



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

To: Board of Environmental Protection
From: Andrew Slusarski, Michael Hudson, Hazardous Waste Enforcement Unit,
Bureau of Remediation and Waste Management (BRWM)
Date: February 18, 2010
RE: Administrative Consent Agreement -
Keystone Automotive Industries, Inc., Portland, Maine

Statutory and Regulatory Reference: The Hazardous Waste Management Rules, Chapters 850 through 857 adopted pursuant to the Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S.A. Section 1301 et seq., specifies certain requirements for the management, storage, treatment and disposal of hazardous waste.

Location: Keystone Automotive Industries, Inc., Portland, Maine

Description: Keystone Automotive Industries, Inc. has entered into the attached Consent Agreement as proposed by Department staff in order to resolve violations of Maine's Hazardous Waste Management Rules. The hazardous waste violations were identified during an inspection conducted at Keystone Automotive Industries, Inc. on July 14, 2009. The violations identified include the following: 1) failure to determine if wastes generated are hazardous; 2) failure to mark containers as "Hazardous Waste"; 3) failure to use containers that are in good condition (not leaking); 4) disposal of hazardous waste on-site without a license; 5) failure to store universal waste in closed, sealed containers; 6) failure to properly designate a Universal Waste Storage Area; 7) failure to properly mark containers of universal waste lamps; 8) failure to mark containers of universal waste lamps with the accumulation start date; 9) failure to keep universal waste lamps whole and unbroken; and 10) failure to retain Universal Waste Certificates of Recycling to document proper recycling.

To resolve these violations, Keystone Automotive Industries, Inc. has: a) entered into a contract with Clean Harbors, Inc. for the proper disposal of accumulated hazardous wastes; b) trained employees on Maine's Hazardous Waste Management Rules; c) counseled employees on repercussions of future occurrences of non-compliance; d) properly recycled universal waste mercury-containing lamps; and e) established protocols for universal waste management and universal waste storage area.

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1235 CENTRAL DRIVE, SKYWAY PARK
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In addition, Keystone Automotive Industries, Inc. has agreed to pay to the Maine Hazardous Waste Fund a penalty of Eleven Thousand Three Hundred Fifty Dollars (\$11,350.00) as specified in the Agreement.

The Maine Hazardous Waste Fund is established by statute to provide the Department with the capability for prompt and effective response to spills and unlicensed discharges of hazardous waste, and for the inspection or supervision of hazardous waste handlers and related hazardous waste activities. Pursuant to statute, all fees, penalties, interest, and other charges relative to those activities must be credited to the Maine Hazardous Waste Fund.

Keystone Automotive Industries, Inc. has agreed to pay the above penalty which was based upon the type of violations involved, the amount of waste involved, the relative extent of deviation from the requirements, and any economic benefit realized. Aggravating factors considered in the penalty included the number of violations, the illegal disposal of hazardous wastes, and the failure of the company to manage any of the hazardous wastes appropriately, in accordance with Maine's Hazardous Waste Management Rules, prior to the inspection. Mitigating factors considered in the penalty included Keystone Automotive Industries, Inc. taking timely response actions to achieve compliance, including a voluntary removal action of accumulated paint-related chemicals and wastes on site that had been improperly disposed of in an on-site dumpster and accumulated inside the facility.

Department Recommendation:

The Department recommends that the Board accept the Consent Agreement as part of its Consent Agenda to resolve the issues addressed.

Staff Contact persons:

Andrew Slusarski, Michael Hudson, Hazardous Waste Enforcement Unit, BRWM

Estimated time of presentation: No presentation; Consent agenda item



STATE OF MAINE
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GOVERNOR

DAVID P. LITTELL
COMMISSIONER

IN THE MATTER OF:

KEYSTONE AUTOMOTIVE INDUSTRIES, INC.) ADMINISTRATIVE CONSENT
75 ST. JAMES STREET, PORTLAND) AGREEMENT
CUMBERLAND COUNTY, MAINE) (38 M.R.S.A. § 347-A)
HAZARDOUS WASTE ACTIVITIES)

