



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Release Reporting/CERCLA Enforcement: U.S. Environmental Protection Agency and Owner and/or Operator of Linden, New Jersey, Facility Enter into Consent Agreement

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The United States Environmental Protection Agency (“EPA”) and Safety Kleen Systems, Inc. (“Safety Kleen”) entered into a September 30th Consent Agreement and Final Order (“CAFO”) addressing an alleged violation of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”). See Docket CERCLA-02-2022-2022.

Safety Kleen is stated to be the owner and/or operator of a Linden, New Jersey, facility (“Facility”).

Section 103 of CERCLA requires a facility to immediately notify the National Response Center of any release of hazardous substances in an amount equal to or greater than the reportable quantity (“RQ”) for that substance. In order for a release to be considered reportable under CERCLA, there are three criteria that must be met which include the following:

- Be into the environment
- Be equal to or exceed the RQ for a particular hazardous substance
- Occur within a 24-hour period

The terms “environment” and “facility” are very broadly defined by CERCLA.

The CAFO provides that on May 8, 2020, at approximately 10:50 p.m. a release of ammonia acetonitrile and acetamide (“Release”) to the environment occurred at the Facility. It further provides that a reaction in an outdoor storage tank at the Facility containing an acetonitrile mixture resulted in the release of ammonia, acetonitrile, and acetamide to the air through the vents on top of the tank.

Safety Kleen is stated to have immediately contacted the City of Linden Fire Department regarding the release. Further, Safety Kleen is stated to have started performing calculations on May 11, 2020, at approximately 8:00 a.m. to determine the quantities of hazardous substances involved in the Release. The CAFO states that this is more than two days and nine hours after the Release.

Safety Kleen is stated to have reported the Release on May 12, 2020, at 11:58 a.m. to the New Jersey Department of Environmental Protection (“NJDEP”), which is stated to be approximately 84 hours after the Release.

Safety Kleen is stated to have completed the hazardous substance calculations for the Release as of May 12, 2020, at approximately 10:12 p.m. and determined that the release of ammonia from the Facility was 237 pounds. This is stated to be greater than the RQ of 100 pounds.

Safety Kleen provided a written notification to NJDEP on May 13, 2020, at 5:07 p.m., updating its prior report to include the calculation of hazardous substances involved in the Release and reported that the emission of ammonia exceeded 100 pounds.

Safety Kleen reported the Release to the National Response Center (“NRC”) on May 14, 2020, at 9:59 a.m. indicating a release of 237 pounds of anhydrous ammonia and 4,774 pounds of acetonitrile at the Facility and into the atmosphere. This is stated to be approximately 131 hours after the Release and approximately 35 hours after Safety Kleen completed the calculations of the Release and determined that the amount of ammonia released exceeded the RQ for ammonia.

Safety Kleen is stated to have submitted written reports related to the Release to NJDEP on May 21, 2020; May 22, 2020; and June 5, 2020.

EPA issued an Information Request Letter to Safety Kleen on June 9, 2020, to which the company responded on August 12, 2020.

The CAFO states that Safety Kleen failed to immediately notify the NRC upon knowledge that the Release exceeded the RQ for ammonia. This is stated to violate the notification requirements of Section 103(a) of CERCLA.

Safety Kleen neither admits nor denies EPA’s conclusions of law.

A civil penalty of \$44,200 is assessed.

A copy of the CAFO can be downloaded [here](#).