

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

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**In the Matter of:** :  
: :  
**SAFETY-KLEEN SYSTEMS, INC.** : **U.S. EPA Docket Number**  
**Safety-Kleen Systems, Inc.** : **TSCA-03-2018-0018**  
**42 Longwater Drive** : :  
**Norwell, MA 02061** : :  
: :  
: :  
**Respondent.** : **Proceeding Under Sections 15 and 16 of**  
: **the Toxic Substances Control Act,**  
: **15 U.S.C. §§ 2614 and 2615**  
: :  
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**CONSENT AGREEMENT**

**Preliminary Statement**

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant" or "EPA"), and Safety-Kleen Systems, Inc. ("Respondent" or "Safety-Kleen"), pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA" or the "Agency") by Sections 15 and 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2614 and 2615, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22.
2. This Consent Agreement memorializes a settlement with conditions pursuant to Section 16(a)(2)(C) of TSCA, 15 U.S.C. § 2615(a)(2)(C). Pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and 22.18(b)(3), this Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO") simultaneously commence and conclude this proceeding against Respondent to resolve violations of the regulations implementing TSCA Section 6(e), 15 U.S.C. § 2605(e), as set forth in 40 C.F.R. Part 761, entitled "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions" (hereinafter the "PCB regulations").

**General Provisions**

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this Consent Agreement.

4. Except as provided in Paragraph 3 herein, Respondent neither admits nor denies the specific findings of fact and conclusions of law set forth in this Consent Agreement.
5. Respondent consents to the issuance of this Consent Agreement and the attached Final Order, and agrees to comply with their terms. Respondent agrees not to contest the jurisdiction of Complainant with respect to: (1) the execution of this Consent Agreement; (2) the issuance of the attached Final Order; or (3) the enforcement of the CAFO.
6. Respondent hereby expressly waives any right to a hearing on or to contest any issue of law or fact set forth in this Consent Agreement, and any right to appeal the accompanying Final Order.
7. The settlement agreed to by the parties in this Consent Agreement reflects the desire of the parties to resolve this matter without litigation.
8. The settlement agreed to by the parties constitutes a Settlement with Conditions as authorized by Section 16(a)(2)(C) of TSCA, 15 U.S.C. § 2615(a)(2)(C), which allows the Administrator to compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under Section 16 of TSCA, 15 U.S.C. § 2615.
9. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

#### **Findings of Fact and Conclusions of Law**

In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2), Complainant alleges and adopts the following findings of fact and conclusions of law.

10. Respondent owned, operated and/or controlled a facility located at or near 11520 Balls Ford Road, Manassas, Virginia ("the Facility").
11. On or about October 25, 2016, Safety-Kleen retrieved approximately 791 gallons of used oil from a customer, Fauquier County, Virginia, at the County's Corral Far Collection site facility, Warrenton, Virginia.
12. Respondent transported such used oil from Warrenton, Virginia in a tanker truck to a Safety-Kleen facility located in Manassas, Virginia after which it transferred the oil into a collection tank.
13. Following such retrieval, Safety-Kleen analyzed the used oil for the presence of PCBs and determined that it contained PCBs with a concentration of 101.9 parts per million (ppm).
14. On or about December 7, 2016, Safety-Kleen self-disclosed the information in the preceding paragraph to EPA Region 3 via an email to the Region's Toxics program.

15. Region 3 reviewed the submission from Safety-Kleen, and determined that the Respondent had in fact violated the applicable prohibition against distribution in commerce of PCBs as described in more detail below.
16. 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.
17. 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.
18. Section 16(a)(2)(C) of TSCA, 15 U.S.C. § 2615(a)(2)(C), authorizes the Administrator of EPA to compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under Section 16(a) of TSCA, 15 U.S.C. § 2615(a).
19. The “Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions” regulations, set forth at 40 C.F.R. Part 761 (“PCB regulations”), were promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e).
20. 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).
21. 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.”
22. 40 C.F.R. § 761.3 defines a “person” to include “any natural or judicial person including any individual, corporation, partnership, or association. . . .”
23. Respondent is a corporation incorporated under the laws of Delaware, with its principal place of business in Richardson, TX that does business in the Commonwealth of Virginia.
24. Respondent is a “person”, as defined by 40 C.F.R. § 761.3, subject to TSCA and PCB regulations.
25. Distribution in commerce of any PCBs or any PCB Items, regardless of concentration, without an exemption issued under 40 C.F.R. §761.80, is a violation of 40 C.F.R. § 761.20(c), which is a violation of TSCA Section 6(e) and 15(1)(C), 15 U.S.C. §§ 2605(e) and 2614(1)(C).

### **Count I**

26. The preceding paragraphs of this Consent Agreement are incorporated herein by

reference as if fully set forth at length.

