

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)
) Docket No. MM-HQ-2000-0005
Safety-Kleen Corp.)
1301 Gervais Street)
Columbia, South Carolina 29201)
)
Safety-Kleen Services, Inc.)
Safety-Kleen Systems, Inc.)
Safety-Kleen (Aragonite), Inc.)
Safety-Kleen (BDT), Inc.)
Safety-Kleen (Bartow), Inc.)
Safety-Kleen (Baton Rouge), Inc.)
Safety-Kleen (Bridgport), Inc.)
Safety-Kleen (California), Inc.)
Safety-Kleen (Chattanooga), Inc.)
Safety-Kleen (Colfax), Inc.)
Safety-Kleen (Crowley), Inc.)
Safety-Kleen (Deer Park), Inc.)
Safety-Kleen (Deer Trail), Inc.)
Safety-Kleen (GS), Inc.)
Safety-Kleen (LaPorte), Inc.)
Safety-Kleen (Lone and Grassy Mtn.), Inc.)
Safety-Kleen (NE), Inc.)
Safety-Kleen (PPM), Inc.)
Safety-Kleen (Pecatonica), Inc.)
Safety-Kleen (Pinewood), Inc.)
Safety-Kleen (Plaquemine), Inc.)
Safety-Kleen (Roebuck), Inc.))
Safety-Kleen (TS), Inc.)
Safety-Kleen (Tulsa), Inc.)
Safety-Kleen (WT), Inc.)
Safety-Kleen (White Castle), Inc.)
GSX Chemical Services of Ohio, Inc.)
)
)
Respondents.)

CONSENT AGREEMENT

Complainant, Steven A. Herman, Assistant Administrator, Office of Enforcement and
Compliance Assurance, United States Environmental Protection Agency (EPA), and Respondents

listed on Attachment A agree that settlement of this action without further delay is in their interest and in the public interest and having consented to the entry of this Consent Agreement and the attached Final Order before taking testimony and without any adjudication of any issues of law or fact herein, Respondents agree to comply with the terms of this Consent Agreement and the attached Final Order.

I. PRELIMINARY STATEMENT

1. This is a civil administrative action instituted under Sections 3008(a) and 3008(h) of the Solid Waste Disposal Act, as amended by the Resources Conservation Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984 (HSWA) (collectively “RCRA”), 42 U.S.C. §§ 6928(a) & (h), and Section 16 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615.

2. Complainant is, by lawful delegation, authorized to institute and settle civil administrative actions brought pursuant to Sections 3008(a) and 3008(h) of RCRA, 42 U.S.C. §§ 6928(a) & (h) , and Section 16 of TSCA, 15 U.S.C. § 2615.

3. Respondents are debtors-in-possession under Chapter 11 of the United States Bankruptcy Code. Respondents filed voluntary petitions for relief in the United States Bankruptcy Court for the District of Delaware (Bankruptcy Court) on June 9, 2000.

4. The Complainant and Respondents, having sought to informally settle the matter, have agreed to the terms of this Consent Agreement in order to resolve this action without trial or other litigation.

5. The terms of this Consent Agreement and attached Final Order constitute a settlement by EPA for all claims for civil penalties pursuant to Sections 3008(a) and 3008(h) of RCRA, 42

U.S.C. §§ 6928(a) & (h) , and Section 16 of TSCA, 15 U.S.C. § 2615, for the violations of RCRA and TSCA as specified in Section VI (Conclusions of Law) of this Consent Agreement. Compliance with this Consent Agreement and attached Final Order shall not be a defense to any other actions commenced pursuant to federal, state, and local environmental laws and it is the responsibility of the Respondents to comply with all applicable provisions of RCRA, TSCA and any other federal, state or local laws and regulations.

6. Respondents admit to facts stipulated to in this Consent Agreement. 40 C.F.R. § 22.18(b).

7. Respondent Safety-Kleen Services, Inc. agrees to pay the civil penalty specified in Section VIII (Payment of Penalty) of this Consent Agreement. 40 C.F.R. § 22.18(b).

8. Each party to this Consent Agreement shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement and Final Order.

II. JURISDICTION/WAIVER OF RIGHT TO HEARING

9. This Consent Agreement is entered into pursuant to Sections 3008(a) and 3008(h) of RCRA, 42 U.S.C. §§ 6928(a) & (h) , and Section 16(a) of TSCA, 15 U.S.C. § 2615(a); and the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits,” 64 Fed. Reg. 40138 (July 23, 1999)(*to be codified at* 40 C.F.R. Part 22 (the “Consolidated Rules”)).

10. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of the U.S. Environmental Protection Agency may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets

certain conditions. Any violation of regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939(e), or of any state provision authorized pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided by Section 3008 of RCRA, 42 U.S.C. § 6928.

11. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the following states have been authorized to administer a state hazardous waste program in accordance with the notice provided in the Federal Register.

Arkansas: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Arkansas final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective January 25, 1985 (50 Fed. Reg. 1513 (Jan. 11, 1985)). The Administrator of the U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective May 29, 1990 (51 Fed. Reg. 24504 (Mar. 27, 1990)); November 18, 1991 (56 Fed. Reg. 47153 (Sept. 18, 1991)); December 4, 1992 (57 Fed. Reg. 45721 (Oct. 5, 1992)); December 21, 1994 (59 Fed. Reg. 5115 (Oct. 7, 1994)).

Georgia: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Georgia final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective Aug. 21, 1984 (49 Fed. Reg. 31417 (Aug. 7, 1984)). The Administrator of the EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective November 17, 1998 (63 Fed. Reg. 49852 (Sept. 18, 1998)); September 18, 1986 (51 Fed. Reg. 31618 (Sep. 4, 1986)); September 26, 1988 (53 Fed. Reg. 28383 (Jul. 28, 1988)); September 24, 1990 (55 Fed. Reg.

30000 (Jul. 24, 1990)); January 25, 1993 (57 Fed. Reg. 55466 (Nov. 25, 1992)); November 24, 1990 (55 Fed. Reg. 38997 (Sep. 24, 1990)); January 18, 1994 (58 Fed. Reg. 60388 (Nov. 16, 1993)); April 15, 1991 (56 Fed. Reg. 5656 (Feb. 12, 1991)); July 10, 1992 (57 Fed. Reg. 20055 (May 11, 1992)); April 27, 1993 (58 Fed. Reg. 11539 (Feb. 26, 1993)); October 30, 1995 (60 Fed. Reg. 45069 (Aug. 30, 1995)); June 27, 1994 (59 Fed. Reg. 21664 (Apr. 26, 1994)); July 10, 1995 (60 Fed. Reg. 24790 (May 10, 1995)); May 6, 1996 (61 Fed. Reg. 9108 (Mar. 7, 1996)); January 23, 1998 (62 Fed. Reg. 62521 (Nov. 24, 1997)); December 3, 1999 (64 Fed. Reg. 55629 (Oct. 14, 1999)).

Illinois: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective January 31, 1986 (51 Fed. Reg. 3778 (Jan. 30, 1986)). The Administrator of the EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective March 5, 1988 (53 Fed. Reg. 126 (Jan. 5, 1988)); April 30, 1990 (55 Fed. Reg. 7320 (Mar. 1, 1990)); August 15, 1994 (59 Fed. Reg. 30525 (Jun. 14, 1994)); November 13, 1989 (54 Fed. Reg. 37649 (Sep. 12, 1989)); March 31, 1992 (57 Fed. Reg. 3722 (Jan. 31, 1992)); May 14, 1996 (61 Fed. Reg. 10684 (Mar. 15, 1996)); June 3, 1991 (56 Fed. Reg. 13595 (Apr. 3, 1991)); October 4, 1996 (61 Fed. Reg. 40520 (Aug. 5, 1996)).

Massachusetts: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the Commonwealth of Massachusetts final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective February 7, 1985 (50 Fed. Reg. 3344 (Jan. 24, 1985)). The Administrator of

the U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective December 31, 1990 (50 Fed. Reg. 3344 (Jan. 24, 1985)); November 30, 1998 (63 Fed. Reg. 52180 (Sep. 30, 1998)); October 12, 1999 (64 Fed. Reg. 55153 (Oct. 12, 1999)).

Minnesota: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Minnesota final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective February 11, 1985. 50 Fed. Reg. 3756 (Jan. 28, 1985). The Administrator of the EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective September 18, 1987 (52 Fed. Reg. 27199 (Jul. 20, 1987)); June 23, 1989 (54 Fed. Reg. 16361 (Apr. 24, 1989))(corrected effective June 23, 1989 (54 Fed. Reg. 27169 (Jun. 28, 1989)); August 14, 1990 (55 Fed. Reg. 24232 (Jun. 15, 1990)); August 23, 1991 (56 Fed. Reg. 28709 (Jun. 24, 1991)); May 18, 1992 (57 Fed. Reg. 9501 (Mar. 19, 1992)); May 17, 1993 (58 Fed. Reg. 14321 (Mar. 17, 1993)); and March 21, 1994 (59 Fed. Reg. 2998 (Jan. 20, 1994). The EPA authorized Minnesota hazardous waste regulations are codified at Minnesota Rules 7045.0001 et seq. See also 40 C.F.R. § 272.1200 et seq.

Nevada: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Nevada final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective November 1, 1985 (50 Fed. Reg. 42181 (Oct. 18, 1985)). The Administrator of the EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective June 29, 1992 (57 Fed. Reg. 18083 (Apr. 29, 1992)); July 26, 1994 (59 Fed. Reg. 27472 (May 27, 1994)); June 12,

1995 (60 Fed. Reg. 18358 (Apr. 11, 1995)); August 23, 1996 (61 Fed. Reg. 32345 (Jun. 24, 1996)); March 30, 1999 (64 Fed. Reg. 4596 (Jan. 29, 1999)).

South Dakota: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of South Dakota final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective November 2, 1984 (49 Fed. Reg. 41038 (Oct. 19, 1984)). The Administrator of the EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective November 8, 1993 (58 Fed. Reg. 47216 (Sep. 8, 1993)); June 17, 1991 (56 Fed. Reg. 15503 (Apr. 17, 1991)); September 23, 1996 (61 Fed. Reg. 38392 (Jul. 24, 1996)); March 11, 1994 (59 Fed. Reg. 1275 (Jan. 10, 1994)); June 8, 2000 (65 Fed. Reg. 26755)).

