UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	
Safety-Kleen Systems, Inc.	)	**Administrative Consent Order**
Dolton, Illinois	)	
	)	**EPA-05-02-113(a)-01-IL**
Proceeding Under Section	)	
113(a)(3) of the Clean Air	)	
Act, 42 U.S.C. § 7413(a)(3)	)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Safety-Kleen Systems, Inc. - Dolton Recycle Center ("Safety-Kleen"), under the authority of Section 113(a)(3) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(3).

Statutory and Regulatory Background

2. The Administrator of U.S. EPA may promulgate regulations establishing National Emission Standards for Hazardous Air Pollutants (NESHAP) under Section 112 of the Act, 42 U.S.C. § 7412.

3. Under Section 112 of the Act, the Administrator promulgated the NESHAP for Off-Site Waste and Recovery Operations (OSWRO)at 40 C.F.R. §§ 63, subpart DD.

4. The NESHAP regulations for OSWRO, effective July 1, 1996, apply to the owner or operator of waste management or recovery operation that:

a. is a major source of Hazardous Air Pollutants (HAP) emissions as defined in 40 C.F.R. § 63.2;
b. receives "off-site material" as defined in 40 C.F.R. §§ 63.680(b) and 63.681; and
c. is a waste management operation or recovery operation as specified in 40 C.F.R. §§ 63.680(a)(2) and 63.681.

See 40 C.F.R. § 63.680.

5. The NESHAP at 40 C.F.R. § 63.680(b)(1) establishes control requirements for off-site material management units at a subject OSWRO facility. The NESHAP at 40 C.F.R. §§ 63.681 and 63.680(c)(1) define "off-site material management unit" and off-site material management unit "affected source," respectively, for the purpose of determining applicability to 40 C.F.R. § 63.680(b). An off-site material management unit affected source must meet the requirements of either 40 C.F.R. §§ 63.683(b)(1)(i),(ii), or (iii). An owner or operator complying through 40 C.F.R. § 63.683(b)(1)(i) must control air emissions from each off-site material management unit in accordance with the applicable standards specified at 40 C.F.R. §§ 63.685 through 63.689.

6. The NESHAP at 40 C.F.R. § 63.689(c) establishes requirements for a "transfer system" of an off-site material management unit, as that term is defined under 40 C.F.R. § 63.681. Among the options for compliance specified under 40 C.F.R. § 63.689(c) is using a transfer system that is enclosed and vented through a closed-vent system to a control device as specified in 40 C.F.R. § 63.689(c)(3). Paragraph(c)(3)(ii) requires that the closed-vent system and control device are designed and operated in accordance with 40 C.F.R. § 63.693.

7. The NESHAP at 40 C.F.R. § 63.693(f)(2) requires owners or operators using vapor incinerators to comply with 40 C.F.R. § 63.693 to demonstrate that the control device achieves required performance requirements by either conducting a performance test or design analysis.

8. The NESHAP at 40 C.F.R. § 63.683(c)(1) establishes requirements for process vents at an OSWRO facility. The NESHAP at 40 C.F.R. §§ 63.681 and 63.680(c)(2) defines "process vent" and process vent "affected source," respectively, for the purpose of determining applicability of 40 C.F.R. § 63.683(c)(1). A process vent affected source must meet the control requirements either 40 C.F.R. §§ 63.683 (c)(1)(i) or (ii), or be exempt from controls if the vent meets 40 C.F.R. § 63.683(c)(2)(ii).

9. The NESHAP at 40 C.F.R. § 63.683(c)(2)(ii) exempts a process vent from the requirements of 40 C.F.R. § 63.683(c)(1) if the owner or operator determines that the process vent stream flow rate is less than 0.005 cubic meters per minute (m^3/min) at standard conditions (as defined in 40 C.F.R. § 63.2). The process vent stream flow rate shall be determined with the procedures specified in 40 C.F.R. § 63.694(m).

10. The NESHAP at 40 C.F.R. § 63.680(f) provides that certain provisions of 40 C.F.R. part 63, subpart A, apply to subject OSWRO facilities. Table 2 of 40 C.F.R. part 63, subpart DD specifies which subpart A requirements an OSWRO facility must meet. Among these applicable requirements is 40 C.F.R. § 63.6(f)(2)(iii)(B), which requires conducting performance tests to establish compliance with the NESHAP under "representative operating conditions for the source."

11. The NESHAP at 40 C.F.R. § 63.691(a) establishes requirements for controlling equipment leaks from each equipment component that is part of the affected source for equipment leaks as defined in 40 C.F.R. § 63.680(c)(3).

