



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

April 28, 2022

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Article Number: 7099 3220 00014434 3311

Al King
NanoVapor Biotech, Inc.
9595 Six Pines Dr., Ste 8210
The Woodlands, TX 77380

Re: Stop Sale, Use or Removal Order
Federal Insecticide, Fungicide, and Rodenticide Act
In the Matter of NanoVapor Biotech, Inc.; EPA Docket No. FIFRA-06-2022-0404

Dear Mr. King:

Pesticides present significant environmental and health concerns. Exposure to certain toxic pesticides may lead to injury or death, and the sale and use of incorrectly labeled or formulated pesticides pose a serious danger to human health and the environment. As a result, the United States Environmental Protection Agency (EPA) regulates the registration, distribution, sale, and use of pesticides pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the related regulations in the Code of Federal Regulations (C.F.R.).

Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), authorizes the EPA to issue an order prohibiting the sale, use or removal of any pesticide by a person who owns, controls, or has custody of such pesticide whenever there is reason to believe on the basis of inspection or tests that the pesticide is in violation of any provision of FIFRA or has been or is intended to be distributed or sold in violation of FIFRA.

Attached, is a **STOP SALE, USE OR REMOVAL ORDER** (SSURO or Order) directed to NanoVapor Biotech, Inc., concerning the pesticidal products known as Omnisol Plus (EPA Reg. No. 75174-10-96160), Omnisol Concentrate (EPA Reg. No. 75174-2-96160), and Omnisol RTU (EPA Reg. No. 75174-8-96160) (the Products). The SSURO directs NanoVapor Biotech, Inc. to immediately cease the sale, use or removal of the Products, unless written permission is provided by the EPA, *and is effective immediately upon receipt*. The SSURO was issued as a result of the EPA's investigation of NanoVapor Biotech, Inc.'s compliance with FIFRA and distribution of pesticidal products.

Addressing noncompliance with environmental laws is important in carrying out the EPA's mission to protect human health and the environment. At the same time, the EPA acknowledges that the COVID-pandemic may impact NanoVapor Biotech, Inc. If that is the case, please contact us regarding any specific issues you need to discuss.

Thank you for your attention to this matter. If you have any questions, please contact Elizabeth George, at george.elizabeth.a@epa.gov or (214) 665-6751, or Lee McMillan, of my staff, at mcmillan.lee@epa.gov or (214) 665-6404.

Sincerely,



Digitally signed by CHERYL
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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Attachment: Stop, Sale, Use or Removal Order

FILED

U. S. ENVIRONMENTAL PROTECTION AGENCY 22 APR 28 PM 4:10
REGION 6
1201 Elm Street, Suite 500
Dallas, Texas 75270
REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

NanoVapor Biotech, Inc.

Respondent.

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Docket No. FIFRA-06-2022-0404

STOP SALE, USE, OR REMOVAL ORDER

Jurisdiction

1. This Stop Sale, Use, or Removal Order (Order or SSURO) is issued pursuant to the authority of Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136k(a), as amended. Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), authorizes the Administrator of the U.S. Environmental Protection Agency (“EPA”) to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe that the pesticide or device is in violation of any provision of FIFRA, or the pesticide or device has been or is intended to be distributed or sold in violation of any provision of FIFRA.

Parties

2. Complainant is the Director of Enforcement and Compliance Assurance Division of the EPA, Region 6, as duly delegated by the Administrator of the EPA and the Regional Administrator, EPA, Region 6.

3. Respondent is NanoVapor Biotech, Inc., a company incorporated in the state of Texas and conducting business in the state of Texas.

Statutory and Regulatory Authority

4. Section 12(a)(1)(B) of FIFRA, 7 U.S.C. 136j(a)(1)(B), provides that it is unlawful for any person in any State to distribute or sell to any person any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration.

5. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines “person” as any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

6. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines “pesticide as “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.”

7. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines “to distribute or sell” as to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.