This Agreement, by and among Keystone Automotive Industries, Inc. the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

- 1. Keystone Automotive Industries, Inc. is a California corporation qualified to conduct business in Maine and which operates a wholesale automotive parts distributorship with its principal location at 75 St. James Street, Portland, Maine. Darrel Weston is the General Manager of Keystone Automotive Industries, Inc.
2. The violations described herein occurred at 75 St. James Street in Portland, Maine.
3. Keystone Automotive Industries, Inc. is a generator of hazardous waste including, but not limited to, ignitable waste and other wastes containing "f-listed" solvents as ingredients used by the automotive body repair industry. As a result, Keystone Automotive Industries, Inc. is subject to Maine's Hazardous Waste, Septage and Solid Waste Management Act ("Act") 38 M.R.S.A. §§ 1301 through 1319-Y and the Department's Hazardous Waste Management Rules, 06-096 CMR ("Rules"), Chapters 850-857.
4. On July 14, 2009, Department staff conducted an inspection of Keystone Automotive Industries, Inc. at the location described in Paragraph 1 of this Agreement to assess compliance with the hazardous waste management standards of the Act and Rules. The inspection revealed the following violations:
A. Keystone Automotive Industries, Inc. failed to determine if wastes generated are hazardous, in violation of the Rules, 06-096 CMR 851(5).

Specifically, the following wastes generated by Keystone Automotive Industries, Inc. were not determined by Keystone Automotive Industries, Inc. to be hazardous waste:

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HAZARDOUS WASTE ACTIVITY)	

- 1) Ignitable (flashpoint less than 140 degrees Fahrenheit) aerosol products (in 12-22 ounce size containers) which were beyond expiration dates and considered useless, unwanted or intended to be discarded, including but not limited to,
 - a. one (1) twenty two-ounce can 3M "No cleanup Rocker Guard 08949,"
 - b. twenty two (22) eighteen-ounce cans 3M "Rocker Panel Spray 05910,"
 - c. two (2) eighteen-ounce cans 3M "Rust Fighter 08892,"
 - d. four (4) twelve-ounce cans 3M "Adhesion Promoter 05907,"
 - e. one (1) twelve-ounce can 3M "Weld Coating 05917,"
 - f. two (2) twelve-ounce cans Keystone "Key 907 Gloss Enamel,"
 - g. two (2) twelve-ounce cans Keystone "Key 908 Black Trim Spray," and
 - h. one (1) twelve-ounce can Keystone "Key 990 Rocker Guard."

These waste chemicals located in the warehouse had not been determined to be hazardous waste.

- 2) Ignitable (flashpoint less than 140 degrees Fahrenheit) products which were beyond expiration dates and considered useless, unwanted or intended to be discarded, including but not limited to,
 - a. one (1) pint of Keystone 950 Universal Accelerator,
 - b. one (1) 2.5 liter container of Keystone "Key 749 Clearcoat Activator," and
 - c. ten (10) five-ounce tubes of "3M 08011 Weatherstrip Adhesive."

These waste chemicals located in the warehouse had not been determined to be hazardous waste.

- 3) Ignitable (flashpoint less than 140 degrees Fahrenheit) products which were discarded in a dumpster or otherwise intended to be discarded including but not limited to,
 - a. one (1) quart Keystone "Key 812 Pre-Coat 1K Self Etching Primer,"
 - b. six (6) quarts Keystone "Key 8234 Waterborne Primer,
 - c. two (2) quarts Keystone "Key 841 Urethane Sealer Activator,"
 - d. one (1) quart Keystone "Key 8604 Epoxy Primer Catalyst,"
 - e. one (1) quart Keystone "Key 8504 Epoxy Primer,"
 - f. three (3) quarts Keystone "Key 7954 High Solid Clearcoat Activator,"
 - g. one (1) quart Keystone "Key Grip Adhesion Promoter,"
 - h. one (1) quart Keystone "Key 88824 DTM Primer Sealer,"
 - i. eleven (11) pints of Evercoat 1249 Plastik Honey (some leaking),
 - j. one (1) pint Keystone "Key 9608 Key Flex Additive,"
 - k. one (1) liter "ICIP2731051 basecoat additive,"
 - l. one (1) 2.5 liter Keystone "Key 746 Clearcoat Activator,

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- m. one (1) one-gallon Keystone "Key Euro Clear Fast Activator,"
- n. one (1) one-gallon Keystone "Key 790 Low V.O.C. High Solid Clearcoat,"
- o. one (1) one-gallon "Evercoat Glass Lite Fib 639 fiberglass body filler" and
- p. one (1) twelve ounce Keystone "Key 982 Key Grip Adhesive" (aerosol)."

