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NEW MEXICO  
ENVIRONMENT DEPARTMENT



ENTERED



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Deputy Secretary

**Hazardous Waste Bureau**

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**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

July 1, 2020

Pamela K. Harvey  
Environmental, Health & Safety Manager  
Safety-Kleen Systems, Inc.  
610 131<sup>st</sup> Place  
Hammond, IN 46327

**RE: DIRECTION TO MODIFY  
HAZARDOUS WASTE FACILITY LIABILITY INSURANCE, NOVEMBER 2019  
FINANCIAL ASSURANCE FOR CLOSURE-NEW INSURANCE POLICY, NOVEMBER 2019  
ANNUAL INFLATION INCREASE FOR CLOSURE POLICY PEC000659417, FEBRUARY 2020  
SAFETY-KLEEN SYSTEMS, INC.- ALBUQUERQUE AND FARMINGTON FACILITIES  
EPA ID # NMD000804294  
EPA ID # NMD980698849  
HWB-SKAL-MISC**

Dear Ms. Harvey:

The New Mexico Environment Department (NMED, the Department) has completed its review of Safety-Kleen Systems, Inc.'s, (the Permittee) Albuquerque Container and Tank Storage Center (Albuquerque Facility) and the Farmington Hazardous Waste Storage Facility (Farmington Facility) *Hazardous Waste Facility Liability Insurance, Financial Assurance for Closure-New Insurance Policy, and Annual Inflation Increase for Closure Policy PEC000659417* documents received November 1 and 18, 2019 and February 28, 2020, respectively. NMED hereby issues this Direction to Modify with the following comments:

## **Hazardous Waste Facility Certificate of Liability Insurance**

### **Comment 1:**

The October 31, 2019 *Hazardous Waste Facility Liability Insurance* received on November 1, 2019 (October 2019 Policy) wording does not match verbatim the text specified in 40 CFR 264.151(j) as required by EPA. For example, Recital 1 states, "The coverage applies at EPA ID# , SEE ATTACHED LIST for sudden accidental occurrences". The Permittee did not include the EPA ID numbers or addresses for both facilities in Recital 1. The Permittee is required to provide the information in the document and not references to other parts of another letter. Correct the discrepancy and provide NMED with an updated Certificate of Liability Insurance with the required information. The Permittee must provide the revised financial assurance document with the response letter.

### **Comment 2:**

The Permittee did not provide the Policy PEC004203906 document with the October 2019 letter. Provide the Liability Insurance Policy PEC004203906 (effective period beginning November 1, 2019 through November 1, 2020) for NMED's record. In addition, submit a signed original duplicate of the insurance policy that reports the breakdown for both sudden and non-sudden liability in accordance with 40 CFR 264.147(a)(1)(i) and (b)(1)(i) with the response letter.

## **Financial Assurance for Closure-New Insurance Policy Annual Inflation Increase for Closure Policy PEC000659417**

### **Comment 3:**

There appears to be some discrepancies between the November 15, 2019 financial assurance for Closure-New Insurance Policy (November 2019 Policy) and the February 27, 2020 Annual Inflation Increase for Closure Policy PEC000659417 (February 2020 Policy). Provide clarification for the following:

- a. The February 2020 Policy states that the effective date for the Certificate of Insurance for Closure or Post-Closure Care is effective March 1, 2020 under Policy PEC0055302xx. The November 2019 Policy states the effective date for the Certificate of Insurance for Closure or Post-Closure Care is effective November 17, 2019 through July 31, 2020. Provide the ending effective date for the Policy provided in the February 27, 2020 letter.
- b. It appears to be the Permittee's intent to replace Policy PEC000659417 with Policy PEC0055302xx. However, it is not clear if the Permittee is renewing their policies annually or bi-annually based on the effective dates provided in the November 2019 Policy. All policies must provide a full year of coverage and the Permittee must

demonstrate that Policy PEC0055302xx provides coverage for a full year or another mechanism must be put in place to demonstrate Financial Assurance coverage.

- c. The February 2020 Policy states that the Certificate of Insurance for Closure or Post-Closure Care is effective March 1, 2020 under Policy PEC0055302xx. However, the Policy number heading (PEC000659417) in the February 27, 2020 letter does not match the Policy number stated in the letter (PEC0055302xx). Explain the differences between the policy numbers in the response letter.

**Comment 4**

The February 2020 Policy reports Closure amounts of \$126,596 for the Albuquerque Facility and \$109,214 for the Farmington Facility. In accordance with 40 CFR 264.143(e)(3), the face amount of the insurance policy must, at a minimum, equal the Current Cost Estimates for Closure and/or Post-Closure care. Although the face amount reported in the February 2020 Policy matches the total for the combined amounts (\$235,810), the Permittee does not include a breakdown of the cost estimates with the February 2020 Policy. To facilitate NMED's review, provide a detailed itemized cost estimates for the Albuquerque and Farmington Facilities in accordance with 40 CFR 264.142(a) and 264.143(a) with the response letter and for all future financial assurance submittals.

**Comment 5:**

In order to facilitate NMED's review, the Permittee must provide a cover letter(s) with the Policy documents that clearly identifies the Policy numbers with the corresponding financial assurance mechanism(s). In addition, the Permittee must identify and discuss any changes from past to current policies with the corresponding mechanism to provide greater transparency and facilitate a more comprehensive review.

**Comment 6:**

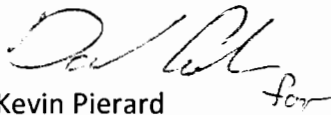
The Permittee must provide a revised itemized cost estimate for closure that accurately reflects the cost of implementing all closure activities listed in the closure plans included in the renewed facility operating permits in the 2021 financial assurance submittal.

Ms. Harvey  
July 1, 2020  
Page 4

The Permittee must address and incorporate Comments 1 through 5 from this Direction to Modify letter and submit a response letter with the required documents to NMED no later than **July 31, 2020**.

If you have any questions, please contact Vanessa Colón of my staff at 505-476-6058.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Pierard', with a small flourish at the end.

Kevin Pierard  
Chief  
Hazardous Waste Bureau

cc: D. Cobrain, NMED HWB  
L. Tsinnajinnie, NMED HWB  
V. Colón, NMED HWB  
C. Amindyas, NMED HWB  
L. King, EPA Region 6 (6PD-N)

File: Reading File and SKAL and SKFA 2020