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**FACT SHEET
INTENT TO ISSUE A HAZARDOUS WASTE FACILITY PERMIT UNDER THE NEW
MEXICO HAZARDOUS WASTE ACT
SAFETY-KLEEN SYSTEMS, INC. FARMINGTON SERVICE CENTER
EPA ID NMD980698849
August 16, 2019**

The New Mexico Environment Department (NMED or the Department) intends to issue a hazardous waste Permit (Permit) to J.D. Kinsey & Joy M Kinsey, Owners, and Safety-Kleen Systems, Inc., the Operators (hereafter the Permittees) to continue to accept, manage and store hazardous waste at their Container and Tank Storage Facility, Farmington Center (the Facility). The draft Permit is a proposed renewal of a permit that was issued to the Permittees in September 2003.

Prior to issuing a permit, the NMED is required by regulation to release a draft of the permit for public comment. The Department is also required to issue a fact sheet which serves two functions: 1) to facilitate public review of that draft permit; and 2) to provide the basis for any requirements not specified in state regulations. This is that fact sheet.

The initial portion of this fact sheet describes the general background for the revised draft Permit, including a physical description of the Facility, its hazardous waste activities, the revised draft Permit, and how the public may be involved in the permitting process. The latter portion of this fact sheet provides the technical and regulatory basis for the permit and a description of the permit parts.

Safety-Kleen Systems, Inc., Farmington Center is located in San Juan County at 4210A Hawkins Road, Farmington, New Mexico 87401. The Facility's Primary Contact is Mr. Brian Cochran, Branch Manager.

The Facility manages and stores hazardous wastes that are regulated under the federal Resource Conservation and Recovery Act (RCRA), the New Mexico Hazardous Waste Act (HWA) and its implementing regulations, the New Mexico Hazardous Waste Management Regulations at 20.4.1 NMAC.

The draft Permit allows the management of hazardous wastes (generally for periods longer than 90 days) at a container storage unit and one tank storage unit. The Permittees do not seek, and the NMED is not issuing, a permit for disposal of hazardous waste. The permitted units where waste storage would occur include one 1,530 square foot warehouse with administrative offices

and a container storage area for drum storage and one 12,600-gallon aboveground hazardous waste storage tank collocated with a 12,600-gallon product storage tank, with containment diking. The Facility also contains two aboveground storage tanks used for the storage of nonhazardous used oil and waste antifreeze with capacities of 24,500 gallons and 21,000 gallons, respectively.

The draft Permit is comprised of 7 Permit Parts (Parts 1 through 7) and 12 Permit Attachments (A through L). The Permit Parts address how the Permittees shall adhere to specific hazardous waste management and storage procedures, how the Permittees shall terminate the use of the of the storage facilities (referred to as “closure” of a unit), and how the Permittees shall conduct cleanup of contaminated soil, surface water, or groundwater (referred to as “corrective action”), if necessary. The Permit Parts also include general requirements that apply to all permitted hazardous waste management facilities throughout the State of New Mexico (*e.g.*, duration of a permit) and general requirements that apply to the Facility (*e.g.*, characterization of waste).

The Permit Attachments consist of waste management “plans,” including a waste analysis plan for determining which wastes are hazardous, a contingency plan (emergency response), an inspection plan, a personnel training plan, and a closure plan for the units proposed for permitting. The Permit Attachments also include a list of units that are to be permitted, a list of corrective action sites, and a compliance schedule that lists when the Permittees must complete specific tasks.

The draft Permit requires SKFA to invoke an emergency response plan (Contingency Plan) when there is a fire, explosion, release of waste, or any other emergency at a permitted hazardous waste unit that may endanger human health or the environment. Conditions in the draft Permit include required emergency equipment, testing and maintenance of emergency equipment, communication and alarm systems, emergency response procedures, establishment of a chain of command, and post-emergency procedures. The Permittees are required to notify the NMED of emergencies. However, the NMED does not take any part in directing or managing emergency response.

The draft Permit requires the Permittees to notify and cooperate with the NMED regarding the release of any hazardous waste or hazardous constituents within the Facility. The draft Permit requires SKFA to maintain a program that minimizes the amount of wastes generated at the facility and reduces the toxicity of such wastes.

PUBLIC REVIEW OF THE DRAFT PERMIT

The Administrative Record for this proposed action consists of the Permit Application, the draft Permit, the Public Notice, this Fact Sheet, and supporting documentation. The Administrative Record may be reviewed, with prior appointment, at the following location during the public comment period.

