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DENVER, CO 80202

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DELIVERY RECEIPT REQUESTED

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

DAVID  
COBB

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by DAVID COBB  
Date: 2025.04.22  
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To: U.S. Department of Homeland Security  
Bureau of Customs and Border Protection  
Pembina, North Dakota 3401

Subject: Requested action to be taken regarding the MCPA Ester 600 EC and  
Herbicide - Fluroxypyr 90 + 2, 4-D Ester 360 EC, Rush 24 All-In FIFRA-08-2025-0037

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 product in the 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. § 12.114. The shipment was inspected by EPA Officers at the Pembina, North Dakota Port of Entry on April 19, 2025, and was determined to be out of compliance.

The following information pertains to the shipment of the MCPA Ester 600 EC and Herbicide - Fluroxypyr 90 + 2, 4-D Ester 360 EC, Rush 24 All-In:

- The consignee is Syngenta Crop Protection, LLC, 410 Swing Road, Greensboro, North Carolina 27409.
- The foreign exporter was Adama Canada, 300-191 Lombard Avenue, Winnipeg, Manitoba, R3B 0X1, Canada.
- The Brokers was Fed Ex.
- The file date was April 19, 2023.
- The Waybill number was 8804 3958 8664.
- The quantity is 1 Liter of MCPA Ester 600 EC and 1 Liter of Herbicide - Fluroxypyr 90 + 2, 4-D Ester 360 EC, Rush 24 All-In 1-Liter bottles, weighing a combined total of 4.4 pounds.
- The port of entry is Pembina, North Dakota 3401.
- The country of origin is Canada.

The shipment that arrived at the border for import was in violation of FIFRA section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A), which states that it is unlawful for any person to distribute or sell any pesticide that is not registered under section 3 of FIFRA, 7 U.S.C. § 136a.

Under FIFRA section 2(u), 7 U.S.C. § 136(u), 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. Additionally, 40 C.F.R. § 152.15 states: “A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if... [t]he person who distributes or sells the substance claims, states, or implies (by labelling or otherwise) ... [t]hat the substance... can or should be used as a pesticide.”

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 active ingredient in the product, MCPA Ester 600 EC, is a registered pesticide in the United States. The U.S. Environmental Protection Agency has registered the product under the Federal Insecticide, Fungicide, and Rodenticide Act, [https://www3.epa.gov/pesticides/chem\\_search/ppls/035935-00020-20080617.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/035935-00020-20080617.pdf).

MCPA Ester 600 EC is thus a pesticide subject to FIFRA regulation. The active ingredients in the product, Herbicide - Fluroxypyr 90 + 2, 4-D Ester 360 EC, Rush 24 All-In are registered pesticides in the United States. The U.S. Environmental Protection Agency has registered the product under the Federal Insecticide, Fungicide, and Rodenticide Act, [https://www3.epa.gov/pesticides/chem\\_search/ppls/093930-00034-20201006.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/093930-00034-20201006.pdf).

Herbicide - Fluroxypyr 90 + 2, 4-D Ester 360 EC, Rush 24 All-In is thus a pesticide subject to FIFRA regulation. The MCPA Ester 600 EC and Herbicide - Fluroxypyr 90 + 2, 4-D Ester 360 EC, Rush 24 All-In that were presented for import were not labeled with the EPA Registered, FIFRA Section 3 labels that are required for registered pesticides. Therefore, the MCPA Ester 600 EC and Herbicide - Fluroxypyr 90 + 2, 4-D Ester 360 EC, Rush 24 All-In presented for import are not registered pursuant to section 3 of FIFRA, 7 U.S.C. § 136a. Accordingly, importing the MCPA Ester 600 EC and Herbicide - Fluroxypyr 90 + 2, 4-D Ester 360 EC, Rush 24 All-In in the shipment

referenced above is a violation of FIFRA section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A), as a distribution or sale of an unregistered pesticide.

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, the shipment that arrived at the border was also in violation of FIFRA section 12(a)(2)(N), 7 U.S.C. § 136j(a)(2)(N).

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 19, 2025, the EPA informed the CBP Cargo Chief in Pembina, 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](mailto:tokarz.christine@epa.gov), if you have any questions concerning this matter.