



# Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406

Lawton Chiles, Governor

Telephone: 407/433-2650

Carol M. Browner, Secretary

Fax: 407/433-2666

FEB 19 1992

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Victor L. San Agustin, P.E.  
Regional Environmental Engineer  
Safety-Kleen Corporation  
129 South Kentucky Avenue  
Suite 701  
Lakeland, Florida 33801

RE: Consent Order; Safety-Kleen Corp., Boynton Beach Facility;  
OGC File No. 92-0271-FLD984167791

Dear Mr. San Agustin:

Enclosed for your review and signature is a copy of the Consent Order drafted by the Department in the above-styled case. The Consent Order represents the resolution acceptable to the Department in this matter.

Please review, sign and return the Consent Order within twenty (20) days from the date of receipt to this office for Department signature and distribution. Should you have any questions concerning the Consent Order please contact Mr. Tim Gray at 407/433-2650.

Sincerely,

J. Scott Benyon  
Director of District Management

JSB:tg/2

Enclosure

cc: Office of General Counsel, DER, Tallahassee  
Palm Beach County Public Health Unit  
West Palm Beach DER Files  
File, Reporting Coordinator

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION,	:	IN THE OFFICE OF THE
	:	SOUTHEAST FLORIDA DISTRICT
	:	
Complainant,	:	
	:	
vs.	:	OGC FILE NO. 92-0271
	:	
<del>SAFETY-KLEEN CORPORATION,</del>	:	
	:	
Respondent.	:	
	:	

CONSENT ORDER

Pursuant to the provisions of Sections 403.121(2) and 120.57(3), Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Rule 17-103.110, this Consent Order is entered into between the State of Florida Department of Environmental Regulation ("Department"), and Safety-Kleen Corporation ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to control and prohibit pollution of air and water in accordance with Chapter 403, F.S., and rules promulgated thereunder. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a Wisconsin corporation that owns and operates a virgin solvent distribution and hazardous waste storage facility located at 5610 Alpha Drive, Boynton Beach, Florida 33426 described specifically as Latitude 26° 32' 22", Longitude 80° 04' 55".

3. During the course of a meeting, August 23, 1991, in Clearwater, Florida, Safety-Kleen representatives requested permission to manage waste types other than those approved in the Hazardous Waste Operating Permit H050-195905. The facility representatives were told to submit a request for modification so that the addition of waste streams could be adequately appraised. The facility undertook the management of additional wastestreams, Fluid Recovery Service (FRS) wastes, without requesting such a modification, in violation of the operating permit H050-195905.

NOW, THEREFORE: having reached resolution of the matter pursuant to Florida Administrative Code Rule 17-103.110(3), Respondent and the Department mutually agree and it is,

ORDERED:

4. Respondent shall submit a written request for a major modification of the Boynton Beach facility operating permit (H0 50-195905). The request must include all applicable information regarding Fluid Recovery Service (FRS) waste and the incorporation of the management of this wastestream within facility design and operating processes.

5. This Consent Order, when executed, will authorize Safety-Kleen Corporation to manage FRS wastes at the Boynton Beach facility until such time as the Department takes final action on the permit modification request. The Respondent must manage the FRS waste in accordance with the following provisions:

(a) FRS waste must be managed as a segregated transfer facility wastestream. The FRS transfer waste will be stored within the container storage area but apart from the wastes which have their manifests terminated at the facility. The maximum storage volume of the container storage area will remain 6912 gallons (432 16-gallon containers, or the equivalent) with the inclusion of FRS waste.

(b) The facility will manage the FRS waste in accordance with 17-730.171 F.A.C. and insure that the transfer (FRS) waste is maintained within a permanently designated, distinctly separate area.

6. Within 30 days of execution of this Consent Order, Respondent shall pay the Department \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Payment shall be made by cashier's check or money order. The instrument shall be made payable to the Department of Environmental Regulation and shall include thereon the OGC number assigned to this Order and the notation "Pollution Recovery Fund". The payment shall be sent to the Department's Southeast Florida District Office, 1900 South Congress Avenue, Suite A, West Palm Beach, Florida 33406.

