



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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8:32 AM

May 27, 2021

Received by
EPA Region VIII
Hearing Clerk

Ref: 8ENF-AT-P

SENT BY ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

From: David Cobb
Section Chief, Toxics Enforcement Unit
Enforcement and Compliance Assurance Division **DAVID COBB**

To: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Salt Lake City, Utah 3303

Subject: Requested action to be taken regarding the products in shipment with entry number 555-06882574 FIFRA-08-2021-0052

Digitally signed by
DAVID COBB
Date: 2021.05.26
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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 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 May 18, 2021.

The following information pertains to the shipment:

- The importer and consignee is Rocky Mountain Vacuum Brokers LLC, 8498 S Welby Farm Road, Suite A, West Jordan, Utah, 84088.
- The manufacturer is Highend Home Appliance Company, Limited Number 16, Meiyuan Road, Oianlong Industrial Area, Sanxiang Town, Zhongshan City, China.
- The broker is Ken Hamanaka Company, Inc., point of contact, Leo Jeffries, Leo@kenhamanaka.com.
- The bill number is ONEYHKGAN2125900.
- The entry file date was April 22, 2021.
- The release date was May 11, 2021.
- The quantities are:
 - 1,450 Ozone Generators weighing 20,327 pounds,
 - 914 Defender Round HEPA Filters, weighing 1,470 pounds,
 - 186 HEPA Filter for 3500, 200 UV Lights for 3500, Small Ozone Plates for 3500 weighing 73 pounds.
- The port of entry is Salt Lake City, Utah 3303.
- The country of origin as entered in ACE is China.

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(h) of FIFRA, 7 U.S.C. § 136(h), defines “device” as “any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.”

The Ozone Generators, Defender Round HEPA Filters, HEPA Filter for 3500’s, UV Lights, and Small Ozone Plates for CS3500’s are pesticide devices pursuant to the definitions above.

The shipment that arrived at the border for import is 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 file reports required by the Act. As required by 19 C.F.R. section 12.114, a Notice of Arrival of Pesticides and Devices, EPA form 3540-1, and a copy of one product label must be submitted. Neither a Notice of Arrival nor an image of the label was submitted either electronically or via the CBP authorized electronic data interchange system.

Therefore, none of the products referenced above in the shipment with entry number 555-06882574 can 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 May 18, 2021, 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.