



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

October 3, 2016

REPLY TO THE ATTENTION OF

E-19J

CERTIFIED MAIL

RETURN RECEIPT REQUESTED: 7011 1150 0000 2640 6967

Honorable Susan L. Biro
Office of Administrative Law Judges
U. S. Environmental Protection Agency
Ariel Rios Building, Mailcode: 1900L
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

RE: In The Matter of: Camtek, Inc. (Bloomington, Illinois)
Docket No. EPCRA-05-2016-0018
Complaint Date: August 30, 2016
Total Proposed Penalty: \$24,080

Dear Judge Biro:

Enclosed is the Respondent's Answer to an Administrative Complaint and Request for Hearing.

Please assign an Administrative Law Judge to this case.

If you have questions, please contact me at (312) 886-3713.

Sincerely,

A handwritten signature in blue ink that reads "LaDawn Whitehead".

LaDawn Whitehead
Regional Hearing Clerk

Enclosures

cc: Ann C. Barron
HEYL, ROYSTER, VOELKER & ALLEN
105 West Vandalia
P.O. Box 467
Edwardsville, Illinois 62025-0467
abarron@heyloyster.com
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Peter Felitti
Associate Regional Counsel
Office Regional Counsel (C-14J)
U.S. EPA, Region 5
Chicago, Illinois 60604
(312) 886-5114
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In the Matter of: Camtek, Inc. (Bloomington, Illinois)
Docket No. EPCRA-05-2016-0018

Certificate of Service

I certify that I served the original and one copy of the Respondent's Answer and case file via certified mail to Ms. Mary Angeles (MC: 1900R), U.S. EPA, Office of Administrative Law Judges, 1200 Pennsylvania Avenue, N. W. Washington, DC 20460. CERTIFIED MAIL RECEIPT NUMBER: 7011 1150 0000 2640 6967

I certify that I served a copy of the Respondent's Answer by electronic mail to:


Peter Felitti, Associate Regional Counsel
felitti.peter@epa.gov

Ann C. Barron, HEYL, ROYSTER, VOELKER & ALLEN
abarron@heyloyster.com

Ann Coyle, Regional Judicial Officer
coyle.ann@epa.gov

Meghan Dunn, Environmental Scientist
dunn.meghan@epa.gov

On the 3 day of October 2016.


LaDawn Whitehead
Regional Hearing Clerk
Region 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
)
CAMtek, Inc.) **ANSWER**
Bloomington, Illinois,)
)
Respondent.)
_____)



CAMTEK, INC.'S ANSWER

The Respondent, CAMtek, Inc. ("CAMtek"), answers the Complaint as follows:

COMPLAINT

1. This is an administrative action to assess a civil penalty under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c).

ANSWER: CAMtek admits the allegations contained in Paragraph 1.

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

ANSWER: CAMtek admits the allegations contained in Paragraph 2.

3. Respondent is Camtek, Inc., a corporation doing business in the State of Illinois.

ANSWER: CAMtek admits the allegations contained in Paragraph 3.

Statutory and Regulatory Background

4. EPA promulgated the Toxic Chemical Release Reporting Community Right-to-Know Rule at 40 C.F.R. Part 372 pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048.

ANSWER: This Paragraph sets forth statutes and/or regulations and does not set forth facts, and thus, no answer is required. Any cited statutes and/or regulations speak for themselves.

5. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide that the requirements of Section 313 and Part 372 apply to any facility that has 10 or more full-time employees, a Standard Industrial Classification (SIC) code and corresponding North American Industry Classification (NAICS) covered by EPCRA Section 313, and that manufactures, imports, processes, or otherwise uses a toxic chemical identified at Section 313(c) and listed at 40 C.F.R. § 372.65 in an amount that exceeds the threshold for reporting, as set forth in Section 313(f) and in 40 C.F.R. §§ 372.25, 372.27 and 372.28.

ANSWER: This Paragraph sets forth statutes and/or regulations and does not set forth facts, and thus, no answer is required. Any cited statutes and/or regulations speak for themselves.

6. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 require the owner or operator of a facility subject to the requirements of Section 313 and Part 372 to complete and submit to the Administrator of EPA and to the state in which the facility is located, no later than July 1, 1988 and each July 1 thereafter, a chemical release form-published pursuant to Section 313(g) for each toxic chemical listed under Section 313(6) that was manufactured, processed, or otherwise used at the facility during the preceding calendar year in a quantity exceeding the threshold established by Section 313(f).

ANSWER: This Paragraph sets forth statutes and/or regulations and does not set forth facts, and thus, no answer is required. Any cited statutes and/or regulations speak for themselves.

7. EPA published the Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (1-88) (Form R) at 40 C.F.R § 372.85 pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g).

ANSWER: This Paragraph sets forth statutes and/or regulations and does not set forth facts, and thus, no answer is required. Any cited statutes and/or regulations speak for themselves.

8. All persons required to report pursuant to Section 313(b) must use Form R according to Section 313(a) of EPCRA, 42 U.S.C. 11023(a).

ANSWER: This Paragraph sets forth statutes and/or regulations and does not set forth facts, and thus, no answer is required. Any cited statutes and/or regulations speak for themselves.

9. The Administrator of EPA may prescribe regulations as may be necessary to carry out EPCRA, 42 U.S.C. § 11048.

ANSWER: This Paragraph sets forth statutes and/or regulations and does not set forth facts, and thus, no answer is required. Any cited statutes and/or regulations speak for themselves.

10. Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), authorizes the Administrator of EPA to assess a civil penalty of up to \$25,000 per day for each violation of Section 313 of EPCRA, 42 U.S.C. § 11023. The Federal Civil Penalties Inflation Adjustment Act of

1990, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that may be assessed pursuant to each agency's statutes. EPA may assess a civil penalty of up to \$37,500 per day for each violation of Section 313 that occurred after January 12, 2009, pursuant to Section 325(e)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), and 40 C.F.R. Part 19.

ANSWER: This Paragraph sets forth statutes and/or regulations and does not set forth facts, and thus, no answer is required. Any cited statutes and/or regulations speak for themselves.

General Allegations

11. Respondent is a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

ANSWER: CAMtek admits the allegations contained in Paragraph 11.

12. Respondent is a corporation doing business in the State of Illinois.

ANSWER: CAMtek admits the allegations contained in Paragraph 12.

13. Respondent owned or operated a facility located at 2402 East Empire Street, Bloomington, Illinois during the calendar year 2013.

ANSWER: CAMtek admits it operated a manufacturing facility located at 2402 East Empire Street, Bloomington, Illinois during the year 2013. Except as expressly admitted, any additional allegations are denied.

14. Respondent's facility consists of buildings, equipment and structures and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned by the same person, entity, or corporation.

ANSWER: CAMtek admits it owned equipment and other stationary items which were housed in buildings located at 2402 East Empire Street, Bloomington, Illinois. Except as expressly admitted, any additional allegations are denied.

15. During the calendar year 2013, Respondent employed at its facility the equivalent of at least 10 employees with total paid hours equal to or more than 20,000 hours per calendar year.

ANSWER: CAMtek admits the allegations in Paragraph 15.

16. Respondent's facility is covered by NAICS Code 334418.

ANSWER: CAMtek admits the allegations in Paragraph 16.

17. During the calendar year 2013, Respondent "processed," as defined by 40 C.F.R. § 372.3, a toxic chemical, specifically lead, identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65, in quantities exceeding the thresholds for reporting set forth at Section 313(f) and at 40 C.F.R. §§ 372.25 and 372.28.

ANSWER: CAMtek admits the allegations in Paragraph 17 to the extent lead is identified by statute or regulation as a toxic chemical.

18. On January 27, 2015, a representative of EPA inspected Respondent's facility.

ANSWER: CAMtek admits that on or about January 27, 2015, a representative of the EPA came to its facility located at 2402 East Empire Street, Bloomington, Illinois. Except as expressly admitted, any additional allegations are denied.

Count I

19. The reporting threshold for lead that is manufactured (including imported), processed, or otherwise used during the 2013 calendar year is 100 pounds. 42 U.S.C. § 11023(f) and 40 C.F.R. § 372.28.

