

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103**

<b>In the Matter of:</b>	:	
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<b>Chemalloy Company LLC 1301 Conshohocken Rd Conshohocken, Pennsylvania 19428</b>	:	<b>U.S. EPA Docket No. CWA-03-2023-0030</b>
	:	
<b>Respondent.</b>	:	<b>Proceeding under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g)</b>
	:	
	:	
<b>Chemalloy Company LLC 1301 Conshohocken Rd Conshohocken, Pennsylvania 19428</b>	:	
	:	
	:	
<b>Facility.</b>	:	

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Chemalloy Company LLC (“Respondent”) (collectively the “Parties”), pursuant to Section 309(g) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(g), 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. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), for the violations alleged herein.
  
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

**JURISDICTION**

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6).

**GENERAL PROVISIONS**

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.
11. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System (“NPDES”) program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.

14. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person into waters of the U.S. except in compliance with sections 301, 302, 306, 307, 318, 402, and 404 of the Act.
15. “Pollutant” is defined as “dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.” 40 C.F.R. § 122.2. See also 33 U.S.C. § 1362(6).
16. “Discharge of a pollutant” means “[a]ny addition of any ‘pollutant’ or combination of pollutants to ‘waters of the United States’ from any ‘point source.’” 40 C.F.R. § 122.2. See also 33 U.S.C. § 1362(12).
17. “Storm water” is defined as “storm water runoff, snow melt runoff, and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).
18. “Storm water discharge associated with industrial activity” means “the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant” and “includes, but is not limited to, storm water discharges from...material handling sites; refuse sites; sites used for the application or disposal of process waste waters...; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products.” 40 C.F.R. § 122.26(b)(14).
19. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and implementing regulation at 40 C.F.R. § 122.26(a)(1)(ii), require facilities discharging stormwater associated with industrial activity to obtain a permit. Under 40 C.F.R. § 122.26(c)(1), dischargers of stormwater associated with industrial activity must apply for an individual permit or seek coverage under a general permit.
20. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), the Commonwealth of Pennsylvania, through PADEP, is authorized by EPA to administer the NPDES program in Pennsylvania.
21. Pennsylvania, through PADEP, has incorporated the NPDES Permit program requirements of the CWA, 33 U.S.C. § 1342, into its Clean Streams Law, as amended, 35 P.S. § 691.1 et seq.
22. Pursuant to the authority of the CWA, PADEP issued an NPDES General Permit for Discharges of Stormwater Associated with Industrial Activity General Permit, PAG-03, on September 24, 2016 (the “General Permit”).

23. The General Permit is issued for 5-year terms and requires facilities that discharge storm water to a surface water body of the Commonwealth to comply with specific requirements governing storm water discharges associated with industrial activities.
24. PADEP has administratively extended the General Permit and permittees that are operating under the General Permit may continue to operate until March 23, 2023.
25. The General Permit authorizes the discharge of stormwater associated with industrial activity in accordance with the provisions of the Commonwealth's General Permit.
26. A violation of the General Permit is also a violation of the CWA and may be subject to penalties established under that statute.
27. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), authorizes the assessment of administrative penalties against any person who violates any NPDES permit condition or limitation.
28. Chemalloy Company LLC is, and at all times relevant to this AOC was, the owner and operator of a metal powder and crushed metals manufacturing facility located at 1301 Conshohocken Road, Conshohocken, Pennsylvania 19428 (the "Facility").
29. Chemalloy Company LLC is a limited liability company organized and existing under the laws of the Commonwealth of Pennsylvania, is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5), and is subject to the assessment of civil penalties for the violations alleged herein
30. Respondent is, and at all times relevant to this AOC was, engaging in "industrial activity" at the Facility, within the meaning of 40 C.F.R. § 122.26(a)(1)(ii).
31. Respondent had applied for and was granted coverage under the General Permit, NPDES Permit Number PAR200003, to discharge stormwater associated with industrial activity from the Facility, alone or in combination with authorized non-stormwater discharges listed in Part C.I.B of the General Permit, beginning September 1, 2017.
32. The Facility discharges, and at all times relevant to this AOC discharged, stormwater and/or authorized non-stormwater through outfalls identified in its Permit into Watershed 3-F of the Schuylkill River which is a "water of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
33. On September 29, 2021, an EPA compliance inspection team conducted an inspection of the Facility ("Inspection"), pursuant to Section 308 of the Act, 33 U.S.C. § 1318.
34. EPA sent an Inspection report dated November 11, 2021, to Respondent on November 22, 2021. Respondent replied to the Inspection report by letter dated December 7, 2021. Respondent also sent EPA subsequent documentation via email on June 17, 2022.

