

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

**In the Matter of:** : **U.S. EPA Docket No. CAA-03-2021-0058**  
:  
**Keystone Automotive Operations, Inc.** : **Proceeding under Section 205(c)(1) of the Clean**  
: **Air Act, 42 U.S.C. § 7524(c)(1)**  
**Respondent.** :

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. Pursuant to Section 205(c)(1) of the Clean Air Act, 42 U.S.C. § 7524(c)(1), the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) initiated this administrative proceeding for the assessment of civil penalties against Keystone Automotive Operations, Inc. (“Respondent”), by issuance of a Complaint and Notice of Opportunity for Hearing (“Complaint”) filed with the Regional Hearing Clerk on January 29, 2021. The Complaint, incorporated herein by reference, alleges that Respondent violated Section 203(a)(3)(B) of the Clean Air Act, 42 U.S.C. § 7522(a)(3)(B), in connection with the sale of automotive aftermarket parts that bypass, defeat, or render inoperative emission controls on certified motor vehicles in 2015-2018. 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 the Clean Air Act (or the “Act”) for the for the violations alleged in the Complaint.
2. This Consent Agreement is entered into by the Complainant and the Respondent (collectively the “Parties”) pursuant to Section 205(c)(1) of the Act, 42 U.S.C. § 7524(c)(1), 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 205(c)(1) of the Act, 42 U.S.C. § 7524(c)(1), 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.
3. In accordance with 40 C.F.R. §§ 22.18(b)(2) and (3) of the Consolidated Rules of Practice, the Parties resolve this administrative proceeding.

**JURISDICTION**

4. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
5. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).

**GENERAL PROVISIONS**

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. 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.
9. 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.
10. 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.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.
12. Pursuant to Section 205(c) of the Act, 42 U.S.C. § 7524(c), the Administrator and the Attorney General, each through their respective delegates, have jointly determined that this administrative penalty action is appropriate.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

13. EPA incorporates by reference all factual allegations and legal conclusions contained in the Complaint.

**CIVIL PENALTY**

14. 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 *TWO MILLION FIVE HUNDRED THOUSAND* dollars (\$2,500,000), which Respondent shall be liable to pay in accordance with the terms set forth below.
15. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 205(c)(2) of the Act, including,

the following: the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator’s business, the violator’s history of noncompliance, actions taken to remedy the violation, the effect of the penalty on the violator’s ability to continue in business, 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 January 18, 2021 Clean Air Act Title II Vehicle & Engine Civil Penalty Policy which reflects the statutory penalty criteria and factors set forth at Section 205(c)(2) of the Act, 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.

16. 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.*, Docket No.: CAA-03-2021-0058;
- 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:

Jennifer M. Abramson  
Senior Assistant Regional Counsel  
[Abramson.Jennifer@epa.gov](mailto:Abramson.Jennifer@epa.gov)

and

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

17. 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.

18. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed 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 EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
19. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. 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 date on which such interest begins to accrue. 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).
20. 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). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will 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.
21. 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).
22. Failure by Respondent to pay the civil penalty assessed by the Final Order in full pursuant to this Consent Agreement and Final Order may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 205 of the Act, 42 U.S.C. § 7524. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.
23. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
24. The parties consent to service of the Final Order by e-mail at the following valid email addresses: [Abramson.Jennifer@epa.gov](mailto:Abramson.Jennifer@epa.gov) (for Complainant), and [Jennifer.Adams@hoganlovells.com](mailto:Jennifer.Adams@hoganlovells.com) (for Respondent(s)).

### **GENERAL SETTLEMENT CONDITIONS**

25. 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.
26. 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, 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**

27. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

### **OTHER APPLICABLE LAWS**

28. 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 Clean Air Act, or any regulations promulgated thereunder.

### **RESERVATION OF RIGHTS**

29. 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 Clean Air Act, 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.

**EXECUTION /PARTIES BOUND**

30. 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**

31. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**ENTIRE AGREEMENT**

32. 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: Keystone Automotive Operations, Inc.

Date: August 11, 2022

By: Matthew J. McKay  
Matthew J. McKay  
Secretary

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]  
Jennifer M. Abramson  
Dennis M. Abraham  
Senior Assistant Regional Counsel  
U.S. EPA – Region III



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**Respondent.** :

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Keystone Automotive Operations, Inc. 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 22.18(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 January 18, 2021 Clean Air Act Title II Vehicle & Engine Civil Penalty Policy, and the statutory factors set forth in Section 205(c)(2) of the Clean Air Act.

**NOW, THEREFORE, PURSUANT TO** Section 205(c)(1) of the Clean Air Act, 42 U.S.C. § 7524(c)(1), 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 *TWO MILLION FIVE HUNDRED THOUSAND* dollars (\$2,500,000), 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 Air Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

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

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

Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103-2029**

**In the Matter of:** : U.S. EPA Docket No. CAA-03-2021-0058  
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: **Air Act, 42 U.S.C. § 7524(c)(1)**  
**Respondent.** :

**CERTIFICATE OF SERVICE**

I certify that on \_\_\_\_\_, the foregoing *Consent Agreement and Final Order*, was filed with the EPA Region III Regional Hearing Clerk. 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:

Bill Rogers  
Keystone Automotive Operations, Inc. 44  
Tunkhannock Avenue  
Exeter, PA 18643  
[brogers@key-stone.com](mailto:brogers@key-stone.com)

Jennifer Adams  
Hogan Lovells US LLP  
609 Main Street, Suite 4200  
Houston, TX 77002  
[Jennifer.Adams@hoganlovells.com](mailto:Jennifer.Adams@hoganlovells.com)

Copies served via email to:

Jennifer M. Abramson  
Senior Assistant Regional Counsel  
U.S. EPA, Region III  
[Abramson.Jennifer@epa.gov](mailto:Abramson.Jennifer@epa.gov)

Amelie Isin, P.E.  
Case Development Officer  
U.S. EPA, Region III  
[Isin.Amelie@epa.gov](mailto:Isin.Amelie@epa.gov)

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

\_\_\_\_\_  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III