7. Respondent shall henceforth comply with all applicable Hazardous Waste management regulations as set forth in F.A.C. Chapter 17-730 and 40 C.F.R. Parts 260 - 268, and the General and Specific permit conditions of Operating Permit # H050-195905.

8. Persons who are not parties to this Consent Order but whose interests are affected by this Consent Order have a right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Section 120.57, F.S.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require a reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207, F.A.C.

A party who is adversely affected by this Consent Order is entitled to Judicial Review pursuant to Section 120.68, F.S. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Agency Clerk of the Department of Environmental Regulation and a second copy, accompanied by filing fees prescribed by law, with the First District Court of Appeal or with the District Court of Appeal in the Appellate District where the party resides. The Notice of Appeal must be filed within 30 days of rendition of the Order to be reviewed.

9. Respondent waives its right to an administrative hearing on the terms of this Consent Order under Section 120.57, Florida Statutes, and its right to appeal this Consent Order pursuant to Section 120.68, F.S.

10. Respondent shall allow authorized representatives of the Department access to the property at reasonable times for purposes of determining compliance with this Consent Order and with the rules and regulations of the Department.

11. The Department for and in consideration of Respondent's complete and timely performance of the obligations agreed to in this Consent Order hereby waives its rights to seek judicial imposition of additional civil or criminal penalties for alleged violations outlined in this Consent Order. The Department expressly reserves its right to seek the imposition and recovery of environmental damages.

12. Nothing herein shall be construed to limit the authority of the Department to undertake any action against any settling Respondent in response to or to recover the costs of responding to conditions at or from the site which may present an imminent hazard to the public health, welfare or the environment.

13. Entry of this Consent Order does not relieve Respondent of the need to comply with the applicable federal, state or local laws, regulations, or ordinances.

14. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

15. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$50,000 per offense, and criminal penalties. In the event it is necessary for the Department to seek judicial enforcement of this Consent Order, Respondents shall pay to the Department all investigative costs, court costs and expenses, as well as a reasonable attorney's fee for obtaining a judgement from the circuit court.

16. Respondent agrees to pay the Department stipulated penalties in the amount of 100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 4 and 5 of this Order. A separate stipulated penalty shall be assessed for each violation of this Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Regulation" by cashier's check or money order and shall include thereon the OGC number assigned to this Order and the notation "Pollution Recovery Fund". Payment shall be sent to the Department of Environmental Regulation, Southeast Florida District Office, 1900 South Congress Avenue, Suite A, West Palm Beach, Florida 33406. The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order.

17. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit future violations of applicable statutes, ordinances, or the rules promulgated thereunder not covered by the terms of this Consent Order.

18. No modification of the terms of this Consent Order shall be effective until reduced to writing and executed by the Respondent and the Department.

19. All reports, plans and data required by this Consent Order to be submitted to the Department should be sent to the Waste Programs Administrator, Enforcement Section, Florida Department of Environmental Regulation, 1900 South Congress Avenue, Suite A, West Palm Beach, Florida 33406.

20. This Consent Order is the final agency action of the Department pursuant to Section 120.69, F.S., and F.A.C. Rule 17-103.110(3), and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

\_\_\_\_\_  
Date

\_\_\_\_\_  
MR. SCOTT E. FORE, Vice President  
Safety-Kleen Corporation  
777 Big Timber Road  
Elgin, Illinois 60123

DONE AND ORDERED this \_\_\_\_\_ day of \_\_\_\_\_ 1992, in West Palm Beach, Florida.

FILING AND ACKNOWLEDGEMENT  
FILED, on this date, pursuant to §120.52  
Florida Statutes, with the designated  
Department Clerk, receipt of which is  
hereby acknowledged.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_  
J. SCOTT BENYON  
Director of District Management  
Southeast Florida District  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406

JSB:tg/27

Copies furnished to:  
Office of General Counsel, DER, Tallahassee  
Palm Beach County Public Health Unit  
File, Reporting Coordinator  
West Palm Beach DER Files