



REGION 8

DENVER, CO 80202

FILED

Oct 01, 2024

4:53 pm

**U.S. EPA REGION 8
HEARING CLERK**

SENT VIA ELECTRONIC MAIL

DELIVERY RECEIPT REQUESTED

SUBJECT: Requested action to be taken regarding the pesticide products in shipment with entry number SCS-64056934 FIFRA-08-2025-0001

FROM: David Cobb
Supervisor, Toxics Enforcement Section
Enforcement and Compliance Assurance Division

TO: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Portal, North Dakota 3403

By this memorandum, the U.S. Environmental Protection Agency, Region 8, is informing the Bureau of Customs and Border Protection of the U.S. Department of Homeland Security (CBP) that the products in the import shipment described below should be **Denied Entry-Refused Delivery** pursuant to the authority of section 17(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136o(c), and the implementing regulations at 19 C.F.R. section 12.114. The entry was marked “Hold Intact,” “Refused,” and “Re-Export” in the Automated Commercial Environment (ACE) by the EPA on September 25, 2024. The following information pertains to the shipment:

- The importer is Genics Inc, 27717 Acheson Road, Acheson, Alberta, T7X6B1 Canada, EPA Establishment 71653-CAN-1.
- The consignee is A & A Texas Capital LP, 5415 Lawndale Street, Unit 9039, Houston, Texas 77261-1203.
- The broker is UPS, UPSNB.PGATeam@ups.com.
- The bill number is HMBS000001336.
- The three products are:
 - Curap 22-42 lb pail
 - Cobra Rod 4 pail of 500
 - Cobra Wrap SD
- The port of entry is Portal, North Dakota 3403.
- The country of origin, as entered in ACE, is Canada.

Section 2(t) of FIFRA, 7 U.S.C. § 136(t) defines “pest” as “(1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus,

bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 136w(c)(1) of this title.”

Under FIFRA section 2(u) 7 U.S.C. § 136(u), a pesticide is any substance (or mixture of substances) intended for a pesticidal purpose, i.e., use for the purpose of preventing, destroying, repelling, or mitigating any pest or use as a plant regulator, defoliant, or desiccant. 40 C.F.R. § 152.15 states: “A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if... [t]he person who distributes or sells the substance claims, states, or implies (by labelling or otherwise) ... [t]hat the substance... can or should be used as a pesticide.”

Section 2(p) of FIFRA, 7 U.S.C. § 136(p), defines “label” as “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers” and defines “labeling” in part, as “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....”

The shipment that arrived at the border for import is in violation of FIFRA section 12(a)(2)(N), 7 U.S.C. § 136j(a)(2)(N), because a registrant, wholesaler, dealer, retailer, or other distributor failed to correctly file reports required by the Act. As required by 19 C.F.R. § 12.114, a Notice of Arrival of Pesticides and Devices (NOA), EPA form 3540-1, and a copy of one product label must be submitted. Therefore, these pesticide products in the shipment referenced above cannot be allowed entry into the United States.

The EPA hereby notifies CBP that this merchandise should be refused admission pursuant to the authority of FIFRA § 17(c), 7 U.S.C. § 136o(c), and the implementing regulations at 19 C.F.R. § 12.114. The importer should export this merchandise or dispose of the products under supervision of the CBP within ninety calendar days from the date of this memorandum or within such additional time as the District Director of CBP specifies. Failure to do so may result in either the destruction of the merchandise as authorized by FIFRA or in any action necessary to enforce the terms of any bond under which the shipment has been released to the consignee. Alternatively, CBP may elect to seize the products as a prohibited importation pursuant to their authorities as set out at 19 U.S.C. § 1595a(c)(2)(A).

On September 25, 2024, the EPA informed the CBP Cargo Chief in Portal, North Dakota, that it would deny entry of this shipment. Please contact Christine Tokarz, the import enforcement coordinator, by email at tokarz.christine@epa.gov, if you have any questions concerning this matter.