12. The NESHAP at 40 C.F.R. § 63.680(e)(1)(i) specifies that the owner or operator of an affected source that commenced construction or reconstruction before October 13, 1994 and receives off-site material for the first time before February 1, 2000, must achieve compliance with the provisions of 40 C.F.R. part 63, subpart DD on or before February 1, 2000.

13. The NESHAP at 40 C.F.R. § 63.680(e)(2) specifies that the owner or operator of an affected source that commenced construction or reconstruction on or after October 13, 1994, must achieve compliance with the provisions of 40 C.F.R. part 63, subpart DD on or before July 1, 1996, or upon initial startup of operations, whichever date is later as provided in 40 C.F.R. § 63.6(b).

14. The NESHAP at 40 C.F.R. § 63.7(a)(2), as required by Table 2 of 40 C.F.R. part 63, subpart DD, requires the owner or operator to conduct and submit results of any performance test required under 40 C.F.R. part 63, subpart DD within 180 days after the February 1, 2000 compliance date specified in 40 C.F.R. § 63.680(e)(1)(i), for existing affected sources, or within 180 days after initial start-up, for new affected sources which have an initial start-up date after the effective date of the NESHAP.

15. Under the authority of Section 502 of the Act, 42 U.S.C. § 7661a, the Administrator of U.S. EPA promulgated the part 70 program regulations.

16. Under the authority of 40 C.F.R. § 70.6(b)(1), the Administrator of U.S. EPA may enforce all terms and conditions in a permit issued under a part 70 program, including any provisions designed to limit a source's potential to emit.

17. U.S. EPA gave the Illinois' Clean Air Act Permit Program (CAAPP) interim approval as a 40 C.F.R. part 70 permit program on March 7, 1995. See 60 Fed. Reg. at 12478. U.S. EPA gave full approval to the Illinois CAAPP on December 4, 2001. See 66 Fed. Reg. at 62946.

18. The Illinois Environmental Protection Agency (Illinois EPA) incorporated the requirements of 40 C.F.R. part 63, subpart DD into Safety-Kleen's March 24, 2000 CAAPP permit. The NESHAP requirements described in paragraphs 5 though 10 above are incorporated in Condition 7 of the CAAPP permit.

19. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating the NESHAP regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

U.S. EPA's Findings

20. Safety-Kleen owns and operates an OSWRO facility located at 633 East 138th Street, Dolton, Illinois.

21. The Safety-Kleen facility in Dolton, Illinois is a major source of HAP emissions as defined in 40 C.F.R. § 63.2.

22. Safety-Kleen's facility is a waste management operation that receives "off-site material" as defined under 40 C.F.R. § 63.680(b).

23. U.S. EPA and Illinois EPA jointly issued Safety-Kleen's facility a part B permit to operate as a Resource Conservation and Recovery Act hazardous waste transportation, storage, and disposal facility. The facility therefore is a "waste management operation" and "recovery operation" as defined by 40 C.F.R. §§ 63.680(a)(2) and 63.681.

24. Safety-Kleen failed to timely demonstrate required HAP destruction efficiency for the control device of the drum shredder system under representative operating conditions, as required by the NESHAP and CAAPP permit.

a. The drum shredder system (i.e., drum shredder, hydrapulper, and metal wash unit) at the Safety-Kleen facility is an "off-site material management unit" and is part of an off-site material management unit "affected source" within the meaning of 40 C.F.R. §§

63.681 and 63.680(c)(1).

b. Safety-Kleen has chosen option (i) to comply with 40 C.F.R. § 63.681(b)(1).

c. The drum shredder system is a "transfer system" within the meaning of 40 C.F.R. § 63.681, and therefore, is subject to the requirements under 40 C.F.R. § 63.689(c).

d. Safety-Kleen utilizes a closed vent system and control device to comply with 40 C.F.R. § 63.689(c). The thermal oxidizer (Control 22) for the drum shredder system is a "control device" within the meaning of 40 C.F.R. § 63.681.

e. The drum shredder system at the Safety-Kleen facility is a "new source" within the meaning of 40 C.F.R. § 63.680(e)(2). Safety-Kleen completed constructed the drum shredder system in July 1996 to replace a drum handling system (vats 1 and 2) and drum vent to process waste materials.

f. The thermal oxidizer was originally installed to control emissions from the drum handling system and drum vent. On March 25 through 27, 1996, Safety-Kleen conducted an emissions test to determine the destruction efficiency of the thermal oxidizer (Control 22) and capture efficiency of the process vents that duct to the thermal oxidizer as required for an operating permit. This stack test occurred prior to the construction of the drum shredder system.

