

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of an  
Interim Remedial Program by:

MODIFICATION TO  
ORDER ON CONSENT

SAFETY-KLEEN CORPORATION,  
Respondent.

DEC File No.  
C1-1949-92-02

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WHEREAS:

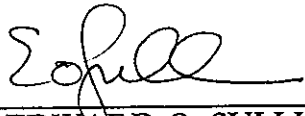
1. The State of New York Department of Environmental Conservation (The "Department") is responsible for the implementation and enforcement of the Environmental Conservation Law of the State of New York ("ECL") including Article 27, Title 9 (Industrial Hazardous Waste Disposal Sites).
2. Respondent, Safety-Kleen Corporation, is a corporation organized and existing under the laws of Wisconsin which operates an industrial facility located on Factory Avenue in Mattydale in Onondaga County hereinafter known as the "facility".
3. The Department and Respondent entered into an Order on Consent (C7-0001-90-03) dated June 4, 1990, to resolve certain alleged violations of the Environmental Conservation Law at the facility. A modification dated October 23, 1992 (C1-1949-92-02) modified certain effluent limitations and monitoring requirements contained in Appendix A of the Order.
4. Paragraph XVI of the Order provides that Respondent may seek changes to the provisions of the Order upon written application, setting forth reasonable grounds for the changes sought.
5. Respondent has sought further modifications to certain provisions of the Order in writing and the Department has determined that further modifications are appropriate.
6. Paragraph III of the Order sets forth the procedures Respondent must follow to treat and discharge groundwater removed as part of the interim remedial measures required by the Order. Paragraph III is hereby modified to authorize Respondent to change the ground water recovery and treatment system from the system described in Appendix A of the Consent Order to a vacuum enhance recovery (VER) system. A description of the VER system, including the extraction point locations and equipment specifications, is attached to this modification as Attachment I and made a part of the Order and this modification. The new system includes the replacement of the first

granular activated carbon (GAC) unit with a Geraghty and Miller Environmental Equipment Air Diffuser. System monitoring will be conducted before the diffuser, between the diffuser and the GAC unit, and after the GAC unit. Monitoring frequency and parameters and system discharge point remain unchanged and as delineated in paragraphs 6 and 7 of the Modification (C1-1949-92-02 dated October 23, 1992).

7. All other provisions of the Order remain in full force and effect.

DATED: 8-16, 1993  
Albany, New York

STATE OF NEW YORK DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION

By:   
EDWARD O. SULLIVAN  
Deputy Commissioner

# CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of the foregoing Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.

SAFETY-KLEEN CORPORATION

BY: Scott E. Fore 29-472

TITLE: Vice President

DATE: 8/9/93

STATE OF NEW YORK )  
 ) S.S.:  
COUNTY OF ONONDAGA )

On this 9th day of August, 1993, before me personally came Scott E. Fore to me known, who, being by me duly sworn, did depose and say that he resides in St. Charles, IL; that he is the Vice President of Safety-Kleen, the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Ursula Hursh  
NOTARY PUBLIC

(DCS:safkleen.co/a)



STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

-----X  
In the Matter of an :  
Interim Remedial Program by: : **MODIFICATION TO**  
: **ORDER ON CONSENT**  
:   
SAFETY KLEEN CORPORATION, :  
: DEC File No.  
Respondent. : C1-1949-92-02  
:   
-----X

WHEREAS:

1. The State of New York Department of Environmental Conservation (the "Department") is responsible for the implementation and enforcement of the Environmental Conservation Law of the State of New York ("ECL") including Article 27, Title 9 (Industrial Hazardous Waste Management) and Title 13 (Inactive Hazardous Waste Disposal Sites).

2. Respondent, Safety-Kleen Corporation, is a corporation organized and existing under the laws of Wisconsin which operates an industrial facility located on Factory Avenue in Mattydale in Onondaga County hereinafter known as the "facility".

3. The Department and Respondent entered into an Order on Consent (C7-0001-90-03) dated June 4, 1990 to resolve certain alleged violations of the Environmental Conservation Law at the facility.

4. Paragraph XVI of the Order provides that Respondent may seek changes to the provisions of the Order upon written

MAT02041H

application, setting forth reasonable grounds for the changes sought.

5. Respondent has sought modifications to certain provisions of the Order by letter dated March 16, 1992.

6. Paragraph III of the Order sets forth the procedures Respondent must follow to treat and discharge groundwater removed as part of the interim remedial measures required by the Order. Paragraph III is hereby modified to authorize Respondent to discharge treated groundwater into the storm water sewer line along Brown Avenue which sewer line ultimately discharges into Ley Creek. The storm water sewer line must be constructed in accordance with the "Proposed Drainage Improvements Plan" as approved by the Town of Salina.

7. Paragraph III of the Order requires compliance with the requirements set forth in Appendix A for analysis and treatment of groundwater prior to discharge, including a requirement that the effluent be analyzed every two weeks for zinc, iron, pH and total suspended solids. Appendix A is hereby modified to authorize analysis of zinc, iron, pH and total suspended solids on a monthly basis. Appendix A is further modified to authorize analysis of influent and the sampling between the carbon units every two months using EPA Method 601 parameters to the normal method detection limit.

8. All other provisions of the Order remain in full force and effect.

DATED: October 23, 1992  
Albany, New York

STATE OF NEW YORK DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By: \_\_\_\_\_



EDWARD O. SULLIVAN  
Deputy Commissioner

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of the foregoing Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.

SAFETY-KLEEN CORPORATION

BY: SCOTT E. FORE  
TITLE: VICE PRESIDENT  
DATE: 9/24/92

92-387

STATE OF ILLINOIS     )  
                                  ) S.S.  
COUNTY OF KANE        )

On this 24th day of September, 1992, before me personally came Scott E. Fore to me known, who, being by me duly sworn, did depose and say that he resides in St. Charles, Illinois; that he is the Vice President of Safety-Kleen Corp., the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he signed his name thereto by like order.



Linda M. Lindberg  
NOTARY PUBLIC

## EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning \_\_\_\_\_ Effective date of Consent Order Modification.

and lasting until \_\_\_\_\_

the discharges from the permitted facility shall be limited and monitored by the permittee as specified below:

Outfall Number & Effluent Parameter	Discharge Limitations		Units	Minimum Monitoring Requirements	
	Daily Avg.	Daily Max.		Measurement Frequency	Sample Type
001					
Methyl Ethyl Ketone		10	ug/l	*1/4weeks	Grab
Xylene		10	ug/l	*1/4weeks	Grab
1,1,1-Trichloroethane		10	ug/l	*1/4weeks	Grab
Trichloroethene		10	ug/l	*1/4weeks	Grab
Tetrachloroethene		05	ug/l	*1/4weeks	Grab
Ethyl Benzene		10	ug/l	*1/4weeks	Grab
Iron		4	mg/l	*1/4weeks	Grab
Zinc		1	mg/l	*1/4weeks	Grab
Total Suspended Solids	Monitoring Only			*1/4weeks	Grab
pH Range (6.5 to 8.5)			SU	*1/4weeks	Grab

NOTE: After approximately seven days of operations, a sample of the discharge water shall be analyzed for the entire list of Method 601 parameters to the normal method detection level. A one-week turnaround on results will be required.

\* After four weeks, a BC and IC sample will be required 1/8 weeks.

Except that this authorization shall not be in effect until the engineering report and associated plans and specifications are stamped by a New York State licensed professional engineer and submitted to the Department, along with the exact point (latitude and longitude), of the discharge to Ley Creek.

Additional parameters on attached sheet will also be handled as above, and all results will be delivered to Mr. Gary Casper as received by Safety-Kleen.

MAT02045H



**PARAMETERS****LIMIT (UG/L)**

1,1 Dichloroethane	10
Methylene Chloride	10
1,2 Dichlorobenzene	10
1,3 Dichlorobenzene	10
1,4 Dichlorobenzene	10
Benzene	10
Toluene	10
Chlorobenzene	10
Chloromethane	10
1,1 Dichloroethene	10
Tr4ans - 1,2 Dichloroethene	10
Vinyl Chloride	10
Naphtalene	10

All of these parameters should be monitored once per month with an influent, midpoint, and effluent sample every two months as stated in the attached Modification to Order on Consent. The first month's sample and 602 should be expedited for a ten day submittal. A method 602 analysis should be run on the effluent at the same time as the 601 analysis required by the Order.

MAT02046H

**KARAGANIS & WHITE LTD.**

ATTORNEYS AT LAW  
414 NORTH ORLEANS STREET-SUITE 810  
CHICAGO, ILLINOIS 60610  
(312) 836-1177

JOSEPH V. KARAGANIS  
A. BRUCE WHITE  
BARBARA ANNE MAGEL  
ELLEN LOIS ZISOOK  
JAMES D. BRUSSLAN

DANIEL SWARTZMAN  
OF COUNSEL

May 17, 1990

Ms. Deborah Christian  
Associate Attorney  
Division of Environmental  
Enforcement  
New York State Department of  
Environmental Control  
50 Wolf Road  
Albany, New York 12233

Re: Safety-Kleen Corp.  
Mattydale Facility

Dear Ms. Christian:

Enclosed please find the original of the final consent order, which has been executed by Scott Fore, Vice President, Environment, Health and Safety. Please give me a call to let me know the day it is signed, and please send copies of the fully executed decree to both Scott Fore and me.

