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PCB Approval Decision and Response to Public Comments

**Safety-Kleen Systems, Inc. – Denton Recycle Center
Denton, Texas
U.S. EPA ID: TXD077603371**



**Issued by
U.S. Environmental Protection Agency, Region 6
Dallas, Texas**

November 1, 2024

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1. Executive Summary

The U.S. Environmental Protection Agency, Region 6 (EPA or Agency) is renewing and modifying a Toxic Substances Control Act (TSCA) approval issued to Safety-Kleen Systems, Inc, Denton, Texas, as the facility operator, to continue to operate a commercial polychlorinated biphenyl (PCB) storage facility (Approval).

The Approval is being issued pursuant to 40 C.F.R. Part 761, which was promulgated under Section 6(e)(1) of TSCA of 1976, 15 U.S.C. § 2605 (e)(1), including any amendments or revisions thereto. Under TSCA, the action being proposed is known as an “Approval.” A TSCA Approval is essentially a permit; EPA follows a similar administrative process for Approval issuance, renewal, and modification as a permit. The Approval renews authorization of PCB storage in designated storage area at the Facility.

The Safety-Kleen Systems facility is located at 1722 Cooper Creek Road, 76208, in Denton, Texas (Facility). The site, and the surrounding area, is zoned industrial. The facility is located in an industrial park. The facility is not located in the 100-year flood water elevation. This PCB Approval Decision and Response to Public Comments document explains and provides EPA’s rationale for issuing the Approval. This document also responds to public comments EPA received on the *Proposed Re-Authorization Approval for Commercial Storage of Polychlorinated Biphenyls, Safety-Kleen Systems, Inc., at Denton, Texas*, dated September 9, 2024 (Proposed Approval), and the *PCB Commercial Storage Conditions of Approval Safety-Kleen Systems, Inc., Denton, Texas*, dated October 31, 2024 (Conditions of Approval).

The Conditions of Approval, section IV.N includes a Statement in Compliance with 40 CFR 761.65(d)(4)(i). EPA finds that the Facility’s application satisfied the criteria at 40 C.F.R. § 761.65(d)(2)(i) - (d)(2)(vii), as found in Section IV.N.1, *PCB Commercial Storage Conditions of Approval Safety-Kleen Systems, Inc., Denton, Texas*, dated October 31, 2024 (Conditions of Approval).

EPA published the proposed Approval on September 9, 2024, for a 45-day public comment period which ended on October 24, 2024. Notification of the proposal and the opportunity to comment was published in the Denton Record-Chronicle newspaper and sent via postcard mailers to approximately 2650 residences within 1.5 miles of the facility. EPA received a total of 10 comments including two requests for public hearing. EPA determined based on the degree and significance of public interest in the proposed action that a public hearing was not warranted for this Approval.

The comments received, and EPA’s responses are in Section 4, below.

Safety-Kleen Systems is currently operating under an approval to manage PCB wastes issued by EPA in 2019. The Facility submitted an application to renew the 2018 approval prior to its expiration on July 24, 2024. Safety-Kleen’s Application dated January 24, 2024, and

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subsequent documents submitted seeking a renewal of existing storage area superseded all earlier applications and serves as the basis for this Approval. One extension to the approval has been granted during the review process. The current extension was granted on May 31, 2024, extending the current approval for operation of the commercial storage facility until October 31, 2024.

EPA has concluded, based upon its review of the Renewal Application, supporting documents, and the public comments, that the Approval satisfies the requirements of TSCA and 40 C.F.R. Part 761 for storage of PCBs. EPA has also concluded that PCB operations at the Facility do not pose an unreasonable risk of injury to human health or the environment.

