

**CONSIDER S. 3871, A BILL DIRECTING THE EPA
TO ESTABLISH A HAZARDOUS WASTE MANIFEST**

HEARING
BEFORE THE
SUBCOMMITTEE ON SUPERFUND AND WASTE
MANAGEMENT
OF THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED NINTH CONGRESS

SECOND SESSION

SEPTEMBER 28, 2006

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ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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**CONSIDER S. 3871, A BILL DIRECTING THE
EPA TO ESTABLISH A HAZARDOUS WASTE
MANIFEST**

THURSDAY, SEPTEMBER 28, 2006

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON SUPERFUND AND WASTE MANAGEMENT,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m. in room 406, Dirksen Senate Office Building, the Hon. John Thune (chairman of the subcommittee) presiding.

Present: Senators Thune, Jeffords, Inhofe, Boxer.

Senator THUNE. Today's hearing will come to order.

**OPENING STATEMENT OF HON. JOHN THUNE, U.S. SENATOR
FROM THE STATE OF SOUTH DAKOTA**

I want to welcome everyone to our legislative hearing regarding a bill I introduced earlier this month, along with Chairman Inhofe and Ranking Member Jeffords. Our legislation, S. 3871, would direct EPA to begin a much-needed transformation regarding the tracking of hazardous waste.

While the Resource Conservation Recovery Act that Congress passed in 1976 has done a great deal when it comes to protecting human health and the environment, the paper manifest process that is used to track federally regulated hazardous waste has turned into the single largest continuous paperwork burden imposed on regulated entities under Federal environmental law.

On an annual basis, roughly 139,000 regulated entities track anywhere between 2.5 million to 5 million hazardous waste manifests. This paperwork burden has been estimated to cost States and the regulated community between \$200 million and \$500 million. This is largely due to the fact that each paper manifest is comprised of six carbon copies that must be signed and mailed to waste-generators and State agencies and then ultimately stored by each regulated entity.

To underscore just how cumbersome this paper manifest is, the EPA in over 20 States don't even keep copies. The benefits of using electronic manifests are numerous. We will hear more about those benefits from today's witnesses. I would like to stress that the legislation my colleagues and I have introduced simply provides a voluntary alternative for regulated entities who wish to file their hazardous waste manifests in a more efficient manner, without the time-consuming paperwork burden they are currently faced with.

Furthermore, nothing in this legislation seeks to weaken or in any way lessen the protections that currently exist under the uniform paper manifest.

As we begin this morning's hearing, I would like to insert for the record a handful of letters that I have received in support of S. 3871, one of which is from Terrence Gray, president of the Association of State and Territorial Solid Waste Management Officials, who noted, "It is appropriate, and many would say overdue in the 21st century economy to have the capability of using electronic reporting for such a tracking system. We are supportive of your efforts to initiate this process. It is our understanding the S. 3871 is the necessary first step in designating the detailed system for electronic manifesting, and for that reason we think it should go forward."

[The referenced documents follow on page 35.]

Senator THUNE. I look forward to hearing from our four witnesses today and hope that my colleagues will continue to work with me to see that this noncontroversial legislation is cleared by the full committee and ultimately passed by the Senate.

Before we open up to our first panel of panelists, I would like to defer to my colleagues, Senator Jeffords, the Ranking Member on this committee.

Senator JEFFORDS. Thank you, Mr. Chairman.

**OPENING STATEMENT OF HON. JAMES M. JEFFORDS,
U.S. SENATOR FROM THE STATE OF VERMONT**

I am pleased that we are holding this hearing on S. 3871, the Hazardous Waste Electronic Manifest Establishment Act, introduced by Senator Thune. I co-sponsored this legislation because it appears to be one of the rare examples in politics where everybody wins and nobody loses.

The environment wins because an electronic manifest system will strengthen the tracking of hazardous waste from the point of generation to the ultimate disposal. Industry wins because an electronic manifest will significantly reduce compliance costs. The EPA estimates that the current paper-based system costs waste handlers and States between \$193 million and \$404 million annually.