Yours truly,

  
Bruce White

ABW:sm

cc: Scott Fore w/enclosures  
Gary Long w/enclosures  
Scott Davies w/enclosures ✓  
Tom Heaton w/enclosures

MAT02048H

STATE OF NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
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In the Matter of an  
Interim Remedial Program  
by:

CONSENT ORDER  
Index #C7-0001-90-03

Safety Kleen Corporation,

Respondent.

-----  
WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for the implementation and enforcement of the Environmental Conservation Law of the State of New York ("ECL") including Article 27, Title 9 (Industrial Hazardous Waste Management) and Title 13 (Inactive Hazardous Waste Disposal Sites).

2. Respondent, Safety-Kleen Corporation, is a corporation organized and existing under the laws of Wisconsin which operates an industrial facility located on Factory Avenue in Mattydale in Onondaga County hereinafter known as the "facility".

3. Respondent owns and operates various storage tanks at the facility. The Department has documented that one or more releases of hazardous waste have occurred from an underground storage tank system at the facility used to store waste mineral spirits which are characteristic hazardous wastes under 6 NYCRR Part 370 et seq. Based upon information submitted by Safety-Kleen, the Department believes that the release of the hazardous waste mineral spirits was from an underground storage tank at the facility that is operated pursuant to "interim status" as that term is defined at 6 NYCRR 373-1.3.

4. Respondent intends to remove the tank and associated piping, excavate and dispose of all soils necessary to remove the tank and any visibly contaminated soil for 2 1/2 feet

*done*  
MAT02049H

beyond the excavation needed to remove the tank (to the extent that the structural integrity of the remaining tank will not be compromised) and replace it with a double-walled underground tank and piping.

5. The Department and Respondent acknowledge that the goals of this Order shall be to provide for the removal and replacement of the existing tank in a manner which is consistent with applicable requirements of federal and State law and to perform interim remedial measures which will eliminate or abate any potential adverse impacts to public health or the environment which might arise from the release(s). *done*

6. Both the Respondent and the Department desire to have a fuller evaluation of the Site and impacts of the releases on the surrounding area. The Respondent has submitted a work plan for assessing the extent of migration from the site resulting from the release(s) in the form of a "Work Plan For Subsurface Investigation", received by the Department January 26, 1990. Department comments were provided to the Respondent in a letter dated February 9, 1990. *done*

7. Respondent consents to the issuance and entry of this Order, waives its right to any hearing which may be provided by law, and agrees to be bound by the provisions, terms and conditions herein. Nothing in this Order shall be construed as an admission by Respondent of any issue of fact or law.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. Within 10 business days after the effective date of this Order, the Respondent shall place into operation the vapor extraction system presently in place. Initially this system shall consist of removal of soil gas through extraction points VP-1, VP-2 and VP-3 and treatment through 3 activated carbon units, connected in series. The system *done*

shall be operated and monitored in accordance with the air discharge authorization contained in Appendix E. Any changes to the system shall require prior written approval from the Department, unless emergency response actions must be taken by Respondent to protect the environment or public health, welfare and safety in which case verbal authorization shall be obtained from the Department's Region VII office, followed within 24 hours by a written request for written approval.

II. Within 30 days of the effective date of this Order, and prior to the excavation and removal of the underground storage tank, the Respondent shall install a cut off trench on the western edge of the facility. *done - absolutely*

A. The cut off trench shall consist of a French drain and a flexible membrane liner. The liner shall be located on the side of the French drain away from the tanks and shall be placed to a sufficient depth to prevent the spreading of light non-aqueous phase liquid but not to a depth to significantly hinder groundwater flow. *done - absolutely*

B. Initially, groundwater pumping from the trench shall be employed to prevent mounding on the upgradient side of the trench. *done*

C. The limits of hydraulic influence of the cutoff trench will be established by the completion of a pump test employing the current monitoring well array, and supporting data will be submitted in a Pump Test Report documenting system operation within 60 days of installation. *done*

III. Groundwater removed as part of the interim remedial measures conducted pursuant to this Order shall be: (a) treated prior to discharge in accordance with the conditions of the discharge authorization contained in Appendix A; or (b) in accordance with the discharge authorized by the Onondaga County Department of Drainage and Sanitation by letter dated April 17, 1990 (the discharges shall be sampled as necessary to comply with the County discharge authorization and shall include all the parameters contained *done*

in Appendix A and cover before carbon (BC), inbetween carbon (IC), and after carbon (AC) samples at frequencies sufficient to meet the requirements of the discharge authorization, and the results of such sampling shall be sent to the Department promptly after receipt of same by the Respondent); and/or (c) loaded into tanker trucks for disposal in accordance with any applicable regulations. If the effluent limitations are exceeded, the Respondent shall immediately shut down the system and submit design modifications to the Department. If no authorization is in effect, then the groundwater shall be sent to an authorized treatment or disposal facility in accordance with all applicable regulations. Any changes to the system design based upon testing results during the period of discharge pursuant to the Onondaga County Department of Drainage and Sanitation authorization shall require prior written approval from the Department.

IV. After installation of the cut off trench, the Respondent shall remove the existing underground storage tank and replace it with a new double walled underground tank in accordance with the following:

A. Within 15 days of the start-up of the cut-off trench, the existing underground tank, which is presently out of service and empty, and any visibly contaminated soil for 2 1/2 feet beyond the excavation needed to remove the tank (to the extent that the structural integrity of the remaining tank will not be compromised) must be removed and disposed of in accordance with the closure plan contained in Appendix B. All non-aqueous phase liquid (NAPL) which enters the excavation must be removed and handled as hazardous waste.

B. A double walled replacement tank will be installed in accordance with the proposal that was submitted to the Department on March 6, 1990, as modified by the Department's approval letter of April 30, 1990. The proposal includes a relatively permeable backfill, such as gravel. In addition, the parties agree that there shall be a well point

or other means of removing contaminated groundwater or non-aqueous phase liquid that may enter this area after tank installation.

C. The Respondent may not commence storage of hazardous waste in the tank system until:

1. The Respondent has submitted to DEC by certified mail or hand delivery a letter signed by the Respondent and an independent registered professional engineer stating that the tank system has been installed in compliance with the design and plan authorized by DEC and in accordance with the applicable provisions of 6 NYCRR Part 373-2.10, and
2. The Department has inspected the tank system and determined it to be in compliance with the conditions of the approval and applicable regulations or has waived the inspection in writing. The Department shall inspect the tank system or issue its written waiver within 10 business days of receipt of Respondent's written request for tank system approval.

V. Prior to installation of the double walled tank, the present interim arrangement of tanker truck storage of mineral spirits can be continued for a period not to exceed 30 days from the effective date of this Order. The tanker truck storage thus allowed must comply with the following requirements:

A. The tanker valves and the pipe connections must be placed over a secondary containment tray which can overflow into the secondary containment of return and fill area if overfilled by any releases.

B. The Respondent will dispatch the tanker truck used for accumulating the spent mineral spirits every third day and replace it with an empty tanker truck for further collection for the next 3 days.

C. Respondent is not permitted under any circumstances to operate a permanently stationed tanker as an above ground tank to accumulate the spent mineral spirits prior to transport. The tanker truck operations must be in strict adherence to the minutes of the meeting dated 12/22/89 contained in Appendix D. ✓

D. During tank removal and installation, the Respondent shall discontinue the tanker truck operation. ✓

VI. Respondent agrees to comply with the compliance schedule contained in Appendix C which is incorporated into and made a part of this Order. \*

VII. The Department has alleged that Respondent violated certain provisions of 6 NYCRR Part 373 in connection with the release that occurred on or about November 11, 1989. Specifically, the Department has alleged that Respondent was in violation of § 373-3.3(b) which requires facilities to be maintained and operated to minimize the possibility of any unplanned release of hazardous waste or constituents. The Department also has alleged that Respondent failed to make notifications and reports of the release in a timely manner as required by §§ 373-3.4(g).

In addition, the Department has alleged certain violations of the Part 373 regulations which were noted during an inspection of the facility conducted by a duly authorized representative of the Department on January 9 and February 7, 1990. Specifically, the Department has alleged that Respondent was in violation of § 373-3.9(f) which requires containers holding ignitable waste to be located at least 50 feet from the facility property line; and § 373-3.5(c)(2) which requires certain information to be recorded in the facility operating record until closure, including records and results of waste analyses and trial tests and summary reports and details of all incidents that require implementation of the contingency plan.



Respondent has denied the Department's allegations but is waiving its right to a hearing on the violations alleged and shall pay a penalty for the violations cited in the amount of \$25,000 in full settlement of the violations alleged in this Consent Order and any other violations of Part 373 the Department could have alleged in connection with the alleged release that occurred on or about November 11, 1989 or inspections of the Mattydale facility for compliance with the Part 373 regulations that occurred prior to the effective date of this Consent Order. The penalty shall be by certified check payable to the Department of Environmental Conservation and shall be due by June 1, 1990. The check shall be sent to the attention of Janakrai DeSai, P.E., New York State Department of Environmental Conservation, Division of Hazardous Substances Regulation, 50 Wolf Road, Albany, New York 12203-7252. Further, Respondent shall, no later than June 1, 1990, either submit an application for a variance from the provisions of §373-3.9(f) to the Commissioner or cease storing any ignitable wastes in containers within 50 feet of the facility property line.

