



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

FILED

2/29/2024

8:12 AM

U.S. EPA REGION 8
HEARING CLERK

Ref: 8ENF-AT-P

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-28319295 FIFRA-08-2024-0016

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 February 13, 2024, the EPA marked the entry “Hold Intact,” “Refused,” and “Re-Export” in ACE.

The following information pertains to the shipment of the Cobra Wrap Pesticide:

- The importer is GENICS INC, 27717 Acheson Road, Acheson, Alberta, T7X6B1 Canada.
- The consignee is Pacific Gas and Electric Company, 300 Lakeside Drive, Oakland, California, 94612-3534.
- The broker is UPS, point of contact, jlapan@ups.com.
- The bill number is FXFC9170030155.
- The arrival date was February 8, 2024.
- The quantity is 17 boxes, weighing 43 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 Wrap Pesticide that attempted import has the following language:

- “EPA Reg. No. 71653-1”
- “EPA EST. NO. 71653-CAN-001”
- “COBRA WRAP- WOOD PRESERVATIVE COMMERCIAL WOOD EXTERIOR SURFACE WRAP FOR ABOVE OR BELOW GROUND TREATMENT FOR POLES, POSTS AND PILINGS CONTAINS INGREDIENTS LISTED BELOW SATURATED IN SYNTHETIC ABSORBENT CLOTH ENSAPSULATED IN CHEMICAL AND VAPOUR RESISTANT CONTAINERS WITH AN ADDITIONAL CHEMICAL RESISTANT VAPOUR BARRIER EXTERIOR”

Cobra Wrap Pesticide is a registered pesticide,

https://ordspub.epa.gov/ords/pesticides/f?p=PPLS:8:11524895397326::NO::P8_PUID,P8_RINUM:36360,71653-1.

The shipment that arrived at the border for import 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 FIFRA’s. Specifically, pursuant to 19 C.F.R. §12.114, a Notice of Arrival of Pesticides and Devices, EPA form 3540-1, and a copy of one product label must be submitted with the shipment.

Therefore, the Cobra Wrap Pesticide 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 February 13, 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.