Tennessee: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Tennessee final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective February 5, 1985 (50 Fed. Reg. 2820 (Jan. 22, 1985)). The Administrator of the U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective July 31, 1992 (57 Fed. Reg. 23063 (Jun. 1, 1992)); August 11, 1987 (52 Fed. Reg. 22443 (June 12, 1987)); July 22, 1996 (61 Fed. Reg. 25794 (May 23, 1996)); October 23, 1995 (60 Fed. Reg. 43979 (Aug. 24, 1995)); July 7, 1995 (60 Fed. Reg. 22524 (May 8, 1995)); March 31, 1998 (63 Fed. Reg. 4587 (Jan. 30, 1998)); November 15, 1999 (64 Fed. Reg. 49998 (Sep. 15, 1999)).

Vermont: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Vermont final authorization to administer a state

hazardous waste program in lieu of the federal government's base RCRA program, effective January 21, 1985 (50 Fed. Reg. 775 (Jan. 7, 1985)). The Administrator of the EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective August 6, 1993 (58 Fed. Reg. 31911 (June 7, 1993)); November 23, 1999 (64 Fed. Reg. 51702 (Sep. 24, 1999)); November 23, 1999 (64 Fed. Reg. 56174 (October 18, 1999)).

Wisconsin: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Wisconsin final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective January 31, 1986 (51 Fed. Reg. 3783 (Jan. 30, 1986)). The Administrator of the EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective June 6, 1989 (54 Fed. Reg. 22278 (May 23, 1989)); April 24, 1992 (57 Fed. Reg. 15029 (Apr. 24, 1992)); April 24, 1989 (54 Fed. Reg. 7422 (Feb. 21, 1989)); May 29, 1990 (55 Fed. Reg. 11910 (Mar. 30, 1990)); January 22, 1990 (54 Fed. Reg. 48243 (Nov. 22, 1989)); October 4, 1999 (64 Fed. Reg. 42602 (Aug. 5, 1999)); August 2, 1993 (58 Fed. Reg. 31344 (June 2, 1993)); October 4, 1994 (59 Fed. Reg. 39971 (Aug. 5, 1994)).

12. The Consolidated Rules provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and attached Final Order. Respondents stipulate that EPA has jurisdiction over this matter. 40 C.F.R. § 22.13(b).

13. Respondents agree not to contest EPA's jurisdiction with respect to execution of this Consent Agreement, issuance of the attached Final Order, or the enforcement thereof. 40 C.F.R. § 22.18.

14. For purposes of this Consent Agreement and the enforcement thereof, Respondents hereby waive their right to request a judicial or administrative hearing on any issue of law or fact set forth in this Consent Agreement. Respondents waive their right to appeal the proposed Final Order accompanying this Consent Agreement. 40 C.F.R. § 22.18.

III. PARTIES BOUND

15. This Consent Agreement and the attached Final Order apply to and are binding upon the Complainant and the Respondents. References in this Consent Agreement to “Respondents” shall be construed consistent with and subject to this Paragraph 15. Successors and assigns of Respondents are also bound if they are owned, in whole or part, directly or indirectly, by Respondent Safety-Kleen Corp. Nothing in the previous sentence shall adversely affect any right of EPA under applicable law to assert successor or assignee liability against Respondents’ successor or assignee, even if not owned in whole or part, directly or indirectly, by Respondent Safety-Kleen Corp.

Respondent Safety-Kleen Services, Inc. shall be liable for all obligations under Paragraphs 82-92, 93 (second sentence), 94-101, 102 (all but first sentence), 103-105 of this Consent Agreement. Any administrative expense liability of Safety-Kleen Services, Inc. created by the previous sentence for closure, post-closure, and corrective action at the Covered Facilities in the event that Compliant Financial Assurance is not obtained by the Compliant Financial Assurance Deadline (see Paragraphs 89-91), shall be subordinated to the extent necessary to permit a pro rata payment of such liabilities with the allowed claims of general unsecured creditors. Nothing in the previous sentence or this Paragraph 15 shall adversely affect or subordinate any rights of the United States and the Participating States against Safety-Kleen Services, Inc. that would exist in

the absence of this Consent Agreement. In addition, the owner(s) and/or operator(s) Respondent for a Covered Facility and the Respondent(s) listed on the applicable permit(s) for a Covered Facility shall be liable for all obligations under this Consent Agreement relating in any way to such Covered Facility. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter Respondents' responsibilities under this Consent Agreement, except that any liability of Safety-Kleen Services, Inc. for closure, post-closure, or corrective action created by this Consent Agreement shall be extinguished upon a transfer meeting the requirements of Paragraph 94. Nothing in the previous sentence affects any liability of Safety-Kleen Services, Inc. that exists in the absence of this Consent Agreement.

Except as provided in this Paragraph 15, this Consent Agreement does not (i) create joint and several liability among any or all Respondents where such liability would not exist in the absence of the Consent Agreement; or (ii) impose liability upon, or create obligations in, any Respondent for, or in connection with, environmental or other matters at any Covered Facility owned and/or operated by another Respondent where such liability or obligation would not exist in the absence of this Consent Agreement. Neither this Consent Agreement nor Respondents performance thereunder may be used as evidence of joint and several liability of Respondents other than for the purposes of enforcing this Consent Agreement and attached Final Order. This Consent Agreement does not abrogate any joint and several liability of Respondents that may exist in the absence of the Consent Agreement.

16. Each Party certifies that at least one of its undersigned representatives is fully authorized by the Party whom he or she represents to enter into the terms and conditions of the

Consent Agreement to, execute it on behalf of that Party, and to legally bind the Party on whose behalf he or she signs this Consent Agreement.

17. Respondents shall provide each person performing work on behalf of Respondents with a copy of all sections of this Consent Agreement relevant to the work being performed by that person, and shall condition all contracts or agreements for work under this Consent Agreement on their conformity with the terms of this Consent Agreement.

18. Respondents' participation is subject to Bankruptcy Court approval. Respondents agree to exercise their best efforts to obtain prompt Bankruptcy Court approval of this Consent Agreement.

IV. DEFINITIONS

19. Unless otherwise expressly provided herein, terms used in the Consent Agreement that are defined in RCRA, 42 U.S.C. §§ 6902-6991i, or in regulations promulgated under RCRA, 40 C.F.R. Parts 124, 260- 270, shall have the same meaning assigned to them in RCRA or in such regulations. Furthermore, unless otherwise expressly provided herein, terms used in the Consent Agreement that are defined in TSCA, 15 U.S.C. §§ 2601-2692, or in regulations promulgated under TSCA, 40 C.F.R. Part 761, shall have the same meaning assigned to them in TSCA or in such regulations.

20. Whenever terms listed below are used in this Consent Agreement, the following definitions shall apply:

a. "Bankruptcy Case" shall mean the voluntary petitions for relief by Safety-Kleen Corp. and 73 of its U.S. subsidiaries which are being jointly administered in In re Safety-Kleen Corp., et al., Case No. 00-2303 (PJW) (Bankr. D. Del.) (Jointly Administered).

b. "Compliance Schedule" shall mean the schedule of work required under this Consent Agreement to be completed by Respondents as set forth in Section VII of this Consent Agreement and any modification thereto made in accordance with this Consent Agreement.

c. "Compliant Financial Assurance" shall mean financial assurance that meets the standards set out in 40 C.F.R. Part 264 and 265, Subpart H (or the authorized state requirements), and 40 C.F.R. § 761.65(g), as applicable.

d. "Compliant Financial Assurance Deadline" shall mean December 15, 2000, except that EPA (after consultation with the affected States) may notify Respondents in writing that it is extending the Compliant Financial Assurance Deadline until February 28, 2001.

e. "Consent Agreement" shall mean this Consent Agreement and Final Order and all Attachments hereto. In the event of conflict between this Consent Agreement and any Attachment, this Consent Agreement shall control.

f. "Covered Facilities" shall mean the facilities listed on Attachments B, C, D and Appendix F-1 (Attachment F) to this Consent Agreement.

g. "Day" shall mean a calendar day unless expressly stated to be a working day. "Working Day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Consent Agreement, where the last day would fall on a Saturday, Sunday, or Federal or applicable state holiday, the period shall run until the close of business the next working day.

h. "Debtor in Possession Credit Agreement" shall mean the agreement among Safety-Kleen Services, Inc., the Several Lenders from Time to Time Parties hereto, Toronto Dominion, Inc., as General Administrative Agent and Underwriter, and the CIT Group/Business

Credit, Inc., as Collateral Agent and Underwriter, as submitted and approved by the U.S. Bankruptcy Court on July 19, 2000.

i. “Environmental Cleanup or Response Cost Liabilities” shall mean any liability for closure, post closure, or corrective action with respect to a facility under an Environmental Law, for injunctive relief or reimbursement of costs for the cleanup of substances, wastes, or material, or facilities under an Environmental Law, or for injunctive relief or damages under an Environmental Law relating to the release of substances, wastes, or material into the air, land, soil, surface waste, groundwater, or other medium.

j. “Environmental Compliance Obligation” shall mean any obligation to comply with an Environmental Law, but shall not include obligations to post or pay financial assurance or pay money judgments under Environmental Laws.

k. “Environmental Law” means any federal, state, or local statute or regulation regulating pollution, contamination, or the release, management, treatment, storage, disposal, transportation, or handling of hazardous or toxic substances, waste or material into the air, land, soil, surface waste, groundwater, or other medium, including but not limited to statutes or regulations regulating the cleanup of those substances, wastes, or material.

l. “Interim Compliance Period” or “Interim Compliance Term” shall mean that period of time from the effective date of this Consent Agreement until the Compliant Financial Assurance Deadline.

m. “Notify” and “Submit” and other terms signifying an obligation to transmit or communicate documents and information mean to deliver in person, deposit in the United States mail or dispatch by express courier not later than the day that such transmission or communication

is required by this Consent Agreement. Should such a day be a weekend day or a federally or applicable state recognized holiday, the delivery, deposit, or dispatch shall be made the next Working Day.

n. "Paragraph" shall mean a portion of this Consent Agreement identified by an arabic numeral and, in some case, an associated lower case letter.

o. "Participating State" shall mean a State with an authorized hazardous waste program that has referred to EPA for further action identified non-compliances with RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The Participating States are listed on Attachment E.

p. "Parallel Action State" shall mean a state with an authorized hazardous waste program that has notified EPA that it intends to enter into a parallel agreement with Respondents or take parallel action to EPA with respect to specified facilities in their States which are Covered Facilities under this Consent Agreement. Attachment F is a list of Parallel Action States. Parallel Action States' rights against Respondents are governed by any parallel agreements or actions by the Parallel Action States and therefore Parallel Action States do not have rights against Respondents under this Consent Agreement. The preceding sentence, however, does not alter or diminish EPA's rights under this Consent Agreement with respect to facilities in Parallel Action States or otherwise.

q. "Parties" shall mean the United States Environmental Protection Agency and Respondents.

r. "Respondents" shall mean Safety-Kleen Corp., Safety-Kleen Services, Inc., and the other Respondents listed on Attachment A and the term shall be construed consistent with and subject to Paragraph 15.

s. "Section" shall mean a portion of this Consent Agreement identified by a roman numeral.

t. "Work" shall mean all activities Respondents are required to perform under this Consent Agreement.