8. FIFRA’s implementing regulations at 40 C.F.R. § 152.132 provide that a registrant may distribute or sell his registered product under another person’s name and address instead (or in addition to) his own. Such distribution or sale is termed “supplemental distribution” and the product is referred to as a “distributor product”. The distributor is considered an agent of the registrant for all intents and purposes under the Act, and both the registrant and the distributor may be held liable for violations pertaining to the distributor product. One of the conditions for supplemental distribution is that the claims on the label of the distributor product be the same as those on the registered product except that, specific claims may be deleted provided that no other changes are necessary. *See* 40 C.F.R. § 152.132(d).

EPA Findings of Fact and Conclusions of Law

9. This Order refers to NanoVapor Biotech, Inc., and all its divisions, offices, and subsidiaries collectively as “Respondent.”

10. Respondent is, and at all times referred to herein was, a “person” as defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

11. Respondent owns and operates a facility located at: 9595 Six Pines Dr., Ste 8210, The Woodlands, TX 77380 (the “Facility”).

12. Respondent is authorized, pursuant to the conditions of 40 C.F.R. § 152.132, to distribute the following three distributor products: Omnisol Plus (EPA Reg. No. 75174-10-96160); Omnisol Concentrate (EPA Reg. No. 75174-2-96160); and Omnisol RTU (EPA Reg. No. 75174-8-96160) (the “Products”). The Products are respectively registered to SiShield Technology, Inc., as: SIS 200D RTU (EPA Reg. No. 75174-10); SIS AM500 (EPA Reg. No. 75174-2); and SIS AM 75 (EPA Reg. No. 75174-8).

13. Two of the three registered products, SIS AM500 (EPA Reg. No. 75174-2) and SIS AM 75 (EPA Reg. No. 75174-8), were approved for claims of microbiostatic effects—that is, long term inhibition of bacterial growth in prevention of non-public-health related impacts (e.g., preventing odor or staining by microorganisms).

14. The other registered product, SIS 200D RTU (EPA Reg. 7514-10), was approved for use against public health bacteria under circumstances that did not include any long-term efficacy claims.

15. None of these three registered products were approved for claims of long-term inhibition of public health bacteria.

16. The label for each registered pesticide contained an environmental hazard warning of toxicity to fish.

17. The label for each registered pesticide contained a warning to keep the pesticide out of reach of children.

18. The labels for two of the registered products, SiS AM500 (EPA Reg. No. 75174-2) and SIS AM75 (EPA Reg. No. 75174-8), contained a human hazard warning that the products could cause injury to human eyes.

19. On the Respondent's website (<https://www.nanovaporbiotech.com>) (last accessed April 7, 2022), Respondent claims that its Products contribute to "Helping to Prevent the Spread of Covid-19"—an effect involving a human disease-causing pathogen—in part by virtue of providing "long-lasting protection for up to 90 days" by turning "any environment into self-disinfecting surfaces with our unique chemistry, inspired by nature . . ."

20. On the same website (<https://www.nanovaporbiotech.com>) (last accessed on April 7, 2022), Respondent makes the following claim: "Disinfect. Protect. Save. Disinfect and protect high-traffic environments with Omnisol to eliminate harmful pathogens for up to 12 weeks, keeping your business safe while limiting your sanitation expense."

21. Additionally, the Respondent's website (<https://www.nanovaporbiotech.com/omnisol/>) (last accessed on April 7, 2022) claims that its Products are "safe and non-toxic for humans."

22. As described above, the claims made by Respondent of long-term efficacy against human pathogens and the claims regarding the Products' non-toxicity and safety substantially differ from the claims accepted by EPA in the registration process for these Products.

23. The claims made on Respondent's website are made as a part of the distribution or sale of the Products as they are located on the same website as Respondent's link to "Buy Omnisol Products."

24. On January 7, 2021, representatives of EPA, Region 6 spoke with Respondent about the advertising on the website and memorialized the conversation in an advisory letter sent February 10, 2021.

