



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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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

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DAVID COBB
Date: 2021.04.07
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To: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Denver, Colorado 3307

Subject: Requested action to be taken regarding the Abby & Finn Antibacterial Wipes in shipment with entry number PLG-00017913 **FIFRA-08-2021-0042**

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 Abby & Finn Antibacterial Wipes 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 April 2, 2021.

The following information pertains to the shipment of the Abby & Finn Antibacterial Wipes:

- The importer and consignee is Abby & Finn LLC, 200 Quebec Street, Denver, Colorado 80230-7144.
- The manufacturer is Zeta group New Zealand Limited, 47 Aintree Avenue, Mangere, Auckland, New Zealand, 2022.
- The broker is PLG Customs Brokers, Incorporated, point of contact, Stormie Carroll, scarroll@pegasuslogistics.com.
- The entry number is PLG-00017913.
- The release date was March 29, 2021.
- The quantity is 144 packets of wipes, 5 pounds.
- The port of entry is Denver, Colorado, 3307.
- The country of origin is New Zealand.

FIFRA section 12(a)(1)(A) (7 U.S.C. § 136j(a)(1)(A)) 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 (including antimicrobials) 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 this product has the following language:

- “Antibacterial wipes”
- “Safe and gentle ingredients for your family and your home”
- “These multi-purpose wipes kill 99.9% of bacteria, and can be safely used on (non-porous) hard surfaces, as well as on hands and body.”

The label indicates that the product is a pesticide. The product is not registered with the EPA under section 3 of FIFRA (7 U.S.C. § 136a). Therefore, the shipment that arrived at the border for import was in violation of FIFRA section 12(a)(1)(A) (7 U.S.C. § 136j(a)(1)(A)).

The shipment that arrived at the border for import is also 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, the shipment should not 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 April 2, 2021 the Customs and Border Patrol unit chief in Denver, Colorado, 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.