In addition to TSCA and the regulations at 40 C.F.R. § 761.65, EPA’s issuance of the Approval is consistent with Section 106 of the National Historic Preservation Act (NHPA), Environmental Justice per Presidential Executive Order 12898, and Section 7 of the Endangered Species Act (ESA). EPA reviewed the PCB storage application required by NHPA Section 106 and has determined the permit approval will have no effect on historic properties. Subsequently, with respect to ESA Section 7, EPA has determined that approval of the PCB commercial storage renewal permit for Safety-Kleen is expected to have no effect on the species in the US Fish and Wildlife Services Information for Planning and Consultation (USFWS IPaC) list. EPA has evaluated the Renewal Application and its supporting documents along with the public comments and determined that the issuance of a TSCA Approval for the Facility is in compliance with these requirements.

2. Introduction

The Facility is located in Texas approximately three miles east-northeast of Denton City Hall, Denton County, on 1722 Cooper Creek Road, 76208. The facility site and surrounding area is zoned industrial. The facility is located in an industrial park. The facility is not located in the 100-year flood water elevation. Hazardous waste operations at the facility are overseen by the Texas Commission on Environmental Quality (TCEQ). PCB storage and processing is overseen by EPA.

This document sets forth the basis for EPA’s issuance of a TSCA Approval for the Facility to store and process PCBs. It contains a table showing the units being approved for PCB storage at the Facility, the public comments EPA received on the Proposed Approval and EPA’s response to those comments.

3. Units Approved for PCB Storage

The Approval authorizes Safety-Kleen Systems to store PCBs at the Facility as described in

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the table below:

Approved PCB Units and Maximum Capacities

Unit Name	Maximum Unit Storage Capacity	Maximum Permitted Storage Capacity for the Facility
Bay Area B, Container Storage Area 3	24.508 cubic yards (4,950 gallons)	24.508 cubic yards (4,950 gallons)

The Approval authorizes Safety-Kleen to store PCBs at the Facility in the unit and at the maximum capacity shown in the table. Pursuant with 40 C.F.R. 761.65(d)(4)(i), the Facility possesses the capacity to handle the quantity of PCB waste to be stored onsite. The Conditions of Approval contains storage unit dimensions, secondary containment calculations, and drawings produced by an independent Professional Engineer that were used by EPA to make a final determination. The volume of PCBs stored within each unit shall not exceed either the maximum unit design storage capacity or the maximum permitted storage capacity for the Facility, whichever is less. For additional information on the units being approved for PCB storage, see the Conditions of Approval, dated October 31, 2024.

4. Approval Decision and Public Comments

This section discusses the public comments EPA received on the Proposed Approval and EPA's response to the comments.

4.1. Public Participation

On September 9, 2024, EPA began a 45-day public comment period during which it solicited comments on its Proposed Approval and its determination that historic properties will not be affected by the issuance of the Approval to the Facility. The public comment period closed on October 24, 2024.

EPA received 10 comments on the Proposed Approval.

EPA is issuing a TSCA Approval for the Facility based on its review of the applications, supplemental documents, and public input. The Administrative Record contains the documents and information that EPA considered in making this final decision to issue the Approval. The Administrative Record can be found at <https://www.epa.gov/pcbs/epa-region-6-polychlorinated-biphenyls>.

The Agency considered the 10 public comments it received before making its final decision. Based on all the information available to date, EPA believes that the PCB

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storage authorized by this Approval satisfies the requirements of TSCA and 40 C.F.R. Part 761 for storage of PCBs for disposal. In addition, based on review of all application materials along with applicable law and regulation, EPA has also concluded that PCB operations at the Facility do not pose an unreasonable risk of injury to human health or the environment.

Community members may also call the EPA R6 PCB Coordinator, Harry Shah, at (214) 665-6457 or shah.harry@epa.gov, for additional assistance in obtaining copies of pertinent documents.

4.2. Public Comments on the Proposed Approval

Included below are the 10 public comments, along with EPA responses, that were received by EPA during the public comment period which ended on October 24, 2024.

