



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUL 08 2014

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Thomas Dono  
President  
Key Automotive of Florida, LLC  
5300 Allen K. Breed Highway  
Lakeland, Florida 33811

Re: Consent Agreement and Final Order  
Key Automotive of Florida, LLC  
Docket Number: RCRA-04-2014-4004(b)

Dear Mr. Dono:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CA/FO was effective upon filing with the RHC. The initial payment of the civil penalty is to be paid within thirty (30) calendar days of the effective date of the CA/FO, and subsequent payments are to be made in accordance with the schedule specified in Paragraph 56.b of the CA/FO.

If you have any questions, please feel free to contact Joan Redleaf Durbin, Associate Regional Counsel, at (404) 562-9544.

Sincerely,

A handwritten signature in blue ink that reads "César A. Zapata".

César A. Zapata  
Chief, RCRA and OPA Enforcement and  
Compliance Branch  
RCRA Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF: ) Docket Number: RCRA-04-2014-4004(b)  
)  
Key Automotive of Florida, LLC ) Proceeding under Section 3008(a) of the  
5300 Allen K. Breed Highway ) Resource Conservation and  
Lakeland, Florida 33811 ) Recovery Act, 42 U.S.C. § 6928(a)  
)  
EPA ID No.: FLD 063 288 245 )  
)  
Respondent )  
\_\_\_\_\_ )

RECEIVED  
EPA REGION IV  
2014 JUL -8 AM 10: 21  
HEARING CLERK

**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. §§ 403.702 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939(e)]. This action is seeking injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA for alleged violations of Fla. Stat. §§ 403.702 *et seq.*, and the regulations promulgated pursuant thereto and set forth at Florida Administrative Code Annotated (Fla. Admin. Code Ann. r.) 62-730 [Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 260 through 270 and 273].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits*, which govern this action are promulgated at 40 C.F.R. Part 22, and provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

**II. THE PARTIES**

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.



5. Respondent is Key Automotive of Florida, LLC (Key Automotive), a research, development, testing and manufacturing facility that produces car air bag inflator modules and components. Key Automotive is a privately held company with headquarters in Sterling Heights, Michigan and is incorporated and doing business under the laws of the State of Florida (Florida or the State). Respondent owns and operates the business located at 5300 Allen K. Breed Hwy, Lakeland, FL 33811 (the Facility). Key Automotive is a large quantity generator of hazardous waste (LQG).

### **III. PRELIMINARY STATEMENTS**

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), Florida has received final authorization from the EPA to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Florida authorized program are found at Fla. Stat. § 403.702 et seq. and Fla. Admin. Code Ann. r. 62-730.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Florida has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted Florida authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to address violations of the requirements of the authorized state program. This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations alleged herein will be to the authorized Florida program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given written notice of this action to the State before the issuance of this CA/FO.
11. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these requirements are found at Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].
12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005(a) of RCRA, 42 U.S.C. § 6925(a)], sets forth the requirement that facilities that treat, store, or dispose of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Fla. Admin. Code Ann. r. 62-730.180 and 62-730.220 [40 C.F.R. Parts 124, 264, 265 and 270].
13. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a "generator" is defined as "any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 or whose act first causes a hazardous waste to become subject to regulation."

14. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “facility” includes all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.
15. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes a corporation, partnership, or association.
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an “owner” is the person who owns a facility or part of a facility and an “operator” is the person responsible for the overall operation of a facility.
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)], and it meets any of the criteria specified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3(a)(2)].
19. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 262.11], a person who generates a solid waste is required to determine if that waste is a hazardous waste.
20. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.21 through 261.24], are characteristic hazardous wastes, and are provided with the EPA Hazardous Waste Numbers D001 through D043.
21. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.20], solid waste exhibiting the characteristic of reactivity identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.23], is considered reactive hazardous waste and is provided with the EPA Hazardous Waste Number D003.
22. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.20], solid waste that exhibits the toxicity of lead identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.24], is considered toxic and is provided with the EPA Hazardous Waste Number D008.
23. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.32], certain solid wastes are listed hazardous wastes from specific sources and are provided with the EPA Hazardous Waste Numbers K001 through K148.
24. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.32], a wastewater treatment sludge from the manufacturing and processing of explosives is hazardous waste and is provided with the EPA Hazardous Waste Number K044.
25. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(b)], a generator of greater than 1,000 kilograms of hazardous waste per month (a Large Quantity Generator (LQG)) who accumulates hazardous waste on-site for more than 90 days is required to obtain a permit or interim



