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

APR 12 2017

REPLY TO THE ATTENTION OF:

LC-8J

VIA EMAIL

Mr. Richard Erstad
Vice President/General Counsel
Hawkins, Inc.
2381 Rosegate
Roseville, Minnesota 55106

richard.erstad@hawkinsinc.com

Consent Agreement and Final Order In the Matter of Hawkins, Inc., Docket Number **FIFRA-05-2017-0015**

Mr. Erstad:

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 APR 12 2017 with the Regional Hearing Clerk.

The civil penalty in the amount of $53,100 is to be paid in the manner described in paragraphs 124 and 125. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due within 30 calendar days of the filing date.

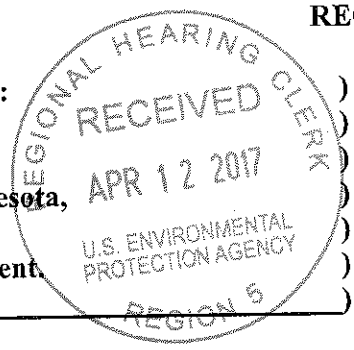
Thank you for your cooperation in resolving this matter.

Sincerely,

Claudia Niess
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



In the Matter of:	)	**Docket No. FIFRA-05-2017-0015**
Hawkins, Inc.	)	**Proceeding to Assess a Civil Penalty**
Roseville, Minnesota,	)	**Under Section 14(a) of the Federal**
	)	**Insecticide, Fungicide, and Rodenticide**
Respondent.	)	**Act, 7 U.S.C. § 136*l*(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. § 136*l*(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. The Respondent is Hawkins, Inc. (Hawkins), 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 in compliance with FIFRA, 7 U.S.C. §§ 136-136y, as of the effective date of this CAFO.

Statutory and Regulatory Background

10. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states that it is unlawful for any person in any state to distribute or sell to any person any pesticide that is misbranded.

11. Section 2(q)(1)(D) of FIFRA, 7 U.S.C. § 136(q)(1)(D), states a pesticide is misbranded if its label does not bear the registration number of the establishment in which it was produced.

12. Section 2(q)(1)(H) of FIFRA, 7 U.S.C. § 136(q)(1)(H), states that a pesticide which is not registered in accordance with Section 3 of FIFRA and intended for export is misbranded if the label does not contain, in words prominently placed thereon with such conspicuousness as to render it likely to be noted by the ordinary individual under customary conditions of purchase and use the statement "Not Registered for Use in the United States of America."

13. The term "person" means "any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not." 7 U.S.C. § 136(s).

14. The term "distribute or sell" means "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." 7 U.S.C. § 136(gg).

15. The term "label" means the written, printed, or graphic matter on, or attached to, the pesticide or any of its containers or wrappings. 7 U.S.C. § 136(p).

16. A "pesticide" is, among other things, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7 U.S.C. § 136(u).

17. A "pest" is 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 which the Administrator of U.S. EPA declares to be a pest under Section 25(c)(1) of FIFRA. 7 U.S.C. § 136(t).

18. The term "produce" means to manufacture, prepare, compound, propagate, or process any pesticide or to package, repackage, label, relabel, or otherwise change the container of any pesticide. 7 U.S.C. § 136(w) and 40 C.F.R. § 167.3.

19. The term "establishment" means any place where a pesticide is produced, or held, for distribution or sale. 7 U.S.C. § 136(dd).

20. The Administrator of EPA may assess a civil penalty against any registrant, commercial applicator, wholesaler, dealer, retailer, other distributor who violates any provision of FIFRA of up to $7,500 for each offense that occurred after January 12, 2009, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

General Allegations

21. Respondent is a "person" as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

22. At all times relevant to this Complaint, Respondent owned or operated a place of business located at 13005 Courthouse Boulevard, Rosemount, Minnesota 55068 (the Rosemount establishment).

23. At all times relevant to this Complaint, Respondent owned or operated a place of business at 1125 Childs Road, Saint Paul, Minnesota 55106 (the St. Paul establishment).

24. The Rosemount establishment is an "establishment" as that term is defined at Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd).

25. On or about January 15, 2013, EPA assigned the establishment registration number 7870-MN-004 to the Rosemount establishment under Section 7 of FIFRA, 7 U.S.C. § 136e.

