



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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6/29/2022

11:46 AM

Received by
EPA Region VIII
Hearing Clerk

Ref: 8ENF-AT-P

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 Off Deep Woods Insect Repellant in shipment with entry number 8QV-00171389 FIFRA-08-2022-0032

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 Off Deep Woods Insect Repellant 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 25, 2022.

The following information pertains to the shipment of the Off Deep Woods Insect Repellant:

- The importer is The Tunneling Company USA, 10812 Bald Hill Road Southeast, Yelm, Washington, 98597-9592.
- The consignee is HDD Company Leasing Inc. 4525 Serrano Parkway, El Dorado Hills, California 95762-7572.
- The broker is Customs Direct LLC. Point of contact is Jim Masloski, jim@customs.direct.
- The bill number is STLD0595744.
- The file date is April 25, 2022.
- The product is Off Deep Woods Insect Repellant.
- The quantity is 5 cans, 8 ounces each, for a total of 40 ounces.
- The port of entry is Pembina, North Dakota 3401.
- The country of origin is Canada.

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 Off Deep Woods Insect Repellant includes pesticidal claims and is thus a pesticide. The label for Off Deep Woods Insect Repellant has the following language “For Sale in Canada Only”. Off Deep Woods Insect Repellant is not registered under section 3 of FIFRA (7 U.S.C. § 136a). Therefore, this product cannot 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 June 25, 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.