

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. ^{Santiago}Rivera for Tonia Bandrowicz 10/2/10
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number MPRSA-01-2010-0043

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Cashman Dredging and Marine
Contracting Co., LLC,
549 South St.
Quincy, MA 02169

Total Dollar Amount of Receivable \$ 12,500 Due Date: 10/30/10

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

BY HAND

September 30, 2010

Wanda Santiago
Regional Hearing Clerk
United States Environmental Protection Agency
5 Post Office Square - Suite 100
Boston, MA 02109-3912

Re: Cashman Dredging and Contracting Co., LLC
Docket No. MPRSA-01-2010-0043

Dear Ms. Santiago:

In accordance with 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and 22.45(c)(3), enclosed please find a fully executed Consent Agreement and Final Order resolving the above-referenced case.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Tonia Bandrowicz".

Tonia Bandrowicz
Senior Enforcement Counsel
U.S. EPA

Enclosure

cc: Richard Nysten, Esq.

RECEIVED
SEP 30 2010
EPA ORC *WS*
Office of Regional Hearing Clerk



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

September 30, 2010

Richard Nylén, Esq.
Lynch DeSimone & Nylén, LLP
12 Post Office Square
Boston, MA 02109

Re: Cashman Dredging and Contracting Co., LLC
Docket No. MPRSA-01-2010-0043

Dear Mr. Nylén:

Enclosed is a copy of the fully executed agreement resolving the above-referenced case that was filed with the Regional Hearing Clerk today.

Please feel free to call me if you have any questions.

Thank you again for all your assistance in resolving this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tonia Bandrowicz".

Tonia Bandrowicz
Sr. Enforcement Counsel
U.S. EPA

RECEIVED
SEP 30 2010
EPA ORC WS
Office of Regional Hearing Clerk

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED
SEP 30 2010
EPA ORC
Office of Regional Hearing Clerk

IN THE MATTER OF)
)
Cashman Dredging and Marine) Proceeding to Assess Civil Penalty
Contracting Co., LLC,) under Section 105(a) of the
549 South Street,) Marine Protection, Research and
Quincy, Massachusetts,) Sanctuaries Act, 33 U.S.C. § 1415(a)
)
Respondent.) Docket No. MPRSA-01-2010-0043
_____)

CONSENT AGREEMENT AND FINAL ORDER

Introduction

1. Pursuant to Section 105(a) of the Marine Protection, Research and Sanctuaries Act ("MPRSA"), 33 U.S.C. § 1415(a), and in accordance with Section 22.13(b) of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation, Termination or Suspension of Permits" ("Consolidated Rules"), 40 C.F.R. Part 22, and applicable delegations of authority, the Regional Administrator of the United States Environmental Protection Agency, Region I ("EPA") issues, and Cashman Dredging and Marine Contracting Co., LLC ("Cashman" or "Respondent") agrees to this Consent Agreement and Final Order ("CAFO").

2. EPA takes this action against the Respondent under the authority of Section 105(a) of the MPRSA for the alleged:

- a. discharging dredged material in an area not authorized by a permit issued under Subsection I of the MPRSA, in violation of Section 101(a) of MPRSA, 33 U.S.C. § 1411(a); and
- b. transport of unauthorized dredged material for the purpose of dumping it into ocean waters, in violation of Section 101(a) of MPRSA, 33 U.S.C. §1411(a).

3. Respondent admits to EPA's jurisdiction over this matter, and without admitting to or denying any violations or liability, waives its right to a hearing under the MPRSA, to appeal any Final Order in this matter, and consents to the issuance of a Final Order without further adjudication.

4. EPA notified the Commonwealth of Massachusetts of this action, and has consulted with the Massachusetts Department of Environmental Protection ("MA DEP") and the Massachusetts Office of the Attorney General on this action.

Statutory Basis

5. Section 101(a) of the MPRSA, 33 U.S.C. § 1411(a), prohibits the transporting of any materials by any person for the purpose of dumping it into ocean waters, except as authorized by a permit issued pursuant to Sections 102 or 103 of the MPRSA, 33 U.S.C. §§ 1412 or 1413.

6. Pursuant to Section 103 of the MPRSA, 33 U.S.C. § 1413, the Secretary of the U.S. Army Corps of Engineers ("USACE") may issue permits for the transportation of "dredged material," defined in Section 3(i) of the MPRSA, 33 U.S.C. § 1402(i), as "any material excavated or dredged from the navigable waters of the United States," for the purpose of dumping it into "ocean waters," defined in Section 3(b) of the MPRSA, 33 U.S.C. § 1402(b), as

“those waters of the open seas lying seaward of the base line from which the territorial sea is measured.”

7. In order for dredged materials to be placed in ocean waters, they must be, among other things, adequately characterized in accordance with the regulations promulgated pursuant to Sections 102 and 108 of the MPRSA §§1412 and 1418.

Findings of Violation

General Allegations

8. Respondent is a corporation incorporated under the laws of Massachusetts, with its principal place of business at 549 South Street, Quincy, Massachusetts, and is, therefore, a “private person or entity.” As such, Respondent is a “person” as defined under Section 3(e) of the MPRSA, 33 U.S.C. § 1402(e).

9. In 2007, the Town of Danvers, Massachusetts (“Danvers”) applied for a permit from USACE for a dredging project on the Crane and Porter Rivers in Danvers, Massachusetts (the “Project”), and for the disposal of “dredged materials,” as defined at Section 3(i) of the MPRSA, 33 U.S.C. § 1402(i), at the Massachusetts Bay Disposal Site, which is located in “ocean waters,” as defined at Section 3(b) of the MPRSA, 33 U.S.C. § 1402(b). The Project involved dredging work starting at the junction of the Crane and Porter Rivers, located landward of Beverly Harbor, and moving north and west into Porter River’s upper reaches.