27. At all times relevant to this CAFO, Respondent was subject to the TSCA prohibition against distribution in commerce, 40 C.F.R. § 761.20 (c).
28. On or about October 25, 2016, Respondent acquired from a customer, Fauquier County, approximately 791 gallons of used oil that was subsequently determined by Respondent to be contaminated with PCBs at a concentration of 101.0 ppm, and transported such contaminated oil to its facility in Manassas, VA.
29. Respondent's acquisition and introduction into commerce of used oil containing PCBs in excess of 50 ppm on or about October 25, 2016 constituted illegal distribution in commerce as defined at 40 C.F.R. § 761.3.
30. On October 25, 2016, Respondent distributed in commerce used oil containing PCBs in excess of 50 ppm in violation of 40 C.F.R. § 761.20(c), and TSCA Sections 6(e) and 15(1)(c), 15 U.S.C. §§ 2605(e) and 2614(1)(c), by distributing in commerce approximately 791 gallons of used oil that was contaminated with a concentration of PCBs of over 50 ppm.

#### Civil Penalty

31. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates Section 15 of TSCA, 15 U.S.C. § 2614, shall be liable to the United States for a civil penalty of up to \$25,000 per violation. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, as revised, 81 Fed. Reg. 43091 (July 1, 2016), violations of Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), which occurred after November 2, 2015 and which are assessed on or after August 1, 2016, are subject to an increased statutory maximum penalty of \$37,500.
32. In settlement of EPA's claims for civil monetary penalties for the violations alleged in this Consent Agreement, Respondent agrees to pay a civil penalty in the amount of **\$25,268** (twenty-five thousand, two-hundred sixty-eight dollars), which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by all parties, signed by the Regional Administrator or his designee, the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
33. The civil penalty set forth in the preceding paragraph is based on a number of factors, including, but not limited to, the facts and circumstances of this case, the statutory factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent, and gravity of the violations and the penalty criteria set forth in



EPA's *Polychlorinated Biphenyls (PCB) Penalty Policy* (April 9, 1990), as amended. Complainant has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19, the December 2013 memorandum by EPA Deputy Administrator Cynthia Giles, entitled *Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation* (Effective December 6, 2013).

34. EPA hereby agrees and acknowledges that payment of the civil penalty by Respondent shall be full and final satisfaction of all civil claims for penalties which Complainant may have under TSCA Section 16(a), 15 U.S.C. § 2615(a), for the violated alleged in this CAFO.

35. Respondent shall pay the civil penalty amount assessed by this CAFO, plus any interest, administrative fees, and late payment penalties owed, by either cashier's check, certified check, or electronic wire transfer, in the following manner:

a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, TSCA-03-2018-0018;

b. All checks shall be made payable to "United States Treasury";

c. All payments made by check and sent by regular mail shall be addressed to:

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

Customer service contact: 513-487-2091

d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
U.S. EPA, Fines & Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive

Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account No. = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No. 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking  
Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: 866-234-5681

- h. On-Line Payment Option:

[WWW.PAY.GOV/paygov/](http://WWW.PAY.GOV/paygov/)

Enter sfo 1.1 in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

<http://www.epa.gov/financial/makepayment>

- j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO.

A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Cheryl Jamieson  
Chief, Waste and Chemicals Branch  
Office of Regional Counsel (3RC30)  
U.S. EPA, Region III  
1650 Arch Street

Philadelphia, PA 19103-2029

and

Regional Hearing Clerk  
U.S. EPA, Region III (3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

36. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
37. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
38. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
39. A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
40. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

**Settlement Condition**

41. The Respondent agrees to the following condition to this settlement in accordance with Section 16(a)(2)(C) of TSCA, 15 U.S.C. § 2615(a)(2)(C). In addition to the payment of the penalty described, above, Respondent agrees that a representative of Safety-Kleen shall perform the following actions:

- (a) No later than thirty (30) days after the effective date of this CAFO, include the following statement on the home page of its website for a period of five years from the effective date of this CAFO:

Used oil containing polychlorinated biphenyls (PCBs) regulated under the Toxic Substances Control Act (TSCA) in 40 C.F.R. Part 761 must be managed in accordance with federal law. TSCA PCB-contaminated used oil cannot be managed through the Safety-Kleen used oil collection program and will require specific collection, transportation and disposal arrangements. Safety-Kleen requires the generators of used oil containing TSCA-regulated PCBs to disclose such mixtures to Safety-Kleen prior to any collection service to ensure that the material is managed per the requirements of 40 C.F.R. Part 761.

- (b) No later sixty (60) days from the effective date of this CAFO, Respondent shall send a letter to EPA certifying compliance with the agreed-upon provisions of this CAFO to the following person via regular mail:

Craig Yussen  
Chemical Engineer  
Land and Chemicals Division (3LC41)  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103

- (c) The aforementioned certification and any other report submitted by Respondent to EPA pursuant to this CAFO shall contain the following certification to be signed by a responsible corporate officer:

I certify that the information contained in or accompanying this certification is true, accurate, and complete. As to any identified portions of this type for which I cannot personally verify its accuracy, I certify under penalty of law that this submission and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



### **Other Applicable Laws**

42. Nothing in this CAFO shall alter, relieve or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental laws and regulations.

