



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SEP 24 2014

Ms. Timmery Fitzpatrick
Senior Environmental Attorney
Clean Harbors
42 Longwater Drive, Box 9149
Norwell, Massachusetts 02061-9149

Re: Safety-Kleen Systems, Incorporated Consent Agreement and Final Order (CAFO)
Docket No. TSCA-04-2014-2901(b)

Dear Ms. Fitzpatrick:

Enclosed please find a copy of the executed CAFO as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Safety-Kleen Systems, Incorporated in Denton, Texas on notice of its potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions or concerns, please contact Randy Jackson, of my staff, at (404) 562-8464.

Sincerely,

A handwritten signature in black ink, appearing to read "César A. Zapata".

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

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

RECEIVED
EPA REGION IV
2014 SEP 24 AM 8:45
HEARING CLERK

In the Matter of:)
)
Safety-Kleen Systems, Incorporated)
1722 Cooper Creek Road)
Denton, Texas 76201)
)
Respondent.)
_____)

Docket No. TSCA-04-2014-2901(b)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Resource Conservation and Recovery Act (RCRA) Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Safety-Kleen Systems, Incorporated (Safety-Kleen).
2. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under TSCA to the EPA Region 4 Regional Administrator by EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has delegated this authority to the Director of the Resource Conservation and Recovery Act (RCRA) Division by EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the

RCRA Division has the authority to commence an enforcement action as the Complainant in this matter and has the authority to sign Consent Agreements memorializing settlements between the EPA and Respondent.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of EPA promulgated regulations at 40 C.F.R. Part 761, pertaining to Polychlorinated Biphenyls (PCBs). Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$37,500 for each such violation occurring after January 12, 2009, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. Each day a violation continues may constitute a separate violation.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Randy Jackson
RCRA/OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960
(404) 562-8464

III. Specific Allegations

6. As defined at 40 C.F.R. § 761.3, Respondent is a “person” that owns and operates a commercial storage facility located in Denton, Texas.
7. According to information obtained by the EPA, on or about March 12, 2010, Respondent provided Robbie D. Wood, a hazardous waste transporter, with a transport vehicle loaded with PCB materials and hazardous waste. Although intended for disposal at a Texas hazardous waste disposal facility, due to manifesting and dispatching errors, the contents of the transport vehicle were transported to the Pecan Row solid waste landfill in Valdosta, Georgia for disposal.
8. 40 C.F.R. § 761.40(b) requires that any transport vehicle loaded with PCB Containers that contain more than 45 kg of liquid PCBs at concentrations of greater than or equal to 50 parts per million (ppm) be marked on each end and each side with the M_L mark as described at 40 C.F.R. § 761.45(a).
9. According to information obtained by the EPA, on or about March 12, 2010, Respondent provided Robbie D. Wood, a hazardous waste transporter, with a transport vehicle loaded with PCB Containers that contained more than 45 kg of liquid PCBs at concentrations of greater than or equal to 50 parts per million (ppm). The transport vehicle was not marked on each end and each side with the M_L mark as described at 40 C.F.R. § 761.45(a), therefore, the Respondent violated 40 C.F.R. § 761.40(b).
10. 40 C.F.R. § 761.208(3) requires that whenever an off-site shipment of PCB waste is initiated from a commercial storage facility, the owner or operator of the commercial storage facility shall comply with the manifest requirements that apply to generators of PCB waste per 40 C.F.R. § 761.207.

11. The manifesting requirements of 40 C.F.R. § 761.207 provide that a generator who offers for transport PCB waste for commercial storage or off-site disposal must prepare a manifest on EPA Form 8700-22 according to the instructions included in the appendix of 40 C.F.R. Part 262.
12. Pursuant to 40 C.F.R. § 761.3, “PCB waste” means those PCBs and PCB items that are subject to disposal requirements of 40 C.F.R. § 761, subpart D.
13. According information obtained by the EPA, on or about March 12, 2010, Respondent initiated an off-site shipment of PCB waste from its Denton, Texas commercial storage facility. Therefore, Respondent was subject to the manifesting requirements of 40 C.F.R. § 761.207.
14. According to information obtained by the EPA, Respondent failed to prepare an accurate manifest on EPA Form 8700-22 according to the instructions included in the appendix of 40 C.F.R. Part 262, to accompany the March 12, 2010, off-site shipment of PCB waste from the Denton, Texas commercial storage facility. Therefore, Respondent violated the applicable manifesting requirements of 40 C.F.R. § 761.207.
15. 40 C.F.R. § 761.60(c) provides the disposal requirements for PCB Containers and liquid-state PCBs contained therein.
16. 40 C.F.R. § 761.3 defines “disposal” as including actions related to transporting, *inter alia*, PCB Containers or anything that deliberately or unintentionally has as part of it any PCB or PCBs.
17. According to information obtained by the EPA, Respondent failed to comply with the applicable 40 C.F.R. § 761.60(c) disposal requirements for PCB Containers and liquid-state PCBs when on March 12, 2010, it provided for transport PCB Containers containing liquid-

state PCBs from its Denton, Texas facility which were disposed of at the Pecan Row solid waste landfill in Valdosta, Georgia. Therefore, Respondent violated the PCB Container disposal requirements of 40 C.F.R. § 761.60(c).

