



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Received by
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Hearing Clerk

Ref: 8ENF-AT-P

SENT VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

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

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

Subject: Requested action to be taken regarding the Altosid MUP in the shipment with entry number WDN-41664559 FIFRA-08-2023-0054

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 Altosid MUP 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. § 12.114. The entry was marked "Hold Intact," "Refused," and "Re-Export" in ACE by the EPA on June 13, 2023.

The following information pertains to the shipment of the Altosid MUP:

- The importer and consignee is Central Garden and Pet, 7111 Troy Hill Drive, Elkridge, Maryland 21075-7049.
- The manufacturer is Ceres Industries, 17 KM East on Highway 50, Saskatoon, S7K3J9 Canada.
- The broker is World Exchange Inc., point of contact, Amy Hoang a_hoang@worldexchangehb.com.
- The file date was June 6, 2023.
- The bill number is TFIN668192814.
- The quantity is 4728 pounds of Altosid MUP.
- 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 section 2(u) 7 U.S.C. § 136(u), 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. (). 40 C.F.R. § 152.15 states: “A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if... [t]he person who distributes or sells the substance claims, states, or implies (by labelling or otherwise) ... [t]hat the substance... can or should be used as a pesticide.”

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 label of the Altosid MUP has the following language:

- “Regulateur De Croissance D’Insectes” which translates to “Insect Growth Regulator”
- “Registration No. 32067, PEST CONTROL PRODUCTS ACT”
- “EPA Est. No. 2724-TX-1”

These claims demonstrate a pesticidal intent pursuant to the definitions above. Altosid MUP are thus pesticides and subject to FIFRA regulation.

Altosid MUP is not registered pursuant to section 3 of FIFRA, 7 U.S.C. § 136a. Therefore, these products are unregistered pesticides. Importing these products in the shipment referenced above is a violation of FIFRA section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A), as a distribution or sale of unregistered pesticides.

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 13, 2023, 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.