VIII. The activities undertaken by Respondent pursuant to this Order shall be deemed to be interim remedial measures. This Order shall not be construed to preclude the Department from seeking performance of any additional activities it deems necessary to obtain remediation and/or corrective action at the facility, whether under ECL Article 27, Titles 9 or 13, interim status requirements, operating permit requirements, post closure permit requirements or any statutory or common law authority available to the Department. The Department reserves its right to issue further Orders against the Respondent, consistent with its legal authority, if the Department determines that additional investigations and/or remedial activities, whether on the facility property or off site, are required to fully assess and/or remediate any threat to public health and/or the environment. The Department also

reserves its right to pursue any available claims for natural resource damages and to bring any future action for any violations of the Environmental Conservation Law, regulations promulgated thereunder or permits or orders issued thereunder that are not specifically alleged herein. The Department agrees to coordinate any additional activities that may be required in the future with the interim remedial measures to be performed under this Order, in an effort to avoid duplication of work already performed.

IX. Upon reasonable notice and at reasonable times, Respondent shall permit any duly designated officer, employee, consultant, contractor or agent of the Department to enter the facility or areas in the vicinity of the facility which may be under the control of Respondent for inspection purposes and for the purpose of making or causing to be made such sampling, tests and inspections as the Department deems necessary to ascertain Respondent's compliance with the provisions of this Order. Duly designated officers, employees, consultants, contractors, or agents of the Department who enter the facility must act in accordance with the site safety plan.

X. The Department shall have the right to obtain for the purposes of comparative analysis "split samples" or "duplicate samples", at the Department's option, of all substances and materials sampled by Respondent pursuant to this Order. As used herein, "split samples" shall mean whole samples divided into aliquots; "duplicate samples" shall mean multiple samples, collected at the same time from exactly the same location, using the same sampling apparatus, collected into identical containers, prepared identically, filled to the same volume, and thereafter identically handled and preserved.

XI. Respondent shall not suffer any penalty under this Order, or be subject to any proceeding or action for any remedy or relief, or otherwise be deemed not in compliance with this Order, if it cannot comply with any requirements hereof because of an act of God, war, riot or other condition

as to which negligence or willful misconduct on the part of Respondent was not the proximate cause; provided, however, that Respondent shall immediately notify the Department in writing when it obtains knowledge of any such condition and request an appropriate extension or modification of the provisions hereof.

XII. The Department and Respondent shall attempt to resolve expeditiously and informally any disagreements that arise under this Order. In the event any dispute arising under this Order is not resolved expeditiously through informal means, either party desiring formal dispute resolution shall give prompt written notice to the other party.

Within 10 days of service of such written Notice, the party invoking dispute resolution shall serve on the other party a written statement of the issues in dispute, the relevant facts upon which the dispute is based, and factual data, analysis or opinion supporting its position, and all supporting documentation on which such party relies (hereinafter called the "Statement of Position"). The other party shall serve its Statement of Position, including supporting documentation, no later than 10 days after receipt of the complaining party's Statement of Position. In the event that these 10-day time periods for exchange of Statements of Position will cause a delay in the work being performed under this Order, the time periods may be shortened upon and in accordance with notice by the Department.

An administrative record of any dispute under this paragraph shall be maintained by the Department. The record shall include the written notification of such dispute, the Statement of Position served pursuant to the preceding subparagraph, and any other relevant information. The record shall be available for review by all parties.

Upon review of the administrative record, the Commissioner or his designee shall issue a final decision and

order resolving the dispute. With respect to this final determination, the Respondent shall have those rights granted pursuant to Article 78 of the Civil Practice Law and Rules (CPLR) of New York, provided that a Petition is filed within 10 days of receipt of the final decision and order issued by the Commissioner or his designee.

In review of any dispute under this paragraph, either by the Commissioner or a court pursuant to Article 78, the Respondent shall have the burden of proof that is required under Article 78.

The invocation of the dispute resolution procedure shall neither extend nor postpone the Respondent's obligations under this Order with respect to the disputed items, unless and until the Commissioner finds, or a Court orders, otherwise; provided, however, that the time periods for completion of obligations may be extended by written agreement of the parties for a period of time not to exceed the actual time taken to resolve the dispute.

XIII. All activities conducted pursuant to this Order shall be in compliance with all substantive technical requirements established by State or Federal law that would otherwise be embodied in a permit issued by the State. Approval by the Department of any activity pursuant to the terms of this Order shall continue in effect for a period of time equivalent to the duration of a permit for the activities contemplated thereby. Any subsequent application for a permit to conduct the same activities shall be deemed an application for a permit renewal. Approval by the Department of any operating activity (such as the use of the new replacement tank) contemplated by this Order shall continue in effect only until a final determination is made by the Department on Respondent's Part 373 application for the Mattydale Facility. Nothing herein shall be construed to allow the use of any off-site facility for the storage, treatment or disposal of hazardous wastes, unless such facility is operating under

*replace*

appropriate Federal or State permits or authorizations and other legal requirements, or pursuant to a court order. Nothing herein shall be construed to allow the transportation of hazardous wastes from the facility unless the transporter is operating under appropriate Federal or State permits or authorizations or other legal requirements or pursuant to an Order of an administrative or judicial tribunal. Nothing herein shall be construed to relieve Respondent of its obligation to obtain any permits required by the ECL or regulations promulgated thereunder for any activity that is conducted off-site. Nothing herein shall be construed to relieve Respondent of its obligation to apply for a permit at a time when any exemption obtained hereunder expires.

XIV. Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages and costs of every name and description, arising out of or resulting from acts or omissions of Respondent, its directors, officers, employees, agents, or servants stemming from the fulfillment or attempted fulfillment of the provisions hereof.

XV. This Order is entered into for the purposes of settlement only and neither the fact that a party has entered into this Order nor any of the provisions contained herein shall be used for any purpose in this or any other proceeding except to enforce the terms hereof by the parties to this Order. As to others who are not parties to this Order, nothing in this Order shall constitute an admission by Respondent, and entry into this Order shall not constitute an admission by Respondent of liability for conditions at or near the site nor a waiver of any right, cause of action, or defense otherwise available to Respondent. As to others who are not parties to this Order, Respondent reserves all available rights, causes of action and defenses.

XVI. If for any reason Respondent desires that any provision of this Order be changed, Respondent shall make

timely written application therefor to the Commissioner, setting forth reasonable grounds for the relief sought.

XVII. All communications required to be made between the Department and Respondent shall be made in writing and transmitted by United States Postal Service, return receipt requested, overnight mail delivery, or hand delivered as follows:

- Director  
Division of Hazardous Substances Regulation  
NYS Dept. of Environmental Conservation  
50 Wolf Road  
Albany, New York 12233-7250 (2 copies)
- Mr. Thomas Male  
Regional Engineer  
NYS Dept. of Environmental Conservation  
Region 7 Headquarters  
615 Erie Boulevard West  
Syracuse, NY 13204-2400

In addition, each party shall, within 3 business days of the effective date of this Order, name a project coordinator whose function shall be to serve as a liaison between the parties. The project coordinator's role shall be to facilitate communications between the parties and coordinate activities under the Order. The Department's project coordinator will not have the authority to bind the Department; formal written approvals must be obtained for any activity contemplated under this Order.

XVIII. Whenever Department approval is required pursuant to this Order, such approval shall not unreasonably be withheld. Except as expressly provided for in other sections of this Order, the Department agrees to use its best efforts to respond to all written requests for approval submitted by Respondent within 30 days of receipt of such request. If the Department rejects a written request by Respondent for approval, in whole or in part, the Department shall specify in writing why the plan, action or proposal is not satisfactory. Upon receipt of such notification, Respondent shall have 30

days to submit, in writing, an acceptable revised plan or proposal and documentation that addresses the issues raised by the Department.

XIX. The provisions of this Order shall inure to the benefit of and be binding upon the Respondent, its officers, directors, employees, agents, servants, successors and assigns.

XX. The terms hereof shall constitute the complete and entire Order between the Department and the Respondent. No terms, conditions, understandings or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other submittals shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

XXI. The terms of this Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

XXII. The Department explicitly reserves its right to seek penalties under ECL Section 71-2705 in the event Respondent fails to comply the terms of this Order.

XXIII. It is understood and agreed to by the parties that upon the first to occur of either: (1) Respondent has received a final Part 373 operating permit for the facility or a post closure permit; or (2) Respondent has closed the facility and demonstrated that all contaminated soils, including those soils which contain contaminated groundwater, have been removed or decontaminated; or (3) Respondent has demonstrated to the satisfaction of the Department that all contaminated soils, including those soils which contain contaminated groundwater, have been removed or decontaminated and

Respondent is otherwise in full compliance with or has satisfied the requirements of this Order, this Order shall be deemed to be terminated and the parties shall be released from any remaining duties or responsibilities under this Order.

XXIV. The effective date of this order shall be the date it is signed by the Commissioner or his designee.

DATE:                      , 1990  
         Albany, New York

---

Thomas C. Jorling  
Commissioner  
New York State Department of  
Environmental Conservation



CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of the foregoing Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.

SAFETY-KLEEN CORPORATION

BY: SCOTT E. FORE

TITLE: VICE PRESIDENT

DATE: 16 May 1990

ILLINOIS  
STATE OF ~~NEW YORK~~ )  
                                  ) s.s.  
COUNTY OF KANE )

On this 16th day of May, 1990,  
before me personally came Scott E. Fore to me  
known, who, being by me duly sworn, did depose and say that he  
resides in Elgin, Illinois; that he is the  
V.P. Environment, Health & Safety of Safety-Kleen Corp. the  
corporation described in and which executed the foregoing  
instrument; that he knew the seal of said corporation; that  
the seal affixed to said instrument was such corporate seal;  
that it was so affixed by the order of the Board of Directors  
of said corporation, and that he signed his name thereto by  
like order.



