



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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DELIVERY RECEIPT REQUESTED

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
Port of Pembina, North Dakota 3401

Subject: Requested action to be taken regarding the products in shipment with entry number SCS-98603682 FIFRA-08-2024-0039

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 May 19, 2024, a Customs and Border Protection Officer inspected the shipment at the Pembina, North Dakota 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 A &A Texas Capital LP, 5415 Lawndale Street Unit, Houston, Texas 77261-1203.
- The broker is UPS, UPSNB.PGATeam@ups.com.
- The arrival date was May 16, 2024.
- The bill number is HSPM020095.
- The quantities are:
 - Cobra Wrap SD, EPA Reg Number, 71653-1, weighing 214 pounds.
 - Cobra Rods, EPA Reg Number, 71653-2, 2,678 pounds.
 - Genics Cub -EPA Reg Number, 71653-6, 1,803 pounds.
 - Genics Cub 20 EPA Reg Number 71653-9, 6,048 pounds.
- The port of entry is Pembina, North Dakota 3401.
- 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), because a registrant, wholesaler, dealer, retailer, or other distributor sold or distributed a pesticide which is misbranded in that the labeling has a statement, design, or graphic representation that is false or misleading. The following language was not present on the pesticide that was intended for import, “Cobra Wrap SD”.

Cobra Rods, EPA Reg Number, 71653-2:

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), because a registrant, wholesaler, dealer, retailer, or other distributor sold or distributed a pesticide which is misbranded in that the labeling has a statement, design, or graphic representation that is false or misleading. The following language was not present on the pesticide that was intended for import, “... depending upon requirements for treatment. The loading should not be less than 2.0 oz. of Boric Acid per cubic foot of wood.”

Genics Cub -EPA Reg Number, 71653-6:

NO PGA DATA: 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. section 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.

Genics Cub 20 EPA Reg Number 71653-9:

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), because a registrant, wholesaler, dealer, retailer, or other distributor sold or distributed a pesticide which is misbranded in that the labeling has a statement, design, or graphic representation that is false or misleading. The label for the product that attempted import did not have the following required language, “and waterproof gloves”.

NO PGA DATA- 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. section 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.

For all four pesticides:

FAILURE TO FILE REPORTS - The pesticide producer establishment where these products were produced, 71653-CAN-01, has not submitted their 2023 Annual Pesticide Production Report, therefore it is in violation of 12(a)(2)(B)(i), an establishment refused to PREPARE, MAINTAIN, or SUBMIT any RECORDS required under sections 5, 7,ii 8, 11, or 19.

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 May 17, 2024, the EPA informed the CBP Cargo Chief in Pembina, North Dakota, 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.