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U.S. EPA REGION 8
HEARING CLERK

SENT VIA EMAIL
DELIVERY RECEIPT REQUESTED

SUBJECT: Requested action to be taken regarding the MBI-306 EP products in shipment with entry number 420-40286082 FIFRA-08-2025-0063

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

For David Cobb

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 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. §12.114. The shipment was inspected by CBP Officeris in Portal, North Dakota on August 6th, 2025.

The following information pertains to the shipment:

- The importer is Pro Farm Group Inc., 1530 Drew Avenue, David, California 95618. Point of contact,
- KGRIFFIN@PROFARMGROUP.COM.
- The broker is M.E.Dey & Co. Inc., BraynC@medey.com.
- The arrival date was August 6th, 2025.
- The bill number is DTIH3070013561.
- The quantity is 33,180 pounds gallons of MBI-306 EP.
- The port of entry is Portal, North Dakota 3401.

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 labeling 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....”

Under FIFRA section 2(q), 7 U.S.C. § 136(q), a pesticide is misbranded and subject to enforcement action if, among other reasons:

- the labeling bears any statements, designs, or graphic representations that are false or misleading (see also 40 CFR 156.10(a)(5));
- its packaging or wrapping does not conform to standards established pursuant to FIFRA section 25(c)(3);
- it is an imitation of, or is offered for sale under the name of another device;
- the label fails to bear the establishment number of the establishment where it was produced;
- any required information is not prominently displayed on the label;
- it lacks adequate directions for use;
- it lacks an adequate warning or caution statement; or
- the net weight or measure of the content, except that the Administrator may permit reasonable variations.

The pesticide MBI-306 EP is an EPA registered pesticide, https://ordspub.epa.gov/ords/pesticides/f?p=PPLS:8:6364144603213::NO::P8_PUID,P8_RINUM:536613,84059-34, and thus subject to FIFRA’s requirements and regulations.

The August 6th, 2025, the CBP Officers discovered the following below.

The label of the MBI-306 EP included the following language:

- “EPA Re. No.: 84059-GU”
- “EPA Reg. No. 84059-34”
- “Net Contents: XX”
- “EPA Est. No.: “XXXXXX-XX-XXX”

The label of the MBI-306 EP did not have complete “Directions for Use,” specifically it was missing the following sections:

- “Integrated Pest Management”
- “Use Instructions”
- “Use Directions”
- “Seed Treatment Application”
- “Rotational Crop Restrictions”
- “Important Note: Crop and Plant Tolerance”
- “Storage and Disposal”

The MBI-306 EP, EPA Registration Number 84059-34, in the shipment referenced above is misbranded pursuant to FIFRA section 2(q), 7 U.S.C. § 136(q) and 40 CFR 156.10(a)(5) because the labeling bears any statements, designs, or graphic representations that are false or misleading (see also 40 CFR 156.10(a)(5)) because two EPA registration Number are falsely listed]. The MBI-306 EP is also misbranded because the labeling fails to bear the establishment number of the establishment where it was produced and the label lacks adequate directions for use.

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 August 6, 2025, the EPA informed the CBP Cargo Supervisor 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.