No. 71545-1
Request to Change Solvent
Your letter of January 11, 2000

We have reviewed the above request and have the following comments on the data needed to support this major change in the composition of your product, as shown in you revised Confidential Statement of Formula (CSF) dated January 6, 2000.

Data

A. Chemistry-Source

For each source, you need to supply some data on your source of active ingredient. A specification sheet and Material Safety Data Sheet (MSDS) would probably be sufficient. These documents must include the common name, chemical name, and CAS numbers of the source materials being supplied to you. As part of this information, we need to know if batches of source material include an analysis for the amount of active ingredient and the name of the analytical method used.

B. Chemistry-Guard Alaska Bear Repellent

You will need to repeat your product specific chemistry data since you have changed your formula to a new solvent, which comprises [redacted] of your product. Your data must include the quality control measures to insure the proper amount of active ingredient.

C. Acute Toxicity Data

You will need to repeat your eye and skin irritation tests for the following reasons::

1. The solvents are different.
2. The solvent in the product comprised [redacted] of the formulation.

Manufacturing process information may be entitled to confidential treatment

You should be aware that the physical force of aerosol products may be less than expected for some animal attack products. A registrant of a dog repellent product has recently redone their eye irritation test to adhere strictly to the standard protocol (spraying the eyes of test animals at 2.5 inches) and has reported no physical eye injury. Consequently, after review, we may change the signal word from "DANGER" to "CAUTION". The above information may influence how you rerun your eye irritation test.

If you have any questions about this letter, please contact me by phone (703-305-5407), fax (703-305-6596), or E-Mail (peacock.dan@epa.gov).

Sincerely,

Daniel B. Peacock, Biologist
Insecticide-Rodenticide Branch
Registration Division (7504C)

A:\71545-1,Jan2000.wpdJanuary 19, 2000

Inert ingredient information may be entitled to confidential treatment

5-573208

Product ingredient source information may be entitled to confidential treatment

345

McNeil River Enter., Inc.
750 W. Dimond, Ste. 203
Anchorage, Alaska 99515
907-349-6868 or
1-888-419-9695
907-349-7818 fax

Manufacturers of Guard Alaska Personal Protection Systems

January 11, 2000

Mr. Dan Peacock (7505C)
U.S. Environmental Protection Agency
Office of Pesticide Programs
401 M Street, SW
Washington, DC 20460

Reference: Guard Alaska® Bear Repellent (EPA Reg. No. 71545-1)
Revised Confidential Statement of Formula

Dear Dan:

Attached is a revised Confidential Statement of Formula for Guard Alaska® Bear Repellent. Specifically, we have made the following changes:

- Listed two manufacturers: [redacted]
- Listed two sources of OC: [redacted].
- Replaced the USEPA List 1 inert with a USEPA List 4B inert. We feel that this is an acceptable substitute for the following two reasons:
  1. It displaces water and protective greases from membranes enabling the Capsaicinoids to more effectively penetrate and impact eyes, lungs, sinuses, and skin.
  2. It provides an efficient vehicle to dilute and carry the OC from the nozzle to surface of the bear. It provides the correct volatility, solubility and surface tension necessary to provide the droplet size and spray pattern desired.

  We are still in the process of determining how this inert is similar to [redacted] Once we have prepared this, I will submit to your attention.

Please call me at 1-888-419-9695 or Cathy Rice at 703-847-7407 if you have any questions or if I may be of further assistance.

Sincerely,

Cathy R

for Randal Prater
President

300 5-563090
12

August 23, 1999

McNeil River Enterprises, Inc.
750 West Dimond, Suite 203
Anchorage, AK 99515

Attention: Mr. Randal Prater

Subject: Guard Alaska Bear Repellent
EPA Reg. No. 71545-1
Our telephone calls of May 4 and May 6, 1999
Your submission of June 1, 1999
Our letter of August 3, 1999

On May 4 and 6, 1999, we discussed your marketing of an unapproved Header Card in a blister pack and the need to have all labeling approved prior to use with the product. Specifically, to avoid problems with enforcement, we recommended stickering over the entire header card and adding back only the exact text previously approved for the label. We followed up with our letter of August 3, 1999, which contained our review of your Header Card. We suggested that you use our review as a guide to submitting an amendment to the Agency for a revised text.

In the above letter you submitted copies of the following items for our review:

A. Hang Tag
B. Brochure ("The Need for Personal Defense Spray is the Same")
C. Dealer Price Sheet
D. Key Wholesale Price Sheet
E. Stocking Distributor Price Sheet

We only reviewed the Hang Tag and Brochure because they were the only items that contained claims about your product. Our comments follow.

A. Hang Tag

The Hang Tag may not contain any text that has not been previously approved. As noted in our letter of August 3, 1999, this labeling is deficient for the reasons indicated below. We are

repeating those comments here so that you will have all of our comments in one letter. Also, see our comments on your Brochure that follow our comments on your Hang Tag.

1. The front panel of the blister pack bears claims which are unsupported, false or misleading. These claims (listed below) must be deleted.

   a. **"20% Ultra Hot Pepper"**

      The active ingredients in this product may only be claimed in the manner in which they are expressed on the container label's statement of ingredients.

   b. **"9 oz. UltraMag Shotgun Series"**

      All claims of net contents must be worded as the net contents information is expressed on the container label.

      There has been no demonstration that the spray pattern produced by depressing the trigger on this product's container is identical or similar to the pattern of particle dispersion produced when a shotgun is fired. We doubt that such would be the case due to differences in firing characteristics and the differences between aerosolized liquids and airborne shot.

   c. **"Developed and tested in the wilds of Alaska."**

      Although you frequently have alluded to such testing in conversations and other communications with us, the only documentation of any reported use of your product that we have received is a videotape of a single use of what would have been an earlier formulation of Guard Alaska. If you want to make any claims about to your testing program on your labeling, you must document to us the procedures used in such testing and the results that were obtained.

   d. **"Out sells other brands 3 to 1!"**

      Even if you were able to show this statement to be true, it still could not be made on pesticide labeling because it misleadingly implies a favorable comparison with other products. Such comparisons are prohibited in 40 CFR, §156.10(a)(5)(iv). Having more sales would not necessarily make one product better than another.

   e. **"No other defense spray proven as effective!"**

      This statement makes a favorable comparison of product performance between Guard Alaska and every other "**defense spray**". As noted above, such statements are prohibited. We have seen no data which would support any firm

conclusions about the relative effectiveness of the bear-repellent sprays that currently are registered.

f. "All pepper sprays do not have the same stopping power!"

This statement is misleading, at best.

g. "Our exclusive patent pending formula is scientifically proven the most effective.

This is another statement which favorably compares your product to all others. We are not aware of any research data that support this statement.

h. "Opens pores of the skin and cuts through mucous covering of a bears eyes for incredible stopping power."

We do not know to what extent this statement might be true. To support it, you would have to supply us with credible information which documented that bears' skin has pores, that bears' eyes have a substantial "mucous covering", that your product opens pores and cuts through such a mucous covering, and that your product stops bears in their tracks in some "incredible" way.

I. "Really stays put - does not bead-up and run off like other defense sprays."

This statement makes a favorable comparison between your product and "other defense sprays". We are not aware of any data which specifically support this claim.

2. The back panel of the blister pack bears is not acceptable for the reasons indicated below.

a. "**20% Pepper Spray**"

The active ingredients in this product may only be claimed in the manner in which they are expressed on the container label's statement of ingredients.

b. The "**DO NOT SEEK OUT ENCOUNTERS**" paragraph located near the top of the rear panel is basically acceptable for the blister-pack. However, if you do not include all elements of required labeling on the blister pack, the "**READ THIS ENTIRE LABEL BEFORE ... ENCOUNTERED**" sentence must be changed to read

READ THE ENTIRE LABEL ON THE CONTAINER IN THIS BLISTER PACK BEFORE TAKING THIS PRODUCT INTO AREAS WHERE BEARS MIGHT BE ENCOUNTERED.

c. If a "**DIRECTIONS FOR USE**" section is to be included on the blister-pack label, the entire section accepted for the container label must be used. Alternatively, the blister-pack label may refer to the "**DIRECTIONS FOR USE**" section on the container label by using a sentence such as the following:

> **For instructions on how to use Guard Alaska, see the DIRECTIONS FOR USE section of the label on the container in this package.**

d. The allusions to "***SELF DEFENSE***" use which appear on the back panel must be deleted because they imply that the product also could be used against people. We do not permit any use-against-people claims on the labeling of animal-attack repellents which are registered under FIFRA.

e. The blister-pack label should include all of the precautionary statements that are required to be on the container label. If all of the precautionary statements on the container's label can easily be read through the blister pack, the blister-pack label may refer the reader to the container label for a full set of precautionary statements.

Because of the obvious benefits that the packaging arrangement would seem to provide, we feel that it would be appropriate to package containers of Guard Alaska in a blister pack. We have no objections to such packaging and suggest that you promptly prepare and submit an appropriate blister-pack label.

B. Brochure

We also have reviewed the 8-page brochure that apparently is intended to persuade dealers to stock your pepper sprays and assorted companion products. Virtually all representations made about the effectiveness, safety, and mode-of-action of your products are unsupported by any data that we have seen and imply questionable but favorable comparisons between your products and competitors' products, especially those which are made using different types of formulations. As many of these doubtful assertions are similar to those made on the blister pack label, we will not discuss them again. However, we would mention the following additional claims that would need supporting documentation if used on labeling or advertising:

1. Water ... gone forever.
2. After all, water ...the formula.
3. Oil bases ... flammable.
4. Guard Alaska's ... superior.
5. The contain ... power.
6. Guard ... available.
7. Have ... anywhere today.
8. Not to mention ... every sale.

We also consider the use of a picture of a bear on any product to be an implied claim for repelling bears. Persons could easily become confused and purchase products containing only 1-1/2, 3/4 oz, and ½ oz of product to repel bears, with disastrous consequences.

Regardless of its extent of coverage under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), which EPA administers, advertising of pesticides is regulated under the Federal Trade Act (FTA), which the Federal Trade Commission administers. Advertising for other types of products, including your anti-human sprays which are not regulated as pesticides, also is regulated under the FTA. That act includes a standard for prohibiting false or misleading statements much like that in FIFRA.

If you have any questions about this letter, please contact us.

Sincerely,

DBP

Daniel B. Peacock, Biologist
Insecticide-Rodenticide Branch
Registration Division (7504C)

cc Cathy Rice, Consultant

C:\capsaici\71545-1 August 23 1999.wpdAugust 23, 1999

IRB BRANCH REVIEW - TSS

Record Number(s)

D256618

IN 6/4/99 OUT 8/20/99

EFFICACY

FILE OR REG. NO. 71545-1

PETITION OR EXP. PERMIT NO.

DATE DIV. RECEIVED 6/1/99

DATE OF SUBMISSION 6/1/99

DATE SUBMISSION ACCEPTED 6/4/99

TYPE PRODUCTS(S): I, D, H, F, N, R, X S

DATA ACCESSION NO(S). none

PRODUCT MGR. NO. 04

PRODUCT NAME(S) GUARD ALASKA BEAR REPELLENT

COMPANY NAME McNeill River Enterprises, Inc.

