



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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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

DAVID
COBB

Digitally signed by
DAVID COBB
Date: 2020.11.01
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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 Excelight UV disinfection system in shipment with entry number 300-63564562 FIFRA-08-2021-0005

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 Excelight UV disinfection system 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 Excelight UV disinfection system:

- The importer is Waterite America Inc., 3655 Brookham Drive, Grove City, Ohio 43123-4852.
- The manufacturer is Waterite Inc. 200 Discovery Place, Winnipeg Manitoba, R2R0P7 Canada, Jo-Anne Duncan, jduncan@waterite.com.
- The broker is Livingston International, point of contact, Susan Sawka ssawka@livingstonintl.com.
- The airway bill number is TMBM9020549.
- The ship date is October 10, 2020.
- The quantity is 2 units, 10 pounds.
- The product is Excelight UV disinfection system.
- 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. A product that is called a “disinfection system,” 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 22, 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.