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**Environmental Compliance**

safety-kleen

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Attn: Docket Number EC-2000-007, *Electronic Reporting*

To the Docket,

Safety-Kleen Corp. is a North American environmental service company with an integrated network of over 250 facilities designed to collect, process, recycle and dispose of a wide spectrum of hazardous materials and hazardous waste from over 400,000 customers. Safety-Kleen prepares and submits a variety of EPA and State reports in various programs including Air Quality, Water Quality and Hazardous Waste. Safety-Kleen agrees with EPA that current technology for storage and transmittal systems necessitate the need for electronic reporting via an electronic document receiving system in satisfaction of certain document submission requirements. However, giving the ambiguities in the August 31, 2001 proposal regarding electronic recordkeeping, Safety-Kleen requests that EPA withdraw or substantially revise the electronic recordkeeping portion of this rule.

**Electronic Reporting**

Safety-Kleen supports EPA's proposal for a Central Data Exchange (CDX) database that supports various technologies including web forms, EDI and XML based transmission systems. This type of technology-neutral approach allows industry the flexibility to choose the most business appropriate transmission system to transfer data to the EPA CDX receiving platform. Safety-Kleen feels that the establishment of the CDX is an important step in moving away from paper based reporting systems.

Safety-Kleen agrees with EPA that the mechanics of electronically submitted data should not be reflected in specific regulatory provisions. Regulatory changes are time consuming and would not promote advances in technology. Safety-Kleen also agrees with EPA's proposal to provide public notice for changes to the CDX and feels that the proposed time frames are adequate.

**Electronic Signatures – Personal Identification Number (PIN)**

EPA has proposed the PKI signature verification system which is complex and expensive. Safety-Kleen argues that this level of complexity is not warranted for the E-reporting rule. Federal taxpayers are allowed to pay taxes, where authenticity is a much more common issue than in EPA reports, using much easier systems than contemplated by this regulation. Therefore, we believe that the PIN option proposed in the RCRA

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Electronic Manifest Rule (66 FR 28290/3) is sufficient for all EPA electronic reports. The number of RCRA enforcement cases that turn on the authenticity of a signature compared to the expensive and complicated system devised in these regulations seems disproportionate. We urge that EPA continue to check with other agencies of the federal government that are using electronic signatures to see if less expensive alternatives, such as the PIN system, may be sufficient. EPA needs to review the necessity of such a complicated signature system with costs, we believe, significantly outweigh the benefits. We believe this point should be revisited as part of EPA's economic analysis of this regulation.

The regulation should encourage, not discourage, moving to an electronic system. There is no question that the signature verification proposals are significantly more complicated and costly that the present paper system. No electronic system can be perfect; handwriting authenticity is also not perfect.

Safety-Kleen strongly recommends that EPA take the least costly and least complicated system first and if that does not work well, than EPA should approve a different option. In other words, we strongly recommend the PIN system be approve initially. The PIN system should be replaced only if:

- Companies are found to be sloppy with the security of the PINs;
- The Department of Justice and the states are finding a number of enforcement actions where the defendants claim that the PIN was used without authorization; or
- Enforcement officials have difficulty in prosecuting cases because of claims dealing with signature (PIN) authenticity.

If these problems arise, then EPA can institute the PKI verification system as proposed in the rule. In the meantime, we believe the PIN system is the simplest, most cost effective and practical approach to the signature requirements.

**Electronic Signatures – Public Key Infrastructure (PKI)**

EPA notes in the rule that the Federal PKI Steering Committee recognizes and promotes the adoption of PKI-based digital signatures for a broad range of applications across all federal agencies. If EPA chooses this option because of cost efficiency and uniformity, we would expect the Agency to regularly evaluate private vendors, as a possible option, as PKI private alternatives become more mature.

