



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAR 26 2019

CERTIFIED MAIL RETURN RECEIPT

Ms. Timmery Fitzpatrick, Esq.
Assistant General Counsel
Clean Harbors
P.O. Box 9149
42 Longwater Drive
Norwell, Massachusetts 02061-9149

SUBJ: Safety-Kleen Systems, Inc., EPA ID No.: MSD 000 776 765
Consent Agreement and Final Order, Docket No.: RCRA-04-2018-4016(b)

Dear Ms. Fitzpatrick:

Enclosed, please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-referenced matter. Please note that payment of the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk. The timing of all other obligations required by the CA/FO also begins on the effective date of the CA/FO. A copy of the check, wire transfer or online payment should be submitted to the following people:

Patricia Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and to:

Daryl Himes, Environmental Engineer
Hazardous Waste Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at (404) 562-8590 or by email at lamberth.larry@epa.gov.

Sincerely,

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosures

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at (404) 562-8590 or by email at lamberth.larry@epa.gov.

Sincerely,

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2018-4016(b)
)	
Safety-Kleen Systems, Inc.)	
Jackson Service Center)	
120 Richardson Road)	Proceeding Under Section 3008(a) of the
Jackson, Mississippi 39209)	Resource Conservation and Recovery Act,
EPA ID No.: MSD 000 776 765)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

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CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the Section 17-17-1 *et seq.* of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-1 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the regulations promulgated pursuant thereto and set forth at Mississippi Hazardous Waste Management Regulations (MHWMR), 11 Miss. Admin. Code Pt. 3, R. 1.1-1.24 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, 273, & 279]. This action seeks the performance of work and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 17-17-27 of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27 [Section 3005 of RCRA, 42 U.S.C. § 6925] and 11 Miss. Admin. Code Pt. 3, R. 1.1-1.24 [40 C.F.R. Parts 260 through 270].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is Safety-Kleen Systems, Inc. (Respondent), a corporation organized under the laws of the State of Wisconsin. Respondent is the owner and operator of a business located at 120 Richardson Road, Jackson, Mississippi (the Facility) that both sells oil, solvents, lubricants and antifreeze and provides used oil and spent solvent recovery services.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Mississippi (the State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at 11 Miss. Admin. Code Pt. 3, R. 1.1-1.24.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Mississippi has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Section 17-17-27 of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at 11 Miss. Admin. Code Pt. 3, R. 1.7 (permitted) and 11 Miss. Admin. Code Pt. 3, R. 1.11 (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
12. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.2], a "solid waste" is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.

13. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. § 261.4(b)].
14. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
15. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the of toxicity for benzene is a hazardous waste identified with the EPA Hazardous Waste Number D018.
16. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity for tetrachloroethylene is a hazardous waste and is identified with the EPA Hazardous Waste Number D039.
17. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.2 [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity for trichloroethylene is a hazardous waste and is identified with the EPA Hazardous Waste Number D040.
18. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”
19. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], a “person” includes a corporation.
20. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
21. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], “storage” means the containment of hazardous waste in such a manner as not to constitute disposal of such hazardous waste.
22. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10], “tank” means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.
23. On August 31, 2012, Hazardous Waste Permit Number MSD000776765 (the Permit) was issued to Respondent by the State’s Mississippi Department of Environmental Quality (MDEQ), pursuant to Section 17-17-27 of the Mississippi Code of 1972, Miss. Code Ann. § 17-17-27, and 11 Miss. Admin. Code Pt. 3, to operate storage units at the Facility for the management of hazardous waste in containers, a tank, and in miscellaneous units only in accordance with the terms and conditions of the Permit including those in any attachment thereto and the applicable regulations contained in 11 Miss. Admin. Code Pt. 3.

