

CIVIL PENALTY AUTHORIZATION  
SOUTHWEST DISTRICT

Investigator: Lynne Milanian, Permitting Engineer

Date Submitted: August 2, 1990

1. VIOLATORS:

Safety-Kleen Corporation  
777 Big Timber Road  
Elgin, Illinois 60123

FLD 98087271

RECEIVED  
SEP 10 1990

2. LOCATION OF VIOLATION:

24th Avenue and 54th Street  
Tampa, Hillsborough County, Florida 33619

HAZARDOUS WASTE  
CONSULTING

3. NATURE OF VIOLATION:

The violator, Safety-Kleen Corporation, is a hazardous waste storage facility operating under a construction and operation permit (CP&OP), as a result of an agreement worked out with Tallahassee per memorandum dated September 28, 1988. The facility deviated from construction plan approval and submitted inaccurate information to the Department concerning the as-built and/or completed structures in an attempt to support the issuance of their permanent operating permit. An inspection conducted on June 19, 1990 to verify the completion of the constructed facility as certified by Safety-Kleen revealed the following violations:

A. The facility submitted inaccurate documentation (i.e., calculations, diagrams and narrative) which was utilized to support the operating permit application in violation of Section 403.727(1)(e), F.S.

- The facility failed to construct the north building container storage area in accordance with diagrams submitted in the construction permit and in the operating permit application.

- The facility failed to construct the solvent return/fill area loading dock in accordance with diagrams submitted in the construction permit and in the operating permit application.

- The facility failed to construct the south building container storage area in accordance diagrams submitted in the construction permit and in the operating permit application.

- B. The facility failed to comply with tank system standards pertaining to three dumpsters receiving and storing hazardous wastes, for transfer to a larger 15,000 gallon tank, in violation of 40 CFR Subpart J.
- The facility failed to provide a written assessment, reviewed and certified by an independent professional engineer detailing the integrity of the three dumpsters, which are ancillary equipment in violation of 40 CFR 264.192(a)(1).
  - The facility failed to provide design considerations for the ancillary equipment in violation of 40 CFR 264.192(a)(5).
  - The facility failed to provide a report detailing proper installation of the ancillary equipment in violation of 40 CFR 264.192(b).
  - The facility failed to provide a report establishing tightness for the ancillary equipment in violation of 40 CFR 264.192(d).
  - The facility failed to maintain written statements certifying the design of the entire tank system on file at the facility in violation of 40 CFR 264.192(g).
  - The facility failed to provide containment capable of containing 100 percent of the capacity of the largest dumpster within the system's boundary in violation of 40 CFR 264.193(e).
- C. The facility has failed to provide adequate secondary containment for the drum storage area in the north building in violation of 40 CFR 264.175(b)(3). Narrative, calculations and diagrams contained in the permit application describe a storage area able to support 6,192 gallons of liquid hazardous waste. Actual liquid hazardous waste storage capacity is approximately 1890 gallons.
- D. The facility failed to design the building to minimize unplanned sudden or non-sudden releases of hazardous waste or hazardous waste constituents to air, soil or waters which could threaten human health or the environment in violation of 40 CFR 264.31.
- A grated manhole adjacent to the hazardous waste storage area and a floor drain at the base of the stairwell were observed in the north building. These two drainage systems will convey any collected liquids to the on-site septic system.

A. 403.727 (1)(e)

Could change to  
Major / moderate +  
then make (17,500)  
adjustment for lack  
of good faith  
(10-20%)

- Two hazardous waste containment systems located in the south building will discharge their contents upon capacity exceedance directly out the south end of the building. Any liquid wastes discharged in this manner will proceed down the asphalt pavement and enter a drainage swale. The swale is supposed to be graded towards an on-site unlined retention pond. However, excess rainfall and/or liquid waste discharge will cause backflow in the receiving drainage swale which will cause liquids to enter a concrete spillway and flow off-site.

Three notice of deficiencies were drafted to Safety-Kleen, and each time repeated requests were made for diagrams for the same areas (i.e., solvent/fill return area, service center storage area particularly for containment, and the accumulation center storage area also for containment). Further, it was clearly stated that all calculations and diagrams must be signed and sealed. Safety-Kleen only sealed the documents in response to the first NOD.

Safety-Kleen has been operating this facility under an agreement with the Department granting interim status. An intent to deny the permit has been drafted. In addition, the RCRA Enforcement Response Policy requires penalties to be assessed.

#### 4. PENALTY RATIONALE

The following is an evaluation of the assessed civil penalty of \$42,000.00 for non-compliance with RCRA requirements prepared in accordance with EPA and Department penalty policies. The monetary figure has been derived as follows:

A. Section 403.727(1)(e), F.S. - Willing submission of false documentation, including calculations, diagrams and narrative, which was utilized to support the operating permit application.

A "Major Potential for Harm" was chosen as the facility deliberately resubmitted the same documents to verify certification of completion of construction of their storage facility to support their request for an operating permit. Further, as the RCRA program is a "self monitoring" system much damage will occur if the professionals documenting projects cannot be relied upon. A "Major Deviation of the Rule" was chosen because this office requested information four times concerning these documents and each time false information was submitted.

