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DENVER, CO 80202

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U.S. EPA REGION 8
HEARING CLERK

SENT VIA EMAIL
DELIVERY RECEIPT REQUESTED

SUBJECT: AMENDED Requested action to be taken regarding the SRO150 Series product in shipment with entry number E5L-24042831 FIFRA-08-2025-0060

FROM: David Cobb
Supervisor, Toxics Enforcement Section
Enforcement and Compliance Assurance Division

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Digitally signed
by DAVID COBB
Date: 2025.08.14
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TO: U.S. Department of Homeland Security
Bureau of Customs and Border Protection
Pembina, North Dakota 3401

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 (CBP) that the products in the import shipment described below should be **Denied Entry-Refused Delivery** 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. section 12.114. The entry was marked "Hold Intact," "Refused," and "Re-Export" in the Automated Commercial Environment (ACE) by the EPA on July 7, 2025.

The following information pertains to the shipment:

- The importer and consignee is Tuttnauer USA Company. LTD 345 Oser Avenue, Hauppauge, New York 11788-36075.
- The manufacturer is Barik Medical Inc., 239 Cree Road, Winnipeg, R3J 3Y2 Manitoba.
- The broker is CN Customs Brokerage Services, point of contact, Jonathan Khoury Jonathan.Khoury@cn.ca.
- The bill of lading number: FXFC7356845790.
- The entry file date was May 29, 2025.
- The product in this shipment is 1 SRO150 Series product, weighing 200 pounds.
- The port of entry is Pembina, North Dakota 3401.

On July 7, 2025, the EPA issued a Memorandum titled: Requested action to be taken regarding the SRO150 Series product in shipment with entry number E5L-24042831 (July 7 Memo). After issuing the July 7 Memo, the EPA learned new information about the product being imported. Specifically, the EPA learned that the product contains a pesticidal substance that is not registered under section 3 of FIFRA, 7 U.S.C. § 136a, and is therefore an unregistered pesticide.

Based on this new information, the EPA is amending the July 7 Memo and issuing this memorandum: AMENDED Requested action to be taken regarding the SRO150 Series product in shipment with entry number E5L-24042831.

Based on the information available to the EPA at this time, the EPA has determined that the shipment referenced above 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 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(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 labeling provided for the SRO150 Series product in the shipment referenced above included the following language:

- “www.amerewater.com.”
- “Reverse Osmosis System for Clinical Applications.”
- “System produces 150 GPD and is ideal for: - Dental Clinics - Veterinary Clinics - Physician Offices - Clinical Chemistry Labs.”
- “The AmeriWater SRO150 Series is a complete water treatment system designed to provide low conductivity water for the final rinse and disinfection cycle of tabletop washers, freestanding washers and under counter washers.”
- “This Reverse Osmosis System (RO) contains a preservative solution to prevent microbiological growth and freezing”

On July 29, 2025, a representative for the manufacturer listed on the product label, AmeriWater, sent the following statements regarding the SRO150 Series product in the shipment referenced above to the EPA:

- “The preservative solution that we use is Memstor, which is a membrane storage product to inhibit microbiological growth within membranes and membrane systems. It is not a

disinfectant and is just intended to discourage microbiological growth during transport and storage. It eliminates the need for formaldehyde, sodium metabisulfite and other chemicals that are either hazardous or unstable. The solution is non-toxic and environmentally friendly. There is less than a liter of preservative solution in the membrane for shipment and storage. The solution is rinsed out of the SRO150 at startup. I have attached an info sheet and the SDS for Memstor.”

- “Memstor™ is specifically formulated to maintain membrane properties (flow and salt rejection) and to inhibit microbiological growth within membranes and membrane systems during long and short-term storage so the product does not meet the requirements of the EPA definition of a pesticide shown in your email and is not EPA registered.”

These statements demonstrate that the Memstor substance is intended to be used for pesticidal purposes and is thus a pesticide pursuant to the definitions above. Memstor is not a pesticide registered under section 3 of FIFRA, 7 U.S.C. § 136a. Because the SRO150 Series product in the shipment referenced above contains an unregistered pesticide, the SRO150 Series product in the shipment referenced above is a pesticide pursuant to the definitions above. The SRO150 Series product in the shipment referenced above is not a pesticide registered under section 3 of FIFRA, 7 U.S.C. § 136a. Importation of the shipment referenced above is thus a 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.

Therefore, these pesticide products in the shipment referenced above should not be allowed entry into the United States.

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. § 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, these pesticide products in the shipment referenced above should not be allowed entry into the United States.

The EPA hereby notifies CBP that this merchandise should be refused admission pursuant to the authority of FIFRA § 17(c), 7 U.S.C. § 136o(c), and the implementing regulations at 19 C.F.R. § 12.114. The importer should export this merchandise or dispose of the products under supervision of the CBP within ninety calendar days from the date of this memorandum or within such additional time as the District Director of CBP specifies. Failure to do so may result in either the destruction of the merchandise as authorized by FIFRA or in any action necessary to enforce the terms of any bond under which the shipment has been released to the consignee. Alternatively, CBP may elect to seize the products as a prohibited importation pursuant to their authorities as set out at 19 U.S.C. § 1595a(c)(2)(A).

On July 7, 2025, the EPA informed the CBP Cargo Chief in Pembina, North Dakota, that it would deny entry of this shipment. On August 1, 2025, the EPA re-informed CBP Cargo Chief in Pembina, North Dakota, that it would deny entry of this shipment. Please contact Christine Tokarz, the import enforcement coordinator, by email at tokarz.christine@epa.gov, if you have any questions concerning this matter.