status in accordance with the requirements of Fla. Admin. Code Ann. r. 62-730 [40 C.F.R. Part 270].

26. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], a LQG may accumulate hazardous waste on-site for 90 days or less, without a permit or interim status, provided that the generator complies with the applicable requirements of Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).
27. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1), which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(1)(i), which incorporates 40 C.F.R. § 265.173(a)], a condition of the LQG Permit Exemption allows a generator to accumulate hazardous waste on-site provided that each container holding hazardous waste is closed during storage.
28. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2)], a condition of the LQG Permit Exemption requires a generator to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
29. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1), which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(4), which incorporates 40 C.F.R. § 265.53], a condition of the LQG Permit Exemption requires each owner and operator of a facility to provide copies of the facility’s RCRA Contingency Plan to local authorities (police, fire departments, hospitals, and emergency response teams) and to maintain records of such submittals.
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)], a generator may accumulate as much as 55 gallons of hazardous waste, or one quart of acutely hazardous waste, in containers at or near the point of generation where the wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], provided that he marks his containers with the words “Hazardous Waste” or with other words that identify the contents of the containers.
31. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)], a generator may accumulate as much as 55 gallons of hazardous waste, or one quart of acutely hazardous waste, in containers at or near the point of generation where the wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 265.173(a)], provided that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

32. Respondent is a “person” as defined in Section 403.703 of the Florida Statutes, Fla. Stat. § 403.703 [Section 1004(15) of RCRA, 42 U.S.C. § 6903(15)] and Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].

33. Respondent is the “owner” and “operator” of a “facility” located in Lakeland, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
34. Key Automotive is a research, development, testing and manufacturing facility that produces car air bag inflator modules and components.
35. Respondent generates wastes that are “solid wastes” and “hazardous wastes” as defined in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.2 and 261.3].
36. On September 27, 2012, a representative of the EPA and a representative of FDEP performed a RCRA Compliance Evaluation Inspection (CEI). On January 14, 2014, EPA sent an “Opportunity to Show Cause” letter to Respondent. On February 6, 2014, EPA and Respondent conducted a “Show Cause” teleconference to discuss the findings of the CEI.
37. At the time of the CEI, Respondent has eight assembly lines and each line has a 5-gallon Satellite Accumulation Area (SAA) box to store rejected materials which are hazardous waste. At the time of the inspection, the inspection team found an unlabeled box storing hazardous waste at the Cell Designator IV.
38. In Respondent’s Building 10, milled nitro-guanidine is blended with strontium nitrate, potassium nitrate and cupric oxide. The wastewater generated from this process passes through a filter press plate and is stored in two 55-gallon SAA drums. The sludge generated is K044 hazardous waste. At the time of the inspection, one of the drums was not labeled.
39. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition for exemption from the requirement to obtain a permit or interim status provided in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)] by failing to label its SAA containers with the words “hazardous waste”.
40. At the time of the CEI, the inspection team found an open 7-gallon white SAA container storing rejected inflators, an explosive hazardous waste (D003), at the Controlled Conformance Testing Lab.
41. In Respondent’s Building 10, milled nitro-guanidine from is blended with strontium nitrate, potassium nitrate and cupric oxide. The wastewater generated from this process passes through a filter press plate. The sludge generated is K044 hazardous waste. The K044 hazardous waste is stored in two 55-gallon SAA drums. At the time of the inspection both drums were open.
42. Building 10 has a wet scrubber to remove air explosive particles. The material (K044/D003 hazardous waste) is collected in a 55-gallon SAA drum. At the time of the inspection, the drum was open.
43. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status, by failing to meet the requirements of the LQG Permit Exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1), which incorporates Fla. Admin. Code Ann. 62-730.160(1)



[40 C.F.R. § 262.34(c)(1)(ii), which incorporates 40 C.F.R. § 265.173(a)], by leaving containers of hazardous waste open other than when adding waste.

