

**U.S. EPA REGION 5
HEARING CLERK**

EXPEDITED SETTLEMENT AGREEMENT

299.9305 and r. 299.9307, including, but not limited to, the requirement to ensure that a container holding hazardous waste is kept closed at all times during accumulation, except to add, remove or consolidate waste, or when temporary venting of a container is necessary for the proper operating of equipment or to prevent dangerous situations, such as build-up of extreme pressure. See Mich. Admin. Code r. 299.9305(1)(d). On April 16, 2024, two satellite accumulation area (SAA) containers labeled as (1) Salt Bath Sample, NaOH/KOH bucket, and (2) Nickel Sulfate Waste bucket were left open when waste was not being added to or removed from the containers. Because Respondent had not obtained a permit to store hazardous waste or interim status, Respondent's failure to comply with the condition for a permit-exemption identified above resulted in Respondent becoming the owner or operator of a hazardous waste storage facility, and subject to the requirement to obtain a permit (operating license) and the requirements of Mich. Admin. Code r. 299.9601(1)-(3) and r. 299.11003(1)(n). Therefore, without the permit-exemption, Respondent stored hazardous waste without a permit or interim status, in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the requirements of Mich. Admin. Code r. 299.9601(1)-(3) and 299.11003(1)(n), because it failed to comply with the conditions for a permit-exemption as described above.

- b. Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270 and Michigan Administrative Code Part 111 prohibit the treatment, storage, or disposal of hazardous waste without a permit or interim status. A large quantity generator of hazardous waste may, however, accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided that the generator complies with all applicable conditions set forth in Mich. Admin. Code r. 299.9305 and r. 299.9307, including, but not limited to, the requirement to mark or label a container holding hazardous waste with a description of the waste or the hazardous waste number, and an indication of the hazards of the contents. See Mich. Admin. Code r. 9305(1)(e)(i) and (ii). The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), the hazard communication consistent with 49 C.F.R. part 172, subpart E or F, a hazard statement or pictogram consistent with 29 CFR § 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704. See Mich. Admin. Code r. 299.9305(1)(e)(i) & (ii). On April 16, 2024, two SAA containers labeled as (1) Salt Bath Sample, NaOH/KOH bucket, and (2) Nickel Sulfate Waste bucket were not labeled with hazard indicators and Respondent had not obtained a permit or interim status. Therefore, Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the requirements of Mich. Admin. Code r. 299.9601(1)-(3) and 299.11003(1)(n), because it failed to comply with the conditions for a permit-exemption as described above.

- c. Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270 and Michigan Administrative Code Part 111 prohibit the treatment, storage, or disposal of hazardous waste without a permit or interim status. A generator may, however, accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided that the generator complies with all applicable conditions set forth in Mich. Admin. Code r. 299.9305 and r. 299.9307, including, but not limited to, the requirement that a large quantity generator must ensure that the date upon which each period of accumulation begins is clearly visible for inspection on each container. See Mich. Admin. Code r. 299.9307(1)(b)(i)(I)(III). On April 16, 2024, during an inspection of the facility, there was insufficient aisle space in the 90-day storage area, which prevented the Inspectors from seeing if accumulation start dates were visible on two 55-gallon drums containing D007 sludge, and Respondent had not obtained a permit or interim status. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the requirements of Mich. Admin. Code r. 299.9601(1)-(3) and 299.11003(1)(n), because it failed to comply with the conditions for an exemption as described above.
- d. Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270 and Michigan Administrative Code Part 111 prohibit the treatment, storage or disposal of hazardous waste without a permit or interim status. A generator may, however, accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided that the generator complies with all applicable conditions set forth in Mich. Admin. Code r. 299.9305 and r. 299.9307, including, but not limited to, the requirement to include in its quick reference guide a map of the facility showing where hazardous wastes are generated, accumulated and treated, and routes for accessing these wastes. See Mich. Admin. Code R. 299.9307(1)(c); 40 C.F.R. § 262.262 (incorporated by reference). On April 16, 2024, the contingency plan quick reference guide's facility map did not illustrate the location of the F006 nickel-plating filter cake waste hopper, and Respondent had not obtained a permit or interim status. Therefore, Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a).
- e. Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270 and Michigan Administrative Code Part 111 prohibit the treatment, storage or disposal of hazardous waste without a permit or interim status. A large quantity generator of hazardous waste may, however, accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided that the generator complies with all applicable conditions set forth in Mich. Admin. Code r. 299.9305 and r. 299.9307, including, but not limited to, the requirement to always keep a container holding hazardous waste closed during storage, except when it is necessary to add or remove waste. See Mich.

Admin. Code r. 299.9307(1)(b)(i)(D). On April 16, 2024, the F006 nickel-plating filter cake waste hopper was left open when waste was not being added to or removed from this container, and Respondent had not obtained a permit or interim status. Therefore, Respondent stored hazardous waste without a permit or interim status, in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the requirements of Mich. Admin. Code r. 299.9601(1)-(3) and 299.11003(1)(n), r. 299.9614(1)(a) and 40 CFR § 264.173(a), because it failed to comply with the conditions for a permit-exemption as described above. In addition, because of the loss of its generator-exemption from the requirement to have a RCRA permit, Respondent was required to comply with the requirements of Mich. Admin. Code r. 299.9601(1)-(3), r. 299.11003(1)(n), r. 299.9614, and the container-management requirements for hazardous waste storage facilities, including the requirement to keep the container (hopper) of F006 nickel-plating filter cake waste closed during periods when waste was not being added to or removed from the container. See Mich. Admin. Code r. 299.9614, r. 299.11003; 40 C.F.R. § 264.173(a) (incorporated by reference). Respondent violated this container-management requirement when it left the F006 nickel-plating filter cake hopper open as described above.