10. In support of its permit application, Danvers submitted test results which characterized the sediment to be dredged. Based upon the testing results submitted by Danvers, EPA and USACE determined that the material proposed to be dredged was adequately characterized and met the criteria for acceptability for ocean placement as described at 40 C.F.R. §§227.6 and 227.2.

11. On September 28, 2007, USACE issued Permit No. NAE-2005-2436 (the "Permit") pursuant to Section 10 of the Rivers and Harbors Act of 1899, and Section 103 of the MPRSA, 33 U.S.C. § 1413, for the Project. Specifically, the activity authorized is as follows:

Dredge an approximately 605,000 sq. foot area in the Crane and Porter Rivers to a depth of approximately 6.0 feet below the horizontal plane of mean low water. An estimated quantity of approximately 58,000 cubic yard of silty material will be removed by mechanical means. This estimated volume includes all overdredge material. The dredged material will be transported and disposed of at the [Massachusetts Bay Disposal Site], the location of which is shown on the enclosed map.

The work is shown on the attached plans entitled "CRANE AND PORTER RIVERS, TOWN OF DANVERS, DANVERS, MASSACHUSETTS" on three sheets, dated "July 2005."

Permit No. NAE2005-2436, p. 1

12. Special Condition 7 of the Permit, on page 5, provides:

Except when directed otherwise by the Corps DAMOS Program manager for site management purposes, all disposal of dredged material shall adhere to the following:

- a. The permittee shall release the dredged material at a specified set of coordinates within the disposal site with the scow at a complete halt.

13. On October 15, 2007, Danvers signed a contract with the Respondent to conduct the dredging for the Project in accordance with the Permit, including the transporting of dredged material for the purpose of dumping it at the Massachusetts Bay Disposal Site.

14. On October 17, 2007, USACE issued an authorization letter specifying the coordinates within the disposal.

Discharge to Beverly Harbor During Lightering Operations

15. In order to transport dredged material removed from the Crane and Porter Rivers to the Massachusetts Bay Disposal Site, the Respondent transferred the material from smaller

boats (or hopper barges) to a larger ocean-going boat (the dump scow). These transfer activities were conducted at a lightering (or transfer) station located in Beverly Harbor.

16. On February 5, 2008, while conducting lightering operations, an employee of Cashman caused the dump scow to discharge approximately 2,500 cubic yards of dredged material into Beverly Harbor when Respondent claims the employee accidentally hit a button that opened the bottom of the scow while moving the material. Upon realization of the accident, Respondent claims the employee closed the scow. The Respondent contacted the Town's consultant and the Commonwealth of Massachusetts' regulatory officials immediately.

17. Between February 10 and 13, 2008, using its dredging equipment, Respondent removed the majority of the dredged material that had been discharged from the dump scow on February 5, 2008 and transported it to the Massachusetts Bay Disposal Site for disposal.

18. On June 13, 2008, EPA divers conducted an underwater survey of the area in Beverly Harbor where the February 5, 2008 unpermitted discharge had occurred.

19. During the survey, EPA divers observed that dredged material remained on the floor of Beverly Harbor and that an area of 0.15 to 0.20 acres was impacted by the discharged material.

Dredging in Tidal Flats of the Porter River

20 Without Respondent admitting to these facts, for purposes of this action, EPA alleges that, in February, 2008, while dredging the Porter River in the vicinity of Bunky's Marina and Portside Marina, the Respondent dredged materials that had not been adequately characterized under the applicable regulations and was, therefore, not authorized by the Permit.

21. In February, 2008, the Respondent engaged in "side-casting" of dredged material in the Porter River in the vicinity of the Danversport Yacht Club boat lift dock, Bunky's Marina,

and Portside Marina as a result of the failure of the Yacht Club or Danvers to remove the dock for dredging purposes.

22. Respondent reviewed several options for completing the dredging with Vine Associates prior to proceeding with the sidecasting. Respondent conducted a successful pilot sidecasting to determine the efficacy of the option.

23. In February, 2008, Respondent allegedly deposited side-casted dredge material both within the permitted dredge area and on the tidal flats located outside the permitted dredge area.

24. When removing the side-casted dredge material from the tidal flats, the Respondent allegedly overdredged and removed both side-casted material and additional sediment that had not been side-casted, and such overdredged material had not been adequately characterized under applicable regulations and was, therefore, not authorized by the Permit.

25. The Respondent then transported the allegedly unauthorized dredged material taken in the vicinity of Bunky's Marina and Portside Marina and the allegedly unauthorized overdredged material removed from the tidal flats, for the purpose of dumping it at the Massachusetts Bay Disposal Site.

Count 1

Discharging Dredged Material In Beverly Harbor

26. Respondent's discharge of dredged material into Beverly Harbor that occurred on February 5, 2008 was not authorized by the Project Description (page 1) and Paragraph 7 (page 5) of the Permit, and the October 17, 2007 USACE authorization letter, requiring the disposal of dredged material at the Massachusetts Bay Disposal Site, and therefore is a violation

of Section 101(a) of MPRSA, 33 U.S.C. § 1411(a).

27. Under Section 105(a) of the MPRSA, 33 U.S.C. § 1415(a), “[a]ny person who violates any provision of [Subchapter I of the MPRSA], or of the regulations promulgated under [that] subchapter, or a permit issued under [that] subchapter shall be liable to a civil penalty of not more than \$65,000 for each violation...”