Linda M. Lindberg  
NOTARY PUBLIC

a\  
(OSAFKLEN.DCP)

91-20-2a (1/89)

SPDES No.: NY \_\_\_\_\_

Part 1, Page \_\_\_\_\_ of \_\_\_\_\_

## EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning Effective date of Consent Order.

and lasting until \_\_\_\_\_

the discharges from the permitted facility shall be limited and monitored by the permittee as specified below:

Outfall Number & Effluent Parameter	Discharge Limitations		Units	Minimum Monitoring Requirements		
	Daily Avg.	Daily Max.		Measurement Frequency	After 4 Weeks	Sample Type
001						
Methyl Ethyl Ketone		10	ug/l	*1/week	**1/2weeks	Grab
Xylene		10	ug/l	*1/week	**1/2weeks	Grab
1,1,1 Trichloroethane		10	ug/l	*1/week	**1/2weeks	Grab
Trichloroethene		10	ug/l	*1/week	**1/2weeks	Grab
Tetrachloroethene		10	ug/l	*1/week	**1/2weeks	Grab
Ethyl Benzene		10	ug/l	*1/week	**1/2weeks	Grab
Iron		4	mg/l	*1/week	**1/2weeks	Grab
Zinc		1	mg/l	*1/week	**1/2weeks	Grab
Total Suspended Solids	Monitoring Only			*1/week	**1/2weeks	Grab
pH	Range (6.5 to 8.5)		SU	1/week	**1/2weeks	Grab

NOTE 1: After approximately seven days of operation, a sample of the discharge water shall be analyzed for the entire list of Method 601 parameters to the normal method detection level. A one-week turnaround on results will be required.

\* One sample per week will be taken Before Carbon (BC), Inbetween Carbon (IC), and After Carbon (AC). During the first four weeks of operation, a one-week turnaround on results will be required on this sample.

\*\*After four weeks, a BC, IC, and AC sample will be required 1/2 weeks. Once/month this sample shall have a one-week turnaround.

Except that this authorization shall not be in effect until the engineering report and associated plans and specifications are stamped by a New York State licensed professional engineer and submitted to the Department, along with the exact point (latitude and longitude), of the discharge to Ley Creek.

Additional parameters on attached sheet will also be handled as above, and all results will be delivered to Mr. Gary Casper as received by Safety-Kleen.

MAT02064H

PARAMETERS	LIMIT (UG/L)
1, 1 Dichloroethane	10
Methylene Chloride	10
1,2 Dichlorobenzene	10
	10
1,3 Dichlorobenzene	10
1,4 Dichlorobenzene	10
Benzene	10
Toluene	10
Chlorobenzene	10

All of these parameters should be monitored once per week with a monthly influent, midpoint, and effluent sample. The first week sample and 602 should be expedited for a ten day submittal. A method 602 analysis should be run on the effluent at the same time as the 601 analysis required by the Order.

MAT02065H

## RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS

- a) The permittee shall also refer to the General Conditions (Part II) of this permit for additional information concerning monitoring and reporting requirements and conditions.

The monitoring information required by this order shall be summarized, signed and reported by submitting a listing of the parameters, their individual effluent values, and the level of detection for each parameter. With the exception of those sample events noted on the Effluent Limitation page all other reports shall be submitted to the Department at the addresses listed below within 45 days of the sampling event.

The original signed report shall be submitted to:  
 NYSDEC Region 7  
 Regional Water Engineer  
 615 Erie Boulevard West  
 Syracuse, NY 132042400

A copy should be sent to:  
 NYSDEC  
 Division of Hazardous Substances  
 Wilfred R. Moras  
 615 Erie Boulevard West  
 Syracuse, NY 132042400

and

Onondaga County Health Department  
 P. O. Box 190  
 Syracuse, NY 13215

- c) A monthly "Wastewater Facility Operation Report..." (form 92-15-7) shall be submitted (if box is checked) to the  
☐ Regional Water Engineer and/or ☐ County Health Department or Environmental Control Agency listed above.
- d) Noncompliance with the provisions of this permit shall be reported to the Department as prescribed in the attached General Conditions (Part II)
- e) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.
- f) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculations and recording of the data on the Discharge Monitoring Reports.
- g) Calculation for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.
- h) Unless otherwise specified, all information recorded on the Discharge Monitoring Report shall be based upon measurements and sampling carried out during the most recently completed reporting period.
- i) Any laboratory test or sample analysis required by this permit for which the State Commissioner of Health Issues certificates of approval pursuant to section five hundred two of the Public Health Law shall be conducted by a laboratory which has been issued a certificate of approval. Inquiries regarding laboratory certification should be sent to the Environmental Laboratory Accreditation Program, New York State Health Department Center for Laboratories and Research, Division of Environmental Sciences, The Nelson A. Rockefeller Empire State Plaza, Albany, New York 12201.

MAT02066H

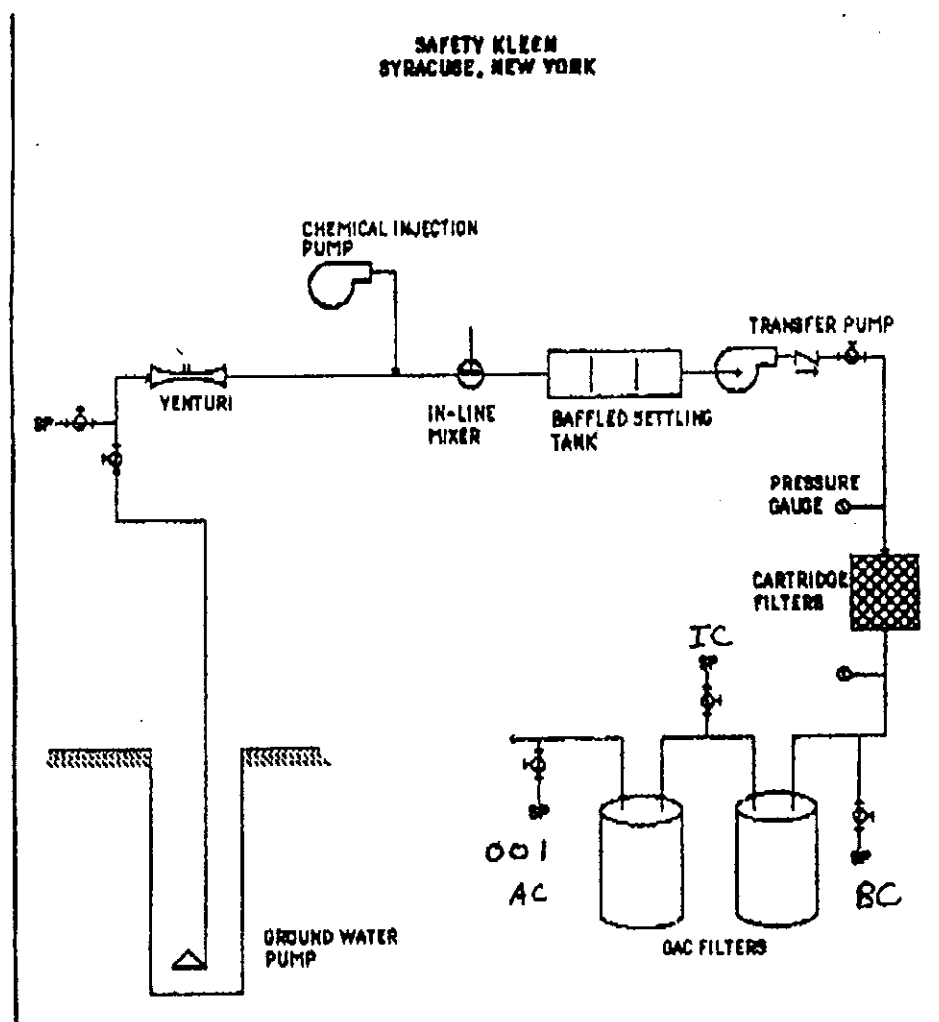
**Definition of Daily Average and Daily Maximum**

The daily average discharge is the total discharge by weight or in other appropriate units as specified herein, during a calendar month divided by the number of days in the month that the production or commercial facility was operating. Where less than daily sampling is required by this permit, the daily average discharge shall be determined by the summation of all the measured daily discharges in appropriate units as specified herein divided by the number of days during the calendar month when the measurements were made.

The daily maximum discharge means the total discharge by weight or in other appropriate units as specified herein, during any calendar day.

