



Testimony of Frederick J. Florjancic, Jr.,

S. 3871, the “Hazardous Waste Electronic Manifest Establishment Act.”

Subcommittee on Superfund and Waste Management

September 28, 2006

Mr. Chairman, Senator Boxer and Members of the Committee:

Thank you for inviting Safety-Kleen to testify on S. 3871, the “Hazardous Waste Electronic Manifest Establishment Act.”

My name is Fred Florjancic, Jr., and I am CEO and President of Safety-Kleen Systems, Inc., which is a major environmental services provider throughout the United States, Canada and Puerto Rico, and we are now expanding into Mexico, as well. We employ more than 4500 people in North America at more than 200 locations, of which approximately 4,100 people at 190 locations are in the U.S., and we provide more than 400,000 customers of all sizes, including approximately 440 of the Fortune 500, with safe, compliant recycling and environmental services.

I am also proud to note that Safety-Kleen is the leading re-refiner of used oil in North America, collecting more than 200 million gallons of waste oil every year and re-refining it back into high-quality oil and other products that extend the life of this precious resource. Safety-Kleen also collects approximately 300 million gallons annually of hazardous waste in North America.

I am particularly pleased to be here today in support of S. 3781, which was recently introduced by Subcommittee Chairman Thune and Senator Jeffords, and co-sponsored by Committee Chairman Inhofe. This is an important piece of legislation for our country, for our industry and for Safety-Kleen. We strongly support S. 3781, and compliment the Subcommittee and full Committee Chairmen, and Senator Jeffords, for your hard work and leadership in addressing this issue and crafting an extremely positive bill that we believe can dramatically improve the present hazardous waste manifest system.

I am comfortable expressing our support because, at Safety-Kleen, we know manifests. Because Safety-Kleen serves so many different types and sizes of

customers, we believe Safety-Kleen is the nation's largest individual user of the current, paper-based waste tracking system. For example, this year Safety-Kleen will use between 600,000 and 700,000 paper manifests, and just today we will generate more than 2,400 manifests for our customers to complete. During my testimony here, we will issue 25 manifests for customers to complete for waste shipments taking place somewhere in the US. Needless to say, this proposed legislation could have a significant, and we believe positive, impact on Safety-Kleen, our customers and the state regulatory agencies who play a key role in implementing the manifest system.

The current requirement to use a manifest has existed for more than 25 years. Manifests are a key element of the Resource Conservation and Recovery Act, known as RCRA, which was adopted in 1976. The purpose of the manifest system was to help eliminate a significant problem at that time - what was then known as "orphaned waste" – waste that could not be traced back to its origins and, as such, became a burden on the American taxpayer. Since 1980, RCRA has required that a manifest accompany all shipments of hazardous wastes, and that has brought order, discipline and accountability to our national hazardous waste management system.

Manifests contain two key types of information – first, what a waste shipment is comprised of so that, in the event of an emergency, first responders know what materials they are managing. Second, the manifest identifies who shipped the waste, who is transporting the waste and where it is ultimately headed, so that it can be tracked every step of the way to ensure its proper disposition.

The waste manifest tracking system is clearly a key element in avoiding past problems associated with improper waste handling and disposal, but the question today is, "Can we do a better job?" I believe the answer is yes, and that S. 3871 provides a solid framework for moving in that direction.

Our current, paper-based manifest system places an enormous paperwork burden on regulated companies, customers and state regulatory agencies. A recent economic analysis prepared by the EPA estimates that more than 92,000 regulated entities track between two and four million waste shipments every year.

Keep in mind that each manifest form has six copies, containing up to eighty-three fields of information. The current form must be filled out by the customer using a combination of computer-generated and manually-inserted information, then signed in ink, and physically carried with each waste shipment. Copies, and sometimes multiple copies, have to be mailed to generators and state agencies, and we have to keep permanent records at our facilities. For Safety-Kleen, our *mailing costs alone* are close to \$1 million dollars per year, and the paperwork burden is so significant for the states that 22 of them no longer even accept paper copies of manifests.

EPA estimates¹ that the present paper manifest takes about an hour for the generator and waste receiver to complete, and that by the time all of the necessary parties have seen, processed and approved the document, that increases to two hours per document for each end every hazardous waste shipment that occurs in the United States. EPA also estimates that the labor costs alone for creating, handling, and processing the paper manifests are somewhere between \$193,000,000 and \$769,000,000 annually. That is a broad a range of estimated costs and, while Safety-Kleen has not made its own independent estimate of the labor costs associated with the existing system, we do believe based on our own experience that the current system is quite labor intensive and, therefore, costly. We believe that an electronic system could reduce this time and expense considerably, for all the parties involved, and result in a system that is more efficient, reliable, accessible and timely.

