UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

In the Matter of:	)	
	)	
Hawkins, Inc.	)	**Docket No.** RCRA-07-2024-0106
	)	
Respondent	)	

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 ("Complainant") and Hawkins, Inc. ("Respondent") have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2).

ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 ("RCRA"), and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(a), and in accordance with the Consolidated Rules of Practice.

Parties

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

3. Respondent is Hawkins, Inc, a corporation authorized to operate under the laws of Iowa.

Statutory and Regulatory Framework

4. RCRA was enacted to address the volumes of municipal and industrial solid waste generated nationwide in order to protect human health and the environment from potential hazards of waste disposal, conserve energy and natural resources, reduce the amount of waste generated, and ensure that wastes are managed in an environmentally sound manner.

5. RCRA provides guidelines for a waste management program and provides EPA with the authorities found in Sections 3001, 3002, 3005, and 3008 of RCRA, 42 U.S.C. §§ 6912, 6921, and 6927, to develop and promulgate specific requirements in order to implement the waste management program. Pursuant to these authorities, EPA promulgated the waste management regulations found at 40 C.F.R. Part 239 through Part 282.

6. Section 3001 of RCRA, 42 U.S.C. § 6921, requires the Administrator to develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous waste, which should be subject to the provisions of this subchapter, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics.

7. Section 3002 of RCRA, 42 U.S.C. § 6922, requires the Administrator to promulgate regulations establishing such standards applicable to generators of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment.

8. Section 3005 of RCRA, 42 U.S.C. § 6925, requires the Administrator of EPA to promulgate regulations requiring each person owning or operating an existing facility or planning to construct a new facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter to have a permit.

9. Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), defines "person" as an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and shall include each department, agency, and instrumentality of the United States.

10. The regulation at 40 C.F.R. § 260.10 defines "facility" to include all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage or disposal operational units (*e.g.,* one or more landfills, surface impoundments, or combinations of them).

11. The regulation at 40 C.F.R. § 260.10 defines "treatment" as any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-

hazardous, or less hazardous; safer to transport, store, or dispose of; or amendable for recovery, amendable for storage, or reduced in volume.

12. The regulation at 40 C.F.R. § 260.10 defines "storage" as the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

13. The regulation at 40 C.F.R. § 260.10 defines "disposal" as the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constitute thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

14. "Solid waste" is defined at 40 C.F.R § 261.2.

15. "Hazardous waste" is defined at 40 C.F.R. § 261.3.

16. The regulation at 40 C.F.R. § 260.10 defines "generator" as any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

17. The regulation at 40 C.F.R. § 260.10 defines "small quantity generator" as a generator who generates less than 1,000 kilograms of hazardous waste in a calendar month.

18. The regulation at 40 C.F.R. § 260.10 defines "large quantity generator" as a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute hazardous waste or greater than 1 kilogram (2.2 pounds) of acute hazardous waste listed in 40 C.F.R. §§ 261.31 or 261.33(e).

19. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), whenever on the basis of any information the EPA determines that any person has violated or is in violation of any requirement of RCRA, the EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period.

20. Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), authorizes a civil penalty of not more than $25,000 per day for each violation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to $37,500 for violations that occurred before November 2, 2015, and to $121,275 for violations that occur after November 2, 2015, and for which penalties are assessed on or after December 27, 2023. In assessing any such penalty, EPA must take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. Based upon the facts alleged in this Consent Agreement and Final Order, and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and to take

the actions required by the Final Order, for the violations of RCRA alleged in this Consent Agreement and Final Order.

General Factual Background

21. Respondent is a corporation and authorized to conduct business within the State of Iowa. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

22. Respondent owns and operates a facility located at 2619 Industrial Road in Comanche, Iowa ("facility"). Respondent is a manufacturer, distributor, and sales agent for industrial chemicals and reagent grade laboratory chemicals sold to municipalities and businesses throughout the United States. Respondent employs approximately eight people at the facility.

