



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

4949-A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

[www.deq.virginia.gov](http://www.deq.virginia.gov)

L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Gerard Seeley, Jr.  
Regional Director

### WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO SAFETY-KLEEN SYSTEMS, INC. EPA ID Nos. VAD981043011 TXR000050930

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Safety-Kleen Systems, Inc., for the purpose of resolving certain alleged violations of the Virginia Waste Management Act and the Virginia Hazardous Waste Management Regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.

6. "Facility" means the Safety-Kleen Systems, Inc. facility, located at 1200 West 100 Road, in Chester, Virginia.
7. "Permit" means DEQ Hazardous Waste Permit No. VAD981043011, issued to Safety-Kleen Systems, Inc. by DEQ for the treatment and storage of hazardous waste that occurs at the Facility.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "Safety-Kleen" means Safety-Kleen Systems, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
10. "VHWMR" means the Virginia Hazardous Waste Management Regulations 9 VAC 20-60-12 *et seq.*

### **SECTION C: Findings of Fact and Conclusions of Law**

1. The Safety-Kleen facility in Chester, Virginia ("Facility") provides waste management services, including the transport, treatment, and disposal of hazardous waste. The Facility is a large quantity generator of hazardous waste and a registered hazardous waste transporter. Safety-Kleen holds DEQ hazardous waste permit number VAD981043011 ("Permit") for the treatment and storage of hazardous waste that occurs at the Facility.
2. On November 9 and 18, 2005, DEQ conducted inspections of the Safety-Kleen facility. The following issues were noted during the inspections:
  - a. The DEQ inspector observed hairline cracks in the secondary containment system. Internal Safety-Kleen inspectors had not realized that the marks were actual cracks, and therefore did not document them in the logbook or initiate repairs, as required by Section CC.3.b (Tank System) of the Permit.
  - b. Reports of four shipments of unmanifested hazardous waste were not submitted to the Director within 15 days, as required by 40 CFR §264.76 (incorporated by 9 VAC 20-60-264).
  - c. Hazardous waste was transported from two generators using "Conditionally Exempt Small Quantity Generator" as the EPA ID number although both generators had EPA ID numbers assigned in the months prior to the shipments. Safety-Kleen utilized the best information regarding EPA ID numbers available to the general public at the time; however, acceptance of incorrectly completed manifests is prohibited by 40 CFR §263.20(a).
  - d. The emergency contact list was updated however the updated list was not provided to DEQ for a minor permit modification, as required by Part II, Section II.G.3 of the Permit.

3. Notice of Violation ("NOV") No. 2006-01-PRO-602 was issued by DEQ to the Facility on January 25, 2006.
4. A meeting was held on February 22, 2006 to discuss the items listed in the NOV. DEQ and Safety-Kleen representatives discussed the corrective action taken to date and agreed upon a schedule for the items not yet completed. Since the meeting, the cracks discussed in Paragraph C.2.a have been repaired. To correct the unmanifested shipments discussed in Paragraph C.2.b., the Safety-Kleen Chester Branch now manifests all transported loads. Safety-Kleen has also implemented additional internal checks and the use of portable handheld computers to ensure that it has exercised reasonable care to prevent the use of incorrect EPA ID numbers described in Paragraph C.2.c. Safety-Kleen has also submitted the updated emergency contact list, described in Paragraph C.2.d, to DEQ for a minor permit modification.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455(F), orders Safety-Kleen, and Safety-Kleen voluntarily agrees to pay a civil charge of \$12,640 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia" and shall be delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, Safety-Kleen shall include its Federal Identification Number.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Safety-Kleen for good cause shown by Safety-Kleen, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Safety-Kleen by DEQ on January 25, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate

enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Safety-Kleen admits the jurisdictional allegations and factual findings, and conclusions of law contained herein, except that Safety-Kleen does not admit to the conclusions of law in Section C, above.
4. Safety-Kleen consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Safety-Kleen declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Safety-Kleen to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Safety-Kleen shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Safety-Kleen shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Safety-Kleen shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Safety-Kleen. Notwithstanding the foregoing, Safety-Kleen agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Safety-Kleen. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Safety-Kleen from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Safety-Kleen voluntarily agrees to the issuance of this Order.

And it is so ORDERED this August 22, 2006.

  
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Gerard Seeley, Jr., Regional Director  
Department of Environmental Quality

Safety-Kleen voluntarily agrees to the issuance of this Order.

Date: 7/17/06

By:   
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Virgil W. Duffie, III  
Assistant General Counsel, Environmental



## APPENDIX A

1. Safety-Kleen shall provide a copy of the Standard Operating Procedures for drivers picking up used oil **no later than August 15, 2006.**