

OHIO E.P.A.

MAR 19 2010

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY DIRECTOR'S JOURNAL

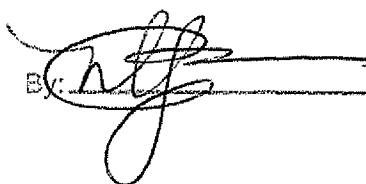
In the Matter of:

Safety-Kleen Systems, Inc.
5360 Legacy Drive
Building 2, Suite 100
Plano, Texas 75024

Respondent

Director's Final
Findings and Orders

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

By:  Date: 3/19/10

PREAMBLE

It is agreed by 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 Ohio Revised Code (ORC) §§ 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC §3734.01(G) and 6111.01 and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent owns and operates a hazardous and industrial waste transporter and transfer facility at 5148 Tractor Road, Toledo, Lucas County, Ohio (Facility).
3. Respondent notified Ohio EPA of its hazardous waste activities at the Facility and was issued an U.S. EPA identification number OHD981097876.
4. Respondent transports various industrial wastes, used oil and hazardous waste as those terms are defined by ORC §3734.01, ORC §6111.01 and OAC rules 3745-50-10(A) and 3745-51-03.
5. On November 19, 2008, Ohio EPA was notified by a representative of Evergreen Recycling and Disposal Facility, Inc. (Evergreen) regarding Evergreen's acceptance, receipt, treatment and disposal of potentially hazardous waste from Respondent. Evergreen's representative indicated the waste received was not approved for management at their facility.
6. On November 20, 2008, Ohio EPA was notified by Respondent of shipments of waste to Evergreen. According to Respondent, due to internal procedural operating errors, the shipments were erroneously sent to Evergreen.
7. In correspondence dated December 8, 2008, Respondent provided additional information regarding the waste shipments to Evergreen. Respondent acknowledged from July 2005 through June 2008, at least six different generator waste streams on at least thirty-six (36) occasions were transported to Evergreen improperly.
8. In correspondence dated January 7, 2009, Ohio EPA sent Respondent a request for further information regarding the shipments from Respondent to Evergreen.
9. In correspondence dated March 9, 2009, Respondent provided information referenced in Finding No. 8.
10. In an electronic correspondence dated March 25, 2009, Ohio EPA requested additional information regarding the shipments of waste to Evergreen from Respondent.

11. In correspondence dated July 9, 2009, Respondent provided information requested by Ohio EPA referenced in Finding No. 10.
12. Based upon the information provided by Respondent, Ohio EPA determined Respondent transported characteristically hazardous waste to a facility that does not hold a hazardous waste installation and operation permit, nor is otherwise authorized to receive hazardous waste, in violation of ORC 3734.02(F), on at least thirty-six (36) occasions. Ohio EPA determined that each shipment was characteristically hazardous waste, as described in OAC rule 3745-51-24, for lead (D008) and occasionally for cadmium (D006) and chromium (D007). Ohio EPA also determined Respondent failed to comply with Land Disposal Restriction Notification requirements, in violation of OAC rule 3745-270-07(A)(2), in association with each shipment to Evergreen.
13. In correspondence dated July 24, 2009, Ohio EPA notified Respondent of the violations referenced in Finding No. 12. of these Orders. Ohio EPA informed Respondent in this correspondence that no further action was required at this time in regards to the violations.

V. ORDERS

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

1. Respondent shall pay Ohio EPA the amount of \$40,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734., in accordance with the following provisions:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$32,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed 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 an official check made payable to "Treasurer, State of Ohio" for \$32,000.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying the Respondent and the Facility. A copy of this check shall be submitted in accordance with Section X. of these Orders.

- b. In lieu of paying the remaining \$8,000.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$8,000.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$8,000.00. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.
- c. Should Respondent fail to fund the SEP within the required time frame established in Order No. 1.b., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1.b., the amount of \$8,000.00 in accordance with the procedures in Order No. 1.a.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

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 party to these Orders, for any liability arising from, or related to, the operation 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. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Hazardous Waste Management
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

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

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

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 specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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

Notwithstanding the preceding, Ohio EPA and Respondent agree that if 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.

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Chris Korleski
Director

March 19, 2010

Date

IT IS SO AGREED:

Safety-Kleen Systems, Inc.



Signature

03/12/10

Date

Virgil Duffie

Printed or Typed Name

Assistant Secretary

Title