ANSWER: This Paragraph sets forth statutes and/or regulations and does not set forth facts, and thus, no answer is required. Any cited statutes and/or regulations speak for themselves.

20. During the 2013 calendar year, Respondent's facility processed 540 pounds of lead, CAS No. 7439-92-1.

ANSWER: CAMtek admits that it used a tin/lead solder, which contained lead, at its facility in 2013. Except as expressly admitted, any additional allegations are denied.

21. Lead is a chemical identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65.

ANSWER: This Paragraph sets forth statutes and/or regulations and does not set forth facts, and thus, no answer is required. Any cited statutes and/or regulations speak for themselves.

22. Section 313 of EPCRA, 42 U.S.C. § 11023, required Respondent to submit to the Administrator of EPA and to Illinois a Form R for lead for the 2013 calendar year on or before July 1, 2014.

ANSWER: CAMtek admits that a Form R for lead for the calendar year 2013 was required to be submitted on or before July 1, 2014.

23. Respondent failed to submit to the Administrator of EPA and to Illinois a Form R for lead for the 2013 calendar year on or before July 1, 2014.

ANSWER: CAMtek admits the allegations of Paragraph 23.

24. On June 9, 2016, Respondent submitted to the Administrator of EPA a Form R for lead for the 2013 calendar year.

ANSWER: CAMtek admits the allegations of Paragraph 24.

25. Respondent's failure to submit timely to the Administrator of EPA a Form R for lead for the 2013 calendar year violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R., § 372.30.

ANSWER: CAMtek admits that the failure to timely submit a Form R for lead for the 2013 calendar year is a violation of the applicable statutory provisions setting forth the date for submission of the Form R.

Proposed Penalty

26. Complainant proposes that the Administrator assess a civil penalty against Respondent for the EPCRA violations alleged in this Complaint as follows:

Count I

Failure to submit timely a Toxic Chemical Release Inventory Reporting Form for lead for calendar year 2013:

CAS No. 7439-92-1.....	\$24,080
Total Proposed Civil Penalty	\$24,080

ANSWER: CAMtek objects to the Proposed Civil Penalty as follows:

1. The Total Proposed Civil Penalty of \$24,080 is excessive under the Penalty Matrix set forth at page 11 of the Enforcement Response Policy for Section 313 of the Emergency Planning Community Right-To-Know-Act (1986). Other factors militate for a lessening of the penalty level and/or a decrease in the proposed penalty:

- In 2014, when the Form R for 2013 was due, CAMtek had sales of less than \$10,000,000.

- CAMtek is a manufacturer of printed circuit board assemblies and other electronic assemblies. In 2013, CAMtek's operations involved use of a tin/lead solder where tin was the primary component of the solder.

- CAMtek used less than ten times the threshold of the §313 limit for lead in 2013.

- CAMtek employed 65 or less employees in 2013 and 2014.

- CAMtek is a manufacturer of printed circuit board assemblies and other electronic assemblies. CAMtek's operations involved use of a tin/lead solder where tin was the primary component of the solder.

- For 2014, CAMtek reported a financial loss of nearly \$700,000 on its federal tax returns. CAMtek is financially unable to pay the proposed penalty.

2. CAMtek further cooperated during an inspection at its facility as conducted by an EPA representative. CAMtek attempted to reach the EPA representative for additional assistance after his visit regarding the completion of the Form R, but a response was not received.

3. CAMtek enjoyed no economic benefit from the non-compliance at issue.

HEARING REQUEST

CAMtek respectfully requests that it be heard before an Administrative Law Judge in this matter.

Respectfully submitted,

CAMTEK, INC., RESPONDENT

BY: 

HEYL, ROYSTER, VOELKER & ALLEN

Ann C. Barron

ARDC #: 06224429

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PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the attorneys of all parties to the above cause by enclosing the same in an envelope addressed to such attorneys identified below at their business address as disclosed by the pleadings of record herein, with postage fully prepaid, and by depositing said envelope in a U.S. Post Office Box in Edwardsville, Illinois, on the 30th day of September, 2016.

Mr. Peter Felitti
Office of Regional Counsel (C-14J)
U.S. EPA
77 West Jackson Boulevard
Chicago, Illinois 60604

