



REGION 8
DENVER, CO 80202

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U.S. EPA REGION 8
HEARING CLERK

SENT VIA EMAIL
DELIVERY RECEIPT REQUESTED

SUBJECT: Requested action to be taken regarding the Cobra™ Rod products in shipment with entry number SCS-98625925 FIFRA-08-2025-0038

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

DAVID
COBB
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by DAVID COBB
Date:
2025.05.14
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TO: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Portal, North Dakota 3403

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 12-13, 2025, EPA inspected the shipment at the Portal, North Dakota Port of Entry.

The following information pertains to the shipment:

- The importer is Genics Inc, 27717 Acheson Road, Acheson, Alberta, T7X6B1 Canada, EPA Establishment Number 71653CAN001.
- The consignee is A &A Texas Capital LP, 5415 Lawndale Street, Unit 9039, Houston, Texas 77261-1203
- The broker is UPS Supply Chain Solutions, UPSNB.PGATeam@ups.com, jtramonto@ups.com.
- The arrival date was May 11, 2025.
- The bill number is HMBS000001841.
- The quantities are:
 - 31 boxes of Cobra™Rod products EPA Reg. No. 71653-2, weighing 73 pounds.
 - 96 buckets of CuRap, EPA Reg. No. 71653-12, weighing 39,312 pounds.
- The port of entry is Portal, North Dakota 3403.
- 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....”

Under FIFRA section 2(u), 7 U.S.C. § 136u, 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.

Cobra™ Rod, EPA Reg. No. 71653-2, is a registered pesticide and is therefore a pesticide pursuant to FIFRA section 2(u), 7 U.S.C. § 136u.

The labeling of the Cobra™ Rod, EPA Reg. No. 71653-2, that arrived at the border included the following language:

- “Cobra™ Rod Prevents Rot!”
- “Normally vertically installed posts and piles are treated in the ground line area. This is the area with the greatest decay potential; moisture and oxygen.”
- “To treat wood in this type of situation a minimum of one treatment hole should be drilled at or just below the ground line.”
- “A second treatment hole six to eight inches below this, in a different “side” of the post is also very beneficial”
- “Horizontal beams extending beyond the eaves are exposed to the elements can easily rot away.”
- “Cobra™ Rods are ideal for these situations and should be installed before decay gets in.”
- “Where significant decay has already occurred and repairs are being made, Cobra™ Rods should be installed in the remaining solid wood to prevent further decay.”

None of these statements appear on the EPA Registered Section 3 label,

https://ordspub.epa.gov/ords/pesticides/f?p=PPLS:8:11575434087616::NO::P8_PUID,P8_RINUM:36563,71653-2.

The labeling for the Cobra™ Rod, EPA Reg. No. 71653-2, that arrived at the border was also missing language in its listed active ingredients. The following is found on the EPA Registered Section 3 label but not on the label of the product in the shipment referenced above:

- “CAS 20427-59-2”
- “As Copper Metal....1.89%”.

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 the product had a statement, design, or graphic representation that is false or misleading. Therefore, these pesticide products in the shipment referenced above should not be allowed entry into the United States.

The EPA hereby notifies CBP that the Cobra™ Rod 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 13, 2025, the EPA informed the CBP Cargo Supervisor in Portal, North Dakota, that it would deny entry of this shipment. Please contact Christine Tokarz, the import enforcement coordinator by email at tokarz.christine@epa.gov, if you have any questions concerning this matter.