UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

IN THE MATTER OF: **SAFETY-KLEEN SYSTEMS, INC.** 24-40 Seaview Avenue Bridgeport, Connecticut 06607, Respondent. Proceeding under Section 325(c) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11045(c)	Docket No: EPCRA-01-2018-0035 **CONSENT AGREEMENT AND FINAL ORDER**

Complainant, the United States Environmental Protection Agency, Region 1 ("EPA"), alleges that Respondent Safety-Kleen Systems, Inc. ("Safety-Kleen" or "Respondent") violated Section 313 of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11023 (also known as the Emergency Planning and Community Right-to-Know Act or "EPCRA"), and the federal regulations promulgated thereunder.

EPA and Respondent agree that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving this matter. Pursuant to 40 C.F.R. § 22.13(b) of EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. Part 22, EPA and Respondent agree to simultaneously commence and settle this action by the issuance of this CAFO.

Therefore, before any hearing, without adjudication of any issue of fact or law, upon the record, and upon consent and agreement of EPA and Respondent, it is hereby ordered and agreed as follows:

I. STATUTORY AND REGULATORY AUTHORITY

1. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated the Toxic Chemical Release Reporting: Community Right-to-Know Rule, 40 C.F.R. Part 372.

2. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), requires owners or operators of a facility subject to the requirements of Section 313(b) to submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (hereinafter, "Form R"), for each toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, processed, or otherwise used during the preceding calendar year in quantities exceeding the toxic chemical thresholds established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25 and 372.28. If the owner or operator determines that the alternative reporting threshold specified in 40 C.F.R. § 372.27 applies, the owner or operator may submit an alternative threshold certification statement that contains the information required under 40 C.F.R. § 372.95 (the alternative threshold certification statement is also known as "Form A"). Each Form R or Form A is required to be submitted to the Administrator of EPA and to the state in which the subject facility is located. Forms R and Forms A are hereinafter referred to as "TRI Forms."

3. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide that owners or operators of facilities that have 10 or more full-time employees; that are in a Standard Industrial Classification ("SIC") code or North American Industry Classification System ("NAICS") code set forth in 40 C.F.R. § 372.23; and that manufactured, processed, or otherwise used a toxic chemical listed under 40 C.F.R. § 372.65 in a quantity exceeding the established threshold during a calendar year are required to submit a Form R or Form A for each of these substances for that year.

4. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1) (as amended by the Federal Civil Penalties Inflation Adjustment Act, 28 U.S.C. § 2461, and the Debt Collection Improvement Act, 31 U.S.C. § 3701), and EPA's Civil Monetary Penalty Inflation Adjustment Rule, promulgated thereunder at 40 C.F.R. Part 19, authorize the assessment of civil administrative penalties of up to $37,500 for each violation of Section 313 of EPCRA that occurred from January 12, 2009 through November 2, 2015, and civil administrative penalties of up to $57,317 for each violation of Section 313 of EPCRA that occurred after November 2, 2015. Pursuant to Section 325(c)(3) of EPCRA, 42 U.S.C. § 11045(c)(3), each day a Section 313 violation continues constitutes a separate violation.

II. GENERAL ALLEGATIONS

5. Safety-Kleen is a corporation organized under the laws of the State of Connecticut with a usual place of business at 24-40 Seaview Avenue, Bridgeport, Connecticut (the "Facility").

6. Respondent receives and transfers used motor oil for recycling and receives windshield wiper fluid and antifreeze for distribution.

7. Safety-Kleen owns and operates the Facility.

8. On February 3, 2017, EPA issued a "show cause" letter to Respondent to determine its compliance with EPCRA Section 313 reporting requirements. Respondent replied to the show cause letter on March 31, 2017.