44. At the time of the CEI, Respondent was storing a blue plastic 55-gallon drum for hazardous waste (D002-nitric acid) and a small white gallon container storing chromic acid (D002) at “the Lean-To” 90-Day Hazardous Waste Accumulation Area. The drums were not dated.
45. Respondent was storing five 10-gallon SAA containers of inflators at (D003) Magazine H5. The inspection team was informed that the process that generated the waste no longer exists. EPA determined that the area had to be considered a 90-day storage area. At the time of the inspections the containers were not dated.
46. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status, by failing to meet the requirements of the LQG Permit Exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2)] by failing to mark its hazardous waste containers with an accumulation date.
47. At the time of the CEI, Respondent was storing a box of waste lead styphnate primer caps (D003, D008) dated 2/25/09 generated in the Research and Development Lab at Magazine H5. The inspection team was informed that the process that generated the waste no longer exists. EPA determined that the area had to be considered a 90-day hazardous waste storage area.
48. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(b)], because a LQG who accumulates hazardous waste on-site for more than 90 days is required to obtain a permit in accordance with the requirements of Fla. Admin. Code Ann. r. 62-730 [40 C.F.R. Part 270].
49. At the time of the CEI, the inspection team notice the list of emergency contacts, including the emergency coordinators, was posted throughout the facility, but it was not in the contingency plan, and at least two of the postings observed listed the incorrect person as the emergency coordinator. Additionally, there was no evidence that Respondent submitted the revised contingency plan to or made arrangements with local hospitals, fire departments or the police.
50. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status, by failing to meet two requirements of the LQG Permit Exemption provided in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.53(b)] by failing to update the contingency plan and submit it to local hospitals, fire departments or the police.
51. At the time of the CEI, the inspection team found a metal cabinet that had a sign on the inside that read “Chemicals for Disposal” and also “hazardous waste.” This area was storing: Ink for inkpad, Combustible liquid mineral oil, CS-200 Waste labeled 2/3/11, Phenol phase tablets and a small container (approx. 230 cc) of an unknown material. Respondent did not perform a hazardous waste determination on these materials.

52. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 262.11], by failing to conduct a hazardous waste determination on a solid waste generated.
53. At the time of the CEI, a records review indicated that Respondent did not document the attempt to make the required arrangements with local authorities, state and local emergency response teams, and/or an agreement with an emergency response contractor and equipment supplier.
54. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], for storing hazardous waste without a permit or interim status, by failing to meet a requirement of the LQG Permit Exemption provided in Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 262.34(a)(4), which incorporates 40 C.F.R. § 265.37], by failing to make appropriate arrangements with local authorities and emergency responders.

## **V. TERMS OF AGREEMENT**

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

55. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
56. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
57. Respondent waives its right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
58. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
59. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to the EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CA/FO.
60. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of facts or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§701-706.
61. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
62. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.



63. The parties agree that compliance with the terms of this CA/FO shall resolve all of Respondent's liability for civil penalties for the violations and facts stipulated to in this CA/FO.
64. Each of the parties will pay its own costs and attorney's fees.