### **Certifications**

43. Respondent certifies to Complainant to the best of its knowledge and belief, that Respondent presently is in compliance with the provisions of TSCA, and the regulations promulgated thereunder, that are alleged by EPA to have been violated and referenced in this CAFO.

### **Reservation of Rights**

44. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil penalties for the specific violation of TSCA Sections 15 and 16, 15 U.S.C. §§ 2614 and 2615 alleged herein.
45. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c).
46. EPA reserves any rights and remedies available to it under TSCA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk. Respondent reserves all available rights and defenses it may have to defend itself in any such action.
47. Nothing in this CAFO shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek other remedies or sanctions, including, but not limited to, criminal penalties, available by virtue of Respondent's violation of this CAFO or Respondent's violation of the statutes and regulations upon which this Consent Agreement is based, or for Respondent's violation of any applicable provision of law.

### **Scope of Settlement**

48. The settlement set forth in this CAFO shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violations alleged herein. Compliance with the CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

**Parties Bound**

49. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent.
50. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**Effective Date**


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

**Entire Agreement**

52. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

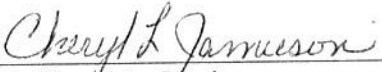
**For Respondent:**

Date: 10/5/2017

By:   
William Connors  
Senior Vice President, Compliance  
Safety-Kleen Systems, Inc.


**For Complainant:**

Date: 10/12/17

By:   
Cheryl L. Jamieson  
Senior Assistant Regional Counsel  
Office of Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 10-17-2017

By:   
\_\_\_\_\_  
Mattha Shimkin  
Acting Director, Land and Chemicals  
Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

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<b>SAFETY-KLEEN SYSTEMS, INC</b>	:	<b>U.S. EPA Docket Number</b>
<b>42 Longwater Drive</b>	:	
<b>Norwell, MA 02061</b>	:	<b>TSCA-03-2018-0018</b>
	:	
<b>Respondent.</b>	:	<b>Proceeding Under Sections 15 and 16</b>
	:	<b>Toxic Substances Control Act,</b>
	:	<b>15 U.S.C. §§ 2614 and 2615</b>
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**FINAL ORDER**

The Director, Land and Chemicals Division, U.S. Environmental Protection Agency – Region III (“Complainant”) and Safety-Kleen Systems, Inc. (“Respondent”), have executed a document entitled “Consent Agreement” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Government the Administrative Assessment of civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

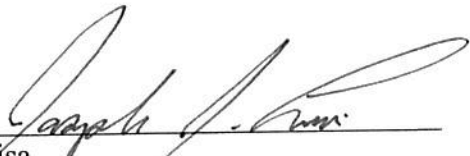
NOW THEREFORE, pursuant to Section 15 and 16 of TSCA, 15 U.S.C. §§ 2614 and 2615, and the Consolidated Rules of Practice, and upon the representations in the Consent Agreement that the penalty agreed to therein is based upon a consideration of factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), and is consistent with the settlement with conditions authority of Section 16(a)(2)(C) of TSCA, 15 U.S.C. § 2615(a)(2)(C), Respondent Safety-Kleen Systems, Inc. is hereby ordered to pay a civil penalty of \$25,268



(twenty-five thousand, two-hundred sixty-eight dollars), as set forth in the Consent Agreement, and to comply with the terms and conditions of the Consent Agreement.

The effective date of this document is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Administrator or Regional Judicial Officer.

Date: Oct. 18, 2017

  
\_\_\_\_\_  
Joseph Lisa  
Regional Judicial Officer  
U.S. EPA Region III

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**In the Matter of:**

**Safety Kleen Systems, Inc.  
42 Longwater Drive  
Norwell, Massachusetts 02061**

**Respondent.**

:  
: **U.S. EPA Docket Number**  
: **TSCA-03-2018-0018**  
: **Consent Agreement and Final Order**  
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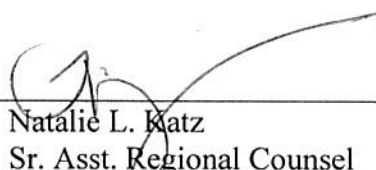
**CERTIFICATE OF SERVICE**

I certify that on the date noted below, I sent by Overnight Delivery Service, true and correct copies of the Consent Agreement and Final Order: *In Re: Safety Kleen, Inc., Docket No. TSCA-03-2018-0018*, to the persons and addresses listed below. The original Consent Agreement and Final Order were hand-delivered to the Regional Hearing Clerk, U.S. EPA, Region III.

Timmery Fitzpatrick, Esq.  
Asst. General Counsel  
Clean Harbors  
42 Longwater Drive  
Norwell, MA 02061-9149

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

10/18/2017

  
\_\_\_\_\_  
Natalie L. Katz  
Sr. Asst. Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103

10/18/17 10:17