Comment 1: Mr. John Lusk, a community member, submitted an email comment (September 11, 2024) on the proposed permit, which stated the following:

“My comments and requests are as follows:

1. please send a copy of all related documents, by email.
2. please supply the background on the existing permit, or provide the related links to look it up.
3. Does SK have documents describing the details about their permit?
4. Why is this re authorization needed?
5. What is the stance of the City of Denton on this request?
6. Do I need to send an FOIA to get more information?
7. What does the EPA judge to be the distance from the storage to neighbors that is critical? I live several miles away but my daughter lives very close (Brandywine St of Denton)
8. . I request that a hearing be scheduled. add me to the list”

Response to Comment 1:

1. please send a copy of all related documents, by email.
2. please supply the background on the existing permit or provide the related links to look it up.
3. Does SK have documents describing the details about their permit?
For these first 3 comments/questions, EPA sent an email response to the commenter with a link to the supporting documents for the proposed approval which includes background and details about the permit. (<https://www.epa.gov/pcbs/epa-region-6-polychlorinated-biphenyls>)
4. Why is this re authorization needed?

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The approvals are issued for a limited amount of time (e.g. 5 or 10 years) requiring the facility to apply for reauthorization.

5. What is the stance of the City of Denton on this request?
EPA is not aware of a position that the City of Denton may have on this request however the Public Notice was shared with them for dissemination to their community.
6. Do I need to send an FOIA to get more information?
A FOIA request will need to be submitted for information beyond what is pertinent to this approval and not already provided in the link to the supporting documents.
7. What does the EPA judge to be the distance from the storage to neighbors that is critical? I live several miles away but my daughter lives very close (Brandywine St of Denton)
The TSCA regulations for PCB storage in 40 C.F.R. 761 do not include a designated distance from the fence-line.
8. I request that a hearing be scheduled. add me to the list.
EPA evaluated the degree and significance of public interest in this proposed action and determined that a public hearing was not warranted.

Comment 2: Ms. Karina Maldonado, community member, submitted a comment via email (September 13, 2024), which stated the following:

“I received a notice in the mail about the proposed re-authorization for a permit to store hazardous chemicals. I want to share two proposed concerns about re-authorization for this use.

First, I have concerns about the implications of re-authorizing the storage of hazardous materials on a property that may be affected by a proposed roadway project. The Texas Department of Transportation is proposing to extend US 380 to connect to State Loop 288 in this area. The proposed right-of-way appears to clip this property but the final alignment may change. This needs further investigation about the potential risks related to contamination near the proposed stormwater system of a future roadway and should be included in the final consideration.

Second, the property is no longer compliant with the current zoning regulations in the City of Denton, which no longer permits the storage of hazardous materials in the Light Industrial Zoning District. While this is an existing use, it is no longer conforming. It is only permitted to continue until the use ceases. Extending permits for a nonconforming land use is environmentally irresponsible and against the public-approved land use decisions already made. Permits should be allowed to expire rather than continue until

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this business decides they want to move, especially for a use like this. If this business needs this permit to continue operations, it should apply for a rezoning and subsequent specific use permit (SUP) to continue or choose to relocate to a zoning district that permits such uses. The decision should be left to the public and City Council before issuance of a permit to continue PCB storage. If the general public agrees to a rezoning and SUP, then by all means, give them their permit.

I commend the EPA for notifying the public and allowing for public comment. I encourage you to do your due diligence on these two concerns prior to approving any permits. Thank you for allowing me to share my concerns.”

Response to Comment 2: EPA’s review of the application is pursuant to the regulations at 40 C.F.R. 761.65 (“Storage for Disposal”), which set forth requirements for the storage for disposal of PCBs at concentrations of 50 ppm or greater and PCB Items with PCB concentrations of 50 ppm or greater. These rules set standards for the duration of PCB storage, location, and construction standards for PCB storage areas, restrictions on which types of PCBs and PCB items may be stored, minimum requirements for labeling, signage, and monitoring of PCB storage areas, demonstrations of financial responsibility, and closure requirements, among other criteria. When reviewing applications for approvals to store or dispose of PCBs, the EPA must base its review on these rules.

