



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Received by

EPA Region VIII

Hearing Clerk

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SENT VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

From: David Cobb
Section Chief, 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 Peak Ozone Generators in shipment with entry number 551-98450237 FIFRA-08-2021-0015

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 Peak Ozone Generators 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 following information pertains to the shipment of the Peak Ozone Generators:

- The importer is Artic Spas Denver, 10601 N I-70 Wheatridge, Colorado 80033.
- The manufacturer is Blue Falls Manufacturing Limited, 4549-52 Street, Thorsby, Alberta T0C2 P0, Canada.
- The broker is A.N. Deringer, Inc., 110 Central Avenue, Sweet Grass, Montana, 59484, point of contact, Kurt Bush, kbush@anderinger.com.
- The ship date is December 13, 2020.
- The quantity is 2 unit, 10 pounds.
- The port of entry is Sweetgrass, Montana 3310.
- The country of origin is Canada.

The shipment that arrived at the border for import is in violation of FIFRA section 12(a)(2)(L), 7 U.S.C. § 136j(a)(2)(L), which states that it is unlawful for any person who is a producer to violate the provisions of FIFRA section 7(a), 7 U.S.C. § 136e(a), by producing a pesticide or pesticidal device subject to the Act in an unregistered establishment. 40 C.F.R. § 167.20. (See 40 C.F.R. section 152.500 for requirements for devices.)

Under FIFRA, a device that makes pesticidal claims is a pesticidal device, and it must be produced in an establishment registered with the EPA prior to distribution or sale. Antimicrobial pesticide devices are devices with claims that they can be used to destroy or suppress the growth of harmful microorganisms such as bacteria, viruses, or fungi on inanimate objects and surfaces.

Pesticidal claims made in relation to the Peak Ozone Generators include an intended use statement from the manufacturer, “it is a device that creates ozone by passing air through an electric field, this ozone is then pushed into the water of a hot tub to help in the sanitation of the water.”

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 December 23, 2020, the Customs and Border Patrol unit chief in Sweetgrass, Montana, was informed by the EPA that it should 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.