SUBMISSION PURPOSE provide unreviewed labeling and other product literature

CHEMICAL & FORMULATION 1.34% Capsaicin and Related Capsaicinoids aerosol

Efficacy Review: GUARD ALASKA© BEAR REPELLENT, 71545-1
McNeill River Enterprises, Inc.
Anchorage, AK 99515

200.0 INTRODUCTION

200.1 Uses

1.34% "Capsaicin and Related Capsaicinoids" ("Made from ***20% Oleoresin of Capsicum by volume***") aerosol proposed for Federally registered to

"be used only to deter bears which are attacking or appear likely to attack humans."

200.2 Background Information

See efficacy reviews of 8/17/98, 10/21/98, 12/10/98, 2/25/99, and 4/12/99 for 71545-1, and the efficacy review of 12/29/97 of a pre-application submission (CORR. 289443) pertaining to this product. See also the efficacy review of 6/30/99 for 55541-2, the COUNTER ASSAULT bear repellent product registered to Bushwacker Backpack & Supply Co., Inc., of Missoula, MT. See also EPA's letter of 8/3/99 to McNeill River. That letter includes material borrowed from the efficacy review of 6/30/99 for 55541-2. The 71545-1 product was accepted for Federal registration on 12/22/98. Its current container label was "ACCEPTED with COMMENTS" on 2/26/99.

This review pertains to McNeill River's submission of 6/1/99, which consists of a brief cover letter plus assorted documents which the cover letter calls "product literature/brochures". These items include labeling not previously submitted by Guard Alaska (a card label that apparently is co-packaged with a labeled product container in a blister-pack arrangement), three distinct price lists, and a promotional brochure.

Bushwacker's submission of 4/21/99 included a blister-pack label for the Guard Alaska product. Those items were discussed in the efficacy review of 6/30/99 for 55541-2.

§2(p) of FIFRA defines "LABEL AND LABELING" as shown below.

(p) LABEL AND LABELING.--
(1) LABEL.-- The term "label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
(2) LABELING.-- The term "labeling" means all labels and all other written, printed, or graphic matter--

(A) accompanying the pesticide or device at any time; or

(B) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

The text on a card contained in blister pack which surrounds a Guard Alaska container clearly qualifies both as a "LABEL" and as "LABELING" under the definitions quoted above.

The current accepted labeling for 71545-1 consists only of the label for the canister in which the aerosol product itself is contained. The price list and the brochure would not appear to qualify as labeling unless they were to accompany the actual product in commerce. The blister-pack label submitted by McNeill River on 6/1/99 has the same problems and may be identical to the Guard Alaska blister-pack label that Bushwacker sent to us on 4/21/99.

In reviewing labeling for this product prior to its registration as 71545-1, I did not review anything other than the label proposed for the container itself. As is obvious from the comments below, I would have objected strongly to the blister-pack label had it been sent to us prior to product registration. Had I seen the blister-pack label, however, I could have assisted McNeill River in revising the document so that it would be acceptable as labeling for this product.

The text on the back of the blister pack states that the product's formulation includes

"a chemical known to the state of California to cause cancer."

201.0 DATA SUMMARY

My review of 6/30/99 for 55541-2 discusses the issues raised by that product's registrant for the blister-pack label as well as the additional problems that I found with that element of labeling. As the blister-pack label for 71545-1 provided by McNeill River on 6/1/99 seems to correspond to that submitted by Bushwacker on 4/21/99, I will not repeat those discussions in this review. Under

"CONCLUSIONS", I indicate how I feel we should respond to McNeill River regarding the blister-pack label. From EPA's letter of 8/3/99, it seems that this information already has been conveyed to McNeill River.

The 3 price lists are entitled "***Dealer Price Sheet***", "***Key Wholesale Price Sheet***", and "***Stocking Distributor Price Sheet***". Prices are highest on the first of these sheets, as listed above, and lowest on the last. Each list refers to four series of products. By names, descriptions, and container size offerings, the first three of these series ("***MAGNUM SERIES 10% O.C.***", "***HOT LIPS SERIES 10% O.C.***", and "***NIGHT SHIFT SERIES***") appear to be sold for protection against attacks by humans. The bear repellent product appears to be offered in the "***ULTRA MAG SHOTGUN SERIES 20% O.C.***", for which "Ripoffs™ Deluxe 9 oz." holsters also are offered. The retail price listed for the "ULTRA MAG 9 oz. Spray" is $44.95. Smaller "Ripoffs™" can be bought for use with containers sold in the "***NIGHT SHIFT SERIES***". Aside from the reference to the bear product as a "***20% O.C.***", there are no problematic claims of any type made on the price sheets.

Packages and accessories for all 4 series are illustrated in the brochure, the front page of which presents only a large mug shot of a grizzly bear and a few words. As laid out, the front page appears as shown below.

THE NEED FOR PERSONAL
DEFENSE SPRAY IS THE SAME

[bear's head]

BUT STRENGTH AND RELIABILITY
HAVE CHANGED FOREVER

+ Guard Alaska™

The second page presents a close up of half of a grizzly's face. The third page depicts "**HOT LIPS**" and "***GUARD* ALASKA**" canisters, the company's name and the text shown immediately below.

GUARD ALASKA. BECAUSE OUR
QUALITY COULD BE THE LAST
LINE OF DEFENSE.

Water, oil and alcohol based defense sprays are gone forever. Today's customer wants the security

> that comes from using Guard Alaska defense sprays. Guard Alaska defense sprays would never contain ineffective ingredients. After all, water is the natural antidote for the active ingredient, oleoresin capsaicin. Imagine that - the antidote as part of the formula. Oil bases tend to bead up and roll off the intended surface. And alcohol based sprays are flammable. Guard Alaska's formula is scientifically proven superior. Our defense sprays are very different. They contain the hottest active ingredient available in a base that actually opens the pores of skin for incredible stopping power. But Guard Alaska does not stop there. Guard Alaska sprays penetrate the mucous membranes making them the most effective available. Have the satisfaction of knowing you offered your customers the safest, highest quality defense spray sold anywhere today. Not to mention our sprays outsell the competition 3 to 1 with profitable margins on every sale. By selling Guard Alaska you'll safeguard your customer as well as your bottom line.

This paragraph mixes wild assertions with bad grammar in its efforts to influence dealers to sell Guard Alaska products. The paragraph also conveys some confusion in nomenclature between the substance, Oleoresin Capsicum, that is the source of active ingredient and the active ingredient itself, Capsaicin.

All claims about opening pores and penetrating mucous membranes are unsupported by information that has been sent to EPA. (Others have questioned whether bears even have pores. People clearly do, and many of Guard Alaska's products are to be used to defend against attacks by people. Such products are not regulated under FIFRA.)

The claims about superior chemical properties and efficacy also are not supported by any data that I have seen, and I doubt that such data exist. Such claims and the business about outselling the competition 3:1 also appear on the blister-pack card label but not on the accepted container label. We would have rejected such claims if they had been proposed for that label.

It is not clear to me whether EPA has jurisdiction over promotional materials used by manufacturers to persuade dealers to stock certain products. The Federal Trade Commission (FTC) has jurisdiction over advertising in general under the Federal Trade Act (FTA).

Just prior to registration, McNeill River was required to alter the inert-ingredient composition of its bear repellent formula. It seems highly unlikely that McNeill had time to test any of the new materials examined for their abilities to "open pores" and to "penetrate mucous membranes", not to mention to make sure that they were "scientifically proven superior".

The remaining pages of the brochure display and describe the offerings in the Guard Alaska pepper spray power. Banners running across these display pages proclaim

GUARD ALASKA MEANS PROVEN
KNOCK DOWN POWER"

and

GUARD ALASKA OUTSELLS THE
COMPETITION 3 TO 1."

An (unsupported) "OUTSELLS" claim was addressed in EPA's letter of 8/3/99. I have not seen anything from McNeill River which indicates that any Guard Alaska spray has ever knocked anything down.

202.0 CONCLUSIONS

We have reviewed the labeling included in the blister pack used to hold one container of your Guard Alaska product when it is packaged for sale. This labeling may not be used with your product at this time because you have not submitted it for our review and we have not accepted it. As noted in our letter of August 3, 1999, this labeling is deficient for the reasons indicated below.

1. The front panel of the blister pack bears claims which are unsupported, false or misleading. These claims (listed below) must be deleted.

   a. **"20% Ultra Hot Pepper"**

      The active ingredients in this product may only be claimed in the manner in which they are expressed on the container label's statement of ingredients.

   b. **"9 oz. UltraMag Shotgun Series"**

      All claims of net contents must be worded as the net contents information is expressed on the container label.

There has been no demonstration that the spray pattern produced by depressing the trigger on this product's container is identical or similar to the pattern of particle dispersion produced when a shotgun is fired. We doubt that such would be the case due to differences in firing characteristics and the differences between aerosolized liquids and airborne shot.

c. **"Developed and tested in the wilds of Alaska."**

Although you frequently have alluded to such testing in conversations and other communications with us, the only documentation of any reported use of your product that we have received is a videotape of a single use of what would have been an earlier formulation of Guard Alaska. If you want to make any claims about to your testing program on your labeling, you must document to us the procedures used in such testing and the results that were obtained.

d. **"Out sells other brands 3 to 1!"**

Even if you were able to show this statement to be true, it still could not be made on pesticide labeling because it misleadingly implies a favorable comparison with other products. Such comparisons are prohibited in 40 CFR, §156.10(a)(5)(iv). Having more sales would not necessarily make one product better than another.

e. **"No other defense spray proven as effective!"**

This statement makes a favorable comparison of product performance between Guard Alaska and every other "**defense spray**". As noted above, such statements are prohibited. We have seen no data which would support any firm conclusions about the relative effectiveness of the bear-repellent sprays that currently are registered.

f. "All pepper sprays do not have the same stopping power!"

This statement is misleading, at best.

g. "Our exclusive patent pending formula is scientifically proven the most effective.

This is another statement which favorably compares your product to all others. We are not aware of any research data that support this statement.

h. "Opens pores of the skin and cuts through mucous covering of a bears eyes for incredible stopping power."

We do not know to what extent this statement might be true. To support it, you would have to supply us with credible information which documented that bears' skin has pores, that bears' eyes have a substantial "mucous covering", that your product opens pores and cuts through such a mucous covering, and that your product stops bears in their tracks in some "incredible" way.

i. "Really stays put - does not bead-up and run off like other defense sprays."

This statement makes a favorable comparison between your product and "other defense sprays". We are not aware of any data which specifically support this claim.

