

New Mexico Health and Environment Department

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Deputy Secretary

RICHARD MITZELFELT
Director

*Response received
Nov. 6 '90 via UPS*

September 26, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: NOTICE OF VIOLATION
NMD 980698849

Mr. Scott Fore, Vice President
Safety-Kleen Corporation
777 Big Timber Road
Elgin, IL 60123

Dear Mr. Fore:

The Environmental Improvement Division (EID) has reviewed Part B of Safety-Kleen's application for the operating permit required under the Resource Conservation and Recovery Act for its Farmington, New Mexico facility. The application is for one container storage unit and one above-ground tank unit. The documents reviewed were the revised Table of Contents, text of Sections 1 through 6, and changes or replacements to Appendices G and H submitted on June 11, 1990; the Certification and Appendices submitted on September 22, 1987; the assessment of the tank system by TERA Inc. submitted on July 11, 1990; and the revised Part A submitted on September 7, 1990.

Based on this review, EID has found the application to be deficient and therefore in violation of the New Mexico Hazardous Waste Management Regulations (HWMR-5, as amended 1989), Part IX, 40 CFR section 270.10. The remainder of this letter is a list of the deficiencies noted and the actions required of Safety-Kleen to correct them.

Pt. IX, § 270.13: Contents of Part A

1. Pt. IX, § 270.13(j) requires a listing of the wastes to be stored at the facility and an estimate of the quantity of those wastes to be handled annually.

a. The facility capacity estimate given in the September 7th Part A for container storage does not agree with the figure given on page 11 of Part B (4,464 gal. vs. 2,880 gal.). Which figure is accurate, and how is it derived? In other words, how many containers will be stored and in what configuration at maximum capacity?

Mr. Scott Fore
September 26, 1990

- b. The annual quantity estimates given in Part A and on page 11 of Part B do not agree with the annual quantity estimate for spent mineral spirits given on page 12 ("...6000-7000 gallons are removed every two weeks."). Please ensure that all quantity estimates agree and are reasonable, accurate estimates of the maximum annual quantities of wastes that will be handled during the life of the permit.

Pt. IX, § 270.14: Contents of Part B

1. Pt. IX, § 270.14(b)(10) requires, among other things, an estimate of the volume of traffic in the vicinity of the facility.

- a. Please provide an estimate of the traffic passing the intersection of Troy King Rd. and U.S. Hwy. 550 (on both roads), and an estimate of the average and maximum traffic into and out of the Safety-Kleen facility, including the timing of the Safety-Kleen traffic.

2. Pt. IX, § 270.14(b)(11)(iii) requires "...a copy of the relevant Federal Insurance Administration flood map, if used, or the calculations and maps used where an FIA map is not available."

- a. Please provide a legible and clearly labelled copy of the relevant Federal Insurance Administration map, or other map and calculations used to demonstrate that the facility is not in a flood plain.

Pt. V, § 264.13: General Waste Analysis

1. Pt. V, § 264.13(a) requires an analysis of waste adequate for proper treatment, storage, or disposal, including compliance with the requirements of the Land Disposal Restrictions.

- a. EID recognizes the impracticality of performing routine laboratory analyses of waste while it is stored at the Farmington facility. Nevertheless, we are concerned that "analysis" of the waste based solely on its appearance and smell at the time of pickup provides inadequate information as to whether the waste may contain unexpected constituents. Please provide a clear and specific explanation of what analyses are performed at the Denton recycling center (or any other facilities to which waste from the Farmington center may be sent) that pertain to waste traceable to the Farmington facility.

Mr. Scott Fore
September 26, 1990

In other words, please answer questions including (but not limited to): What analyses are done on the contents of the drums of immersion cleaner that come from Farmington? What is the sampling and selection regimen, what analyses are done, how frequently are they repeated, and where is the information maintained? How would the Farmington facility be notified if abnormal constituents were found, and what other actions would be taken to ensure that it does not store wastes not allowed under its permit, and that accurate and up-to-date information on the waste constituents is available in the event of a release?