Count 2

Transport of Dredged Material For The Purpose Of Dumping It Into Ocean Waters

28. The Respondent allegedly transported unauthorized dredged material taken in the vicinity of Bunky’s Marina and Portside Marina and allegedly unauthorized overdredged material removed from the tidal flats, for the purpose of dumping it at the Massachusetts Bay Disposal Site, and, therefore, is in violation of Section 101(a) of the MPRSA, 33 U.S.C. §1411(a), for transporting dredged material for the purpose of dumping it into ocean waters without authorization of a permit issued by USACE pursuant to Section 103(e) of the Act, 33 U.S.C. § 1413(e).

29. Under Section 105(a) of the MPRSA, 33 U.S.C. § 1415(a), “[a]ny person who violates any provision of [Subchapter I of the MPRSA], or of the regulations promulgated under [that] subchapter, or a permit issued under [that] subchapter shall be liable to a civil penalty of not more than \$65,000 for each violation...”

CONSENT AGREEMENT

30. EPA and Respondent agree that the above matter constitutes a disputed claim and that settlement of the above matter is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter. Therefore, before taking any

testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, without any admission of liability, it is hereby ordered and adjudged as follows:

Terms of Settlement

31. Pursuant to the relevant provisions of the MPRSA, including the penalty factors in Section 105(a) of the MPRSA, 33 U.S.C. § 1415(a), and based upon the nature of the violations, Respondent's agreement to perform a Supplemental Environmental Project ("SEP"), and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of \$12,500.

32. Respondent consents, for the purposes of settlement, to the payment of a civil penalty of \$12,500 and to the performance of the SEP that will cost a minimum of \$37,500. Respondent shall pay the penalty of \$12,500, as specified below, within 30 calendar days of the effective date of this Consent Agreement and Final Order.

33. Respondent shall pay the penalty of \$12,500 by cashier's or certified check, payable to "U.S. Environmental Protection Agency," and referencing the title and docket numbers of the action ("*In the Matter of Cashman Dredging Co., LLC*, MPRSA -01-2010-0043"). The payment shall be mailed via regular U.S. Postal Service mail, to:

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

34. Respondent shall simultaneously submit a copy of the check referenced in the preceding paragraph to:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: MC-ORA 18-1
Boston, MA 02109-3912

and to:

Tonia Bandrowicz, Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES 04-3
Boston, MA 02109-3912

35. The penalty provided for herein is a penalty within the meaning of 26 U.S.C. § 162(f) and is not tax deductible for purposes of federal, state, or local law.

Supplemental Environmental Project

36. In order to improve water quality and aquatic habitat within Salem Sound, Respondent shall spend a minimum of \$37,500 implementing a SEP involving mooring replacement in Beverly Harbor. Specifically, the Respondent shall purchase low-impact moorings, of a type approved by EPA and the Beverly Harbormaster, in Beverly Harbor. The purchase of the low-impact moorings shall include the cost of the moorings, removal of the existing moorings, and transportation and installation of the new low-impact moorings. The placement location and specifications of the low-impact moorings (size, weight, etc.) shall be as prescribed by the Beverly Harbormaster, as confirmed in written correspondence from EPA and consistent with the proposal from Manchester Mooring. A copy of the proposal is attached.

37. The low-impact moorings purchased by Respondent shall be installed within one year of the effective date of this CAFO.

38. Respondent is responsible for the satisfactory completion of the SEP in accordance with the requirements of this CAFO. Completion of the SEP shall be achieved with compliance with the attached proposal from Manchester Mooring. The parties acknowledge that the Respondent is not responsible for applying for, or obtaining, any permits necessary for the installation of the low-impact moorings. With regard to the SEP, Respondent certifies the truth and accuracy of each of the following:

- a. As of the date of executing this CAFO, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;
- b. The SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;
- c. Respondent has not received and will not receive credit for the SEP in any other enforcement action; and
- d. Respondent will not receive any reimbursement for any portion of the SEP from any other person

39. Within 30 days after written notification by Manchester Mooring that it has completed its work under the proposal, Respondent shall submit a SEP Completion Report to EPA which shall contain the following information. EPA may require information in addition to that described below in order to evaluate the SEP Completion Report:

- a. certification that the SEP has been fully implemented pursuant to the provisions of this CAFO and the attached proposal;
- b. a description of any problems encountered in completing the SEP;
- c. a detailed description of whether the SEP was not implemented; and
- d. an itemized list of all eligible SEP costs expended.

40. After receiving the SEP Completion Report, EPA shall notify Respondent whether or not Respondent has satisfactorily completed the SEP. If Respondent has not completed the SEP in accordance with this CAFO, stipulated penalties may be assessed as set forth in paragraph 42 below.

41. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP under this CAFO shall include the following language: “This project was undertaken in connection with the settlement of an administrative enforcement action, *In the Matter of Cashman Dredging Co., LLC*, Docket Nos. MPRSA 01-2010-0043, taken by the U.S. Environmental Protection Agency under the Marine Protection, Research and Sanctuaries Act.”

42. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of the SEP or to the extent that the actual expenditures for the SEP do not equal or exceed a cost of \$37,500, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- a. In the event that the low-impact moorings purchased by Respondent are not installed within the time frame specified in paragraph 37 due to circumstances entirely beyond the control of Respondent (for example because of USACE failure to issue permit(s)), then Respondent shall pay a

penalty in the amount of the difference between the required SEP expenditure (i.e., \$37,500) and the amount actually spent by Respondent, from the effective date of the CAFO.

