

6/15/2023



**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 Supervisor, Toxics Enforcement Section
Enforcement and Compliance Assurance Division

To: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Salt Lake City, Utah 3303

Subject: Requested action to be taken regarding the FILTER in the shipment with entry number MFT-33022211 FIFRA-08-2023-0055

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 entry was marked "Hold Intact," "Refused," and "Re-Export" in the Automated Commercial Environment (ACE) database that houses all entry data for imports into the United States, by the EPA on June 14, 2023.

The following information pertains to the shipment of FILTER:

- The importer and consignee is Echo Technologies LLC, 1807 N Carson Street, Carson City, Nevada 89701-1216.
- The manufacturer is Ionia Company Ltd., 291 Doyak-Ro, Dodang-Dong Bucheon-Si, 14522 Korea.
- The reference number is 00635572692-MFGTKR01182.
- The entry file date was June 8, 2023.
- The quantity is 100 FILTERS, weighing 121 pounds.
- The port of entry is Salt Lake City, Utah 3303.
- The country of origin as entered in ACE is Korea.

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....”

Under FIFRA section 2(u), 7 U.S.C. § 136(u), 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. 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(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)).

The FILTER has the following language on its label:

- “Filter Replacement”
- “Activated Carbon”
- “KDF 55”
- “EPA Establishment Number 102801-KOR-1”

These claims demonstrate that the FILTER is intended for a pesticidal purpose and is thus a pesticide or device subject to FIFRA regulation.

The shipment that arrived at the border for import is 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 product referenced above cannot be allowed entry into the United States.

On June 14, 2023, the Customs and Border Patrol unit chief in Salt Lake City, Utah 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.