18. 40 C.F.R. § 761.62 provides that PCB bulk product waste must be disposed of in accordance with one of the methods described at 40 C.F.R. § 761.62(a) – (c).
19. 40 C.F.R. § 761.62(b) provides that (i) certain types of PCB bulk product waste or (ii) PCB bulk product waste sampled in accordance with the protocols set out in 40 C.F.R. § 761, Subpart R, that leach PCBs at less than 10 µg/L of water measured using a procedure used to simulate leachate generation, may be disposed of in a solid waste landfill.
20. According to information obtained by the EPA, Respondent failed to comply with the applicable 40 C.F.R. § 761.62 disposal requirements for PCB bulk product waste when on March 12, 2010, it provided for transport PCB bulk product waste from its Denton, Texas facility which were disposed of at the Pecan Row solid waste landfill in Valdosta, Georgia without first conducting the leachate procedure described at 40 C.F.R. § 761.62(b). Therefore, Respondent violated the PCB bulk product waste disposal requirements of 40 C.F.R. § 761.62.

IV. Consent Agreement

21. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
22. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the consent agreement.
23. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.

24. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
25. This CAFO constitutes a settlement by the EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.
26. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

V. Final Order

27. Respondent is assessed a civil penalty of FIFTY NINE THOUSAND NINE HUNDRED AND TWENTY-FIVE DOLLARS (\$59,925.00), which shall be paid within 30 days from the effective date of this CAFO.
28. Respondent shall remit the civil penalty by either (1) wire transfer, in accordance with instructions provided below, or (2) by a cashier's or certified check made payable to the "Treasurer, United States of America." If payment is made by check through the U.S. Postal Service, Respondent shall send the check to the following address:

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

The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.

For payment submittal by any overnight delivery service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
(314) 425-1818

For payment by wire transfer, in lieu of a cashier's or certified check, if desired, should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."

29. At the time of payment, Respondent shall send a written statement that the payment has been made in accordance with this CAFO (along with a copy of the check if payment is made by check, or indicating that payment was by wire transfer) to each of the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960;

Randy Jackson
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960

and

Saundi Wilson
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

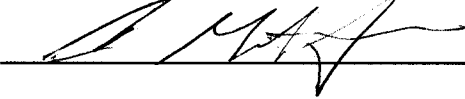
30. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
31. Pursuant to 31 U.S.C. § 3717, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
32. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
33. This CAFO shall be binding upon the Respondent, its successors and assigns.
34. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

VI. Effective Date

35. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:


Respondent: Safety-Kleen Systems Incorporated
Docket No.: TSCA-04-2014-2901(b)

By:  (Signature) Date: 9/12/14

Name: Eric Gerstenberg (Typed or Printed)

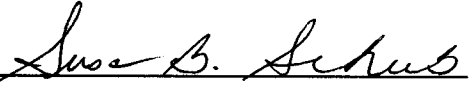
Title: Executive Vice President (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By:  Date: 9/22/2014

G. Alan Farmer, Director
RCRA Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 23 day of Sept., 2014.

By: 
Susan B. Schub
Regional Judicial Officer

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 Final Order (CAFO), for Safety-Kleen Systems, Incorporated, Docket Number: TSCA-04-2014-2901(b), on _____, and on _____, served the parties listed below in the manner indicated:

Robert Caplan (Via EPA Internal Mail)
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

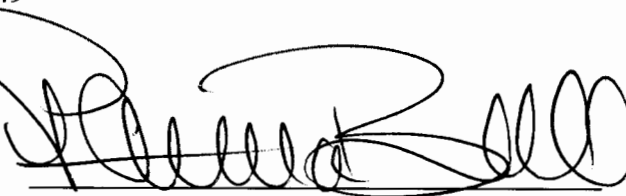
Randy Jackson (Via EPA Internal mail)
RCRA and OPA Enforcement
and Compliance Branch
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Quantindra Smith (Via EPA Internal mail)
RCRA and OPA Enforcement
and Compliance Branch
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Ms. Timmery Fitzpatrick (Via Certified Mail – Return Receipt Requested)
Senior Environmental Attorney
Clean Harbors
42 Longwater Drive, Box 9149
Norwell, Massachusetts 02061-9149

Date:

9-24-14



Patricia A. Bullock
Regional Hearing Clerk
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511