- b. In the event that the low-impact moorings are not installed within the time frame specified in paragraph 37 due to circumstances within the control of Respondent, then Respondent shall pay a penalty in the amount of the difference between 110% of the required SEP expenditure (i.e., \$41,250) and the amount actually spent by Respondent, plus interest, as prescribed in 31 U.S.C. § 3717, from the effective date of the CAFO.
- c. For failure to submit the SEP Completion Report required above, Respondent shall pay a stipulated penalty in the amount of \$100.00 for each day after the report was originally due until the report is submitted.

44. Except as provided in paragraph 45 below, after receipt of the SEP Completion Report, EPA will notify Respondent in writing of its determination that the project either (i) has been completed satisfactorily; or (ii) has not been completed satisfactorily and that stipulated penalties in accordance with paragraph 42 above are due. Respondent shall pay stipulated penalties not more than 15 days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of paragraphs 33 and 34, above.

45. If the low-impact moorings cannot be installed within the time frame specified in paragraph 37, Respondent shall inform EPA no later than 7 days prior to that deadline of the reason thereof and may request an extension of time for completion of the SEP. EPA will notify Respondent in writing of its determination that the extension request either (i) has been granted and for how long; or (ii) has not granted and that stipulated penalties in accordance with

paragraph 42 above are due. Respondent shall pay stipulated penalties not more than 15 days after receipt of written notice by EPA under this paragraph. Method of payment shall be in accordance with the provisions of paragraphs 33 and 34.

General Provisions

46. The provisions of this CAFO shall be binding upon Respondent and Respondent's officers, directors, and successors or assigns.

47. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the MPRSA for the violations of the MPRSA alleged above. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public.

48. This CAFO does not constitute a waiver, suspension or modification of the requirements of the MPRSA, or any regulations promulgated thereunder.

49. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

50. Each party shall pay its own costs and counsel fees in connection with this action.

51. Pursuant to Section 22.5(c)(4) of the enclosed Consolidated Rules, the following individual is authorized to receive service on behalf of EPA:

Tonia Bandrowicz,
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES 04-3
Boston, MA 02109-3912

52. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

THE UNDERSIGNED PARTY enters into this Consent Agreement and Final Order in the Matter of Cashman Dredging and Marine Contracting Co., LLC., EPA Docket No. MPRSA-01-2010-0043 on behalf of EPA:

9/29/10
Date

H. Curt Spalding Acting for
H. Curt Spalding, Regional Administrator
Office of Environmental Stewardship
U.S. EPA

THE UNDERSIGNED PARTY enters into this Consent Agreement and Final Order in the Matter Cashman Dredging and Marine Contracting Co., LLC., EPA Docket No. MPRSA-01-2009-0043 on behalf of Respondent:

9-13-10
Date

Dale Pyatt
Dale Pyatt, Manager

In the Matter of Cashman Dredging and Marine Contracting, Co., LLC.
EPA Docket No. MPRSA-01-2010-0043

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was transmitted to the following persons, in the manner specified, on the date below:

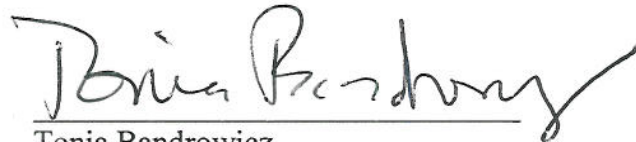
Original and one copy
hand-delivered:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency,
Region 1
5 Post Office Square, Suite 100
Mail Code: MC-ORA 18-1
Boston, MA 02109-3912

Copy by certified mail,
return receipt requested:

Richard A. Nysten, Jr., Esq.
Lynch, DeSimone & Nysten, LLP
12 Post Office Square
Boston, MA 02109

Dated: 9/30/10



Tonia Bandrowicz
U.S. EPA - Region I
One Post Office Square
Suite 100
Mail Code OES 04-3
Boston, MA 02109-3912

Manchester Mooring Service
 114 School Street
 Manchester, MA 01944
 Tel. 978-526-4480

Proposal

Date	Proposal #
7/16/2010	2010-0105

Name / Address
City of Beverly Harbormaster Dept. Ferry Way PO Box 211 Beverly, MA 01915

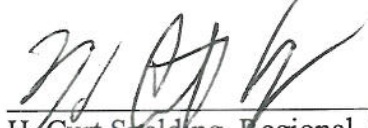
Description
<p>Manchester Mooring Service in conjunction with www.Boatmoorings.com of Milford, NH proposes the following work for the City of Beverly, MA. Harbormaster Department.</p> <p>Removal and disposal of all existing City of Beverly public moorings at Misery Island as directed by the Harbormaster. All present moorings consist of large concrete blocks, chain and mooring buoys.</p> <p>Installation of 25 new public moorings at Misery Island, locations to be determined by the Harbormaster.</p> <p>Each new public mooring will consist of all new materials consisting of Helix anchors, elastic eco - mooring rodes and 24" round white mooring floats with blue striping and permanent lettering. The elastic mooring rodes are designed environmentally friendly and will be installed to prevent any contact with the sea floor. Helix anchors will be a minimum size of 8' overall length not including eco-rode adaptor, each anchor will have an 8" helix followed by a 10" helix. Additional extensions to each anchor beyond 8' overall length will be added if needed due to soil conditions at no additional charge. All helix anchors will be installed using power hydraulics from a surface work barge. Divers will verify proper Helix anchor installation and perform connection of eco-mooring rodes to each helix anchor. All mooring floats will have a large galvanized 3/4" steel, pear shaped ring on top to allow ease of use for transient boaters. Mooring floats will have permanently embossed 3" black lettering "T -1 thru T -25" (or any lettering requested by the Harbormaster).</p> <p>Total job price = \$55,674.75 This quotation valid thru 06/30/11 - all work to be completed no later than 06/01/11.</p>

website: www.manchestermoorings.com
 email: manchestermoorings@yahoo.com

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, which is effective on the date it is filed with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY



H. Curt Spalding, Regional Administrator
Office of Environmental Stewardship
U.S. EPA

9/30/10

Date

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Rivera for

Amanda Helwig
Name of Case Attorney

9/30/00
Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-01-2010-0051

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Safety Kleen Systems, Inc.
5360 Legacy Drive, Bldg. 2
Suite 100
Plano, TX 75024

Total Dollar Amount of Receivable \$ 80,000 Due Date: 10/20/10

SEP due? Yes _____ No _____ Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
FIVE POST OFFICE SQUARE – SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

VIA UPS

SEP 24 2010

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, Massachusetts 02109-3912

Re: Consent Agreement and Final Order
In the Matter of Safety-Kleen Systems, Inc.
Docket No. TSCA-01-2010-0051

Dear Ms. Santiago,

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Consent Agreement and Final Order, signed by both parties and approved by the Regional Judicial Officer, as well as the Certificate of Service.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Amanda J. Helwig".

Amanda J. Helwig
Enforcement Counsel
U.S. Environmental Protection Agency

cc: Virgil W. Duffie III, Vice President and Assistant General Counsel
Safety-Kleen Systems, Inc.

Enclosures

RECEIVED
SEP 24 2010
EPA ORC WS
Office of Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
BEFORE THE REGIONAL ADMINISTRATOR

RECEIVED

SEP 24 2010

EPA ORC
Office of Regional Hearing Clerk

In the Matter of:)

Safety-Kleen Systems, Inc.)
5360 Legacy Drive, Building 2)
Suite 100)
Plano, Texas 75024)

Respondent)

Docket No. TSCA-01-2010-0051

CONSENT AGREEMENT AND FINAL ORDER

The Regional Administrator of the United States Environmental Protection Agency, Region 1 (“EPA” or “Region”) issues this Consent Agreement and Final Order (“CAFO”) to Safety-Kleen Systems, Inc. (“Safety-Kleen” or “Respondent”), pursuant to 40 C.F.R. § 22.13(b) of 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 (“Consolidated Rules of Practice”). This CAFO resolves Respondent’s liability for alleged violations of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2601 *et seq.*, as well as the federal regulations promulgated thereunder, “Polychlorinated Biphenyls Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions,” 40 C.F.R. Part 761.

EPA and Respondent agree to settle this matter through this CAFO without the filing of an administrative complaint, as authorized under 40 C.F.R. § 22.13(b). EPA and Respondent agree that settlement of this cause of action is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

NOW, THEREFORE, before taking any testimony, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

I. PRELIMINARY STATEMENT

1. This CAFO both initiates and resolves an administrative action for the assessment of monetary penalties, pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for alleged violations of Section 15 of TSCA, 15 U.S.C. § 2614.

A. TSCA STATUTORY AND REGULATORY AUTHORITY

2. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), provides for the assessment of civil penalties for violations of Section 15 of TSCA, 15 U.S.C. § 2614.

3. Sections 15(1)(B) and (C) of TSCA, 15 U.S.C. § 2614(1)(B) and (C) make it unlawful for any person to fail to comply with any requirement prescribed by Section 6 of TSCA, 15 U.S.C. § 2605, or any rule promulgated under that section.

4. The “Polychlorinated Biphenyls (“PCBs”) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions,” 40 C.F.R. Part 761 (“PCB regulations”) were promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e).

5. The PCB regulations establish “prohibitions of, and requirements for, the manufacture, processing, distribution in commerce, use, disposal, storage, and marking of PCBs and PCB Items.” 40 C.F.R. § 761.1(a).

6. The PCB regulations at 40 C.F.R. § 761.3 define “PCB” as “any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contain such substance.”

7. Pursuant to 40 C.F.R. § 761.3, “PCB waste” constitutes those PCBs and PCB Items subject to the disposal requirements of 40 C.F.R. Part 761, Subpart D.
8. Forty C.F.R. Part 761, Subpart D, sets forth disposal requirements for PCBs and PCB Items at concentrations of 50 ppm or greater.
9. Pursuant to 40 C.F.R. § 761.1(b)(5) (anti-dilution provision) and 40 C.F.R. § 761.20(e)(2)(ii) (testing of used fuel oil), where PCBs at a concentration of 50 ppm or greater have been added to a container, the container must be considered as having a PCB concentration of 50 ppm or greater, regardless of dilution.
10. The PCB regulations at 40 C.F.R. § 761.3 define a “generator of PCB waste” as “any person whose act or process produces PCBs that are regulated for disposal under subpart D of this part, or whose act first causes PCBs or PCB Items to become subject to the disposal requirements of subpart D of this part, or who has physical control over the PCBs when a decision is made that the use of the PCBs has been terminated and therefore is subject to the disposal requirements of subpart D of this part.”
11. Pursuant to 40 C.F.R. § 761.207, a generator who relinquishes control over PCB wastes, as defined in 40 C.F.R. § 761.3, by transporting or offering to transport PCB waste for commercial offsite storage or offsite disposal shall prepare a manifest on EPA Form 8700-22, specifying for each bulk load of PCBs, the identity of the PCB waste, the earliest date of removal from service for disposal, and the weight in kilograms of the PCB waste.

II. GENERAL ALLEGATIONS

12. Respondent is a corporation incorporated under the laws of Wisconsin, with its principal place of business in Plano, Texas.