24. Pursuant to Section 3.2(g) (“Air Emission Standards”) of Attachment II-3 to the Permit, wastes managed at the Facility have been determined to contain an average volatile organic concentrations (VOC) greater than 500 ppm by weight at the point of waste origination and that Respondent therefore shall manage hazardous waste storage tanks and containers used for the management of hazardous waste at the Facility in accordance with the applicable standards of 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. Part 264, Subpart CC] (hereinafter Subpart CC); in a similar fashion, the tanks and containers have further been determined to be subject to Level 1 control requirements under Subpart CC.
25. Pursuant to Condition VIII.A.1 (“Module Highlights”) of the Permit, Subpart CC applies to all tanks, containers, and miscellaneous units identified in the Permit, except as otherwise specifically provided.
26. Pursuant to Condition VII.B.2. of the Permit, the storage of hazardous wastes restricted from land disposal under MHWMR Part 268 [11 Miss. Admin. Code Pt. 3, R. 1.15 [40 C.F.R. Part 268]] is prohibited unless the requirements of MHWMR Part 268 Subpart E [11 Miss. Admin. Code Pt. 3, R. 1.15 [40 C.F.R. § 264.50]] are met.
27. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. Part 264, Subpart CC], a tank using Tank Level 1 controls shall be equipped with a fixed roof and closure devices designed to form a continuous barrier over the entire surface area of the hazardous waste in the tank, and the fixed roof shall be installed in a manner such that there are no visible cracks, holes, gaps, or other open spaces.
28. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. Part 264 Subpart CC], the Facility’s Service Center tank is to be operated so that all cover openings can be closed with no visible gaps, holes, cracks, or other open spaces that allow for the release of air emissions.
29. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.15 [40 C.F.R. § 268.50(a)(2)(i)], the storage of hazardous wastes restricted from land disposal under subpart C of this part of RCRA section 3004 is prohibited, unless the owner/operator of a permitted facility stores hazardous waste in containers that are clearly marked with the identity of its contents and date each period of accumulation began.
30. Pursuant to Condition II.E. (“General Inspection Requirements”) of the Permit, records of inspections shall be kept by the Permittee as required by MSHWM REG 264.15(d) [11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. § 264.15]].
31. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. § 264.15(d)], the owner/operator of a facility must record inspections in an inspection log or summary and keep these records for at least three years from the date of inspection.
32. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. § 264.195(b)], the owner/operator of a facility must inspect at least one each operating day data gathered from monitoring and leak detection equipment to ensure that the tank system is being operated according to design.

33. Pursuant to 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R § 264.195(h)], the owner/operator of a facility must document in the operating record an inspection of items noted in 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R § 264.195(b)].

IV. EPA ALLEGATIONS AND DETERMINATIONS

34. Respondent is a “person” as defined in 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10].
35. Respondent is the “owner/operator” of a “facility,” located at 120 Richardson Road, Jackson, Mississippi, as those terms are defined in 11 Miss. Admin. Code Pt. 3, R. 1.1 [40 C.F.R. § 260.10].
36. As the owner and operator of the Facility, Respondent provides its customers with spent solvent recovery services and upon acquiring spent solvent from its customers, Respondent manages it as hazardous waste.
37. On March 11, 2015, Respondent filed a Notification of Hazardous Waste Activity with MDEQ designating the Facility as a facility which receives hazardous wastes from off-site facilities and has received a permit to store those hazardous wastes at its facility.
38. On February 15, 2018, inspectors with the EPA and the MDEQ (the inspectors) conducted a compliance evaluation inspection (CEI) at Respondent’s Facility. EPA’s findings of the CEI were documented in a Report mailed to Respondent and dated April 30, 2018.
39. During the CEI, the inspectors were informed that hazardous wastes identified with EPA Hazardous Waste Numbers D018, D039, and D040 were then being stored within the 15,000-gallon Service Center hazardous waste storage tank, the tank’s ancillary units consisting of various drums and other related containers located at the Solvent Return and Fill Station, as well as containers being stored in the Flammable Storage Shelter pursuant to the terms and conditions set forth in Module III. (“Containers”) of the Permit.
40. During the CEI, the inspectors observed a clearly visible gap between the 15,000-gallon Service Center hazardous waste storage tank and the Service Center hazardous waste storage tank’s manhole cover. The manhole cover, having been designed to form a continuous barrier over the entire surface area of the tank, was operating as a closure device.
41. *The EPA therefore alleges* Respondent violated 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R § 264.1084] and the conditions set forth in Condition VIII.A.1 of the Permit by operating a closure device on the Service Center hazardous waste tank that failed to achieve the requisite Subpart CC Tank Level 1 controls.
42. During the CEI, the inspectors observed that Respondent was accumulating hazardous waste in four (4) 30-gallon containers and one (1) 16-gallon container located in the Solvent Return and Fill Station, one of the Facility’s permitted container storage areas, which were not labeled with the words “Hazardous Waste” or other words that identify the containers’ contents.
43. *The EPA therefore alleges* Respondent violated 11 Miss. Admin. Code Pt. 3, R. 1.15 [40 C.F.R. § 268.50(a)(2)(i)] and the conditions set forth in Condition VII.B.2 of the Permit by storing

hazardous waste restricted from land disposal without clearly marking each container to identify its contents.

44. During the CEI, the inspectors observed that Respondent was accumulating hazardous waste in one (1) 55-gallon and four (4) 5-gallon containers in the Flammable Storage Shelter, one of the facility's permitted container storage areas, that were not marked with accumulation start dates.
45. *The EPA therefore alleges* Respondent violated 11 Miss. Admin. Code Pt. 3, R. 1.15 [40 C.F.R. § 268.50(a)(2)(i)] and the conditions set forth in Condition VII.B.2 of the Permit by storing hazardous waste restricted from land disposal without clearly marking each container with the date each period of accumulation began.
46. During the CEI, the inspectors observed that Respondent was failing to keep a daily recording of the tank's volume as part of its inspections.
47. *The EPA therefore alleges* Respondent violated 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. § 264.195(h)] and the conditions set forth in Condition II.E. of the Permit by failing to document performance of its daily tank inspections within the Facility's operating record.