V. STIPULATED FACTS

21. Respondent Safety-Kleen Corp. is a Delaware corporation that is a holding company that owns 100% of the common stock of Respondent Safety-Kleen Services, Inc. Respondent Safety-Kleen Services, Inc. is a Delaware corporation that directly or indirectly owns the common stock of the remaining Respondents.

22. Respondent Safety-Kleen Services, Inc.'s corporate office is located at 1301 Gervais Street, Columbia, South Carolina 29201.

23. Certain Respondents own and/or operate facilities that store and dispose of polychlorinated biphenyl (PCB) wastes subject to regulated levels.

24. Certain Respondents are the owners and/or operators of the commercial storage and/or disposal facilities which handle PCBs, PCB waste, and PCB Items as specified in Attachment B. Such commercial storage and/or disposal facilities are "Covered Facilities" for the purposes of this Consent Agreement and as defined in Section IV.

25. Certain Respondents, as identified in Paragraph 24, received final approval, while others have interim approval, to operate the Covered Facilities specified in Attachment B.

26. Certain Respondents are the owners and/or operators of the treatment, storage or disposal facilities (TSDs) that manage hazardous waste as specified in Attachment C.

27. Certain Respondents, at all relevant times, were required to perform corrective action

at hazardous waste management facilities (also known as “TSDs”) as specified in Attachment D.

28. Certain Respondents have secured surety bonds issued by Frontier Insurance Company (Frontier) for the Covered Facilities specified in Attachments B, C, D and F (Appendix F-1). The surety bonds issued by Frontier were secured as financial assurance to guarantee performance and/or the payment into a closure or post-closure trust fund for the closure, post-closure and/or corrective action at the Covered Facilities.

29. Respondents represent that on March 8, 2000, PriceWaterhouseCoopers LLP notified Safety-Kleen Corp. by letter that it was withdrawing previously issued reports on financial statements for Respondents for the years ended in August 31, 1999, 1998 and 1997 and stated that such reports should no longer be relied upon or associated with Respondents’ financial statements for such years.

30. On March 6, 2000, Respondents announced the initiation of an internal investigation of certain alleged accounting irregularities that may have affected the Respondents’ previously reported financial results. Respondents represent that the board of directors of Respondent Safety-Kleen Corp. immediately established a special committee, consisting of four (later five) outside directors, to lead the investigation. Pending the outcome of the investigation, the board also placed Respondent Safety-Kleen Corp.’s Chief Executive Officer, Chief Operating Officer, and Chief Financial Officer on administrative leave. Respondents represent that on May 12, 2000, these senior executives resigned their positions. Respondents represent that on July 25, 2000, these senior executives were terminated.

31. On June 6, 2000, the U.S. Treasury Department notified the public through the Federal Register that the Certificate of Authority issued by the U.S. Treasury Department to

Frontier under the United States Code, Title 31, Sections 9304-9308, to qualify as an acceptable surety on Federal bonds had been terminated May 31, 2000. 65 Fed. Reg. 35998-35999 (June 6, 2000).

32. Respondents represent that approximately fifty percent (50%) of the closure, post-closure, and corrective action financial assurance for Safety Kleen Corp. and its subsidiaries is with Frontier and that all of the financial assurance provided by Frontier is in surety bonds.

33. Respondents represent that they have retained Marsh & McLennan Cos. to obtain new financial assurance surety bonds with sureties that qualify as acceptable by the U.S. Treasury Department.

34. Effective May 31, 2000, Respondents no longer had Compliant Financial Assurance for the Covered Facilities.

35. On or about May 31, 2000, Respondents contacted EPA regarding their financial assurance obligations under RCRA and TSCA.

36. On June 9, 2000, Respondents met with EPA regarding their financial assurance obligations under RCRA and TSCA.

37. Respondents represent that they have not yet been able to obtain Compliant Financial Assurance for the Covered Facilities because of the withdrawal of their financial statements, among other things. Respondents represent that they are diligently continuing their efforts to obtain Compliant Financial Assurance for the Covered Facilities.

38. The Frontier surety bonds for RCRA closure and post-closure and corrective action activities, as well as the Frontier surety bonds for TSCA closure activities, are collateralized by an irrevocable stand-by letter of credit in the amount of \$28.5 million from Toronto Dominion Bank

to Frontier.

39. On June 9, 2000, Respondents who own and/or operate hazardous waste management facilities notified EPA and the Participating States that they had filed a voluntary proceeding under Chapter 11 (Bankruptcy) of the U.S. Code.

40. In a letter dated July 7, 2000, pursuant to its authority under Sections 3007 and 9005 of RCRA, 42 U.S.C. § 6927 & 6991d, EPA requested information from Respondents regarding the financial assurance for closure, post-closure, and corrective action at TSD facilities owned and/or operated by Respondents and underground storage tanks owned and/or operated by Respondents.

41. In a letter dated July 12, 2000, EPA requested information from Respondents regarding the financial assurance for Respondents' commercial storage facilities that handle PCBs, PCB waste, and PCB Items.

42. On July 26, 2000, Respondents provided responses to EPA's letters of July 7, 2000 and July 12, 2000.

43. The Participating States listed on Attachment E have referred violations for Covered Facilities in their states to EPA for resolution.

44. The Parallel Action States listed on Attachment F have notified EPA that they intend to enter into parallel agreements with Respondents or take parallel action to EPA with respect to specified facilities in their States which are Covered Facilities under this Consent Agreement.

45. EPA has provided notice of commencement of this action to the Participating States and Parallel Action States pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

VI. CONCLUSIONS OF LAW

46. Certain Respondents are “persons” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. §§ 260.10 or 761.3.

47. Pursuant to Section 6 of TSCA, 15 U.S.C. § 2605, EPA promulgated rules pertaining to the manufacturing, processing, distribution in commerce or use (or any combination of such activities) of any PCBs.

48. Certain Respondents engage in “storage for disposal” or “disposal” of “PCBs” or “PCB Items” as those terms are defined in 40 C.F.R. § 761.3 at facilities identified in Attachment B.

49. Certain Respondents store and dispose of “PCB waste” as that term is defined in 40 C.F.R. § 761.3 at facilities identified in Attachment B.

50. Certain Respondents are “commercial storers of PCB waste” as that term is defined in 40 C.F.R. § 761.3 at facilities identified in Attachment B.

51. Pursuant to 40 C.F.R. § 761.65, EPA regulates the storage for disposal of PCBs at regulated concentrations.

52. Pursuant to 40 C.F.R. § 761.65(d), all commercial storers of PCB waste shall have interim approval or final approval to operate commercial facilities for the storage of PCB waste.

53. Pursuant to 40 C.F.R. § 761.65(g), a commercial storer of PCB waste shall establish financial assurance for the closure of each PCB storage facility that he owns or operates. In establishing financial assurance for closure, the commercial storer of the PCB waste may choose from several financial assurance mechanisms or any combination of mechanisms including a “surety bond guaranteeing performance of closure” as specified in 40 C.F.R. § 264.143(c).

54. Pursuant to 40 C.F.R. § 264.143(c), an owner and/or operator may satisfy the

financial assurance requirements by obtaining a surety bond which conforms to the requirements specified in the section and submits the bond to the Regional Administrator. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

55. Certain Respondents as commercial storers of PCB waste (identified in Attachment B) no longer had Compliant Financial Assurance as of May 31, 2000 (Stipulated Facts, Paragraph 34).

56. Certain Respondents as commercial storers of PCB waste (identified in Attachment B) do not have Compliant Financial Assurance as required by 40 C.F.R. § 761.65(g) (which cross-references 40 C.F.R. § 264.143(c)) (Stipulated Facts, Paragraph 37).

57. Certain Respondents, who are commercial storers of PCB waste, have failed to have compliant financial assurance for eighteen (18) facilities (identified in Attachment B) as is required by 40 C.F.R. § 761.65(g), which constitutes eighteen (18) separate continuous violations of Section 15 of TSCA, 15 U.S.C. § 2614, and therefore subject certain Respondents to the penalties specified in Section 16 of TSCA, 15 U.S.C. § 2615.

58. Certain Respondents “treat” or “store” “hazardous waste” as those terms are defined in Section 1004(5), (33) and (34) of RCRA, 42 U.S.C. § 6903(5), (33) & (34), and 40 C.F.R. §§ 260.10 and 270.2 at facilities identified in Attachment C. See also APC&EC Regulation 23 §§ 260.10 & 270.2 (Arkansas), GRHWM Section 391-3-11 (Georgia), 35 Ill. Adm. Code 720.110 (Illinois), 310 CMR 30.010 (Massachusetts), Minn. R. 7045.0020 (Minnesota), NAC §§ 444.850, 444.8546 & 444.8632 (Nevada), ARSD § 74:28:21:01 (South Dakota), Section 1200-1-11-.01(2) (Tenn.), VHWMR Section 7-103 (Vermont), Wis. Adm. Code Section NR 600.03 (Wisconsin).

59. Certain Respondents are “owners” or “operators” of facilities that engage in “hazardous waste management” as those terms are defined in Section 1004(7) of RCRA, 42 U.S.C. § 6903(7), and 40 C.F.R. §§ 260.10 and 270.2 at facilities identified in Attachment C. See also APC&EC Regulation No. 23 §§ 260.10 & 270.2 (Arkansas), GRHWM Section 391-3-11-.02 (Georgia), 35 Ill. Adm. Code 720.110 (Illinois), 310 CMR 30.010 (Massachusetts), Minn. R. 7045.0020 (Minnesota), NAC §§ 444.850 & 444.8632 (Nevada), ARSD § 74:28:21:01 (South Dakota), VHWMR Section 7-103 (Vermont), Section 1200-1-11-.01(2) (Tennessee), Wis. Adm. Code Section NR 600.03 (Wisconsin).

