



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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

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

DAVID  
COBB

Digitally signed by DAVID COBB  
Date: 2021.03.11 17:26:59 -0700

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

Subject: Requested action to be taken regarding the Teser UV-C Locker Inserts in shipment with entry number SCS-45624014 FIFRA-08-2021-0029

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 Teser UV-C Locker Inserts 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 March 10, 2021.

The following information pertains to the shipment of the Teser UV-C Locker Inserts:

- The importer and consignee is ChargeItSpot LLC, 111 South Independence Mall East, Philadelphia, Pennsylvania 19106-2515. The point of contact, Jake Brigham, [jake.brigham@chargeitspot.com](mailto:jake.brigham@chargeitspot.com).
- The manufacturer is Teser Technologies, 4884 102 Avenue Southeast, Calgary, Alberta, Canada T2C 2X8.
- The broker is UPS Supply Chain Solutions, point of contact Jeff Kendall, [jeff.kendall@ups.com](mailto:jeff.kendall@ups.com).
- The EPA Establishment Number as listed on the label is 99560-CAN-1.
- The bill number is FXFC5392062196.
- The entry number is SCS-45624014.
- The ship date was February 25, 2021.
- The quantity is 30 Teser UV-C Locker Inserts for a total weight of 454 kilograms/1001 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(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.

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 requirements imposed under section 3(d) of this Act, are adequate to protect health and the environment; [or]
- (G) the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment[.]”

In accordance with 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. 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);
- b. 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); and
- c. 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).

40 C.F.R § 152.500 provides requirements for devices, stating:

(a) A device is defined as any instrument or contrivance (other than a firearm) intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than a bacterium, virus, or other microorganism on or in living man or living animals) but not including equipment used for the application of pesticides (such as tamper-resistant bait boxes for rodenticides) when sold separately therefrom.

(b) A device is not required to be registered under FIFRA sec. 3. The Agency has issued a policy statement concerning its authority and activities with respect to devices, which was published in the Federal Register of November 19, 1976 (41 FR 51065). A device is subject to the requirements set forth in:

- (1) FIFRA sec. 2(q)(1) and part 156 of this chapter, with respect to labeling;
- (2) FIFRA sec. 7 and part 167 of this chapter, with respect to establishment registration and reporting;
- (3) FIFRA sec. 8 and part 169 of this chapter, with respect to books and records;
- (4) FIFRA sec. 9, with respect to inspection of establishments;
- (5) FIFRA sec. 12, 13, and 14, with respect to violations, enforcement activities, and penalties;
- (6) FIFRA sec. 17, with respect to import and export of devices;
- (7) FIFRA sec. 25(c)(3), with respect to child-resistant packaging; and
- (8) FIFRA sec. 25(c)(4), with respect to the Agency's authority to declare devices subject to certain provisions of the Act.

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.

The shipment that arrived at the border for import had a supplied sticker with the following language, “To Charge & Inactivate Viruses: Connect your phone in a locker and close the door. Keep your phone in the locker for a minimum of 15 minutes.” This statement implies that the device kills 99.9% of all viruses, a claim that has not been supported by documentation, and is therefore, false and misleading.

The shipment that arrived at the border for import was also accompanied by an instruction manual and a supplied sticker with the following language, “To Charge & Inactivate Viruses: Connect your phone in a locker and close the door. Keep your phone in the locker for a minimum of 15 minutes.” This claim implies that the device kills all viruses, which is false and misleading.

Importing the shipment that arrived at the border is a violation of FIFRA section 12(a)(1)(F), 7 U.S.C. § 136j(a)(1)(F), as a distribution or sale of a misbranded device because the labeling has a statement, design, or graphic representation that is false or misleading.

Therefore, this UV-C locker inserts cannot 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 March 11, 2021, the Customs and Border Patrol unit chief in Sweetgrass, Montana, 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.