V. TERMS OF AGREEMENT

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

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

55. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
56. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
57. Respondent consents to the issuance of this compliance order and to the conditions specified in this CA/FO .
58. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged in this CA/FO.
59. Each party will pay its own costs and attorneys' fees.
60. The terms, conditions, and compliance requirements of this Consent Agreement may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

VI. WORK TO BE PERFORMED

61. By no later than sixty (60) days after the Effective Date of this CA/FO, Respondent shall develop and submit to the EPA with a copy to the MDEQ, a document that identifies and/or describes the tanks at the Facility subject to Subpart CC ("CC Tanks Program") and which includes or addresses the following:
 - a. The applicability of RCRA Subpart CC regulations to specific tanks at the Facility ("covered tank(s)");
 - b. Each type of air emission control(s) associated with each covered tank, including whether controls are Tank Level 1 Controls or Tank Level 2 Controls;
 - c. If Tank Level 1 Controls are associated with a covered tank, a determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with the requirements of 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. § 264.1084(c)(1)];
 - d. For each tank not subject to air emission controls specified in 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. § 264.1084] in accordance with the provisions of 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. § 264.1080(b)(7)], the information contemplated under 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. § 264.1089(j)];
 - e. The Facility's written inspection and monitoring plan developed in accordance with 11 Miss. Admin. Code Pt. 3, R. 1.7 [40 C.F.R. § 264.1088];
 - f. A tracking program designed to ensure that any new tank subject to the CC Tanks Program added to service at the Facility prior to December 31, 2020, is integrated into the CC Tanks Program and that tanks taken out of service prior to that date are removed from the CC Tanks Program;
 - g. The roles and responsibilities of all employees and contract personnel at the Facility who have responsibility for Subpart CC-related functions;
 - h. How the number of personnel responsible for Subpart CC-related functions is sufficient to satisfy the requirements of the CC Tanks Program; and,

- i. How the Facility plans to implement its CC Tanks Program.

VII. PAYMENT OF CIVIL PENALTY

62. Respondent consents to the payment of a civil penalty in the amount of **Twelve Thousand Six Hundred Dollars (\$12,600.00)**, which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
63. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: *Treasurer, United States of America*, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

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

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

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

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

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:

5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

64. Respondent shall submit a copy of the payment to the following individuals:

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

and to:

Daryl R. Himes, Environmental Engineer
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
RCR Division, U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

65. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement or, if paying in installments, not paid in accordance with the installment schedule provided above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
- c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

66. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VIII. PARTIES BOUND

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

IX. RESERVATION OF RIGHTS

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

X. OTHER APPLICABLE LAWS

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

XI. SERVICE OF DOCUMENTS

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

Gregory D. Luetscher
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
Luetscher.greg@epa.gov
(404) 562-9677

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

CT Corporation
800 S. Gay Street, Suite 2021
Knoxville, TN 37929-9710

XII. SEVERABILITY

76. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

XIII. MODIFICATION

77. This CA/FO may only be modified by mutual agreement of the EPA and Respondent and subject to the approval of the Regional Judicial Officer. Any agreed modifications shall be in writing, be signed by both parties, shall have as their effective date the date on which they are filed with the Regional Hearing Clerk, and shall be incorporated into this CA/FO as an appendix.


XIV. EFFECTIVE DATE

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

In the Matter of Safety-Kleen Systems, Inc., Docket No. RCRA-04-2018-4016(b):


AGREED AND CONSENTED TO:

FOR Safety-Kleen Systems, Inc.

By: 
(Signature)
William F. Connors, SVP Compliance

Date: 3/11/2019

FOR the United States Environmental Protection Agency

By: 
Larry L. Lamberth, Chief
Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Date: 03/21/19

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2018-4016(b)
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Jackson, Mississippi 39209)	Resource Conservation and Recovery Act,
EPA ID No.: MSD 000 776 765)	42 U.S.C. § 6928(a)
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Respondent)	
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 25th day of March, 2019.

BY:



Tanya Floyd
Regional Judicial Officer
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), *In the Matter of Safety-Kleen Systems, Inc.*, **Docket Number: RCRA-04-2018-4016(b)**, and have served the parties listed below in the manner indicated:

Gregory D. Luetscher
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Office of RCRA/CERCLA Legal Support
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(Via EPA's electronic mail)

Quantindra Smith
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CT Corporation
800 S. Gay Street, Suite 2021
Knoxville, TN 37929-9710

(Via Certified Mail - Return Receipt Requested)

Date:

3-26-19



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
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