



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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7/5/2022

7:00AM

Received by
EPA Region VIII
Hearing Clerk

Ref: 8ENF-AT-P

FIFRA-08-2022-0037 (NORA)

SENT VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

From: Scott Patefield
Manager, Air and Toxics Enforcement Branch
Enforcement and Compliance Assurance Division

To: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Port of Pembina, North Dakota 3401

Subject: Requested action to be taken regarding the Pivot 418 EC in shipment with entry number 231-74750410

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 Pivot 418 EC 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, 7 U.S.C. § 136o(c), and the implementing regulations at 19 C.F.R. section 12.114. The entry was marked "Hold Intact," "Refused," and "Re-Export" in ACE by the EPA on June 23, 2022.

The following information pertains to the shipment of the Pivot 418 EC:

- The importer and consignee is Nufarm Americas, Inc., 11939 S. Central Avenue, Alsip, Illinois 60803. Point of contact, Vic Sweetwood, vic.sweetwood@nufarm.com.
- The broker is Expeditors International. Point of contact is stephanie.holloway@expeditors.com.
- The bill number is WIPD0006436.
- The ship date is June 11, 2022.
- The quantity is 33,264 pounds.
- The product is Pivot 418 EC.
- The port of entry is Pembina, North Dakota 3401.
- The country of origin is United States.

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, 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. (See 40 C.F.R. § 152.15.)

The label for Pivot 418 EC indicates that it is a “Fungicide” and is thus a pesticide subject to regulation and registration under FIFRA. Pivot 418 EC is not registered with the EPA pursuant to FIFRA. Therefore, this product cannot be allowed entry into the United States.

The Agency hereby notifies U.S. Customs and Border Protection that this merchandise should be refused admission and recommends that this merchandise be re-exported or destroyed within 90 calendar days from the date of this Notice.

On June 23, 2022, the Customs and Border Patrol unit chief in Pembina, North Dakota, was informed by the EPA 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.