



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

**FEB 21 2019**

REPLY TO THE ATTENTION OF:

Mr. M.C. Zucker  
President  
Site Leader  
Kalcor Coatings Company  
37721 Stevens Boulevard  
Willoughby, Ohio 44094

Re: Expedited Settlement Agreement  
Kalcor Coatings Company, Willoughby, Ohio  
Docket No: **RCRA-05-2019-0006**

Dear Mr. Zucker:

Enclosed please find an original signed fully-executed Expedited Settlement Agreement (ESA) in resolution of the above case. The original was filed on **FEB 21 2019**, with the Regional Hearing Clerk (RHC).

The ESA is binding on the U.S. Environmental Protection Agency and Kalcor Coatings Company. EPA will take no further action against the Respondent for the violations cited in the ESA.

Thank you for paying the civil penalty in the amount of \$4,000 on January 17, 2019 in the manner prescribed in paragraph 9 of the ESA. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Ireland".

D. Scott Ireland  
Acting Chief, RCRA Branch  
Land and Chemicals Division

Enclosure

cc: Mitch Matthews, Ohio Environmental Protection Agency (mitchell.matthews@epa.ohio.gov)  
Robert Peachey, EPA (peachey.robert@epa.gov)



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

<b>IN THE MATTER OF:</b>	)	Docket No. RCRA-05-2019-0006
	)	
Kalcor Coatings Company	)	<b>EXPEDITED SETTLEMENT</b>
EPA ID Number OHD 004 220 885,	)	<b>AGREEMENT AND</b>
	)	<b>FINAL ORDER</b>
Respondent.	)	
_____	)	

**EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER**

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Kalcor Coatings Company (“Respondent”), owner and operator of the facility located at 37721 Stevens Boulevard, Willoughby, Ohio (the “Facility”), failed to perform waste determinations on the Torit dust and Quality Control Laboratory spray booth filters; failed to label a container in the Maintenance Shop with the words “Used Oil”; and did not keep a container of universal waste closed in the Maintenance Shop, in violation of the Resource Conservation and Recovery Act, 42 U.S.C. § 6907 *et seq.* (“RCRA”), its implementing regulations, and Ohio’s federally approved hazardous waste management program. These violations were alleged in EPA’s September 13, 2017 Notice of Violation (“NOV”) letter and are detailed in paragraphs 2 to 4 below.
2. Under Ohio Admin. Code 3745-52-11 [40 C.F.R. § 262.11], Respondent was required to determine if a waste is a hazardous waste in the state of Ohio, as defined in Ohio Admin Code 3745-51-02 using the methods (A), (B), (C), and (D). During EPA’s March 28, 2017 inspection, Kalcor Coatings had not performed hazardous waste determinations on Torit dust and Quality Control Laboratory spray booth filters. Respondent’s November 16, 2017 e-mail response to the EPA NOV letter stated that the RCRA test results were completed, and the results indicated that the Torit dust was TCLP for chromium and the spray booth filters were non-hazardous.
3. Under Ohio Admin. Code 3745-279-22(C)(1) [40 C.F.R. § 279.22(c)(1)], containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.” During EPA’s March 28, 2017 inspection, the inspector observed one 55-gallon container in the Maintenance Shop that was not labeled “Used Oil.” Respondent’s September 29, 2017 response to the EPA NOV letter stated this container was labeled “Used Oil” on March 31, 2017.
4. Under Ohio Admin. Code 3745-273-13(D)(1) [40 C.F.R. § 273.13(d)(1)], a small quantity handler of universal waste must contain any universal waste lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under

reasonably foreseeable conditions. During EPA's March 28, 2017 inspection, the inspector observed an open container of used fluorescent lamps. Respondent's September 29, 2017 response to the EPA NOV letter stated this container of universal waste had been closed on September 29, 2017.