These waste chemicals were discarded in the solid waste dumpster and Keystone Automotive Industries, Inc. had failed to determine that those wastes were hazardous.

- B. Keystone Automotive Industries, Inc. failed to mark each container of hazardous waste with the words "hazardous waste" and mark the accumulation start date on each container of hazardous waste, in violation of the Rules, 06-096 CMR 851(8)(B)(3).

Specifically, none of the containers of hazardous wastes referenced in paragraph 4A above were marked appropriately.

- C. Keystone Automotive Industries, Inc. failed to use containers that are in good condition, which are not rusted, bulging or leaking, in violation of the Rules, 06-096 CMR 851(13)(C)(3).

Specifically, leakage or spillage of hazardous waste was observed in the dumpster and around the hazardous waste containers in the warehouse referred to in paragraph A above. Containers of "Evercoat 1249 Plastik Honey" (flashpoint 89 degrees Fahrenheit) were observed leaking in the dumpster and similar leakage was observed on the concrete floor of the warehouse. The "Plastik Honey" leakage was soaked into cardboard that the containers were stored in and appeared to have soaked other cardboard in the dumpster. One (1) one-gallon container of Evercoat Glasslite 639 (flashpoint 95 degrees Fahrenheit) in the dumpster had been badly dented.

- D. Keystone Automotive Industries, Inc. disposed of hazardous waste on-site without a license to do so, in violation of the Rules, 06-096 CMR 851(12)(A) and offered hazardous waste to a transporter or a waste facility not authorized or licensed to accept or handle hazardous waste, in violation of the Rules, 06-096 CMR 851(7).

Specifically, Keystone Automotive Industries, Inc. disposed of hazardous waste referenced in paragraph 4(A)(3) above in a solid waste dumpster on site. The Department's inspectors observed the hazardous waste in the dumpster on the same day the dumpster was scheduled for regular pick-up by Casella Waste Systems, Inc. As such, Keystone Automotive Industries, Inc. offered hazardous waste to Casella Waste Systems, Inc. (Pine Tree Waste) which transports non-hazardous waste to Maine Energy Recovery (MERC) in Biddeford, Maine. Pine

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Tree Waste is not a licensed hazardous waste transporter and MERC is not a licensed hazardous waste disposal facility.

- E. Keystone Automotive Industries, Inc. failed to store all universal wastes in containers that are closed, sealed and structurally sound, in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(vi).

Specifically, thirty two (32) waste lamps were observed stored in an open plastic trash can and in two (2) open boxes located on the mezzanine.

- F. Keystone Automotive Industries, Inc. failed to designate waste lamp storage areas by a clearly marked sign which states "Waste Lamp Storage" or "Universal Hazardous Waste Storage," in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(xxiii)(f).

Specifically, no signs were observed in the mezzanine area where universal waste lamps were located.

- G. Keystone Automotive Industries, Inc. failed to mark containers of universal waste lamps with the words "Waste Lamps," in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(xxiii)(e).

Specifically, the containers of waste lamps referenced in paragraph 4E above were not marked appropriately.

- H. Keystone Automotive Industries, Inc. failed to mark containers of universal waste with the accumulation start date, in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(xii).

Specifically, the containers of waste lamps referenced in paragraph 4E above were not marked with an accumulation start date.

- I. Keystone Automotive Industries, Inc. failed to keep universal waste lamps whole, intact and unbroken, in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(xvii)(a).

Specifically, lamp breakage was observed in each of the two (2) open boxes described in paragraph 4E above.

