



REGION 8
DENVER, CO 80202

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U.S. EPA REGION 8
HEARING CLERK

FIFRA-08-2026-0019

SENT VIA EMAIL
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
Sweetgrass, Montana 3310

Subject: Requested action to be taken regarding the products in the shipment described below

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 products in the import shipment described below (Shipment) 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. EPA inspected this shipment on December 9th, 2025. Based on evidence gathered during a review of the at that inspection, the Shipment was refused entry on January 15, 2026.

The following information pertains to the Shipment:

- The importer is Epsilon Chemicals Ltd., 1926 94 Street, Edmonton, Alberta T6N1J3 Canada. Point of contact, DARLA.BEIELER@ECHEM.CA.
- The consignee is Epsilon Chemicals Ltd, 4701 W Jefferson Street, Phoenix, Arizona 85043-3810.
- The broker is Livingston International Inc., Point of contact, Scott Fillinger SFillinger@livingston.com.
- The arrival date was January 14, 2026.
- The entry number is 300-20078912.
- The bill number is PMFK005590.
- The quantity is 4 bottles of Q-Foam.
- The port of entry is Sweetgrass, Montana 3310.
- The country of origin, as entered in ACE, is Canada.

Reason for export recommendation:

- **unregistered pesticide (7 U.S.C. § 136j(a)(1)(A))**

- **no notice of arrival (NOA) (7 U.S.C. §136j(a)(2)(N))**

The Shipment 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. The Shipment also failed to include the notice of arrival, required by 19 C.F.R. § 12.114, in violation of FIFRA section 12(a)(2)(N), 7 U.S.C. § 136j(a)(2)(N).

Law and Regulation

FIFRA section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A), 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.

The implementing regulations found at 40 C.F.R. § 152.15 state:

A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if:

- (a) The person who distributes or sells the substance claims, states, or implies (by labeling or otherwise):
 - (1) That the substance (either by itself or in combination with any other substance) can or should be used as a pesticide; or
 - (2) That the substance consists of or contains an active ingredient and that it can be used to manufacture a pesticide; or
- (b) The substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other than
 - (1) use for pesticidal purpose (by itself or in combination with any other substance),
 - (2) use for manufacture of a pesticide; or
- (c) The person who distributes or sells the substance has actual or constructive knowledge that the substance will be used, or is intended to be used, for a pesticidal purpose.

Under section 2(t) of FIFRA, 7 U.S.C. § 136(t), a “pest” is any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except those on or in living man or other living animals).

FIFRA section 12(a)(2)(N), 7 U.S.C. § 136j(a)(2)(N), provides that it is unlawful for a registrant, wholesaler, dealer, retailer, or other distributor to fail 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.

Facts and Violation

The label of the Q-Foam included the following language:

- “Disinfectant”
- “Directions for Disinfection”

These statements demonstrate that the Q-Foam Product has a pesticidal intent and is therefore a pesticide. The Q-Foam is not registered with EPA. This Shipment is 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.

The Shipment was 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.

Summary

The EPA recommends that this Shipment 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. If the importer does not export or dispose of this merchandise, 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).

Please contact Christine Tokarz, EPA Region 8 Import Enforcement Coordinator, by email at tokarz.christine@epa.gov, if you have any questions concerning this matter.