

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Safety-Kleen Systems, Inc.
6617 Pleasant Ridge Road,
Knoxville, Tennessee 37921
EPA ID No.: **TND987777695**

Respondent.

Docket No. RCRA-04-2020-2114(b)

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Chief of the Chemical Safety and Land Enforcement Branch, Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA) Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.
5. Respondent is **Safety-Kleen Systems, Inc.**, a corporation doing business in the State of Tennessee. This proceeding pertains to Respondent's facility located at 6617 Pleasant Ridge Road Knoxville, Tennessee 37921 (Facility).

III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Tennessee (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 THWMA, Tenn. Code Ann. § 68-212-101 et seq. and Tenn. Comp. R. & Regs. 0400-12-01.01 through 0400-12-01.12.
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. The State 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 CAFO.
11. Section 68-212-107(d) of the THWMA, Tenn. Code Ann. § 68-212-107(d) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at Tenn. Comp. R. & Regs. 0400-12-01-.03 [40 C.F.R. Part 262].
12. Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [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 Tenn. Comp. R. & Regs. 0400-12-01-.06 (permitted) and Tenn. Comp. R. & Regs. 0400-12-01-.05 (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. On September 8, 2016, Hazardous Waste Management Permit Number TNHW-166 (the Permit), was issued to Respondent (permittee) by the Tennessee Department of Environment and Conservation (TDEC), pursuant to Section 68-212-101 *et seq.* of the THWMA, Tenn. Code Ann. § 68-212-101 *et seq.* and Tenn. Comp. R. & Regs. Chapter 0400-12-01, 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 Tenn. Comp. R. & Regs. Chapters 0400-12-01 or 0400-12-02.

14. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Tenn. Comp. R. & Regs. 0400-12-01-.02 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
15. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [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.
16. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a “person” includes a corporation (including a government corporation), partnership, association, State, municipality, commission, or political subdivision of a State.
17. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [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.”
18. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
19. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a “tank system” is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
20. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a “container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
21. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [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.
22. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], “treatment” means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.
23. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(b) [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.
24. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1.(ii) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(d)2 [40 C.F.R. § 261.4(b)].

25. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1.(ii)(I) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(b)-(e) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
26. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(b) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
27. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(c) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
28. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for arsenic is identified with the EPA Hazardous Waste Number D004.
29. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for barium is identified with the EPA Hazardous Waste Number D005.
30. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for cadmium is identified with the EPA Hazardous Waste Number D006.
31. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chromium is identified with the EPA Hazardous Waste Number D007.
32. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for lead is identified with the EPA Hazardous Waste Number D008.

33. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for benzene is identified with the EPA Hazardous Waste Number D018.
34. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for tetrachloroethylene is identified with the EPA Hazardous Waste Number D039.
35. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for trichloroethylene is identified with the EPA Hazardous Waste Number D040.
36. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)5.(i) [40 C.F.R. § 262.34(c)(1) (2016)¹], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2. [40 C.F.R. § 262.34(a) (2016)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)5(i)(I)-(II) [40 C.F.R. § 262.34(c)(1)(i)-(ii) (2016)] (hereinafter referred to as the “SAA Permit Exemption”).
37. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)5(i)(II) [40 C.F.R. § 262.34(c)(1)(ii) (2016)], which is a condition of the SAA Permit Exemption, a generator is required to mark satellite accumulation containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.
38. Pursuant to Safety-Kleen’s Permit TNHW-166, Condition IV.E.2(a), the permittee shall inspect at least once each operating day above ground portions of the tank system, if any, to detect corrosion or releases of waste.
39. Pursuant to Safety-Kleen’s Permit TNHW-166, Condition I.D.1, Duty to Comply: The permittee must comply with all conditions of this permit, except that the permittee need not comply with the conditions of the permit to the extent and for the duration such noncompliance is authorized

¹ Tennessee has not adopted the new federal Generator Improvement Rule (GIR) regulations. As such, the corresponding federal citations herein will be to the regulations in effect prior to the amendments by the GIR, where appropriate. The requirements prior to the GIR are noted with the most recent effective date.