13. Respondent is a “person,” as defined by 40 C.F.R. § 761.3, subject to TSCA and the PCB regulations.

14. Respondent owns and operates facilities providing industrial waste management, oil recycling, and re-refining services in Marlborough, Massachusetts; Barre, Vermont; and Portland, Connecticut.

A. Marlborough, Massachusetts Facility

15. On November 24, 2008, Safety-Kleen shipped offsite for recycling from its Marlborough, Massachusetts facility approximately 15,564 gallons of a used oil and water mixture contaminated with PCBs at a concentration of approximately 1,193 parts per million (“ppm”).

16. On December 29, 2008, Safety-Kleen notified EPA that it inadvertently received and shipped PCB waste from its Marlborough, Massachusetts facility.

17. On December 30, 2008, EPA requested additional information from Safety-Kleen regarding its shipment of PCB waste from its Marlborough, Massachusetts facility.

18. On January 13, 2009 and January 27, 2009, Respondent provided EPA with responses to its request for information regarding its shipment of PCB waste from its Marlborough, Massachusetts facility.

19. Based on the information submitted by Respondent, Safety-Kleen was a generator of PCB waste that transported PCB waste offsite from its Marlborough, Massachusetts facility, without identifying the mixture as PCB waste, indicating the storage for disposal date for the PCB waste, or listing the weight of the waste in kilograms on the shipment’s manifest, in violation of 40 C.F.R. § 761.207.

B. Barre, Vermont Facility

20. On April 29, 2009, Safety-Kleen shipped offsite for recycling from its Barre, Vermont facility about 5,832 gallons of used oil contaminated with a PCB concentration of approximately 8.2 ppm, which included a load of approximately 500 gallons of used oil with a PCB concentration of approximately 741.9 ppm.

21. On May 12, 2009, Safety-Kleen notified EPA that it inadvertently received and shipped PCB waste from its Barre, Vermont facility.

22. On May 18, 2009, EPA requested additional information from Safety-Kleen regarding its shipment of PCB waste from its Barre, Vermont facility.

23. On May 18, 2009, Respondent provided EPA with responses to its request for information regarding its shipment of PCB waste from its Barre, Vermont facility.

24. Based on the information submitted by Respondent, Safety-Kleen was a generator of PCB waste that transported PCB waste offsite from its Barre, Vermont facility without using a manifest, identifying the used oil as PCB waste, indicating the storage for disposal date for the PCB waste, or listing the weight of the waste in kilograms, in violation of 40 C.F.R. § 761.207.

C. Portland, Connecticut Facility

25. On May 21, 2009, Safety-Kleen shipped offsite for recycling from its Portland, Connecticut facility about 3,510 gallons of used oil contaminated with a PCB concentration of approximately 77 ppm, which included a load of approximately 150 gallons of used oil with a PCB concentration of approximately 657 ppm.

26. On July 14, 2009, the Connecticut Department of Environmental Protection (“CT DEP”) notified EPA and provided supporting documentation that Safety-Kleen shipped PCB waste from its Portland, Connecticut facility without a manifest.

27. Based on the information submitted by CT DEP, Safety-Kleen was a generator of PCB waste that transported PCB waste offsite from its Portland, Connecticut facility without using a manifest, identifying the used oil as PCB waste, indicating the storage for disposal date for the PCB waste, or listing the weight of the waste in kilograms, in violation of 40 C.F.R. § 761.207.

III. TERMS OF SETTLEMENT

28. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers, directors, successors, and assigns.

29. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in this CAFO, consents to its terms.

30. Respondent hereby waives its right to contest, for purposes of this settlement, any issue of law or fact set forth in this CAFO, as well as its right to appeal the Final Order.

A. PENALTY

31. Pursuant to Section 16 of TSCA, taking into account the penalty assessment criteria of Section 16(a), the facts set forth in this CAFO, and other circumstances as justice may require, EPA determined that it is fair and appropriate to assess a civil penalty in the amount of eighty thousand dollars (\$80,000) for the violations alleged in this CAFO.

32. Within thirty (30) days of the effective date of this CAFO, Respondent shall submit a company, bank, cashier's, or certified check in the amount of \$80,000 payable to the order of the "Treasurer, United States of America," and referencing the EPA Docket Number of this action (TSCA-01-2010-0051). The check should be forwarded to:

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

In addition, at the time of payment, notice of payment of the civil penalty and copies of the check should be forwarded to:

Wanda Santiago
Regional Hearing Clerk
United States Environmental Protection Agency
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, MA 02109

and

Amanda J. Helwig
Enforcement Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Mail Code: 2243-A
Washington, DC 20460.

Interest and late charges, if applicable, shall be paid as specified in Paragraph 33 below.

33. Failure by Respondent to pay the total penalty in full by the due date may subject the Respondent to a civil action to collect the assessed penalty, plus interest at current prevailing rates from the date of the Final Order. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil 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 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more

than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid, in accordance with 31 C.F.R. § 901.9(d).

34. The penalty specified in Paragraph 31 above shall represent a civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

B. COMPLIANCE ACTIONS

35. Within ninety (90) days of the effective date of this CAFO, Safety-Kleen shall implement at any of its facilities located in Massachusetts, Connecticut, Vermont, Rhode Island, Maine, and/or New Hampshire (“Region 1 facilities”) the operational changes detailed in Attachment A to this CAFO, which encompass requirements for mandatory pre-shipment PCB testing of used oil collected by Safety-Kleen from third party collectors, including, but not limited to, oil collection companies, scrap yards, and municipalities. As described in Attachment A, the operational changes also include requirements for mandatory sampling of oil collection trucks before off-loading at certain Safety-Kleen facilities, as well as mandatory PCB testing of oil collection tanks before shipment of the oil offsite from certain Safety-Kleen facilities.

