

5/30/2023



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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9:00 AM

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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
Pembina, North Dakota 3401

Subject: Requested action to be taken regarding the Arium* Mini Plus Bench Top System US in shipment with entry number SCS-79900018 FIFRA-08-2023-0049

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 product 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. section 12.114. The entry was marked “Hold Intact,” “Refused,” and “Re-Export” in ACE by the EPA on May 9, 2023.

The following information pertains to the shipment:

- The importer and consignee is Sartorius Stedim North America I, 565 Johnson Avenue, Bohemia, New York, 11716-2606.
- The broker is UPS Supply Chain Solutions, 2031 South Centennial Avenue, Aiken, South Carolina 29803.
- The bill number is UPSC87X597VJRM4F.
- The entry file date was May 9, 2023.
- The quantity is one Arium* Mini Plus Bench Top System US, weighing 39.9 pounds.
- The port of entry is Pembina, North Dakota 3401.
- The country of origin is Germany.

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....”

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 Arium* Mini Plus Bench Top System US is a device under FIFRA section 2(h), 7 U.S.C. § 136(h), and 40 C.F.R § 152.500(a) because it falls 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), a registrant, wholesaler, dealer, retailer, or other distributor filed false documents required by the Act. Pursuant to 19 C.F.R. § 12.114, the required Notice of Arrival of Pesticides and Devices (Notice of Arrival), EPA Form 3540-1, was not submitted, and none of the required information was entered into the ACE database.

Therefore, this product cannot be allowed entry into the United States.

On May 9, 2023, the Customs and Border Patrol Cargo Team in Pembina, North Dakota, was informed by the EPA that it would hold the entry intact.

Please contact Devin Donaldson, the import enforcement coordinator, by phone at (303) 312-6744 or by email at donaldson.devin@epa.gov if you have any questions concerning this matter.