g. Safety-Kleen violated the NESHAP at 40 C.F.R. § 63.693(f)(2) and Condition 7.1.7(d) of the CAAPP Permit, because it failed to demonstrate that the thermal oxidizer (Control 22) achieves performance requirements under 40 C.F.R. § 63.693(f)(1) under representative operating conditions. Since the 1996 stack test was conducted before the drum shredder unit replaced the drum handling system and drum vent, this stack test did not demonstrate representative operating conditions. OSWRO facilities must conduct performance tests under representative operating conditions as required under 40 C.F.R. § 63.6(f)(2)(iii)(B). Because the 1996 performance test was not valid for demonstrating compliance with 40 C.F.R. § 63.693(f)(2), Safety-Kleen violated 40 C.F.R. § 63.693(f)(2) until it

conducted a performance test under representative operating conditions on November 14, 2001, and submitted those test results to U.S. EPA on January 3, 2002. The Method 18 results are acceptable to U.S. EPA and Illinois EPA for demonstrating compliance with 40 C.F.R. § 63.693(f)(1)(ii)(A). The Method 25A test results, however, are not acceptable to the Illinois EPA, and therefore, cannot be used to show compliance with 35 IAC 218.105.

25. Safety-Kleen failed to timely demonstrate compliance with process vent requirements under the NESHAP and CAAPP permit for its LUWA #2 and #3 evaporators under representative operating conditions.

a. The LUWA #2 and LUWA #3 evaporators are "process vents" and part of a process vent "affected source" within the meaning of 40 C.F.R. §§ 63.681 and 63.680(c)(2).

b. The LUWA #2 and LUWA #3 evaporators at the Safety-Kleen facility are each an "existing source" within the meaning of 40 C.F.R. § 63.680(e)(1).

c. The chilled vent condensers (Controls 19A and 19B) are "control devices" for the LUWA #2 and LUWA #3 evaporators, within the meaning of 40 C.F.R. § 63.681.

d. Safety-Kleen conducted a flow rate compliance test on the process vent serving the LUWA #2 evaporator on December 21, 1999, and on the process vent serving the LUWA #3 evaporator on January 14, 2000 to meet the exemption requirements in 40 C.F.R. § 63.683(c)(2)(ii). However, the tests initially were not conducted under representative operating conditions, as required by 40 C.F.R. § 63.6(f)(2)(iii)(B), and therefore, did not qualify as flow rate compliance tests demonstrating exemption from emission control requirements under 40 C.F.R. § 63.683(c)(2)(ii).

e. Safety-Kleen violated 40 C.F.R. § 63.693(e)(2) and Condition 7.1.7(c) of the CAAPP Permit by failing to demonstrate that the chilled vent condensers (Controls 19A and 19B) achieve performance requirements under 40 C.F.R. § 63.693(e)(1) under representative operating conditions. Since Safety-Kleen did not conduct the 1999 and 2000 flow rate compliance tests under representative operating conditions, LUWA #2 and LUWA #3 were subject to the control requirements of 40

C.F.R. § 63.684(c)(1). Safety-Kleen violated 40 C.F.R. § 63.684(c)(1) until it demonstrated exemption from these requirements by submitting representative flow rate compliance tests to Illinois EPA on May 15, 2001, and June 13, 2001, for LUWA #2 and LUWA #3, respectively.

26. Safety-Kleen violated the NESHAP and the CAAPP Permit by failing to meet Leak Detection and Repair (LDAR) equipment standards and monitoring requirements.

a. Safety-Kleen operates equipment components which are part of the affected source for equipment leaks under 40 C.F.R. § 63.680(c)(3) and subject to leak detection and control measure requirements under 40 C.F.R. §§ 63.684(d) and 63.691.

b. Safety-Kleen submitted a CAAPP Compliance Certification form on April 30, 2001 which disclosed that Safety-Kleen violated requirements under Condition 7.6.5 and 7.6.7 of the March 24, 2000 CAAPP permit. The period of the violations was between February 2001 and April 2001. Condition 7.6.5 and 7.6.7 contain leak detection equipment standards and leak detection monitoring requirements, respectively. These conditions contain requirements for leak detection under 40 C.F.R. §§ 63.684(d) and 63.691.

27. On May 4, 2001, U.S. EPA issued to Safety-Kleen a Finding of Violation (FOV) concerning the violations for the drum shredder system, and LUWA #1 and #2.