NMED - Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1

Santa Fe, New Mexico 87505-6313
Phone: (505) 476-6000
Monday – Friday: 8:00 a.m. to 5:00 p.m.
Contact: Pam Allen

A copy of the draft Permit, the Public Notice, and this Fact Sheet, are also available on the NMED website at: www.nmenv.state.nm.us/HWB/skfaperm.html under SKFA Draft Permit. To obtain a copy of the Administrative Record or a portion thereof, please contact Ms. Pam Allen at (505) 476-6000, or at the address above. NMED will provide copies, or portions thereof, of the Administrative Record at a cost to the requestor.

NMED issues this public notice on **August 16, 2019**, to announce the beginning of a 60-day comment period that will end at **5:00 p.m. MDT, October 15, 2019**. Any person who wishes to comment on the draft Permit or request a public hearing should submit written or electronic mail (e-mail) comment(s) with the commenter's name and address to the respective address below. Only comments and/or requests received before **5:00 p.m. MDT, October 15, 2019** will be considered.

Dave Cobrain, Program Manager
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Ref: SKFA Draft Permit

Written comments must be based on reasonably available information and include, to the extent practicable, all referenced factual materials. Documents in the administrative record need not be re-submitted if expressly referenced by the commenter. Requests for a public hearing shall provide: (1) a clear and concise factual statement of the nature and scope of the interest of the person requesting the hearing; (2) the name and address of all persons whom the requestor represents; (3) a statement of any objections to the draft Permit, including specific references to any conditions being addressed; and (4) a statement of the issues which the commenter proposes to raise for consideration at the hearing. Written comment and requests for Public Hearing must be filed with Mr. John Kieling on or before **5:00 p.m. MDT, October 15, 2019**. NMED will provide a minimum 30-day notice of a public hearing, if scheduled.

All written comments submitted will be considered in formulating a final decision and may cause the draft Permit to be modified. The NMED will respond in writing to all public comments. This response will specify which provisions, if any, of the draft Permit have been changed in the final decision and the reasons for the changes; and briefly describe and respond to all public comments raised during the public comment period. All persons presenting written comments or who requested notification in writing will be notified of the decision by mail. These responses will also be posted on the NMED website.

After consideration of all the written public comments that were received, the Secretary of the New Mexico Environment Department may issue a final Permit. The Secretary will make the final decision publicly available and shall notify the Permittees by certified mail. All persons submitting written public comments, who filed an Entry of Appearance, or requested notification in writing, shall be notified of the decision by first class regular mail. The Secretary's decision shall constitute a final agency decision and may be appealed as provided by the HWA.

ARRANGEMENTS FOR PERSONS WITH DISABILITIES

Persons who have a disability and require assistance or auxiliary aid to participate in this process should contact Stephanie Sloman at the New Mexico Environment Department, Human Resources Bureau, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone number: (505) 827-9769. TDY users please access Ms. Sloman's number via the New Mexico Relay Network at 1-800-659-8331.

NON-DISCRIMINATION STATEMENT

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, or if you believe that you have been discriminated against with respect to a NMED program or activity, you may contact: Kristine Yurdin, Non-Discrimination Coordinator, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. You may also visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.

REGULATORY BACKGROUND

In 1976, RCRA was passed by the U.S. Congress to regulate "cradle to grave" management of hazardous waste. RCRA was enacted as an amendment to the Solid Waste Disposal Act of 1965. RCRA mandates the development of regulations governing the actions of owners or operators of facilities that generate, transport, treat, store, or dispose of solid wastes.

On May 19, 1980, the RCRA regulations became effective, and it became unlawful to treat, store, or dispose of hazardous waste without having, or having applied for, a permit. The requirement to submit an application is satisfied by submitting a "Part A" and "Part B" permit application. The roles of the Part A and B applications are described in 40 CFR § 270.10.

The United States Environmental Protection Agency (EPA) has authorized the State of New Mexico to implement and enforce hazardous waste management requirements, including corrective action requirements, under its own hazardous waste management program. The

State's authority for the program is the Hazardous Waste Act (HWA), which: (1) authorizes the State's Environmental Improvement Board (EIB) to adopt hazardous waste management regulations; and (2) authorizes the NMED to implement and enforce regulations issued under the HWA. These regulations are the New Mexico Hazardous Waste Management Regulations (HWMR).

The EIB adopted regulations concerning hazardous waste management and the issuance of hazardous waste permits. These regulations incorporate by reference Subtitle C of the Code of Federal Regulations (CFR) – 40 CFR Parts 260 through 270, 273, and 280 – and are codified in the HWMR, 20.4.1 NMAC.