2. The back panel of the blister pack bears is not acceptable for the reasons indicated below.

a. "**20% Pepper Spray**"

The active ingredients in this product may only be claimed in the manner in which they are expressed on the container label's statement of ingredients.

b. The "**DO NOT SEEK OUT ENCOUNTERS**" paragraph located near the top of the rear panel is basically acceptable for the blister-pack. However, if you do not include all elements of required labeling on the blister pack, the "**READ THIS ENTIRE LABEL BEFORE ... ENCOUNTERED**" sentence must be changed to read

READ THE ENTIRE LABEL ON THE CONTAINER IN THIS BLISTER PACK BEFORE TAKING THIS PRODUCT INTO AREAS WHERE BEARS MIGHT BE ENCOUNTERED.

c. If a "**DIRECTIONS FOR USE**" section is to be included on the blister-pack label, the entire section accepted for the container label must be

used. Alternatively, the blister-pack label may refer to the "**DIRECTIONS FOR USE**" section on the container label by using a sentence such as the following:

> **For instructions on how to use Guard Alaska, see the DIRECTIONS FOR USE section of the label on the container in this package.**

d. The allusions to "***SELF DEFENSE***" use which appear on the back panel must be deleted because they imply that the product also could be used against people. We do not permit any use-against-people claims on the labeling of animal-attack repellents which are registered under FIFRA.

e. The blister-pack label should include all of the precautionary statements that are required to be on the container label. If all of the precautionary statements on the container's label can easily be read through the blister pack, the blister-pack label may refer the reader to the container label for a full set of precautionary statements.

Because of the obvious benefits that the packaging arrangement would seem to provide, we feel that it would be appropriate to package containers of Guard Alaska in a blister pack. We have no objections to such packaging and suggest that you promptly prepare and submit an appropriate blister-pack label.

We also have reviewed the 8-page brochure that apparently is intended to persuade dealers to stock your pepper sprays and assorted companion products. Virtually all representations made about the effectiveness, safety, and mode-of-action of your products are unsupported by any data that we have seen and imply questionable but favorable comparisons between your products and competitors' products, especially those which are made using different types of formulations. As many of these doubtful assertions are similar to those made on the blister pack label, we will not belabor matters by discussing them individually.

Regardless of its extent of coverage under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), which EPA administers, advertising of pesticides is regulated under the Federal Trade Act (FTA), which the Federal

Trade Commission administers. Advertising for other types of products, including your anti-human sprays which are not regulated as pesticides, also is regulated under the FTA. That act includes a standard for prohibiting false or misleading statements much like that in FIFRA.

William W. Jacobs
Biologist
Insecticide-Rodenticide Branch
August 20, 1999

DP BARCODE: D256618

CASE: 062589 DATA PACKAGE RECORD DATE: 06/04/99
SUBMISSION: S563090 BEAN SHEET Page 1 of 1

* * * CASE/SUBMISSION INFORMATION * * *

CASE TYPE: REGISTRATION ACTION: 300 ADMN-LBL REV AMND NO DATA
RANKING : 5 POINTS ()
CHEMICALS: 070701 Capsaicin (in oleoresin of capsicum) 1.3400%

ID#: 071545-00001 Guard Alaska Bear Repellent
COMPANY: 071545 MCNEIL RIVER ENTERPRISES, INC.
PRODUCT MANAGER: 04 TINA LEVINE 703-308-7055 ROOM: CM2 219
PM TEAM REVIEWER: DANIEL PEACOCK 703-305-5407 ROOM: CM2 221
RECEIVED DATE: 06/01/99 DUE OUT DATE: 08/30/99

* * * DATA PACKAGE INFORMATION * * *

DP BARCODE: 256618 EXPEDITE: N DATE SENT: 06/04/99 DATE RET.: / /
CHEMICAL: 070701 Capsaicin (in oleoresin of capsicum)
DP TYPE: 001
CSF: N LABEL: N

ASSIGNED TO	DATE IN	DATE OUT	
DIV : RD	/ /	/ /	ADMIN DUE DATE: 07/19/99
BRAN: IRB	/ /	/ /	NEGOT DATE: / /
SECT: PM04	/ /	/ /	PROJ DATE: / /
REVR : [illegible]	6/4/99	8/20/99	OBJ
CONTR:	/ /	/ /	

* * * DATA REVIEW INSTRUCTIONS * * *

Bill,

Please review the literature attached to the 6/1/99 letter:

1. Hang Tag [This accompanies the product.]
2. Dealer Price Sheet
3. Key Wholesale Price Sheet
4. Stocking Distributor Price Sheet
5. The Need for Personal Defense Spray is the Same

Judging from some of the text, I can see that we may need to get some assistance from bear biologists to answer some questions such as "Do bears have pores?" Such communication should help to improve our relationship with that segment of the bear repellent community who sometimes may feel "left out".

Dan Peacock

* * * DATA PACKAGE EVALUATION * * *

No evaluation is written for this data package

* * * ADDITIONAL DATA PACKAGES FOR THIS SUBMISSION * * *

DP BC	BRANCH/SECTION	DATE OUT	DUE BACK	INS	CSF	LABEL

McNeil River Enter., Inc.
750 W. Dimond, Ste. 203
Anchorage, Alaska 99515
907-349-6868 or
1-888-419-9695
907-349-7818 fax

Manufacturers of Guard Alaska Personal Protection Systems

June 1, 1999

Mr. Dan Peacock (CM-2 H7505C)
Office of Pesticide Programs (Team 14)
U.S. Environmental Protection Agency
401 M Street. SW
Washington, DC 20460

Reference: Guard Alaska® Bear Repellent (EPA Reg. No. 71545-1)
Submission of Product Literature/Brochures

Dear Dan:

In response to our recent conversation, McNeil River is submitting their product literature/ brochures for review. Please call me at 1-888-419-9695 if you have any questions or if I can be of further assistance.

Sincerely,

Catherine R.

for Randal Prater
President

Guard Alaska®

Defense Spray

20% Ultra Hot Pepper

UMS9S

1 of 5

9 OZ. UltraMag Shotgun Series

Developed and tested in the wilds of Alaska.

Out sells other brands 3 to 1!

No other defense spray proven as effective!

- All pepper sprays do not have the same stopping power!
- Our exclusive patent pending formula is scientifically proven the most effective.
- Opens pores of the skin and cuts through mucous covering of a bears eyes for incredible stopping power.
- Really stays put - does not bead-up and run off like other defense sprays.

Guard Alaska
Personal Protection Systems

McNeil River Enterprises
Anchorage, Alaska

Warning: ***STRONG IRRITANT*** see additional precautions on back panel.

Guard Alaska

20% Pepper Spray

6 32866 00153 4

WARNING: STRONG IRRITANT, CONTENTS UNDER PRESSURE !

DO NOT SEEK OUT ENCOUNTERS WITH BEARS. THIS PRODUCT IS A BEAR ATTACK REPELLENT WHICH MAY PROTECT USERS IN SOME UNEXPECTED CONFRONTATIONS WITH BEARS BUT MAY NOT BE EFFECTIVE IN ALL SITUATIONS OR PREVENT ALL INJURIES. READ THIS ENTIRE LABEL BEFORE TAKING THIS PRODUCT INTO AREAS WHERE BEARS MIGHT BE ENCOUNTERED.

DIRECTIONS FOR USE:

1. Remove the orange safety clip from the UltraMag trigger.
2. Aim at face of assailant.
3. Press button firmly, using short bursts.

For this product to be fully effective, you must engulf the assailant's face, especially the eyes, nose and mouth. This product generally has a range of up to 15-20 feet. Wind and other conditions may alter the range or effectiveness. Shield your eyes and face if you must fire into the wind. Avoid spraying into the wind if possible. Contents are dangerous and will cause pain and temporary impairment to eyes, nose, mouth and lungs. Individuals who suffer from asthma, emphysema or cardiac impairment, may have a more severe reaction. Use with caution - ***FOR SELF DEFENSE ONLY. NOT TO BE SOLD TO OR POSSESSED BY MINORS OR ANY PERSON UNDER THE AGE OF 18.*** Contents are under pressure. Do not puncture or incinerate can. Do not expose to heat, spark, flame, or store above 120 F (50C), or in direct sunlight. Warning: This product contains a chemical known to the state of California to cause cancer. Warning: The use of this substance or device for any purpose other than self defense is a crime under the law. Contents are dangerous use with caution. ***KEEP OUT OF REACH OF CHILDREN. DO NOT CARRY OR TRANSPORT ON ANY PASSENGER AIRCRAFT.***

FIRST AID: 1. Avoid accidental contact with eyes, skin and mucous membranes. 2. In case of external contact, remove any contact lenses and contaminated clothing. 3. Flush eyes and skin thoroughly with large amounts of cold water and expose to fresh air. 4. Do not rub or apply any salves, creams, oils, or lotions. 5. Consult a physician if irritation persists. Active ingredient 20% by weight Oleoresin Capsicum in a patent applied for formula. ***Chemical Emergency Hotline: 1-800-535-5053*** Open 24 hours a day, 7 days a week.

Guard Alaska
Personal Protection Systems
McNeil River Enterprises
P.O. Box 233002
Anchorage, Alaska 99523

Guard Alaska
Personal Protection Systems

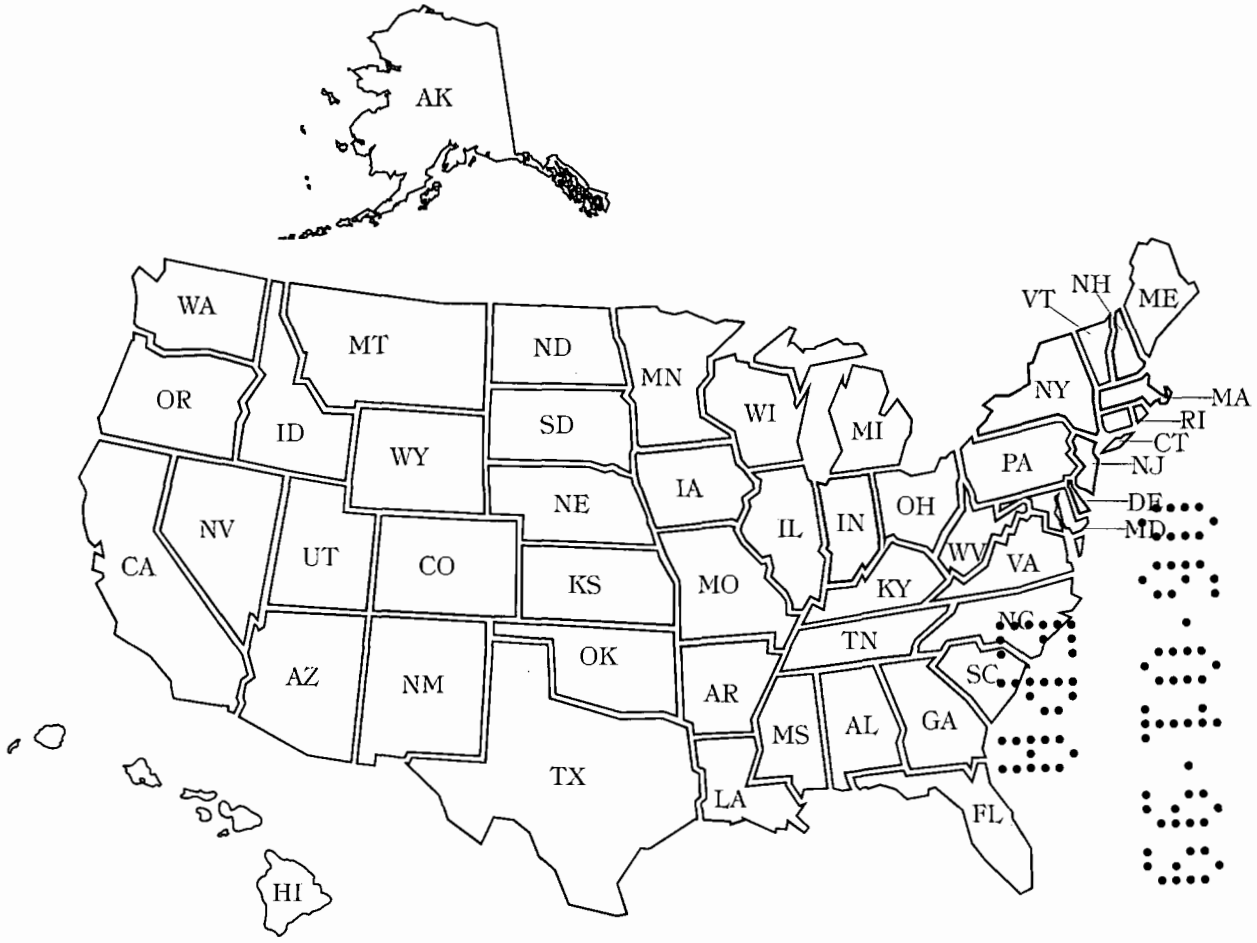
2 of 5

(Guard Alaska Products)
Corporate Office
P.O. Box 233002
Anchorage, Alaska 99523
(907) 349-6868 Tel
(888) 419-9695
(907) 349-7818 Fax