Finally, the public wins because an electronic manifest system will enable the citizens, States, the Federal Government, and industry to access manifests for shipments of hazardous waste all over the country.

Thank you, Mr. Chairman.

[The prepared statement of Senator Jeffords follows:]

STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM THE
STATE OF VERMONT

Mr. Chairman, I am pleased that we are holding this hearing on S. 3871, the "Hazardous Waste Electronic Manifest Establishment Act," introduced by Senator Thune.

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Finally, the public wins because an electronic manifest system will enable the citizens, States, the Federal Government and industry to access manifests for shipments of hazardous waste all over the country.

Senator THUNE. Thank you, Senator Jeffords.

The Senator from California, the Ranking Member of the subcommittee has arrived. Senator, would you like to provide an opening statement?

**OPENING STATEMENT OF HON. BARBARA BOXER,
U.S. SENATOR FROM THE STATE OF CALIFORNIA**

Senator BOXER. Yes, I do. I have to apologize because I am going to stay a little bit for the questioning, but then I have an issue on the floor so I will have to exit, hopefully to return, but you never know.

Mr. Chairman, thank you so much for this hearing to examine the potential benefits and concerns surrounding the use of electronic records to track hazardous waste. The current system, as we all know, relies on paper documents called manifests to track this waste. The reliability of the tracking system is critically important because we know what happens if there is an accident. First responders rely on the manifests so they know exactly what they are dealing with and what the hazards are. It is crucial. If there is a mistake there, it is a real problem.

A reliable tracking system also helps deter improper waste disposal. Improper disposal of hazardous waste can lead to the creation of Superfund sites. We have over 100 Superfund sites where human exposure is not under control. You and I are trying very hard to work on that. We cannot afford to add to that list.

A sound hazardous waste tracking system also ensures that the polluter, and not the taxpayer, pays for the costs associated with the cleanup if a problem develops with the waste disposal sometime in the future. We generate a great deal of hazardous waste in this country, an estimated 12 million tons of hazardous a year. There are 139,000 businesses and other entities that handle the waste.

In 2003, California ranked first in the number of hazardous waste generators, with 2,500, and produced more than 445,000 tons of waste. So clearly, this issue, Mr. Chairman, is very important to my State.

Manifests give officials the information they need to protect communities. Congress should do what it can to make manifests easy to use, but we must not sacrifice safety for streamlining. First responders and other officials have a hard job and we can't make it more difficult.

States, including my State of California, agree with the idea of moving to an electronic manifest system, but they want to make certain that it works. So I do look forward to hearing the testimony today.

I have a lot of faith in high technology and progress, but we all know sometimes it doesn't meet our expectations. If we look around the voting system, for example, it is clear that you need backups. So I think there are some lessons, Mr. Chairman, that we can apply to this really good issue that you have brought before us.

Thank you.

Senator THUNE. Thank you, Senator Boxer.

With that, we will turn to our first panel. With us today is Susan Bodine, Assistant Administrator, Office of Solid Waste and Emergency Response at EPA. Welcome, Susan; also Cheryl Coleman, who is director, Division of Compliance and Enforcement with the South Carolina Bureau of Land and Waste Management.

Ms. Bodine, if you would please share your testimony with us, and then Ms. Coleman.

**STATEMENT OF SUSAN BODINE, ASSISTANT ADMINISTRATOR,
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE, U.S.
ENVIRONMENTAL PROTECTION AGENCY**

Ms. BODINE. Thank you, Mr. Chairman and members of the subcommittee.

I am Susan Bodine, the Assistant Administrator of the Office of Solid Waste and Emergency Response at EPA. I am very happy to be with you here today to talk about EPA's efforts to develop a national electronic manifest system, or e-Manifest.

I will summarize my testimony. I ask that my entire written statement be placed in the record.

Senator THUNE. Without objection.