The HWA and HWMR require each person owning or operating an existing facility or planning to construct a new facility for the treatment, storage, or disposal of hazardous waste to have a HWA permit (see 42 U.S.C. 6925 and 20.4.1.900 NMAC (incorporating 40 CFR § 270.1)). The Safety-Kleen Farmington Container and Tank Storage Facility was first permitted in 2003.

The HWA and HWMR require corrective action for all releases of hazardous waste or hazardous constituents, regardless of when waste was placed in such a unit, from any solid waste management unit (SMWU) at a facility seeking a permit. (42 U.S.C. § 6924(u); 74-4-4.2(B) NMSA 1978; 20.4.1.500 NMAC, incorporating 40 CFR § 264.101(a)). Corrective action is also required beyond the facility boundary (42 U.S.C. § 6924(v); 20.4.1.500 NMAC, incorporating 40 CFR § 264.101(c)).

On November 8, 1984, the Hazardous and Solid Waste Amendments to RCRA required corrective action at "units" where solid waste was managed or disposed regardless of the time that the solid waste was placed at the "unit".

On January 25, 1985, the State of New Mexico received authorization from the EPA to implement its hazardous waste program under the HWA. 50 Fed. Reg. 1515 (Jan. 11, 1985). Subsequent program revisions were approved effective on April 10, 1990, July 25, 1990, December 4, 1992, August 23, 1994, December 21, 1994, July 10, 1995, January 2, 1996, March 10, 1997, July 13, 1998, October 9, 2001, and October 16, 2007.

On January 2, 1996, the State received authorization from the EPA to implement the corrective action program under the HWA. See 60 Fed. Reg. 53708 (Oct. 17, 1995); 61 Fed. Reg. 2450 (Jan. 26, 1996).

PERMIT APPLICATION REQUIREMENTS

Owners or operators of hazardous waste management facilities, including interim status facilities, are required to submit a comprehensive permit application covering all aspects of design, operation, maintenance, and closure of their facilities. A Permit Application consists of Parts A and B. Part A is a standard form that requires the name of the owner/operator, a list of the types of wastes managed, a facility layout diagram, and the activities requiring a permit. Part B is an extensive document submitted in a narrative, tabular, and schematic format that includes

general information requirements for all hazardous waste management facilities, as well as unit-specific information. The Part B also includes information necessary to establish corrective action requirements for releases from solid waste management units and areas of concern (SWMUs and AOCs).

SAFETY-KLEEN FARMINGTON PERMIT HISTORY

On January 29, 1992 Safety-Kleen Systems, Inc. Farmington (SKFA) submitted to the New Mexico Environment Department (hereafter referred to as the NMED) a Part A Permit Application, concurrently with a Part B application, which addressed a proposed facility for management of hazardous waste under the Resource Conservation and Recovery Act (RCRA). That application was revised in September 1994, July 1996, and July 27, 2001 following several notices of deficiency issued by NMED.

The operating Permit was issued on September 26, 2003. That 2003 Permit was due to expire on September 26, 2013. The Permittees timely submitted a Part B Permit Renewal Application on March 29, 2013. NMED determined the Application to be administratively complete after the Applicant satisfactory addressed comments issued by the NMED in February 2015, and January 2016, respectively. The Permittees submitted a new complete Application at least 180 days before the expiration date of the current Permit; therefore, the NMED administratively extended the 2003 operating Permit pursuant to 20.4.1.900 NMAC (incorporating 40 CFR § 270.51 and 40 CFR § 270.h(1)). The 2003 Permit remains in effect until the effective date of a new Permit.

PART A PERMIT APPLICATION

On March 29, 2013, the Permittees timely submitted to NMED their Part A Permit Application for renewal of the current operating Permit. This Part A Permit Application contains basic information related to hazardous waste management units to be permitted at the Facility, the waste management processes the Permittees propose to employ at those units, and the specific EPA Hazardous Waste Numbers (*i.e.*, waste codes) applied to the waste to be managed at those units.

PART B PERMIT APPLICATION

On March 29, 2013, the Permittees also timely submitted a Part B Permit Application (along with its Part A) for renewal of their current operating Container and Tank Storage Permit for the Farmington Center/Facility. The General Part B Application addresses the requirements that apply to hazardous waste storage operations at the Facility and contains a description of the Facility and its various operating plans (*i.e.*, waste analysis, inspection, personnel training, contingency, closure, and corrective action).

