

Waste Management Division
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May 7, 2001

MR MARK HANSEN, ENV. COMPLIANCE MANAGER
SAFETY-KLEEN CORPORATION
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SYRACUSE, NY 13211

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RE: Solvent Reuse Program — “Continued Use” Regulatory Determination
Vermont File _ G-12-01-026

Dear Mr. Hansen:

This is in response to your company's June 4, 1998, submittal requesting a regulatory determination regarding whether used parts washing solvent from Safety-Kleen Corporation's customers can be received back at the Barre, Vermont, facility – EPA ID _ VTD 000 791 699 – as a product and used to rinse out used solvent containers. Specifically, you requested that this activity be incorporated into Safety-Kleen's current recycling/reuse exemption, issued on November 17, 1994, and revised on October 16, 1996, in accordance with Section 7-608 of the Vermont Hazardous Waste Management Regulations (VHWMR). Additional supporting and clarifying information was submitted on August 28, 1998, February 22 and December 8, 1999, and June 29, 2000; a \$25 modification fee for Safety-Kleen's recycling reuse exemption was received on March 8, 1999. I apologize for the delay in this response; however, additional information emerging during the same time period from other states warranted delaying this decision until certain additional technical issues could be more fully assessed.

The Waste Management Division (WMD) supports Safety-Kleen Corporation's on-site reclamation of used parts washing solvent for a beneficial re-use; however, we cannot approve of the continued use program (CUP) as described in your December 8, 1999, submittal because the used solvent arriving at the Barre facility appears to meet the definition of a hazardous waste and not an effective substitute for a commercial chemical product. This determination was based on the following observations:

- Safety-Kleen's December 8, 1999, submittal to the WMD indicated that the spent solvent under consideration is identified by characteristic hazardous waste codes D001 (ignitability), D018 (benzene), D039 (tetrachloroethylene), and/or D040 (trichloroethylene) (note that a Safety-Kleen document in our files indicates that the solvent was also considered hazardous for the characteristics of toxicity for cadmium (D006), lead (D008) and/or dichlorobenzene (D027) in 1997 and 1998). In letters dated March 23 and June 29, 2000 – to Susan Prior of Safety-Kleen's Salem, New Hampshire, office and to Phil Retallick of Safety-Kleen's Columbia, South Carolina, office, respectively (enclosed for your information) – the New York State Department of Environmental Conservation (NY) indicated that use of the CUP solvent may add chemical contamination to the drums being cleaned. NY reported that Safety-Kleen concurred in a letter dated January 4, 2000, that “any reuse of 105 solvent in a washed drum (either waste or product) could contaminate the (subsequent) 150 solvent with sufficient levels

of perchloroethylene or trichloroethylene" – introduced during the "cleaning" process – "to cause the waste material to be a characteristic hazardous waste." This means that the CUP solvent would not be an effective substitute for a commercial chemical product but could render future solvent placed in a drum washed using the CUP process hazardous for toxics introduced by the "cleaning" solvent. Presumably, the contaminants would not be introduced if unused solvent were used to clean the dirty drums.

- It appears that the CUP system requires that drums be cleaned with clean solvent after the CUP solvent is used. NY stated in its June 2000 letter that Ohio and Illinois inspectors at Safety-Kleen facilities found that screens in the CUP washing tank needed to be washed with clean solvent to remove sludges left when the CUP solvent was poured into the re-use tank; however, NY was informed by Safety-Kleen that non-CUP drum-washing practices did not result in the similar use of clean solvent. Also, In a May 16, 2000, letter to Lin Longshore of Safety-Kleen's Columbia, SC, office (enclosed for your information), the North Carolina (NC) Hazardous Waste Section stated that its inspectors "on a regular basis" observed "Safety-Kleen personnel wiping the inside of some of the solvent containers with rags to remove solids after the containers had been washed" with the CUP solvent. This indicates that the CUP solvent is not "used or reused as effective substitutes for commercial chemical products" as required by the exemption in Section 7-204(a)(2) of the VHWMR. The solvent would therefore be a hazardous waste prior to shipment from customer locations (and reuse at the Barre facility for use in rinsing out containers).
- The June 2000 NY letter reported that of six drums of "CUP" solvent received during a state inspection at the Elgin, Illinois, Safety-Kleen facility, three were found to contain solvent that was not clean enough to be used for washing drums. These drums were reportedly only partially poured into the CUP drum washing tank; when the solvent visually appeared to be dirty, Safety-Kleen personnel were observed to bring the remaining, dirty solvent to the regular, non-CUP, hazardous waste tank. This means that 50% of the used solvent containers received during the day of the inspection had been shipped as non-waste; however, the solvent could not be used as "effective substitutes for commercial product" by Safety-Kleen and was, in fact, hazardous waste from the point of generation by each customer. The March 2000 NY letter indicated that 75% of the CUP drums observed during two inspections at a Safety-Kleen facility in NY required sludge removal before the remaining solvent could be used to clean out used drums. Usable solvent was separated out from the dirty solvent/sludge in the bottom of the drums and the sludges were managed as hazardous waste. Again, if it is Safety-Kleen's practice to separate out the liquid from the sludges in the containers with CUP solvent, this means that CUP drums contain hazardous waste from the time of their generation at the customers' locations. This also means that – based on the Illinois and NY inspectors' observations – between ½ and ¾ of Safety-Kleen's CUP customers would apparently be out of compliance with hazardous waste determination, labeling, and shipping regulations if they were to manage their spent solvent as a non-regulated product in the continued use program at the Barre facility.

Finally, Safety-Kleen Corporation has suggested that because Vermont has accepted Heritage Environmental's re-use of its used parts cleaning solvent as an effective substitute for a commercial chemical product, equity requires that Safety-Kleen Corporation be issued a similar exemption. As outlined above, Safety-Kleen's used CUP solvent was not shown to adequately clean used drums, it was too dirty for direct reuse, and it introduced hazardous characteristics to future drum contents. These conditions indicate that the proposed Continued Use Program solvent is not an effective

commercial chemical product but in fact is hazardous waste solvent as it is received at the Barre facility. In comparison, Heritage's parts-cleaning solvent is sent as is – with no reclamation or other processing – for use as a substitute feedstock to manufacture roof lapping compound.

As always, please feel free to contact me by electronic mail at *peterm@dec.anr.state.vt.us* or by telephone at (802) 241-3868 if you have any questions about this letter or other hazardous waste management issues.

Sincerely,

Peter Marshall
Chief, Management & Prevention Section

Enclosures (3/23/00, 5/16/00, 6/29/00 letters)

c: Mr. Eric Bailey {Safety-Kleen Corporation, 23 West Second Street, Barre, Vermont 05641}