9. As a corporation or partnership, Respondent is a "person" within the meaning of Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

10. Respondent owns and operates a "facility," as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

11. The Facility has more than 10 "full-time employees," as that term is defined by 40 C.F.R. § 372.3.

12. The Facility is classified in a SIC code or NAICS code set forth in 40 C.F.R. § 372.23.

13. During the calendar year 2015, Respondent processed ethylene glycol, a toxic chemical listed under 40 C.F.R. § 372.65, in quantities exceeding the established threshold of 25,000 pounds set forth at 40 C.F.R. § 372.25.

14. During the calendar year 2015, Respondent processed lead compounds, a toxic chemical listed under 40 C.F.R. § 372.65, in quantities exceeding the established threshold of 100 pounds set forth at 40 C.F.R. § 372.28.

15. During the calendar year 2015, Respondent processed zinc compounds, a toxic chemical listed under 40 C.F.R. § 372.65, in quantities exceeding the established threshold of 25,000 pounds set forth at 40 C.F.R. § 372.25.

16. During the calendar year 2015, Respondent processed methanol, a toxic chemical listed under 40 C.F.R. § 372.65, in quantities exceeding the established threshold of 25,000 pounds set forth at 40 C.F.R. § 372.25.

17. During the calendar year 2015, Respondent processed polycyclic aromatic compounds (PACs), a toxic chemical listed under 40 C.F.R. § 372.65, in quantities exceeding the established threshold of 100 pounds set forth at 40 C.F.R. § 372.28.

18. During the calendar year 2015, Respondent processed benzo(g,h,i)perylene, a toxic chemical listed under 40 C.F.R. § 372.65, in quantities exceeding the established threshold of 10 pounds set forth at 40 C.F.R. § 372.28.

19. The requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, therefore apply to the Facility.

III. VIOLATIONS

Count 1: Failure to Timely File TRI Form for Ethylene Glycol for Reporting Year 2015

20. The foregoing paragraphs 1 through 19 are incorporated by reference as if fully set forth herein.

21. During the calendar year 2015, Respondent processed ethylene glycol, a chemical listed under 40 C.F.R. § 372.65, in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2016.

22. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2016.

23. Respondent's failure to timely submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 2: Failure to Timely File TRI Form for Lead Compounds for Reporting Year 2015

24. The foregoing paragraphs 1 through 23 are incorporated by reference as if fully set forth herein.

25. During the calendar year 2015, Respondent processed lead compounds, a chemical listed under 40 C.F.R. § 372.65, in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2016.

26. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2016.

27. Respondent's failure to timely submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 3: Failure to Timely File TRI Form for Zinc Compounds for Reporting Year 2015

28. The foregoing paragraphs 1 through 27 are incorporated by reference as if fully set forth herein.

29. During the calendar year 2015, Respondent processed zinc compounds, a chemical listed under 40 C.F.R. § 372.65, in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2016.

30. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2016.

31. Respondent's failure to timely submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 4: Failure to Timely File TRI Form for Methanol for Reporting Year 2015

32. The foregoing paragraphs 1 through 31 are incorporated by reference as if fully set forth herein.

33. During the calendar year 2015, Respondent processed methanol, a chemical listed under 40 C.F.R. § 372.65, in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2016.

34. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2016.

35. Respondent's failure to timely submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 5: Failure to Timely File TRI Form for PACs for Reporting Year 2015

36. The foregoing paragraphs 1 through 35 are incorporated by reference as if fully incorporated herein.

37. During calendar year 2015, Respondent processed polycyclic aromatic compounds, chemicals listed under 40 C.F.R. § 372.65, in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for these chemicals on or before July 1, 2016.

38. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2016.

39. Respondent's failure to timely submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

Count 6: Failure to Timely File TRI Form for Benzo(g,h,i)perylene for Reporting Year 2015

40. The foregoing paragraphs 1 through 39 are incorporated by reference as if fully incorporated herein.

41. During calendar year 2015, Respondent processed Benzo(g,h,i)perylene, a chemical listed under 40 C.F.R. § 372.65, in a quantity exceeding the established threshold. Respondent was therefore required to submit to the Administrator of EPA a TRI Form for this chemical on or before July 1, 2016.