5. EPA and Respondent agree that settlement of this matter for a penalty of \$4,000 is in the public interest.
6. EPA is authorized to enter into this Expedited Settlement Agreement and Final Order (the "Agreement") pursuant to Section 3008 of RCRA and 40 C.F.R. § 22.13(b).
7. In signing this Agreement, Respondent: (1) admits that Respondent is subject to Ohio Admin. Code Rules 3745-52-11, 3745-279-22(C)(1), and 3745-273-13(D)(1); (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; and (5) waives any right to contest the allegations contained herein.
8. By its signature below, Respondent certifies that the alleged violations have been corrected. Respondent shall be subject to civil and criminal penalties for making any false statement and/or submission to the United States Government.
9. Within 30 days after the effective date of this Agreement, Respondent shall pay a civil penalty of \$4,000 for the RCRA violations alleged in this Agreement by sending a cashier's or certified check, payable to "Treasurer, United States of America" to:

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

The check must state the case title ("In the Matter of Kalcor Coatings Company") and the docket number of this Agreement.

To pay on line go to:

[WWW.PAY.GOV](http://WWW.PAY.GOV)

Use the Search Public Forms option and enter "sfo 1.1" in the search field.  
Open form and complete required fields.

Respondent agrees to send a notice of payment that states Respondent's name, complete address, and the case docket number along with proof of payment to EPA (e.g. a photocopy of the check or statement of affirmation regarding an electronic funds transfer) at the following addresses, when it pays the penalty:

Regional Hearing Clerk  
U.S. EPA, Region 5  
77 West Jackson Boulevard (E-19J)  
Chicago, IL 60604

Walt Francis  
U.S. EPA, Region 5  
77 West Jackson Boulevard (LR-17J)  
Chicago, IL 60604


Robert Peachey  
U.S. EPA, Region 5  
77 West Jackson Boulevard (C-14J)  
Chicago, IL 60604

10. The civil penalty is not deductible for federal tax purposes.
11. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.
12. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this Agreement: interest will accrue on any amount overdue at a rate established pursuant to 31 U.S.C. § 3717; a \$15 handling charge each month that any portion of the penalty that is more than 30 days past due; and a 6 percent per year penalty on any principal amount 90 days past due.
13. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
14. Respondent certifies that it is now in compliance with the applicable sections of RCRA, 42 U.S.C. § 6901 *et seq.*, and its implementing regulations.
15. EPA reserves all of its rights to take an enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
16. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 3008(b) of RCRA.
17. Each party shall bear its own costs and fees, if any.
18. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

IT IS SO AGREED,

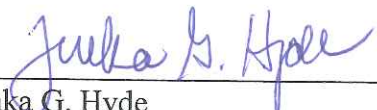
Name (print): M. C. Zucker

Title (print): President

Signature: 

Date 16 Jan 2019

APPROVED BY EPA:

  
Tinka G. Hyde  
Division Director  
Land and Chemicals Division  
U.S. Environmental Protection Agency  
Region 5

Date 2-15-19

In the Matter of:  
Kalcor Coatings  
Docket Number RCRA-05-2019-0006

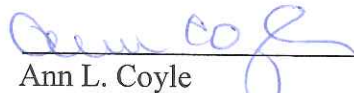


FINAL ORDER

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:

February 20, 2019  
Date

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

In the matter of: Kalcor Coatings Company  
Docket Number: **RCRA-05-2019-0006**



**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement**, which was filed on 2/21/2019, this day in the following manner to the addressees:

Copy by certified mail  
return-receipt requested:

M.C. Zucker, President  
Kalcor Coatings Company  
37721 Stevens Boulevard  
Willoughby, Ohio 44094

Copy by e-mail to  
Attorney for Complainant:

Robert Peachey  
peachey.robert@epa.gov

Copy by e-mail to  
Regional Judicial Officer:

Ann Coyle  
coyle.ann@epa.gov

Dated: 2/21/2019

A handwritten signature in black ink, appearing to read "LaDawn Whitehead", written over a horizontal line.

LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5