

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0074-IHW-E **TCEQ ID:** RN100703578 **CASE NO.:** 37040

**RESPONDENT NAME:** Safety-Kleen Systems, Inc.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input checked="" type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Disposal Properties, 5243 Sinclair Road, San Antonio, Bexar County</p> <p><b>TYPE OF OPERATION:</b> Hazardous waste transportation, storage and disposal facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 15, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Michael Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Ricardo Saucedo, Environmental Health &amp; Safety Manager, Safety-Kleen Systems, Inc., 5243 Sinclair Road, San Antonio, Texas 78222  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 24, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 5, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to repair cracks and gaps in secondary containment for the Unit 5 Container Storage Area. Specifically, the investigator noted that beginning on October 29, 2007 and every checklist thereafter through the April 18, 2008 checklist noted cracks and gaps on the floor in the drum storage area. The April 19, 2008 checklist noted that the cracks and gaps had been repaired [30 TEX. ADMIN. CODE § 335.2(b), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 264.15(c), and Permit No. HW-50246-001, Section I.B and III.D].</p> <p>2) Failure to conduct adequate daily inspections of the solvent waste tank in Unit 4 [30 TEX. ADMIN. CODE § 335.2(b), 40 CFR § 265.15(a), and Permit No. HW-50246-001, Section I.B. and III.D].</p>	<p><b>Total Assessed:</b> \$1,750</p> <p><b>Total Deferred:</b> \$350  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,400</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent:</p> <p>a. repaired the cracks and gaps in secondary containment area of the Unit Container Storage Area as noted in the daily checklist comments sections dated April 19, 2008; and</p> <p>b. submitted a letter dated January 2, 2009 indicating that the wasp nest was removed from the sprinkler system line above the solvent waste tanks in Unit 4.</p>

Additional ID No(s): 69048, 50246



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	15-Dec-2008			
	PCW	26-Jan-2009	Screening	15-Jan-2009	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>					
Respondent	Safety-Kleen Systems, Inc.				
Reg. Ent. Ref. No.	RN100703578				
Facility/Site Region	13-San Antonio	Major/Minor Source	Major		

<b>CASE INFORMATION</b>					
Enf./Case ID No.	37040	No. of Violations	2		
Docket No.	2009-0074-IHW-E	Order Type	1660		
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Michael Meyer		
		EC's Team	Enforcement Team 7		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	\$2,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	5.0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	\$100
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Notes: One previous NOV for same or similar violations during the last five years.

<b>Culpability</b>	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<i>Subtotal 5</i>	\$350
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<b>Economic Benefit</b>	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts: \$3  
 Approx. Cost of Compliance: \$120  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	\$1,750
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* \$1,750

<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	\$1,750
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<b>DEFERRAL</b>	20.0% Reduction	<i>Adjustment</i>	-\$350
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$1,400
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**Screening Date** 15-Jan-2009

**Docket No.** 2009-0074-IHW-E

**PCW**

**Respondent** Safety-Kleen Systems, Inc.

Policy Revision 2 (September 2002)

**Case ID No.** 37040

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN100703578

**Media [Statute]** Industrial and Hazardous Waste

**Enf. Coordinator** Michael Meyer

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 5%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

One previous NOV for same or similar violations during the last five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

