

6/16/2023



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

9:00 AM

Received by
EPA Region VIII
Hearing Clerk

Ref: 8ENF-AT-P

SENT VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

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

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

Subject: Requested action to be taken regarding the Screen Protector Liquid in shipment with entry number 231-95056193 FIFRA-08-2023-0057

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 the Automated Commercial Environment (ACE) by the EPA on June 6, 2023.

The following information pertains to the shipment:

- The importer and consignee is Gadget Guard, LLC 709 North 400 West Suite 3, Salt Lake City, Utah 84054-2773.
- The manufacturer is Sonnenschein Industry Co LTD 14F-3 No.137 Sec 1 Fu Sing S. Rd., Taipei 106 TW.
- The broker is Expeditors International, catherine.brown@expeditors.com.
- The bill number is 20567736841-4812591760.
- The entry file date was June 5, 2022.
- The quantity is 43,000 items weighing approximately 2,902 pounds.
- The port of entry is Salt Lake City, Utah 3303.
- The country of origin as entered in ACE is Taiwan.

Under FIFRA section 2(u), 7 U.S.C. § 136(u), 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. 40 C.F.R. § 152.15 states: “A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring

registration, if... [t]he person who distributes or sells the substance claims, states, or implies (by labelling or otherwise) ... [t]hat the substance... can or should be used as a pesticide.”

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(p) of FIFRA, 7 U.S.C. § 136(p), defines “label” as “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers” and defines “labeling” in part, as “all labels and all other written, printed, or graphic matter – (A) accompanying the pesticide or device at any time; or (B) to which reference is made on the label or in literature accompanying the pesticide....”

The Screen Protector Liquid items are labeled with the website, www.gadgetguard.com, which includes the website, <https://www.gadgetguard.com/liquid.html>, offering to sell Screen Protector Liquid. This website includes the following claims:

- LIQUID SCREEN PROTECTOR
- How does it work? (Science)
- SiH4 [the formula]
- Germs

The claims above demonstrate that Screen Protector Liquid is a substance with a pesticidal intent pursuant to the definitions above. Screen Protector Liquid is thus a pesticide subject to FIFRA regulation.

Screen Protector Liquid is not registered pursuant to section 3 of FIFRA, 7 U.S.C. § 136a. Therefore, Screen Protector Liquid is an unregistered pesticide. Importing Screen Protector Liquid in the shipment referenced above is a violation of FIFRA section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A), as a distribution or sale of an unregistered pesticide.

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 correctly file reports required by the Act. As required by 19 C.F.R. § 12.114, a Notice of Arrival of Pesticides and Devices (NOA), EPA form 3540-1, and a copy of one product label must be submitted.

Therefore, none of the products referenced above in the shipment with entry number 231-95056193 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.

Please contact Devin Donaldson, a FIFRA import enforcement officer, by phone at (303) 312-6744 or by email at donaldson.devin@epa.gov if you have any questions concerning this matter.