Please answer the same questions for the dry cleaning wastes, the bulk mineral spirits waste, and any other wastes stored at the facility. In addition, please explain how transportation of mineral spirits waste is handled, particularly whether a truckload of spent solvent always comes entirely from one identifiable Safety-Kleen facility or if a truckload may contain solvent from more than one facility.

- b. Please clarify what instruction is given to Safety-Kleen clients on the use of their solvent(s), and exactly what they are required to do by way of notifying Safety-Kleen that unusual constituents may be present or that the waste-generating process may have changed.
- c. Please provide an updated Section 2.5 reflecting the land disposal restrictions promulgated on May 8, 1990 (the "third third" restrictions).

Please provide clear answers, specific to the Farmington facility, for the following questions:

- d. Does the Farmington service center accept solvent waste from customer-owned machines? If so, is such waste subject to any additional analyses not performed on waste collected from Safety-Kleen-owned machines? If it is accepted, where and how is it stored?
- e. When spent solvents are collected from a client's premises, is an inspection routinely done to check for the presence of a heavier-than-water layer at the bottom of the mineral spirits or immersion cleaner? If such material is found, is it analyzed?
- f. How are dry cleaning wastes "verified", as mentioned on p. 17?

Mr. Scott Fore
September 26, 1990

- g. On p. 13 it is stated that about 17% of the dry cleaning waste is mineral spirits, but elsewhere in Part B of the application it is stated that no ignitable materials are stored in the container storage area. Similarly, a process flow diagram in Appendix B indicates that sludge from the wet dumpster is drummed and stored until it can be sent to a recycling facility. If these two waste types are present, where are they stored? What measures are taken to ensure that they are always stored at least 50 feet from the property line? What analyses or other methods are used to ensure that ignitable wastes are correctly identified?

Pt. V, § 264.14: Security

1. Pt. V, § 264.14(c) requires that warning signs must be duplicated in any locally prevalent language besides English.
 - a. Please provide a schedule for supplementing the English "Danger" signs with equivalent signs in Spanish and Navaho, if such signs are not already present.

Pt. V, § 264.15: General Inspection Requirements

1. Pt. V, § 264.15(1) requires a written inspection schedule.
 - a. There are two different inspection schedules accompanying the application. Please clarify precisely which schedule form is used at the Farmington facility. If a "generic" Safety-Kleen inspection form is used, please indicate any items that are not applicable, and ensure that it is clear precisely what the inspection interval is for each item on the list.
2. Pt. V, § 264.15(b)(3) requires that the inspection schedule identify the kinds of problems to be looked for during an inspection.
 - a. Please ensure that the inspection schedule used satisfies this requirement (one of the forms included in the application satisfies it; the other does not).

Pt. V, § 264.16: Training

It is not clear from the description of the training program in the application exactly how it works. Please provide a rewritten training section explaining clearly how the program satisfies the requirements of Pt. V, § 264.16, including in particular:

Mr. Scott Fore
September 26, 1990

1. Pt. V, § 264.16(a)(2). Who trains whom? Several resumes are included in the application indicating considerable training experience, but it is not explained who these people are, what they do, or how any needed replacements would be selected. Similarly, it is not clear what training courses are given to which employees. The courses mentioned in the text do not clearly correspond to the outlines provided in Appendix G.

2. Pt. V, § 264.16(a)(3). Please ensure, and clearly demonstrate, that all personnel at the facility have had training that satisfies the content requirements of this paragraph.

3. Pt. V, § 264.16(c). Please clarify exactly what is contained in the annual reviews given to each employee - is the course outline the same as the introductory material; if not, how does it differ? Please provide information relevant to each employee.

4. Pt. V, § 264.16(d) and (e). EID recognizes that the information required by these sections is to be maintained at the facility and is not specifically required to be submitted with a permit application. However, it would be helpful in determining the adequacy of the training program if you would submit documentation demonstrating that each employee has successfully completed the required training and/or experience for their position. In addition, as mentioned above, please be sure it is clear exactly what introductory and ongoing training each employee has had; and ensure that the lists of job title(s), job descriptions, qualifications, duties, and names of incumbents are complete and up-to-date.