26. The St. Paul establishment is an "establishment" as that term is defined at Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd).

27. On or about June 29, 2001, EPA assigned the establishment registration number 7870-MN-002 to the St. Paul establishment under Section 7 of FIFRA, 7 U.S.C. § 136e.

28. On or about February 19, 2014, inspectors employed by the Minnesota Department of Agriculture (MDA) and authorized to conduct inspections under FIFRA conducted an inspection at the Rosemount establishment and the St. Paul establishment.

29. During the February 19, 2014 inspections, the MDA inspectors collected labels, production records, and shipping or distribution records for "Baler's Choice," EPA Registration Number 73877-1, "Baler's Choice," and "Baler's Choice Preservative for Baled Hay."

Baler's Choice, EPA Reg. No. 73877-1

30. The label of "Baler's Choice," EPA Registration Number 73877-1, collected during the February 19, 2014 inspection at the Rosemount establishment was a true and accurate

representation of the label on the product for all the shipping records collected during the inspection at that establishment.

31. The label of "Baler's Choice," EPA Registration Number 73877-1, collected during the February 19, 2014 inspection at the Rosemount establishment stated "EPA Est. No. 73877-WI-001."

32. During calendar years 2013 and 2014, Respondent "produced" "Baler's Choice," EPA Registration Number 73877-1, at the Rosemount establishment, as that term is defined at Section 2(w) of FIFRA, 7 U.S.C. § 136(w).

33. "Baler's Choice," EPA Reg. No. 73877-1, is a "pesticide" as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

34. On or about December 16, 2013, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, from the Rosemount establishment to Harvest Tec, Inc. located in Hudson, Wisconsin.

35. On or about January 9, 2014, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, from the Rosemount establishment to Harvest Tec, Inc. located in Hudson, Wisconsin.

36. On or about January 10, 2014, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, from the Rosemount establishment to Harvest Tec, Inc., located in Hudson, Wisconsin.

37. On or about January 24, 2014, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, from the Rosemount establishment to Harvest Tec, Inc., located in Hudson, Wisconsin.

38. On or about February 10, 2014, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, from the Rosemount establishment to Harvest Tec, Inc., located in Hudson, Wisconsin.

39. On or about February 13, 2014, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, from the Rosemount establishment to Harvest Tec, Inc., located in Hudson, Wisconsin.

Baler's Choice (No Registration Number)

40. The label of "Baler's Choice" collected during the February 19, 2014 inspection at the Rosemount establishment was a true and accurate representation of the label on the product for all the shipping records collected during the inspection at that establishment.

41. The label of "Baler's Choice" collected during the February 19, 2014 inspection at the Rosemount establishment contained the following statements or claims, in English and French:

a. "(Liquid) mold inhibitor for baled alfalfa hay"

b. "Guaranteed Analysis / Propionic Acid.... 64.5% min."

42. "Baler's Choice" is a pesticide as that term is defined by Section 2(u) of FIFRA, 7 § U.S.C. 136(u).

43. "Baler's Choice" is not registered under Section 3 of FIFRA and is intended for exportation to and distribution or sale in Canada.

44. The label of "Baler's Choice" collected during the February 19, 2014 inspection at the Rosemount establishment did not contain the phrase "Not Registered for Use in the United States of America."

45. On or about August 5, 2013, Respondent distributed or sold "Baler's Choice" to Harvest Tec, Inc., located in Husdon, Wisconsin.

46. On or about November 21, 2013, Respondent distributed or sold "Baler's Choice" to Harvest Tec, Inc., located in Husdon, Wisconsin.

47. On or about November 22, 2013, Respondent distributed or sold "Baler's Choice" to Harvest Tec, Inc., located in Husdon, Wisconsin.

48. On or about December 4, 2013, Respondent distributed or sold "Baler's Choice" to Harvest Tec, Inc., located in Husdon, Wisconsin.

49. On or about December 5, 2013, Respondent distributed or sold "Baler's Choice" to Harvest Tec, Inc., located in Husdon, Wisconsin.

Baler's Choice Preservative for Baled Hay

50. The label of "Baler's Choice Preservative for Baled Hay" collected during the February 19, 2014 inspection at the Rosemount establishment was a true and accurate representation of the label on the product for all the shipping records collected during the inspection at that establishment.

