



REGION 8

DENVER, CO 80202

FILED

May 21, 2025

9:22 am

**U.S. EPA REGION 8
HEARING CLERK**

SENT VIA EMAIL

DELIVERY RECEIPT REQUESTED

FIFRA-08-2025-0041

SUBJECT: Requested action to be taken regarding the Thermacell Tick Control Pesticide

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

**DAVID
COBB**

Digitally signed by
DAVID COBB
Date: 2025.05.13
10:04:36 -06'00'

TO: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Sweetgrass, Montana 3310

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 shipment described below should be **Denied Entry-Refused Delivery** 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. section 12.114. On April 22, 2025, EPA inspected this shipment and found the following:

- The product is Thermacell Tick Control Tubes.
- The shipper is Cathy Oranchuk, 102 Central Avenue, Sweetgrass, Montana 59484.
- The importer Lanette Duggan, 195 Sea Street, Dennis Port, Massachusetts 02639.
- The entry date was April 22, 2025.

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. § 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. 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 label of the Thermacell Tick Control Tubes includes the following claims:

- “Kills Ticks that carry lyme disease.”
- “Active Ingredient...permethrin”.
- “Tubes contain cotton that is treated with insecticide.”
- “Dead ticks” with illustrations of dead ticks

These claims demonstrate a pesticidal intent pursuant to the definitions above. Therefore, Thermacell Tick Control Tubes is a pesticide subject to FIFRA regulation.

Thermacell Tick Control Tubes is not registered pursuant to section 3 of FIFRA, 7 U.S.C. § 136a. Therefore, Thermacell Tick Control Tubes is an unregistered pesticide. Importing Thermacell Tick Control Tubes 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 file reports required by FIFRA. 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. Neither a Notice of Arrival nor an image of the label was submitted either electronically or via the CBP authorized electronic data interchange system. Therefore, it 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 22, 2025, 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 email at tokarz.christine@epa.gov, if you have any questions concerning this matter.