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U.S. EPA REGION 8
HEARING CLERK

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DELIVERY RECEIPT REQUESTED

SUBJECT: Requested action to be taken regarding the Excelight12 GPM UV Lamps in shipment with entry number CHQ-19775131 FIFRA-08-2025-0004

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

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

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 import 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. The entry was marked “Hold Intact,” “Refused,” and “Re-Export” in the Automated Commercial Environment (ACE) by the EPA on November 1, 2024. The following information pertains to the shipment:

- The importer and consignee is Franklin Water Treatment, LLC, 9255 Coverdale Road, Fort Wayne, Indiana, 46809-9613.
- The broker is Joseph Lopez, Global Customs Lead, Flexport, jlopez@flexport.com.
- The bill number is DCLN9076900.
- The product is Excelight12 GPM UV Lamps.
- The port of entry is Pembina, North Dakota 3401.
- 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(h) of FIFRA, 7 U.S.C. § 136(h), defines “device” as “any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.” See also 40 C.F.R. § 152.500(a).

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....”

On October 25, 2024 EPA received an intended use statement from the consignee and importer, Franklin Electric LLC, for the Excelight12 GPM UV Lamps, “These replacement UV lamps emit UV-C light at 254nm to effectively inactivate bacteria and viruses. We are a distributor of this product produced by EPA Establishment# 96242-CHN-1. This is a common method in the water treatment industry used by companies such as Luminor & Viqua.”

Therefore, these Excelight12 GPM UV Lamps are pesticide devices.

The shipment that arrived at the border for import is 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, these pesticide products 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 November 1, 2024, 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, if you have any questions concerning this matter.