



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Received by
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SENT BY ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

From: David Cobb
Section Chief, Toxics & 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 Bromide Granules, Bromide Tablets, and the Mineral Ionizer Purifier System in shipment with entry number DN2-19496861
FIFRA-08-2021-0012

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. section 12.114. The entry was marked "Hold Intact," "Refused," and "Re-Export" in ACE by the EPA on November 10, 2021.

The following information pertains to the shipment:

- The importer is Northern Lights Cedar Tubs Inc., 835 Kapelus Drive, West Saint Paul Manitoba R4A5A4 Canada.
- The consignee is Anthony Peter Maridakis, 65 Noe Street, #A San Francisco, California 94114-1004.
- The broker is GHY USA, Inc. Point of contact, Kimberly Weber, kimw@ghy.com.
- The bill number is RDWY6194907174.
- The entry file date was November 8, 2021.
- The quantity is 1 bottle of Brominating Granules and 1 bottle of Brominating Tablets, and 1 Mineral Ionizer Purifier System, weighing 5 pounds.
- The port of entry is Pembina, North Dakota 3401.
- The country of origin as entered in ACE is Canada.

The shipment that arrived at the border for import is 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. Section 2(u) of FIFRA, 7 U.S.C. § 136(u) (See also 40 C.F.R. § 152.15.)

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 for the Brominating Tabs has the following language, “Sanitizer for Pools and Hot Tubs” and “Controls bacteria and algae in spa water”.

The label for the Brominating Granules has the following language, “Controls bacteria and algae in spa and hot tub water”.

The manual for the Mineral Ionizer Purifier System has the following language, “This device will assist in controlling bacteria and algae in pools and spas by augmenting the bactericidal and algicidal activity of primary disinfectants such as chlorine or bromine.”

Disinfectants are designed to kill pests, specifically germs or microorganisms, and are considered pesticides. The labels of the Brominating Tabs and the Brominating Granules contain pesticidal claims indicating pesticidal intent. The Brominating Tabs and the Brominating Granules have not been registered with the EPA. Therefore, these products in the shipment listed above are considered unregistered pesticides and should not be allowed entry into the United States.

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.

Therefore, none of the products referenced above in the shipment with entry number DN2-19496861 should 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 November 10, 2021, 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, EPA Region 8 FIFRA Import Coordinator, by phone at (303) 312-6147 or by email at tokarz.christine@epa.gov if you have any questions concerning this matter.