The facility has completely failed to supply this office with accurate information as disclosed during the on-site inspection.

Penalty Range - \$20,000 - \$25,000

Penalty Chosen - \$22,500

B. 40 CFR Subpart J - Failed to comply with tank systems standards.

A "Moderate Potential for Harm" was selected as the 3 wet dumpsters within the tank system store only a small part of the total volume of the tank system. A "Moderate Deviation of the Rule" was selected as the facility specifically stated that the wet dumpsters do not store waste although they do.

Penalty Range - \$7,999 - \$5,000  
Penalty Chosen - \$6,500

C. 40 CFR 264.175(b)(3) - Failure to provide adequate secondary containment for the container storage area.

A "Moderate Potential for Harm" was chosen as the wastes are not acutely toxic and they will be stored inside the building. A "Moderate Deviation of the Rule" was chosen as some containment was provided, however, this containment was 3 times smaller than what was reported.

Penalty Range - \$7,999 - \$5,000  
Penalty Chosen - \$6,500

D. 40 CFR 264.31 - Failure to design building to minimize releases of hazardous wastes to the environment.

A "Moderate Potential for Harm" was selected as the likelihood of an event that will result in contamination is greatly increased as the available storage capacity is inadequate and any excess will immediately enter the environment. A "Moderate Deviation of the Rule" was selected as the facility would release ignitable, toxic wastes to the environment only in the event of an emergency. However, failure to design an adequate containment system and the placing of a grated manhole 8 to 10 feet from the storage area directly in front of an unloading bay are design flaws which were easily preventable if due care had been taken during construction.

Penalty Range - \$7,999 - \$5,000  
Penalty Chosen - \$6,500

5. PENALTY RECOMMENDATIONS:

I recommend that Safety-Kleen Corporation be required through a Consent Order to pay up to \$42,000.00 in civil penalties as calculated on the attached civil penalties worksheets.

*RM* 9/6/90

Richard D. Garrity, Ph.D.  
Deputy Assistant Secretary  
Southwest District

LRM/ncr  
Attachments

cc: Larry Morgan, OGC  
Rick Wilkins, Division Director

\_\_\_\_\_  
Approved

\_\_\_\_\_  
Disapproved

\_\_\_\_\_  
Dale Twachtman, Secretary

\_\_\_\_\_  
Date

Comments:

**PENALTY ADJUSTMENT WORKSHEET**

Violator Name: Safely-Kleen Corporation  
 Regulation Violated: 403-727

Assessments for each violation should be determined on separate worksheets and totalled. (If more space is needed, attach separate sheet.)

Part I - Seriousness of Violation Penalty

1. Potential for Harm: major
2. Extent of Deviation: major
3. Matrix Cell Range: 20 - 25,000  
 Penalty Amount Chosen: \$22,500
- Justification for Penalty Amount Chosen: Deliberately submitted false information to support their request for a permit - a major deviation from the rule.
4. Per-Day Assessment:

Part II - Penalty Adjustments

- |   | <u>Percentage Change</u> | <u>Dollar Amount</u>  |
|---|--------------------------|---|
| 1. Good faith efforts to comply/lack of good faith:                       | _____                    | _____   |
| 2. Degree of willfulness and/or negligence:                               | _____                    | _____   |
| 3. History of noncompliance:  | _____                    | _____   |
| 4. Other unique factors:  | _____                    | _____   |
| 5. Justification for Adjustments:   |                          |   |
| 6. Adjusted Per-day Penalty (Line 4, Part I + Lines 1-4, Part II):        |                          | _____   |
| 7. Number of Days of Violation:   |                          | _____   |
| 8. Multi-day Penalty (Line 6 x Line 7):                                   |                          | _____   |
| 9. Economic Benefit of Noncompliance:                                     |                          | _____   |
| Justification:  |                          |   |
| 10. TOTAL (Lines 8 + 9)   |                          | _____   |
| 11. Ability to Pay Adjustment:  |                          | _____   |
| Justification for Adjustment:   |                          |   |
| 12. TOTAL PENALTY Amount (must not exceed \$50,000 per day of violation): |                          | <div style="border: 1px solid black; width: 100px; height: 30px; display: inline-block;"></div> |

**PENALTY CALCULATION WORKSHEET**

Violator Name: Safety - Klean Corporation  
 Regulation Violated: 40 CFR Subpart J

Assessments for each violation should be determined on separate worksheets and totalled. (If more space is needed, attach separate sheet.)