<b>Screening Date</b> 15-Jan-2009		<b>Docket No.</b> 2009-0074-IHW-E		<b>PCW</b>
<b>Respondent</b> Safety-Kleen Systems, Inc.				<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 37040				<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b> RN100703578				
<b>Media [Statute]</b> Industrial and Hazardous Waste				
<b>Enf. Coordinator</b> Michael Meyer				
<b>Violation Number</b>	<input type="text" value="1"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 335.2(b), 40 Code of Federal Regulations (CFR) § 264.15(c) and Permit No. HW- 50246-001, Section I.B. and III.D.			
<b>Violation Description</b>	Failed to repair cracks and gaps in secondary containment, as documented during an investigation conducted on September 24, 2008. Specifically, during review of the Facility's daily inspection checklists for Unit 5 Container Storage Area the investigator noted that beginning on October 29, 2007 and every check checklist thereafter through April 18, 2008 noted cracks and gaps on the floor in the drum storage area. The April 19, 2008 checklist noted that cracks and gaps had been repaired.			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
		Major	Moderate	Minor
	<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Potential</b>	<input type="text"/>	<input type="text"/>	x	
				<b>Percent</b> <input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.			
<b>Adjustment</b>				<input type="text" value="\$9,000"/>
				<input type="text" value="\$1,000"/>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>	
		<input type="text" value="172"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
				<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
One single event is recommended.				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/> Reduction		<input type="text" value="\$250"/>
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	x	<input type="text"/>	<input type="text"/>	
N/A	<input type="text"/>	(mark with x)		
<b>Notes</b>	The Respondent came into compliance on April 19, 2008 prior to the December 5, 2008 NOE.			
<b>Violation Subtotal</b>				<input type="text" value="\$750"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$2"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$800"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$800"/>

## Economic Benefit Worksheet

**Respondent** Safety-Kleen Systems, Inc.  
**Case ID No.** 37040  
**Reg. Ent. Reference No.** RN100703578  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	29-Oct-2007	19-Apr-2008	0.47	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to repair the gaps in the secondary containment for Unit 5. The Date Required is the beginning of the violation and the Final Date is the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$2

<b>Screening Date</b> 15-Jan-2009	<b>Docket No.</b> 2009-0074-IHW-E	<b>PCW</b>
<b>Respondent</b> Safety-Kleen Systems, Inc.	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 37040	<small>PCW Revision October 30, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN100703578		
<b>Media [Statute]</b> Industrial and Hazardous Waste		
<b>Enf. Coordinator</b> Michael Meyer		
<b>Violation Number</b>	2	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 335.2(b), 40 CFR § 265.15(a) and Permit No. HW-50246-001, Section I.B. and III.D.	
<b>Violation Description</b>	Failed to conduct adequate daily inspections of the solvent waste tank in Unit 4, as documented during an investigation conducted on September 24, 2008.	
<b>Base Penalty</b>		\$10,000

**>> Environmental, Property and Human Health Matrix**

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	X	<b>Percent</b> <input type="text" value="10%"/>

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="0%"/>

**Matrix Notes** Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

**Adjustment**

**Violation Events**

**Number of Violation Events**  **Number of violation days**

<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
single event	X	

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply** 10.0% Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	X
N/A	<small>(mark with x)</small>	

**Notes** The Respondent submitted compliance documentation on January 2, 2009.

**Violation Subtotal**

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent:** Safety-Kleen Systems, Inc.  
**Case ID No.:** 37040  
**Reg. Ent. Reference No.:** RN100703578  
**Media:** Industrial and Hazardous Waste  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20	24-Sep-2008	2-Jan-2009	0.27	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct daily inspections of Tank 4 (solvent waste tank). The Date Required is the investigation date and the Final Date is the date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20

**TOTAL**

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600128128 Safety-Kleen Systems, Inc. Classification: AVERAGE Rating: 2.27  
 Regulated Entity: RN100703578 DISPOSAL PROPERTIES Classification: AVERAGE Site Rating: 6.25

ID Number(s):  
 INDUSTRIAL AND HAZARDOUS WASTE GENERATION EPA ID TXD000729400  
 INDUSTRIAL AND HAZARDOUS WASTE GENERATION SOLID WASTE REGISTRATION # (SWR) 69048  
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER BG1311W  
 AIR NEW SOURCE PERMITS PERMIT 50773  
 USED OIL REGISTRATION A85165  
 USED OIL EPA ID TXD000729400  
 STORMWATER PERMIT TXR05K194  
 MUNICIPAL SOLID WASTE PROCESSING REGISTRATION 40138  
 INDUSTRIAL AND HAZARDOUS WASTE STORAGE PERMIT 50246

