

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

Received by
EPA Region 7
Hearing Clerk

In the Matter of

Katecho, Inc.
4020 Gannett Avenue
Des Moines, Iowa 50321
RCRA ID: IAR000509299

Respondent.

)
)
)
)
)
)
)
)
)
)

Docket No. RCRA-07-2023-0007

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

- 1) The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement” or “ESA”) 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 document, the EPA is providing the State of Iowa with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
- 3) Katecho, Inc. (“Respondent”) is the owner or operator of the facility located at 4020 Gannett Avenue in Des Moines, Iowa (“Facility”). The EPA inspected the Facility on February 23, 2022. The EPA alleges that Respondent violated the following requirements of the RCRA hazardous waste management program:
 - a. 40 C.F.R. § 261.4(a)(26)(i) requires facilities to label containers of excluded solvent-contaminated wipes with the words, “Excluded Solvent-Contaminated Wipes.” At the time of the inspection, Respondent had failed to properly label one (1) five-gallon step can containing cloth solvent-contaminated wipes used to clean printing equipment in the printing area.
 - b. 40 C.F.R. § 262.11 requires that a generator of solid waste must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations. At the time of the inspection, Respondent had failed to conduct a hazardous waste determination on one satellite accumulation container labeled with the word “WASTE” that was located inside the Analysis Laboratory.
 - c. 40 C.F.R. § 262.15(a)(4) requires that a satellite accumulation container holding hazardous waste must be closed at all times during accumulation unless adding or removing waste. At the time of the inspection, Respondent had failed to close one (1) satellite accumulation container located inside of the Print Room.

- d. 40 C.F.R. §§ 262.15(a)(5)(i) and (ii) require a generator to mark or label its container with the words “Hazardous Waste” and an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 C.F.R. part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 C.F.R. 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704). At the time of the inspection, Respondent had failed to properly mark or label one (1) satellite accumulation container located in the Analysis Laboratory.
 - e. 40 C.F.R. § 262.16(b)(6)(i)(B) requires a generator to mark or label its containers with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 C.F.R. part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 C.F.R. 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704). At the time of the inspection, Respondent had failed to mark or label multiple hazardous waste containers with an indication of the hazards of the contents, including approximately 44 containers located inside of two cabinets.
 - f. 40 C.F.R. § 262.16(b)(9)(ii) requires a generator to post information next to telephones or in areas directly involved in the generation and accumulation of hazardous waste including, but not limited to, the name and emergency telephone number of the emergency coordinator and the location of fire extinguishers and spill control material. At the time of the inspection, Respondent had failed to meet these requirements.
 - g. 40 C.F.R. § 262.18(d)(1) requires a generator to re-notify the EPA starting in 2021 and every four years thereafter using EPA Form 8700-12. This re-notification must be submitted by September 1st of each year in which re-notifications are required. At the time of the inspection, Respondent had failed to timely re-notify as required.
- 4) In determining the amount of the penalty to be assessed, the EPA has taken into account the factors specified in Section 3008 of RCRA, 42 U.S.C. § 6928. After considering these factors, the EPA has determined, and Respondent agrees that settlement of this matter for a civil penalty of Eight Thousand Seven Hundred Fifty Dollars (\$8,750.00) is in the public interest. Respondent certifies that it has provided a deposit for payment for the full civil penalty amount, and that such payment identified Respondent by name and docket

number, was made by certified or cashier's check made payable to the "United States Treasury" and sent to:

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

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

- 5) A copy of the check or other information confirming payment shall simultaneously be emailed to the following:


Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Milady Peters, Paralegal
peters.milady@epa.gov

- 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) agrees to release funds held on deposit as payment to the EPA for the civil penalty upon final EPA approval of this Agreement; (6) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (7) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA; and (8) consents to electronic service of the filed ESA to the following email address: cgunsaulus@katecho.com. Respondent understands that the ESA will become publicly available upon filing.
- 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, (2) it is presently in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.*, its implementing regulations, and any permit issued pursuant to RCRA, and (3) Respondent is submitting proof of payment of the civil penalty with this Agreement.
- 8) The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.

- 9) The 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.
- 10) Full payment of the civil penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. The EPA reserves the right to take any enforcement action with respect to any other past, present, or future violations of RCRA or any other applicable law.
- 11) The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.
- 12) Each party shall bear its own costs and fees, if any.
- 13) This Agreement is binding on the parties signing below.

IT IS SO AGREED,

Christopher Gunsaulus
Name (print)
Vice President of Operations
Title (print)
 1/5/2023
Signature Date

APPROVED BY EPA:

Candace Bednar
Chemical Branch Chief
Enforcement and Compliance Assurance Division

Date

Britt Bieri, Attorney
Office of Regional Counsel

Date

FINAL ORDER

Pursuant to the authority of Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Expedited Settlement Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE
To be completed by EPA

I certify that that a true and correct copy of the foregoing Expedited Settlement Agreement and Final Order, EPA Docket No. RCRA-07-2022-0106, was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Britt Bieri, Office of Regional Counsel
bieri.britt@epa.gov

Kevin Snowden, Enforcement and Compliance Assurance Division
snowden.kevin@epa.gov

Milady Peters, Office of Regional Counsel
peters.milady@epa.gov

Copy via e-mail to Respondent:

Chris Gunsaulus
Katecho, Inc.
cgunsaulus@katecho.com

Copy via e-mail to the State of Iowa:

Ed Tormey, Acting Administrator
Environmental Services Division
Iowa Department of Natural Resources
ed.tormey@dnr.iowa.gov

Mike Sullivan, Section Supervisor
Solid Waste and Contaminated Sites Section
Iowa Department of Natural Resources
michael.sullivan@dnr.iowa.gov

Dated this _____ day of _____, _____.

Signed