Frankly, we are today using a manifest tracking system that was developed before the widespread use of desktop computers, information networks, and fully-integrated information technology architectures. Today's system works, but it is a dinosaur – it does not take advantage of any of the quality, cost and productivity improvements that computers allow.

The potential benefits of moving to an electronic manifest, or “e-manifest”, system are significant. For example, an e-manifest system would:

- Provide states with manifest data in an easily usable, searchable and storable format;
- Allow the regulated community to develop computer-based manifest systems that would improve data quality;
- Streamline transactions for customers; and,
- Save tens of millions of dollars every year by reducing the paperwork burden on states, the EPA and industry.

Additionally, a national e-manifest system could produce national security benefits by improving our overall ability to track hazardous materials. Under the current paper system, it can take weeks to provide basic verification to generators or regulators that a waste shipment has been completed, but under an e-manifest system, such information could be produced on essentially a real-time basis.

S. 3871 would amend Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921, et seq.) by adding a new Section 3024 authorizing a Hazardous Waste Management System, including specific provisions relating to the establishment, structure, and management of such a system. In commenting on specific provisions in

¹ Eads, Mark, US EPA (Nov. 24, 2004), “Economic Analysis of the US EPA’s Final Rule Revisions to the RCRA Waste Manifest Form,” p. 37, 44.

the bill, I will refer to proposed subsections in new Section 3024 of Subtitle C, as would be created under the bill.

I would note for the Committee five specific items with regard to the system as established under the bill:

1. Safety-Kleen believes that any fee structure established to pay for an e-manifesting system must be limited to providing funding for designing and implementing that program specifically and exclusively. In other words, any fee structure must not become a de facto tax or fund other programs. I believe Subsections (c) and (d) attempt to address this issue. Specifically, we believe the precise language in Subsection 3024 (c) (3) requires the fee to cover only the costs of operating the e-manifest system. We believe the language in Subsections (c) (3) (A) (IX) and (e) (4) (C) (ii) should be read narrowly and should not allow indirect government personnel costs not related to the e-manifest system to be passed along as part of the fee structure. Safety-Kleen also believes the fee structure must result in overall cost savings to the regulated community. We urge the Subcommittee to conduct oversight in the future to ensure that these savings materialize, or to make such revisions to the program as may be deemed necessary, including making the system mandatory after some reasonable phase-in period because only through a mandatory system will the benefits of the system ultimately be realized.
2. An e-manifest system must be cost-effective to the regulated community and to the government as a whole. We endorse the bill's proposal to have a qualified IT contractor build the system, and then receive payment from users on a per-manifest basis. The benefits of such a system are numerous. For example, using a private contractor eliminates the need for federal appropriations. Second, the winning contractor's risk and profit will depend on the quality of service provided – it will establish a proper business incentive for solid performance. Specifically the "Achievement of Goals" requirements in Subsection (e) (3) will make this a performance-based contract that will have the best chance of creating an e-manifest system that will benefit all users. And if users are dissatisfied, they can turn back to the present paper system. The "Cancellation and Termination" requirements in Subsection (e) (5) will allow for the termination of the IT contracts, and therefore the e-manifest system, if the e-manifest system is not used enough to generate sufficient funds.
3. The regulated community – industry – needs to have a place at the table to provide recommendations to the Administrator on the e-manifest system. The new "Hazardous Waste Electronic Manifest Governing Board" established under Subsection (f) provides adequately for such opportunities. Safety-Kleen supports the creation of this Board. In

addition, we fully endorse Subsection (f) (2) (B) (ii) that requires at least one seat on the Board to be allocated to users of the manifest system.

4. The system must be flexible and scalable to address both today's manifesting environment and tomorrow's manifesting needs. I believe the Administrator, when entering into a contract in accordance with Subsection (g), should require the IT contractor to provide for meeting both current and future needs.
5. An e-manifest system will provide real-time information regarding the generation, transportation and final disposition of wastes, and part of such information may be proprietary to the generator or hazardous waste disposal facility – that is, it may include business information that would provide competitors an advantage if disclosed. It is very important to share e-manifest information with necessary governmental agencies throughout the transportation process, and to be able to do so easily, but it should also be an imperative that special consideration be given to information designated as “business confidential” in order to protect customer/service provider relationships. This issue should be clearly addressed in the legislation, and we would be pleased to work with the Committee and staff to develop such language, as appropriate.

In closing, I believe S. 3871 provides a solid foundation for moving our nation to a 21st century hazardous waste manifest tracking system. Enactment of this legislation will produce significant improvements in data quality, real-time tracking capability, costs and productivity for industry and state regulatory agencies. We will provide any additional thoughts we might have on this important legislation to the Committee, and we look forward to working with the Committee and staff to help move this bill forward.

Thank you, again, for the opportunity to testify and I would be pleased to take any questions that Members of the Committee might have.