



REGION 8
DENVER, CO 80202

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

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DELIVERY RECEIPT REQUESTED

SUBJECT: Requested action to be taken regarding the pesticide products in shipment with entry number SCS-98616494 FIFRA-08-2024-0050

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
Sweetgrass, Montana 3310

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. On June 12, 2024, a Customs and Border Protection Officer inspected the shipment at the Sweetgrass, Montana Port of Entry. EPA reviewed the information and accompanying photos to make this compliance determination.

The following information pertains to the shipment:

- The importer is Genics Inc, 27717 Acheson Road, Acheson, Alberta, T7X6B1 Canada.
- The consignee is PacificCorp, PO Box 3040, Portland, Oregon 97206-3040.
- The broker is UPS, UPSNB.PGATeam@ups.com.
- The trip number: GFTJ5068
- The SCN: GTFJ002410.
- The quantities are:
 - Cobra Wrap SD, EPA Reg Number, 71653-1, weighing 6.5 pounds.
 - Cobra Rod, EPA Reg Number, 71653-2, none was found.
 - Genics Cub 2-20, EPA Reg Number, 71653-10, weighing 3,750 pounds
- The port of entry is Sweetgrass, Montana 3310.
- 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.”

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....”

Cobra Wrap SD, EPA Reg Number, 71653-1:

MISBRANDED- The shipment that arrived at the border for import was in violation of FIFRA section 12(a)(1)(e), 7 U.S.C. § 136j(a)(1)(e), in that the label, or labeling accompanying it, did not contain directions for use necessary to make the product effective and to adequately protect health and the environment. The following language was not present on the pesticide that was intended for import, “Cobra Wrap SD”.

Cobra Rod, EPA Reg Number, 71653-2:

The invoices and the ACE data set listed this product as part of the shipment, however upon inspection none of this product was found.

The shipment that arrived at the border for import is 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 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. The ACE Data set included a pesticide that was not found with the shipment, Cobra Rod, EPA Reg Number, 71653-2 and the entry data did not include product labels.

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 June 9, 2024, the EPA informed the CBP Cargo Chief in Sweetgrass, Montana, that it would deny entry of this shipment.

Please contact Christine Tokarz, the import enforcement coordinator, by phone at (303) 312-6147, or by email at tokarz.christine@epa.gov, if you have any questions concerning this matter.