



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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Ref: 8ENF-AT-P

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 Case-Mate Safe Mate Universal UV Box products in shipment with entry number ANQ-20482618 FIFRA-08-2021-0046

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 or the 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 21, 2021.

The following information pertains to the shipment:

- The importer and consignee is PBD INC, 1650 Bluegrass Lakes Parkway, Alpharetta, Georgia, 30004-7714.
- The manufacturer is Hitfar Concepts Limited, 1092999 Underhill Avenue Burnaby, V5A3C2 XC, China.
- The broker is Team Customs Brokerage®, 629 W Broadway, Winnsboro Texas 75494, point of contact Elizabeth Soto, elizabeth.soto@teamww.com.
- The bill number is DAYRVAN3563656.
- The entry file date was April 19, 2021.
- The release date was April 21, 2021.
- The quantity is 2,076 Case-Mate Safe Mate Universal UV Box products, weighing 3,029 pounds.
- The port of entry is Pembina, North Dakota 3401.
- The country of origin as entered in ACE is China.
- There was no label uploaded for this product, however an image from the product website was submitted for review in lieu of that label, <https://case-mate.com/products/safe-mate-uv-led-sanitizing-box>.

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.” (See also 40 C.F.R § 152.500).

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....”

Under FIFRA section 2(q)(1), 7 U.S.C. § 136(q)(1), a device is considered to be misbranded and subject to enforcement action if, among other reasons:

- the labeling bears any statements, designs, or graphic representations that are false or misleading (see 40 CFR 156.10(a)(5));
- its packaging or wrapping does not conform to standards established pursuant to FIFRA section 25(c)(3) (as of 2010, such standards have yet to be established for devices);
- it is an imitation of, or is offered for sale under the name of another device;
- the label fails to bear the establishment number of the establishment where it was produced;
- any required information is not prominently displayed on the label;
- it lacks adequate directions for use; or
- it lacks an adequate warning or caution statement.

Pursuant to 40 C.F.R. § 156.10(a)(5), a pesticide or a device is misbranded if its labeling is false or misleading in any particular including both pesticidal and non-pesticidal claims. Examples of statements or representations in the labeling which constitute misbranding include:

- A false or misleading statement concerning the effectiveness of the product as a pesticide or device. 40 C.F.R. § 156.10(a)(5)(ii).
- A false or misleading comparison with other pesticides or devices. 40 C.F.R. § 156.10(a)(5)(iv).
- Any statement directly or indirectly implying that the pesticide or device is recommended or endorsed by any agency of the Federal Government. 40 C.F.R. § 156.10(a)(5)(v).
- A true statement used in such a way as to give a false or misleading impression to the purchaser. 40 C.F.R. § 156.10(a)(5)(vii).

- Claims as to the safety of the pesticide or its ingredients, including statements such as “safe,” “nonpoisonous,” “noninjurious,” “harmless” or “nontoxic to humans and pets” with or without such a qualifying phrase as “when used as directed”. 40 C.F.R. § 156.10(a)(5)(ix).

Section 12(a)(1)(F) of FIFRA, 7 U.S.C. 136j(a)(1)(F) provides that it shall be unlawful for any person in any State to distribute or sell to any person any device which is misbranded.

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The shipment of the Case-Mate Safe Mate Universal UV Box products that arrived at the border for import had labeling with the following language:

- “1.5 Depth great for sanitizing variety of household items”
- “Reflective base for immersive sanitation”
- “Stay safe and healthy.”
- “Easy and effective sanitization”
- “EPA Certified”

The Case-Mate Safe Mate Universal UV Boxes in the shipment also lacked the following required information on its’ labels: (1) directions for use, (2) a caution or warning statement, and (3) an EPA Establishment Number.

These Case-Mate Safe Mate Universal UV Box products are misbranded pursuant to 7 U.S.C. § 136(q)(1) and 40 C.F.R. § 156.10(a)(5), because they contain statements (quoted above) that are false or misleading as defined by the regulation. These products are also misbranded pursuant to 7 U.S.C. § 136(q)(1) because they lack the information required by statute to be on their labels (i.e., directions for use, caution or warning statement, and EPA establishment number). Therefore, sale or distribution of the products in the shipment referenced above is a violation of FIFRA section 12(a)(1)(F), 7 U.S.C. 136j(a)(1)(F).

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, none of the products referenced above in the shipment with entry number ANQ-20482618 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 April 21, 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 if you have any questions concerning this matter.