**Monitoring Locations**

Permittee shall take samples and measurements to meet the monitoring requirements at the location(s) indicated below:  
(Show locations of outfalls with sketch or flow diagram as appropriate)



MAT02067H

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES)  
DISCHARGE PERMIT

GENERAL CONDITIONS  
(PART II)

<u>SECTION</u>	<u>PAGE</u>
1. General Provisions.....	1
2. Special Reporting Requirements for Existing Manufacturing, Commercial, Mining and Silvicultural Dischargers.....	1-2
3. Exclusions.....	2
4. Modification, Suspension, Revocation.....	2
5. Reporting Noncompliance.....	3
6. Inspection and Entry.....	3
7. Transfer of Permit.....	3-4
8. Permit Renewal.....	4
9. Special Provisions - New or Modified Disposal Systems.....	4
10. Monitoring, Recording, and Reporting.....	4
10.1 General.....	4
10.2 Signatories and Certification.....	4-5
10.3 Recording of Monitoring Activities and Results.....	5
10.4 Test and Analytical Procedures.....	5-6
11. Disposal System Operation and Quality Control.....	6
11.1 General.....	6
11.2 Bypass.....	6-7
11.3 Upset.....	7
11.4 Special Condition - Disposal Systems with Septic Tanks.....	7
11.5 Sludge Disposal.....	7-8
12. Conditions Applicable to a Publicly Owned Treatment Works (POTW).....	8
12.1 General.....	8
12.2 National Pretreatment Standards: Prohibited Discharges.....	8-9



PART II - GENERAL CONDITIONS

1. GENERAL PROVISIONS

a. A determination has been made on the basis of a submitted application, plans, or other available information, that compliance with the specified permit provisions will reasonably assure compliance with applicable water quality standards. Satisfaction of permit provisions notwithstanding, if operation pursuant to the permit causes or contributes to a condition in contravention of State water quality standards, or if the Department determines, on the basis of notice provided by the permittee and any related investigation, inspection or sampling, that a modification of the permit is necessary to assure maintenance of water quality standards or compliance with other provisions of ECL Article 17, or the Act, the Department may require such a modification and may require abatement action to be taken by the permittee and may also prohibit the noticed act until the permit has been modified.

b. All discharges authorized by this permit shall be consistent with the terms and conditions of this permit. Facility expansions, production increases, or process modifications which result in new or increased discharges of pollutants into the waters of the state must be reported by submission of a new SPDES application, in which case the permit may be modified accordingly. The discharge of any pollutant, not identified and authorized, or the discharge of any pollutant more frequently than, or at a level in excess of, that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit. Facility modifications, process modifications, or production decreases which result in decreased discharges of pollutants must be reported by submission of written notice to the permit-issuing authority, in which case the permit-issuing authority may require the permittee to submit a new SPDES application.

c. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

d. If the discharge(s) permitted herein originate within the jurisdiction of an interstate water pollution control agency, then the permitted discharge(s) must also comply with any applicable effluent standards or water quality standards promulgated by that interstate agency.

e. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Environmental Conservation Law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

f. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

g. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

h. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

i. The Clean Water Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both.

j. The filing of a request by the permittee for a permit modification, revocation, transfer, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

k. The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

2. SPECIAL REPORTING REQUIREMENTS FOR EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS

a. All existing manufacturing, commercial, mining and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not specifically controlled in the permit, pursuant to General Provision 1 (b) herein.

MAT02069H



2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (i) 500 micrograms/liter;
- (ii) 1.0 milligram/liter for antimony;
- (iii) Ten times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR §122.21(g)(7); or
- (iv) The level established by the Department in accordance with 40 CFR §122.44(f).

3. That they have begun or expect to begin to use, or manufacture as an intermediate or final product or by-product, any toxic pollutant which was not reported in the permit application under 40 CFR §122.21(g)(9) and which is being or may be discharged to waters of the state.

### 3. EXCLUSIONS

a. The issuance of this permit by the Department and the receipt thereof by the Applicant does not supersede, revoke or rescind an order or modification thereof on consent or determination by the Commissioner issued heretofore by the Department or any of the terms, conditions or requirements contained in such order or modification thereof.

b. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations; nor does it obviate the necessity of obtaining other assent required by law for the discharge authorized.

c. This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

d. Oil and hazardous substance liability. The imposition of responsibilities upon, or the institution of any legal action against the permittee under Section 311 of the Clean Water Act shall be in conformance with regulations promulgated pursuant to Section 311 governing the applicability of Section 311 of the Clean Water Act to discharges from facilities with NPDES permits.

### 4. MODIFICATION, SUSPENSION, REVOCATION

a. If the permittee fails or refuses to comply with any requirement in a SPDES permit, such noncompliance shall constitute a violation of the permit for which the Commissioner may modify, suspend, or revoke the permit or take direct enforcement action pursuant to law. When, at any time during or prior to a period for compliance, the permittee announces or otherwise lets it be known, or the Commissioner on reasonable cause determines, that the permittee will not make the requisite efforts to achieve compliance with an interim or final requirement, the Commissioner may modify, suspend or revoke the permit and take direct enforcement action pursuant to law, without waiting for expiration of the period for compliance with such requirements.

b. After notice and opportunity for a hearing, this permit may be modified, suspended or revoked in whole or in part during its term for cause including, but not limited to, the following:

1. Violation of any provision of this permit; or
2. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts at any time; or materially false or inaccurate statements or information in the application or the permit; or
3. A change in any physical circumstances, requirements or criteria applicable to discharges that requires either a temporary or permanent reduction or elimination of the permitted discharges, such as:
  - (i) standards for construction or operation of the discharging facility;
  - (ii) the characteristics of the waters into which such discharge is made;
  - (iii) the water quality criteria applicable to such waters;
  - (iv) the classification of such waters; or
  - (v) effluent limitations or other requirements applicable pursuant to the Act or State Law.
4. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification, a suspension, or revocation.
5. Failure to satisfy the reporting requirements of General Provision 1(b) herein.
6. Violation of any provision of ECL or regulation promulgated thereunder, which is directly related to the permitted activity.

c. If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307(a) of the Clean Water Act for a toxic pollutant and that a standard or prohibition is more stringent than any limitation on the pollutant in the permit, the Department shall institute proceedings to modify the permit in order to achieve conformance with the toxic effluent standard or prohibition.

MAT02070H





## 5. REPORTING NONCOMPLIANCE

a. Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

b. Twenty-four hour reporting. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

c. 1. The following shall be included as information which must be reported within 24 hours under paragraph (b.) above:

- (i) Any unanticipated bypass which violates any effluent limitation in the permit;
- (ii) Any upset which violates any effluent limitation in the permit;
- (iii) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.
- (iv) Any unusual situation, caused by a deviation from normal operation or experience (e.g. a chemical or oil spill) which creates a potentially hazardous condition.

2. The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

3. During weekends, oral noncompliance reports, required by this paragraph, may be made at 518-457-7362

d. Other noncompliance. The permittee shall report all instances of noncompliance not otherwise required to be reported under this section or other sections of this permit, when its Discharge Monitoring Reports are submitted. Such reports shall contain the information listed in paragraph (b.) above.

e. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

## 6. INSPECTION AND ENTRY

a. The permittee shall allow the Commissioner of the Department, the EPA Regional Administrator, or their authorized representatives, upon the presentation of credentials and other documents as may be required by law, to:

- 1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- 4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act or Environmental Conservation Law, any substances or parameters at any location.

## 7. TRANSFER OF PERMIT

a. This permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and issuance of a new permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act or Environmental Conservation Law.

b. Transfers by modification. Except as provided in paragraph (c.) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified to identify the new permittee and incorporate such other requirements as may be necessary under the Clean Water Act. Until such transfer is effected, any discharge by the new owner or operator constitutes a violation of ECL, Section 17-0803.

c. Automatic transfers. As an alternative to transfers under paragraph (b.) of this section, any SPDES permit may be automatically transferred to a new permittee if:

- 1. The current permittee notifies the Department at least 30 days in advance of the proposed transfer date in paragraph (c.)(2.) of this section;
- 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- 3. The Department does not notify the existing permittee and the proposed new permittee of its intent to modify the permit or require a new permit. A modification under this subparagraph may also be a minor modification. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (c.)(2.) of this section.

MAT020714



d. The terms and conditions of this permit are binding on the successors or assigns in interest of the original permittee.

e. The Department may require the new permittee to submit a new application.

#### 8. PERMIT RENEWAL

a. Any permittee who wishes to continue to discharge after the expiration date of a permit shall apply for renewal of its permit no later than 180 days prior to the permit's expiration date (unless permission for a later date has been granted by the Department) by submitting any forms, fees, or supplemental information which may be required by the Department. Upon request, the Department shall provide the permittee with specific information concerning the forms, fees, and supplemental information required.

b. When a permittee has made timely and sufficient application for the renewal of a permit or a new permit with reference to any activity of a continuing nature, the existing permit does not expire until the application has been finally determined by the Department, and, in case the application is denied or the terms of the new permit limited, until the last day for seeking review of the Department order or a later date fixed by order of the reviewing court, provided that this subdivision shall not affect any valid Department action then in effect summarily suspending such permit.

#### 9. SPECIAL PROVISIONS - NEW OR MODIFIED DISPOSAL SYSTEMS

a. Prior to construction of any new waste disposal system or modification which would materially alter the volume of, or the method or effect of treating or disposing of the sewage, industrial waste or other wastes, from an existing waste disposal system, the Permittee shall submit to the Department or its designated field office for review, an approvable engineering report, plans, and specifications which have been prepared by a person or firm licensed to practice Professional Engineering in the State of New York.

b. The construction of the above new or modified disposal system shall not start until the Permittee receives written approval from the Department or its designated field office.

c. The construction of the above new or modified disposal system shall be under the general supervision of a person or firm licensed to practice Professional Engineering in New York State, and upon completion of construction that person or firm shall certify to the Department or its designated field office that the system has been fully completed in accordance with the approved engineering report, plans and specifications, permit and letter of approval.

d. The Department and its designated field offices review wastewater disposal system reports, plans, and specifications for treatment process capability only, and approval by either office does not constitute approval of the system's structural integrity.

