



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 10 2015

UNITED PARCEL SERVICE

Mr. G. Scott Cart
President/Director
701 Market Street, Suite 111
Saint Augustine, Florida 32095

Re: Nano Defense Solutions, Inc.
Ratified Consent Agreement and Final Order
Docket No. FIFRA-04-2015-3002(b)

Dear Mr. Cart:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22. Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the respondent name and docket number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U.S. Environmental Protection Agency. Where used in the document "SEC" refers to the Securities and Exchange Commission. Should you have any questions about this matter or your compliance status in the future, please contact Dr. Karen Hill of the EPA Region 4 staff at (404) 562-8972.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney
Chief
Chemical Safety and Enforcement Branch

Enclosures

cc: Dale Dubberly
Florida Department of Agriculture and Consumer Services

Nancy Hall, Georgia Department of Agriculture

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA**

In the Matter of:)
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 Nano Defense Solutions, Inc.)
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 Respondent.)
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Docket No.: FIFRA-04-2015-3002(b)

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CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136l(a) (FIFRA), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, United States Environmental Protection Agency, Region 4. Respondent is Nano Defense Solutions, Inc. (Nano Defense).
2. The authority to take action under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under FIFRA to the EPA Region 4 by the EPA Delegation 5-14, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by the EPA Region 4 Delegation 5-14, dated September 7, 2005. Pursuant to that Delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an

enforcement action as the Complainant in this matter, and has the authority to sign consent agreements memorializing settlements between the EPA and Respondent.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for the EPA in this proceeding:

Karen M. Hill
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303-8960
(404) 562-8972.

5. Respondent Nano Defense is licensed to do business in the state of Florida.
6. Respondent is a "person" as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s), and as such is subject to FIFRA and the regulations promulgated thereunder.

III. Specific Allegations

7. On or about March 10, 2015, inspectors, duly appointed by the EPA Administrator, inspected Respondent's facility located at 701 Market Street, Suite 111, St. Augustine, Florida 32095, and a storage unit leased by John Caldwell, the former Director of Nano Defense, located at 1003 Smithwycke Drive, Canton, Georgia 30115.

8. Specifically, during the above-referenced inspection at the storage unit in Georgia, the EPA inspectors discovered eleven boxes of the product “BioStorm,” each of which contained twelve 2 liter containers of the product that were packaged and labeled.
9. Based on EPA’s review of the Respondent’s website (<http://www.nanodefensesolutions.com>) and marketing brochures for the products “BioStorm” and “NanoStrike” collected during the inspections, EPA observed that the Respondent made the following “pesticide claims” about the products:
- “BioStorm TiO₂Ag-a completely different approach to surface sanitation. It is a highly advanced nanotechnology solution designed to swiftly eradicate all microorganisms and keep surfaces free of colonization for up to a full year,”
 - “BioStorm is highly effective against gram positive and gram negative bacteria, viruses, fungi, algae and yeasts,”
 - “BioStorm is a powerful, light-activated sanitizing barrier,” and
 - “NanoStrike is a completely different approach to sanitation. Its unique nanotechnology-based formula and surface treatment protocol is proven to help fight the spread of infection and disease.”
10. Respondent made numerous “pesticide claims” in the statements above-referenced concerning the products and therefore, each product is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), which includes any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
11. A pest is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), as any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator declares to be a pest under Section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1).

12. The term “to distribute or sell” as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or release for shipment.
13. Pesticides that are distributed and/or sold in the United States are required to be registered with the EPA, pursuant to Section 3 of FIFRA, 7 U.S.C. § 136a.
14. Based on the “pesticide claims” made on the Respondent’s website and in the marketing brochures, as described above in paragraph 9, the products are pesticides. Further, at the time of the inspections, the products “BioStorm” and “NanoStrike” were not registered as pesticides with the EPA, as required by Section 3 of FIFRA, 7 U.S.C. § 136a.
15. Pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), it is unlawful for any person to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.
16. As discussed in paragraphs 8 and 9, on at least one occasion, the Respondent offered for distribution and/or sale unregistered pesticides in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), and is therefore subject to the assessment of civil penalties under Section 14 of FIFRA, 7 U.S.C. § 136l.
17. Based on the information collected during the above-referenced inspections conducted in March 2015, the EPA determined that the Respondent produced the unregistered pesticides, “BioStorm” and “Nano Strike” at the producer establishment, World Changing Technologies, Pte, Ltd. (World Changing Technologies) located at 8 Burn Road, #02/03 Trivex Singapore 369977.
18. During the relevant time, the producer establishment above-referenced in paragraph 17, was not an establishment that was registered with the EPA.

19. The term “establishment” is defined in 40 C.F.R. § 167.3, to mean in part, “any site where a pesticidal product, active ingredient, or device is produced regardless of whether such site is foreign and producing any pesticidal product for import into the United States.”
20. Pursuant to 40 C.F.R. § 167.20(3), any establishment where a pesticide is produced must be registered with the Agency including, but not limited to, any foreign establishment producing a pesticide product for import into the United States.
21. Pursuant to Section 7(a) of FIFRA, 7 U.S.C. § 136e(a), no person shall produce any pesticide in any State unless the establishment in which it is produced is registered with the Administrator of the EPA.
22. It is unlawful for a producer to violate any of the provisions of Section 7(a) of FIFRA pursuant to Section 12(a)(2)(L) of FIFRA, 7 U.S.C § 136j(a)(2)(L).
23. Respondent produced pesticides at the producer establishment above-referenced in paragraph 17, that was not registered with the EPA, in violation of Section 7(a) of FIFRA, 7 U.S.C. § 136e(a) and Section 12(a)(2)(L) of FIFRA, 7 U.S.C § 136j(a)(2)(L).
24. Further, during the EPA’s investigation, it was determined that on at least seven separate occasions, the Respondent failed to submit a Notice of Arrival (NOA) of Pesticides and Devices (also known as “EPA Form 3540-1”) to the EPA prior to the arrival of each of the shipments from the foreign producer establishment above-referenced in paragraph 17, that accurately reported the products’ composition and nature.
25. Pursuant to Section 17(c) FIFRA, 7 U.S.C. § 136o(c) and the regulations at 19 C.F.R. § 12.112, an importer desiring to import pesticides into the United States is required to submit to the EPA Administrator a NOA, prior to the arrival of the shipment(s) into the United States.