**Pt. V, § 264.17:
Ignitable, Reactive, or Incompatible Waste**

1. The tank assessment by TERA Inc. recommends that the mineral spirits tanks be grounded to minimize chances of accidental ignition. Please provide evidence that this has been done.

Pt. V, Subpart C: Preparedness and Prevention

1. Pt. V, § 264.32(a) requires all hazardous waste facilities to have an internal communications or alarm system, unless it can be demonstrated not to be needed.

a. Please describe how the tenant(s) who are sharing the building in which the Safety-Kleen container storage facility is located would be warned of a fire or other emergency. Please include details of the construction and fire rating of the wall between Safety-Kleen's premises and the adjoining tenant's premises.

Mr. Scott Fore
September 26, 1990

2. Pt. V, § 264.32(c) requires (among other things) adequate fire and spill control equipment.

- a. Please specify how many fire extinguishers there are at the Farmington facility, what size they are, and where they are located.
- b. Please explain what the absorbent material referred to in Appendix E actually is, what quantity is to be kept on hand (how big is a sheet or bale), and the basis for considering that quantity adequate.

Pt. V, Subpart D: Contingency Plan

1. Pt. V, § 264.52(a) requires a description of actions to be taken in the event of a fire, explosion, or release of hazardous waste.

- a. No specific mention is made in the contingency plan of responses to a possible explosion. Please either explain why an explosion is not realistically possible at the Farmington facility, or include a contingency plan that addresses planned responses to an explosion.

2. Pt. V, § 264.51(e) requires a list of the location, description, and capabilities of all emergency equipment at the facility.

- a. The list in appendix E is somewhat vague: it does not always discuss the precise location of the equipment in the Farmington facility, its capabilities, or the actual quantities available. Please provide an updated, accurate list satisfying these requirements. Please ensure that it accurately reflects the Farmington facility - we are not interested in what "should normally" be in a standard Safety-Kleen facility.

3. Pt. V, § 264.55 requires that there be, at all times, at least one employee on site or on call capable of coordinating emergency activities and with the authority to commit any needed resources for emergency activities. "On call" is defined as capable of reaching the facility in a short time.

- a. Two Safety-Kleen employees are listed as potential emergency coordinators, but one (Dave Rockwell) lives in Albuquerque. We do not believe that someone could travel from Albuquerque to Farmington in what could reasonably be called a "short time". Accordingly, based on information

Mr. Scott Fore
September 26, 1990

in the application, it does not appear that an employee will be available at all times to act as an emergency coordinator as defined in the Hazardous Waste Management Regulations. Please demonstrate that an employee will be available at all times to act as an emergency coordinator as required.

4. Pt. V, § 264.56(e) requires measures to minimize the occurrence, recurrence, or spread of fires, explosions, and releases.

- a. Page 41 refers to procedures for handling solvents spilled in or flowing into a "non-explosion-rated" area. Please clarify what is meant by an explosion-rated area, and what parts of the Farmington facility are or are not such areas.
- b. Except for removal of liquids from the sump in the tank containment area, discussed on p. 7, no mention is made of the methods used to remove spilled liquids. Please provide a description of pumps or similar equipment maintained on site (if any) for the removal of precipitation or spilled liquids. If none is present, please explain how the liquids would be handled. In the event of a substantial release from one of the solvent tanks into the containment, or a situation requiring rapid emptying of one of the tanks for emergency inspection or repairs, how would the mineral spirits be removed, where would they be stored, what would be their final disposition, and how soon could a response be made to an emergency situation?
- c. Please clarify the responsibilities and capabilities of the Emergency Response Contractor mentioned on page 46 and listed in Appendix F.

5. Pt. V, § 264.56(g) requires the handling of contaminated material resulting from emergency response as hazardous waste, including compliance with generator requirements, unless it can be demonstrated to be non-hazardous.

- a. Details are not provided of the sampling and analysis techniques that would be used to determine the hazardousness (or non-hazardousness) of material resulting from spill cleanup. Please provide a detailed description of how these determinations would be made. (Note the very similar requirement below for material generated during closure.)