#### 10. MONITORING, RECORDING, AND REPORTING

##### 10.1 GENERAL

a. The permittee shall comply with all recording, reporting, monitoring and sampling requirements specified in this permit and such other additional terms, provisions, requirements or conditions that the Department may deem to be reasonably necessary to achieve the purposes of the Environmental Conservation Law, Article 17, the Act, or rules and regulations adopted pursuant thereto.

b. Samples and measurements taken to meet the monitoring requirements specified in this permit shall be representative of the quantity and character of the monitored discharges. Composite samples shall be composed of a minimum of 8 grab samples, collected over the specified collection period, either at a constant sample volume for a constant flow interval or at a flow-proportioned sample volume for a constant time interval, unless otherwise specified in Part I of this permit. Grab sample means a single sample, taken over a period not exceeding 15 minutes.

c. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation to insure accuracy of measurements.

d. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit, shall upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation or by both.

##### 10.2 SIGNATORIES AND CERTIFICATION

a. All reports required by this permit shall be signed as follows:

1. For a corporation: by a principal executive officer of at least the level of vice-president; or
2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
3. For a municipality, state, federal, or other public agency: by either a principal or executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

NAT02072H

4. A duly authorized representative of the person described in items (1.), (2.), or (3.). A person is a duly authorized representative only if:

- (i) The authorization is made in writing by a person described in paragraph (a.)(1.), (2.), or (3.) of this section;
- (ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- (iii) The written authorization is submitted to the Department.

b. Changes to authorization: If an authorization under subparagraph (a.)(4.) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subparagraph (a.)(4.) of this section must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

c. Certification: Any person signing a report shall make the following certification:

"I certify under penalty of law that this document and all attachments 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."

d. The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

### 10.3 RECORDING OF MONITORING ACTIVITIES AND RESULTS

a. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

b. Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

### 10.4 TEST AND ANALYTICAL PROCEDURES

a. Monitoring must be conducted using test procedures promulgated, pursuant to 40 CFR Part 136, except:

1. Those promulgated test procedures, proposed to be extended to additional parameters on October 26, 1984 (49 Federal Register 43437) are approved for the analysis of such additional parameters.
2. Should the Department require the use of a particular test procedure, such test procedure will be specified in Part I of this permit.
3. Should the permittee desire to use a test method not approved herein, prior Department approval is required, pursuant to paragraph (b) of this section.

b. Application for approval of test procedures shall be made to the Permit Administrator (see Part 1, page 1 for address), and shall contain:

1. the name and address of the applicant or the responsible person making the discharge, the applicable SPDES identification number of the existing or pending permit, name of the permit issuing agency name and telephone number of applicant's contact person;
2. the names of the pollutants or parameters for which an alternate testing procedure is being requested, and the monitoring location(s) at which each testing procedure will be utilized;

MAT02073H

3. justification for using test procedures, other than those approved in paragraph (a) of this section; and
4. A detailed description of the alternate procedure, together with:
  - (i) references to published studies, if any, of the applicability of the alternate test procedure to the effluents in question;
  - (ii) data regarding analytical sensitivity (i.e. levels of detection), accuracy, and reproducibility, including supporting quality control/quality assurance studies; and
  - (iii) information on known interferences, if any.

Additional information can be obtained by contacting the Bureau of Water Research (NYSDEC, 50 Wolf Road, Albany, New York 12233).

## 11. DISPOSAL SYSTEM OPERATION AND QUALITY CONTROL

### 11.1 GENERAL

a. The disposal system shall not receive or be committed to receive wastes beyond its design capacity as to volume and character of wastes treated, nor shall the system be materially altered as to: type, degree, or capacity of treatment provided; disposal of treated effluent; or treatment and disposal of separated scum, liquids, solids or combinations thereof resulting from the treatment process without prior written approval of the Department of Environmental Conservation or its designated field office.

b. The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

c. When required under Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6NYCRR650), sufficient personnel meeting qualifications for operators of sewage treatment works as required therein shall be employed to satisfactorily operate and maintain the treatment works.

d. The permittee shall not discharge floating solids or visible foam.

### 11.2 BYPASS

#### a. Definitions:

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

#### b. Bypass not exceeding limitations:

The permittee may allow any bypass to occur which does not cause effluent limitations to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c.) and (d.) of this section.

#### c. Notice:

1. Anticipated bypass - If the permittee knows in advance of the need for a bypass, it shall submit prior written notice, at least ten days before the date of the bypass.
2. Unanticipated bypass - The permittee shall submit notice of an unanticipated bypass as required in Section 5, paragraph c. of this Part (24 hour notice).

#### d. Prohibition of bypass:

1. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;



MAT02674H

- (11) There were no feasible alternatives to the bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(11i) The permittee submitted notices as required under paragraph (c.) of this section.

2. The Department may approve an anticipated bypass after considering its adverse affects, if the Department determines that it will meet the three conditions listed in paragraph (d)(1) of this section. In approving such bypass, the Department may impose conditions, designed to minimize any adverse environmental impact of the bypass.

### 11.3 UPSET

a. Definition:

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Effect of an upset:

An upset constitutes an affirmative defense to an action brought for noncompliance with such permit effluent limitations if the requirements of paragraph (c.) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset:

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and that the permittee can identify the cause(s) of the upset;
2. The permitted facility was at the time being properly operated; and
3. The permittee submitted notice of the upset as required in Section 5, paragraph c. of this part (24 hour notice).
4. The permittee complied with any remedial measures required under Section 5, paragraph e. of this part.

d. Burden of proof:

In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

### 11.4 SPECIAL CONDITION - DISPOSAL SYSTEMS WITH SEPTIC TANKS

If a septic tank is installed as part of the disposal system, it shall be inspected by the permittee or his agent for scum and sludge accumulation at intervals not to exceed one year's duration, and such accumulation will be removed before the depth of either exceeds one-fourth (¼) of the liquid depth so that no settleable solids or scum will leave in the septic tank effluent. Such accumulation shall be disposed of in an approved manner.

### 11.5 SLUDGE DISPOSAL

a. The storage or disposal of collected screenings, sludges, other solids, or precipitates separated from the permitted discharges and/or intake or supply water by the permittee shall be done in such a manner as to prevent creation of nuisance conditions or entry of such materials into classified waters or their tributaries, and in a manner approved by the Department. Any live fish, shellfish, or other animals collected or trapped as a result of intake water screening or treatment may be returned to their water body habitat. The permittee shall maintain records of disposal on all effluent screenings, sludges and other solids associated with the discharge(s) herein described. The following data shall be compiled and reported to the Department or its designated field office upon request:



MAT 020754

1. The sources of the materials to be disposed of;
2. The approximate volumes and weights;
3. The method by which they were removed and transported;
4. Their final disposal locations.

12. CONDITIONS APPLICABLE TO A PUBLICLY OWNED TREATMENT WORKS (POTW)

12.1 GENERAL

a. All POTWs must provide adequate notice to the Department of the following:

1. Any new introduction of pollutants into that POTW from an indirect discharger which would be subject to sections 301 or 306 of the Clean Water Act if it were directly discharging those pollutants; and
2. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
3. For purposes of this paragraph, adequate notice shall include information on:
  - (i) the quality and quantity of effluent introduced into the POTW; and
  - (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

12.2 NATIONAL PRETREATMENT STANDARDS: PROHIBITED DISCHARGES

(Note: The following Section was published in the Federal Register, Vol. 46, No. 18 - Wednesday January 28, 1981. The effective date of the regulation (Part 403) was March 30, 1981)

§403.5 National Pretreatment Standards: Prohibited Discharges.

a. General prohibitions:

Pollutants introduced into POTW's by an non-domestic source shall not Pass Through the POTW or Interfere with the operation or performance of the works. These general prohibitions and the specific prohibitions in paragraph (b.) of this section apply to all non-domestic sources introducing pollutants into a POTW whether or not the source is subject to other National Pretreatment Standards or any national, State, or local Pretreatment Requirements.

b. Specific prohibitions:

In addition, the following pollutants shall not be introduced into a POTW:

1. Pollutants which create a fire or explosion hazard in the POTW;
2. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 unless the works is specifically designed to accommodate such discharges;
3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in Interference;
4. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW.
5. Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but, in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40°C (104°F) unless the Approval Authority, upon request of the POTW approves alternate temperature limits.

c. When Specific Limits Must be Developed by POTW:

1. POTW's developing POTW Pretreatment Programs pursuant to § 403.8 shall develop and enforce specific limits to implement the prohibitions listed in § 403.5(a) and (b).

MAT020764

2. All other POTW's shall, in cases where pollutants contributed by User(s) result in Interference or Pass-Through, and such violation is likely to recur, develop and enforce specific effluent limits for Industrial User(s), and all other users, as appropriate, which, together with appropriate changes in the POTW Treatment Plant's Facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's NPDES permit or sludge use or disposal practices.

3. Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.

d. Local Limits:

Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW in accordance with paragraph (c.) above, such limits shall be deemed Pretreatment Standards for the purposes of section 307(d) of the Act.

e. EPA and State Enforcement Actions:

If, within 30 days after notice of an Interference or Pass Through violation has been sent by EPA or DEC to the POTW, and to persons or groups who have requested such notice, the POTW fails to commence appropriate enforcement action to correct the violation, EPA or DEC may take appropriate enforcement action.

f. Compliance Deadlines:

Compliance with the provisions of this section is required beginning on March 13, 1981, except for paragraph (b.)(5) of this section which must be complied with by August 25, 1981.

