



REGION 8

DENVER, CO 80202

FILED

Aug 04, 2026

11:01 am

U.S. EPA REGION 8
HEARING CLERK

Ref: 8ECA-AT-P

SENT VIA EMAIL
DELIVERY RECEIPT REQUESTED

FIFRA-08-2026-0098

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

To: U.S. Department of Homeland Security
Bureau of Customs and Border
Protection
Pembina, North Dakota 3401

Subject: Requested action to be taken regarding the products in the shipment
described below

By this memorandum, the U.S. Environmental Protection Agency, Region 8, is informing the Bureau of Customs and Border Protection (CBP) of the U.S. Department of Homeland Security that the products in the import shipment described below (Shipment) should be **Denied Entry-Refused Delivery** into the United States 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. EPA inspected this shipment on June 30, 2026, and refused entry.

The following information pertains to the Shipment:

- The importer is Kopper Performance Chemicals, 631 Highway 74 S, Peachtree City, Georgia, 30269.
- The exporter is Northwind Wood Treatment, 601 Service Street, Glaslyn, Saskatoon, S0M 0Y0, Canada.
- The broker is UPS, UPS Pembina upspembina@ups.com, UPSNOB.PGA.Team@ups.com.
- The arrival date was June 30, 2026.
- The shipment number is 0BH253D7L9P.
- The quantity was listed as 5 bottles of Cr, Cu, and Ar liquid samples, weighing 10 pounds.
- The port of entry is Pembina, North Dakota 3401.
- The country of origin, as entered in the Automated Commercial Environment (ACE), is Canada.

Reason for refusal recommendation:

- **unregistered pesticide (7 U.S.C. § 136j(a)(1)(A))**
- **no notice of arrival (NOA) (7 U.S.C. §136j(a)(2)(N))**

The Shipment was in violation of FIFRA section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A), which states that it is unlawful for any person to distribute or sell any pesticide that is not registered under section 3 of FIFRA, 7 U.S.C. § 136a. The Shipment also failed to include an accurate notice of arrival, required by 19 C.F.R. § 12.112, in violation of FIFRA section 12(a)(2)(N), 7 U.S.C. §136j(a)(2)(N).

Law and Regulation

FIFRA section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A), states that it is unlawful for any person to distribute or sell any pesticide that is not registered under section 3 of FIFRA, 7 U.S.C. § 136a.

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.

Under section 2(t) of FIFRA, 7 U.S.C. § 136(t), a pest is any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except those on or in living man or other living animals).

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....”

FIFRA section 12(a)(2)(N), 7 U.S.C. § 136j(a)(2)(N), provides that it is unlawful for a registrant, wholesaler, dealer, retailer, or other distributor to fail to file accurate reports required by the Act. As required by 19 C.F.R. § 12.112, a Notice of Arrival of Pesticides and Devices (NOA), EPA form 3540-1, and a copy of one product label must be submitted.

Facts and Violation

There were five bottles in the Shipment, collectively “Sample Bottles”.

Each of the Samples Bottles’ labels included the following language:

- “CuO”
- “CrO3”

- “As₂O₅”

CuO is Copper(II) oxide (or cupric oxide), an active ingredient listed as an EPA registered pesticide, https://ordspub.epa.gov/ords/pesticides/f?p=113:6:::P6_XCHEMICAL_ID:1947.

CrO₃ is Chromic Acid, an active ingredient listed as an EPA registered pesticide, https://ordspub.epa.gov/ords/pesticides/f?p=113:6:::P6_XCHEMICAL_ID:1831.

As₂O₅ is Arsenic pentoxide, an active ingredient listed as an EPA registered pesticide, https://ordspub.epa.gov/ords/pesticides/f?p=113:6:::P6_XCHEMICAL_ID:1251.

The paperwork that accompanied the shipment included the following statements:

- “Wood Preservative”

Based on the facts above, the Sample Bottles have pesticidal intent and therefore are pesticides. The Sample Bottles are not registered with the EPA. This Shipment is therefore in violation of FIFRA section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A), which states that it is unlawful for any person to distribute or sell any pesticide that is not registered under section 3 of FIFRA, 7 U.S.C. § 136a.

The Shipment was also 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 file accurate reports required by the Act. As required by 19 C.F.R. § 12.112, a Notice of Arrival of Pesticides and Devices (NOA), EPA form 3540-1, and a copy of one product label must be submitted.

Summary

The EPA recommends that this Shipment 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. If the importer does not export or dispose of this merchandise, 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).

Please contact Christine Tokarz, EPA Region 8 Import Enforcement Coordinator, by email at tokarz.christine@epa.gov, if you have any questions concerning this matter.