



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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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 Portal, North Dakota 3403

Subject: Requested action to be taken regarding the products in shipment of Cobra Wrap described below FIFRA-08-2024-0042

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 May 16, 2024, a Sweetgrass Montana Customs and Border Protection Officer inspected the shipment at the Portal, North Dakota Port of Entry. EPA reviewed the information and accompanying photos to make this compliance determination.

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

- The importer is Genics Inc, 27717 Acheson Road, Acheson, Alberta, T7X6B1 Canada.
- The consignee is Fire Barner Technologies LLC, 1179 Stewart Road, Monroe, Georgia, 30655-5733
- The broker is UPS, UPSNB.PGATeam@ups.com.
- The arrival date was May 16, 2024.
- The entry number is SCS-98616320.
- The bill number is ENIC0007229.
- The quantity is 40 boxes.
- 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....”

The label for Cobra Wrap that attempted import has only one sided labeled and that label has the following language:

- “Cobra Wrap SD”
- “EPA Reg. No. 71653-1”
- “Cobra Wrap containing copper naphthenate is intended for use only on poles, posts and pilings as a wood preservative treatment. Cobra Wrap containing copper naphthenate provides protection against moisture fungal rot and termite damage.”

Cobra Wrap Pesticide is a registered pesticide,

https://ordspub.epa.gov/ords/pesticides/f?p=PPLS:8:8538105400306::NO::P8_PUID,P8_RINUM:36360,71653-1.

When Cobra Rod, EPA Registration Number 71653-1 is sold or distributed with the alternative brand name Cobra Wrap SD, EPA Registration Number 71653-1, the following language is required on the label:

- “*Cobra Wrap SD* containing copper naphthenate is intended for use only on poles, posts and pilings as a wood preservative treatment. *Cobra Wrap SD* containing copper naphthenate provides protection against moisture fungal rot and termite damage.”
- “Preparation and Application:...When using *Cobra Wrap SD* as a groundline treatment excavate around wood to allow top of wrap to extend...”
- “Cut off sufficient length of *Cobra Wrap SD*...”
- “Wrap proper length *Cobra Wrap SD*...”

The label of the pesticide that attempted import did not have any of the above statements.

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), because a registrant, wholesaler, dealer, retailer, or other distributor sold or distributed a pesticide which is misbranded in that the labeling has a statement, design, or graphic representation that is false or misleading.

Therefore, the Cobra Wrap SD Pesticides 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 May 16, 2024, the EPA informed the CBP Cargo Chief in Portal, North Dakota, 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.