36. Within 120 days of the effective date of this CAFO, Safety-Kleen shall submit a certification to EPA, declaring that (1) Respondent has fully implemented at its Region 1 facilities the operational changes set forth in Attachment A to this CAFO, and (2) Respondent is operating its Region 1 facilities in compliance with 40 C.F.R. Part 761. Respondent shall forward this certification to:

Marianne Milette
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES05-4
Boston, MA 02109.

C. STIPULATED PENALTIES

37. Provided that Respondent fully implements all of the requirements for Region 1 facilities detailed in Attachment A to this CAFO and referenced above in Section III.B, Respondent shall for 1095 days following the effective date of this CAFO:

a. Notify EPA in writing within fifteen (15) days of the discovery of any violations by Safety-Kleen of the distribution in commerce requirements, set forth in 40 C.F.R. § 761.20(c), at its Region 1 facilities based on Respondent's receipt of PCB waste from a generator's site at a Safety-Kleen facility; include in its notification information regarding the source, amount, and PCB concentration of the waste; and

b. Pay stipulated penalties as follows:

i. \$14,169 for each of Safety-Kleen's violations of 40 C.F.R. § 761.20(c) where EPA determines that the extent of potential damage is "Major" under EPA's "Polychlorinated Biphenyls (PCB) Penalty Policy," April 9, 1990 ("PCB Penalty Policy");

ii. \$9,210 for each of Safety-Kleen's violations of 40 C.F.R. § 761.20(c) where EPA determines that the extent of potential damage is "Significant" under EPA's PCB Penalty Policy;

iii. \$2,126 for each of Safety-Kleen's violations of 40 C.F.R. § 761.20(c) where EPA determines that the extent of potential damage is "Minor" under EPA's PCB Penalty Policy.

38. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of written demand by EPA for such penalties.

39. Respondent shall make stipulated penalty payments by submitting a company, bank, cashier's, or certified check in the applicable amount, payable to the order of the

“Treasurer, United States of America,” and referencing the EPA Docket Number of this action (TSCA-01-2010-0051). The check should be forwarded to:

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

In addition, at the time of payment, notice of payment of the civil penalty and copies of the check should be forwarded to:

Wanda Santiago
Regional Hearing Clerk
United States Environmental Protection Agency
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, MA 02109

and

Amanda J. Helwig
Enforcement Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Mail Code: 2243-A
Washington, DC 20460.

Interest and late charges, if applicable, shall be paid as specified in Paragraph 33 above.

D. GENERAL PROVISIONS

40. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16 (a) of TSCA, 15 U.S.C. § 2615(a), for the violations alleged in this CAFO. Except as detailed in Paragraph 37, compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA. It is the responsibility of the Respondent to comply with such laws and regulations, including, but not limited to, the requirements regarding distribution in commerce, set forth at 40 C.F.R. § 761.20; decontamination procedures, set forth at 40 C.F.R. § 761.79; notification of

PCB waste activity, set forth at 40 C.F.R. § 761.205; manifesting, set forth at C.F.R. § 761.207; and unmanifested waste reporting, set forth at 40 C.F.R. § 761.211. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in the CAFO shall be construed to limit the authority of EPA to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or Respondent's violation of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

41. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

42. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CAFO.

43. This CAFO does not constitute a waiver, suspension or modification of the requirements of TSCA, 15 U.S.C. § 2601 *et seq.*, or any regulations promulgated thereunder.

E. Force Majeure

44. When circumstances caused by a potential Force Majeure event (as defined in Paragraph 47 below) may delay the performance of the operational changes in Paragraph 35 and Attachment A of this CAFO, including receiving required permits or authorizations from state and local agencies, Respondent shall so notify EPA in writing within 10 days after Respondent's knowledge of such circumstances. The written notice shall include the cause(s) of any actual or

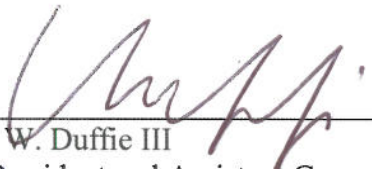
expected delay or noncompliance, the anticipated duration of any delay, the measures taken and to be taken by Respondent to prevent or minimize the delay or correct the noncompliance, and the timetable for implementation of such measures.

45. If EPA agrees that a delay in the performance of an operational change under this CAFO is or was caused by a Force Majeure event, the time for performance of such obligations will be extended for such time as is necessary to complete those obligations. EPA will notify Respondent in writing of the length of the extension. An extension of the time for performance of the obligations affected by the Force Majeure event shall not, of itself, extend the time for performance of any other obligation under this CAFO.

46. If EPA does not agree that a delay in the performance of an operational change under this CAFO is or was caused by a Force Majeure event, or does not agree with Respondent on the length of the proposed extension of time due to the Force Majeure event, EPA shall notify Respondent in writing of its decision and basis therefore.

47. "Force Majeure," for purposes of this CAFO, is defined as any event arising from causes beyond the control of Respondent, of any entity controlled by Respondent, or of Respondent's contractors, which delays the performance of an operational change that Respondent must implement under this CAFO, despite Respondent's best efforts to fulfill the obligation. "Force Majeure" does not include unanticipated or increased costs, changed financial circumstances, change of ownership of any facilities, or any other financial inability by Respondent to meet an obligation under this CAFO.

FOR RESPONDENT:



Virgil W. Duffie III
Vice President and Assistant General Counsel
Safety-Kleen Systems, Inc.