23. On May 22, 2023, the EPA conducted a RCRA Compliance Evaluation Inspection (hereinafter "the inspection") of the hazardous waste management practices at Respondent's facility.

24. During the inspection, the inspector reviewed 6 manifests that showed Respondent conducted a clean-out of their sodium hydroxide storage tanks from April 4 through April 11, 2022.

25. The April 2022 clean-out event produced 72,369 pounds of waste sodium hydroxide (D002 characteristic hazardous waste).

26. D002 characteristic hazardous waste is a solid hazardous waste as defined at 40 C.F.R. §261.2 and 261.3.

27. On June 16, 2022, 48,695 pounds of D002 characteristic hazardous waste were shipped off-site.

28. On August 31, 2022, 6,385 pounds of D002 characteristic hazardous waste were shipped off-site.

29. On January 30, 2023, 17,289 pounds of D002 characteristic hazardous waste were shipped off-site.

30. Based on a review of the inspection report and the information provided during the inspection by facility personnel, it was determined that Respondent was operating, from April 11, 2022, through January 30, 2023, as a Large Quantity Generator ("LQG") of hazardous waste with the following RCRA ID number: IAR000520098.

31. At the time of the inspection, the Respondent was a non-generator of hazardous waste.

32. At the time of the inspection, the Respondent was a Small Quantity Handler ("SQH") of Universal Waste.

33. At the time of the inspection, one 8-foot container of universal waste lamps was present.

Violations

34. Complainant hereby states and alleges that Respondent has violated RCRA, and the federal regulations promulgated thereunder, as follows:

Count 1

Operating as a Treatment, Storage or Disposal Facility Without a RCRA Permit or RCRA Interim Status

35. Complainant hereby incorporates the allegations contained in Paragraphs 21 through 33 above, as if fully set forth herein.

36. Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations at 40 C.F.R. Part 270, require each person owning or operating a facility for the treatment, storage, or disposal of hazardous wastes identified or listed under Subchapter C of RCRA to have a permit or interim status for such activities.

37. At the time of the inspection, Respondent did not have a permit or interim status.

38. Respondent's failure to obtain a permit or interim status is a violation of Section 3005 of RCRA, 42 U.S.C. § 6925 and the regulations at 40 C.F.R. Part 270.

Generator Requirements

39. The regulation at 40 C.F.R. § 262.17(a) states that a large quantity generator may accumulate hazardous waste on-site for no more than ninety (90) days without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270, or the notification requirements of sections 3010 of RCRA provided all the conditions for exemption set forth at 40 C.F.R. § 262.17 are met. If a generator fails to comply with any of these conditions, the generator is not allowed to accumulate hazardous waste at its facility for any length of time. Respondent failed to comply with the following conditions:

Accumulation

40. An LQG may accumulate hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in § 262.17(b) through (e).

41. At the time of the inspection, no accumulation extensions or exemptions were in effect.

42. At the time of the inspection, the inspector reviewed an April 2022 manifest that showed a clean-out of 72,369 pounds of D002 characteristic hazardous waste.

43. On August 31, 2022, 6,385 pounds of D002 characteristic hazardous waste were shipped off-site, resulting in 53 days over the LQG accumulation limit for the remaining waste.

44. On January 30, 2023, 17,289 pounds of D002 characteristic hazardous waste were shipped off-site, resulting in 205 days over the LQG accumulation limit for the remaining waste.

45. By storing hazardous waste on-site for greater than 90 days, Respondent was operating as a hazardous waste storage facility and subjected itself to the requirements of 40 C.F.R. Parts 264, 265, and the permit requirements of 40 C.F.R. Part 270, and was thus in violation of 40 C.F.R. § 262.17(b) through (e).

Failure to comply with LQG standards for preparedness, prevention and emergency procedures

46. The regulation at 40 C.F.R. § 262.17(a)(6) states an LQG must comply with the standards in subpart M of this part, Preparedness, Prevention and Emergency Procedures for Large Quantity Generators.