Ms. BODINE. A few days ago, I was on the phone talking to my father, and I was telling him I was going to be appearing at this hearing. I talked about the e-Manifest system. His comment was, "Well, it is about time EPA joined the 21st century." I have to say, I couldn't agree more. It is certainly about time that with respect to our data collection and reporting, that we did join the 21st century. We are making very great strides toward that, and have many efforts underway that contribute to that.

But we need your help. We have discovered that to have a uniform system that all users can use and trust, we actually need some additional legislative authorities, and that is what we are here to talk about today.

I would like to thank Chairman Thune, Senator Jeffords, and Senator Inhofe, for their efforts to develop e-Manifest legislation. EPA supports your efforts and I look forward to working with the Chairman and the committee to address any issues that may arise as the bill moves through the legislative process.

As you know, the Resource Conservation Recovery Act establishes a cradle-to-grave tracking system for hazardous waste. The method for accomplishing that is the manifest system. The manifest is created by the generator. It then is used to ensure that the right transporter is carrying the waste, and also to make sure that waste reaches its ultimate destination, whether it is treatment, storage or disposal.

The final copy, then, after it has gone through all of its tracking steps, is then sent back to the generator so that the generator knows that the waste got to where it was supposed to get, again, that we don't have any midnight dumping situations.

Now, States also require use of manifests, and I think it has been mentioned by Senator Boxer, 24 States in fact collect data and have tracking systems for their manifests. Generally, they take copies of the manifest and they manually enter information into their tracking systems.

Now, all of these steps, whether it is by the generator, the transporter, or the ultimate disposal facility, all of these steps add up to a very significant paperwork burden. There are about 2.4 to 5.1 million forms each year, and that annual paperwork burden for States and the regulated community is between \$200 million and \$500 million.

Now, we believe that if we have an e-Manifest system, that net savings, at only 75 percent participation in the system, that we would still have net savings of over \$100 million a year. But that is not the only benefit of an e-Manifest system. Having an electronic manifest system will improve the overall effectiveness of a tracking program. We have the technology to put into the system automatic data quality checks to correct data entry errors. Right now, often there are mistakes on written manifests or they are simply illegible.

Another benefit is we would be able to have real-time tracking of wastes. Right now, the generator doesn't know essentially the disposition of the waste until it has gone through all the various steps and then the final manifest is mailed back to them, which could be 90 days later. As we all know, technology is out there now that allows real-time tracking of shipments. Anyone who has sent a Federal Express package knows that you can go online and find out where your package is. We would be able to do the same thing now for our waste shipments.

Finally, because we would have electronic data collection, we have a new opportunity for program management and a new opportunity, an additional source of data on hazardous waste. So that, again, is another benefit.

Now, we have been trying to improve the hazardous waste management system. Just in September of this year, the uniform manifests went into effect. That is a tremendous step forward. It means every State is using the exact same manifests, and the same data fields. It is also a key step needed to establish an e-Manifest system.

We had proposed to establish an e-Manifest system earlier that was decentralized. The comments we received on that proposal were negative. The communities and the stakeholders said no, we need a centralized system to have a system that they would trust.

So after listening to all the stakeholders, we went back and issued a notice of data availability announcing that we would like to develop a centralized e-Manifest system. Now, we have made a lot of steps already toward that. For example, 41 States have already got what we call nodes, which is a hookup, an ability to transmit data to EPA on our central data exchange. That is already happening and 41 States have that capability, and 9 are underway. So again, steps are going forward to essentially allow the seamless transfer of information between States and EPA.

Now, earlier in 2005, we also tried to go forward to issue a contract to set up a national e-Manifest system under a provision of the Electronic Government Act that allowed for share and savings contracts. Unfortunately, that authority expired before we were able to complete that procurement, so now we are here very happy that the committee is considering legislation that would give us specific authority on e-Manifests.

After working on this issue, we realized what we need is the authority to collect and have user fees that will fund the e-Manifest system, and S. 3871 provides that authority. We also need the authority to enter into these performance-based contracts that are similar to the pilot program that was established under the Electronic Government Act. Again, S. 3871 provides that authority.

