



U.S. CHAMBER OF COMMERCE



June 25, 2020

The Honorable Robert Lighthizer  
United States Trade Representative  
600 17th Street NW  
Washington, D.C. 20508

**Re: *Extension of Exclusion for Water Filtration Products to Tariffs under HTS Code 8421.21.0000***

Dear Hon. Robert Lighthizer:

On behalf of the Water Quality Association (WQA), the International Association of Plumbing and Mechanical Officials (IAPMO), and the US Chamber of Commerce, we are writing to you today to express our deep concern with your decision not to extend<sup>1</sup> the exclusion – previously granted – providing relief from tariffs on water filtration products under HTS Code 8421.21.0000 pursuant to Section 301 of the Trade Act of 1974, and request that you reconsider your decision and extend the exclusion.

Ensuring that Americans have clean drinking water is a public health issue of paramount importance. While many public water systems adequately deliver clean drinking water, the U.S. water delivery infrastructure is antiquated and in need of significant repair or replacement. The American Water Works Association estimates that replacing and upgrading the nation's water pipes alone would cost approximately \$1 trillion. Many city water systems built before the middle of the 20<sup>th</sup> century have lead piping, which coupled with local government budget challenges, causes severe drinking water challenges in many commercial and household settings. These challenges are magnified now because of COVID -19, "Shelter in Place" and the slowdown and gradual reopening of the US economy.

With drinking water issues becoming more common now, it has led city governments to recommend that residents consider purchasing water filtration products certified to reduce lead in their drinking water. Moreover, in rural areas, where 99% of the population uses private, unregulated wells, contamination of water supplies is a frequent occurrence. For these households, water filtration systems are the only mechanism to ensure the delivery of clean, safe drinking water.

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<sup>1</sup> See 85 FR 29503

Increasing the cost of products essential to basic health and sanitation is not in the public interest. U.S. consumers most affected by water contaminants also are those with fewer means to address the problem. Therefore, placing a 25% tariff on water filtration products will make these products more expensive to those consumers most in need of better water quality and those least able to afford it.

Since May 14, 2019, our industry has been importing these products under the following exclusion granted by USTR, codified on the Harmonized Tariff Schedule under Heading 9903.88.08 and U.S. note 20(k) to subchapter III of chapter 99 of the Schedule – referred to as “Carveout 6”:

(6) Apparatus, including pitchers, bottles, and units designed for incorporation into refrigerators, appliances or sink faucets, the foregoing fitted with filters for filtering or purifying water (described in statistical reporting number 8421.21.0000)

While USTR chose not to extend this exclusion, it did extend the exclusion for other products imported under 8421.21.0000 described in “Carveout 8” as “[f]iltering or purifying machinery or apparatus of a kind used for waste water treatment (described in statistical reporting number 8421.21.0000).” Without further explanation presented to the public, it appears USTR’s decision to extend the Carveout 8 exclusion but not Carveout 6 was deliberate.<sup>2</sup> In choosing to deny an extension for Carveout 6, USTR has concluded that a tariff should be imposed on essential consumer-focused water filtration products that filter out lead, PFOS, PFOA and other contaminants. By contrast, USTR has granted exclusion extensions to other products under HTS 8421.21.0000 including “hand-held ultraviolet water purifiers, powered by batteries” and filters for wastewater treatment.<sup>3</sup> Respectfully, we do not see how USTR can grant an extension for hand-held UV water filters and wastewater filters, but not for water filters in pitchers, bottles, appliances, or under countertops. The reasons for granting an extension for one category apply equally to the other.

Consistent with the initial exclusion granted in May of 2019, all of the conditions upon which relief from the tariffs for our products still exist: First, water filtration products are not identified in the “Made in China 2025” program or a focus of the Administration’s concerns regarding forced technology transfer. Second, the tariff would impede access for consumers to clean and safe drinking water, access that has become even more critical as a consequence of the COVID-19 pandemic. Third, there continue to be significant challenges with moving our supply chains out of China, including supplier validation and re-certification of products, which have not lessened as private companies and governments around the world restrict travel and take other measures to limit the spread of COVID-19.

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<sup>2</sup> See 85 FR 29504

<sup>3</sup> See 85 FR 15849-15850

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Moreover, COVID-19 has also negatively impacted economic conditions. Re-sourcing and validating a new supply chain is a significant undertaking in the best of economic times. Making such a transition now is not feasible. Consequently, our companies in our sector must now be forced to absorb the cost of tariff or pass it along to the consumer, both of which place companies at a competitive disadvantage to foreign companies and impose undue financial burden on the consumer.

Therefore, we respectfully request that you extend the “Carveout 6” exclusion identified in note 20(k) to subchapter III of chapter 99, retroactive to May 13, 2020 and extending for an additional year or such period of time that the USTR deems to be appropriate.

Sincerely,

The Water Quality Association  
The International Association of Plumbing and Mechanical Officials (IAPMO)  
US Chamber of Commerce

cc: Joseph L. Barloon, General Counsel to the U.S. Trade Representative  
Members of Congress

**Water Quality Association**

WQA is a not-for-profit trade association representing the residential, commercial, and industrial water treatment manufacturers industry with over 2,700 members worldwide. Since its creation in 1974, WQA has worked tirelessly to improve water quality through sustainable technologies and services. Our members are manufacturers, dealers, and distributors who specialize in point-of-use (POU) and point-of-entry (POE) water filtration systems, which treat water at the tap or entry point of a home or building. WQA also operates an American National Standards Institute (ANSI) accredited testing and certification laboratory that certifies water filtration products to nationally accepted industry standards for contaminant removal.

**International Association of Plumbing and Mechanical Officials (IAPMO)**

IAPMO R&T is a leading plumbing and mechanical product certification agency. It is accredited by American National Standards Institute (ANSI), Standards Council of Canada (SCC) and entidad mexicana de acreditación, a.c. (ema) along with recognition by Comisión Nacional del Agua (CONAGUA). IAPMO's Water Systems Certification Program informs and provides the utmost confidence to regulators, inspectors, manufacturers, distributors, installers, engineers and the public that drinking water treatment technologies have been tested and certified to the applicable industry standards.

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**US Chamber of Commerce**

The U.S. Chamber of Commerce is the world's largest business organization representing companies of all sizes across every sector of the economy. Our members range from the small businesses and local chambers of commerce that line the Main Streets of America to leading industry associations and large corporations.

They all share one thing: They count on the U.S. Chamber to be their voice in Washington, across the country, and around the world. For more than 100 years, we have advocated for pro-business policies that help businesses create jobs and grow our economy.