28. On May 31, 2001, representatives of the U.S. EPA and Safety-Kleen discussed the May 8, 2001 FOV.

29. Safety-Kleen submitted to Region 5 a design analysis for the thermal oxidizer on June 29, 2001 to demonstrate compliance with the NESHAP under 40 C.F.R. 63.693(f)(2)(ii). U.S. EPA has not determined that the submitted design analysis shows compliance with 40 C.F.R. 63.693(f)(2)(ii).

30. On February 19, 2002, representatives of the U.S.EPA and Safety-Kleen held a teleconference to discuss the resolution of the May 4, 2001 FOV and the LDAR violations disclosed in the April 30, 2001 CAAPP Compliance Certification.

Compliance Program

31. Within 30 days of the effective date of the Order, Safety-Kleen must comply with the control device monitoring requirements for the thermal oxidizer (Control 22), under the NESHAP at 40 C.F.R. §§ 63.693(f)(3) and 63.695(e), and the March 24, 2000 CAAPP Permit at Conditions 7.1.8(d) and 7.1.8(g). Specifically, Safety-Kleen must establish the minimum operating parameter value or maximum operating parameter value for the thermal oxidizer continuous monitoring system in accordance with the requirements under the NESHAP at 40 C.F.R. § 63.695(e)(3)(i) and the CAAPP permit at 7.1.8(g)(iii)(A). For purposes of this Order, the performance test specified under the NESHAP at 40 C.F.R. §63.695(e)(3)(i) and the CAAPP permit at Condition 7.1.8(g)(iii)(A) shall mean the performance test conducted on the thermal oxidizer on November 14, 2001. Hereafter, Safety-Kleen shall comply with the all the recordkeeping and reporting requirements applicable to the use and maintenance of the thermal oxidizer (Control 22) under the NESHAP at 40 C.F.R. §§ 63.696 and 63.697, and the CAAPP permit at Conditions 7.1.9 and 7.1.10.

32. Hereafter, Safety-Kleen must achieve, demonstrate, and maintain compliance with 40 C.F.R. Part 63, subpart DD for OSWRO, and its current CAAPP permit, at its Dolton Recycle Center in Dolton, Illinois.

General Provisions

33. For purposes of this Order, Safety-Kleen neither admits nor denies the USEPA's Findings or alleged violations, and nothing in this Order shall be construed as an admission of liability by the Company.

34. Without admission of liability, Safety-Kleen agrees to comply with the terms and conditions set forth below while this Order remains in effect. Should Safety-Kleen fail to comply with any provision contained in this Order, Respondent waives any rights it may possess in law or equity to challenge the authority of the U.S. EPA to bring a civil action in the appropriate United States District Court to compel compliance with this Order. With respect to any such civil action brought by U.S. EPA to compel compliance with this Order, Respondent waives any defenses as to jurisdiction, and waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this Order. Respondent's agreement to waive the defenses described herein shall apply only to actions brought by U.S. EPA, or by the United States at the request of U.S. EPA, to compel compliance with this Order, and shall not be construed as a

waiver of any defense to actions brought by persons who are not parties to this Order.

35. This Order constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Safety-Kleen's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

36. This Order does not affect Safety-Kleen's responsibility to comply with other local, state, and federal laws and regulations.

37. This Order does not restrict U.S. EPA's authority to enforce Section 112 of the Act, or any other section of the Act.

38. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for Safety-Kleen's violation of the NESHAP for OSWRO facilities, and federal requirements of Safety-Kleen's CAAPP Permit.

39. Failure to comply with this Order may subject Safety-Kleen to penalties of up to $27,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.

40. The terms of this Order are binding on Safety-Kleen, its assignees and successors. Safety-Kleen must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that Safety-Kleen has given the notice.

41. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will expire one year from the effective date, if Safety-Kleen has complied with all of its terms.

05/10/02
Date

Bruce White, Attorney and Authorized Representative of

Safety-Kleen

6/5/02
Date

Stephen Rothblatt, Acting Director,
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, do hereby certify that a Final Administrative Consent Order, EPA-5-02-113(a)01-IL, was sent by Certified Mail, Return Receipt Requested, to:

Bill Schade, Acting Facility Manager
Safety-Kleen Systems, Inc.
633 East 138th Street
Dolton, Illinois 60419

I also certify that a copy of the Final Administrative Consent Order was sent by First Class Mail to:

Julie Armitage, Acting Manager
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

Bruce White
Karaganis, White & Magel Ltd.
414 North Orleans Street
Suite 810
Chicago, Illinois 60601

on the 10th day of June 2002.

Betty Williams

Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7099340000009586 4051