60. Certain Respondents have received a “permit” to own and/or operate the “hazardous waste management facilities” (as identified in Attachment C), as those terms are defined in 40 C.F.R. §§ 260.10 and 270.2, that treat, store, or dispose of hazardous waste (also known as treatment, storage and disposal facilities (TSDs)). See also APC&EC Regulation No. 23 §§ 260.10 & 270.2 (Arkansas), GRHWM Section 391-3-11-.02 (Georgia), 35 Ill. Adm. Code 720.110 (Illinois), 310 CMR 30.010 (Massachusetts), Minn. R. 7001.0520 (Minnesota), NAC §§ 444.850 & 444.8632 (Nevada), ARSD § 74:28:26:01 (South Dakota), Section 1200-1-11-.01(2) (Tennessee), VHWMR Section 7-103 (Vermont), Wis. State Stat. Section 291.25 (Wisconsin).

61. Pursuant to Sections 2002 and 3004 of RCRA, 42 U.S.C. §§ 6912 & 6924, EPA promulgated rules pertaining to owners and/or operators of treatment, storage and disposal facilities as set forth at 40 C.F.R. Parts 264 and 265.

62. Certain Respondents have received “interim status” as defined in Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), and 40 C.F.R. Part 270, Subpart G, to own and/or operate a hazardous waste management facility that treat, stores or disposes of hazardous waste. See also

Minn. R. 7045.0552 & 7045.0554.

63. Pursuant to Section 3004(a) and (t) of RCRA, 42 U.S.C. § 6924(a) & (t), EPA promulgated rules pertaining to financial responsibility and these requirements are set forth in 40 C.F.R. Parts 264 and 265, Subpart H. See also APC&EC Regulation No. 23 Parts 264-265, Subparts H (Arkansas), GRHWM Section 391-3-11-.05(1) (Georgia), 310 CMR 30.900 (Massachusetts), Minn. R. 7045.0498-7045.0524 (Minnesota), NAC § 444.8632 (Nevada), ARSD § 74:28:25:01 (South Dakota), VHWMR Section 7-504(e)(1) (Vermont), Wis. Adm. Code Chapter NR 685 (Wisconsin).

64. Pursuant to Section 3004(u) of RCRA, 42 U.S.C. § 6924(u), permits issued under Section 3005 of RCRA, 42 U.S.C. § 6925, shall contain schedules for corrective action and assurances of financial responsibility for completing such corrective action.

65. Pursuant to Section 3005 and 3008(h) of RCRA, 42 U.S.C. § 6925 & 6928(h), the Administrator may issue an order requiring corrective action or such other response as he or she deems necessary to protect human health and the environment, which includes the requirement for financial assurance for such corrective action.

66. Pursuant to 40 C.F.R. § 264.140(a), the financial responsibility requirements apply to all hazardous waste facilities except if otherwise provided within the section. See also APC&EC Regulation No. 23 § 264.140(a) (Arkansas), GRHWM Section 391-3-11-.05(1) (Georgia), 310 CMR 30.901 (Massachusetts), Minn. R. 7045.0498 (Minnesota), NAC § 444.8632 (Nevada), ARSD § 74:28:25:01 (South Dakota), VHWMR Section 7-504(e)(1) (Vermont), Wis. Adm. Code NR 685.07 (Wisconsin).

67. Pursuant to 40 C.F.R. § 264.143(c), an owner or operator of certain types of

hazardous waste management facilities may satisfy the financial assurance requirements for closure activities by obtaining a surety bond which conforms to the requirements specified in the section and submitting the bond to the Regional Administrator. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury. See also APC&EC Regulation No. 23 § 264.143(c) (Arkansas), GRHWM Section 391-3-11-.05(1) (Georgia), 310 CMR 30.904(3)(a) (Massachusetts), Minn. R. 7045.0504, Subp. 3 and 4 (Minnesota), NAC § 444.8632 (Nevada), ARSD § 74:28:25:01 (South Dakota), VHWMR Section 7-504(e)(1) (Vermont), Wis. Adm. Code NR 685.07(5)(a)(2) (Wisconsin).

68. Pursuant to 40 C.F.R. § 264.145(c), an owner or operator of certain types of hazardous waste management facilities may satisfy the financial assurance requirements for post-closure activities by obtaining a surety bond which conforms to the requirements specified in the section and submitting the bond to the Regional Administrator. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury. See also APC&EC Regulation 23 § 264.145(c) (Arkansas),

69. Pursuant to 40 C.F.R. § 264.148(b), an owner or operator of a hazardous waste management facility who fulfills the requirements of financial assurance by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or the issuing institution, or a revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments.

The owner or operator must establish other financial assurance or liability coverage within sixty days after such event. See also APC&EC Regulation No. 23 § 264.148(b) (Arkansas), GRHWM Section 391-3-11-.05 (Georgia), Minn. R. 7045.0522, Subp. 2 (Minnesota), NAC § 444.8632 (Nevada), ARSD § 74:28:25:01 (South Dakota), VHWMR Section 7-504(e)(1) (Vermont).

70. Pursuant to Wis. Adm. Code NR 685.07(10)(b), an owner or operator of a hazardous waste management facility in Wisconsin who fulfills the requirements of financial assurance by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or the issuing institution, or a revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within thirty days after such event.

71. Certain Respondents as owners and/or operators of hazardous waste management facilities (identified in Attachment C) no longer had compliant financial assurance as of May 31, 2000 (Stipulated Facts, Paragraph 34) for closure activities as is required by 40 C.F.R. § 264.143(c). See also APC&EC Regulation No. 23 § 264.143(c) (Arkansas), GRHWM Section 391-3-11-.05 (Georgia), 310 CMR 30.904(3) (Massachusetts), Minn. R. 7045.0504, Subp. 3 & 4 (Minnesota), NAC § 444.8632 (Nevada), ARSD § 74:28:25:01 (South Dakota), VHWMR Section 7-504(e)(1) (Vermont), Wis. Adm. Code NR 685.07(5)(a)(2) (Wisconsin).

72. Certain Respondents as owners and/or operators of hazardous waste management facilities (identified in Attachment C) did not obtain by July 30, 2000 compliant financial assurance for closure activities (Stipulated Facts, Paragraph 37) as is required by 40 C.F.R. §

264.148(b). See also APC&EC Regulation § 264.148(b) (Arkansas), GRHWM Section 391-3-11-.05 (Georgia), Minn. R. 7045.0522, Subp. 2 (Minnesota), NAC § 444.8632 (Nevada), ARSD § 74:28:25:01 (South Dakota), VHWMR Section 7-504(e)(1) (Vermont).

73. Certain Respondents as owners and/or operators of hazardous waste management facilities in Wisconsin (identified in Attachment C) did not obtain by June 30, 2000 compliant financial assurance for closure activities (Stipulated Facts, Paragraph 37) as is required by Wis. Adm. Code Section NR 685.07(b) (Wisconsin).

74. Certain Respondents as owners and/or operators of the hazardous waste management facilities failed to have financial assurance for closure activities at twenty-three (23) facilities (identified in Attachment C) as required by 40 C.F.R. § 264.148(b) (see also APC&EC Regulation No. 23 §§ 264.148(b) (Arkansas), GRHWM Section 391-3-11-.05 (Georgia), Minn. R. 7045.0522, Subp. 2 (Minnesota), NAC § 444.8632 (Nevada), ARSD § 74:28:25:01 (South Dakota), VHWMR Section 7-504(e)(1) (Vermont), Wis. Adm. Code Section NR 685.07(b) (Wisconsin)) and 310 CMR 30.904(3)(a) (Massachusetts), which constitutes twenty-three (23) separate continuous violations of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and therefore subjects certain Respondents to the penalties specified in Section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

75. Certain Respondents as owners and/or operators of hazardous waste management facilities (identified in Attachment C) no longer had compliant financial assurance as of May 31, 2000 (Stipulated Facts, Paragraph 34) for post-closure activities as is required by 40 C.F.R. 264.145(c). See also APC&EC Regulation No. 23 § 264.145(c) (Arkansas).

76. Certain Respondents as owners and/or operators of hazardous waste management

facilities (identified in Attachment C), did not obtain by July 30, 2000 compliant financial assurance for post-closure activities (Stipulated Facts, Paragraph 37) as is required by 40 C.F.R. § 264.148(b). See also APC&EC Regulation No. 23 § 264.148(b) (Arkansas).

77. Certain Respondents as owners and/or operators of the hazardous waste management facilities failed to have financial assurance for post-closure activities for three (3) facilities (identified in Attachment C) as is required by 40 C.F.R. § 264.148(b) (see also, APC&EC Regulation No. 23 § 264.148(b) (Arkansas)), which constitute three (3) separate continuous violations of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and therefore subject certain Respondents to the penalties specified in Section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

78. Certain Respondents are owners and/or operators of hazardous waste management facilities that have RCRA permits covering corrective action and require financial assurance for such corrective action as specified in Attachment D.

79. Certain Respondents as owners and/or operators of the hazardous waste management facilities failed to have compliant financial assurance for corrective action at four (4) facilities (identified in Attachment D), as is required by the conditions of the RCRA permits (Arkansas RCRA Permit 16-HR-1 [Permit Conditions: Module II.P and Module II.Q.]; Georgia RCRA Permit EPD-HW-078(s) [Permit Conditions I.F.3. & V.1.I.]; EPD-HW-075(s) [Permit Conditions I.F.3. & V.I.]; Illinois RCRA Permit (Log No. B-13)[Permit Condition IV.F.2]).

80. Certain Respondents failed to comply with the corrective action conditions in four (4) RCRA permits which constitutes four (4) separate continuous violations of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and therefore subjecting certain Respondents to the penalties specified in Section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

81. Certain Respondents are owners and/or operators of hazardous waste management facilities subject to RCRA 3008(h) Orders, 42 U.S.C. § 6928(h), covering corrective action and having financial assurance for such corrective action (see Attachment D).

VII. TERMS OF AGREEMENT

82. Respondents shall exercise their best efforts to obtain Compliant Financial Assurance as expeditiously as possible, on any available terms, and no later than the Compliant Financial Assurance Deadline. In the event that the Respondents are unable to obtain Complaint Financial Assurance for any of the Covered Facilities by the Compliant Financial Assurance Deadline, the Respondents agree that they shall comply with the requirements for closure, post-closure and corrective action for such Covered Facilities as set forth in Paragraphs 89-91 of this Consent Agreement.

83. While the Bankruptcy Case is pending or open, Respondents also agree to seek proposals for replacement of insurance policies providing financial assurance for any of their facilities (effective upon the expiration of such policies), and to determine in good faith whether to accept any such proposals, if such policies do not meet one of the following requirements: a rating of Aaa, Aa or A by Moody's, or a rating of AAA, AA or A by Standard & Poor's, or a rating of A++, A+, A, or A- from A.M. Best Company. Respondents have stated their intention to seek such proposals until the expiration date of such insurance policies. Nothing in this Paragraph excuses Respondents from having to comply with any applicable laws or regulations relating to the use of such insurance policies as financial assurance.