Distribution Center
Product shipped
from Phoenix, AZ USA

Dealer Price Sheet

McNeil River Enterprises
is proud to present our
Guard Alaska
Personal Protection Systems



Dealer Price Sheet

FOB-Factory(Phoenix, AZ USA) / Min. Order $100.00 / $250.00 Prepaid Freight in Continental US
Terms-1% Net 15; Net 30(Upon Approved Credit) / VISA & MASTERCARD accepted

Guard Alaska Personal Protection Systems

	Order #	Description (All Magnum Cases are clip on)	Retail	Cost
Page 3		***MAGNUM SERIES 10%O.C. - CLAMPACKED & PEGBOARDABLE 12 Per Case***		
A	MS1/2S	Mini-Mag ½ oz. Spray Only	7.95	4.77
B	MS1/2SC	Mini-Mag ½ oz. Spray & Case w/keyring	8.95	5.37
C	MS3/4S	Midi-Mag ¾ oz. Spray Only	8.95	5.37
D	MS3/4SC	Midi-Mag ¾ oz. Spray & Case w/keyring	9.95	5.97
E	MS11/2SC	Mega-Mag 1 ½ oz. Spray & Case w/keyring	14.95	8.97
Page 4		***HOT LIPS SERIES 10% O.C. - CLAMPACKED PEGBOARDABLE 12 Per Case***		
A	HL1/2S	Hot Lips ½ oz. Spray Only	7.95	4.77
B	HL1/2SC	Hot Lips ½ oz. Spray & Case w/keyring	8.95	5.37
C	HL3/4S	Hot Lips ¾ oz. Spray Only	8.95	5.37
D	HL3/4SC	Hot Lips ¾ oz. Spray & Case w/keyring	9.95	5.97

See page 6; prod. D for ½ oz; ¾ oz colored case choices as follows:
Red; Forest Green; Black Cherry; Blue; Burgundy; Purple; Black

page 5		***NIGHT SHIFT SERIES 10%O.C. - CLAMPACKED PEGBOARDABLE 12 Per Case***		
A	NS2PH	Night Shift 2 oz. Spray & Holster w/belt clip	16.95	10.17
B	NS2FH	Night Shift 2 oz. Spray Foam & Holster w/belt clip	17.95	10.77
C	NS4PH	Night Shift 4 oz. Spray & Holster w/belt clip	23.95	14.37
D	NS4FH	Night Shift 4 oz. Spray Foam & Holster w/belt clip	24.95	14.97

See page 6; prod. E for Custom Deluxe Ballistic Holsters

E	CO-PS1.5	Ripoffs™ Deluxe Clip On Holster 2 oz.	9.95	5.97
E	BL-PS1.5	Ripoffs™ Deluxe Belt Loop Holster 2 oz.	7.95	4.77
E	CO-PS3.5	Ripoffs™ Deluxe Clip On Holster 4 oz.	10.95	6.57
E	BL-PS3.5	Ripoffs™ Deluxe Belt Loop Holster 4 oz.	8.95	5.37
Page 6		***ULTRA MAG SHOTGUN SERIES 20%O.C. - CLAMPACKED PEGBOARDABLE 12 Per Case***		
A	UMS9S	ULTRA MAG 9 oz. Spray	44.95	26.97
B	CO-PS9	Ripoffs™ Deluxe 9 oz. Clip On Holster	14.95	8.97
B	BL-PS9	Ripoffs™ Deluxe 9 oz. Belt Loop Holster	11.95	7.17

Guard Alaska
Personal Protection Systems

Mc Neil River Enterprises, Inc
P.O. Box 233002
Anchorage, Alaska, 99523

(907) 349-6868 Tel
(888) 419-9695
(907) 349-7818 Fax

All Product Shipped from Phoenix, AZ USA

"Dealer Order Form"

Bill To: _____

Ship To: _____

Tel # : _____

Fax # : _____

Date: _____ Ordered By: _____ P.O. # : _____

Ship Date: _____ Rep: _____ Terms : _____

Cancel By: _____ FOB: _____

Order #	Description All Product 12 to a Case	Color	Quantity	Cost Ea.	Total
MS1/2S	Mini-Mag ½ oz. Spray Only	N/A		4.77	
MS1/2SC	Mini-Mag ½ oz. Spray & Case	Black		5.37	
MS3/4S	Midi-Mag ¾ oz. Spray Only	N/A		5.37	
MS3/4SC	Midi-Mag ¾ oz. Spray & Case	Black		5.97	
MS11/2SC	Mega-Mag 1½ oz. Spray & Case	Black		8.97	
HL1/2S	Hot Lips ½ oz. Spray Only	N/A		4.77	
HL1/2SC	Hot Lips ½ oz. Spray & Case	Red		5.37	
"	" " " " "	Forest Grn		5.37	
"	" " " " "	Blk Cherry		5.37	
"	" " " " "	Blue		5.37	
"	" " " " "	Burgundy		5.37	
"	" " " " "	Purple		5.37	
"	" " " " "	Black		5.37	
HL3/4S	Hot Lips ¾ oz. Spray Only	N/A		5.37	
HL3/4SC	Hot Lips ¾ oz. Spray & Case	Red		5.97	
"	" " " " "	Forest Grn		5.97	
"	" " " " "	Blk Cherry		5.97	
"	" " " " "	Blue		5.97	
"	" " " " "	Burgundy		5.97	
"	" " " " "	Purple		5.97	
"	" " " " "	Black		5.97	
NS2PH	Night Shift 2 oz. Spray & Holster	Black		10.17	
NS2FH	Night Shift 2 oz. Spray Foam & Holster	Black		10.77	
NS4PH	Night Shift 4 oz. Spray & Holster	Black		14.37	
NS4FH	Night Shift 4 oz. Spray Foam & Holster	Black		14.97	
CO-PS1.5	Deluxe Clip on Holster 2 oz.	Black		5.97	
BL-PS1.5	Deluxe Belt Loop Holster 2 oz.	Black		4.77	
CO-PS3.5	Deluxe Clip On Holster 4 oz.	Black		6.57	
BL-PS3.5	Deluxe Belt Loop Holster 4 oz.	Black		5.37	
UMS9S	Ultra Mag 9 oz. Spray	Black		26.97	
CO-PS9	Deluxe 9 oz. Clip on Holster	Black		8.97	
BL-PS9	Deluxe 9 oz. Belt Loop Holster	Black		7.17	

3 of 5

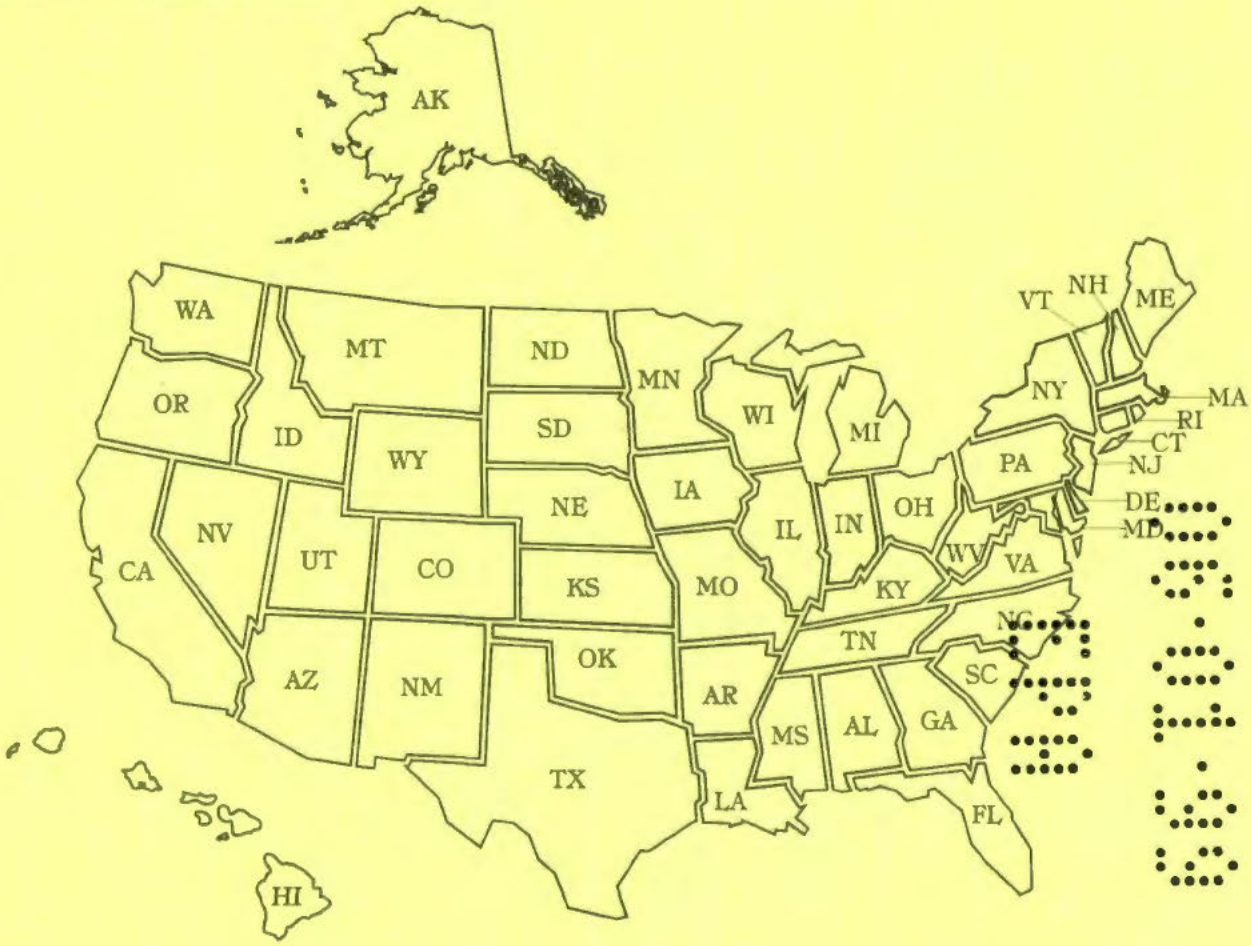
Guard Alaska
Personal Protection Systems