To authorize storage for disposal of PCBs, EPA must determine that the applicant has satisfied 40 C.F.R. 761.65(d)(i) through (d)(ii)(7), which include a finding that “operation of the storage facility will not pose an unreasonable risk of injury to health or the environment.”

Approvals contain a number of standard conditions that address facility changes, operational changes, and other changes, including new or previously undisclosed information. These conditions ensure that any potential impacts from a future roadway or other infrastructure or environmental changes will not affect compliance or otherwise cause the regulated activities to present an unreasonable risk of injury to health or the environmental. For example, Section IV.E.1 states that

“EPA reserves the right to modify (including by imposing additional conditions), revoke and reissue, or terminate this Approval when..., EPA becomes aware of new or previously undisclosed information that may substantively impact its previous finding of no unreasonable risk and require modifications to this Approval.”

Section IV.E.3 states that,

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“If the facility becomes aware of new or previously undisclosed information that may substantively impact EPA’s previous finding that approved activities do not present an unreasonable risk of injury to health or the environment, the facility must provide that information to the Agency as soon as possible but no later than 30-days. This may include information related to the risks or impacts of the approved activity on surrounding communities and communities with environmental justice concerns, including those related to climate change and cumulative impacts of environmental and other burdens.

Other provisions require facilities to update Emergency and Remedial Response Plans, Financial Assurance, and Closure Plans in response to new information or changed circumstances.

Compliance with local zoning laws is not encompassed by 40 C.F.R. 761 or any relevant portions of TSCA, and EPA did not consider such factors in its decision-making.

Comment 3: Mr. Robert Doty, community member, submitted a comment via email, which stated the following:

“I received the mailer about storing PCBs near my family household and would like to see any documentation available on how this will be stored and monitored. You can email to this address or mail to my home address of [REDACTED] [REDACTED]
[REDACTED]

It concerns me that this material will not be properly maintained at this site so I just want to ensure the team is taking more than the minimum procedures required to effectively store these hazardous materials.”

Response to Comment 3: EPA sent an email response to the commenter with a link to the supporting documents which includes details about how the material will be managed. (<https://www.epa.gov/pcbs/epa-region-6-polychlorinated-biphenyls>)

EPA’s review of the application is pursuant to the regulations at 40 C.F.R. 761.65 (“Storage for Disposal”), which set forth requirements for the storage for disposal of PCBs at concentrations of 50 ppm or greater and PCB Items with PCB concentrations of 50 ppm or greater. These rules address limitation on the duration of PCB storage, location, and construction standards for PCB storage areas, restrictions on which types of PCBs and PCB items may be stored, minimum requirements for labeling, signage, and monitoring of PCB storage areas, demonstrations of financial responsibility, and closure requirements, among other criteria. When reviewing applications for approvals to store or dispose of PCBs, the EPA must base its review on these rules.

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The Facility must meet requirements at 40 CFR 761.65, which are designed to ensure there is no unreasonable risk to health or the environment. 40 CFR 761.65(b) requires all facilities to have adequate roofing and walls to prevent precipitation from reaching storage areas, adequate flooring and curbing with sufficient containment volume, no drains or other openings that would allow liquids to flow from curbed areas, floors and curbing constructed with portland cement, concrete, or a continuous, smooth, non-porous surface as defined at § 761.3, which prevents or minimizes penetration of PCBs, and must not be located at a site below the 100-year flood plain elevation.

To authorize storage for disposal of PCBs, EPA must determine that the applicant has satisfied 40 C.F.R. 761.65(d)(i) through (d)(ii)(7), which include a finding that “operation of the storage facility will not pose an unreasonable risk of injury to health or the environment.”

Comment 4: Ms. Mary Wright, community member, submitted a comment via email, which stated the following:

“This household was concerned when the EPA, Notice of 45-day Public Comment Period for Safety-Kleen, Denton was received. We have been aware of the Safety-Kleen facility for decades and the risk of community exposure to any hazardous Chemicals. Also, the impact to the residence, schools and businesses within the location of a facility if exposed. When or if an exposor incident occurs in this community, will this company assist to make the community whole again? Will the Safety-Kleen executives, who definitely do not live near this facility, use their company profits to pay for the health cost of those exposed to this carcinogenic chemical?