MAT02077H

## APPENDIX B

### TANK CLOSURE PLAN FOR THE REMOVAL OF THE EXISTING HAZARDOUS WASTE UNDERGROUND STORAGE TANK AT THE SAFETY KLEEN'S MATTYDALE SERVICE CENTER:

For replacing the existing underground storage tank system without secondary containment at the Mattydale Facility with a double walled tank system, the following closure procedure will be followed:

This is only an interim closure plan and does not relieve Safety Kleen Corporation of the regulatory requirement of submitting a detailed post closure plan as stipulated under 6NYCRR Part 373-2.10(h)2. Safety Kleen Corporation will submit a detailed post closure plan as part of the 6NYCRR Part 373 Permit Application for the Department's review and approval.

To safely clean and decommission the underground storage tank:

1. Remove the remaining material from the tank and ship the materials to a reclaimer.
2. Provide access to the tank.
3. Rinse, scrape and squeegee the tank interior, removing all residual waste material and rinsate.
4. Disconnect and decontaminate all appurtenant piping and pumping equipment.
5. Remove tank and appurtenant equipment and reuse or sell as scrap.
6. Clean and raze the slab.
7. Backfill all excavations with clean fill materials.
8. Transport and dispose of all waste material generated during the project. All material will be disposed of at a properly permitted or interim status facility.

#### Opening of the Tank and Removal of Waste Material

To safely open the tank and remove the waste material:

1. Pump out the waste material contents of the tank using pump, vacuum truck or similar equipment and transport to a Safety Kleen Recycle Center for reclamation.

MAT020784



2. To gain access to tanks, use the manway at the top of the tank. Depending on the type of opening and the condition of the equipment, a variety of tools may be used to open the manway. Care must be exercised to minimize spark generation when working on the tank.
3. Prior to entering the tank, personnel should have full face respiratory protection and protective clothing. Once the tanks have been opened, they must be provided with positive ventilation. The tanks will then be inspected to determine the approximate quantity and physical conditions of any remaining waste material.

#### Removal of Residual Waste and Cleaning of Tank

To safely remove the residual waste and clean the tank:

1. Before removing any residual waste from the tank, all piping and appurtenant equipment will be flushed with clean mineral spirits followed by a detergent solution.
2. The method used to remove the residual waste material from the tanks will depend on the physical properties and quantities of that material. Prior to any person entering the tank, an effort will be made to remove as much liquid and sediment as possible. In addition, the air will be tested using an HNU.
3. Subsequent to vacuuming the majority of the material from the tanks, it may be necessary to use a high pressure wash system using clean solvent and a detergent solution to rinse residual material from the walls, roof, and floor of the tank. The evacuated material and the rinse solution will be returned to the recycle center for reclamation. The quantity of wash fluid used will be kept to a minimum in order to limit the amount of waste material (estimated quantity, 1,500 gallons).
4. Storage tanks are considered confined spaces (i.e., spaces open or closed having a limited means of egress in which poisonous gases or flammable vapors might accumulate or an oxygen deficiency might occur), and confined space entry requires special procedures:
  - a. Tanks are to be washed, neutralized and/or purged (where flammable atmosphere is present) prior to being entered.
  - b. Supply valves must be closed and "tagged" and bleeder valves left open; or supply piping should be disconnected.
  - c. Pumps or motors normally activated by automatic controls shall be operated manually to be sure they have been disconnected. Instrument power switches should be tagged "Off".
  - d. On tanks where flammable vapors may be present, all sources of ignition must be removed.

MAT020734

- e. Under circumstances where "hot work" (welding, burning, grinding, etc.) is to be performed in or on the vessel, a test for combustible gases shall be taken. This is referred to as a "flash test". In all tank entering situations, an oxygen deficiency test shall also be performed prior to tank entry. Both flash test and oxygen deficiency test will be performed by the supervisor of the area in which the work is being done.

Prior to tank entry, the supervisor will arrange to have the air tested using an HNU or OVA meter. Periodically, the vapor content of gas leaving the tank will be checked. The results of all tests will be displayed on site.

- f. There must be a set of wristlets or a rescue harness and sufficient rope at the job site to effect a rescue. Any other rescue equipment considered necessary must also be on the job site.
- g. Workers should wear rescue harnesses if entering a tank with a large enough opening to easily effect a rescue. In tanks with small openings, only wristlets may be used. In cases where there are agitator shafts, drums or other hazards in which the man's life-line would be entangled and the supervisor-in-charge feels that wearing the lifeline may entrap a man and increase the hazard, the wearing of a harness or wristlets may be eliminated.
- h. A constant source of fresh air must be provided to insure a complete change of air every few minutes. In cases of long term entry, the use of an air mover should be considered. Prior to entry, an air mask must be worn.
- i. When a ladder is required to enter a tank, the ladder must be secured and not removed while anyone is in the vessel. In cases where a rigid ladder could become an obstacle, a chain ladder may be used.
- j. Adequate illumination must be provided and a flashlight or other battery-operated light must also be on hand to provide illumination for a safe exit in the event of an electrical power failure.
- k. All electrical equipment to be used inside the tank must be in good repair and grounded.
- l. Other people working in the immediate area will be informed of the work being done, and they must inform the watcher or supervisor immediately of any unusual occurrence which makes it necessary to evacuate the tank.

5. The watcher or Standby Observer System:

- a. Workers inside a confined space must be under the constant observation of a fully instructed watcher.
- b. Before anyone enters the tank, the watcher will be instructed by the person in charge of the entry that an entry authorization must be obtained from the person in charge and a rescue harness or wristlets must be used on the job.

The watcher must also know the location of the nearest telephone (with emergency numbers posted), eyewash and/or shower, fire extinguisher and oxygen inhalator. For all "hot work" inside a tank, the watcher must be instructed how to shut down the welding/burning equipment.

As long as anyone is inside the vessel, the watcher must remain in continuous contact with the worker. HE IS NOT TO LEAVE THE JOB SITE EXCEPT TO REPORT AN EMERGENCY. He does not enter the tank until help is available.

- c. After being instructed in his responsibilities, the watcher will sign a form indicating his understanding.
6. All welding and burning equipment must be provided with a shut off under the control of the watcher; and the watcher must be shown how to shut off the equipment if it becomes necessary. Welding and burning equipment will only be taken into a tank immediately prior to its use and must be removed from the tank immediately after the job is finished.

For all "hot work" inside a tank, a properly executed flame permit, if needed, must be displayed at the job site and standard welding and burning safety precautions will always be followed.

Removal of the Tank

To safely remove the tank structure:

1. Disconnect and decontaminate all appurtenant piping.
2. Disconnect and decontaminate all appurtenant pumping equipment.
3. The vessel will be removed and cut up on site before selling it as scrap metal for reclamation by melting, to a local vendor.
4. The backfill material and the grossly contaminated soil surrounding the tank shall be removed and properly disposed of as required.
5. The effectiveness of decontamination of the tank will be determined by analyzing the rinse water.

MAT020814

APPENDIX C  
COMPLIANCE SCHEDULE

NOW, having considered this matter and being fully advised, IT IS ORDERED THAT:

I. Within sixty (60) days of the effective date of this Order, the Respondent shall submit a Phase I Rate and Extent of Migration Report detailing investigative work performed to date and providing additional information regarding site conditions. A Preliminary Risk Assessment shall be included in the Phase I Report. A preliminary Work Plan Proposal for the Phase II Extent and Rate of Migration Investigation, capable of delineating migration pathways both on and off-site, the extent of contamination off-site, and consistent with applicable portions of the Department's February 9, 1990 comments regarding the investigation, shall be included with the Phase I Report. *done*

The Phase I Report shall include the following:

A. Map(s) depicting the following:

1. General geographic location;
2. Property lines, with the owners of all adjacent properties clearly indicated;
3. Site topography and surface drainage within 1000' of the facility, (with a contour interval not exceeding two [2] feet and a scale of one [1] inch  $\leq$  one hundred [100] feet) depicting all waterways, wetlands, floodplains, water features, drainage patterns, surface water containment areas, and including on-site benchmarks;
4. All tanks, buildings, utilities, paved areas, easements, right-of-ways, and other features;
5. All solid or hazardous waste treatment, storage or disposal areas active after November 19, 1980;
6. All known past solid or hazardous waste treatment storage or disposal areas regardless of whether they were active on November 19, 1980;
7. All known past and present product and waste underground tanks or piping;
8. Surrounding land uses (residential, commercial, agricultural, recreational);
9. The location of all production and groundwater monitoring wells. These wells shall be clearly labeled and ground elevations and top of casing elevations and construction details included (these elevations and details may be included as an attachment); and

MAT020824

10. All underground utility and sewer lines adjacent to the facility and any other potentially connected lines that may provide pathways for migration of groundwater or subsurface gases.

All maps shall be consistent with the requirements set forth in 40 CFR Section 270.14 and be of sufficient detail and accuracy to locate and report all current and future work performed at the site.

