



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

Ref: 8ENF-AT-P

SENT VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

From: David Cobb
Section Chief, Toxics Enforcement Unit
Enforcement and Compliance Assurance Division

To: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Port of Salt Lake City, Utah 3303

Subject: Requested action to be taken regarding the Rocky Mountain Vacuum LLC products in shipment with entry number 555-06879190 FIFRA-08-2021-0048

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, 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 April 13, 2021.

The following information pertains to the shipment:

- The importer and consignee is Rocky Mountain Vacuums LLC, 8498 S Welby Farm Road, Suite A, West Jordan, Utah, 84088-5982, contact Erik Nutzman, erik@greatvac.com.
- The manufacturer is Highend IQA Company Limited, Unit 4, 7 Bright Way Tower, Number 33, Kowloon, Hong Kong.
- The broker is Ken Hamanaka Inc., Crosswinds International Inc., email contact, Leo Jeffries, Leo@kenhamanaka.com.
- The bill number is ONEYHKGB03060400.
- The entry number is 555-06879190.
- The release date was April 2, 2021.
- The quantity is:
 - 200 units of H2O-5000
 - 500 units of O3-1000B
 - 500 units of HMA-700/O3
 - 700 units of SS-700
 - 300 units of O3-700
 - 36 Round HEPA Filters
 - 10 units of 115*115mm Ozone Plates

- 18 units of 165*115mm Ozone Plates
 - 14 units of 3.5G Ozone Plates
- The total weight of these products is 24,071 pounds.
 - The port of entry is Salt Lake City Utah, 3303.
 - The country of origin as entered in ACE is China.

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.”

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....”

Under FIFRA section 2(q)(1), 7 U.S.C. § 136(q)(1), a device is considered to be misbranded and subject to enforcement action if, among other reasons:

- the labeling bears any statements, designs, or graphic representations that are false or misleading (see 40 CFR 156.10(a)(5));
- its packaging or wrapping does not conform to standards established pursuant to FIFRA section 25(c)(3) (as of 2010, such standards have yet to be established for devices);
- it is an imitation of, or is offered for sale under the name of another device;
- the label fails to bear the establishment number of the establishment where it was produced;
- any required information is not prominently displayed on the label;
- it lacks adequate directions for use; or
- it lacks an adequate warning or caution statement.

Section 12(a)(1)(F) of FIFRA, 7 U.S.C. 136j(a)(1)(F) and provides that it shall be unlawful for any person in any State to distribute or sell to any person any device which is misbranded.

The Round HEPA Filters, 115*115mm Ozone Plates, 165*115mm Ozone Plates, and the 3.5G Ozone Plates that arrived at the border for import in the shipment listed above did not have adequate directions for use, or adequate warning or caution statements. Therefore, these products are misbranded pursuant to 7 U.S.C. § 136(q)(1). Importing these products in the shipment referenced above is a violation of FIFRA section 12(a)(1)(F), 7 U.S.C. § 136j(a)(1)(F), as a distribution or sale of a misbranded device.

The shipment that arrived at the border for import is 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 file reports required by the Act. As required by 19 C.F.R. section 12.114, a Notice of Arrival of Pesticides and Devices, EPA form 3540-1, and a copy of one product label must be submitted. Neither a Notice of Arrival nor an image of the label was submitted either electronically or via the CBP authorized electronic data interchange system.

Therefore, none of the products referenced above in the shipment with entry number 555-06879190 can be allowed entry into the United States.

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

On April 13, 2021, the Customs and Border Patrol unit chief in Salt Lake City, Utah, 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.