in an emergency permit. Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

IV. FINDINGS OF FACTS

40. Respondent provides its customers with spent solvent recovery services and upon acquiring spent solvent from its customers, Respondent manages it as a hazardous waste. Respondent is a permitted hazardous waste storage and treatment facility. The current permit became effective on September 8, 2016 and expires on September 8, 2026. The permitted capacity is 6,912 gallons of hazardous waste for container storage and 20,000 gallons for tank storage. Safety-Kleen opened for operations in October of 1992. Safety-Kleen was purchased by Clean Harbors in December of 2012, and continues to do business under the Safety-Kleen name, with its focus on parts-washer servicing, paint-related solvents and re-refining of used oil. Paint related solvents are shipped off site for further processing.
41. The Respondent submitted its 2018 annual report on February 18, 2019. The Respondent determined that in 2018 it generated D001, D002, D004, D005, D006, D007, D008, D018, D039, and D040 hazardous wastes, among others.
42. The Respondent treats and stores hazardous waste in containers and tanks.
43. On March 1, 2018, Respondent filed its most recent Notification of Hazardous Waste Activity with TDEC designating the Facility as a facility which receives hazardous waste from offsite facilities and is permitted to store hazardous waste at its Facility.
44. On February 14, 2019, the EPA and TDEC conducted a RCRA compliance evaluation inspection (CEI) at Respondent's Facility. The EPA documented its findings of the CEI in a show cause letter and inspection report sent to Respondent dated April 16, 2019.
45. At the time of the CEI, there were approximately nine hazardous waste aerosol cans (waste stream #20) on top of a satellite accumulation container, which were not labeled with the words hazardous waste.
46. At the time of the CEI, the EPA inspector observed that the construction of the hazardous waste tank did not include access to the top of the tank. There is no ladder beside this tank or any other tank in the hazardous waste tank system. Facility personnel stated that they did not observe or were unable to document that the top of the tank had been inspected during the last three years (1,095 days).

V. ALLEGED VIOLATIONS

47. The Respondent failed to label nine hazardous waste aerosol containers holding hazardous waste in SAAs with the words hazardous waste. The EPA therefore alleges Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption by not complying with the

labeling requirements of Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)5(i)(II) [40 C.F.R. § 262.34(c)(1)(ii) (2016)].

48. The Respondent failed to inspect the aboveground portions of the tanks system. The EPA therefore alleges Respondent violated Permit Condition I.D.1 which requires the permittee to comply with the conditions of the Permit including Permit Condition IV.E.2(a) [40 C.F.R. § 264.195(c)(1)].

VI. STIPULATIONS

49. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

50. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
- b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to the conditions specified in this CAFO;
- e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
- f. waives its rights to appeal the Final Order accompanying this CAFO.

51. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. 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 CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;
- d. waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
- e. 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 CAFO; and

f. agrees to comply with the terms of this CAFO.

52. By executing this CAFO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.

53. In accordance with 40 C.F.R. § 22.5, the parties consent to service of this CAFO by email at the following valid email addresses: redleaf-durbin.joan@epa.gov for the EPA and mealey.stephanie@cleanharbors.com and dillon.pritchard@safety-kleen.com for the Respondent, and the individuals named in the certificate of service are authorized to receive service related to this proceeding.

VII. TERMS OF PAYMENT

54. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **\$13,500.00**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.

55. 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.

a. 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

b. 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
Mail Station: SL-MO-C2-GL
St. Louis, Missouri 63101
Contact Number: (314) 425-1819

c. 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”

d. 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: Craig Steffen, (513) 487-2091
REX (Remittance Express): 1-866-234-5681

56. Respondent shall send proof of **payment**, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
bullock.patricia@epa.gov

and

Alan Annicella, Chief
Land, Asbestos and Lead Section
Enforcement and Compliance Assurance Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
Annicella.Alan@epa.gov

57. “Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Facility name and “Docket No. RCRA-04-2020-2114(b).”

58. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, 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 the delinquent claim. Accordingly, EPA may require the Respondent to pay the following amounts on any amount overdue:
- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, Interest is waived. However, if the civil penalty is not paid in full within 30 days, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).
 - b. 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 not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).
 - c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.
59. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:
- a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;
 - b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;
 - c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
 - d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

60. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

VIII. EFFECT OF CAFO

61. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
62. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).
63. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).
64. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
65. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
66. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
67. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.
68. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
69. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
70. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
71. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.

72. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
73. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
74. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
75. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO 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 CAFO shall remain in force and shall not be affected thereby.

IX. EFFECTIVE DATE

76. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

[Remainder of Page Intentionally Left Blank

Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of **Safety-Kleen Systems, Inc.**, Docket No. RCRA-04-2020-2114(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

Kimberly L. Bingham
Chief
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. EPA Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Safety-Kleen Systems, Inc.
6617 Pleasant Ridge Road,
Knoxville, Tennessee 37921
EPA ID No.: **TND987777695**

Respondent.

Docket No. RCRA-04-2020-2114(b)

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, 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 Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing “Consent Agreement” and “Final Order,” in the Matter of **Safety-Kleen Systems, Inc.**, Docket No. RCRA-04-2020-2114(b), were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Ms. Stephanie A. Mealey, Esq.
Clean Harbors, Inc.
42 Longwater Drive
Norwell, MA 02061-9149
(781) 792-5135
mealey.stephanie@cleanharbors.com

Mr. Dillon Pritchard, Branch General Manager
Safety-Kleen Systems, Inc.
6617 Pleasant Ridge Road
Knoxville, Tennessee 37921
(865) 947-9471
dillon.pritchard@safety-kleen.com

To EPA: Alan Newman, Environmental Engineer
(404) 562-8589
newman.alan@epa.gov

Joan Redleaf Durbin, Senior Attorney
(404) 562-9544
redleaf-durbin.joan@epa.gov

Quantindra Smith, Environmental Protection Specialist
(404) 562-8564
smith.quantindra@epa.gov

U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

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