Key Wholesale Price Sheet

(Guard Alaska Products)
Corporate Office
P.O. Box 233002
Anchorage, Alaska 99523
(907) 349-6868 Tel
(888) 419-9695
(907) 349-7818 Fax

Distribution Center
Product shipped
from Phoenix, AZ USA

McNeil River Enterprises
is proud to present our
Guard Alaska
Personal Protection Systems



Key Wholesale Price Sheet

FOB-Factory(Phoenix, AZ USA) / Min. Order $250.00 / $750.00 Prepaid Freight in Continental US
Terms-1% Net 15; Net 30(Upon Approved Credit) / VISA & MASTERCARD accepted

Guard Alaska Personal Protection Systems

	Order #	Description (All Magnum Cases are clip on)	Retail	Cost
Page 3	***MAGNUM SERIES 10%O.C. - CLAMPACKED & PEGBOARDABLE 12 Per Case***			
A	MS1/2S	Mini-Mag ½ oz. Spray Only	7.95	3.98
B	MS1/2SC	Mini-Mag ½ oz. Spray & Case w/keyring	8.95	4.48
C	MS3/4S	Midi-Mag ¾ oz. Spray Only	8.95	4.48
D	MS3/4SC	Midi-Mag ¾ oz. Spray & Case w/keyring	9.95	4.98
E	MS11/2SC	Mega-Mag 1 ½ oz. Spray & Case w/keyring	14.95	7.48
Page 4	***HOT LIPS SERIES 10% O.C. - CLAMPACKED PEGBOARDABLE 12 Per Case***			
A	HL1/2S	Hot Lips ½ oz. Spray Only	7.95	3.48
B	HL1/2SC	Hot Lips ½ oz. Spray & Case w/keyring	8.95	4.48
C	HL3/4S	Hot Lips ¾ oz. Spray Only	8.95	4.48
D	HL3/4SC	Hot Lips ¾ oz. Spray & Case w/keyring	9.95	4.98
See page 6; prod. D for ½ oz; ¾ oz colored case choices as follows: Red; Forest Green; Black Cherry; Blue; Burgundy; Purple; Black				
page 5	***NIGHT SHIFT SERIES 10%O.C. - CLAMPACKED PEGBOARDABLE 12 Per Case***			
A	NS2PH	Night Shift 2 oz. Spray & Holster w/belt clip	16.95	8.48
B	NS2FH	Night Shift 2 oz. Spray Foam & Holster w/belt clip	17.95	8.98
C	NS4PH	Night Shift 4 oz. Spray & Holster w/belt clip	23.95	11.98
D	NS4FH	Night Shift 4 oz. Spray Foam & Holster w/belt clip	24.95	12.48
See page 6; prod. E for Custom Deluxe Ballistic Holsters				
E	CO-PS1.5	Ripoffs™ Deluxe Clip On Holster 2 oz.	9.95	4.98
E	BL-PS1.5	Ripoffs™ Deluxe Belt Loop Holster 2 oz.	7.95	3.98
E	CO-PS3.5	Ripoffs™ Deluxe Clip On Holster 4 oz.	10.95	5.48
E	BL-PS3.5	Ripoffs™ Deluxe Belt Loop Holster 4 oz.	8.95	4.48
Page 6	***ULTRA MAG SHOTGUN SERIES 20%O.C. - CLAMPACKED PEGBOARDABLE 12 Per Case***			
A	UMS9S	ULTRA MAG 9 oz. Spray	44.95	22.48
B	CO-PS9	Ripoffs™ Deluxe 9 oz. Clip On Holster	14.95	7.48
B	BL-PS9	Ripoffs™ Deluxe 9 oz. Belt Loop Holster	11.95	5.98

Guard Alaska
Personal Protection Systems

Mc Neil River Enterprises, Inc
P.O. Box 233002
Anchorage, Alaska, 99523

(907) 349-6868 Tel
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(907) 349-7818 Fax

All Product Shipped from Phoenix, AZ USA

"Key Wholesale Order Form"

Bill To: _____

Ship To: _____

Tel # : _____

Fax # : _____

Date: _____ Ordered By: _____ P.O. # : _____

Ship Date: _____ Rep: _____ Terms : _____

Cancel By: _____ FOB: _____

Order #	Description All Product 12 to a Case	Color	Quantity	Cost Ea.	Total
MS1/2S	Mini-Mag ½ oz. Spray Only	N/A		3.98	
MS1/2SC	Mini-Mag ½ oz. Spray & Case	Black		4.48	
MS3/4S	Midi-Mag ¾ oz. Spray Only	N/A		4.48	
MS3/4SC	Midi-Mag ¾ oz. Spray & Case	Black		4.98	
MS11/2SC	Mega-Mag 1½ oz. Spray & Case	Black		7.48	
HL1/2S	Hot Lips ½ oz. Spray Only	N/A		3.48	
HL1/2SC	Hot Lips ½ oz. Spray & Case	Red		4.48	
"	" " " " "	Forest Grn		4.48	
"	" " " " "	Blk Cherry		4.48	
"	" " " " "	Blue		4.48	
"	" " " " "	Burgundy		4.48	
"	" " " " "	Purple		4.48	
"	" " " " "	Black		4.48	
HL3/4S	Hot Lips ¾ oz. Spray Only	N/A		4.48	
HL3/4SC	Hot Lips ¾ oz. Spray & Case	Red		4.98	
"	" " " " "	Forest Grn		4.98	
"	" " " " "	Blk Cherry		4.98	
"	" " " " "	Blue		4.98	
"	" " " " "	Burgundy		4.98	
"	" " " " "	Purple		4.98	
"	" " " " "	Black		4.98	
NS2PH	Night Shift 2 oz. Spray & Holster	Black		8.48	
NS2FH	Night Shift 2 oz. Spray Foam & Holster	Black		8.98	
NS4PH	Night Shift 4 oz. Spray & Holster	Black		11.98	
NS4FH	Night Shift 4 oz. Spray Foam & Holster	Black		12.48	
CO-PS1.5	Deluxe Clip on Holster 2 oz.	Black		4.98	
BL-PS1.5	Deluxe Belt Loop Holster 2 oz.	Black		3.98	
CO-PS3.5	Deluxe Clip On Holster 4 oz.	Black		5.48	
BL-PS3.5	Deluxe Belt Loop Holster 4 oz.	Black		4.48	
UMS9S	Ultra Mag 9 oz. Spray	Black		22.48	
CO-PS9	Deluxe 9 oz. Clip on Holster	Black		7.48	
BL-PS9	Deluxe 9 oz. Belt Loop Holster	Black		5.98	

Guard Alaska
Personal Protection Systems

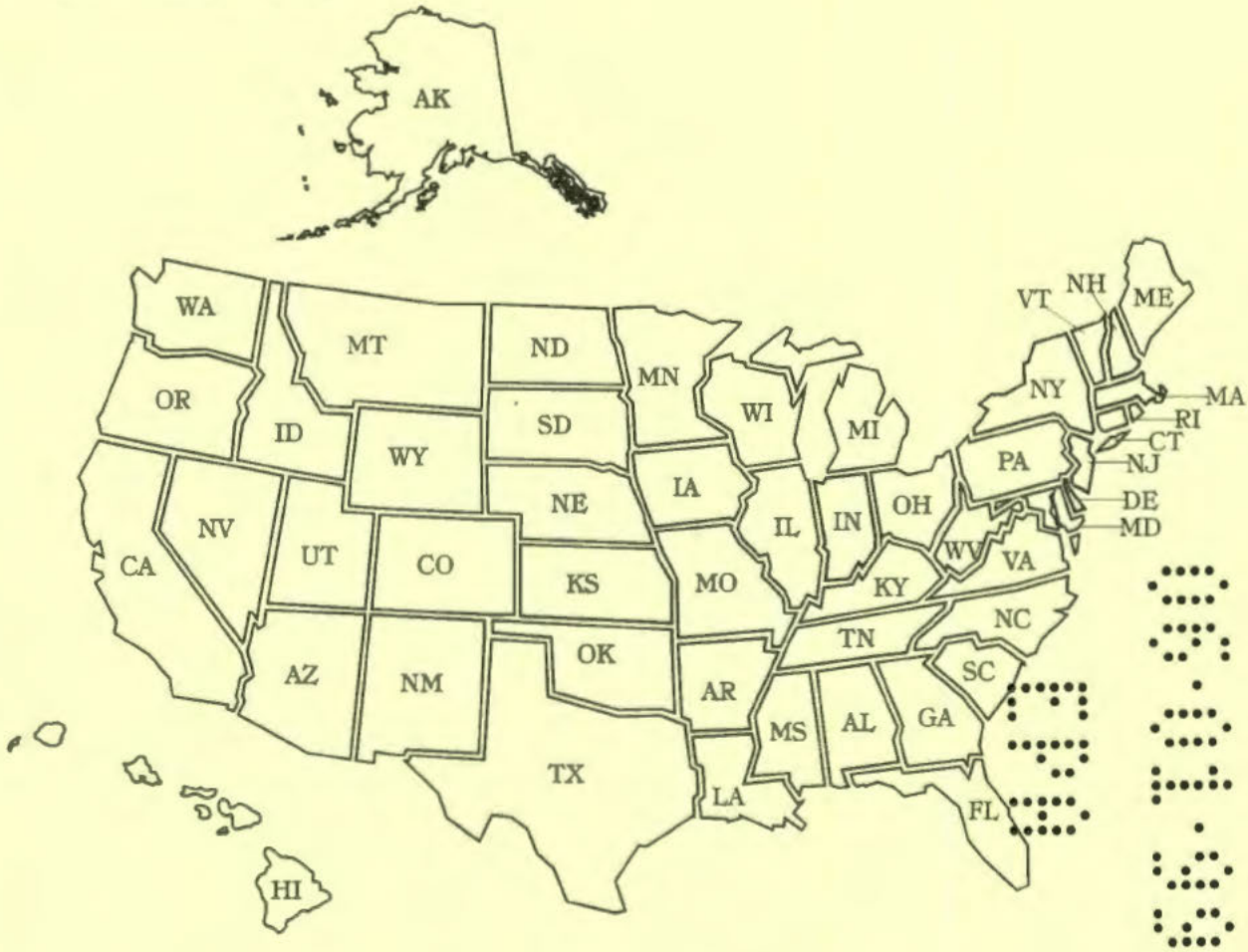
4 of 5

Stocking Distributor Price Sheet

(Guard Alaska Products)
Corporate Office
P.O. Box 233002
Anchorage, Alaska 99523
(907) 349-6868 Tel
(888) 419-9695
(907) 349-7818 Fax