84. Until such time as Respondents have obtained Compliant Financial Assurance, Respondents agree that they shall not seek to withdraw the irrevocable stand-by letter of credit in

the amount of \$28.5 million from Toronto Dominion Bank to Frontier.

85. EPA recognizes that Respondents may not be able to obtain Compliant Financial Assurance without the consent or cooperation of third parties, including Respondents' lenders and the Bankruptcy Court. Respondents will not be deemed to have failed to use their best efforts to obtain Compliant Financial Assurance if the consent or cooperation of third parties is required to obtain Compliant Financial Assurance and cannot be obtained. Respondents shall exercise their best efforts to obtain such consents and cooperation.

86. Respondents shall throughout the Interim Compliance Period continue to exercise best efforts to obtain Compliant Financial Assurance.

87. The Respondents shall comply with the provisions and terms contained in the Compliance Schedule set forth below. Failure to perform any of the tasks specified below shall result in stipulated penalties and may be cause for implementation of closure, post-closure or corrective action activities as specified in Paragraphs 89-91 of this Consent Agreement. The Compliance Schedule requires Respondents to perform the following work tasks:

a. On or before August 5, 2000, Respondents shall have contracted with a certified public accountant or certified public accounting firm to audit Respondents' financial records for the purpose of restating Respondents' financial statements for the years 1999, 1998 and 1997. Respondents shall provide EPA and the Participating States notice of the independent certified public accountant or certified public accounting firm contracted to perform the financial audit for the years 1999, 1998 and 1997, and perform an audit of Respondents' financial statements for the year 2000.

b. Consistent with section 9(p) of the Debtor in Possession Credit Agreement, and

as it may be amended, Respondents shall submit to EPA and Participating States the draft business plan, business plan, and Bankruptcy Court plan of reorganization at the same time these documents are provided to their Underwriters; that is, the draft business plan by September 30, 2000, the business plan by October 31, 2000, and the Bankruptcy Court plan of reorganization by December 31, 2000, or on such dates as changed by any amendment to the Debtor in Possession Credit Agreement. The business plan shall include, but not necessarily be limited to, an assessment of: (1) Respondents' current financial condition; (2) Respondents' intermediate and long-term operating plans; (3) modifications made to Respondents' data management and information systems, such that Respondents may collect its current and delinquent accounts receivables; (4) Respondents' intermediate and long-term product lines; (5) Respondents' anticipated transfer or divestiture of key assets, including but not limited to equipment, Covered Facilities, and real or personal properties; and (6) Respondents' approach for streamlining expenses, maintaining customer relationships, and realizing supply chain efficiencies.

c. On or before November 30, 2000, Respondents shall submit to EPA and Participating States Respondents' revised audited financial statements for fiscal years 1999, 1998, and 1997. These statements should be complete with all accompanying reports and include an accountant's opinion signed by an independent certified public accountant describing the scope of the examination of Respondents' books and financial records.

d. On or before January 5, 2001, Respondents shall submit to EPA and Participating States Respondents' audited financial statements for fiscal year 2000. These statements should be complete with all accompanying reports and include an accountant's opinion signed by an independent certified public accountant describing the scope of the examination of

Respondents' books and financial records.

e. Respondents shall throughout the Interim Compliance Period continuously exercise their best efforts to obtain Compliant Financial Assurance in as expeditious manner as possible.

f. Respondent Safety-Kleen Systems, Inc., shall obtain Compliant Financial Assurance for the hazardous waste management facility (a Covered Facility) in Barre, Vermont (VTD000791699) for corrective action. This Compliant Financial Assurance shall be obtained by the Compliant Financial Assurance Deadline.

g. If during the Interim Compliance Period Respondents determine that they need to secure Compliant Financial Assurance for a hazardous waste management facility (or a commercial storage and/or disposal facility that handles PCBs, PCB waste or PCB Items), Respondents shall notify EPA within five (5) calendar days of such a determination. Nothing in this subparagraph shall be construed as altering in any way Respondents' obligations under Environmental Laws or the other requirements of this Consent Agreement.

h. If at any time during the Interim Compliance Period, Respondents determine that they will not be able to secure Compliant Financial Assurance by the Compliant Financial Assurance Deadline, they shall notify EPA and the Participating States within twenty-four (24) hours of such a determination. Notification shall be in writing and sent to the addressees in Attachment G. In the event that Respondents are unable to obtain Compliant Financial Assurance by the Compliant Financial Assurance Deadline, Respondents agree to comply with the requirements for closure and post-closure and corrective action as set forth in Paragraphs 89-91 of this Consent Agreement.

88. Until Respondents' procurement of Compliant Financial Assurance, Respondents shall comply with the provisions and terms contained in the Reporting and Monitoring Schedule set forth below. Failure to perform any of the tasks specified below shall result in stipulated penalties and may be cause for implementation of closure, post-closure or corrective action activities as specified in Paragraphs 89-91 of this Consent Agreement.

All data, factual information, and documents obtained by EPA from or on behalf of the Respondents shall be subject to public inspection unless identified as confidential by the Respondents in conformance with the procedures set forth in Attachment H, which Respondents will seek to include in the Bankruptcy Court Order approving Respondents' participation in this Consent Agreement. If no claim of confidentiality accompanies the documents or information when they are submitted to EPA, the public may be given access to such documents or information without further notice to Respondents.

a. Consistent with sections 7.2 and 7.3 of the Debtor in Possession Credit Agreement, Respondents shall submit to EPA and any requesting Participating States each week copies of its Form of Borrowing Base Certificate and Cash Flow Forecast. At a minimum, these weekly reports shall include: (1) discussion of Respondents' borrowing base and excess availability; (2) detailed calculations of Respondents' collections from eligible account debtors; (3) detailed calculations of Respondents' weekly sales to eligible account debtors; and (4) interim period cash flow budgets for Respondents' consolidated U.S. operations. Respondents' cash flow forecasts shall include a detailed accounting of actual and projected: (1) operating receipts; (2) operating disbursements; (3) subtotal operating cash flow; and (4) subtotal financing cash flow, including funds drawn from Respondents' Debtor-in-Possession (DIP) financing, DIP repayments,

and DIP availability. Respondents shall provide these documents to EPA and requesting Participating States when it provides such documents to the Steering Committee for the Debtors' Prepetition Senior Secured Lenders.

b. Respondents shall provide written reports commencing ten (10) working days after the Parties have executed this Consent Agreement and on the tenth (10) working day of every month thereafter, identifying for the previous month the quantity of hazardous waste and PCBs (and PCB Items) received for each Covered Facility listed in Attachments B, C, and D. In addition, Respondents shall provide EPA and requesting Participating States with the quantity of hazardous waste and PCBs (including PCB Items) managed at Covered Facilities listed in Attachments B, C, and D.

c. Respondents shall provide EPA and requesting Participating States a detailed written report every week on the status of its efforts to obtain Compliant Financial Assurance. This report shall include, but not be limited to: (1) a summary of discussions and proposals (copies of which shall be provided to EPA and requesting Participating States) for financial assurance; (2) a summary of discussions and correspondence (copies of which shall be provided to EPA and requesting Participating States) seeking the cooperation of third parties with respect to obtaining Compliant Financial Assurance; (3) a summary of discussions or correspondence (copies of which shall be provided to EPA and requesting Participating States) seeking the cooperation of the DIP Lenders with respect to using DIP financing to obtain Compliant Financial Assurance; and (4) detailed accounting of all covenants and collateral assets Respondents have been requested to pledge in order to obtain third-party Compliant Financial Assurance.

d. Respondents shall participate in weekly conference calls with EPA to: (1) discuss the financial reports specified under Section VII, Terms of Agreement, Paragraph 88(a), (c); (2) provide supplemental information about its financial condition, as appropriate; and (3) update EPA with respect to their efforts to obtain Compliant Financial Assurance as specified under Paragraph 88(c).

e. Respondents shall provide EPA and any requesting Participating State with copies of documents setting forth proposed reorganization plan structures when it provides such documents to the Steering Committee for the Debtors' Prepetition Senior Secured Lenders.

f. Respondents shall notify EPA and the Participating States when they learn of any noncompliance under RCRA and TSCA for the Covered Facilities during the Interim Compliance Period, which noncompliance would be reportable under applicable permits or law. Nothing in this subparagraph shall be construed as altering in any way Respondents' obligations under Environmental Laws.

89. If Respondents are unable to obtain Compliant Financial Assurance for any Covered Facility by the Compliant Financial Assurance Deadline, Respondents shall cease taking hazardous waste at that Covered Facility. Respondents shall then in accordance with their permits and 40 C.F.R. Part 264, Subpart G, 40 C.F.R. Part 265, Subpart G, or the authorized state requirements initiate closure and/or post-closure. EPA and the Participating States reserve the right to alter the requirements for and/or modify the permit requirements for closure and post-closure in accordance with 40 C.F.R. Part 264, Subpart G, 40 C.F.R. Part 265, Subpart G, and 40 C.F.R. §§ 271.32 and 271.41, or the authorized state requirements. EPA, in consultation with the affected States, may determine in its discretion and in accordance with applicable law to modify the

requirements of this Paragraph. EPA agrees that if the Bankruptcy Case is still open or pending then any action that it brings against Respondents under this Consent Agreement to enforce the requirement of this Paragraph that Respondents initiate closure and/or post-closure shall be brought in the Bankruptcy Case. However, EPA reserves whatever rights it has to enforce any Environmental Law, including for closure and/or post-closure, against Respondents in any court that would have jurisdiction to enforce such Environmental Law in the absence of this Consent Agreement.

90. If Respondents are unable to obtain Compliant Financial Assurance for any Covered Facility by the Compliant Financial Assurance Deadline, Respondents shall cease taking PCBs, PCB waste and PCB Items at that Covered Facility. Respondents shall then in accordance with their approvals and 40 C.F.R. § 761.65(e) initiate closure at that Covered Facility. EPA reserves the right to modify or alter the requirements for closure in accordance with 40 C.F.R. § 761.65(e). EPA may determine in its sole discretion and in accordance with applicable law to modify the requirements of this Paragraph. EPA agrees that if the Bankruptcy Case is still open or pending then any action that it brings against Respondents under this Consent Agreement to enforce the requirement of this Paragraph that Respondents initiate closure shall be brought in the Bankruptcy Case. However, EPA reserves whatever rights it has to enforce any Environmental Law, including for closure, against Respondents in any court that would have jurisdiction to enforce such Environmental Law in the absence of this Consent Agreement.