25. Despite the efforts by EPA to communicate its concerns, Respondent continues to make claims on its website that substantially differ from the claims made for the registered products in connection with the products' registration. Additionally, Respondent's website, as accessed April 7, 2022, continues to demonstrate an intent to sell or distribute the Products through links to forms under the menu item "Contact Us", for those seeking to "Become a Distributor" and "Buy Omnisol Products."

Basis for the Order

26. EPA has reason to believe, based on the information described in the EPA Findings of Fact and Conclusions of Law, that the Respondent intends to distribute and sell the Products in violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).

Order

27. Pursuant to the authority of Section 13(a) of FIFRA, 7 U.S.C. § 136k(a), Respondent is hereby ORDERED to **immediately cease** the sale, use, or removal of the Products under its ownership, control, or custody, wherever such products are located, except in accordance with the provisions of this Order.

28. This Order shall apply to all quantities and container types and sizes of all of the Products controlled or within the custody of Respondent and any agent, contractor, employee,

consultant, firm successor, assign or other persons or entities acting on behalf of Respondent, and any stocks of the Products returned to NanoVapor Biotech from its downstream distributors, retailers, customers, or other end-users.

29. The Products shall not be used, sold, offered for sale, held for sale, shipped, delivered for shipment, received, or having so received, shall not be delivered, offered for delivery, moved, or removed for disposal from any facility or establishment, for any reason, unless approved by EPA in writing.

30. Any proposal for movement of the Products shall be submitted to Lee McMillan at Mcmillan.Lee@epa.gov and shall include:

- a. The purpose for which movement is being requested;
- b. An accounting of the quantities of Products to be moved, including location(s), quantities from each location and container size for the Products to be moved; and
- c. The destination location to which the Products will be moved.

General Provisions

31. Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(I), provides that it is unlawful for any person to violate any order issued under Section 13 of FIFRA, 7 U.S.C. § 136k.

32. Violation of the terms or provisions of this Order may subject the violator to **CIVIL OR CRIMINAL PENALTIES** as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136l.

33. Respondent may seek federal judicial review of the Order pursuant to section 16 of FIFRA, 7 U.S.C. § 136n.

34. If any provision or authority of the Order or the application of the Order to Respondent is held by federal judicial authority to be invalid, the application to Respondent of the remainder of the Order shall remain in full force and effect and shall not be affected by such a holding.

35. The issuance of this Order shall not act as a waiver by the EPA of any enforcement or other authority available to the EPA under FIFRA.

36. This order does not affect the obligation of Respondent to comply with all federal, state, and local statutes, regulations and permits.

37. This Order shall be **EFFECTIVE IMMEDIATELY** upon receipt by Respondent.

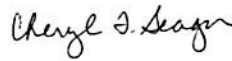
38. This Order shall remain in effect unless and until revoked, terminated, suspended, modified, or released by the EPA.

39. EPA may subsequently amend this Order, in writing, in accordance with the authority of FIFRA. Any amendment will be transmitted to Respondent. In the event of any such subsequent amendment to this Order, all requirements for performance of this Order not affected by the amendment shall remain as specified in the original Order.

40. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

Other Matters

41. For any additional information about this Stop Sale, Use or Removal Order please contact Lee McMillan, EPA Region 6 Waste Enforcement Branch, at (214) 665-6404 or Mcmillan.Lee@epa.gov. For any legal matters concerning this Order, you are encouraged to contact Elizabeth George, Office of Regional Counsel, at (214) 665- 6751 or George.Elizabeth.A@epa.gov.



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Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Stop Sale, Use, and Removal Order was sent this day in the following manner:

Transmitted via certified mail, return receipt requested to Respondent:

Al King
NanoVapor Biotech, Inc.
9595 Six Pines Dr., Ste 8210
The Woodlands, TX 77380

ELIZABETH
GEORGE

Digitally signed by ELIZABETH
GEORGE
Date: 2022.04.28 15:53:19 -05'00'

Signed
Office of Regional Counsel
U.S. EPA, Region 6