- f. Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270 and Michigan Administrative Code Part 111 prohibit the treatment, storage or disposal of hazardous waste without a permit or interim status. A large quantity generator of hazardous waste may, however, accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided that the generator complies with all applicable conditions set forth in Mich. Admin. Code r. 299.9305 and r. 299.9307, including, but not limited to, the requirement to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes. See Mich. Admin. Code R. 299.9307(1)(c); 40 C.F.R. § 262.255 (incorporated by reference). On April 16, 2024, there was inadequate aisle space in the 90-day hazardous waste storage area, and Respondent had not obtained a permit or interim status. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a). In addition, because of the loss of its generator-exemption from the requirement to have a RCRA permit, Respondent was required to comply with the requirements of Mich. Admin. Code r. 299.9601(1)-(3), r. 299.11003(1)(n), r. 299.9606(1) and (3) and 40 C.F.R. § 264.35 (incorporated by reference), including the requirement in 40 C.F.R. § 264.35 to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency. Respondent violated the requirement to maintain adequate aisle space, as described above.

- g. Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270 and Michigan Administrative Code Part 111 prohibit the treatment, storage or disposal of hazardous waste without a permit or interim status. A generator may, however, accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided that the generator complies with all applicable conditions set forth in Mich. Admin. Code r. 299.9305 and r. 299.9307, including, but not limited to, the requirement to maintain the following documents and records at its facility for employees filling a position related to hazardous waste management: the job title for each position at the facility and the name of the employee filling each job; a written job description for each position; a written description of the type and amount of both introductory and continuing training that will be given; and records that document that the training or job experience described above has been given to and completed by facility personnel. See Mich. Admin. Code r. 299.9307(1)(i)-(iv) and (j), with respect to the training program required by Mich. Admin. Code r. 299.9307(1)(f). In addition, Mich. Admin. Code r. 299.9311(7) requires large quantity generators to keep documentation of all inspections, training, and other records required under r. 299.9306 and r. 299.9307, respectively, for not less than 3 years. On April 16, 2024, the Respondent did not have records showing which personnel were present for their respective annual hazardous waste training and the specific training dates, and Respondent had not obtained a permit or interim status. Therefore, Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a). In addition, Respondent violated the requirements of Mich. Admin. Code r. 299.9311(7) because it failed to keep documentation of all inspections, training, and other records required under r. 299.9306 and r. 299.9307 for at least 3 years.
- h. Under Mich. Admin. Code r. 299.9313(1), hazardous waste generators must comply with the requirements of 40 C.F.R. Part 268. Under 40 C.F.R. § 268.7(a)(2), a generator must identify underlying hazardous constituents (UHCs) for characteristic waste. On April 16, 2024, two LDR forms maintained by Respondent did not have underlying hazardous constituents listed for the D007 characteristic hazardous waste. Respondent's failure to identify UHCs for the D007 characteristic hazardous waste generated at its facility, as described above, violated 40 C.F.R. § 268.7(a)(2) (incorporated by reference) and Mich. Admin. Code r. 299.9313(1).
3. The EPA and Respondent agree that settlement of this matter for a civil penalty of six thousand two hundred fifty dollars (\$6,250) is in the public interest.

4. EPA is authorized to enter into this Agreement pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. §§ 22.13(b), and 22.18(b)(2)–(3).
5. EPA provided notice of commencement of this action to the state of Michigan pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
6. In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) waives the opportunity for a hearing as provided at 40 C.F.R. § 22.15(c); (6) waives any right to contest the allegations in this Expedited Settlement Agreement and Final Order and its right to appeal this Expedited Settlement Agreement and Final Order; and (7) waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the ESA.
7. By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, and (2) Respondent has paid the civil penalty in accordance with paragraph 8.
8. Respondent shall have paid a civil penalty of six thousand two hundred fifty dollars (\$6,250) within 30 days of its receipt of the letter setting forth the opportunity for expedited settlement. Respondent shall pay the penalty using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
9. Respondent shall have sent a notice of payment that states Respondent's name, complete address, and the case docket number to EPA at the following addresses, when it paid the penalty:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Megan Cox
Land Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
cox.megan@epa.gov and
R5LECAB@epa.gov

James Cha
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
cha.james@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

10. The civil penalty is not deductible for federal tax purposes.
11. This Agreement resolves only Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in the Agreement.
12. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
13. Each party shall bear its own costs and fees, if any.
14. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
15. In accordance with 40 C.F.R. § 22.6, the parties consent to service of this Agreement by e-mail at the following valid e-mail addresses: cha.james@epa.gov (for Complainant), and louie@technickel.com (for Respondent).
16. Respondent understands that the ESA will become publicly available upon filing.

IT IS SO AGREED,

Louis Vogl

Name (print)

General Manager

Title (print)

Signature



04-17-2025

Date

APPROVED BY EPA:

Michael D. Harris

Division Director

Enforcement and Compliance Assurance Division

In the Matter of:

Tech Nickel, Inc.

Docket No.: RCRA-05-2025-0017

FINAL ORDER

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED:

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