91. If Respondents are unable to obtain Compliant Financial Assurance for any Covered Facility by the Compliant Financial Assurance Deadline, Respondents shall implement any corrective action required at the Covered Facility in accordance with applicable law and permit

requirements. Prior to any expiration of the Compliant Financial Assurance Deadline without having obtained Compliant Financial Assurance, Respondents shall meet with EPA, and the Participating State(s) if appropriate, to discuss the requirements of this paragraph; however, the pendency of these discussions shall not excuse or delay the timely performance of required corrective action with applicable law and permits. EPA, in consultation with the affected States, may determine in its discretion and in accordance with applicable law to modify the requirements of this Paragraph. EPA agrees that if the Bankruptcy Case is still open or pending then any action that it brings against Respondents under this Consent Agreement to enforce the requirement of this Paragraph that Respondents initiate corrective action shall be brought in the Bankruptcy Case. However, EPA reserves whatever rights it has to enforce any Environmental Law, including for corrective action, against Respondents in any court that would have jurisdiction to enforce such Environmental Law in the absence of this Consent Agreement.

92. If, prior to obtaining Compliant Financial Assurance, Respondents enter into an agreement with any of the fifty States providing for a letter of credit or other security interest to supplement or replace financial assurance for any facility owned or operated by Respondents where Respondents' financial assurance is in the form of a Frontier surety bond, Respondents shall provide EPA and the Participating States the same pro rata amount of supplemental security interest protection based on the respective amounts of Frontier bonds.

93. Respondents shall comply with all permit requirements for Covered Facilities, including but not limited to, limitations on the maximum amount of waste allowed at a Covered Facility. Until such time as Respondents obtain Compliance Financial Assurance, Respondents shall also ensure that the amount of waste stored or awaiting disposal or treatment at a Covered

Facility does not exceed the normal historical amounts of such hazardous waste during the year prior to Respondents' filing for bankruptcy.

94. Respondents shall require that any agreement for the sale, lease or other transfer of a Covered Facility provides that nothing in the agreement or the Court order approving the agreement shall be construed to release or relieve any entity of any liability to a governmental entity under any police and regulatory statute as the owner or operator of property that that entity owns or operates after the date of transfer. Respondents shall comply with 40 C.F.R. § 270.40 (transfer of permits), or the applicable authorized state requirements, to the extent that it is not altered by the following: that until such time as Respondents obtain Compliant Financial Assurance, Respondents shall not enter into any agreement for the transfer of a Covered Facility unless the new owner and/or operator of the Covered Facility, prior to the transfer of ownership or operational controls, has received approval in writing from EPA and any applicable Participating State that the new owner and/or operator is in compliance with the financial responsibility and assurance requirements of 40 C.F.R. Part 264 and 265, Subpart H or the applicable authorized state requirement. Nothing in this Paragraph relieves Respondents of their obligation to comply with applicable Environmental Laws.

95. If during the Interim Compliance Period, Respondents determine that they need to shut down the operations of one or more of the Covered Facilities Respondents shall, in addition to complying with other applicable legal requirements, notify EPA and the Participating States at least ten days prior to the cessation of operations at the Covered Facility(ies) so that EPA and the Participating States can provide comments regarding the timing and prioritization of operational shutdown of the Covered Facilities in accordance with applicable law. Incorporation of these

comments into the Respondents' final plan for implementing the shutdown of operations at the one or more Covered Facilities shall be subject to the consent of Respondents, which consent shall not be unreasonably withheld. Nothing in this Paragraph relieves Respondents of their obligation to comply with applicable law.

96. If during the Interim Compliance Period, EPA or a Participating State determines that one of the Covered Facilities is in significant non-compliance, EPA's Office Director, Office of Regulatory Enforcement, in consultation with the affected Participating State, may notify Respondents that this Consent Agreement no longer includes such Covered Facility within the terms of the Consent Agreement.

97. Respondents shall comply with the provisions and terms of the "Environmental Management Systems Analysis" set forth in Attachment I, which is incorporated into this Consent Agreement. This Environmental Management Systems Analysis requires that an independent consulting auditor complete a comprehensive environmental analysis of Respondents' environmental management systems program for compliance with environmental laws and regulations. The purpose of the Environmental Management Systems Analysis is to evaluate Respondents' current environmental management practices and determine if Respondents' current corporate-wide environmental management system adequately promotes compliance with environmental requirements. This Environmental Management Systems Analysis will be commenced by September 15, 2000 and shall be completed by May 15, 2001.

98. Respondents shall comply with the terms and provisions of the "Environmental Compliance Audits" set forth in Attachment J, which is incorporated by reference into this Consent Agreement. Respondents shall hire an independent auditor to conduct a comprehensive

environmental audit in conformance with all applicable laws and prepare an audit report for each of the facilities listed in Attachment J (Audit Facilities). The Environmental Compliance Audits will be commenced on September 15, 2000 and completed by May 15, 2001.

99. Respondents shall continue to pay the premiums and take all steps within their control to keep current their surety bonds with Frontier Insurance Company for the Covered Facilities until such time as Respondents are able to provide Compliant Financial Assurance for those Covered Facilities.

100. Except as stated in this Paragraph 100, all claims or rights to injunctive relief of EPA and any Participating States against any Respondent for Environmental Cleanup or Response Cost Liabilities shall not be discharged or impaired by any plan of reorganization in the Bankruptcy Case, shall survive the Bankruptcy Case as if the Bankruptcy Case had not been commenced, and may then be determined in the manner and by the administrative or judicial tribunals in which such claims or rights to injunctive relief would have been resolved or adjudicated if the Bankruptcy Case had not been commenced. This Paragraph 100 applies to all Environmental Cleanup or Response Cost Liabilities of Respondents to EPA and any Participating States and is not limited to liabilities related to Covered Facilities or facilities located in Participating States or Parallel Action States. Respondents agree that any bar date for filing claims in the Bankruptcy Case shall not apply to claims covered by this Paragraph 100.

This Paragraph 100 does not apply to (i) any Environmental Cleanup or Response Cost Liability of any Respondent for a money judgment that EPA or a Participating State has obtained prior to confirmation of a reorganization plan in the Bankruptcy Case; or (ii) any Environmental Cleanup or Response Cost Liability that EPA or a Participating State seeks by filing an action or

claim in a court or administrative forum prior to confirmation of a reorganization plan in the Bankruptcy Case, if such asserted Liability would prevent a Respondent from reorganizing. Respondents agree that any general bar date for filing claims in the Bankruptcy Case shall not apply to claims within subparts (i) and (ii) of the foregoing sentence. If Respondents wish to assert that a claim falls within subpart (i) or (ii), Respondents must establish a special bar date for claims within subparts (i) and (ii) and send out a special bar date notice that specifically identifies all such claims by case name and docket number that it believes fall within subparts (i) and (ii). Nothing in the foregoing abrogates or diminishes any rights that EPA and the Participating States have in the absence of this Consent Agreement. EPA and the Participating States may contest Respondents' contention that a claim falls within subparts (i) and (ii) and the Bankruptcy Court shall have exclusive jurisdiction over the determination of whether or not the claims fall within subparts (i) or (ii) for purposes of determining the applicability of this Paragraph 100.

In addition, because the State of South Carolina has indicated it will not be a Participating State or Parallel Action State for facilities owned and/or operated by Safety-Kleen (Pinewood), Inc., this Paragraph 100 does not apply to Environmental Cleanup or Response Cost Liabilities of Respondents to the State of South Carolina for facilities owned and/or operated by Safety-Kleen (Pinewood), Inc. This Paragraph 100 does apply to Environmental Cleanup or Response Cost Liabilities of Respondents to EPA for facilities owned and/or operated by Safety-Kleen (Pinewood), Inc. Nothing in this Paragraph 100 abrogates any rights by and between the State of South Carolina and Respondents that exist in the absence of this Consent Agreement or expresses in any way EPA's views on Adversary Proceeding No. 00-698 between South Carolina and Respondents and this Consent Agreement may not be used as evidence of EPA's views in

Adversary Proceeding No. 00-698.

101. In the event that Respondents are unable to obtain Compliant Financial Assurance for any of the Covered Facilities by the Compliant Financial Assurance Deadline, the Respondents agree that they shall comply with the requirements for closure, post-closure, and corrective action set forth in Paragraphs 89-91. Under no circumstances while the Bankruptcy Case is pending or open, shall any Respondent file a motion, adversary proceeding, or other request with the Bankruptcy Court or any other court under Section 105 of the Bankruptcy Code or any other authority that seeks to delay or avoid Respondents' compliance with the requirements for closure, post-closure, and corrective action set forth in Paragraphs 89-91 or that contends in any way that any action by EPA or the Participating States to enforce closure, post-closure, and corrective action requirements as permitted by Paragraphs 89-91 is not within the police and regulatory exception to the automatic stay. 11 U.S.C. § 362(b)(4). Respondents also agree to oppose as being inconsistent with this Consent Agreement any motion, adversary proceeding, or other request by other parties in interest with the Bankruptcy Court or any other court under Section 105 of the Bankruptcy Code or any other authority that seeks to delay or avoid Respondents' compliance with the requirements for closure, post-closure, and corrective action set forth in Paragraphs 89-91 or that contends in any way that any action by EPA or the Participating States to enforce closure, post-closure, and corrective action requirements as permitted by Paragraphs 89-91 is not within the police and regulatory exception to the automatic stay. 11 U.S.C. § 362(b)(4). Except as provided in Paragraph 100 with respect to EPA, Respondents reserve all rights related to facilities owned and/or operated by Safety-Kleen (Pinewood), Inc. Nothing in this Paragraph abrogates any rights by and between the State of South Carolina and Respondents

that exist in the absence of this Consent Agreement or expresses in any way EPA's views on Adversary Proceeding No. 00-698 between South Carolina and Respondents and this Consent Agreement may not be used as evidence of EPA's views in Adversary Proceeding No. 00-698.

