



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
August 20, 2014

REPLY TO THE ATTENTION OF:  
LC- 8J

**CERTIFIED MAIL No.7011 1150 0000 2643 8661**  
**RETURN RECEIPT REQUESTED**

Ms. Naomi A. Moore  
CHS, Inc.  
5500 Cenex Drive  
Inver Grove Heights, Minnesota 55077

Consent Agreement and Final Order In the Matter of  
CHS, Inc., Docket No. **FIFRA-05-2014-0028**

Dear Ms. Moore:

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 August 20, 2014, with the Regional Hearing Clerk.

The civil penalty in the amount of \$17,440 is to be paid in the manner described in paragraphs 34 and 35. Please be certain that the docket number is written on both the transmittal letters and on the checks. Payment is due by September 19, 2014, (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Terence Bonace".

Terence Bonace  
Pesticides and Toxics Compliance Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: )

CHS Inc. )  
Inver Grove Heights, Minnesota, )  
Respondent. )

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Docket No. FIFRA-05-2014-0028

Proceeding to Assess a Civil Penalty  
Under Section 14(a) of the Federal  
Insecticide, Fungicide, and Rodenticide  
Act, 7 U.S.C. § 136l(a)

Consent Agreement and Final Order

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, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is CHS Inc., a corporation doing business in the State of Minnesota.

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. §§ 136-136y.

**Statutory and Regulatory Background**

10. It is unlawful for any person in any state to distribute or sell to any person any pesticide that is not registered. 7 U.S.C. § 136(j)(a)(1)(A).

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

12. Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA may be assessed a penalty of not more than \$5,000 for each offense. Section 14(a)(1) of FIFRA, 7 U.S.C. § 136(l).

13. 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 these amounts from \$1,000 to \$1,100 and from \$5,000 to \$7,500.

**Factual Allegations and Alleged Violations**

14. Respondent is a corporation operating under the laws of the State of Minnesota.

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

16. At all times relevant to this Complaint, Respondent owned or operated a place of business located at 304 Railway Street, Mahanomen, Minnesota called CHS Inc. "Country Store."

17. On October 23, 2013, an EPA inspector authorized to conduct inspections under FIFRA conducted an inspection at Respondent's Country Store, in Mahanomen, Minnesota.

18. During the October 23, 2013 inspection, the EPA inspector observed and collected photographic documentation of Tomcat All Weather Rodent Block, EPA Reg. No. 12455-5-3240, Conrac Rat and Mouse Bait Ready-to-Use Place Packs, EPA Reg. No. 12455-7, and an unregistered rodenticide that was contained in a box labeled Just One Bite II, EPA Reg. No. 270-273 that were offered for sale on a store shelf in the CHS Country Store.

**Count I**

19. Paragraphs 1 through 18 are realleged and incorporated herein by reference.

20. Respondent was offering for sale individual, 1 pound bars of Tomcat All Weather Rodent Block, EPA Reg. No. 12455-5-3240.

21. The label of Tomcat All Weather Rodent Block, EPA Reg. No. 12455-5-3240 states, Tomcat All Weather Rodent Block, EPA Reg. No. 12455-5-3240, "Do not sell this product in individual containers holding less than 4 pounds of bait."

22. The label of an individual, 1 pound bar of Tomcat All Weather Rodent Block, EPA Reg. No. 12455-5-3240 states, "Individual Sale is Prohibited by Law."

23. Respondent committed an unlawful act under Section 12(a)(2)(G) of FIFRA, 7 U.S.C. 136j(a)(2)(G).

### **Count II**

24. Paragraphs 1 through 18 are realleged and incorporated herein by reference.

25. Respondent offered for sale individual, 1.5 oz. packets of Contrac Rat and Mouse Bait Ready-to-use Place Packs, EPA Reg. No. 12455-75.

26. The label of Contrac Rat and Mouse Bait Ready-to-use Place Packs, EPA Reg. No. 12455-75 states, "Do not sell this product in individual containers holding less than 16 pounds of bait."

27. The label of an individual, 1.5 ounce packet of Contrac Rat and Mouse Bait Ready-to-use Place Packs, EPA Reg. No. 12455-75 states, "Individual Sale is Prohibited by Law."

28. Respondent committed an unlawful act under section 12(a)(2)(G) of FIFRA, 7 U.S.C. 136j(a)(2)(G).

### **Count III**

29. Paragraphs 1 through 18 are realleged and incorporated herein by reference.

30. Respondent was offering for sale unidentified, unlabeled, approximately 1 oz. blocks of rodenticide that were contained in a box labeled "Just One Bite II Bar," EPA Reg. No. 270-273.

31. Respondent was offering for sale an unregistered rodenticide.

32. Respondent committed an unlawful act under section 12(a)(1)(A) of FIFRA, 7 U.S.C. 136j(a)(1)(A).

### **Civil Penalty**

33. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant

determined that an appropriate civil penalty to settle this action is \$17,440. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. Complainant also considered EPA's FIFRA Enforcement Response Policy, dated December 2009.

34. Within 30 days after the effective date of this CAFO, Respondent must pay a \$17,440 civil penalty for the FIFRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

35. Respondent must send a notice of payment that states Respondent's name, complete address and the case docket number to EPA at the following addresses when it pays the penalty:

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

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

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

37. If Respondent does not pay timely 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.

38. 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**

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

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

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

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

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

44. 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.


45. Each party agrees to bear its own costs and attorneys' fees, in this action.

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

**CHS Inc., Respondent**

July 24, 2014


\_\_\_\_\_  
Date

  
\_\_\_\_\_  
John McEnroe  
Executive Vice President  
CHS Inc.

**United States Environmental Protection Agency, Complainant**

8/13/2014

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Margaret M. Guerriero  
Director  
Land and Chemicals Division



**In the Matter of:**  
**CHS Inc.**  
**Docket No. FIFRA-05-2014-0028**

**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.

8-15-2014

Date



\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency  
Region 5

**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 CHS Inc., was filed on August 20, 2014, 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. 7011 1150 0000 2643 8661, a copy of the original to the Respondent:

Naomi A. Moore  
CHS, Inc.  
5500 Cenex Drive  
Inver Grove Heights, Minnesota 55077

and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J  
Cynthia Kawakami, 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

Docket No. **FIFRA-05-2014-0028**