



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 551-56562461 FIFRA-08-2023-0066

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 ProMix BRK Biofungicide Mycorrhizae 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, 7 U.S.C. § 136o(c), and the implementing regulations at 19 C.F.R. section 12.114. The entry was marked “Hold Intact,” “Refused,” and “Re-Export” in ACE by the EPA on September 19, 2023.

The following information pertains to the shipment of the ProMix BRK Biofungicide Mycorrhizae:

- The importer is Premier Horticulture Limited, 1 Avenue Premier, Riviere Du Loup Quebec, G5R6C1 Canada.
- The consignee is Premier Tech Growers and Consumables, 200 Kelly Road, Unit E-1, Quakertown, Pennsylvania 18951-4223.
- The broker is A.N. Deringer, Inc., Carolos Valadez cvaladez@anderinger.com.
- The bill number is FOTD23755216SI.
- The entry number is 551-56562461.
- The arrival date was September 18, 2023.
- The quantity is 7,560 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....”

Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1), provides that, a pesticide is misbranded if, among other reasons:

- (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; or
- (D) its label does not bear the registration number assigned under section 7 to each establishment in which it was produced.

The following pertains to the ProMix BRK Biofungicide Mycorrhizae that arrived for import:

- For EPA Establishment Number, the product label states “74267-CAN-001/002/003/004”, without delineating which of those options is the actual establishment number.
- The EPA Establishment Number in ACE is listed as 74267-CAN-002.
- The EPA Establishment Number confirmed by the broker on September 19, 2023, is 74267-CAN-004.

The ProMix BRK Biofungicide Mycorrhizae is misbranded pursuant to 7 U.S.C. § 136(q)(1) because it does not bear the registration number assigned under section 7 indicating the establishment in which it was produced.

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 file reports required by the Act. As required by 19 C.F.R. section 12.114, a Notice of Arrival of Pesticides and Devices, EPA form 3540-1, and a copy of one product label must be submitted. In ACE the Document Imaging System (DIS) had a label uploaded for the product, “Promix HP”, which is not the product that arrived for importation at the Pembina, North Dakota Port of Entry. Additionally, the EPA Establishment Number listed in ACE contradicted Establishment Number in ACE listed elsewhere. Therefore, the information in ACE was false.

Therefore, the ProMix BRK Biofungicide Mycorrhizae in the shipment referenced above cannot be allowed entry into the United States.

The Agency hereby notifies U.S. Customs and Border Protection that this merchandise has been refused admission and recommends that this merchandise be re-exported or destroyed within 90 calendar days from the date of this Notice.

On September 19, 2023, 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.