102. Respondents shall comply in full with all Environmental Compliance Obligations throughout the Bankruptcy Case. Under no circumstances, while the Bankruptcy Case is pending or open, shall any Respondent file a motion, adversary proceeding, or other request with the Bankruptcy Court or any other court under Section 105 of the Bankruptcy Code or any other authority that seeks to delay or avoid Respondents' Environmental Compliance Obligations or contends that any action by EPA or the Participating States to enforce an Environmental Compliance Obligation is not within the police and regulatory exception to automatic stay. 11 U.S.C. § 362(b)(4). Respondents also agree to oppose as being inconsistent with this Consent Agreement any motion, adversary proceeding, or other request by other parties in interest with the Bankruptcy Court or any other court under Section 105 of the Bankruptcy Code or any other authority that seeks to delay Environmental Compliance Obligations or contends that any action by EPA or the Participating States to enforce Environmental Compliance Obligations is not within the police and regulatory exception to automatic stay. 11 U.S.C. § 362(b)(4). This Paragraph applies to all Environmental Compliance Obligations of Respondents and is not limited to Environmental Compliance Obligations related to Covered Facilities or facilities located in Participating States or Parallel Action States, except that this Paragraph does not apply to facilities owned and/or operated by Safety-Kleen (Pinewood), Inc. EPA reserves all rights related to facilities owned and/or operated by Safety-Kleen (Pinewood), Inc. Except as provided in Paragraph 100 with respect to EPA, Respondents reserve all rights related to facilities owned

and/or operated by Safety-Kleen (Pinewood), Inc. and this Paragraph does not apply to such facilities. Nothing in this Paragraph abrogates any rights by and between the State of South Carolina and Respondents that exist in the absence of this Consent Agreement or expresses in any way EPA's views on Adversary Proceeding No. 00-698 between South Carolina and Respondents and this Consent Agreement may not be used as evidence of EPA's views in Adversary Proceeding No. 00-698.

103. Respondents shall not abandon any Covered Facility if such Covered Facility does not have Compliant Financial Assurance. EPA and the Participating States also reserve all rights to contest any proposed abandonment on any other ground under applicable law.

104. Whenever this Consent Agreement requires Respondents to submit a report or documentation regarding their compliance with Environmental Laws or under Paragraph 88(b), it shall be signed and certified as accurate by a responsible corporate officer as defined by 40 C.F.R. § 270.11(a)(1), or his/her duly authorized representative. This certification shall include the following language:

I certify under penalty of law that this document and any attachments to it were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

105. Whenever under the terms of this Consent Agreement notice is required to be given or a report or other document is required to be forwarded between EPA, Participating States and Respondents, it shall be directed to the individual and addresses specified in Attachment G, unless otherwise specified in the Consent Agreement. Any correspondence submitted to EPA or

Participating States shall include a reference to the case caption and docket numbers of this administrative action.

106. The Parties designate the following individual to receive any other notification or submissions related to the implementation of this Consent Agreement (unless specified by law), and to communicate informally about problems incurred or anticipated in meeting the requirements of this Consent Agreement. Such informal communication is intended to facilitate meeting the objectives of this Consent Agreement and shall not relieve the Parties of the notice and reporting requirements set forth elsewhere in this Consent Agreement.

Branch Chief	Phil Retallick
Office of Regulatory Enforcement	Senior Vice-President
RCRA Enforcement Division	Safety-Kleen Corp.
Mail Code 2246-A	1301 Gervais Street
Ariel Rios Building	Columbia, South Carolina 29201
1200 Pennsylvania Avenue, NW	(803) 933-6430
Washington, DC 20004	
(202) 564-4008	

107. Upon the effective date of this Consent Agreement, Respondents agree to provide EPA access at all reasonable times to any of the Covered Facilities, and any other property owned, operated or controlled by Respondents, to which access is required for the implementation of this Consent Agreement for the purposes of conducting any activity related to this Consent Agreement, including but not limited to:

- a. monitoring all work and activities required by this Consent Agreement;
- b. verifying any data or information submitted to EPA;
- c. conducting investigations relating to work or activities required by this Consent Agreement;
- d. obtaining samples relating to work or activities required by this Consent

Agreement;

- e. inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Respondents or their agents related to work or activities required by this Consent Agreement; and
- f. assessing Respondents' compliance with this Consent Agreement.

108. Upon the effective date of this Consent Agreement, Respondents agree to provide Participating States access at all reasonable times to any of the Covered Facilities located in their state, and any other property owned, operated or controlled by Respondents in their state, to which access is required for the implementation of this Consent Agreement for the purposes of conducting any activity related to this Consent Agreement, but not limited to:

- a. monitoring all work and activities required by this Consent Agreement;
- b. verifying any data or information submitted to EPA;
- c. conducting investigations relating to work or activities required by this Consent Agreement;
- d. obtaining samples relating to work or activities required by this Consent Agreement;
- e. inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Respondents or their agents related to work or activities required by this Consent Agreement; and
- f. assessing Respondents' compliance with this Consent Agreement.

VIII. PAYMENT OF PENALTY

109. Respondent Safety-Kleen Services, Inc. agrees to pay a civil penalty in the sum of \$

184,692.00. 40 C.F.R. § 22.18(b). Respondents agree to pay this amount as an Allowed Administrative Expense Claim in the Bankruptcy Case as of the Effective Date of the Plan of Reorganization and in the same manner as other Allowed Administrative Expense Claims are paid. EPA's Allowed Administrative Expense Claim shall not be subordinated for any reason to other Allowed Administrative Expense Claims in the Bankruptcy Case. It is EPA's position that it has substantially reduced the amount of penalty for which Respondents would otherwise be liable on account of Respondents' limited ability to pay.

110. Respondent, Safety-Kleen Services, Inc., shall pay the civil penalty by certified or cashier's check and make it payable to "Treasurer, United States of America," and mailed to:

U.S. Environmental Protection Agency
Hearing Clerk
P.O. Box 360277M
Pittsburgh, PA 15251

The check should indicate that it is for "Safety-Kleen Corp., et al.," and shall indicate the docket number for this administrative action.

111. A transmittal letter, indicating Respondent, Safety-Kleen Services, Inc., complete address, and case docket number shall accompany each payment.

112. Respondent Safety-Kleen Services, Inc., shall send a copy of the checks and transmittal letters to:

Clerk, Environmental Appeals Board
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (1103-B)
Washington, DC 20460

and

Christine J. McCulloch, Esq.
Office of Regulatory Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2246-A)
Washington, DC 20460

113. Failure to pay the full amount of the penalty assessed under this Consent Agreement may subject Respondent Safety-Kleen Services, Inc. to a civil action to collect any unpaid portion of the proposed civil penalty and interest, as set forth in Paragraph 114, below. In any such collection action, the validity, amount and appropriateness of this Consent Agreement or the settlement payment, or penalty assessed hereunder are not subject to review.

114. If Respondent Safety-Kleen Services, Inc. fails to remit the civil penalty as agreed to herein, EPA is required 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. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if it is not paid within thirty (30) calendar days from when due under this Consent Agreement.

115. Penalties paid pursuant to this Consent Agreement are not deductible for federal tax purposes under 28 U.S.C. § 162(f).

IX. STIPULATED PENALTIES

116. Respondents shall be liable for stipulated penalties to the EPA, as specified below, for failure to comply with the requirements of this Consent Agreement, unless excused by EPA, in its sole unreviewable discretion. "Compliance" by Respondents shall include timely completion of the activities required and/or specified by this Consent Agreement or any other work plan, schedule or other document approved by EPA pursuant to this Consent Agreement.

a. For failure to submit the civil penalty pursuant to the terms of Section VIII

(Payment of Penalty), Respondent Safety-Kleen Services, Inc. shall pay stipulated penalties in the following amounts for each day during which the payment is not received:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
1 st through 30 th day	\$ 2,500.00
31 st day through 60 th day	\$ 4,000.00
60 th day and beyond	\$10,000.00

b. For failure to provide audited financials as required by Paragraph 87(c), 87(d) of this Consent Agreement, Respondents shall pay stipulated penalties in the following amounts for each day during which each violation continues:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
1 st through 30 th day	\$ 1,000.00
31 st day through 60 th day	\$ 2,000.00
60 th day and beyond	\$ 4,000.00

c. For failure to comply with requirements of Paragraphs 89-91 regarding ceasing taking waste/materials if Respondents are unable to obtain Compliant Financial Assurance by the Compliant Financial Assurance Deadline, Respondents shall pay stipulated penalties in the following amounts for each day during which each violation continues:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
1 st through 30 th day	\$ 2,000.00
31 st day through 60 th day	\$ 4,000.00
60 th day and beyond	\$ 6,000.00

d. For failure to exercise best efforts to obtain Compliant Financial Assurance as required by Paragraphs 82, 85-87 of this Consent Agreement, Respondents shall pay stipulated penalties in the following amounts for each day during which each violation continues:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
1 st through 30 th day	\$ 2,000.00

31 st day through 60 th day	\$ 4,000.00
60 th day and beyond	\$ 6,000.00

e. For failure to meet any deadlines established in Paragraph 87 (except as provided in Paragraph 116.b), or Attachments I and J of this Consent Agreement, and for any violation of interim operating conditions established in Section VII (Terms of Agreement) (except as provided in Paragraph 116.c), Respondents shall pay stipulated penalties in the following amounts for each day during which each violation continues:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
1 st through 30 th day	\$ 1,000.00
31 st day through 60 th day	\$ 2,000.00
60 th day and beyond	\$ 5,000.00

f. For failure to meet any report submittal deadlines established in Section VII (except as provided in Paragraph 116.b), or Attachments I and J of this Consent Agreement, Respondents shall pay stipulated penalties in the following amounts for each day during which each violation continues:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
1 st through 30 th day	\$ 500.00
31 st day through 60 th day	\$ 1,000.00
60 th day and beyond	\$ 2,500.00

117. All stipulated penalties begin to accrue on the day that performance is due or a noncompliance occurs, and continue to accrue through the earlier of: (i) the final day of all correction of the noncompliance, or (ii) the time through which an analogous penalty under applicable law would accrue. Nothing herein shall preclude the simultaneous accrual of separate stipulated penalties for separate violations of this Consent Agreement.

118. Respondents shall notify EPA in writing of any failure to meet Consent Agreement

requirements for which stipulated penalties may be due as soon as they have knowledge of such failure. EPA shall notify Respondents as soon as practicable of any alleged failure by Respondents to meet Consent Agreement requirements for which stipulated penalties may be due. EPA reserves the right to demand payment of stipulated penalties upon a determination by EPA that a violation of this Consent Agreement has occurred. However, penalties shall accrue as provided in Section IX, regardless of whether Respondents or the EPA has notified the other of a violation.

119. The payment of stipulated penalties shall not alter in any way Respondents' obligation to comply or complete the terms of the Consent Agreement.

