

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

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In the Matter of:

Hampford Research, Inc.
54 Veterans Boulevard
Stratford, CT 06615
USA

Respondent

Docket No. TSCA-HQ-2015-5013

CIVIL COMPLAINT
and
NOTICE OF
OPPORTUNITY FOR HEARING

I. COMPLAINT

This Complaint and Notice of Opportunity for Hearing (Complaint) is filed pursuant to section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and 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 C.F.R. Part 22, a copy of which is enclosed with this Complaint. The Complainant is Kenneth C. Schefski, Acting Director, Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, United States Environmental Protection Agency (EPA or Complainant), who has been duly delegated the authority to institute this action.

The Respondent is Hampford Research, Inc. (HRI or Respondent), located at 54 Veterans Boulevard, Stratford, CT 06615.

As a result of an EPA inspection on September 17, 2012 and its follow-up actions, *Complainant alleges that Respondent has violated the premanufacture notice (PMN) requirements of TSCA section 5(a)(1)(A), 15 U.S.C. § 2604(a)(1)(A), specifically certain PMN exemption regulations, authorized under section 5(h) of TSCA, 15 U.S.C. § 2604(h), as set forth below.*

COUNT I

1. Respondent is a "person" as defined in 40 C.F.R. § 720.3, and is subject to TSCA and the regulations promulgated thereunder.

2. Respondent "manufactures" a "chemical substance" as defined respectively by section 3(7) of TSCA, 15 U.S.C § 2602(7), and section 3(2)(A) of TSCA, 15 U.S.C § 2602(2)(A).
3. Any chemical substance which is not included in the chemical substance list (TSCA Inventory) compiled and published under section 8(b) of TSCA, 15 U.S.C. § 2607(b), is a "new chemical substance" pursuant to section 3(9) of TSCA, 15 U.S.C. § 2602(9) and 40 C.F.R. § 720.3(v).
4. Pursuant to section 5(a)(1)(A) of TSCA, 15 U.S.C. § 2604(a)(1)(A), no person may manufacture a new chemical substance for commercial purposes unless such person submits a premanufacture notification (PMN) to EPA at least ninety (90) days before manufacturing that substance (PMN requirements), except as provided in section 5(h) of TSCA, 15 U.S.C. § 2604(h).
5. Section 5(h) of TSCA, 15 U.S.C. § 2604(h), provides for exemptions to all or part of the PMN requirements.
6. The EPA regulation at 40 C.F.R. §723.50(a)(1) provides a low volume exemption or LVE for new chemical substances manufactured in quantities of 10,000 kilograms or less per year.
7. Pursuant to 40 C.F.R. § 723.50(e), a manufacturer applying for an LVE must submit an exemption notice to the EPA at least thirty (30) days before manufacturing such new chemical substance.
8. EPA found that on nine (9) occasions, from February 7, 2011 to February 18, 2013, Respondent manufactured a new chemical substance (CAS No. 126803-19-8) in quantities of 10,000 kilograms or less per year and distributed the substance to others before submitting an LVE notice to the EPA.
9. EPA alleges that Respondent's failure to submit an LVE notice to EPA at least thirty (30) days before manufacturing a new chemical substance (CAS No. 126803-19-8) constitutes a failure to comply with section 5(a)(1)(A) of TSCA, 15 U.S.C. § 2604(a)(1)(A), specifically the LVE requirement at 40 C.F.R. § 723.50(e), authorized under section 5(h) of TSCA, 15 U.S.C. § 2604(h), which is a violation of sections 15(1)(B), (1)(C) and (3)(B) of TSCA, 15 U.S.C. §§ 2614(1)(B), (1)(C) and (3)(B).

COUNT II

10. Paragraphs 1 through 7 are re-alleged and incorporated herein by reference.
11. EPA found that on seven (7) occasions, from May 2, 2011 to October 4, 2013, Respondent manufactured a new chemical substance (CAS No. 53458-16-5) in quantities of 10,000 kilograms or less per year and distributed the substance to others before submitting an LVE notice to the EPA.

12. EPA alleges that Respondent's failure to submit an LVE notice to the EPA at least thirty (30) days before manufacturing a new chemical substance (CAS No. 53458-16-5) constitutes a failure to comply with section 5(a)(1)(A) of TSCA, 15 U.S.C. § 2604(a)(1)(A), specifically the LVE notice requirement at 40 C.F.R. § 723.50(e), authorized under section 5(h) of TSCA, 15 U.S.C. § 2604(h), which is a violation of sections 15(1)(B), (1)(C) and (3)(B) of TSCA, 15 U.S.C. §§ 2614(1)(B), (1)(C) and (3)(B).