35. Based on the Inspection and review of Respondent’s responses as mentioned in Paragraph 34, EPA has identified the following violations of the General Permit, and Section 301 of the CWA, 33 U.S.C. § 1311, described in the Paragraphs below.

**Count I**

**Failure to Update Preparedness, Prevention, and Contingency (“PPC”) Plan and to Document PPC Plan Updates in the Annual Reports**

36. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
37. Part C.IV.A of the General Permit requires Respondent to “develop and implement a PPC Plan in accordance with 25 Pa. Code § 91.34” following guidance by PADEP, and Part C.IV.B of the General Permit requires Respondent to “review and, if necessary, update the PPC Plan on an annual basis, at a minimum, and when one or more” events listed in the General Permit occur such as when the Facility’s design changes “in a manner that materially increases the potential for fires, explosions, or releases of toxic or hazardous constituents; or which changes the response necessary in an emergency.” The Respondent must “maintain all PPC Plan updates on-site, make the updates available to [PA]DEP upon request, and document the updates in the Annual Reports” required by Part A.III.C.1 of the General Permit.
38. At the time of the Inspection, EPA inspectors noted that the PPC Plan contained a Facility map that was inconsistent with the Facility’s actual layout. Inlets, manholes, and storage areas that EPA inspectors visually observed were not noted on the map. An inlet noted on the map was not visually observed by EPA at that location. Specifically, EPA inspectors found the following:
- EPA inspectors observed an inlet in proximity to Building No. 7 and Plant No. 6 that did not appear on the Facility map provided.
  - EPA inspectors observed an empty drum storage area between Building No. 5a and Warehouse A that did not appear on the Facility map provided.
  - EPA inspectors observed two inlets located between Building No. 5a and Warehouse A that did not appear on the Facility map provided.
  - EPA inspectors observed a manhole south of the “Outdoor Storage Area” that did not appear on the Facility map provided.
  - EPA inspectors observed a material storage area on the east side of the Facility with several open drums that had metals stored inside. The Facility map provided labeled this area as “Catch Basin (Covered/Sealed),” not as a material storage area.

- EPA inspectors observed a palettes and drums storage area east of Plant No. 5. The Facility map provided did not have this area labeled as a storage area.
  - EPA inspectors observed a storage pile of wood chips in the area east of Plant No. 5 that did not appear on the Facility map provided.
  - The Facility map provided shows an inlet located by the northeast corner of Building No. 7. EPA inspectors did not observe an inlet in this area.
39. The Facility’s design changes were such that they materially increased the potential for fires, explosions, or releases of toxic or hazardous constituents, or changed the response necessary in an emergency.
40. At the time of the Inspection, EPA inspectors observed that the PPC Plan, dated May 2017, had some minor updates and corrections, including updates to the list of emergency coordinators and the Facility map; however, these updates were not dated nor were they documented in the Annual Reports as the Respondent did not submit Annual Reports for 2018, 2019, 2020, and 2021 (*see* Count VIII below).
41. Respondent failed to update the PPC Plan on an annual basis, at a minimum, and when the Facility’s design changed in a manner that materially increased the potential for fires, explosions, or releases of toxic or hazardous constituents, or which changed the response necessary in an emergency in 2018, 2019, 2020, and 2021.
42. Respondent failed to document the PPC Plan updates in the Annual Reports in 2018, 2019, 2020, and 2021.
43. Respondent violated Part C.IV.B of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, by failing to update the PPC Plan on an annual basis, at a minimum, and when the Facility’s design changed in a manner that materially increased the potential for fires, explosions, or releases of toxic or hazardous constituents, or changed the response necessary in an emergency in 2018, 2019, 2020, and 2021.
44. Respondent violated Part C.IV.B of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, by failing to document any PPC Plan updates in the Annual Reports in 2018, 2019, 2020, and 2021.
45. In failing to comply with Part C.IV.B of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count II**  
**Failure to Conduct and Document Training**

46. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

47. Part C.IV.A.6 of the General Permit requires the PPC Plan to include “a plan for training employees and contractors on pollution prevention, [best management practices (“BMPs”)], and emergency response measures.” This training must be conducted in accordance with Part C.II.E.3 of the General Permit which requires Respondent to “develop and implement employee and contractor training on the procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases.” Respondent must conduct the training periodically, no less than annually, and document the training in the Annual Reports required by Part A.III.C.1 of the General Permit.
48. At the time of the Inspection, EPA inspectors noted that the PPC Plan mentioned annual training for employees, but the Facility did not have Annual Reports with records of the training as the Respondent did not submit Annual Reports for 2018, 2019, 2020, and 2021 (*see* Count VIII below). Moreover, at the time of the Inspection, the Facility representative stated that he was unaware of the date of the most recent training.
49. Respondent failed to conduct employee and contractor training and to document that such training, if any, occurred, in the Annual Reports in 2018, 2019, 2020, and 2021.
50. Respondent violated Part C.II.E.3 of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, by failing to conduct employee and contractor training and to document that such training, if any, occurred in the Annual Reports in 2018, 2019, 2020, and 2021.
51. In failing to comply with Part C.II.E.3 of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count III**  
**Failure to Implement Proper Operation and Maintenance Measures**

52. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
53. Part B.I.D of the General Permit requires Respondent, at all times, to “properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), including BMPs.”
54. At the time of the Inspection, EPA inspectors observed various stormwater inlet and outlet grates in need of maintenance. Specifically, EPA inspectors observed the following:
  - The grates of two inlets east of Plant No. 4 were covered by foliage and weeds.
  - The grate of an inlet east of Plant No. 5 was covered by debris and pallettes.

- The grate of an inlet south of Plant No. 5 was covered by materials such as metal beams, pallets, and leaf and/or wood chip debris.
  - The grate of an outlet for Outlet No. 002 located in the “Detention Basin” was covered by heavy vegetation and inaccessible to EPA inspectors for observation.
55. At the time of the Inspection, Respondent failed to properly maintain all facilities and systems of treatment and control (and related appurtenances), including BMPs.
56. At the time of the Inspection, Respondent violated Part B.I.D of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, by failing to properly maintain all facilities and systems of treatment and control (and related appurtenances), including BMPs.
57. In failing to comply with Part B.I.D of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

#### **Count IV**

#### **Failure to Implement Pollution Prevention and Exposure Minimization Measures**

58. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
59. Part C.II.B of the General Permit requires Respondent to “minimize the exposure of manufacturing, processing, and material storage areas...to rain, snow, snowmelt, and runoff in order to minimize pollutant discharges by either locating industrial materials and activities inside or protecting them with storm resistant coverings wherever feasible.” Respondent is required, among other things, to use grading, berming, or curbing to prevent runoff of polluted stormwater and divert run-on away from areas that contain polluted stormwater; to locate materials, equipment, and activities so that potential leaks and spills are contained or able to be contained or diverted before discharge to surface waters; to clean up spills and leaks promptly to prevent discharge to surface waters; and to keep all dumpster lids closed when not in use or ensure that lidless dumpster discharges have a control.
60. At the time of the Inspection, EPA inspectors observed various dumpsters with metals and/or miscellaneous trash, and the dumpsters did not have a lid or cover and/or were leaking. The EPA inspectors also observed a storage pile of wood chips in the area east of Plant No. 5 that did not have any erosion controls or coverings. Specifically, EPA inspectors observed the following.
- EPA inspectors observed a dumpster labeled “Metal Only” in the southwest area of the Facility, near Maintenance Shop Building No. B, with scrap material, and various chemical containers. They observed liquid leaking from the corner of the dumpster.

- EPA inspectors observed a dumpster south of the “Outdoor Storage Area” that did not have a lid or cover nor any additional control or secondary containment.
  - EPA inspectors observed a dumpster in proximity to Plant No. 5 that did not have a lid or cover nor any additional control or secondary containment.
  - EPA inspectors observed an uncovered dumpster without any additional control or secondary containment west of the “Outdoor Storage Area.” They observed liquid leaking from the bottom of the dumpster.
  - EPA inspectors observed a storage pile of wood chips stored in an area east of Plant No. 5 that did not have any erosion controls or coverings.
61. At the time of the Inspection, Respondent failed to minimize the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff.
62. At the time of the Inspection, Respondent violated Part C.II.B of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, by failing to minimize the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff.
63. In failing to comply with Part C.II.B of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count V**  
**Failure to Implement Spill Prevention and Response Measures**

64. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
65. Part C.II.E of the General Permit requires Respondent “to minimize the potential for leaks, spills and other releases that may be exposed to stormwater and develop a plan consistent with Part C.IV for effective responses to such releases.” At a minimum, Respondent must “[i]mplement procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas.”
66. At the time of the Inspection, EPA inspectors observed various drums, containers, and barrels with liquids and materials throughout the site. These barrels lacked secondary containment. Specifically, EPA inspectors observed the following:

