

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF:)	Docket No. RCRA-10-2022-0155
)	
)	
TDY Industries, LLC)	
1600 NE Old Salem Road, Albany, OR)	EXPEDITED SETTLEMENT
EPA ID No. ORD 05095 5848)	AGREEMENT AND
)	FINAL ORDER
Respondent)	
)	
)	

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928, and 40 C.F.R. § 22.13(b).
2. By copy of this letter, the EPA is providing the State of Oregon with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2), 42 U.S.C. § 6928(a)(2).
3. TDY Industries, LLC (“Respondent”) is the owner or operator of the ATI Millersburg facility at 1600 NE Old Salem Road in Albany, Oregon (“Facility”). The EPA alleges that Respondent violated the following requirements of the RCRA and the EPA approved and authorized Oregon hazardous waste management program.
 - a. Violation 1: RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and 265.173(a) require that, in lieu of having a RCRA permit, containers holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste containers of hazardous waste. On March 6 and 8, 2019 and May 24-28, 2021, in violation of RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and 265.173(a), “skull pot” containers which held hazardous waste were not closed when waste was not being added or removed.
 - b. Violation 2: RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and 265.173(a) require that, in lieu of having a RCRA permit, containers holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste containers of hazardous waste. On May 24-28, 2021, in violation of RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and 265.173(a), the Paddle Mixer container which held hazardous waste was not closed when waste was not being added or removed.
 - c. Violation 3: RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and 265.173(a) require that, in lieu of having a RCRA permit, containers holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste containers of hazardous waste. On May 24-28, 2021, in violation of RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and

265.173(a), a container in the Thermite Area of the facility which held hazardous waste was not closed when waste was not being added or removed.

- d. Violation 4: RCRA Section 3005(a) and 40 C.F.R. §268.7(a)(8) require that, in lieu of having a RCRA permit, a generator must retain on-site a copy of all waste analysis data produced pursuant to 40 C.F.R. Part 268 for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. On May 24-28, 2021, in violation of RCRA Section 3005(a) and 40 C.F.R. § 268.7(a)(8), the Facility did not retain waste analysis data for skull pot treatment of approximately 10 separate hazardous wastes under WAP-SP-001, for paddle mixer treatment of approximately 4 separate hazardous wastes under WAP-PM-001, and for zirconium extraction residue treatment of approximately 3 separate hazardous wastes under WAP-RB-001.
 - e. Violation 5: RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and 268.7(a)(5) require that, in lieu of having a RCRA permit, a generator managing and treating prohibited waste in tanks, containers, or containment buildings regulated under 40 C.F.R. 262.34 to meet applicable LDR treatment standards found at §268.40 must develop and follow a written waste analysis plan which specifies, among other things, the selected testing frequency. On May 24-28, 2021, in violation of RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and 268.7(a)(5), waste analysis plan #WAP-SP-001 for skull pot treatment did not specify a selected testing frequency.
 - f. Violation 6: RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and 40 C.F.R. §268.7(a)(2) require that, in lieu of having a RCRA permit, if a hazardous waste does not meet applicable land disposal restriction treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file. On May 24-28, 2021, in violation of RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and 268.7(a)(2), the shipment of hazardous waste accompanied by Manifest 014447439FLE did not have an associated land disposal restriction notification.
 - g. Violation 7: RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and 40 C.F.R. §268.7(a)(2) require that, in lieu of having a RCRA permit, if a hazardous waste does not meet applicable land disposal restriction treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file. That notice must include, among other things, the EPA Hazardous Waste Numbers associated with the waste. On May 24-28, 2021, in violation of RCRA Section 3005(a) and 40 C.F.R. §§262.34(a) and 268.7(a)(2), the written land disposal restriction notices for Manifest numbers 014447541FLE, 014487819FLE, 015502311FLE, 015501930FLE and 014447601FLE did not contain all required EPA Hazardous Waste numbers.
4. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$18,125. The attached Penalty Calculation Worksheet is incorporated by reference.
5. 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 to contest any issue of fact or law set forth herein; (6) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b); and (7) consents to electronic service of the filed ESA.

6. Within 30 days of the effective date of this Agreement, Respondent shall pay a civil penalty of \$18,125 for the RCRA violations identified in this Agreement. Payments under this Agreement may be made by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent must note on the check the title and docket number of this action.

7. Concurrent with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 6 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10
R10_RHC@epa.gov

Kevin Schanilec
U.S. Environmental Protection Agency
Region 10
Schanilec.kevin@epa.gov

8. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Agreement and Final Order and to execute and legally bind Respondent to it.
9. 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.
10. Each party shall bear its own costs and fees, if any.
11. This Agreement and Final Order shall constitute full settlement of the civil claims alleged herein.
12. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state or local income tax purposes.
13. This Agreement is binding on the parties signing below and, in accordance with 40 C.F.R. § 22.31(b), is effective upon filing of the Final Order with the Regional Hearing Clerk for

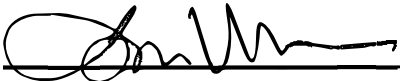
the EPA, Region 10.

IT IS SO AGREED,

RESPONDENT:

Name (print): Lee Weber

Title (print): President, Specialty Alloys & Components

Signature:  _____

Date: 7/6/2022

EPA REGION 10:

Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 10

Date: _____

FINAL ORDER

I hereby ratify the Expedited Settlement Agreement and incorporate it by reference. This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall be effective immediately upon filing with the Regional Hearing Clerk for the EPA, Region 10. Such filing will conclude this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED,

Richard Mednick, Regional Judicial Officer
U.S. Environmental Protection Agency, Region 10

Date: _____

Certificate of Service

The undersigned certifies that the original of the attached EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: TDY Industries LLC, Docket No.: RCRA-10-2022-0155, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered via electronic mail to:

Kevin Schanilec
U.S. Environmental Protection Agency
Region 10
schanilec.kevin@epa.gov

TDY Industries, LLC
ATI Millersburg dba Wah Chang
1600 NE Old Salem Road
Albany, Oregon 97231

DATED this ____ day of _____, 2022.

Regional Hearing Clerk
EPA Region 10