47. At the time of the inspection, the inspector observed the Respondent did not make arrangements with local authorities, maintain a contingency plan and quick reference guide and designate an Emergency Coordinator, and was thus in violation of 40 C.F.R. § 262.17(a)(6).

Count 2
Failure to Comply with Universal Waste Management Requirements

48. Complainant hereby incorporates the allegations contained in Paragraphs 21 through 33 above, as if fully set forth herein.

Failure to store universal waste-lamps in a closed container

49. The regulations at 40 C.F.R. § 273.13(d)(1) require a small quantity handler of universal waste to manage lamps in a way that prevents releases by containing the lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

50. At the time of the inspection, Respondent failed to close one 8-foot-long cardboard box of universal waste-lamps in the Maintenance Shop to prevent releases and breakage.

51. Respondent's failure to close the universal waste container or package described above to prevent releases and breakage is a violation of 40 C.F.R. § 273.13(d)(1).

Failure to demonstrate the length of time of universal waste accumulation

52. 40 C.F.R. § 273.15(c) states that a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

53. At the time of the inspection, the inspector observed one 8-foot-long cardboard box of universal waste-lamps without any indication of the length of time of universal waste accumulation.

54. Respondent's accumulation of the universal waste-lamps without demonstrating the length of time that the universal waste has been accumulated is a violation of 40 C.F.R. § 273.15(c).

CONSENT AGREEMENT

55. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

(a) admits the jurisdictional allegations set forth herein;

(b) neither admits nor denies the specific factual allegations stated herein;

(c) consents to the assessment of a civil penalty, as stated herein;

(d) consents to the issuance of any specified compliance or corrective action order;

(e) consents to any conditions specified herein;

(f) consents to any stated Permit Action;

(g) waives any right to contest the allegations set forth herein; and

(h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

56. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein, and to completion of the SEP described below.

57. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms specified herein.

58. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

59. Respondent to receiving an electronic copy of the filed Consent Agreement and Final Order at the following email address: *travis.haus@hawkinsinc.com*

Penalty Payment

60. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Fifty-One Thousand One Hundred and Fifty-Eight Dollars ($51,158), as set forth below, and shall perform a Supplemental Environmental Project ("SEP") as set forth in this Consent Agreement and Final Order. The projected cost of the SEP is Thirty-Eight Thousand and Six Hundred and Ten Dollars ($38,610). The SEP is further described below.

61. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at *http://www.epa.gov/financial/makepayment*.

62. A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Anna Landis, Attorney
landis.anna@epa.gov

63. Respondent understands that their failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9. Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

64. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, $50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at https://www.irs.gov/pub/irs-pdf/fw9.pdf;

b. Respondent shall certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at weidner.lori@epa.gov within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and

d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall notify EPA of this fact within 30 days after the Effective Date of this Consent Agreement and Final Order, and email EPA with Respondent's TIN within 5 days of Respondent's issuance and receipt of the TIN.

Supplemental Environmental Project

65. In response to the alleged violations of RCRA and in settlement of this matter, although not required by RCRA or any other federal, state or local law, Respondent agrees to implement a supplemental environmental project ("SEP"), as described below in paragraphs 66-67, and in Appendix A.

66. Respondent shall complete the following SEP: Respondent will acquire and purchase emergency response equipment for the Clinton County Emergency Management Unit; the Camanche Volunteer Fire Department; the Davenport Hazmat Department; and the

Camanche Police Department. These entities respond to hazardous waste incidents, including potential spills from the containers or tanks identified as part of EPA's May 2022 inspection. This equipment will aid the recipients' responses to hazardous waste or other chemical incidents, including potential spills or releases. The Respondent provided a SEP proposal letter with a table detailing the equipment requests, quantity, unit cost, and total cost dated May 24, 2024. The SEP is more specifically described in Attachment A and incorporated herein by reference.

