



REGION 8

DENVER, CO 80202

FILED

Nov 18, 2025

2:41 pm

**U.S. EPA REGION 8
HEARING CLERK**

Ref: 8ECA-AT-P

SENT VIA EMAIL
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
Sweetgrass, Montana 3310

Subject: Requested action to be taken regarding the Aqua Diox 1 in the shipment with entry number SCS-11059942 (Shipment) FIFRA-08-2026-0008

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 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. Based on evidence gathered by Customs and Border Protection Officers, the shipment was marked “Hold Intact,” “Refused,” and “Re-Export” in ACE by the EPA on November 6, 2025.

The following information pertains to the Shipment:

- The importer is Friesen Livestock Ltd., 1502 Brier Park Road Northwest, Medicine Hat, Alberta, T1C1V2 CA.
- The consignee is Hillside Colony Inc., POB 169 Sweetgrass, Montana 59484.
- The arrival date was November 6, 2025.
- The bill number is FREL0000487.
- The quantity is 2 5-gallons jugs of Aqua Diox 1.
- The port of entry is Sweetgrass, Montana 3310.
- The country of origin, as entered in ACE, is Canada.

The Shipment 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. The was 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 correctly file reports required by the Act.

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 Aqua Diox 1 product included the following language:

- “Sodium Chlorite Solution for Aqua-Diox 2 Efficient Chlorine Dioxide Generator”
- “Ideal uses include potable water sanitation and surfaces”
- “When sanitizing potable water for livestock & human consumption, use injection pumps or similar equipment.”
- “Ensure Aqua Diox 1 & 2 are injected at equal proportion to generate Chlorine Dioxide.”

These statements demonstrate that Aqua Diox 1 has a pesticidal intent and is therefore a pesticide. Aqua Diox 1 is not registered with the EPA. This Shipment 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.

The Shipment was 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 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, these pesticide products in the Shipment should not be allowed entry into the United States.

The EPA hereby notifies CBP that the products in the Shipment should be refused admission pursuant to the authority of FIFRA § 17(c), 7 U.S.C. § 136o(c), and the implementing regulations at 19 C.F.R. § 12.114. The importer should export this merchandise or dispose of the products under supervision of the CBP within ninety calendar days from the date of this memorandum or within such additional time as the District Director of CBP specifies. Failure to do so may result in either the destruction of the merchandise as authorized by FIFRA or in any action necessary to enforce the terms of any bond under which the shipment has been released to the consignee. Alternatively, CBP may elect to seize the

products as a prohibited importation pursuant to their authorities as set out at 19 U.S.C. § 1595a(c)(2)(A).

On November 6, 2025, the EPA informed the CBP Cargo Supervisor in Sweetgrass, Montana, that it would deny entry of this Shipment. Please contact Christine Tokarz, the import enforcement coordinator by email at tokarz.christine@epa.gov, if you have any questions concerning this matter.