#### **VI. PAYMENT OF CIVIL PENALTY**

65. Respondent consents to the payment of a civil penalty in the amount of **TWENTY-NINE THOUSAND TWO HUNDRED DOLLARS (\$29,200)**, payable within thirty (30) calendar days of the effective date of this CA/FO.
66. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
**U.S. EPA Fines & Penalties**  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 418-4087

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706

Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contact: John Schmid, (202) 874-7026  
REX (Remittance Express): 1-866-234-5681

Respondent shall submit a copy of each payment to the following addressees:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

and to:

Larry Lamberth, Chief  
South Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

67. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within thirty (30) calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- a. Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
  - b. Monthly Handling Charge. Respondent must pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent 30 calendar-day period over which an unpaid balance remains.
  - c. Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).
68. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).



## **VII. PARTIES BOUND**

69. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
70. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
71. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

## **VIII. RESERVATION OF RIGHTS**

72. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation or disposal of solid waste or hazardous waste at the Respondent's facility may present an imminent and substantial endangerment to human health or the environment.
73. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CA/FO.
74. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, release or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

## **IX. OTHER APPLICABLE LAWS**

75. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

## **X. SERVICE OF DOCUMENTS**

76. A copy of any documents that Respondent file in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in the proceeding:

Joan Redleaf Durbin  
Associate Regional Counsel  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909  
Redleaf-durbin.joan@epa.gov

77. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Mace McMillan, Manager  
Health, Safety, and Environmental  
Key Automotive of Florida, LLC  
5300 Allen K. Breed Highway  
Lakeland, Florida 33811

**XI. SEVERABILITY**

78. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO, or the application of this CA/FO to any party or circumstances, is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.
79. Respondent's obligations under this CAFO shall terminate once Respondent has sent EPA a letter requesting termination, outlining all the steps it has taken to comply with this CAFO, and EPA agrees in writing termination is appropriate.

**XII. EFFECTIVE DATE**

80. The effective date of this CA/FO shall be the date on which the fully executed CA/FO is filed with the Regional Hearing Clerk.

*In the matter of Key Automotive of Florida, LLC., Docket No. RCRA -04-2014-4004(b):*

**AGREED AND CONSENTED TO:**

**For Key Automotive of Florida, LLC**

By: Thomas M. Dono, Jr.  
Tom Dono  
President  
Key Automotive of Florida, LLC

Dated: JUNE 30, 2014

**For the United States Environmental Protection Agency**

By: César Zapata  
César Zapata, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

Dated: JULY 2, 2014



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	) Docket Number: RCRA-04-2014-4004(b)
	)
Key Automotive of Florida, LLC	) Proceeding under Section 3008(a) of the
5300 Allen K. Breed Highway	) Resource Conservation and
Lakeland, Florida 33811	) Recovery Act, 42 U.S.C. § 6928(a)
	)
EPA ID No.: FLD 063 288 245	)
	)
Respondent	)
_____	)

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with 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 Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED** this 3<sup>rd</sup> day of July, 2014.

BY: Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer  
United States Environmental Protection Agency, Region 4

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the matter of Key Automotive of Florida, LLC., Docket No. RCRA -04-2014-4004(b), on JUL 08 2014, 2014, served copies on the parties listed below in the manner indicated:

Joan Redleaf Durbin  
Associate Regional Counsel  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(Via EPA's electronic mail)

Héctor M. Danois  
RCRA and OPA Enforcement  
and Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(Via EPA's electronic mail)

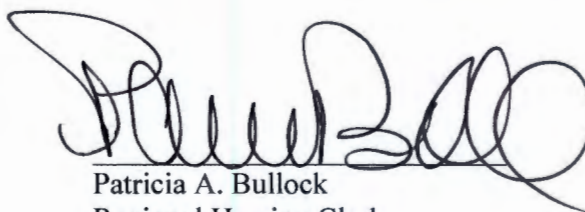
Quantindra Smith  
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(Via EPA's electronic mail)

Mace McMillan, Manager  
Health, Safety, and Environmental  
Key Automotive of Florida, LLC.  
5300 Allen K. Breed Highway  
Lakeland, Florida 33811

(Via Certified Mail- Return Receipt Requested)

Date: 7-8-14



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9511