67. Respondent shall spend no less than Thirty-Eight Thousand Six Hundred and Ten Dollars ($38,610) on implementing the SEP. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

68. Respondent shall complete the SEP within 60 days (2) months of the Effective Date of this Consent Agreement and Final Order, Respondent shall submit a SEP Completion Report to the EPA contact identified in Paragraph 65 below.

69. SEP Recipients:

a. Respondent has selected the Clinton County Emergency Management Unit; the Camanche Volunteer Fire Department; the Davenport Hazmat Department; and the Camanche Police Department to be recipients of the SEP equipment.

b. Except as provided in subsections [a.i.] above, the EPA had no role in the selection of any SEP implementer, SEP recipient, or specific equipment identified in the SEP, nor shall this CAFO be construed to constitute EPA approval or endorsement of any SEP implementer, SEP recipient, or specific equipment identified in this CAFO.

The SEP is consistent with applicable EPA policy and guidelines, specifically EPA's 2015 Update to the 1998 Supplemental Environmental Projects Policy, (March 10, 2015). The SEP advances at least one of the objectives of RCRA by aiding first responders in responding to, and mitigating hazardous waste or other chemical incidents, including potential spills or releases. The SEP is not inconsistent with any provision of RCRA. The SEP relates to the alleged violations, and is designed to reduce the overall risk to public health and/or the environment potentially affected by the alleged violations by providing emergency response equipment to recipients that would likely be first responders to the Respondent's facility.

70. Respondent certifies the truth and accuracy of each of the following:

a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that the Respondent in good faith estimates that the cost to implement the SEP, is $38,610;

b. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

c. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;

d. That Respondent has not received and will not have received credit for the SEP in any other enforcement action;

e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;

f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP; and

g. That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraphs 66-67;

h. That Respondent has inquired of the SEP recipients whether they are a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the recipients that neither is a party to such a transaction.

71. Any public statement, oral or written, in print, film, or other media, made by Respondent or a representative of Respondent making reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the federal laws."

72. SEP Completion Report.

a. Respondent shall submit a SEP Completion Report to EPA within 90 days (3) months of the Effective Date of this CAFO. The SEP Completion Report shall contain the following information, with supporting documentation:

1. A detailed description of the SEP as implemented, including but not limited to invoices or receipts documenting the equipment purchased.

ii. A description of any problems encountered in implementation of the projects and the solutions thereto;

iii. A description of the specific environmental and/or public health benefits resulting from implementation of the SEP, with a quantification of the benefits, if feasible; and

iv. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO.

b. Respondent agrees that failure to submit the SEP Completion Report shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to paragraphs 74-81 below.

c. Respondent shall submit all notices and reports required by this CAFO to

Mike Martin
U.S. Environmental Protection Agency, Region 7
Enforcement and Compliance Assurance Division
11201 Renner Boulevard
Lenexa, Kansas 66219
martin.mike@epa.gov

d. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

73. EPA acceptance of SEP Completion Report.

a. After receipt of the SEP Completion Report described in paragraph 68 above, EPA will, in writing to the Respondent, either:

i. Identify any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or
ii. Indicate that EPA concludes that the project has been completed satisfactorily; or
iii. Determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with paragraphs 74-82 herein.

b. If EPA elects to exercise option (a)(i) above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, Respondent may object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent.

Stipulated Penalties

74. All penalties shall begin to accrue on the date that performance is due or a violation occurs, and shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.

75. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of paragraph 60 above. Interest and late charges shall be paid as stated in paragraph 63. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. § 13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.

76. All penalties under this Section shall be made payable by certified or cashier's check in accordance with Paragraph 61, and notification shall be provided in accordance with Paragraph 62.

77. The payment of stipulated penalties shall not alter in any way Respondent's obligations to complete the performance required hereunder.

78. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CAFO.

