

James W. Potter
Member
Admitted in SC, AL

January 25, 2010

VIA CERTIFIED MAIL / RETURN RECEIPT REQUESTED

Regional Hearing Clerk
US EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

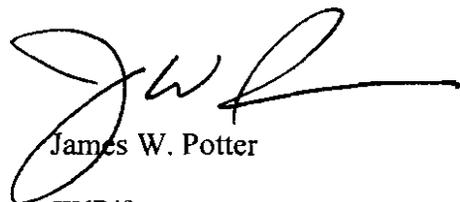
*Re: Chem-Way Corporation
EPCRA-04-2010-2015*

Dear Sir or Madame:

Please find an original and two copies of Respondent's Answer and Request for Hearing in the above-referenced matter. Please date stamp and return a copy to my attention in the stamped envelope enclosed.

Thank you for your assistance.

Sincerely,



James W. Potter

JWP/fwt
Enclosure

cc: Jennifer Lewis, Esquire

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

IN THE MATTER OF:

HEARING

Chem-Way Corporation

Respondent.

Case No. EPCRA-04-2010-2015

**ANSWER TO ADMINISTRATIVE
COMPLAINT AND REQUEST FOR
HEARING**

ANSWER AND REQUEST FOR HEARING

Chem-Way Corporation through its undersigned attorney, provides the following Answer to the Administrative Complaint as follows:

1. Admitted
2. Admitted
3. Admitted
4. Admitted
5. Admitted as to Tier I but denied as to Tier II reporting.
6. Admitted
7. Admitted

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COUNT I

8. The answers to paragraphs 1 through 7 are incorporated herein by reference.
9. Admitted

10. Denied

11. Defendant denies paragraph 11 and states that it is not required to prepare Tier II reports (as admitted by EPA Region 4) and that it reports to the local fire department of Charlotte (for its annual permit) significantly more information than required for Tier I reports. Furthermore, Respondent was never cited for failure to prepare Tier I reports during the EPA inspection of its facility.

12. Denied for the same reasons as paragraph 11.

COUNT 2

13. The answers to paragraphs 1 through 12 are incorporated herein by reference.

14. Admitted

15. Denied

16. Denied for the reasons listed in the Answer to paragraph 11.

17. Denied

COUNT 3

18. The answers to paragraphs 1 through 17 are incorporated herein by reference.

19. Admitted

20. Denied

21. Denied for the reasons listed in the Answer to paragraph 11.

22. Denied

PROPOSED PENALTY

The proposed penalty is excessive and does not reflect the facts to be presented at the requested hearing. Respondent has provided to local emergency response personnel greater

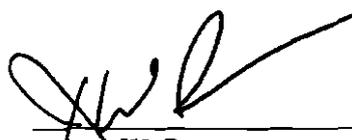
information than required by Tier I requirements (under local law requirements) and is not required to file Tier II reports (as admitted by EPA Region 4 prior to filing this Administrative Complaint).

AFFIRMATIVE DEFENSES

23. This action is barred in part or in whole by applicable statutes of limitations.
24. Respondent was chosen for inspection in retaliation for providing exculpatory information to a local business in another EPA enforcement action.
25. The action of the inspector was improper.
26. The penalty is excessive and should be eliminated.
27. Respondent's reporting efforts meet or exceed any applicable EPCRA requirements.

REQUEST FOR A HEARING

Pursuant to 40 CFR Part 22, Respondent requests a hearing before an EPA Administrative Law Judge.



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Attorneys for Respondent
Chem-Way Corporation

January 15, 2010
Columbia, South Carolina