And then third, we need the authority to make sure that we have a uniform system that goes into effect in all States at the same time, and S. 3871 provides that authority as well.

So in summary, EPA supports the enactment of legislation that would allow us to establish a national e-Manifest system. We think that the benefits are there, not only to the regulated community, not only to States, but also to regulators. It is really a win-win situation for all, as Senator Jeffords said.

So EPA looks forward to working with the committee and with Congress to develop legislation that would provide us with these authorities, and again, would provide an efficient and effective e-Manifest system for everyone.

Thank you and I would be happy to answer any questions.
Senator THUNE. Ms. Coleman.

**STATEMENT OF CHERYL T. COLEMAN, DIRECTOR, DIVISION
OF COMPLIANCE AND ENFORCEMENT, SOUTH CAROLINA
BUREAU OF LAND AND WASTE MANAGEMENT**

Ms. COLEMAN. Good morning, Chairman Thune, Senator Jeffords and Senator Boxer. I bring you greetings from the State of South Carolina, and I thank you for the opportunity to appear before you today.

As you know, the Resource Conservation and Recovery Act established authority for EPA to develop a preventive system to control the growing volume of municipal and industrial waste through national goals designed to protect human health and the environment from potential hazards of these wastes, conserve energy and natural resources, reduce the volume of these wastes, and ensure that the wastes are managed in an environmentally sound manner.

The hazardous waste program managed under RCRA Subtitle C is a cradle-to-grave system designed to ensure appropriate management of these wastes from generation to disposal. The hazardous waste manifest is an essential tool for monitoring and tracking hazardous waste from the time it leaves the generator facility where it was produced, until it is delivered to the destination facility for storage, treatment and/or disposal.

Both the Department of Transportation and the Environmental Protection Agency require the manifest, as do states. Each entity handling the waste as it is transported to its destination is required to sign and retain a copy of the manifest. This results in accountability and responsibility for all involved in the disposal process.

Once the destination facility receives the waste, a signed copy of the manifest is returned to the generator, thus confirming proper delivery of the entire shipment. EPA enables States to assume primary responsibility for implementing the RCRA hazardous waste program, and as such, most States have requested and received authorization for the core elements of the RCRA program.

As an authorized State, South Carolina applauds the inclusion of electronic reporting of hazardous waste activities in the hazardous waste manifest system and fully supports this initial step in that process.

S. 3871 primarily focuses on the design of a system and does not identify a role for States other than membership on the proposed hazardous waste electronic manifest system governing board, and the requirements for development of the regulations. As a supporter of the concept, South Carolina offers the following comments.

S. 3871 should clearly state that participation in the electronic manifest reporting system is voluntary. Companies may be unable to submit this information electronically due to limitations with funding and technology. The definition of the term "user" should be clarified. The current definition could be interpreted to mean that use of the electronic manifest process is mandatory, even though paragraph B indicates participation is voluntary.

In addition, States accessing the information as part of the regulatory process could be considered users of the system and incur fees. The system should be designed in a manner that is inclusive of existing State regulatory programs and current manifest procedures, and not require additional State financial resources.

It is unclear if potential users will incur fees during the development stages. Paragraph G(b)(2), effective date of regulation, states that regulations promulgated by the Administrator relating to electronic manifesting of hazardous waste shall take effect in each State as of the effective date specified in the regulation. States authorized to implement the RCRA program in lieu of EPA have State-specific statutory requirements for promulgating regulations, and these requirements may be inconsistent with the timeframe established in this paragraph. We respectfully request that this wording be modified to recognize State requirements for promulgation of regulations.

This bill does not address the importance of the manifest in the transportation phase for waste sent for treatment, storage, and/or disposal. Specifically, it does not identify how inspectors and/or emergency response personnel will be able to access electronic manifests to identify waste in transit. This information is vital, particularly in the event of an emergency.

