



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUL 08 2009

REPLY TO THE ATTENTION OF:  
LC-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0006 0189 4694

Kenneth Warpinski  
Central Sod Farms, Inc.  
25605 West 111<sup>th</sup> Street  
Plainfield, Illinois 60544

Consent Agreement and Final Order **FIFRA-05-2009-0019**

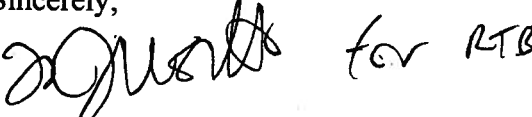
Dear Mr. Smith:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on July 8, 2009 with the Regional Hearing Clerk.

The civil penalty in the amount of \$880 is to be paid in the manner described in paragraphs 36 thru 37. Please be certain that the number **BD 2750945P015** and the docket number are written on both the transmittal letter and on the check. Payment is due by August 7, 2009 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

Handwritten signature of Terence Bonace, with the initials "for RTB" written to the right.

Terence Bonace  
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

RECEIVED  
JUL 08 2009

In the Matter of:	)	Docket No.	REGIONAL HEARING CLERK
	)	FIFRA-05-2009-0019	U.S. ENVIRONMENTAL
Central Sod Farms, Inc.,	)	Proceeding to Assess a Civil Penalty	PROTECTION AGENCY
Plainfield, Illinois,	)	Under Section 14(a) of the Federal	
	)	Insecticide, Fungicide, and Rodenticide	
Respondent.	)	Act, 7 U.S.C. § 136l(a)	
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**Consent Agreement and Final Order Commencing and Concluding the Proceeding**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Central Sod Farms, Inc., a corporation doing business in the State of Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136 to 136y.

**Statutory and Regulatory Background**

10. It is unlawful for any person to use any registered pesticide in a manner inconsistent with its labeling. 7 U.S.C. § 136j(a)(2)(G)

11. Any private applicator or other person not included in Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1) who violates any provision of FIFRA subsequent to receiving a written warning from the EPA Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than \$1,000.00 for each offense. 7 U.S.C. § 1361(a)(2)

12. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and regulations promulgated pursuant thereto at 40 C.F.R. Parts 19 and 27, *see* 61 Fed. Reg. 69360-69366 (Dec. 31, 1996) and 62 Fed. Reg. 13514-13517 (March 20, 1997), increased this amount from \$1,000.00 to \$1,100.0

13. When workers or handlers are on an agricultural establishment and, within the last 30 days a pesticide covered by this subpart has been applied on the establishment, or a restricted-

entry interval (REI) has been in effect, the agricultural employer shall display, in accordance with this section, pesticide safety information including the name, address, and telephone number of the nearest emergency medical care facility specific information about the pesticide, 40 C.F.R. § 170.135(c) and 40 C.F.R. § 170.235(c).

14. The information must be displayed in a central location on the farm or in the nursery or greenhouse where it can be readily seen and read by workers and handlers and shall be accessible and legible, as specified at 40 C.F.R. §§ 170.135(e) and (f) and 40 C.F.R. § 170.135(e) and (f).

#### **General Allegations**

15. Respondent is a corporation organized under the laws of the State of Illinois.

16. Therefore, Respondent is a "person" as that term is defined by section 2(s) of FIFRA, 7 U.S.C. § 136(s)

17. Respondent grows or maintains turf grass or sod for commercial purposes.

18. Therefore, Respondent produces an "agricultural plant" as that term is defined by 40 C.F.R. § 170.3.

19. Respondent engages in the outdoor production of an agricultural plant to produce plants that will be used in their entirety in another location.

20. Therefore, Respondent is a "nursery" as that term is defined by 40 C.F.R. § 170.3.

21. Therefore, Respondent is an "agricultural establishment" as that term is defined by 40 C.F.R. § 170.3.

22. Respondent has persons employed for compensation to perform other activities relating to the production of agricultural plants.

