



**REGION 8**

DENVER, CO 80202

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**Jun 17, 2025**

**1:18 pm**

**U.S. EPA REGION 8  
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**SENT VIA EMAIL**  
**DELIVERY RECEIPT REQUESTED**

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

DAVID  
COBB

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by DAVID COBB  
Date: 2025.06.16  
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To: U.S. Department of Homeland Security  
Bureau of Customs and Border Protection  
Raymond, Montana 3301

Subject: Requested action to be taken regarding the Delaro Fungicide in the shipment with entry number 300-75090201 FIFRA-08-2025-0047

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 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. section 12.114. The shipment was marked "Hold Intact," "Refused," and "Re-Export" in the Automated Commercial Environment (ACE) by the EPA on June 11, 2025.

The following information pertains to the shipment:

- The importer and consignee is Nutrien Ag Solutions, 1101 Midvale Road, Sunnyside, Washington 98944-9702, EPA Establishment Number 51896-WA-25. Points of contact, [ppr@asmark.org](mailto:ppr@asmark.org), [robert.avalos@nutrien.com](mailto:robert.avalos@nutrien.com).
- The broker is International, Hoffman, Heather [hhoffman@livingston.com](mailto:hhoffman@livingston.com).
- The entry file date was June 4, 2025.
- The bill number is ODFL24400589636.
- The products are:
  - Delaro Fungicide, 288 bottles, 7.1 liters per bottle.
  - Discover NG/Horizon NG Herbicide, 15 totes, 121.1 liters per tote.
- The port of entry is Raymond, Montana 3301.
- The country of origin, as entered in ACE, is United States.

The shipment that arrived at the border for import 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.

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(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....”

Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1), provides that, “a pesticide is misbranded if –

- (A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
- (B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 136w(c)(3) of this title;
- (C) it is an imitation of, or is offered for sale under the name of, another pesticide;
- (D) its label does not bear the registration number assigned under section 7 to each establishment in which it was produced;
- (E) any word, statement, or other information required by or under the authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared to other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (F) the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 3(d) of this Act, are adequate to protect health and the environment; [or]
- (G) the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment[.]”

The Delaro Fungicide, that attempted import had the following label language:

- “Fungicide”
- “Registration Number: 31533 Pest Control Products Act”
- “Caution- Eye Irritant”

“Registration Number: 31533 Pest Control Products Act” is not a valid registration number pursuant to FIFRA section 3. Therefore, the Delaro Fungicide in the shipment referenced above is unregistered. Accordingly, importation of the Delaro Fungicide in the shipment referenced above is a 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 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 FIFRA. 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, the shipment that arrived at the border was also in violation of FIFRA section 12(a)(2)(N), 7 U.S.C. § 136j(a)(2)(N).

The EPA hereby notifies CBP that the shipment referenced above 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 11, 2025, the EPA informed the CBP Cargo Supervisor in Raymond, Montana, that it would deny entry of this shipment.

Please contact Christine Tokarz, the import enforcement coordinator by email at [tokarz.christine@epa.gov](mailto:tokarz.christine@epa.gov), if you have any questions concerning this matter.