



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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October 23, 2020

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Received by

EPA Region VIII

Hearing Clerk

Ref: 8ENF-AT-P

SENT VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

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

DAVID
COBB

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DAVID COBB
Date: 2020.10.22
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To: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Port of Pembina, North Dakota

Subject: Requested action to be taken regarding the Ozone Generator in shipment with entry number CIU-11191198 FIFRA-08-2021-0002

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 Ozone Generator 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 Ozone Generator:

- The importer is Velocity Water Works LLC, 100 East Kelso Road, Kaukauna, Wisconsin 54130, point of contact, Jay Dayak, Jay@velocitywaterworks.com.
- The manufacturer is AZCO Industries Ltd., 1-19696 Telegraph Trail, Langley, V1M 3E5 Canada.
- The broker is Cole International, point of contact, Jason Nordin, Jason.Nordin@coleintl.com.
- The airway bill number is DAYRVAN3436110.
- The ship date is October 8, 2020.
- The quantity is 20 unit, 1400 pounds.
- The product is Ozone Generator.
- The port of entry is Pembina, North Dakota 3401.
- 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. The following pesticide claims regarding ozone generators can be found on the AZCO website:

- <http://www.azcozon.com/index.php?nid=3&smid=7&cid=15>: AZCO ozonation systems are applied from mere suppression to the complete elimination of bacteria, viruses, fungi, and parasites.
- <http://www.azcozon.com/index.php?nid=3&smid=8&cid=16>: Quite often a bacterial growth inside the air conditioning ducts is the source of the odor problem. Odors are highly oxidable and therefore very reactive with ozone and there is no better odor removal method available than using ozone.
- <http://www.azcozon.com/index.php?nid=3&smid=46&cid=45>: In these applications ozonation systems provide a wide range of support ranging from just a reduction of biological waste, to complete purification and sanitation as required by the drinking water quality standards.

A product used in the “elimination of bacteria,” and to “reduce biological waste,” and “complete purification and sanitation as required by the drinking water quality standards” is considered a pesticide. Therefore, this product cannot 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 October 19, 2020, 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.