



REGION 5

CHICAGO, IL 60604

ELECTRONIC MAIL DELIVERY RECEIPT REQUESTED

Mr. Ray Boyle
Senior Vice President of Compliance
Midwest Environmental Services Inc.
(d/b/a) Klor Kleen, Inc.
3118 Spring Grove Avenue
Cincinnati, Ohio 45225
rboyle@midwestenvironmentalservices.com.

Re: **Warning Letter: Notice of Violation(s)**
Midwest Environmental Services Inc.
(d/b/a) Klor Kleen, Inc.
EPA Identification No.: OHD980821862

Dear Mr. Boyle:

On December 18-19, 2023, the U.S. Environmental Protection Agency conducted a RCRA compliance evaluation inspection of the Klor Kleen, Inc. ("Klor Kleen" or "you") located in Cincinnati, Ohio. The purpose of the inspection was to evaluate Klor Kleen's compliance with:

1. Certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste¹, used oil, and universal waste;
2. Klor Kleen's Ohio EPA-issued Hazardous Waste Facility Installation and Operation Permit ("OEPA Permit") – effective May 19, 2017 through May 19, 2027; and,
3. Klor Kleen's EPA-issued RCRA permit ("Federal Permit") – effective September 1, 2017 through May 19, 2027.

An inspection report was emailed to you on February 20, 2024. Subsequent to the inspection, you emailed responsive information ("Inspection Response") to EPA on February 2, March 15 and 18, and April 2, 2024.

¹ We note that effective October 5, 2020, the State of Ohio promulgated revised regulations which have not yet been authorized by EPA. EPA authorized the 2010 edition of Ohio's hazardous waste regulations which contained a provision at Ohio Admin. Code Rule 3745-52-34 that remains the RCRA authorized Large Quantity Generator provision in Ohio.

Information currently available to EPA suggests that Klor Kleen is in violation of RCRA. By this letter, EPA is extending to you an opportunity to advise the Agency, in person or in writing, of any further information EPA should consider with respect to the violations.

We request that you voluntarily submit a response in writing to us no later than 30 calendar days after receipt of this letter documenting the actions, if any, which you have taken since the inspection to address the violations identified below or demonstrating why the violations were cited in error. We also request that you provide an updated response to address the Area of Concern identified below. EPA reserves its right to take additional actions under RCRA including issuing an information request, seeking a penalty, and issuing an order. After 30 calendar days from your receipt of this letter, and if applicable, after review of your response, EPA will notify you of any further action.

Part I – Restricted Hazardous Waste Accumulation

Under condition A.1(a) of Klor Kleen’s OEPA Permit, “The Permittee is authorized to store hazardous waste in containers in accordance with the terms and conditions of this Ohio hazardous waste permit [...], and the permit application.” Klor Kleen’s permit application states that, “Hazardous and non-hazardous wastes are accepted from off-site generators. These wastes are stored on-site for less than one year and are subsequently shipped to an alternate TSD Facility for processing and final disposal.” See also, Ohio Admin. Code Rule 3745-270-50(C).

At the time of inspection, in the hazardous waste permitted storage area, EPA observed one 55-gallon drum with a start date of accumulation from 11/7/22.

In Klor Kleen’s Inspection Response, they provided a manifest dated 12/28/23 for the container and a logistical explanation for why the container was stored beyond one year.

EPA is not requesting any further information for this violation.

Part II – Use of Manifest System

Under condition B.24(a) of its Ohio Permit, Klor Kleen must comply with OAC Chapter 3745-52 and OAC Rules 3745-54-71, 3745-54-72 and 3745-54-76. Under Ohio Admin. Code Rule 3745-54-71(A)(2)(e)(ii), a facility must submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system within 30 days of the date of delivery.

At the time of the inspection, three manifests had not been submitted to the e-Manifest system within 30 days of the date of delivery.

Manifest Tracking Number	Date of Delivery	Electronic Signature date from e-Manifest submission	Elapsed Number of Days
022791143JJK	8/13/2021	4/2/2024	963
024569632JJK	5/19/2023	7/5/2023	47
024569466JJK	2/22/2023	3/31/2023	37

EPA is not requesting any further information for this violation.

Part III – Universal Waste Accumulation

Under Ohio Admin. Code Rule 3745-273-15(A), a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the handler proves that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

At the time of inspection, EPA observed one 55-gallon drum labeled as containing “Universal Waste Lamps – Broken.” The container was marked with a start date of accumulation from 6/15/21.

EPA is requesting information regarding the management and fate of this container.

Part IV – Area of Concern

Klor Kleen created a land disposal restrictions (LDR) form to be used by generators (customers as well as Klor Kleen). EPA observed the following issues with the form:

- (1) Space reserved for “Subcategories” was also utilized generally to describe the characteristics of the waste as well as to list items that may have been underlying hazardous constituents (UHC).

Subcategories, also called “Subdivisions,” are specific classifications that are used to differentiate waste streams that share a base characterization. For example, waste streams that are characterized as D008 for lead content may also be subcategorized into lead acid batteries or radioactive lead solids. Each subcategory will have its own treatment standard.

The Subcategory space should not be used for other purposes.

- (2) Under Section “G” of the form, which addresses UHCs, two options were listed for the generator to select:
 - a. “This waste meets the Universal Treatment Standards for all Underlying Hazardous Constituents in 40 C.F.R. 268.48. **(See our UHC attachment).**” (Bold emphasis added.)
 - b. “This waste does not meet the Universal Treatment Standards for all Underlying Hazardous Constituents in 40 CFR 268.48. **Mark all constituents on our UHC attachment that apply.**” (Bold emphasis added.)

For the LDR forms provided for review during the inspection, none included a UHC attachment, or any other space where a generator could clearly indicate UHCs. It was not readily apparent that a UHC attachment was being provided to generators for use. Additionally, the form did not include options for the generator either to indicate that the waste was determined not to have any underlying hazardous constituents or to state that the waste will be treated and monitored for all constituents.

- (3) The back side of the form provided a “Solvent List Treatment Standards” which listed potential constituents of F001-F005 listed solvents as well as their treatment standards.

This list did not include any instructions for use. The form did not instruct the generator to select/identify individual constituents or to state, in the alternative, that the waste will be treated and monitored for all constituents.

Klor Kleen provided an updated form for EPA review on April 2, 2024. The draft form appears to address some of the issues identified above. EPA requests Klor Kleen review the observations above and adjust the form as necessary.

Actions Requested

In order to ensure compliance, by no later than 30 calendar days after receipt of this letter, please provide information documenting the actions, if any, which you have taken since the inspection to address the identified violations or demonstrating why the violation(s) have not occurred.

Please send all reports requested by this letter by electronic mail to whitney.brenda@epa.gov and R5LECAB@epa.gov.

The subject line of all email correspondence must include your EPA identification number, OHD980821862. All electronically submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. If you are unable to send a response to these email addresses due to email size restrictions or other problems, contact Ms. Whitney to make additional arrangements for transmission of the response.

This letter is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks information from specific individuals or entities as part of an administrative investigation. You may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information you submit to EPA in response to this letter. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If you do not assert a business confidentiality claim when you submit the information, EPA may make this information available to the public without further notice.

The EPA contact in this matter is Brenda Whitney. You may contact her at whitney.brenda@epa.gov or at (312)-353-4796 if you have additional questions. Thank you for your prompt attention to these concerns and your efforts to protect human health and the environment.

Sincerely,

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

cc: Mitch Mathews, Ohio EPA, mitchell.mathews@epa.ohio.gov