- J. Keystone Automotive Industries, Inc. failed to retain Universal Waste Certificates of Recycling or receipts from a central accumulation facility (i.e. municipal transfer facility) or consolidation facility to document proper recycling of

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universal waste lamps, in violation of the Rules, 06-096 CMR 850(3)(A)(13)(e)(xix)(d).

Specifically, records documenting proper recycling of universal waste lamps were not available at the time of the inspection.

5. On September 23, 2009, the Department issued a Notice of Violation (NOV) to Keystone Automotive Industries, Inc. for the activities described in Paragraph 4 of this Agreement, in accordance with 38 M.R.S.A. § 347-A(1)(B). In the NOV, the Department requested that Keystone Automotive Industries, Inc. perform corrective actions and respond to the Department in writing within thirty (30) days describing the corrective actions undertaken to address each of the violations cited.
6. On October 23, 2009, Keystone Automotive Industries, Inc. submitted to the Department a written response to the NOV, indicating the corrective actions undertaken and planned to be taken to address the violations. The corrective actions included, but are not limited to, the following:
 - a. Entered into a contract with Clean Harbors, Inc. for the proper disposal of accumulated hazardous wastes;
 - b. Trained employees on Maine's Hazardous Waste Management Rules;
 - c. Counseled employees on repercussions of future occurrences of non-compliance;
 - d. Properly recycled universal waste mercury-containing lamps, and
 - e. Established protocols for universal waste management and universal waste storage area.
7. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.
8. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
9. To resolve the violations referenced in Paragraph 4 of this Agreement, Keystone Automotive Industries, Inc. agrees to:
 - a. Henceforth, comply with 38 M.R.S.A. §§ 1301 through 1319-Y and all applicable standards of the Rules, 06-096 CMR 850-857, pertaining to generators of hazardous waste.

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- b. Henceforth, comply with the special requirements for universal wastes pursuant to the Rules, 06-096 CMR 850(3)(A)(13) for all universal waste.
 - c. Henceforth, not dispose of hazardous waste without a license to do so, and ensure that any products returned to vendors and any products donated to other entities meet the requirements for hazardous waste exemption, pursuant to the Rules, 06-096 CMR 850(3)(A)(4)(xvii) and are products in unopened, original containers which are unused, unexpired and meets product specifications, or pursuant to the Rules, 06-096 CMR 850(3)(A)(4)(xviii) and are products which are unused, unexpired materials in original containers and any return or donation is accompanied by a letter of exchange with a copy submitted to the Department as required by the Rules.
 - d. Immediately upon Keystone Automotive Industries, Inc.'s signature of this Agreement, pay to the *Treasurer, State of Maine c/o Hazardous Waste Fund*, a civil monetary penalty in the amount of Eleven Thousand Three Hundred Fifty dollars (\$11,350.00).
10. The Department and Office of the Attorney General grant a release of their causes of action against Keystone Automotive Industries, Inc. for the specific violations listed in Paragraph 4 of this Agreement on the express condition that all actions listed in Paragraph 9 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for any contamination of surface waters, ground waters, soils, sediment or ambient air as a result of the violations set forth in this Agreement. This Agreement shall not prohibit the Department from requiring additional corrective measures or other remedial actions if the Department determines that such action is necessary to protect public health, safety, or the environment. This limited release shall not become effective until all requirements of this Agreement are satisfied.
11. Non-compliance with this Agreement voids the release set forth in Paragraph 10 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
12. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, and orders including but not limited to licensing requirements.
13. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, successors, and assigns.

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75 ST. JAMES STREET, PORTLAND)
CUMBERLAND COUNTY, MAINE)
HAZARDOUS WASTE ACTIVITY)

ADMINISTRATIVE CONSENT
AGREEMENT
(38 M.R.S.A. § 347-A)

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of seven (7) pages:

KEYSTONE AUTOMOTIVE INDUSTRIES, INC.

BY:  _____
Darrel Weston, General Manager

DATE: 1/12/10

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: _____
Susan M. Lessard, Chair

DATE: _____

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____
Peter LaFond, Assistant Attorney General

DATE: _____