



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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December 8, 2021

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Received by  
EPA Region VIII  
Hearing Clerk

**SENT VIA ELECTRONIC MAIL**  
**DELIVERY RECEIPT REQUESTED**

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

To: U.S. Department of Homeland Security  
Bureau of Customs and Border Protection  
Pembina, North Dakota 3401

Subject: Requested action to be taken regarding the OmniLyte OmniSan Analyte products  
in shipment with entry number CIU-11429242 FIFRA-08-2022-0017

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 (FIFRA), 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 December 8, 2021.

The following information pertains to the shipment:

- The importer and manufacturer is Omni-Lyte Enviro Inc., SW 68 16, Wawanesa, R0K 2G0 Canada.
- The consignee is Omni-Lyte Enviro US LLC, 15108 456<sup>th</sup> Avenue, Summit, South Dakota 57266-5614.
- The broker is Cole International, Pembina Office. Point of Contact, Adam Wilebski, Branch Manager, [Adam.Wilebski@coleintl.com](mailto:Adam.Wilebski@coleintl.com).
- The bill number is MANI3301506102.
- The entry file date was December 3, 2021.
- The quantities are:
  - One hundred and forty 8-ounce bottles
  - Ninety-Six 1-gallon jugs
  - Twenty-four 2.5-gallon jugs
- Total weight of the shipment is 1,375 pounds.
- The port of entry is Pembina, North Dakota 3401.
- The country of origin as entered in ACE is Canada.

Section 2(u) of FIFRA, 7 U.S.C. § 136(u) defines “pesticide” as (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer.

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 microorganism (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(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1), provides that, “a pesticide is misbranded if –

- (A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
- (B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 136w(c)(3) of this title;
- (C) it is an imitation of, or is offered for sale under the name of, another pesticide;
- (D) its label does not bear the registration number assigned under section 7 to each establishment in which it was produced;
- (E) any word, statement, or other information required by or under the authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared to other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (F) the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any

The OmniLyte OmniSan Anolyte product label has the following language:

- “EPA Reg No. 93908-1-96503”
- “Kill 99.9% of: Bacteria”
- “Non-Porous Hard Surface Disinfectant”

The OmniLyte OmniSan Anolyte products are pesticides pursuant to Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

The OmniLyte OmniSan Anolyte products are misbranded pursuant to FIFRA section 2(q)(1), 7 U.S.C. § 136(q)(1) because the label is missing an EPA Establishment Number and directions for use.

Importing these products in the shipment referenced above is a violation of FIFRA section 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E), as a distribution or sale of a misbranded pesticide.

Therefore, none of the products referenced above in the shipment with entry number CIU-11429242 should 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 December 8, 2021, 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](mailto:tokarz.christine@epa.gov) if you have any questions concerning this matter.