In reading about PCBs is the following correct?

PCBs are toxic and can have harmful health effects. The U.S. stopped manufacturing PCBs in 1977.

It is no surprise that executive profit ranks higher than the safety of a community or those that work in the hazardous facilities. It is also known that the EPA inspectors will only see the majority of the time, what the company wants them to see, until it is too late. Therefore, it is no surprise that this household **Does Not** want the Safety-Kleen facility to be approved for storage of a maximum PBC inventory of 90 55-gallon drums (4,950 gallons or 24.5 cubic yards).”

Response to Comment 4: PCBs belong to a broad family of man-made organic chemicals known as chlorinated hydrocarbons. PCBs were domestically manufactured from 1929 until manufacturing was banned in 1979. Although no longer commercially produced in the United States, PCBs may be present in products and materials produced before the 1979 PCB ban. They have a range of toxicity and have been

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demonstrated to cause a variety of adverse health effects. More information about PCBs can be found here: <https://www.epa.gov/pcbs/learn-about-polychlorinated-biphenyls>. The TSCA regulatory requirements for storage and disposal of PCBs are intended to prevent unreasonable risk of injury to health or the environment.

EPA's review of the application is pursuant to the regulations at 40 C.F.R. 761.65 ("Storage for Disposal"), which set forth requirements for the storage for disposal of PCBs at concentrations of 50 ppm or greater and PCB Items with PCB concentrations of 50 ppm or greater. These rules address limitation on the duration of PCB storage, location and construction standards for PCB storage areas, restrictions on which types of PCBs and PCB items may be stored, minimum requirements for labeling, signage, and monitoring of PCB storage areas, demonstrations of financial responsibility, and closure requirements, among other criteria. When reviewing applications for approvals to store or dispose of PCBs, the EPA must base its review on these rules.

The Facility must meet requirements at 40 CFR 761.65, which are designed to ensure there is no unreasonable risk to health or the environment. 40 CFR 761.65(b) requires all facilities to have adequate roofing and walls to prevent precipitation from reaching storage areas, adequate flooring and curbing with sufficient containment volume, no drains or other openings that would allow liquids to flow from curbed areas, floors and curbing constructed with portland cement, concrete, or a continuous, smooth, non-porous surface as defined at § 761.3, which prevents or minimizes penetration of PCBs, and must not be located at a site below the 100-year flood plain elevation.

To authorize storage for disposal of PCBs, EPA must determine that the applicant has satisfied 40 C.F.R. 761.65(d)(i) through (d)(ii)(7), which include a finding that "operation of the storage facility will not pose an unreasonable risk of injury to health or the environment."

Comment 5: Ms. Debra Mills, community member, submitted a comment via email, which stated the following:

"Please accept this email as a request for a public hearing regarding the storage of PCB's at Safety-Kleen in Denton, TX."

Response to Comment 5: EPA evaluated the degree and significance of public interest in this proposed action and determined that a public hearing was not warranted.

Comment 6: Ms. Anita Martinez-Strickland, community member, submitted a comment via email, which stated the following:

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“We received a postcard recently regarding changes being requested by Safety-Kleen located here in Denton, TX. I would like to request a copy of the proposed approval sent to me via this email address ASAP. This company is located a mile from our residence, and less than a mile from an elementary school located here in Denton.”

Response to Comment 6: EPA sent an email response to the commenter with a link to the supporting documents including the proposed Approval (<https://www.epa.gov/pcbs/epa-region-6-polychlorinated-biphenyls>).

Comment 7: Ms. Autumn Luce, community member, submitted a comment via email, which stated the following:

“I recieved a postcard regarding a location in Denton Tx to store PBC gallons and to voice our opinion on the issue. I have attached a map image of where this would be stored. It's less than a mile from my home and across the street from a gas station RaceTrac. After the explosion of similar substance in Frisco this week I have to voice that this would be a safety concern for anyone in this area.