- EPA inspectors observed drums of antifreeze south of Plant No. 6 without secondary containment or a similarly effective means designed to prevent the discharge of pollutants from this area.
  - EPA inspectors observed drums on the east side of the “Outdoor Storage Area” without secondary containment or a similarly effective means designed to prevent the discharge of pollutants from this area.
  - EPA inspectors observed drums of ethylene glycol and corrosives stored in the “Recyclable Raw Material Storage (Drums)” area without secondary containment or a similarly effective means designed to prevent the discharge of pollutants from this area.
67. At the time of the Inspection, Respondent failed to minimize the potential for leaks, spills and other releases that may be exposed to stormwater, by, at a minimum, implementing procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas.
68. At the time of the Inspection, Respondent violated Part C.II.E of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, by failing to minimize the potential for leaks, spills and other releases that may be exposed to stormwater, by, at a minimum, implementing procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas..
69. In failing to comply with Part C.II.E of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count VI**  
**Failure to Ensure Good Housekeeping**

70. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
71. Part C.II.C of the General Permit requires Respondent to “perform good housekeeping measures in order to minimize pollutant discharges” including the routine implementation of measures such as “eliminat[ing] floor drain connections to storm sewers.”
72. At the time of the Inspection, EPA inspectors observed a floor drain in Warehouse A with an inflatable plug used to prevent liquids from entering the drain.

73. At the time of the Inspection, Respondent failed to perform good housekeeping measures in order to minimize pollutant discharges including the routine implementation of measures such as eliminating floor drain connections to storm sewers.
74. At the time of the Inspection, Respondent violated Part C.II.C of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, by failing to perform good housekeeping measures in order to minimize pollutant discharges including the routine implementation of measures such as eliminating floor drain connections to storm sewers.
75. In failing to comply with Part C.II.C of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

### **Count VII**

#### **Failure to Conduct Routine Inspections in Accordance with Permit Requirements**

76. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
77. Part C.III.A of the General Permit requires Respondent to visually inspect, at a minimum, specific areas, such as areas where industrial materials or activities are exposed to stormwater, areas identified in the PPC Plan, areas where spills or leaks have occurred in the past three years, stormwater outfalls and locations where authorized non-stormwater discharges may commingle, and BMPs on a semiannual basis. One of these routine inspections must be “conducted during a period when a stormwater discharge is occurring” at least once each calendar year.
78. At the time of the Inspection, EPA inspectors reviewed the Facility’s 2019, 2020, and 2021 routine inspection forms used by the Facility to comply with Part C.III.A. These forms were unclear as to whether all areas where industrial materials and activities are exposed to stormwater were inspected, or whether all BMPs were inspected, and they included no indication as to whether the inspections were conducted during a stormwater discharge.
79. From at least January 1, 2019 to the time of the Inspection, Respondent violated Part C.III.A of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, by failing to visually inspect, at a minimum, specific areas, such as areas where industrial materials or activities are exposed to stormwater, areas identified in the PPC Plan, areas where spills or leaks have occurred in the past three years, stormwater outfalls and locations where authorized non-stormwater discharges may commingle, and BMPs on a semiannual basis, including at least once during a stormwater discharge.
80. In failing to comply with Part C.III.A of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count VIII  
Failure to Report**

81. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
82. Part A.III.C of the General Permit requires Respondent to “submit a complete Annual Report to the PADEP office that issued the approval of General Permit.” This Annual Report must “address activities under the General Permit for the previous calendar year.”
83. At the time of the Inspection, the Facility’s representative stated that Annual Reports were not completed. From subsequent documentation provided by Respondent on June 17, 2022, EPA inspectors noted that Annual Reports were not submitted for 2018, 2019, 2020, and 2021.
84. Respondent failed to submit a complete Annual Report for 2018, 2019, 2020, and 2021.
85. Respondent violated Part A.III.C of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, by failing to submit a complete Annual Reports for 2018, 2019, 2020, and 2021.
86. In failing to comply with Part A.III.C of the General Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**CIVIL PENALTY**

87. In settlement of EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of FORTY THOUSAND dollars (\$40,000.00), which Respondent shall be liable to pay in accordance with the terms set forth below.
88. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), including, the following: the nature, circumstances, extent and gravity of the violation(s), and the violator’s ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings resulting from the violation, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s *Interim Clean Water Act Settlement Penalty Policy*, March 1, 1995, the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.
89. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier’s check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, CWA-03-2023-0030;
- b. All checks shall be made payable to the "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously **by email** to:

Promy Tabassum  
Assistant Regional Counsel  
[tabassum.promy@epa.gov](mailto:tabassum.promy@epa.gov)

**and**

U.S. EPA Region III Regional Hearing Clerk  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).

- 90. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
- 91. Payment of the civil penalty is due and payable immediately upon the effective date of this Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondent in accordance with 40 C.F.R. § 13.9(a).