51. The label of "Baler's Choice Preservative for Baled Hay" collected during the February 19, 2014 inspection at the Rosemount establishment contained the following statements or claims:

a. "Preservative for Baled Hay"

b. "Active Ingredient: Propionic Acid, Ammonium Propanate, Citric Acid.... 74.8%"

c. "Distributed by: Profitable Farming Company, LTD / Middle Barlington, Roborough, Winkleigh / Devon, EX19 8AG / www.profitablefarms.co.uk"

52. "Baler's Choice Preservative for Baled Hay" is a pesticide as that term is defined by Section 2(u) of FIFRA, 7 § U.S.C. 136(u).

53. "Baler's Choice Preservative for Baled Hay" is not registered under Section 3 of FIFRA and is intended for exportation to and distribution or sale in the European Union.

54. The label of "Baler's Choice Preservative for Baled Hay" collected during the February 19, 2014 inspection at the Rosemount establishment did not contain the phrase "Not Registered for Use in the United States of America."

55. On or about May 20, 2013, Respondent distributed or sold "Baler's Choice Preservative for Baled Hay" to Harvest Tec, Inc., located in Husdon, Wisconsin.

56. On or about June 26, 2013, Respondent distributed or sold "Baler's Choice Preservative for Baled Hay" to Harvest Tec, Inc., located in Husdon, Wisconsin.

57. On or about June 27, 2013, Respondent distributed or sold "Baler's Choice Preservative for Baled Hay" to Harvest Tec, Inc., located in Husdon, Wisconsin.

58. On or about January 13, 2014, Respondent distributed or sold "Baler's Choice Preservative for Baled Hay" to Harvest Tec, Inc., located in Husdon, Wisconsin.

59. On or about January 14, 2014, Respondent distributed or sold "Baler's Choice Preservative for Baled Hay" to Harvest Tec, Inc., located in Husdon, Wisconsin.

Count 1

60. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

61. On or about December 16, 2013, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, to Harvest Tec, Inc., of Hudson, Wisconsin, that was

misbranded because its label did not bear the establishment registration number of its producing establishment.

62. Respondent's distribution or sale of "Baler's Choice," EPA Registration Number 73877-1, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

63. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 2

64. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

65. On or about January 9, 2014, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because its label did not bear the establishment registration number of its producing establishment.

66. Respondent's distribution or sale of "Baler's Choice," EPA Registration Number 73877-1, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

67. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 3

68. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

69. On or about January 10, 2014, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because its label did not bear the establishment registration number of its producing establishment.

70. Respondent's distribution or sale of "Baler's Choice," EPA Registration Number 73877-1, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

71. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 4

72. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

73. On or about January 24, 2014, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because its label did not bear the establishment registration number of its producing establishment.

74. Respondent's distribution or sale of "Baler's Choice," EPA Registration Number 73877-1, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

75. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 5

76. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

77. On or about February 10, 2014, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because its label did not bear the establishment registration number of its producing establishment.

78. Respondent's distribution or sale of "Baler's Choice," EPA Registration Number 73877-1, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

79. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 6

80. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

81. On or about February 13, 2014, Respondent distributed or sold "Baler's Choice," EPA Registration Number 73877-1, to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because its label did not bear the establishment registration number of its producing establishment.

82. Respondent's distribution or sale of "Baler's Choice," EPA Registration Number 73877-1, constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

83. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 7

84. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

85. On or about August 5, 2013, Respondent distributed or sold "Baler's Choice" to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because the label did not include the statement "Not Registered for Use in the United States of America."

86. Respondent's distribution or sale of "Baler's Choice" constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

87. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 8

88. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

89. On or about November 21, 2013, Respondent distributed or sold "Baler's Choice" to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because the label did not include the statement "Not Registered for Use in the United States of America."

90. Respondent's distribution or sale of "Baler's Choice" constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

91. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 9

92. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

93. On or about November 22, 2013, Respondent distributed or sold "Baler's Choice" to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because the label did not include the statement "Not Registered for Use in the United States of America."

94. Respondent's distribution or sale of "Baler's Choice" constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

95. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 10

96. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

97. On or about December 4, 2013, Respondent distributed or sold "Baler's Choice" to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because the label did not include the statement "Not Registered for Use in the United States of America."