Mr. Scott Fore
September 26, 1990

Pt. V, § 264.73: Operating Record

1. Pt. V, § 264.73 requires a written operating record to be maintained at the facility, and specifies the kinds of information that must be recorded in it.

- a. Some of the items required by § 264.73 are mentioned at various points in the application, but others are omitted. Please provide a comprehensive list of the documents to be included in the operating record maintained at the Farmington facility, and ensure that they satisfy the requirements of §264.73, at a minimum.

Pt. V, Subpart G: Closure

1. Pt. V, § 264.112(b)(4) requires that the closure plan include detailed procedures for, among other things, determining the extent of any contamination, for sampling, and for determining satisfactory closure performance standards.

- a. Please state who will be performing the closure cleanup and sampling activities. Will it be Safety-Kleen personnel or outside contractors? If the decision will be deferred until the actual date of closure, please explain how the decision will be made. In any case, please state the qualifications that will be required of the personnel doing the work.
- b. Please be very much more specific in describing the details of the sampling and analysis involved in closure activities. For instance, a photoionization (PI) detector may indeed be an appropriate instrument for screening the area around the tanks for contamination, but some adequate method must be used to ensure that the gas concentrations of potential contaminants to be measured by the PI detector accurately reflect the contaminants possibly present in the soil. In other words, a surface scan is unlikely to reveal evidence of subsurface contamination. Some regimen of soil coring, for instance, could enable an investigator to assess potential soil contamination much more accurately and confidently.
- c. A photoionization survey of the container storage area also seems a reasonable first step in assessing the success of closure cleaning efforts. Please provide a much more detailed description of how the procedure would be carried out, addressing, for instance, the sampling pattern to be used, the calibration techniques to be used for the instrument (bearing in mind the variety of

Mr. Scott Fore
September 26, 1990

compounds to be screened for), the response time to be provided at each sampling location, and so on.

- d. In addition to the photoionization screening, some other method of demonstrating the post-closure decontamination of the concrete slab (as distinct from the air immediately above it) in the container storage area is needed. A program of random wipe sampling might be one way to address this need, if the surface of the concrete will permit it; alternatively, analysis of concrete core samples or of rinsate water might be used. Please note the requirement below to provide more information on the surface coating of the concrete.
 - e. Please explain how the material resulting from demolition of the tanks, tank ancillary equipment, and containment area will be tested to determine if it must be handled as hazardous waste and whether it is acceptable for land disposal (see paragraph f below).
 - f. Please amend the closure plan to address sampling and analysis of closure residues, including rinse waters, for Land Disposal Restriction treatment levels.
 - g. Please state the quantitative levels that will be used as closure performance standards: photoionization detector levels that will be considered "clean", how other sampling results will be interpreted, and so on.
2. Pt. 5, § 264.112(d) requires, among other things, that EID be notified at least 45 days in advance of known closure; and that closure activities begin within 30 days of receipt of the known last volume of hazardous waste.
- a. Please adjust the closure schedule and closure plan text to incorporate clear reference to these two requirements.

Pt. V, Subpart H: Financial Requirements

1. Pt. V, § 264.143 requires financial assurance for closure costs to be established by one of several mechanisms, one of which is the financial test chosen by Safety-Kleen.
 - a. While nothing appears to be amiss with the substance of the financial test information submitted, the letter provided by Safety-Kleen's Financial Vice-President follows a format mandated by a now-outdated version of the New Mexico Hazardous Waste Management Regulations (referred to as HWMR-4). The current version of the

Mr. Scott Fore
September 26, 1990

Regulations (HWMR-5) has adopted by reference the precise language used in the Code of Federal Regulations. Accordingly, please submit a letter worded as required by § 264.151(f), including all four relevant numbered paragraphs.