COUNT III

13. Paragraphs 1 through 7 are re-alleged and incorporated herein by reference.
14. EPA found that on five (5) occasions, from April 10, 2011 to March 28, 2014, Respondent manufactured a new chemical substance (CAS No. 13730-60-4) in quantities of 10,000 kilograms or less per year and distributed the substance to others before submitting an LVE notice to the EPA.
15. EPA alleges that Respondent's failure to submit an LVE notice to the EPA at least thirty (30) calendar days before manufacturing a new chemical substance (CAS No. 13730-60-4) constitutes a failure to comply with section 5(a)(1)(A) of TSCA, 15 U.S.C. § 2604(a)(1)(A), specifically the LVE requirement at 40 C.F.R. § 723.50(e), authorized under section 5(h) of TSCA, 15 U.S.C. § 2604(h), which is a violation of sections 15(1)(B), (1)(C) and (3)(B) of TSCA, 15 U.S.C. §§ 2614(1)(B), (1)(C) and (3)(B).

COUNT IV

16. Paragraphs 1 through 5 are re-alleged and incorporated herein by reference.
17. The regulations at 40 C.F.R. § 720.30, § 720.36 and specifically, the recordkeeping requirements at 40 C.F.R. § 720.78(b) authorized under section 5(h) of TSCA, 15 U.S.C. § 2604(h) set forth requirements for Research and Development exemptions from the PMN requirements of section 5(a)(1)(A) of TSCA, 15 U.S.C. § 2604(a)(1)(A).
18. EPA found on September 17, 2012 that Respondent had failed to comply with the recordkeeping regulations at 40 C.F.R. § 720.78(b) referenced in paragraph 17 for a new chemical substance (CAS No. 60565-88-0).
19. EPA alleges that Respondent's failure to comply with 40 C.F.R. § 720.78(b) violates sections 15(1)(B), (1)(C) and (3)(A) of TSCA, 15 U.S.C. §§ 2614(1)(B), (1)(C) and (3)(A).

COUNT V

20. Paragraphs 1 through 5 are re-alleged and incorporated herein by reference.
21. The regulations at 40 C.F.R. § 723.250 authorized under section 5(h) of TSCA, 15 U.S.C. § 2604(h) set forth polymer exemption requirements from the PMN requirements of section 5(a)(1)(A) of TSCA, 15 U.S.C. § 2604(a)(1)(A), including specific recordkeeping requirements at 40 C.F.R. § 723.250(j).
22. EPA found on September 17, 2012 that Respondent had failed to comply with the recordkeeping regulations at 40 C.F.R. § 723.250(j), referenced in paragraph 21 for Polymer FP 5026.
23. EPA alleges that Respondent's failure to comply with 40 C.F.R. § 723.250(j) violates sections 15(1)(B), (1)(C) and (3)(A) of TSCA, 15 U.S.C. §§ 2614(1)(B), (1)(C) and (3)(A).

COUNT VI

24. Paragraphs 1 through 5 are re-alleged and incorporated herein by reference.
25. The regulations at 40 C.F.R. § 723.250 authorized under section 5(h) of TSCA, 15 U.S.C. § 2604(h) set forth polymer exemption requirements from the PMN requirements of section 5(a)(1)(A) of TSCA, 15 U.S.C. § 2604(a)(1)(A), including specific recordkeeping requirements at 40 C.F.R. § 723.250(j).
26. EPA found on September 17, 2012 that Respondent had failed to comply with the recordkeeping regulations at 40 C.F.R. § 723.250(j), referenced in paragraph 25 for Polymer FP 5434.
27. EPA alleges that Respondent's failure to comply with 40 C.F.R. § 723.250(j) violates sections 15(1)(B), (1)(C) and (3)(A) of TSCA, 15 U.S.C. §§ 2614(1)(B), (1)(C) and (3)(A).

II. CIVIL PENALTY ASSESSMENT

Section 16 of TSCA, 15 U.S.C. § 2615 authorizes the assessment of a civil penalty for violations of TSCA section 15, 15 U.S.C. § 2614, in the maximum amount of \$25,000 for each day of violation. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires EPA to adjust penalties to account for inflation. EPA's Civil Monetary Penalty Inflation Adjustment Rule establishes \$37,500 as the maximum civil penalty that may be assessed under TSCA section. For purposes of determining the amount of a civil penalty to be assessed, TSCA section 16(a)(2)(B), 15 U.S.C. § 2615 (a)(2)(B) requires EPA to take into account the nature, circumstances, extent, and gravity of the violations alleged, as well as Respondent's ability to pay, effect on ability to continue to do

business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. In developing a proposed penalty, Complainant took into account the particular facts and circumstances of this case.

Based upon the facts alleged in this Complaint, and upon the nature, circumstances, extent and gravity of the violations alleged, as well as Respondent's ability to pay, effect on ability to continue to do business, any history of prior such violations of TSCA, the degree of culpability, and such other matters as justice may require, the Complainant proposes that Respondent be assessed a penalty of \$57,474 for the violations alleged in this Complaint.

III. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

As provided in TSCA § 16(a)(2)(A), 15 U.S.C. § 2615(a)(2)(A), and consistent with 40 C.F.R. § 22.15, Respondent has the right to request a formal hearing to contest any material fact set forth in this Complaint or to contest the appropriateness of the proposed penalty. To request a hearing, Respondent must file a written Answer to the Complaint with the Headquarters Hearing Clerk, within thirty (30) days after service of this Complaint, at the following address:

Headquarters Hearing Clerk (1900R)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Any hearing requested will be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. § 551 et seq., and the Consolidated Rules of Practice.

Pursuant to the Consolidated Rules of Practice, 40 C.F.R. § 22.15, Respondent's Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint of which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, the Answer should so state. The Answer should contain: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) the facts which Respondent disputes; (3) the basis for opposing any proposed relief; and (4) a statement as to whether a hearing is requested. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing. All material facts not denied in the Answer will be considered as admitted.

If Respondent fails to file a written Answer within thirty (30) days after service of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing on such factual allegations. Failure to file a written Answer may result in Complainant's filing of a Motion for Default Order imposing the penalties herein without further proceedings.

A copy of Respondent's Answer and all other documents that Respondent files in this action should be sent to the attorney of record assigned to represent EPA in this matter:

Geraldine Gardner, Esq.
Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W. (Mail Code 2249A)
Washington, D.C. 20460
Telephone: (202) 564-4032
E-mail: Gardner.Geraldine@epa.gov

IV. INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a hearing, Respondent may confer informally with EPA to discuss the facts of this case, or amount of the penalty, and the possibility of settlement. An informal settlement conference does not, however, affect Respondent's obligation to file a timely written Answer to the Complaint.

EPA has the authority, where appropriate, to modify the amount of the penalty, once determined, to reflect any settlement reached with Respondent in an informal conference. The terms of such an agreement would be embodied in a Consent Agreement. A Consent Agreement signed by EPA and Respondent would be binding as to all terms and conditions specified therein upon issuance of a Final Order by the Environmental Appeals Board.

Please be advised that the Consolidated Rules of Practice prohibit any ex parte (unilateral) discussion of the merits of this action with the Administrator, the members of the Environmental Appeals Board, the assigned Administrative Law Judge, or any person likely to advise these officials in the decision of the case, after the issuance of this Complaint. See 40 C.F.R. § 22.8.

V. PAYMENT OF PENALTY

Instead of filing an Answer, requesting a hearing, or requesting an informal settlement conference, you may choose to pay the proposed penalty to resolve this matter pursuant to 40 C.F.R. § 22.18(a). Such payment should be made by sending either a cashier's or certified check with a notation of "Hampford Research, Inc." Penalty Docket No. TSCA-HQ-2015-5013," payable to the order of the "Treasurer, United States of America," to:

U.S. Environmental Protection Agency
Fines and Penalties
Docket No. TSCA-HQ-2015-5013
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Or

pay by wire transfer with a notation of "Hampford Research, Inc., Penalty Docket No. TSCA-HQ-2015-5013" by using the following instructions:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

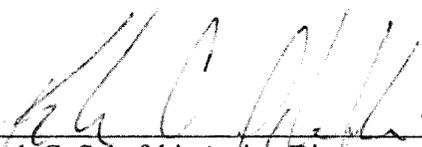
Field Tag 4200 of the Fedwire message should read: "D 68010727 Environmental Protection Agency." A copy of the check or other instrument of payment should be sent to the attorney of record assigned to represent EPA in this matter.

U.S. ENVIRONMENTAL PROTECTION AGENCY

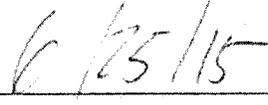
TSCA-HQ-2015-5013

In the Matter of: Hampford Research, Inc.

By:



Date:

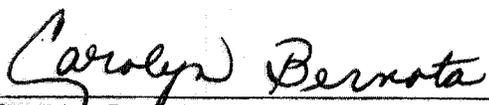


Kenneth C. Schefski, Acting Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

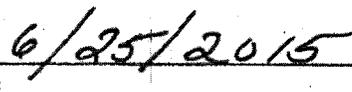
CERTIFICATION

I hereby certify that the original of the foregoing Complaint and Notice of Opportunity for Hearing, Docket No. TSCA-HQ-2015-5013, has been filed with the Headquarters Hearing Clerk and that a copy was sent certified mail, return receipt requested to:

Kate Hampford Donahue, President
Hampford Research, Inc.
54 Veterans Boulevard
Stratford, CT 06615



Carolyn Bernota, Enforcement Officer
Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2249A)
Washington, DC 20460


Date