23. Therefore, Respondent has "workers" as that term is defined by 40 C.F.R. § 170.3.

24. Therefore, Respondent is an “agricultural employer” as that term is defined by 40 C.F.R. § 170.3.

25. Respondent has persons employed for compensation to mix, load, or apply pesticides.

26. Therefore, Respondent has “handlers” as that term is defined by 40 C.F.R. § 170.3.

27. On August 10, 2007, Respondent applied Strike 3, (EPA Reg. No. 14774-2) to its fields on Steward Road.

28. Strike 3 is a herbicide.

29. Therefore, Strike 3 is a “pesticide” as that term is defined by section 2(u) of FIFRA, 7 U.S.C. § 136(u).

30. The label and packaging of Strike 3 bore a U.S. EPA registered label, containing a section on “Agricultural Use Requirements” specifically stating, “[U]se this product only in accordance with its labeling and with the Worker Protection Standard at 40 C.F.R. Part 170.”

31. On August 10, 2007, inspector Kathleen Sharpe, Illinois Department of Agriculture, conducted an inspection at Central Sod Farms, Inc., 6010 Minooka Road, Minooka, Illinois.

32. On August 10, 2007, Respondent’s workers were on site.

33. On August 10, 2007, Respondent’s handlers were on site.

#### **Specific Allegations**

34. On August 10, 2007, Respondent failed to display emergency medical care information including the name, address and telephone number of the nearest emergency medical care facility.

35. Therefore, Respondent violated the regulations at 40 C.F.R. § 170.135(c) and 40 C.F.R. § 170.235(c) and section 12(a)(2)(G) of FIFRA, 7 U.S.C. 136j(a)(2)(G).

**Civil Penalty**

36. Within 30 days after the effective date of this CAFO, Respondent must pay a \$880.00 civil penalty for the FIFRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
Post Office Box 979077  
St. Louis, Missouri 63197-9000

The check must note Central Sod Farms, Inc., the docket number of this CAFO and the billing document number.

37. A transmittal letter, stating, Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Terence Bonace (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard.  
Chicago, Illinois 60604

Jeffery Trevino (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

38. This civil penalty is not deductible for federal tax purposes.

39. If Respondent does not pay the civil penalty, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States

district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

40. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

#### **General Provisions**

41. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

42. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

43. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state, and local laws.

44. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for FIFRA.

45. The terms of this CAFO bind Respondent, its successors, and assigns.

46. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

47. Each party agrees to bear its own costs and attorney's fees, in this action.

48. This CAFO constitutes the entire agreement between the parties.

**Central Sod Farms, Inc., Respondent**

6-24-2009  
Date

Kenneth Warpinski  
Kenneth Warpinski  
President

**United States Environmental Protection Agency, Complainant**

7/6/09  
Date

Allen Zeller  
for Margaret M. Guerriero  
Director  
Land and Chemicals Division



**In the Matter of:**  
**Central Sod Farms, Inc.**  
**Docket No. FIFRA-05-2009-0019**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

7/7/09  
Date

Walter W. Kavalish  
for  
Bharat Mathur  
Acting Regional Administrator  
United States Environmental Protection Agency  
Region 5

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U.S. ENVIRONMENTAL  
PROTECTION AGENCY

U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
JUN 29 2009  
OFFICE OF REGIONAL  
COUNSEL

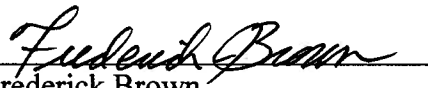
**CERTIFICATE OF SERVICE**

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Central Sod Farms, Inc., was filed on July 8, 2009 with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7001 0320 0006 0189 4694, a copy of the original to the Respondents:

Kenneth Warpinski  
Central Sod Farms, Inc.  
25605 West 111<sup>th</sup> Street  
Plainfield, Illinois 60544

and forwarded copies (intra-Agency) to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J  
Jeffery Trevino, Regional Judicial Officer, ORC/C-14J  
Eric Volck, Cincinnati Finance/MWD

  
Frederick Brown  
Pesticides and Toxics Compliance Section  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

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