- B. A history and description of ownership and operation, solid and hazardous waste generation, treatment, storage and disposal activities at the facility.
- C. Approximate dates or periods of past product and wastes spills, identification of the materials spilled, the amount spilled, the location where spilled, and a description of the response actions conducted (local, State, or Federal response units or private parties), including any inspection reports or technical reports generated as a result of the response.
- D. A summary of past permits requested and/or received, any enforcement actions and their subsequent response, and a list of documents and studies prepared for the facility.
- E. Geologic cross-sections representative of site conditions including sections through the tank area and other areas of interest.
- F. Well data from a minimum of two rounds of sampling (all wells at the site must be sampled on the same day at least once).
- G. Evaluation of direction, rate and extent of plume migration on-site.
- H. The Respondent shall delineate the groundwater plume, both horizontally and vertically, the extent within which the concentration of waste constituents exceed either standards under 6 NYCRR Part 703.5 or established background levels, where background levels exceed the above standards.
- I. Summary of site drainage, water balance, land use and points of groundwater discharge.
- J. The Respondent shall address the Department's comments provided in the letter dated February 9, 1990, to the extent possible, based on the existing data and monitoring well network.
- K. The Preliminary Risk Assessment shall describe the human populations and environmental systems that are susceptible to contaminant exposure from the facility and bounded by Mitchell Avenue, Brown Avenue, Factory Avenue, and Ley Creek. The Preliminary Risk Assessment shall include at minimum:
  1. Local uses and possible future uses of groundwater:

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- i. Type of use (e.g., drinking water source, municipal or residential, agricultural, domestic/non-potable, and industrial); and
  - ii. Location of points of groundwater use including wells and discharge areas. Private and public wells shall be located by a Well Survey conducted within the block bounded by Factory Avenue, Mitchell Avenue, Brown Avenue, and Ley Creek and on both sides of Mitchell Avenue adjacent to that block. Interviews must be attempted to determine well information. Phone calls may be conducted to determine private well information. Information that should be obtained if possible includes at a minimum: age, location, size, material of construction, well depth, screen size, pump capacity, use of water, presence or absence of a cap. The Department shall be informed of all locations where the owner or renter have not provided the information.
2. Basements, crawl spaces, and other enclosed depressions over the soil that are likely to be entered by people or are attached to buildings shall be identified by conducting a Basement Survey within the block bounded by Factory Avenue, Mitchell Avenue, Brown Avenue, and Ley Creek and on both sides of Mitchell Avenue adjacent to that block. Interviews must be attempted to determine basement information. Phone calls may be conducted to determine private basement information.
3. Human use of or access to the facility and adjacent lands, including but not limited to:
  - i. Recreation;
  - ii. Hunting;
  - iii. Residential;
  - iv. Commercial;
  - v. Zoning; and
  - vi. Relationship between population locations and prevailing wind direction;
  - vii. A demographic profile of the people who use or have access to the facility and adjacent land, including but not limited to: age, sex, and sensitive subgroups.
4. The Risk Assessment shall sufficiently address the following:

MAT020844

- i. All of the contaminants of concern, the migration potential of each, and a selection of contaminants of concern for further consideration;
- ii. The site accessibility, adjacent populations, on-site containment conditions, and the probability of on-site contact;
- iii. The containment conditions for surface runoff in the site area, rainfall, slope and terrain, and probability of surface water transport;
- iv. The containment value of the site conditions for groundwater transport, groundwater proximity, soil permeability, net precipitation, leaching potential, and probability of groundwater contamination;
- v. The containment conditions relative to air transport, reactivity and incompatibility of the waste and site materials, evaporation potential of the waste or reaction products, probability of air vapor transport;
- vi. The containment conditions relative to soil vapor transport, contaminant depth and concentration, buried/subsurface materials, and probability of soil vapor transport;
- vii. The probability of off-site migration of hazardous constituents.
- viii. A baseline risk assessment.

II. The Department shall review the Phase I report and Preliminary Phase II Work Plan Proposal and shall endeavor to submit any comments to the Respondent within 30 days. Within 30 days of receipt of the Department's comments, Respondent shall revise the Phase II Work Plan as necessary and submit said Work Plan to the Department. Respondent shall implement the Phase II investigation within 20 days of receipt of the Department's approval of the Work Plan. The final task of the Phase II Work Plan will be submittal to the Department of a Phase II Report. *Done*

The Work Plan for the Phase II Investigation shall specify the locations for off-site and downgradient wells as necessary. All wells shall be constructed and maintained to yield representative physical and chemical groundwater data. If it is determined that a well is not capable of providing representative groundwater data, the well shall be repaired or replaced with an acceptable well. Any flush mounted wells shall be capped with a water tight seal. The integrity of this seal shall be inspected each time the wells are sampled. Damaged or questionable seals shall be replaced as necessary.

III. Respondent shall continuously pump groundwater from the trench well and any other withdrawal wells, as necessary, in an effort to maintain an inward gradient encompassing the immediate source area. *?*

NAT020854

If, within ninety (90) days of installation of the trench, the hydraulic influence of the cut-off trench and other recovery wells do not extend over the immediate area of the release including the extent of known limits of soil contaminated by light non-aqueous phase liquid (that can reasonably be attributed to have come from this facility), the Respondent shall submit a Remedial System Plan, (this plan may include alternatives to continuous pumping) which will detail proposed modifications to the remedial system to treat such fugitive liquid. *done*

Within 150 days of the effective date of this Order the Respondent shall sample soils outside of the zone hydraulically controlled by the trench system for the presence of mineral spirits, volatile organic compounds, and EP Toxicity for lead and cadmium to determine if constituents are present at concentrations that might result in exceedance of 6 NYCRR Part 703 groundwater standards. *done*

If data collected during Phase II indicates that significantly contaminated soils exist outside the zone of hydraulic control, the Respondent shall include in the Phase II report a proposal for additional interim measures intended to reduce such risks as a modification to the Remedial System Plan. The Respondent shall begin implementation of additional measures within thirty (30) days of receipt of the Department's approval. *done*

IV. Within the schedule established in the approved Phase II Work Plan, Respondent shall submit a report based on the Phase II investigation. That report shall include a Final Risk Assessment that takes into account any additional data. The Final Risk Assessment, together with additional site specific information, may be used by the parties to determine whether risk based alternative concentration levels are appropriate for remediation. Based on the Phase II characterization data, Respondent shall propose additional modifications to the remedial program to address the off-site plume. The off-site remedial measures shall be implemented within thirty (30) days of receipt of the Department's approval. *Not complete*

V. Within one hundred eighty (180) days of the effective date of this Order and every one hundred eighty (180) days thereafter, unless and until the Consent Order has terminated in accordance with its terms, the Respondent shall submit for the Department's approval an Implementation of Interim Measures Report. The Respondent's report shall document interim measures which were or are being undertaken at the facility. This shall include:

- A. Objectives of the interim measures: how the measures are mitigating a potential threat to human health and the environment and/or are consistent with and integrated into any long term solution at the facility;
- B. Design, construction, operation, and maintenance requirements;
- C. Schedules for design, construction and monitoring;
- D. Evaluation of adequacy and integrity of all monitoring wells;
- E. Schedule for progress reports on all planned activities to be implemented in the next 180 days; and

MAT020864



APPENDIX D

SAFETY KLEEN CORPORATION  
777 Big Timber Road  
Elgin IL 60123

12/22/89.

Minutes of the Meeting dated 12/20/89.

Mr. Rick Peoples                      Safety Kleen  
Mr. Daniel Dowling  
Ms. Ellen Jurczak  
Mr. Thomas Heaton

Mr. Sev Chetty                      DEC  
Mr. Isaac Natarajan

Matters agreed:

I. Safety Kleen to submit the following to DEC:

- A. Detailed description of the method to be used for the proposed underground tank leak test. The method has to be approved by Bureau of hazardous waste before the actual test.
- B. Drawings and design details of the double walled tank before 12/30/89.
- C. Detailed remedial plan to DEC for review and approval.

II. Interim Arrangement.

- A. A site plan indicating the location of the tanker to be stationed, meeting all NFPA requirements as applicable must be submitted to DEC.
- B. The tanker valves and the pipe connections must be placed over a secondary containment as discussed.
- C. The tanker used for consolidating the waste must be replaced with an empty tanker truck every third day. (i.e., A tanker should not be used to consolidate waste for more than three days.)
- D. While loading the tanker the driver of the vehicle must stay near the vehicle and inspect the hose coupling, valves, hose and the available space in the tanker for filling the waste, every 15 minutes, to prevent any release of hazardous waste to the environment.

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F. Soil sampling data and evaluation of effectiveness of in-situ treatment.

MAT020804

- E. Tank inspection procedures listed in part 373 Permit Application as applicable must be followed for the tanker used to consolidate the drummed wastes.
- F. Sufficient quantity of sorbent materials, fire extinguishers and spill control equipments must be kept in the Dumpster Shed to deal with any emergency situations.
- G. The driver of the vehicle must be trained in emergency response. The emergency co-ordinator's telephone number must be posted near the dumpster and a phone must be accessible to the personnel consolidating the drummed wastes into the tanker truck.
- H. The facility is permitted to use the tanker truck to consolidate the drummed wastes in accordance with this Interim Arrangement for a period of 60 days starting from 12/12/89.

III. Above Ground Double Walled Tank.

- A. P.E. Certification of the tank system design in accordance with regulatory requirement should be submitted by SK.
- B. Within 30 days of approval of the proposal the tank must be installed and certified by P.E. as required.
- C. The tank system must have a tanker loading/unloading area with secondary containment.
- D. The tank system must have a security fence.

MAT020894

## APPENDIX E

1. The soil vent system shall discharge through an activated carbon air pollution control device. A system employing 3-canisters in series shall be used.
2. Breakthrough from the first carbon filter to the second shall be monitored in accordance with the manufacturer's recommendations. When breakthrough is detected and verified, the saturated carbon canister shall be removed from the effluent control device. Canister #2 becomes #1, canister #3 becomes #2, and a fresh canister of activated carbon is installed at the #3 position in the series. This process of detecting breakthrough of hydrocarbons, rearranging carbon canisters, and introducing a fresh canister shall be continued for the duration of this authorization.
3. Final effluent to the ambient air shall be monitored for mineral spirits (CAS # 8032-32-4) using a portable gas chromatograph, after the system has stabilized (from 48 to 72 hours after start-up).