



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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Received by  
EPA Region VIII  
Hearing Clerk

FIFRA-08-2023-0003

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

From: David Cobb  
Section Supervisor, Toxics and Pesticides Enforcement Section  
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 ClickSan Disinfectant in shipment with entry number EI5-23700026

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 ClickSan Disinfectant 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 November 13, 2022.

The following information pertains to the shipment of the ClickSan Disinfectant:

- The consignee and importer is EcoLab Ltd, 1 Ecolab Place, Saint Paul, Minnesota 55102-2739.
- The broker is Farrow U.S.
- The file date was November 9, 2022.
- The bill number is ODFL24400251765.
- The quantity is 24 boxes, weighing 432 pounds.
- The port of entry is Pembina, North Dakota 3401.
- The country of origin is United States.

The shipment that arrived at the border for import was in violation of FIFRA section 12(a)(1)(A) (7 U.S.C. § 136j(a)(1)(A)), which states that it is unlawful for any person to distribute or sell any pesticide that is not registered under section 3 of FIFRA (7 U.S.C. § 136a).

Under FIFRA, 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. (7 U.S.C. § 136u). 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 label of the ClickSan Disinfectant included the following language:

- “Disinfectant/Sanitizer”
- “GENERAL DISINFECTION: Add 2 ml of ClickSan Disinfectant/Sanitizer per 1 L of water to disinfect hard, non-porous surfaces.”

These claims demonstrate a pesticidal intent pursuant to the definitions above. ClickSan Disinfectant is thus a pesticide subject to FIFRA regulation.

ClickSan Disinfectant is not registered pursuant to section 3 of FIFRA (7 U.S.C. § 136a). Therefore, ClickSan Disinfectant is an unregistered pesticide. Importing ClickSan Disinfectant 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. section 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. The NOA that was filed for this shipment was incorrectly filed because it included an EPA registration number of 6836-305-5389 and EPA Establishment Number of 005389NCX001, neither of which is on the product. Therefore, the shipment that arrived at the border was also in violation of FIFRA section 12(a)(2)(N), 7 U.S.C. § 136j(a)(2)(N).

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 November 13, 2022, 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.