

Date: Dec. 31, 2024
To: Environmental Quality Commission
From: Leah Feldon, Director
Subject: Agenda item C, Action item: Contested Case No. LQ/HW-NWR-2018-049 regarding Safety-Kleen Systems, Inc.
Jan. 9-10, 2025, EQC meeting

**Introduction
and
Background**

On Jan. 26, 2021, DEQ issued an Amended Notice of Civil Penalty Assessment and Order, to Safety-Kleen Systems, Inc. (Safety-Kleen or Respondent), alleging violations of certain financial assurance requirements that apply to Safety-Kleen's hazardous waste treatment storage and disposal facility (TSDF) in Clackamas, Oregon.

On Feb. 17, 2021, Safety-Kleen timely requested a contested case hearing, challenging DEQ's interpretation of the regulation.

Administrative Law Judge (ALJ) Jennifer Rackstraw presided over a contested case hearing on the matter on Sept. 23 and 24, 2021 and issued a Proposed and Final Order (PO) on July 22, 2022. The PO concluded that DEQ could not hold Safety-Kleen liable for the violations at issue.

On Aug. 19, 2022, DEQ submitted a Petition for Commission Review to the Environmental Quality Commission (EQC). On March 7, 2024, DEQ submitted its Exceptions and Brief in support of its Petition. Safety-Kleen submitted a Response brief on April 15, 2024, and DEQ submitted a Reply brief on May 6, 2024.

At its Sept. 26, 2024 meeting, the EQC directed the Oregon Department of Justice to prepare a Final Order consistent with DEQ's recommended interpretation of 40 CFR §264.147(a), such that Safety-Kleen's insurance policies used to satisfy 40 CFR §264.147(a) may only cover TSDFs. Insurance policies pursuant to this CFR must not also be used to cover any other facilities owned or operated by Safety-Kleen. The EQC also requested that the number of violations cited in the Final Order be reduced to zero.

The Oregon Department of Justice has prepared a draft of the Final Order for the commission's review and adoption.

EQC Authority The EQC has the authority to hear this appeal under OAR 340-011-0575. The EQC may substitute its judgment for the ALJ in making any particular finding of fact, conclusion of law, or order except as limited by ORS 183.650 and OAR 137-003-0665.

- Alternatives** The EQC may either:
1. Adopt the Final Order as presented in the attachment.
 2. Request amendments to the Final Order.
- Attachments** A. Draft Final Order

Report prepared by Oregon Department of Justice

Translation or other formats

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800-452-4011 | TTY: 711 | deqinfo@deq.oregon.gov

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