120. All penalties owed to the EPA under this Section shall have administrative expense priority and shall be paid as of the Effective Date of the Plan of Reorganization and in the same manner as other allowed administrative expense claims are paid in the Bankruptcy Case. EPA's allowed administrative expense claims shall not be subordinated for any reason to other allowed administrative expense claims in the Bankruptcy Case. Respondents may contest the amount of any administrative expense claimed by EPA for stipulated penalties under this Consent Agreement but may not contest the administrative priority of any claim allowed. All payments under this Section shall be paid by certified or cashier's check made payable to the "Treasurer of the United States" and shall be mailed with a cover letter stating the caption and docket number of this

administrative case to:

U.S. Environmental Protection Agency
Hearing Clerk
P.O. Box 360277M
Pittsburgh, PA 15251

The check should also indicate that it is for “Safety-Kleen Corp., et. al.,” and should reference the docket number for this administrative action.

121. Respondents shall send a copy of the checks and transmittal letters to:

Clerk, Environmental Appeals Board
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (1103-B)
Washington, DC 20460

and

Christine J. McCulloch, Esq.
Office of Regulatory Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2246-A)
Washington, DC 20460

122. If Respondents fail to pay stipulated penalties when due, the EPA may institute proceedings in Bankruptcy Court to collect the penalties, as well as interest. Respondents shall pay interest on the unpaid penalties at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717, beginning on the date of demand made pursuant to Section IX, and shall continue to accrue at the rate specified through the date of the Respondents’ full payment. Such interest shall be compounded each federal fiscal year.

123. Nothing in this Section shall be construed as prohibiting, altering or in any way limiting the ability of the EPA to seek other remedies or sanctions available by virtue of Respondents’ violation(s) of this Consent Agreement or of the statutes and regulations referenced herein.

124. Nothing in this Section shall be construed as prohibiting, altering or in any way limiting the ability of a Participating State to seek other remedies or sanctions available by virtue of Respondents' violation(s) of the Participating States' statutes or regulations referenced within this Consent Agreement.

125. Penalties paid pursuant to this Consent Agreement are not deductible for federal tax purposes under 28 U.S.C. § 162(f).

X. CERTIFICATION

126. Nothing in this Consent Agreement shall relieve Respondents of the duty to comply with all applicable provisions of RCRA and TSCA, and other federal, state or local laws or statutes, nor shall it restrict EPA's (or the Participating States') authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. Nothing in this Paragraph shall be construed to modify or vacate the provisions of this Consent Agreement providing for a Compliance Schedule for Respondents to obtain Compliant Financial Assurance by the Compliant Financial Assurance Deadline.

127. Respondents shall comply with all applicable requirements of RCRA and TSCA, and regulations thereunder at 40 C.F.R. Parts 260-270 and 761, and as applicable, authorized state programs, provided that in the event that Respondents do not obtain Compliant Financial Assurance by the Compliant Financial Assurance Deadline, Respondents shall comply with the requirements of Paragraphs 89-91 of this Consent Agreement. Respondents agree to undertake all necessary actions to prevent recurrences of violations of environmental requirements. Nothing in this Paragraph shall be construed to modify the provisions of this Consent Agreement providing

for a Compliance Schedule for Respondents to obtain Compliant Financial Assurance by the Compliant Financial Assurance Deadline.

128. By signing this Consent Agreement, Respondents certify that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response and statement. Respondents realize that there are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for knowing submission of such information, 18 U.S.C. § 1001.

129. EPA reserves the right to revoke this Consent Agreement and accompanying settlement penalty if and to the extent that any information or certification provided by Respondents was materially false or inaccurate at the time such information or certification was provided to EPA, and EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondents oral notice of their intent to revoke which shall not be effective until received by Respondents in writing.

130. Participating States reserve the right to consult with and request that EPA revoke that portion of the Consent Agreement for Covered Facilities in Participating States and accompanying settlement penalty if and to the extent that any information or certification provided by Respondents, was materially false or inaccurate at the time such information or certification was provided to EPA, and EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondents oral notice of their intent to revoke which shall not be effective until received by Respondents in writing.

XI. EFFECT OF SETTLEMENT

131. This Consent Agreement and the accompanying Final Order resolve only those civil

claims specified in Section VI above arising prior to Compliant Financial Assurance Deadline. Nothing herein shall be construed to limit the authority of EPA, the United States and/or the Participating States to undertake action against any person, including the Respondents, in response to any condition which EPA, the United States or the Participating States determine may present an imminent and substantial endangerment to the public health, welfare or the environment, nor shall anything in this Consent Agreement or the accompanying Final Order be construed to resolve, and the EPA, United States and Participating States reserve their authority to pursue criminal sanctions against Respondents.

132. This Consent Agreement, upon incorporation into a Final Order by the Environmental Appeals Board and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations set forth in Section VI, above.

XII. MODIFICATION OF CONSENT AGREEMENT

133. EPA may supplement the list of Participating States, Parallel Action States, and Covered Facilities by providing notice to Respondents by August 31, 2000. No such supplementation shall alter the provisions in Paragraphs 100-102 for facilities owned and/or operated by Safety-Kleen (Pinewood), Inc. If EPA provides such notice, the civil penalty required by Paragraph 109 shall be increased by \$ 4,062.00 per violation for the noncompliances identified by the Participating State. No change will be made to the Civil Penalty required under this Consent Agreement for the addition of Parallel Action States, although such States may require a civil penalty under any parallel agreement. It is possible that future circumstances may be such that Respondents may choose to request that EPA (and affected States) extend the Complaint Financial Assurance Deadline. Any decision by EPA relating in any way to extend the

Complaint Financial Assurance Deadline shall be in its sole discretion (after consultation with the affected States) and will not be subject to judicial review. Any decision by the EPA to allow an extension of time will require that such an extension be put in writing and signed by the Parties. Any decision by EPA (and the affected States) to extend the Compliant Financial Assurance Deadline for a period of time no later than April 30, 2001 will not require further approval by the Bankruptcy Court. Except as specifically provided herein, there shall be no modifications or amendments of this Consent Agreement without the written agreement of the parties to this Consent Agreement and after consultation with the Participating States.

XIII. SUBMITTAL TO ENVIRONMENTAL APPEALS BOARD

134. The Parties agree to submit this Consent Agreement to the Environmental Appeals Board with a request that it be incorporated into a Final Order.

XIV. SUBMITTAL TO BANKRUPTCY COURT

135. Respondents shall exercise their best efforts to obtain the approval of the Bankruptcy Court for their agreement and entry into this Consent Agreement. Such approval shall specifically include the Court's approval of the provisions contained in Section VII (Terms of Agreement), Section VIII (Payment of Penalty), Section IX (Stipulated Penalties), and Paragraphs 100-103.

XV. EFFECTIVE DATE

136. Respondents and EPA agree to issuance of the attached Final Order. Upon filing, EPA will transmit a copy of the filed Consent Agreement to the Respondents and Participating States. This Consent Agreement and the attached Final Order shall become effective after execution of the Final Order by the Environmental Appeals Board and filing with the Hearing

Clerk and approval of Respondents' entry into this Consent Agreement by the Bankruptcy Court.

IN THE MATTER OF: Safety-Kleen Corp.
Docket No. MM-HQ-2000-0005

The foregoing Consent Agreement is Hereby Stipulated, Agreed, and Approved for Entry.

For Respondents:

Grover C. Wrenn
President and Chief Operating Officer
Safety-Kleen Corp.

Date

Henry H. Taylor
President
All Other Respondents

Date

IN THE MATTER OF: Safety-Kleen Corp.
Docket No. MM-HQ-2000-0005

The foregoing Consent Agreement is Hereby Stipulated, Agreed, and Approved for Entry.

For Complainant:

Steven A. Herman
Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

Date

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)
) Docket No. MM-HQ-2000-0005
Safety-Kleen Corp.)
1301 Gervais Street)
Columbia, South Carolina 29201)
)
Safety-Kleen Services, Inc.)
Safety-Kleen Systems, Inc.)
Safety-Kleen (Aragonite), Inc.)
Safety-Kleen (BDT), Inc.)
Safety-Kleen (Bartow), Inc.)
Safety-Kleen (Baton Rouge), Inc.)
Safety-Kleen (Bridgport), Inc.)
Safety-Kleen (California), Inc.)
Safety-Kleen (Chattanooga), Inc.)
Safety-Kleen (Colfax), Inc.)
Safety-Kleen (Crowley), Inc.)
Safety-Kleen (Deer Park), Inc.)
Safety-Kleen (Deer Trail), Inc.)
Safety-Kleen (GS), Inc.)
Safety-Kleen (LaPorte), Inc.)
Safety-Kleen (Lone and Grassy Mtn.), Inc.)
Safety-Kleen (NE), Inc.)
Safety-Kleen (PPM), Inc.)
Safety-Kleen (Pecatonica), Inc.)
Safety-Kleen (Pinewood), Inc.)
Safety-Kleen (Plaquemine), Inc.)
Safety-Kleen (Roebuck), Inc.))
Safety-Kleen (TS), Inc.)
Safety-Kleen (Tulsa), Inc.)
Safety-Kleen (WT), Inc.)
Safety-Kleen (White Castle), Inc.)
GSX Chemical Services of Ohio, Inc.)
)
)
Respondents.)

FINAL ORDER

Pursuant to 40 C.F.R. §22.18(b) of EPA's Consolidated Rules of Practice, 64 Fed. Reg. 40138 (July 23, 1999), and Sections 3008(a), (g), and (h) of the Resource Conservation and

Recovery Act (RCRA), 42 U.S.C. §§ 6928(a), (g), and (h); and Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. It is hereby ordered that:

1. Respondents shall comply with all of the terms of the Consent Agreement, incorporated herein by reference, and with the requirements set forth in RCRA, TSCA, and regulations thereunder;
2. Respondents are assessed a civil penalty in the amount of \$ 184,692.00;
3. Respondents shall, provide EPA with an Allowed Administrative Expense Claim in the amount of \$ 184,692.00 in Respondents' Bankruptcy Case as of the Effective Date of the Plan of Reorganization. Payment shall be made by certified or cashier's check payable to the order of "Treasurer, United States of America." The check shall refer to the docket number for EPA's administrative action and shall be mailed to:

U.S. Environmental Protection Agency
Hearing Clerk
P.O. Box 360277M
Pittsburgh, PA 15251

4. A transmittal letter, indicating Respondents' names, complete addresses, and the administrative case docket number shall accompany the payment of the civil penalty.

5. Respondents shall send a copy of the checks and transmittal letters to:

Clerk, Environmental Appeals Board
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (1103-B)
Washington, DC 20460

and

Christine J. McCulloch, Esq.
Office of Regulatory Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2246-A)
Washington, DC 20460

So Ordered, this _____ day of _____, 2000.

U.S. Environmental Protection Agency

Environmental Appeals Board

