



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Ref: 8ENF-AT-P

SENT VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

October 5, 2020
12:59 PM

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

Received by
EPA Region VIII
Hearing Clerk

DAVID COBB

Digitally signed by DAVID
COBB
Date: 2020.10.05 12:50:42
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To: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Port of Salt Lake City, Utah 3303

Subject: Requested action to be taken regarding the Biocide Pro-Tec B 365 product in shipment
with entry number D04-00247348 FIFRA-08-2021-0001

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 Biocide Pro-Tec B 365 product 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 September 29, 2020.

The following information pertains to the shipment of the Pro-Tec B 365:

- The consignee and importer is Wintersteiger Inc., 4705 West Amelia Earhart Drive, Salt Lake City, Utah 84116-2876. Point of contact, Jim Cameron, jim.cameron@wintersteiger.com.
- The manufacturer is Wintersteiger AG, J.M. Dimmelstrasse 9 Reid I.I, Austria.
- The broker is Omnitrans Corporation Limited, 50 Broadway Suite 3, Lynbrook, New York 11563. Point of contact, Yolanda Perrone, yolanda@omnitrans-usa.com.
- The airway bill number is ONEYVNAA05470600.
- The release date was September 25, 2020.
- The quantity is 16 1-liter bottles, 16 liters/4.2 gallons.
- The port of entry is Salt Lake City, Utah 3303.
- The country of origin 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. (See 40 C.F.R. § 152.15.)

The label for Biocide Pro-Tec B 365 indicates that it is a “biocide,” it does not have the EPA registered label adhered to the product, and it has two registered antimicrobial active ingredients, 1,2-benzisothiazolin-3-one (CAS No. 2634-33-5) and 2-methyl-3(2H)-isothiazolone (CAS No. 2682-20-4). Therefore, Pro-Tec B 365 is an unregistered pesticide and cannot be allowed entry into the United States.

The Agency hereby notifies you that your merchandise has been refused admission. You must export this merchandise, under supervision of the U.S. Customs and Border Protection, within 90 calendar days from the date of this notice (or within such time as otherwise specified by EPA) 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 the Act or, if the shipment has been released to you under bond, in any action necessary to enforce the terms of said bond.

On September 23, 2020, the Customs and Border Patrol unit chief in Salt Lake City, Utah, 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.