The Applications, including additional information submitted by the Permittees, and relevant materials reviewed by the NMED together comprise the Administrative Record (“AR”). The AR provides the basis for the draft Permit. The AR is available for review by members of the public

during business hours at the offices of the New Mexico Environment Department - Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, NM 87505.

TYPES OF HAZARDOUS WASTES MANAGED AT THE FACILITY

The Permittees accept, manage and store “D-listed”, and “F-listed” hazardous wastes.

The criteria for establishing a waste as a hazardous waste are provided in 40 CFR Part 261, incorporated in 20.4.1.200 NMAC. A waste is considered hazardous if it meets the definition of a solid waste described in 40 CFR § 261.2; is not exempted by 40 CFR § 261.4; and exhibits any of the characteristics of hazardous waste identified in 40 CFR Part 261, Subpart C; or is listed in 40 CFR Part 261, Subpart D.

Hazardous waste types may be of uniform physical composition (*i.e.*, homogeneous) or of dissimilar or diverse composition (*i.e.*, heterogeneous). Homogeneous wastes contain only one material, substance, or waste, and when a sample of the waste is collected, it represents the entire waste type. Homogeneous waste types can be either solids or liquids. Heterogeneous waste types contain multiple components that differ in density, physical form, or other physical properties, are not evenly distributed within the waste, or are discrete and different particles. Heterogeneous wastes (*e.g.*, liquids and sludges, debris) do not lend themselves to representative sampling and analysis.

EPA hazardous wastes codes with the prefixes, "D", and F, identified at 20.4.1.200 NMAC (incorporating 40 CFR Part 261, Subparts C and D), apply to the hazardous waste types received and managed at the Farmington Facility. Specifically: (1) D codes denote the characteristics of ignitability (D001), corrosivity (D002), reactivity (D003), and toxicity (D004- D043); and (2) F codes signify wastes from non-specific sources.

TYPES OF UNITS TO BE PERMITTED

The draft Permit would authorize the management hazardous waste in containers and in a tank. The waste is comprised of spend solvents mixed with residues that are classified as D- and/or F-listed waste as described in draft Permit Attachments A, B and C.

PERMIT ORGANIZATION

The revised draft Permit comprises Permit Parts (1-7) and Permit Attachments (A-L). The Permit Parts contain terms that the NMED would require the Permittees to adhere to while accepting, managing, and storing hazardous waste, conducting closure, and conducting certain corrective actions at the Facility.

Permit terms are established to ensure compliance with New Mexico’s HWA and the HWMRs and are derived from applicable regulatory requirements, the Permittees’ commitments, or requirements established by the NMED to ensure adherence with the regulations and to protect

human health or the environment as provided at 20.4.1.900 NMAC, incorporating by reference 40 CFR § 270.32(b)(2).

This Fact Sheet and the revised draft Permit generally refer to regulations by citing the federal hazardous waste management regulations, 40 CFR Parts 260 through 273, rather than the New Mexico Hazardous Waste Management Regulations, 20.4.1 NMAC, which incorporate by reference the federal regulations, with certain exceptions. Where relevant, the New Mexico HWMRs are cited directly.

PERMIT PARTS: Each draft Permit Part is briefly described below.

Permit Part 1: General Permit Conditions contains permit conditions that apply to all hazardous waste management units, most of which are based upon mandatory permit conditions set forth at 20.4.1.500 NMAC, incorporating 40 CFR Part 264, and 20.4.1.900 NMAC, incorporating 40 CFR Part 270.

Permit Part 2: General Facility Requirements contains mandatory permit conditions for operation of hazardous waste management facilities set forth in 40 CFR Part 264, Subparts B through E, and Subparts G, I, and J. Permit Part 2 references Permit Attachments that provide more information regarding the Facility, namely Permit Attachment A (*Facility Description*), Permit Attachment B (*Authorized Wastes*), Permit Attachment C, (*Waste Analysis Plan*), Permit Attachment D (*Contingency Plan*), Permit Attachment E (*Inspection Plan*), Permit Attachment F (*Personnel Training Plan*), Permit Attachment G (*Closure Plan*), Permit Attachment H (*Post-Closure Care Plan for Corrective Action*), Permit Attachment I (*Compliance Schedule*), Permit Attachment J (*Hazardous Waste Management Units*), Permit Attachment K (*Solid Waste Management Units and Areas of Concern Requiring Corrective Action*), Permit Attachment L (*List of Figures*), and Permit Attachment M (*Financial Assurance*).

