



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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SENT BY ELECTRONIC MAIL
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 Sweetgrass, Montana 3310

Subject: Requested action to be taken regarding the products in shipment with entry number SCS-98603567 FIFRA-08-2024-0032

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 Cobra Wrap Pesticide 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 March 23, 2024, the EPA inspected the shipment at the Sweetgrass, Montana Port of Entry.

The following information pertains to the shipment of the Cobra Rods:

- The importer is Genics Inc, 27717 Acheson Road, Acheson, Alberta, T7X6B1 Canada.
- The consignee is PacifiCorp, Klamath Falls, 1950 Mallard Lane, Klamath Falls, Oregon, 97601.
- The broker is UPS.
- The arrival date was April 23, 2024.
- The quantity is 20 pails, weighing 600 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....”

The label for Cobra Rod Pesticides that attempted import has the following language:

- “EPA Reg. No. 71653-2”
- “Directions for Use:...The rate of application for Cobra Rods is dependent upon the volume of wood to be treated. The recommended load is up to 6 oz. Boric Acid per cubic foot of wood. Cobra Rods contain 1.39 times equivalent Boric Acid (BAE).”

Cobra Rod Pesticide is a registered pesticide,

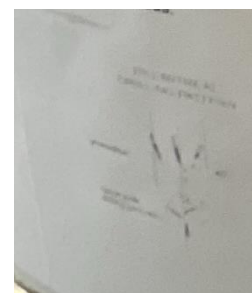
https://ordspub.epa.gov/ords/pesticides/f?p=PPLS:8:7311819155028::NO::P8_PUID,P8_RINUM:36563.71653-2.

The EPA registered label for the Cobra Rod Pesticide has the following language:

- “EPA Reg. No. 71653-2”
- “Directions for Use:... The rate of application for Cobra™ Rods is dependent upon the volume of wood to be treated. The recommended load is up to 6 oz. Boric Acid per cubic foot of wood *depending upon requirements for treatment. The loading should not be less. than 2.0 oz. of Boric Acid per cubic foot of wood.* Cobra™ Rods contain 1.39 times equivalent Boric Acid (BAE).”

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 fooling 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.”

Furthermore, inspection photo indicate that the graphics required by the Section 3 registered labeling were not legible on the pesticide labels of the product that was attempting import. See image to right.



Therefore, the Cobra Rod Pesticides 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 April 23, 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.