79. Except as provided in subparagraphs (b) and (c) below, if Respondent fails to satisfactorily complete the requirements regarding the SEP specified in Paragraphs 65-73 by the deadline in Paragraph 68 Respondent agrees to pay, in addition to the civil penalty in Paragraph 60, the following per day per violation stipulated penalty for each day the Respondent is late meeting the applicable SEP requirement:

i. $250 per day for days 1-30

ii. $300 per day for days 31 – 60
iii. $500.00 per day for days 61-90
iv. And $750.00 for each day thereafter that the failure continues.

80. If Respondent fails to timely submit any SEP reports, such as those referred to in Paragraph 68 in accordance with the timelines set forth in paragraph 68 of this CAFO, Respondent agrees to the following per day stipulated penalty for each day after the report was due until Respondent submits the report in its entirety:

i. $100 per day for days 1-30
ii. $150 per day for days 31 – 60
iii. $300 per day for days 61 and beyond

81. If Respondent does not satisfactorily complete the SEP, including spending the minimum amount on the SEP set forth in paragraph 67 above, Respondent shall pay a stipulated penalty to the United States in the amount of $40,555. "Satisfactory completion" of the SEP is defined as Respondent spending no less than $38,610 to donate emergency response equipment within 60 days of the Effective Date of this CAFO. The determinations of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.

82. EPA retains the right to waive or reduce a stipulated penalty at its sole discretion.

Effect of Settlement and Reservation of Rights

83. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

84. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in paragraph directly below.

85. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of its knowledge, it is presently in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.*, its implementing regulations, and any permit issued pursuant to RCRA.

86. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and regulations promulgated thereunder.

87. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms and conditions of this Consent Agreement and Final

Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Seventy Thousand Seven Hundred Fifty-Two Dollars ($70,752) per day, per violation, pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of this Consent Agreement and Final Order, or to seek any other remedy allowed by law.

88. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

89. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

90. Nothing contained in this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

General Provisions

91. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party they represent to this Consent Agreement.

92. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon filing by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

93. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.

94. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

95. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

96. The provisions of this Consent Agreement and Final Order shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order.

97. Respondent consents to electronic service of the filed Consent Agreement and Final Order to the following email address: *travis.haus@hawkinsinc.com*. Respondent understands that the Consent Agreement and Final Order will become publicly available upon filing.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

DAVID COZAD Digitally signed by DAVID COZAD
Date: 2024.08.21 12:21:50 -05'00'

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

ANNA LANDIS Digitally signed by ANNA LANDIS
Date: 2024.08.22 16:30:19 -05'00'

Anna Landis
Office of Regional Counsel

Date

RESPONDENT:

HAWKINS, INC.

Travis Haus

Signature

7/25/24

Date

Travis Haus

Printed Name

Senior Environmental Specialist

Title

FINAL ORDER

Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

KARINA BORROMEO
Digitally signed by KARINA BORROMEO
Date: 2024.08.26 07:45:16 -05'00'

_____ _____

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Anna Landis
Office of Regional Counsel
landis.anna@epa.gov

Mike Martin
Enforcement and Compliance Assurance Division
martin.mike@epa.gov

Milady Peters
Office of Regional Counsel
peters.milady@epa.gov

Copy via Email to Respondent:

Travis Haus
Hawkins, Inc.
Senior Environmental Specialist
2381 Rosegate, Roseville, MN 55113
travis.haus@hawkinsinc.com

Copy delivered to the State of Iowa:

Ed Tormey, Acting Administrator (e-copy)
Environmental Services Division
Iowa Department of Natural Resources
Ed.tormey@dnr.iowa.gov

Mike Sullivan, Chief (e-copy)
Contaminated Sites Section
Iowa Department of Natural Resources
Michael.sullivan@dnr.iowa.gov

AMY GONZALES Digitally signed by AMY GONZALES
Date: 2024.08.26 09:13:31 -05'00'

Signed