Distribution Center
Product shipped
from Phoenix, AZ USA

McNeil River Enterprises
is proud to present our
Guard Alaska
Personal Protection Systems



Stocking Distributor Price Sheet

FOB-Factory(Phoenix, AZ USA) / Min. Order $500.00 / $1000.00 Prepaid Freight in Continental US
Terms-1% Net 15; Net 30(Upon Approved Credit) / VISA & MASTERCARD accepted

Guard Alaska Personal Protection Systems

	Order #	Description (All Magnum Cases are clip on)	Retail	Cost
Page 3	***MAGNUM SERIES 10%O.C. - CLAMPACKED & PEGBOARDABLE 12 Per Case***			
A	MS1/2S	Mini-Mag ½ oz. Spray Only	7.95	3.58
B	MS1/2SC	Mini-Mag ½ oz. Spray & Case w/keyring	8.95	4.03
C	MS3/4S	Midi-Mag ¾ oz. Spray Only	8.95	4.03
D	MS3/4SC	Midi-Mag ¾ oz. Spray & Case w/keyring	9.95	4.48
E	MS11/2SC	Mega-Mag 1 ½ oz. Spray & Case w/keyring	14.95	6.73
Page 4	***HOT LIPS SERIES 10% O.C. - CLAMPACKED PEGBOARDABLE 12 Per Case***			
A	HL1/2S	Hot Lips ½ oz. Spray Only	7.95	3.58
B	HL1/2SC	Hot Lips ½ oz. Spray & Case w/keyring	8.95	4.03
C	HL3/4S	Hot Lips ¾ oz. Spray Only	8.95	4.03
D	HL3/4SC	Hot Lips ¾ oz. Spray & Case w/keyring	9.95	4.48
See page 6; prod. D for ½ oz; ¾ oz colored case choices as follows: Red; Forest Green; Black Cherry; Blue; Burgundy; Purple; Black				
page 5	***NIGHT SHIFT SERIES 10%O.C. - CLAMPACKED PEGBOARDABLE 12 Per Case***			
A	NS2PH	Night Shift 2 oz. Spray & Holster w/belt clip	16.95	7.63
B	NS2FH	Night Shift 2 oz. Spray Foam & Holster w/belt clip	17.95	8.08
C	NS4PH	Night Shift 4 oz. Spray & Holster w/belt clip	23.95	10.78
D	NS4FH	Night Shift 4 oz. Spray Foam & Holster w/belt clip	24.95	11.23
See page 6; prod. E for Custom Deluxe Ballistic Holsters				
E	CO-PS1.5	Ripoffs™ Deluxe Clip On Holster 2 oz.	9.95	4.48
E	BL-PS1.5	Ripoffs™ Deluxe Belt Loop Holster 2 oz.	7.95	3.58
E	CO-PS3.5	Ripoffs™ Deluxe Clip On Holster 4 oz.	10.95	4.93
E	BL-PS3.5	Ripoffs™ Deluxe Belt Loop Holster 4 oz.	8.95	4.03
Page 6	***ULTRA MAG SHOTGUN SERIES 20%O.C. - CLAMPACKED PEGBOARDABLE 12 Per Case***			
A	UMS9S	ULTRA MAG 9 oz. Spray	44.95	20.23
B	CO-PS9	Ripoffs™ Deluxe 9 oz. Clip On Holster	14.95	6.73
B	BL-PS9	Ripoffs™ Deluxe 9 oz. Belt Loop Holster	11.95	5.38

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"Stocking Distributor Order Form"

Bill To: _____

Ship To: _____

Tel # : _____
Fax # : _____

Date: _____ Ordered By: _____ P.O. # : _____
Ship Date: _____ Rep: _____ Terms : _____
Cancel By: _____ FOB: _____

Order #	Description All Product 12 to a Case	Color	Quantity	Cost Ea.	Total
MS1/2S	Mini-Mag ½ oz. Spray Only	N/A		3.58	
MS1/2SC	Mini-Mag ½ oz. Spray & Case	Black		4.03	
MS3/4S	Midi-Mag ¾ oz. Spray Only	N/A		4.03	
MS3/4SC	Midi-Mag ¾ oz. Spray & Case	Black		4.48	
MS11/2SC	Mega-Mag 1½ oz. Spray & Case	Black		6.73	
HL1/2S	Hot Lips ½ oz. Spray Only	N/A		3.58	
HL1/2SC	Hot Lips ½ oz. Spray & Case	Red		4.03	
"	" " " " "	Forest Grn		4.03	
"	" " " " "	Blk Cherry		4.03	
"	" " " " "	Blue		4.03	
"	" " " " "	Burgundy		4.03	
"	" " " " "	Purple		4.03	
"	" " " " "	Black		4.03	
HL3/4S	Hot Lips ¾ oz. Spray Only	N/A		4.03	
HL3/4SC	Hot Lips ¾ oz. Spray & Case	Red		4.48	
"	" " " " "	Forest Grn		4.48	
"	" " " " "	Blk Cherry		4.48	
"	" " " " "	Blue		4.48	
"	" " " " "	Burgundy		4.48	
"	" " " " "	Purple		4.48	
"	" " " " "	Black		4.48	
NS2PH	Night Shift 2 oz. Spray & Holster	Black		7.63	
NS2FH	Night Shift 2 oz. Spray Foam & Holster	Black		8.08	
NS4PH	Night Shift 4 oz. Spray & Holster	Black		10.78	
NS4FH	Night Shift 4 oz. Spray Foam & Holster	Black		11.23	
CO-PS1.5	Deluxe Clip on Holster 2 oz.	Black		4.48	
BL-PS1.5	Deluxe Belt Loop Holster 2 oz.	Black		3.58	
CO-PS3.5	Deluxe Clip On Holster 4 oz.	Black		4.93	
BL-PS3.5	Deluxe Belt Loop Holster 4 oz.	Black		4.03	
UMS9S	Ultra Mag 9 oz. Spray	Black		20.23	
CO-PS9	Deluxe 9 oz. Clip on Holster	Black		6.73	
BL-PS9	Deluxe 9 oz. Belt Loop Holster	Black		5.38	

THE NEED FOR PERSONAL DEFENSE SPRAY IS THE SAME

5G/5

BUT STRENGTH AND RELIABILITY HAVE CHANGED FOREVER.

Guard Alaska™

GUARD ALASKA. BECAUSE OUR QUALITY COULD BE THE LAST LINE OF DEFENSE.

Water, oil and alcohol based defense sprays are gone forever. Today's customer wants the security that comes from using Guard Alaska defense sprays. Guard Alaska defense sprays would never contain ineffective ingredients. After all, water is the natural antidote for the active ingredient, oleoresin capsaicin. Imagine that - the antidote as part of the formula. Oil bases tend to bead-up and roll off the intended surface. And alcohol based sprays are flammable. Guard Alaska's formula is scientifically proven superior. Our defense sprays are very different. They contain the hottest active ingredient available in a base that actually opens the pores of skin for incredible stopping power. But Guard Alaska does not stop there. Guard Alaska sprays penetrate mucous membranes making them the most effective available. Have the satisfaction of knowing you offered your customers the safest, highest quality defense spray sold anywhere today. Not to mention our sprays outsell the competition by 3 to 1 with profitable margins on every sale. By selling Guard Alaska you'll safeguard your customer as well as your bottom line.

Guard Alaska™
Personal Protection Systems

GUARD ALASKA
KNOCK DO

Guard Alaska products are more profitable. Our products are formulated so they ship standard freight. No costly and time consuming forms and additional charges. Prepaid shipping programs available.

MAGNUM SERIES

10% Ultra hot pepper spray teamed with super tough plastic hard case and convenient keychain adaptability. Available in just the right sizes.

A. MiniMag 1/2 OZ Spray Only
B. MiniMag 1/2 OZ Spray and Case
C. MidiMag 3/4 OZ Spray Only
D. MidiMag 3/4 OZ Spray and Case
E. MegaMag 1 1/2 OZ Spray and Case

MEANS PROVEN
WN POWER.

Attention getting and attractive packaging will sell as well as it looks!

HOT LIPS SERIES

10% Ultra hot pepper spray. Perfect for purse or glove box. Popular because of soft elegant keychain carrying case. Cases are available in several top selling colors.

A. 1/2 OZ Spray Only
B. 1/2 OZ Spray and Case
C. 3/4 OZ Spray Only
D. 3/4 OZ Spray and Case

GUARD ALASKA COMPETITI

The Night Shift Series is also available in a foam spray. A must for possible indoor use. No cross contamination.

NIGHT SHIFT SERIES

10% Ultra hot pepper spray in a larger size for real protection. Designed for security guards and night watchmen. Also available in spray foam for indoor use.

(Deluxe Ballistic holsters available.)

A. 2 OZ Spray and Case
B. 2 OZ Spray Foam and Case
C. 4 OZ Spray and Case
D. 4 OZ Spray Foam and Case

OUTSELLS THE
ON 3 TO 1.

ULTRAMAG SHOTGUN SERIES

An invincible 20% ultra hot pepper spray. Packaged in 9 ounce supersize. Absolutely the most effective and powerful bear defense spray made.

Also available is Ripoffs® ballistic holster. Quick release flap for immediate access.

A. 9 OZ. Bear Defense Spray
B. Ripoffs brand holster by the Reeline company.

DISTRIBUTED BY:

Guard Alaska™
Personal Protection Systems

Corporate Headquarters
McNeil River Enterprises, Inc.
P.O. Box 233002
Anchorage, Alaska 99523

Distribution Center
Midwest U.S.A.

Phone: (907) 349-6868
Toll Free: 888-419-9695
Fax: (907) 349-7818

McNeil River Enter., Inc.
750 W. Dimond, Ste. 203
Anchorage, Alaska 99515
907-349-6868 or
1-888-419-9695
907-349-7818 fax

Manufacturers of Guard Alaska Personal Protection Systems

June 1, 1999

Mr. Dan Peacock (CM-2 H7505C)
Office of Pesticide Programs (Team 14)
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Reference: Guard Alaska® Bear Repellent (EPA Reg. No. 71545-1)
Submission of Product Literature/Brochures

Dear Dan:

In response to our recent conversation, McNeil River is submitting their product literature/ brochures for review. Please call me at 1-888-419-9695 if you have any questions or if I can be of further assistance.

Sincerely,

for Randal Prater
President

350
38

5-572669

January 31, 2000

McNeil River Enterprises, Inc.
P. O. Box 233002
Anchorage, Alaska 99523

Attention: Mr. Randal Prater

Subject: Sale of Human-Deterrent Product in Close Proximity to Bear-Deterrent Product

Thank you for your letter of December 6, 1999, which highlights the problem of displaying unregistered, human-deterrent products in close proximity to promotional material for bear-deterrent products with a similar name ("Pepper Power").