42. Respondent failed to submit this form to the Administrator of EPA on or before July 1, 2016.

43. Respondent's failure to timely submit this form was in violation of Section 313 of EPCRA and 40 C.F.R. Part 372.

IV. TERMS OF SETTLEMENT

44. Respondent certifies that it has corrected the alleged violations cited in this CAFO and will operate the facility in compliance with Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder found at 40 C.F.R. Part 372.

45. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO and that this CAFO states a claim upon which relief may be granted against Respondent. Respondent hereby waives any defenses it might have as to jurisdiction and venue.

46. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this CAFO and waives its right to appeal the Final Order.

47. Without admitting or denying the facts and violations alleged in this CAFO, Respondent consents to the terms and issuance of this CAFO and agrees to the payment of the civil penalty set forth herein.

48. Pursuant to the relevant factors for penalties issued pursuant to Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), and taking into account any such matters as justice may require, Complainant has determined that it is fair and proper that Respondent pay a total civil penalty in the amount of eighty-two thousand dollars ($82,000) to resolve the violations alleged in this matter.

49. Within thirty (30) days of the effective date of this CAFO, Respondent shall submit a company, bank, cashier's, or certified check in the amount of $82,000, payable to the order of the "Treasurer, United States of America." The check should be sent as follows:

If remitted by regular U.S. mail:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Include the phrase "Government Lockbox 979077" on the shipping label.

Or, Respondent may make payment by electronic funds transfer via:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

Respondent shall include the case name and docket number ("*In re Safety-Kleen Systems, Inc.*, Docket No. EPCRA-01-2018-0035") on the face of the check or wire transfer confirmation. In addition, at the time of payment, Respondent shall simultaneously send notice of the payment and a copy of the check or electronic wire transfer confirmation to:

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: 04-6
Boston, MA 02109-3912

and

Sarah Meeks
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: 04-3

Boston, MA 02109-3912

50. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In the event that any partial payment of the civil penalty, plus interest thereon, is not paid when due without demand, the penalty plus accrued interest shall be payable with additional interest from the original due date to the date of payment, at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees. In addition, a penalty charge of six percent per year, compounded annually, will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment becomes due in accordance with 31 C.F.R. § 901.9(d).

51. The civil penalty under this CAFO and any interest, nonpayment penalties, and other charges described herein shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f), and shall not be deductible for purposes of federal, state, or local law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.162-21 of the Internal Revenue Code, 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

52. The provisions of this CAFO shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

53. Respondent shall bear its own costs and attorneys' fees in this proceeding and specifically waives any right to recover such costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

54. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325(c)(1) of EPCRA for the violations specifically alleged in this CAFO. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public.

55. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions if Respondent is in violation of this CAFO or continues to be in violation of the statutes and regulations upon which the allegations in this CAFO are based, or for Respondent's violation of any other applicable provision of federal, state, or local law.

56. Each of the undersigned representatives of the parties certifies that he or she is fully authorized by the party responsible to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

57. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of all parties, and approval of a Regional Judicial Officer.

58. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which this CAFO is filed with the Regional Hearing Clerk.

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:

Date: 8/1/19

Karen McGuire, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 1

FOR RESPONDENT SAFETY-KLEEN SYSTEMS, INC.:

Date: 7-16-19

Bill Ross, Senior Vice President
Safety-Kleen Systems, Inc.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

IN THE MATTER OF: **SAFETY-KLEEN SYSTEMS, INC.** 24-40 Seaview Avenue Bridgeport, Connecticut 06607, Respondent. Proceeding under Section 325(c) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11045(c)	Docket No: EPCRA-01-2018-0035 **CONSENT AGREEMENT AND FINAL ORDER**

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) and (c) of EPA's Consolidated Rules of Practice, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent, Safety-Kleen Systems, Inc., is ordered to pay the civil penalty amount specific in the Consent Agreement, in the manner indicated.

The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

Date: August 1, 2019

LeAnn Jensen
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1