



REGION 8
DENVER, CO 80202

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

SENT VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

SUBJECT: Requested action to be taken regarding the Varro and Varro FX products in shipment with entry number 916-51663618 FIFRA-08-2024-0047

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
Pembina, North Dakota 3401

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. § 12.114. The entry was marked “Hold Intact,” “Refused,” and “Re-Export” in ACE by the EPA on June 9, 2024.

The following information pertains to the shipment:

- The importer and consignee is Corteva Agriscience LLC, Zionsville Road, Indianapolis, Indiana 46268-1053.
- The manufacturer is Corteva Agriscience, 12432 52 Avenue, Edmonton, T6H0P4 Canada.
- The entry file date was June 7, 2024.
- The bill number is FXFC6176690365.
- The quantities are Varro 110 pounds and Varro FX 110 pounds.
- The port of entry is Pembina, North Dakota, 3401.
- The country of origin as entered in ACE is Alberta, Canada.

Section 12(a)(1)(F) of FIFRA, 7 U.S.C. 136j(a)(1)(F), provides that it shall be unlawful for any person in any State to distribute or sell to any person any device which is misbranded.

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....”

The Varro product that arrived at the border for import had the following label language:

- Herbicide
- Not registered for use in the United State of America.
- For Research and Development Purposes Only.

The Varro FX product that arrived at the border for import had the following language:

- Active Ingredient, Fluroxypyr-meptyl....15.6%, Thiencarbazon-methyl.....0.46%
- Not registered for use in the United State of America.
- For Research and Development Purposes Only.

These statements demonstrate that these products are pesticides.

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. Therefore, none of the products referenced above can 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 Customs and Border Patrol unit chief in Pembina, North Dakota was informed by the EPA 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.