We will be studying this problem and developing potential solutions. In the future we may be contacting registrants of bear deterrents and other interested parties, such as the Interagency Grizzly Bear Committee, to develop a mutually agreeable solution. We know that we can count on your continued input.

Sincerely,

DBP

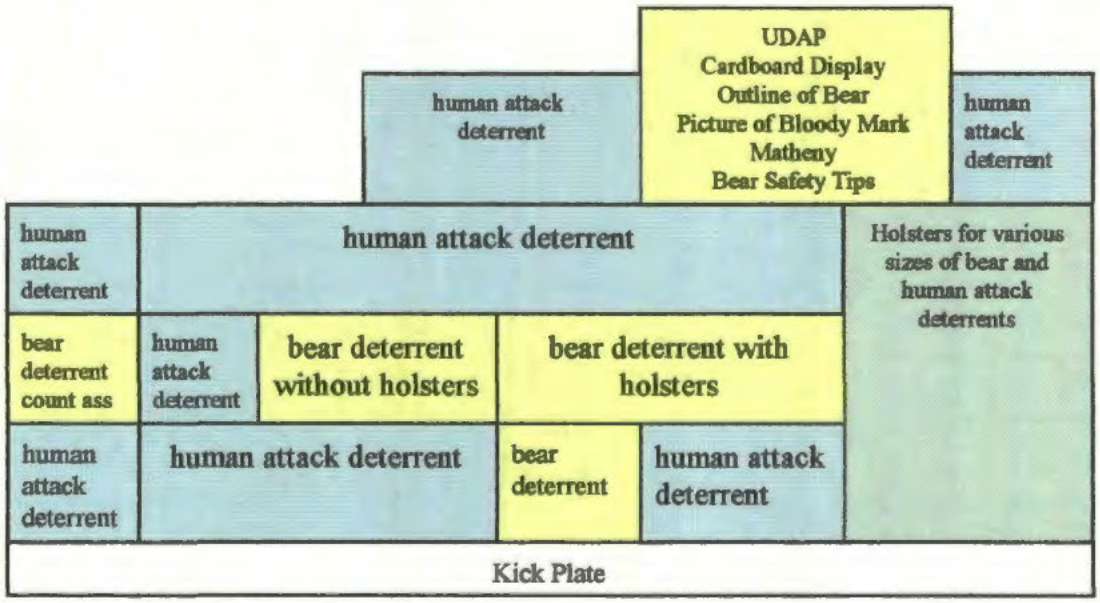
Daniel B. Peacock, Biologist
Insecticide-Rodenticide Branch
Registration Division

A:\Bear & Human Deterrent Problems\Reply to Guard Alaska's 12-6-1999 Letter.wpdJanuary 28, 2000

DIAGRAM OF UDAP DISPLAY

On December 6, 1999, Randal Prater sent us a color photograph showing a store display containing a mixture of human and bear-deterrent sprays, holsters for both products, and a cardboard display with an outline of a bear, a photograph of a bear, and a photograph of a mauled Mark Matheny. While the cardboard display featured the bear deterrent, the first product on 14 of 19 hooks were human-attack deterrents. Mr. Prater felt that such displays, which he claimed to exist nationwide, could confuse the general public to purchase human-deterrents in place of bear-deterrent with tragic results. Mr. Prater also stated that bear biologists, the Interagency Grizzly Bear Committee (IGBC), and the Center for Wildlife Information (CWI) had also complained about such displays

To show how such a display intermixed both bear-deterrent and human-deterrent products, I created the following schematic diagram of the display. The approximate scale is 1 inch of diagram = 1 foot of actual display. I have highlighted bear-deterrent space in yellow, human-deterrent space in blue, and holster space in green. Note: I have not distinguished bear or human-deterrent products sold with and with out holsters.



CONCLUSIONS DRAWN FROM UDAP DISPLAY

My conclusions drawn from this diagram follows:

1. Such a display highlights the bear-deterrent products using the large cardboard display, presumably to attract potential customers.

2. Highlighting the bear-deterrent products in the rural state of Montana suggests that the greatest need for product is for bear-deterrent products, not human-deterrent products. Otherwise, the display would have also featured the human-deterrent use.

3. While the display appears to be aimed at persons seeking bear-deterrents, the numbers of products actually displayed (about 75% human-deterrents and 25% bear-deterrents) suggests that most sales are for human-deterrents. This suggests that many persons attracted to the information highlighting the bear-deterrent product are actually buying the human-deterrent product. This is the contention of Randy Prater, the IGBC and CWI.

4. The distribution of products on the shelves can be described as bear-deterrent product surrounded, usually on 2 or 3 sides, by human-deterrent product.

5. Such a display could easily confuse a potential buyer into buying human-deterrent product for bear-deterrent product.

6. Because human-deterrent products are much cheaper than bear-deterrent products, such a display could entice a person to buy the cheaper, and potentially fatal, product.

7. The EPA needs to find a strategy, which is legal under FIFRA, to inform a person, prior to purchase, that a bear deterrent product needs to be EPA-registered. We need to brainstorm some potential solutions, discuss them and select some simply ones, if possible.

BRAINSTORMING SIMPLY SOLUTIONS TO DISPLAY PROBLEMS	
Simple Solutions for Reaching Consumers	Discussion
1. <u>Enforcement Labeling Review and Sting Operations of Retailers</u>: Have enforcement pick up products at retailers and take action against human-deterrent products because they have bear symbols and other implied bear claims. Conduct sting operation to uncover retailers who encourage sale of human product for bear product.	1. Enforcement resources are low. Bear-deterrent and human-deterrent products could still exist in mixed displays, causing confusion. **However, selective enforcement may be helpful in discouraging retailers from selling human-deterrent products for bear-deterrent products.**
2. <u>Retail Display Changes</u>: Request retailers to sell bear and human products in separate store locations and with separate display information.	2. EPA, under FIFRA, does not have authority over location of store displays. **However, EPA could encourage retailers to take this action by requiring companies to send retailers a notice explaining the problem and asking them to take action voluntarily.**
3. <u>Labeling Changes</u>: Require the following labeling text on all container and header card labels: **Products to Deter Bears must be EPA-Registered! This product has EPA Registration No. [registration number].** The above text must appear on and extend completely across the Front Panel and the Header Card in the same type size as the Signal Word.	3. EPA controls the label. Such a requirement could be justified because of the documented confusing displays. **It would communicate the message to the potential consumer boldly to buy only registered product.** It would indirectly encourage retailers to separate products because the additional text would highlight the different regulatory status of human and bear-deterrent products. It would help consumers to find product. We could try to get voluntary compliance, followed up with mandatory compliance.

4. <u>Direct Communication</u>: We could also put out a press release, press advisory, or background document to get the word out for consumers to use only EPA registered bear deterrents. We could send this to publications and also to places frequented by humans and bears (i.e., National Parks.).	4. This would be cheap and help to educate potential users of bear-deterrents. This method would be another way of reaching the target audience.

IMPLEMENTATION STRATEGY	
1	We could have a conference call of all registrants and try to reach voluntary consensus on the problem and the solutions (labeling and encouragement of retailers to sell human and bear products separately). If the companies agreed, they would all modify their labels by a certain date and agree to switch over to the revised labeling by a certain date. Registrants would also agree to send out regular notices with shipment of product to encourage retailers to sell bear and human-deterrent products separately. The Notice would explain the problem and tell them that the labeling changes are designed to prevent confusion in the purchaser's mind. By selling products separately, the retailer will also be part of the solution to end the confusion.
2	Failing a voluntary solution on labeling, we could send each non-complying company a NOIC that would cancel their products unless they changed their labels.
3	We could also have enforcement do an enforcement sting operation to discourage retailers from recommending human products for bear products.
4	We could also put out a press release, press advisory, or background document to get the word out for consumers to use only EPA registered bear deterrents. We could send this to publications and also to places frequented by humans and bears (i.e., National Parks.).

A:\Bear & Human Deterrent Problems\UDAP Display and Brainstorming.wpdJanuary 28, 2000

IRB BRANCH REVIEW - TSS

Record Number(s)
D261874

IN 12/16/99 OUT 1/24/00

EFFICACY

FILE OR REG. NO. Corr. 292468

PETITION OR EXP. PERMIT NO.

DATE DIV. RECEIVED 10/8/99

DATE OF SUBMISSION 10/6/99

DATE SUBMISSION ACCEPTED 12/16/99

TYPE PRODUCTS(S): I, D, H, F, N, RC S

DATA ACCESSION NO(S) none

PRODUCT MGR. NO. 04

PRODUCT NAME(S) UDAP Pepper Power

COMPANY NAME UDAP (item submitted by McNeill River Enterprises, Inc)

SUBMISSION PURPOSE inquiry by McNeill River into propinquitous dispaly of anti-personnel sprays and material promoting bear deterrence

CHEMICAL & FORMULATION "10% oc oil base" and "13.3%capsaicinoids" product called "human attack deterrent" and possibly a bear deterrent also

Efficacy Review: Inquiry about UDAP'S PEPPER POWER, Corr. D261874
McNeill River Enterprises, Inc.
Anchorage, AK 99523

200.0 INTRODUCTION

200.1 Uses

Various "Capsaicin and related capsaicinoids" aerosol products, one of which might be a distributor version of the BearGuard product Federally registered (71920-1) to Guardian Personal Security Products, Phoenix, AZ, as a bear attack deterrent. (As of 6:50 AM, 1/24/00, only Bear Peppermace, 71920-1-6311, was listed as a distributor product for BearGuard.)

200.2 Background Information

See efficacy reviews and other pertinent information in the registration jackets for 71920-1 and McNeill River's GUARD ALASKA product (71545-1).

Products claimed to protect people from attacks by animals (e.g., bears, dogs) must be registered as pesticides. Products claimed to protect humans from other humans are not considered to be pesticides because humans are not considered to be pests under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

This review discusses a letter of 12/6/99 from Randal Prater of McNeill River. In his letter, Prater expresses concern that UDAP's bear pepper spray is being displayed in retail outlets with personal defense sprays (products used to protect people from other people) and with

> some 180 gram containers being sold without the EPA Reg. Number.

With his one-page letter, Prater has included 3 pages of pictures of UDAP's products and commercial displays.

201.0 DATA SUMMARY

The first of the three pictures shows a display of what appear to be 180-g containers surrounding UDAP's "***WISDOM IS BETTER THAN STRENGTH***" advertisement which, in the copies that I have seen which were large enough for me to read, was all about using pepper spray to keep from being mauled by bears (as UDAP's founder allegedly was before he elected to market a bear pepper spray, which someone else makes).

The second picture is a close-up of a 180-g container of "UDAP pepper power", which is described by its label as a "human attack deterrent". Prater's concern is that, by using such displays, UDAP is bootlegging a bear claim for its anti-personnel product which is not registered for deterring bears. Based on other information that I have seen, the product also lacks a full set of use directions appropriate for bear-deterrent use and holds less product than the 8 oz. which some feel is the minimum necessary to reduce the chance that the user will run out of product before driving an attacking bear away. We have ascribed to that view and have recently rejected the 180-g size for Guardian Personal Security (UDAP's supplier and the basic registrant for BEARGUARD).