92. **INTEREST:** Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the effective date of this Consent Agreement and Final Order. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
93. **ADMINISTRATIVE COSTS:** The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
94. **LATE PAYMENT PENALTY:** A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
95. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
96. **The Parties consent to service of the Final Order by e-mail at the following valid e-mail addresses: tabassum.promy@epa.gov (for Complainant), and Colin.Hudson@metalpowdergroup.com (for Respondent).**

#### **GENERAL SETTLEMENT CONDITIONS**

97. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
98. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, **including information about Respondent's ability to pay a penalty**, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors

and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

**CERTIFICATION OF COMPLIANCE**

99. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with the Administrative Order on Consent between Respondent and EPA, Docket No. CWA-03- 2023-0011DN, which addresses the violations alleged herein.

**OTHER APPLICABLE LAWS**

100. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA’s authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state, or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension, or modification of the requirements of the CWA, 33 U.S.C. § 1251 *et seq.*, or any regulations promulgated thereunder.

**RESERVATION OF RIGHTS**

101. This Consent Agreement and Final Order resolves only EPA’s claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

**EXECUTION / PARTIES BOUND**

102. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

**EFFECTIVE DATE**

103. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

**ENTIRE AGREEMENT**

104. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: CHEMALLOY COMPANY LLC

Date: \_\_\_\_\_

By: \_\_\_\_\_

Carolyn Zhang  
Vice President, Chief Financial Officer  
Chemalloy Company LLC  
Metal Powder Group

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: \_\_\_\_\_  
[Digital Signature and Date]  
Karen Melvin, Director  
Enforcement & Compliance Assurance Division  
U.S. EPA – Region III  
Complainant

Attorney for Complainant:

By: \_\_\_\_\_  
[Digital Signature and Date]  
Promy Tabassum  
Assistant Regional Counsel  
U.S. EPA – Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103**

<b>In the Matter of:</b>	:
	:
<b>Chemalloy Company LLC 1301 Conshohocken Rd Conshohocken, Pennsylvania 19428</b>	: <b>U.S. EPA Docket No. CWA-03-2023-0030</b>
	:
<b>Respondent.</b>	: <b>Proceeding under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g)</b>
	:
	:
<b>Chemalloy Company LLC 1301 Conshohocken Rd Conshohocken, Pennsylvania 19428</b>	:
	:
<b>Facility.</b>	:
	:

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Chemalloy Company LLC, have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with 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 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s *Interim Clean Water Act Settlement Penalty Policy*, March 1, 1995, the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the statutory factors set forth in Section 309(g)(3) of the Clean Water Act, 22 U.S.C. § 1319(g)(3).

**NOW, THEREFORE, PURSUANT TO** Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **FORTY THOUSAND DOLLARS (\$40,000.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order 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 the law. This Final

Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish, or otherwise affect Respondent’s obligation to comply with all applicable provisions of the Clean Water Act and the regulations promulgated thereunder.

The Effective Date of the attached Consent Agreement and this Final Order is thirty (30) days after the date on which this Final Order is signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

By: \_\_\_\_\_  
[Digital Signature and Date]  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA – Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103**

<b>In the Matter of:</b>	:	
	:	
<b>Chemalloy Company LLC</b>	:	<b>U.S. EPA Docket No. CWA-03-2023-0030</b>
<b>1301 Conshohocken Rd</b>	:	
<b>Conshohocken, Pennsylvania 19428</b>	:	<b>Proceeding under Section 309(g) of the Clean</b>
	:	<b>Water Act, 33 U.S.C. § 1319(g)</b>
<b>Respondent.</b>	:	
	:	
<b>Chemalloy Company LLC</b>	:	
<b>1301 Conshohocken Rd</b>	:	
<b>Conshohocken, Pennsylvania 19428</b>	:	
	:	
<b>Facility.</b>	:	

**CERTIFICATE OF SERVICE**

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Consent Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Colin Hudson  
Environmental Health Safety Specialist  
Chemalloy Company LLC  
1301 Conshohocken Rd  
Conshohocken, Pennsylvania 19428  
[Colin.Hudson@metalpowdergroup.com](mailto:Colin.Hudson@metalpowdergroup.com)

Copies served via email to:

Promy Tabassum  
Assistant Regional Counsel  
U.S. EPA, Region III  
[tabassum.promy@epa.gov](mailto:tabassum.promy@epa.gov)

Angela Weisel  
Life Scientist  
U.S. EPA, Region III  
[weisel.angela@epa.gov](mailto:weisel.angela@epa.gov)

By: \_\_\_\_\_  
[Digital Signature and Date]  
Regional Hearing Clerk  
U.S. EPA – Region III