

4/17/2023



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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9:00 AM

Received by
EPA Region VIII
Hearing Clerk

Ref: 8ENF-AT-P

SENT VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

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

To: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Sweetgrass, Montana 3310

Subject: Requested action to be taken regarding the LifeStraw Water Filtering Units shipped on April 3, 2023 FIFRA-08-2023-0024

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 LifeStraw Water Filtering Units in the import shipments 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 shipment was inspected by EPA Officers at the Sweetgrass, Montana Port of Entry on April 3, 2023, and determined to be out of compliance.

The following information pertains to the LifeStraw Water Filtering Units:

- The consignee information as received by Customs and Border Protection is:
 - DYKPA3339141 CL CUBED INC. CALGARY BARBARA STAHL 5636 TEMPLE CITY BLVD LIFESTRAW 10 1 BOX 1 LB BA-191833 #92612901755477300020379166 USPS ROW 1 CENTER 2023-04-04 0:06
 - DYKPA3339142 CL CUBED INC. CALGARY DENNIS MELTON 10157 EAST MILLER RD. LIFESTRAW 10 1 BOX 1 LB BA-191827 #92001901755477300204890649 USPS MID TRUCK LEFT 2023-04-04 0:16
 - DYKPA3339143 CL CUBED INC. CALGARY JAKE EWING 1287 SPRING BAY RD LIFESTRAW 10 1 BOX 1 LB BA-191827 #92001901755477300204890656 USPS MID TRUCK LEFT 2023-04-04 0:16
 - DYKPA3339144 CL CUBED INC. CALGARY ROBERT VAUGHAN 5606 ALTA DENA ST SW LIFESTRAW 20 1 BOX 2 LB BA-191827 #92612901755477300020379159 USPS MID TRUCK LEFT 2023-04-04 0:16
- The shipper is DYKPA3330293 DEAL4K Calgary, Canada. Point of contact, Daniel DYK Post daniel@dykpost.com.
- The shipment was imported under Section 321.

- The file date was April 3, 2023.
- The quantity is 5 LifeStraw Water Filtering Units, with a total net weight of 5 pounds.
- The port of entry is Sweetgrass, Montana 3310.
- The country of origin is Canada.

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....”

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.” (See also 40 C.F.R § 152.500(a)).

The labels on the LifeStraw Water Filtering Units includes the following claims:

- “Personal Water Filter protects against: 99.999% of parasites...99.999999% of bacteria”
- “EPA Est. No. 95395-KOR-1”

The LifeStraw Water Filtering Units are devices under FIFRA section 2(h), 7 U.S.C. § 136(h), and 40 C.F.R § 152.500(a) because they fall within the definition of “any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest, [which includes virus, bacteria, or other micro-organism,] 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 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 correctly file reports required by the Act. As required by 19 C.F.R. § 12.114, a Notice of Arrival of Pesticides and Devices, EPA form 3540-1, and a copy of one product label must be submitted.

Therefore, the LifeStraw Water Filtering Units referenced above should not be allowed entry into the United States.

The Agency hereby notifies U.S. Customs and Border Protection that this merchandise should be refused admission and recommends that this merchandise be re-exported or destroyed within 90 calendar days from the date of this Notice. On April 3, 2023, the EPA informed the Customs and Border Patrol unit chief in Sweetgrass, Montana, 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.