The third picture shows a large display which includes the "***WISDOM IS BETTER THAN STRENGTH***" advertisement but seems to offer products in containers of various sizes, some of which appear to be much smaller than 180 g. The first picture may have been the top portion of the same display.

While this situation is deplorable, what we can do about it is questionable. We certainly could get rid of the "***WISDOM IS BETTER THAN STRENGTH***" advertisement if no registered bear repellent was being sold by taking the reasonable positions that the proximity of the ad to the anti-personnel sprays amounted to bootlegging a bear-deterrent claim for them and the sale of unregistered bear deterrents is illegal. We also might be able to get the bear logo off of the cans of "human attack deterrent" products by taking the additional reasonable position that the logo implies a bear-deterrent claim. (The company would probably argue that their logo is theirs to use as they please because it identifies their company, is consistent with the good name that they have established through years of quality service, and so on.) Requiring bear sprays to be displayed in complete isolation of a company's other pepper spray products could raise all sorts of personal liberty and non-FIFRA issues and, therefore, strikes me as being a very tough thing to accomplish.

If UDAP has an accepted distributor version of BearGuard, Guardian Personal Security, as the parent registrant for UDAP's bear spray, would be technically responsible for UDAP's conduct with respect to their version of 71920-1. Accomplishing any of the remedial actions discussed above with UDAP's subregistration, should it exist, would require us to work through Guardian. If UDAP is selling an unregistered bear repellent, we could go at them directly. We probably could do nothing about unregistered products not claimed or implied to be animal deterrents. Such products would not be under the purview of FIFRA. Even if UDAP got rid of the bear logo and the "***WISDOM IS BETTER THAN STRENGTH***" advertisement, we still could not stop sales people from recommending the anti-personnel products for use against bears.

Clearly, if "UDAP pepper power" were not being sold with implied claims for controlling bears, there would be a bigger market share for companies such as McNeill River that are registrants of bear repellents. That would be a good thing if, for one reason or another, the 180-g anti-personnel sprays were ineffective or insufficient for use against bears (as assorted, not necessarily disinterested, bear "experts" have suggested). We took such a position (as a precaution) in our recent dealings with Guardian Personal Security on the 180-g container (see efficacy review of 12/27/99 and EPA's letter of 12/29/99).

We should thank Prater for his input -- a very easy task compared to solving the problem. It occurs to me that Prater might have moved things around in a store to pose an especially damning set of photographs. While that could have happened, I strongly suspect that basic point that he makes is valid.

202.0 CONCLUSIONS

Response to R. Prater

Thank you for your letter of December 6, 1999, which highlights the problem of displaying unregistered aerosol products claimed to be for anti-personnel use in close proximity to promotional material which touts as bear deterrents products with a similar name to the anti-personnel products offered for sale in the same display.

Other Actions

We should establish whether UDAP is a legal distributor for any product that is Federally registered bear deterrent.

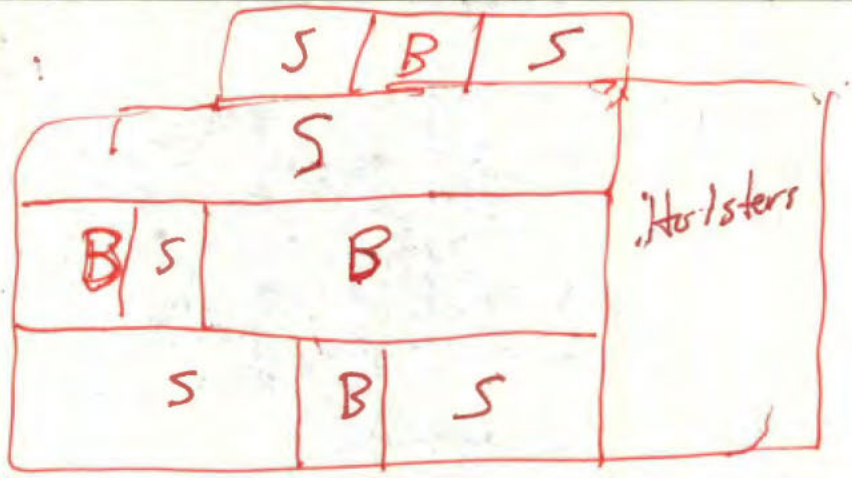
We also should confer with enforcement and regional personnel about this situation, whether or not UDAP has a distributor. Maybe someone had a similar case and knows of a useful precedent or a reason why proceeding in a certain way would be a good or bad idea.

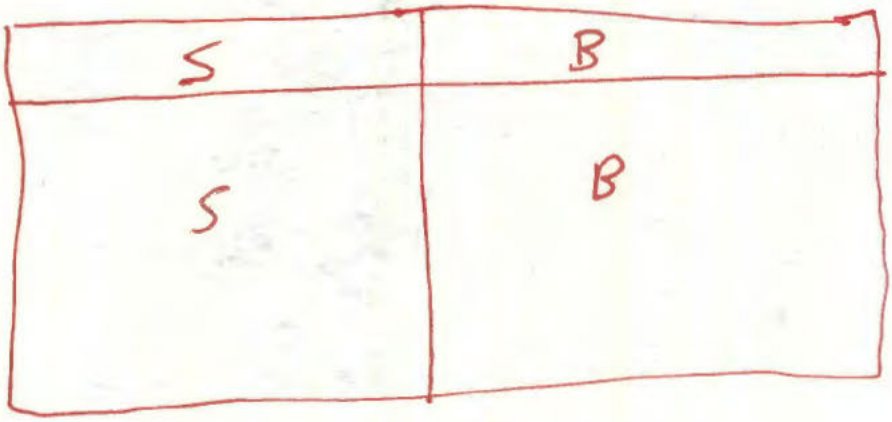
William W. Jacobs
Biologist
Insecticide-Rodenticide Branch
January 24, 2000

Scenic Driving MONTANA
WILD Montana
UDAP
BEAR SAFETY TIPS
www.udap.com
power

reg. product

Pepper Power
Display
Hooks
19
5 Bear
1# Self Def





Problems with UDAP's spray.

1) S. product has picture of bears — implied claim as bear repellents,

If we go after those products, it will be time consuming, & Co could still sell products together without bear.

Encourage Retailers to sell bear repellents separately from self-defense sprays.

Object: ~~sell products~~ insure that consumer knows that all products for ~~only registered~~ ~~products~~ bear control must be registered.

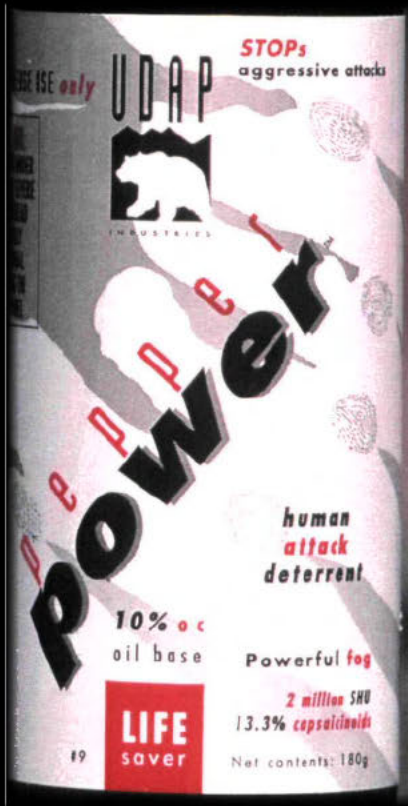
If we want to buy a bear deterrent, we

To deter bear attacks ~~product~~ ~~bear~~ Only buy ~~EPA registered~~ repellents products with an EPA registration number.

Only buy ~~we~~ bear repellents, ~~must be registered~~ EPA registered

Only buy EPA-registered bear deterrents. Look for "EPA Reg. No" on can.

UDAP
WISDOM IS BETTER THAN STRENGTH!
UDAP Industries concerned with your
• SAFETY
• SURVIVAL
• SECURITY
WILD ANIMALS ARE UNPREDICTABLE!
BE PREPARED!
BEAR SAFETY TIPS
www.udap.com
power


STOPs
aggressive attacks
UDAP
INDUSTRIES
pepper
power
human
attack
deterrent
10%
oil base
Powerful fog
2 million SHU
13.3% capsaicinoids
LIFE
saver
#9
Net contents: 180g

DP BARCODE: D261874

CASE: 292468 DATA PACKAGE RECORD DATE: 12/16/99
SUBMISSION: S572669 BEAN SHEET Page 1 of 1

* * * CASE/SUBMISSION INFORMATION * * *

CASE TYPE: MISCELLANEOUS ACTION: 350 GENRL CORRES REGISTRATION
RANKING : 5 POINTS ()
CHEMICALS: 070701 Capsaicin (in oleoresin of capsicum) %

ID#: 292468
COMPANY:
PRODUCT MANAGER: 04 TINA LEVINE 703-308-7055 ROOM: CM2 219
PM TEAM REVIEWER: DANIEL PEACOCK 703-305-5407 ROOM: CM2 221
RECEIVED DATE: 12/08/99 DUE OUT DATE: 03/27/00

* * * DATA PACKAGE INFORMATION * * *

DP BARCODE: 261874 EXPEDITE: N DATE SENT: 12/16/99 DATE RET.: / /
CHEMICAL: 070701 Capsaicin (in oleoresin of capsicum)
DP TYPE: 001
CSF: N LABEL: N

ASSIGNED TO	DATE IN	DATE OUT	
DIV : RD	/ /	/ /	ADMIN DUE DATE: 02/24/00
BRAN: IRB	/ /	/ /	NEGOT DATE: / /
SECT: PM04	/ /	/ /	PROJ DATE: / /
REVR : [illegible]	12/16/99	1/24/00 RL	
CONTR:	/ /	/ /	

* * * DATA REVIEW INSTRUCTIONS * * *

bill,

~~review and comment as you want~~

dan

* * * DATA PACKAGE EVALUATION * * *

No evaluation is written for this data package

* * * ADDITIONAL DATA PACKAGES FOR THIS SUBMISSION * * *

DP BC	BRANCH/SECTION	DATE OUT	DUE BACK	INS	CSF	LABEL

D. Peacock

292468

5-572669

Guard Alaska™
Personal Protection Systems

Corporate Headquarters
McNeil River Enterprises, Inc.
P.O. Box 233002
Anchorage, Alaska 99523

December 6, 1999

US EPA
Dan Peacock

Dear Dan,

Please find enclosed pictures of UDAP's Pepper Power. As you can see there is allot of personal defense sprays being sold with bear spray and some 180 gram cans being sold without the EPA Reg. Number as well.

We are consistently getting reports of these kinds of displays in general retailers nationwide with both registered and unregistered products, Bear Repellents. Also allot of complaints from bear biologist and the Interagency Grizzly Bear Committee and Center For Wildlife Information. This is a Public Safety Concern, should the general public purchase self defense sprays and use them as bear repellents the results could be tragic.

Sincerely,

Randal G. Prater
President/CEO

Pages 220-246 Confidential Statement of Formula may be entitled to confidential treatment*