9/9/10

Date

FOR COMPLAINANT:



Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA, Region 1

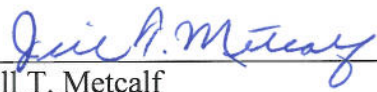
Sept 17, 2010
Date

VI. FINAL ORDER

Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, effective upon filing with the Regional Hearing Clerk.

Date:

Sept. 20, 2010



Jill T. Metcalf
Acting Regional Judicial Officer
U.S. EPA, Region 1

Attachment A

I. Operational Improvements for Polychlorinated Biphenyls (“PCBs”)

A. General PCB Operational Improvements

1. Safety-Kleen shall develop and implement company policies that require pre-shipment PCB testing for used oil collected from certain third party collectors (defined as entities that collect used oil from other parties), including, for purposes of this Consent Agreement and Final Order, all used oil collection companies, scrap yards, utilities, and municipal do-it-yourself (“DIY”) collection sites. There shall be no pre-shipment testing requirements for used oil collected from non-municipal retail DIY collection programs as that oil will be tested in accordance with Safety-Kleen’s policies and this CAFO.
2. In order to minimize the risk of inadvertently mismanaging PCB waste under the Toxic Substances Control Act (“TSCA”), Safety-Kleen shall implement operational improvements at its individual facilities noted below, requiring PCB testing of any used oil that Safety-Kleen collects prior to off-loading at its facilities or after off-loading into its used oil guard tank system, as described below, to ensure PCB verification analyses of used oil shipments are performed prior to sending them off-site from Safety-Kleen’s facilities.
3. Safety-Kleen shall test the used oil that it collects for the presence of PCBs at the detection limit of two (2) parts per million (“ppm”).
4. If Safety-Kleen detects PCBs in the used oil that it collects at any of its facilities located in Massachusetts, Connecticut, Vermont, Rhode Island, Maine, and/or New Hampshire in an amount of 2 ppm or greater, Safety-Kleen shall (1) implement its policies to determine if the PCB containing material is regulated under TSCA; (2) notify the U.S. Environmental Protection Agency, Region 1 and the generator of the used oil within 15 days of PCB detection, where the PCB contaminated used oil is TSCA regulated; and (3) manage any TSCA regulated PCB-contaminated waste oil in accordance with the applicable requirements set forth in TSCA, 15 U.S.C. §§ 2601 *et seq.*, and the federal regulations promulgated thereunder at 40 C.F.R. Part 761, including, but not limited to, those pertaining to PCB storage and disposal, the prohibition of dilution of PCBs regulated for disposal, and the decontamination standards and procedures for removing PCBs from contaminated equipment.

B. Facility-Specific PCB Operational Improvements

1. Facility Name: Bridgeport, CT

The Bridgeport facility operations shall identify any PCB contamination prior to off-loading. All oil arriving at the Bridgeport facility shall be tested for PCBs in an off-site laboratory prior to off-loading at the facility. PCB verification analysis shall be conducted on all shipments prior to being sold into on-specification used oil fuel markets.

2. Facility Name: Portland, CT

The Portland facility operations shall identify any PCB contamination prior to off-loading. All oil arriving at the Portland facility shall be tested for PCBs in an off-site laboratory prior to off-loading at the facility. PCB verification analysis shall be conducted on all shipments prior to being sold into on-specification used oil fuel markets.

3. Facility Name: Marlborough, MA

The Marlborough facility does not manage used oil, so the facility does not need to perform PCB testing or verification analysis at this time.

4. Facility Name: Salisbury, MA

The Salisbury facility does not manage used oil, so the facility does not need to perform PCB testing or verification analysis at this time.

5. Facility Name: West Brookfield, MA

The West Brookfield facility shall implement a rotational management of the railcars as a guard tank system to ensure that the facility tests oil prior to shipment. Under this approach, oil received at the facility shall be accumulated sequentially in railcars. Once a railcar is full, it shall be locked down until PCB analysis is completed. During this time, the remaining rail cars will be used to maintain daily oil operations. Upon analytical verification that a rail car does not contain PCBs, that railcar can be released for off-site shipment.

6. Facility Name: Newington, NH

The Newington facility operations shall identify any PCB contamination prior to off-loading. Oil arriving at the Newington facility shall be tested for PCBs in an on-site laboratory. In addition, PCB verification analysis

shall be conducted on all shipments prior to being sent to the refined fuel oil market. **Note:** At Newington, analytical testing requirements for used oil received at the facility may be waived if an oil shipment arrives with a certified analytical data demonstrating the used oil does not contain PCBs.

7. Facility Name: Cranston, RI

The Cranston facility operations shall identify any PCB contamination prior to off-loading. Once the Cranston facility restores full operations on site, it shall test for any PCB contamination prior to off-loading. Until Safety-Kleen restores these operations, all oil arriving at the Cranston facility shall be tested for PCBs in an off-site laboratory prior to off-loading at the facility. PCB verification analysis shall be conducted on all shipments prior to being sold into on-specification used oil fuel markets. **Note:** At Cranston, analytical testing requirements for used oil received at the facility may be waived if an oil shipment arrives with a certified analytical data demonstrating the used oil does not contain PCBs.

8. Facility Name: Barre, VT

The Barre facility shall implement a rotational management of tanks as a guard tank system to ensure that the facility tests oil prior to shipment. To accomplish this, Safety-Kleen shall convert a 15,000 gallon on-site solvent storage tank into a used oil storage tank. Upon completion of this conversion, the facility shall lock down the tank to perform PCB verification analysis on its contents before off-site shipment.