- b. In the financial test letter submitted with the 1990 version of the application, closure and/or post-closure liabilities in the states of California, Illinois, Kentucky, Massachussets, Michigan, New Jersey, New York, Ohio, Pennsylvania, Texas, and Wisconsin do not appear, whereas they were listed in the 1987 version of the application. Please explain how closure/post-closure liabilities in these states are handled.
- c. Quite possibly through oversight on our part, we can find no current liability insurance certificate in our files for the Farmington facility. Please include a copy.

Pt. V, Subpart I: Container Storage Requirements

- 1. Pt. V, § 264.175(b)(1) requires a containment system free of cracks or gaps and sufficiently impervious to contain leaks or spills.
 - a. Please provide details of the concrete coating used on the floor and curbing in the container storage building.
- 2. Pt. V, § 264.175(b)(2) requires containers to be protected from accumulated liquids.
 - a. Please clarify how this is done (e.g. storage on pallets, sloping floor, or other means).

Pt. V, Subpart J: Tank System Requirements

- 1. The tank assessment provided by TERA Inc. mentions, on p. 5, that at least one emergency vent cover on the solvent storage tank(s) was padlocked closed, and recommended that the padlock be removed.
 - a. Please document that the emergency vent covers can function properly.
- 2. Pt. V, § 264.196(d) requires notification of the New Mexico Health and Environment Department of any spill or release of hazardous waste within 24 hours (except for spills of one pound or less that are immediately cleaned up); followed within 30

Mr. Scott Fore
September 26, 1990

days by a report containing the information set out in Pt. V, §264.196(d)(3).

a. Please clarify section 4.2.3 (reporting responsibilities) to reflect unambiguous compliance with these requirements.

3. Pt. V, § 264.196(f) requires that any extensive repairs to the tank system must be assessed and certified by an independent engineer before the system is returned to use.

a. Please include language reflecting this requirement.

Finally, we do insist that the revised Part B that includes the additional information required above be an easily usable document. We do not categorically require a completely new version of the application, but in most cases this will be the easiest way to ensure comprehensibility. We do require an accurate table of contents.

In accordance with Section 74-4-10 of the New Mexico Statutes, Annotated (NMSA), you have thirty calendar days from the date of receipt of this notice to provide the information requested. Within this thirty day period, you may request a meeting to discuss the situation, the required information, and/or a settlement agreement. Such a meeting must be held within the thirty day period and will not suspend the thirty day deadline for compliance with this Notice or conclusion of a settlement agreement.

If you fail to respond to this Notice within the required thirty day period, you will be subject to one or more of the following:

1. An order requiring compliance within a specified time, pursuant to Section 74-4-10 NMSA 1978 (as amended, 1988); and/or an order assessing civil penalties of up to \$10,000 per day of violation, pursuant to Sections 74-4-10 and 74-4-12 NMSA 1978 (as amended 1988).

2. A civil action in district court for appropriate relief, including temporary or permanent injunctions, pursuant to Section 74-4-10 NMSA 1978 (as amended, 1988); and/or assessment of civil penalties of up to \$10,000 for each day of violation, pursuant to Sections 74-4-10 and 74-4-12 NMSA 1978 (as amended, 1988).

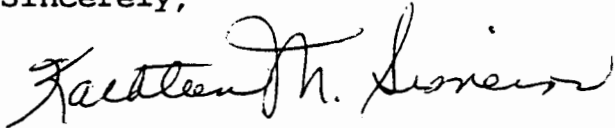
3. Permit denial, pursuant to Section 74-4-4.2 NMSA 1978 (as amended, 1988).

Mr. Scott Fore
September 26, 1990

Compliance with the requirements of this Notice does not relieve Safety-Kleen Corporation of its obligation to comply with the New Mexico Hazardous Waste Management Regulations in other activities, nor does it relieve Safety-Kleen of its obligation to comply with any other applicable laws and regulations.

If you have any questions regarding this Notice please contact David Morgan at 505-827-0582 or at the address given above. Please address the information you provide in response to this Notice to his attention.

Sincerely,



Kathleen M. Sisneros
Bureau Chief
Hazardous and Radioactive Waste Bureau

c: Mickey Flowers, US EPA Region VI
Jennifer Jendras, Safety-Kleen