This does not need to be stored by gas stations or even near residential homes. Please consider a location more remote where people will not be affected. If this was to exploded it would not only release toxic harmful gases it could trigger an explosion at the gas station and no telling with the chemical reaction of that. I also recommend to not store near water supply plants either. Thank you for taking the time to read this.”

Response to Comment 7: EPA’s review of the application is pursuant to the regulations at 40 C.F.R. 761.65 (“Storage for Disposal”), which set forth requirements for the storage for disposal of PCBs at concentrations of 50 ppm or greater and PCB Items with PCB concentrations of 50 ppm or greater. These rules address limitation on the duration of PCB storage, location and construction standards for PCB storage areas, restrictions on which types of PCBs and PCB items may be stored, minimum requirements for labeling, signage, and monitoring of PCB storage areas, demonstrations of financial responsibility, and closure requirements, among other criteria. When reviewing applications for approvals to store or dispose of PCBs, the EPA must base its review on these rules.

The Facility must meet requirements at 40 CFR 761.65, which are designed to ensure there is no unreasonable risk to health or the environment. 40 CFR 761.65(b) requires all facilities to have adequate roofing and walls to prevent precipitation from reaching storage areas, adequate flooring and curbing with sufficient containment volume, no drains or other openings that would allow liquids to flow from curbed areas, floors and curbing constructed with portland cement, concrete, or a continuous, smooth, non-porous surface as defined at § 761.3, which prevents or minimizes penetration of PCBs,

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and must not be located at a site below the 100-year flood plain elevation.

In addition, the Approval includes conditions under Section H. Emergencies and Contingency Plans for fire control equipment and water at adequate volume and pressure to supply fire hose streams for foam equipment.

To authorize storage for disposal of PCBs, EPA must determine that the applicant has satisfied 40 C.F.R. 761.65(d)(i) through (d)(ii)(7), which include a finding that “operation of the storage facility will not pose an unreasonable risk of injury to health or the environment.”

Comment 8: Ms. Crystal Jeffries, community member, submitted a comment via email, which stated the following:

“Could I please get a copy of the proposed approval for Safety-Kleen in Denton Texas? Thank you”

Response to Comment 8: EPA sent an email response to the commenter with a link to the supporting documents including the proposed Approval (<https://www.epa.gov/pcbs/epa-region-6-polychlorinated-biphenyls>).

Comment 9: Ms. Dicla Monterroso, community member, submitted a comment via phone, which stated the following:

Requested access to the proposed authorization and supporting documents.

Response to Comment 9: EPA sent an email response to the commenter with a link to the supporting documents including the proposed Approval (<https://www.epa.gov/pcbs/epa-region-6-polychlorinated-biphenyls>).

Comment 10: Follow-up email (October 15, 2024) from Mr. John Lusk, a community member, on the proposed permit, which stated the following:

“thanks for the links and information. I have downloaded and reviewed them and have the following questions:

1. How do I get the Annual Report for this facility, for the last 5 years?
2. Annual Document Log - same question
3. Records of Inspections and Cleanups - same question.”

Response to Comment 10: 40 CFR § 761.180(b)(3) requires the owner or operator of

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PCB disposal or commercial storage facilities to submit an annual report using EPA Form 6200-025, which briefly summarizes the records and annual document log required to be maintained and prepared under § 761.180(b)(1) and (b)(2) by July 15 of each year. Submission of the PCB Annual Report Form must be made via postal mail and an electronic copy shall be sent to ORCRPCBs@epa.gov as soon as possible. Requests for those reports, for the past 5 years, can be made under the Freedom of Information Act (FOIA) (www.epa.gov/foia). A FOIA request may also be submitted to obtain compliance records. For the annual document log and other documents generated by the facility, note that the facility is the custodian, not EPA. EPA would only have those records if they were provided upon request or if the facility is required by the rules to provide them.

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