Permit Part 3: Storage of Hazardous Wastes in Containers and Permit Part 4: Storage of Hazardous Wastes in Tanks contain the regulatory requirements that the Permittees shall follow when managing and storing hazardous wastes at the Container and Tank Storage Units. The Permittees are authorized to accept, manage, and store at the storage units only those hazardous wastes listed in Permit Attachment B (*Authorized Wastes*) and Attachment C (Part A Application). Permit Parts 3 and 4 address the requirements for managing hazardous waste in containers and tanks in accordance with 40 CFR Part 264, Subparts I and J, respectively. General descriptions of the storage units, process information for the acceptance, management, and storage of hazardous waste and their locations are provided in Permit Attachment A (*Facility Description*).

Permit Part 5: Closure Plan contains the requirements for final closure of the Permitted Units under 40 CFR §§ 264.110 through 264.116, 264.178, and 264.197, as applicable, this Permit Part (5), and the procedures described in the closure plan in Permit Attachment G (*Closure Plan*). Closure is comprised of the permanent discontinuation of storage of hazardous wastes at a Facility and is a result of the removal of all hazardous wastes from the Unit, the decontamination or removal of associated structures and equipment, and, if necessary, corrective action of

contaminated environmental media, such that the Unit is left in a condition that is protective of human health and the environment.

Permit Part 6: Post-Closure Care Requirements – Reserved

Permit Part 7: Corrective Action requires the Permittees to implement corrective action as necessary to protect human health and the environment for all releases pursuant to 42 U.S.C. § 6924(u) and (v), 40 CFR § 264.101, Subparts F and S, including: (1) new releases of hazardous waste or hazardous constituents to the environment, from operating or closed units at the Facility. These requirements also include the processes for implementing corrective action, cleanup levels, general methods and procedures for conducting field activities, laboratory procedures, general procedures for conducting risk assessments and determining background levels, general requirements for drilling and well installation, and requirements for reporting on corrective action activities conducted under this Permit.

PERMIT ATTACHMENTS

Attachment A contains a detailed description of the Hazardous Waste Management Facility. The Permittees supplied descriptions of each hazardous waste management unit in its permit application, including their dimensions, materials of construction, security procedures, and emergency equipment.

Attachment B, Authorized Wastes identifies the U.S. EPA Hazardous Waste Numbers (waste codes) authorized to be managed by the Permittees at each hazardous waste management unit.

Attachment C, the Waste Analysis Plan, fulfills the requirement contained in 40 CFR § 264.13(c) for a “written waste analysis plan, which describes the procedures that the Permittee will use to comply with requirements of 40 CFR § 264.13(a) to obtain a detailed chemical and physical analysis of a representative sample of the wastes. The Permittee may also use various published data with periodic verification.

The waste analysis plan under 40 CFR § 264.13(c) must specify:

1. parameters for which waste will be analyzed and the rationale,
2. test methods,
3. sampling methods,
4. the frequency at which the initial analysis will be reviewed or repeated.

Attachment D, the Contingency Plan, is required by 40 CFR §§ 264.51 and 264.52. Under 40 CFR § 264.52, the contingency plan must describe the actions facility personnel will take in response to fires, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents to air, soil, or surface water at the facility. The plan describes arrangements with local first responders, list all qualified emergency coordinators, list all emergency equipment, and include an evacuation plan.

Attachment E, the Inspection Plan, responds to the regulatory requirement that the “owner or operator must develop and follow a written schedule for inspecting the storage containers and tanks, monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

Attachment F contains the Personnel Training Plan, which is required to meet the terms of 40 CFR § 264.16(d)(3), which calls for a “written description of the type and amount of both introductory and continuing training that will be given to each person filling a position” related to hazardous waste management. The Permittees submitted a training plan with their application.

Attachment G contains the closure plans for the permitted hazardous waste container storage and tank units. Closure plans are required at 40 CFR § 270.14(b)(13) to be included in a Part B permit application and must address the closure performance standards at § 264.111, the specific contents at § 264.112(b), the schedule at § 264.113, the container-specific requirements under § 264.178, and the tank-specific requirements under § 264.197.

Attachment H - Reserved

Attachment I-Reserved

Attachment J lists the hazardous waste management units at the Facility. The Attachment includes one table: 1) Table J-1.1 shows the active portion of the Facility, listing active units including those storing hazardous wastes in containers and tanks.

Attachment K comprises three lists of SWMUs and AOCs: (a) those requiring corrective action, (b) those where corrective action is complete with controls, and (c) those where corrective action is complete without controls.

Attachment L contains the figures referenced elsewhere in the Permit.

Attachment M contains documents showing that the Facility has Financial Assurance and Closure Liability Insurance.