Part I - Seriousness of Violation Penalty

1. Potential for Harm: Moderate
2. Extent of Deviation: Moderate
3. Matrix Cell Range: 5000 - 7999  
 Penalty Amount Chosen: \$ 6500
- Justification for Penalty Amount Chosen: The tanks were not stay the quantities of waste as stated in certified diagrams - they provided assessment for only 3 tanks vs the required 4.
4. Per-Day Assessment:

Part II - Penalty Adjustments

- |   | <u>Percentage Change</u> | <u>Dollar Amount</u>  |
|---|--------------------------|---|
| 1. Good faith efforts to comply/lack of good faith:                       | _____                    | _____   |
| 2. Degree of willfulness and/or negligence:                               | _____                    | _____   |
| 3. History of noncompliance:  | _____                    | _____   |
| 4. Other unique factors:  | _____                    | _____   |
| 5. Justification for Adjustments:   |                          |   |
| 6. Adjusted Per-day Penalty (Line 4, Part I + Lines 1-4, Part II):        |                          | _____   |
| 7. Number of Days of Violation:   |                          | _____   |
| 8. Multi-day Penalty (Line 6 x Line 7):                                   |                          | _____   |
| 9. Economic Benefit of Noncompliance:                                     |                          | _____   |
| Justification:  |                          |   |
| 10. TOTAL (Lines 8 + 9)   |                          | _____   |
| 11. Ability to Pay Adjustment:  |                          | _____   |
| Justification for Adjustment:   |                          |   |
| 12. TOTAL PENALTY Amount (must not exceed \$50,000 per day of violation): |                          | <div style="border: 1px solid black; width: 100px; height: 30px; display: inline-block;"></div> |



**PENALTY COMPUTATION WORKSHEET**

Violator Name: Safar, - Khan Corporation

Regulation Violated: 264.175(b)(3)

Assessments for each violation should be determined on separate worksheets and totalled. (If more space is needed, attach separate sheet.)

Part I - Seriousness of Violation Penalty

1. Potential for Harm: Moderate
2. Extent of Deviation: Moderate
3. Matrix Cell Range: 5000 - 7999  
# 6500

Penalty Amount Chosen:

Justification for Penalty Amount Chosen:

4. Per-Day Assessment:

*adequate secondary containment is not provided for spent waste - the secondary containment was only 3 times smaller than what was certified.*

Part II - Penalty Adjustments

- |   | <u>Percentage Change</u> | <u>Dollar Amount</u>  |
|---|--------------------------|---|
| 1. Good faith efforts to comply/lack of good faith:                       | _____                    | _____   |
| 2. Degree of willfulness and/or negligence:                               | _____                    | _____   |
| 3. History of noncompliance:  | _____                    | _____   |
| 4. Other unique factors:  | _____                    | _____   |
| 5. Justification for Adjustments:   |                          |   |
| 6. Adjusted Per-day Penalty (Line 4, Part I + Lines 1-4, Part II):        |                          | _____   |
| 7. Number of Days of Violation:   |                          | _____   |
| 8. Multi-day Penalty (Line 6 x Line 7):                                   |                          | _____   |
| 9. Economic Benefit of Noncompliance:                                     |                          | _____   |
| Justification:  |                          |   |
| 10. TOTAL (Lines 8 + 9)   |                          | _____   |
| 11. Ability to Pay Adjustment:  |                          | _____   |
| Justification for Adjustment:   |                          |   |
| 12. TOTAL PENALTY Amount (must not exceed \$50,000 per day of violation): |                          | <div style="border: 1px solid black; width: 100px; height: 30px; display: inline-block;"></div> |

# PENALTY COMPUTATION WORKSHEET

Violator Name: Safex, Kleen Corporation

Regulation Violated: 264.31

Assessments for each violation should be determined on separate worksheets and totalled. (If more space is needed, attach separate sheet.)

## Part I - Seriousness of Violation Penalty

1. Potential for Harm: Moderate
2. Extent of Deviation: Moderate
3. Matrix Cell Range: 5000 - 7999  
Penalty Amount Chosen: \$ 6500

Justification for Penalty Amount Chosen:

4. Per-Day Assessment:

*It is possible for any excess spill material to enter the environment - facility had planned to release such material in the event of an emergency*

## Part II - Penalty Adjustments

- |   | <u>Percentage Change</u> | <u>Dollar Amount</u> |
|---|--------------------------|----------------------|
| 1. Good faith efforts to comply/lack of good faith:                       | _____                    | _____                |
| 2. Degree of willfulness and/or negligence:                               | _____                    | _____                |
| 3. History of noncompliance:  | _____                    | _____                |
| 4. Other unique factors:  | _____                    | _____                |
| 5. Justification for Adjustments:   |                          |                      |
| 6. Adjusted Per-day Penalty (Line 4, Part I + Lines 1-4, Part II):        |                          | _____                |
| 7. Number of Days of Violation:   |                          | _____                |
| 8. Multi-day Penalty (Line 6 x Line 7):                                   |                          | _____                |
| 9. Economic Benefit of Noncompliance:                                     |                          | _____                |
| Justification:  |                          |                      |
| 10. TOTAL (Lines 8 + 9)   |                          | _____                |
| 11. Ability to Pay Adjustment:  |                          | _____                |
| Justification for Adjustment:   |                          |                      |
| 12. TOTAL PENALTY Amount (must not exceed \$50,000 per day of violation): |                          |                      |