



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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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 Good Water Filtration Parts in shipment with entry number 551-11120199 FIFRA-08-2023-0035

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. § 12.114. The shipment was inspected by EPA Officers at the Sweetgrass, Montana Port of Entry on March 30, 2023, and was determined to be out of compliance.

The following information pertains to the shipment:

- The importer is Good Water Warehouse Inc., 3967 112th Avenue, Suite 6, Calgary, Alberta, T2C0J4 Canada.
- The consignee is Good Water Warehouse, Inc. 1700 E Walnut Avenue, Fullerton, California 92831-4800.
- The bill number is CFPLB83465.
- The entry file date was April 6, 2023.
- The quantity is 1050 FX10CERAMIC units, weighing approximately 1050 pounds.
- The port of entry is Sweetgrass, Montana 3310.
- The country of origin is Canada.

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.

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)).

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....”

On April 21, 2023, EPA requested further information regarding the products listed in the ACE database as “HS Code 8421990140- Tariff Classification of - Parts of machinery and apparatus for filtering or purifying water”, and Tyler Kawohl, the Warehouse Manager for Good Water Warehouse Inc., Tekawohl@goodwaterwarehouse.com, stated the following, “As for the FX10CERAMIC: We contacted our vendor today about it, and they have told us that the item isn’t on their website. So management here has decided to hold that item back from the shipment. I will be contacting our courier to let them know.”

These FX10CERAMIC 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 was 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 (NOA), EPA form 3540-1, and a copy of one product label must be submitted. 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 April 26, 2023, the Customs and Border Patrol Cargo Team 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 if you have any questions concerning this matter.