

OHIO E.P.A.

JUL 16 2001

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Safety-Kleen Systems, Inc.
581 Milliken Drive SE
Hebron, Ohio 43025

Respondent

**Director's Final
Findings and Orders**

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Safety-Kleen Systems, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under § 3734.13 and § 3745.01 of the Ohio Revised Code ("ORC").

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent, its assigns and successors in interest. No changes in ownership relating to the Facility will in any way alter Respondent's responsibilities under these Orders. Respondent's obligations under these Orders may be altered only by the written approval of the Director of Ohio EPA.

III. DEFINITIONS

1. Unless otherwise stated, all terms in these Orders shall have the same meaning as used in Chapter 3734. of the ORC and the regulations promulgated thereunder.

2. The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

IV. FINDINGS OF FACT

The Director of Ohio EPA has determined the following findings of fact:

1. Respondent, a Wisconsin corporation, was licensed to do business in Ohio on March 10, 1998.
2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code ("OAC") rule 3745-50-10(A).
3. Respondent owns and operates a hazardous waste container and tank storage facility at 581 Milliken Drive SE, Hebron, Ohio ("Facility") and generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03.
4. Respondent is authorized to store hazardous waste in containers and tanks in accordance with the terms and conditions of its Ohio Hazardous Waste Facility Installation and Operation Permit No. 01-45-0518 ("Permit"), issued and effective June 30, 1998, ORC Chapter 3734., and all applicable Ohio hazardous waste rules.
5. Permit Condition D.2(a) requires the design, construction and operation of secondary containment systems in accordance with the designed plans and descriptions contained in the Permit application and OAC rules 3745-55-93(B) through (F).
6. In accordance with Permit Condition D.2(a), Respondent was required to complete the application of an impermeable coating or lining to the secondary containment systems for Tank Farms 1 and 2 by February 1, 2001.
7. In May and December 2000, Ohio EPA verbally made Respondent aware of the requirements set forth in Finding Nos. 5 and 6.
8. By letter dated January 31, 2001, Respondent notified Ohio EPA that Respondent would be out of compliance with the secondary containment requirements referenced in Finding Nos. 5 and 6.

9. On February 14, 2001, Ohio EPA conducted an inspection at the Facility to determine compliance with the Permit and Ohio's hazardous waste rules with respect to the secondary containment systems for Tank Farms 1 and 2. As a result of the inspection, Ohio EPA determined that Respondent had failed to provide the secondary containment systems for Tank Farms 1 and 2 with an impermeable coating or lining, in violation of OAC Rule 3745-55-93(C)(1) and Permit Condition D.2(a).
10. By letter dated February 21, 2001, Ohio EPA notified Respondent of the results of the February 14, 2001 inspection.
11. By letter dated May 21, 2001, Respondent provided a response to Ohio EPA's February 21, 2001, NOV letter.
12. By letter dated June 4, 2001, Ohio EPA notified Respondent that the violations referenced in Finding No. 9 had been abated.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of six thousand dollars (\$6,000) in settlement of Ohio EPA's claims for civil penalties which may be assessed for noncompliance pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by tendering a certified check for \$6,000 to Ohio EPA, Department 631, Columbus, Ohio 43265-0631, made payable to "Treasurer, State of Ohio." A copy of this check shall be submitted in accordance with Section IX of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt and successful negotiation of the certified check required above.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a signatory to these Orders, for any liability arising out of or relating to the operations of Respondent's Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent's operation of its Facility. Ohio EPA reserves all rights and privileges except as specified herein.

IX. NOTICE

All documents demonstrating compliance with these Orders, and other documents required under these Orders to be submitted to Ohio EPA, shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
3232 Alum Creek Drive
Columbus, Ohio, 43207-3417

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Christopher Jones, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
Attn: Manager, Compliance Assurance Section
P.O. Box 1049
Columbus, Ohio 43216-1049

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

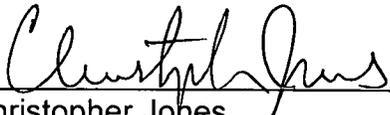
X. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. SIGNATORIES

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such signatory to this document.

IT IS SO ORDERED:



Christopher Jones
Director

JUL 16 2001

Date

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations addressed in these Orders, Respondent agrees that these Orders are lawful and reasonable, that the

times provided for compliance herein are reasonable and that Respondent agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations cited herein.

Respondent hereby waives the right to appeal the issuance, terms and service of these Orders and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

IT IS SO AGREED:

Safety-Kleen Systems, Inc.



6-28-01
Date

FACILITY MANAGER
Title

Ohio Environmental Protection Agency



Christopher Jones
Director

JUL 16 2001
Date