98. Respondent's distribution or sale of "Baler's Choice" constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

99. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 11

100. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

101. On or about December 5, 2013, Respondent distributed or sold "Baler's Choice" to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because the label did not include the statement "Not Registered for Use in the United States of America."

102. Respondent's distribution or sale of "Baler's Choice" constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

103. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 12

104. Complainant incorporates paragraphs 1 through 56 of this Complaint, as if set forth in this paragraph.

105. On or about May 20, 2013, Respondent distributed or sold "Baler's Choice Preservative for Baled Hay" to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because the label did not include the statement "Not Registered for Use in the United States of America."

106. Respondent's distribution or sale of "Baler's Choice Preservative for Baled Hay" constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

107. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 13

108. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

109. On or about June 26, 2013, Respondent distributed or sold "Baler's Choice Preservative for Baled Hay" to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because the label did not include the statement "Not Registered for Use in the United States of America."

110. Respondent's distribution or sale of "Baler's Choice Preservative for Baled Hay" constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

111. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 14

112. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

113. On or about June 27, 2013, Respondent distributed or sold "Baler's Choice Preservative for Baled Hay" to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded

because the label did not include the statement "Not Registered for Use in the United States of America."

114. Respondent's distribution or sale of "Baler's Choice Preservative for Baled Hay" constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

115. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 15

116. Complainant incorporates paragraphs 1 through 56 of this Complaint, as if set forth in this paragraph.

117. On or about January 13, 2014, Respondent distributed or sold "Baler's Choice Preservative for Baled Hay" to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because the label did not include the statement "Not Registered for Use in the United States of America."

118. Respondent's distribution or sale of "Baler's Choice Preservative for Baled Hay" constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

119. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Count 16

120. Complainant incorporates paragraphs 1 through 59 of this Complaint, as if set forth in this paragraph.

121. On or about January 14, 2014, Respondent distributed or sold "Baler's Choice Preservative for Baled Hay" to Harvest Tec, Inc., of Hudson, Wisconsin, that was misbranded because the label did not include the statement "Not Registered for Use in the United States of America."

122. Respondent's distribution or sale of "Baler's Choice Preservative for Baled Hay" constitutes an unlawful act pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

123. Respondent's violation of Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136*l*(a).

Proposed Civil Penalty

124. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136*l*(a)(4), Complainant determined that an appropriate civil penalty to settle this action is $53,100. 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.

125. Within 30 days of the effective date of this CAFO, Respondent must pay a $53,100 civil penalty for the FIFRA violations 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
P.O. Box 979077
St. Louis, MO 63197-9000

The check must note "In the Matter of Hawkins, Inc." and the docket number of this CAFO.

126. Respondent must send a notice of payment that states Respondent's name 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 Blvd.
Chicago, IL 60604

Claudia Niess (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Jose De Leon (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

128. If Respondent does not timely 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. § 136*l*(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

129. Pursuant to 40 C.F.R. § 13.11 and 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

130. Consistent with the "Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules," dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: deleon.jose@epa.gov (for Complainant) and richard.erstad@hawkinsinc.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

132. 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.

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

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

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

136. 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.

137. Each party agrees to bear its own costs and attorneys fees in this action.

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

Hawkins, Inc., Respondent

March 21, 2017
Date

Richard Erstad
Vice President/General Counsel
Hawkins, Inc.

United States Environmental Protection Agency, Complainant

April 10, 2017
Date

Ignacio L. Arrázola
Acting Director
Land and Chemicals Division
United States Environmental Protection Agency
Region 5

In the Matter of:
Hawkins, Inc.
Docket No. FIFRA-05-2017-0015

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.

April 11, 2017
Date

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Hawkins, Inc.
Docket Number: **FIFRA-05-2017-0015**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **FIFRA-05-2017-0015**, which was filed on APR 12 2017 in the following manner to the following addressees:

Copy by E-mail to Attorney for Respondent:	Richard Erstad richard.erstad@hawkinsinc.com
Copy by E-mail to Attorney for Complainant:	Jose De Leon deleon.jose@epa.gov
Copy by E-mail to Regional Judicial Officer:	Ann Coyle coyle.ann@epa.gov

Dated: April 12, 2017

for

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5