



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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7/11/2023

9:00am

Received by
EPA Region VIII
Hearing Clerk

FIFRA-08-2023-0058

Ref: 8ENF-AT-P

SENT VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

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
Sweetgrass, Montana 3310

Subject: Requested action to be taken regarding the Off Clip On Mosquito Repellant in 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 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. CBP Officers in Sweetgrass, Montana inspected this product upon attempted import and coordinated with EPA to determine it was out of compliance on July 5, 2023.

The following pertains to the Off Clip On Mosquito Repellant product:

- The importer is EJ Blair, 3538 Wesleyan Drive, Anchorage, Alaska 99508-4867.
- The shipper is Cardon Unlimited, 102 Central Avenue, Suite 4559, Sweetgrass, Montana 59484-9005.
- The quantity is 1 product, weighing 1 pound.

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 Off Clip On Mosquito Repellant label has the following language:

- “Mosquito Repellant.”

- “12 hours of head to toe protection”
- “EPA Registration Number 4822-542”

These claims demonstrate a pesticidal intent pursuant to the definitions above. The Off Clip On Mosquito Repellant is thus a pesticide and subject to FIFRA regulation.

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, the product referenced above can be allowed entry into the United States.

On July 6, 2023, the Customs and Border Patrol unit chief in Sweetgrass, Montana 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.