With regard to the PKI option, we do not agree that the certification statement should be renewed at any frequency. This requirement presents unnecessary burden on the regulated community, and there is no current equivalent for paper signatures. Once an electronic signature has been established and verified with a certification statement, there should be no need for additional certification, unless the applicant withdraws the initial certification thereby removing his or her signature and private key from the registration system.

We agree that in a PKI system, the registration process should include a place for at least two names of qualified alternates who can electronically sign reports to ensure that all reports are submitted within the prescribed timeframe.

As noted above, Safety-Kleen supports the use of PIN based document verification process over the proposed PKI-based digital signature. However, no matter which option EPA uses, it must be consistent among the states so interstate commerce is not impeded. Therefore, we believe EPA needs to preempt any state signature laws present or future that requires different standards for electronic reporting.

**Electronic Recordkeeping**

The current proposal seems to indicate that the recordkeeping requirements apply to **any** EPA required document that is maintained in an electronic format. Due to ambiguities, Safety-Kleen requests that EPA either withdraw this section of the proposed rule and allow each individual EPA program to re-propose the Electronic Recordkeeping portion in a manner that is consistent with each of the individual program regulations, **or** clarify that the Electronic Recordkeeping portion of the rule applies only to reports that are actually **submitted** to EPA or a delegated State Agency. Safety-Kleen would agree that the 9 criteria noted in the rule for electronic recordkeeping would be appropriate for electronic documents that have been submitted to EPA or a State Agency. However, the Office of Environmental Information cannot begin to know all the types of electronic documents that are required to be maintained by all the individual EPA programs.

In some of the EPA programs, the current proposal is not feasible for all of the required electronic records. For example, the Hazardous Waste Program requires Hazardous Waste Facilities to maintain tracking records for hazardous waste from the time the waste arrives at the facility until the time it leaves or is treated/disposed. Most facilities do this by way of a computerized tracking program. Under the current recordkeeping proposal, these tracking records would have to meet the 9 criteria noted in the rule. Several of these criteria such as, (2) "*ensure that records are not altered throughout the records' retention period*," would not be possible for a system that is designed to be static and changes on a routine basis. As waste moves through the facility, several different individuals update the records at each location. As it arrives at the facility, it is logged into the tracking system by the waste receiving personnel. The waste then is sampled and analyzed and data is entered into the tracking record by the lab chemists. Finally the waste is prepared for shipment or treatment/disposal and the shipping or process department again updates the record.

Under the current proposal, EPA would force a facility to use a manual paper system for tracking which most of us in the industry abandoned for electronic systems back in the 1980s. This would be a burden to facilities and an irritation to the State Agencies that regulate our industry. The State Agencies rely on our computer tracking systems and electronic employee training databases to give them instant up to date information when they arrive on-site to inspect. Reverting back to a paper tracking system would lose 10 - 15 years of technological progress in waste management.

It is not possible to put a price on upgrading of the tracking systems because it isn't feasible to meet the criteria listed in the proposal and still maintain the waste tracking requirements. Safety-Kleen therefore recommends that the Office of Environmental Information work directly with the individual EPA programs to tailor recordkeeping requirements that would meet the requirements of the specific program regulations, or

change the proposed language to include only reports that are actually submitted to EPA or an authorized State Agency.

**Summary**

In summary, Safety-Kleen supports the electronic reporting portion of the rule and applauds EPA for selecting a technology-neutral approach to such reporting. Safety-Kleen feels that the Recordkeeping portion of the proposal cannot be implemented over a broad spectrum of EPA programs and therefore recommends one of the following solutions:

- Withdraw the recordkeeping portion and re-issue in conjunction with the individual programs, or
- Specify that the recordkeeping portion of the rule applies only to reports that are actually submitted to EPA or an authorized State Agency.

Thank you for the opportunity to provide comments to this rule and if you have any questions please feel free to contact me at 603-898-6914.

Very truly yours,

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Safety-Kleen Corp.

cc: Scott Kuhn – Safety-Kleen