Location: 5243 SINCLAIR RD, SAN ANTONIO, TX, 78222

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: May 12, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 10, 2004 to January 09, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Staff Name Phone: 239 - 4492

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

N/A  
 1 08/31/2006 (488425)  
 2 03/30/2007 (543065)  
 3 12/09/2008 (704262)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/31/2006 (488425) CN600128128

N/A

Self NO Classification: Minor  
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)  
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT BB 264.1050(d)  
 Description: Failure to mark each piece of equipment in a manner that can be distinguished

readily from other pieces of equipment.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)

30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)  
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT BB 264.1058(a)  
 Description: Failure to monitor within 5 days by method 21, if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)  
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT BB 264.1063(b)(1)  
 Description: Failure to conduct leak detection using monitoring Method 21.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)  
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT BB 264.1063(h)  
 Description: Failure to demonstrate that a sufficient vapor pressure determination had been conducted on spent parts washer solvent.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)  
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1084(c)(2)(ii)  
 Description: Failure to maintain fixed roof Level 1 Tanks in a manner such that there are no visible cracks, holes, gaps, or other open spaces between roof section joints or between the interface of the roof edge and the tank wall.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)  
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1084(c)(3)  
 Description: Failure to have the tank closure device secured in the closed position except when adding or removing waste or conducting maintenance on the tank.  
 Self Report? NO Classification: Moderate  
 Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.196(a)  
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.196(b)  
 III.D PERMIT  
 Description: Failure to repair permitted unit #6 tank within 24 hours and maintain documentation of repairs.  
 Self Report? NO Classification: Moderate  
 Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)  
 V.B.3. PERMIT  
 Description: Failure to repair cracks and gaps in permitted secondary containment areas.  
 Self Report? NO Classification: Moderate  
 Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)  
 IV.B.1. PERMIT  
 Description: Waste stored in permitted container storage area not authorized in the permit. Failure to authorize used oil filters in the permit for storage in the permitted container storage area.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SAFETY-KLEEN SYSTEMS, INC.  
RN100703578

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0074-IHW-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Safety-Kleen Systems, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a hazardous waste transportation, storage and disposal facility located at 5243 Sinclair Road in San Antonio, Bexar County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 10, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Seven Hundred Fifty Dollars (\$1,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Four Hundred Dollars (\$1,400) of the administrative penalty and Three Hundred Fifty Dollars (\$350) is deferred contingent upon the

Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent:
  - a. repaired the cracks and gaps in secondary containment area of the Unit Container Storage Area as noted in the daily checklist comments sections dated April 19, 2008; and
  - b. submitted a letter dated January 2, 2009 indicating that the wasp nest was removed from the sprinkler system line above the solvent waste tanks in Unit 4.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to repair cracks and gaps in secondary containment for the Unit 5 Container Storage Area, in violation of 30 TEX. ADMIN. CODE § 335.2(b), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 264.15(c) and Permit No. HW-50246-001, Section I.B and III.D., as documented during an investigation conducted on September 24, 2008. Specifically, the investigator noted that beginning on October 29, 2007 and every checklist thereafter through the April 18, 2008 checklist noted cracks and gaps on the floor in the drum storage area. The April 19, 2008 checklist noted that the cracks and gaps had been repaired.
2. Failed to conduct adequate daily inspections of the solvent waste tank in Unit 4, in violation of 30 TEX. ADMIN. CODE § 335.2(b), 40 CFR § 265.15(a) and Permit No. HW-50246-001, Section I.B. and III.D. as documented during an investigation conducted on September 24, 2008.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Safety-Kleen Systems, Inc., Docket No. 2009-0074-IHW-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*John Ordlin*  
For the Executive Director

5/27/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Ricardo Saucedo*  
Signature

4/16/09  
Date

RICARDO SAUCEDO  
Name (Printed or typed)  
Authorized Representative of  
Safety-Kleen Systems, Inc.

ENVIRONMENTAL, HEALTH & SAFETY MGR.  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.