26. It is unlawful under Section 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136e(a)(2)(N), for a registrant, wholesaler, dealer, retailer, or other distributor to fail to file any reports required by FIFRA.
27. Respondent failed to file a NOA on at least seven separate occasions prior to the arrival of each shipment of the pesticides, in violation of 12(a)(2)(N) of FIFRA, 7 U.S.C. § 136e(a)(2)(N).
28. Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Debt Collection Improvement Act of 1996, authorizes the assessment of a civil penalty.
29. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the EPA to consider the appropriateness of the assessed penalty to the size of business of the Respondent, the effect on Respondent's ability to continue in business, and the gravity of the violation(s).
30. After consideration of the factors set forth in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), the EPA proposes to assess a total civil penalty of **THIRTY THOUSAND, SIX HUNDRED DOLLARS (\$30,600)** against the Respondent for the above-described violations. Civil penalties under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), may be assessed by Administrative Order.

IV. Consent Agreement

31. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
32. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
33. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.

31. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of FIFRA as it relates to the products, “BioStorm” and “NanoStrike.”
32. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
33. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of FIFRA.

V. Final Order

34. Respondent is assessed a civil penalty of **THIRTY THOUSAND, SIX HUNDRED DOLLARS** (\$30,600). Four separate payments will be made to complete payment of the entire civil penalty including interest. The first payment shall be made thirty (30) days after the effective date of the CAFO. The subsequent three payments shall be due in 120-day intervals thereafter, or as specified in the payment schedule below. Including the civil penalty and interest, the total amount that will be paid upon the completion of all payments will be **THIRTY THOUSAND, SEVEN HUNDRED AND SIXTEEN DOLLARS** and **SEVENTY SIX CENTS** (\$30,716.76). Respondent shall make payments in accordance with the following schedule:

<u>Payment Number</u>	<u>Payment Due Date</u>	<u>Payment Due</u>
1	within 30 days after effective date of CAFO	\$7,650.00
2	within 120 days thereafter	\$7,688.92
3	within 240 days thereafter	\$7,688.92
4	within 360 days thereafter	\$7,688.92

38. Respondent shall remit each payment of the penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check.

The check shall reference on its face the name of the Respondent and Docket number of this CAFO.

The penalty payment shall be sent by one of the methods below.

Address for payment submittal using the United States Postal Service (excluding USPS overnight mail):

U.S. Environmental Protection Agency
 Fines and Penalties
 Cincinnati Finance Center
 P.O. Box 979077
 St. Louis, Missouri 63197-9000.

Address for payments by USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):

U.S. Bank
 Government Lockbox 979077
 US EPA Fines & Penalties
 1005 Convention Plaza
 Mail Station SL-MO-C2-GL
 St. Louis, Missouri 63101
 Contact Number: (314) 425-1818.

39. At the time of each payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
 U.S. EPA - Region 4
 61 Forsyth Street S.W.
 Atlanta, Georgia 30303-8960;

Karen M. Hill
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303-8960; and

Saundi J. Wilson
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

40. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, and if such payment is not made within 30 days after the due date, that payment plus all subsequent payments (the entire unpaid balance) shall become immediately due and payable on the 31st day from such due date. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
41. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above in paragraph 37, the EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
42. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of **THIRTY THOUSAND, SIX HUNDRED DOLLARS (\$30,600)** within 30 days of the effective date of this CAFO and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of

payments under the installment schedule, elect to pay the entire principal balance remaining, together with interest accrued up to the date of such full payment.

43. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, the EPA will not seek to recover interest on any amount of such civil penalty that is paid within 30 calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
44. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
45. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
46. This CAFO shall be binding upon the Respondent, its successors and assigns.
47. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to it.


VI. Effective Date

48. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Nano Defense Solutions, Inc.

Docket No.: FIFRA-04-2015-3002(b)

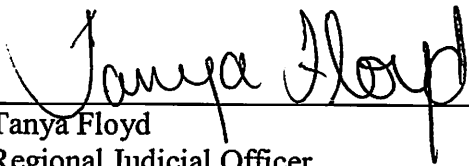
By:  (Signature) Date: 6-22-15
Name: J.G. SCOTT CARST (Typed or Printed)
Title: PRESIDENT (Typed or Printed)

Complainant: U. S. Environmental Protection Agency

By:  Date: 7-2-15
Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division

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APPROVED AND SO ORDERED this 9th day of July 2015.




Tanya Floyd
Regional Judicial Officer

Mr. Robert Caplan
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(via EPA's internal mail)

Date: 7-10-15



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9511

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order In the Matter of Nano Defense Solutions, Inc., Docket Number: FIFRA-04-2015-3002(b), to the addressees listed below:

Mr. G. Scott Cart (via Certified Mail, Return Receipt Requested)
President/Director
Nano Defense Solutions, Inc.
701 Market Street
Saint Augustine, Florida 32095

Mr. G. Scott Cart (via Certified Mail, Return Receipt Requested)
President/Director
Nano Defense Solutions, Inc.
2073 Crown Drive
Saint Augustine, Florida 32092

Karen Hill (via EPA's internal mail)
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

Ms. Marlene Tucker (via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303