For example, in South Carolina, there have been several incidents where emergency personnel responded to a spill of hazardous waste and the transport vehicle driver's English proficiency was limited. The absence of a paper manifest could have delayed or resulted in inappropriate response activities as it includes information needed for appropriate response activities.

Electronic manifests would facilitate pre-inspection activities for State regulators. Because South Carolina, like many other States, does not receive copies of manifests, access to this information prior to the actual inspection would greatly enhance the inspection process.

The regulation should also not inhibit public access to the information. Many States have freedom of information requirements that are broader in scope than Federal requirements.

In conclusion, we recognize that paragraphs five through eight can and should be more thoroughly addressed through the promulgation of the regulation stage of this process. We wish to take this opportunity to emphasize the importance of including State representatives and strongly encourage this committee to include steps to ensure that States are active participants in subsequent phases of regulation development.

Thank you.

Senator THUNE. Thank you, Ms. Coleman. It looks like we are going to be joined by the Chairman of the full committee here for a statement, but since he hasn't returned yet, we will proceed to questions. All right. Here he is. I got his attention.

Senator INHOFE. You did, you did.

Senator THUNE. Mr. Chairman, welcome. Do you have any statement you would like to make?

**OPENING STATEMENT OF HON. JAMES M. INHOFE,
U.S. SENATOR FROM THE STATE OF OKLAHOMA**

Senator INHOFE. Thank you. I am going to submit my statement for the record, but this is something that I, having been a former Mayor, I am very sensitive to some of this stuff. I strongly support this. I am a co-sponsor of your legislation to correct this problem, but it is something that we shouldn't have to do. It shouldn't take legislation to do this. Unfortunately, it does, and by doing this, I am going to lose some of my real good speaking material that I have used before.

According to EPA, the paper manifest system generates up to 156 tons of paper each year. It takes roughly 17 trees to create a ton of paper. Are you listening to this, Senator Boxer?

[Laughter.]

Senator INHOFE. This means that RCRA's proposed environmental purposes require 2,652 trees a year.

Senator BOXER. And we need trees [remarks off mic].

Senator INHOFE. You got it.

[Laughter.]

Senator INHOFE. Ask her if she would quit interrupting me, would you please?

[Laughter.]

Senator INHOFE. Anyway, this is something I strongly support, and I am glad I share with my friend, who will be seated next to me next year in the whole committee, that I am glad that science is finally coming around and refuting all these things you have been saying all these years about global warming.

[Laughter.]

Senator INHOFE. Thank you, Mr. Chairman.

[Laughter.]

[The prepared statement of Senator Inhofe follows:]

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE
STATE OF OKLAHOMA

As a former Mayor, I know all too well how Federal requirements can effectively tax local and State governments. Federal requirements should be flexibly applied so that each State can implement them in the ways most efficient for them. The paper manifest system under the Resource Conservation and Recovery Act was not flexibly applied in the last two and a half decades.

The bill that Senator Thune has sponsored and that I am proud to co-sponsor with the ranking member seeks to change that.

This legislation seeks to reduce time, staffing, and financial burdens on States as they comply with Federal requirements by transforming the manner in which hazardous waste data is collected, stored, and accessed.

Frankly, I am disappointed that the Federal Government needs legislation to do something that seems so obvious in this day and age.

For those concerned about how much paper is used for this inefficient and burdensome requirement—

According to EPA, the paper manifest system generates up to 156 tons of paper per year. It takes roughly 17 trees to create a ton of paper. This means that RCRA's supposed environmental purpose requires 2,652 trees per year.

Rather than benefit from the efficiencies that computers can provide, current regulations require a paper manifest system comprised of six carbon copies which must be filled out and signed by each person who handles the waste. Those copies must not only accompany the waste as it is transported but must be mailed to generators and State agencies and kept on file by each regulated entity.

EPA estimates that roughly 146,000 regulated entities track between 2.5–5 million manifests each year.

The current system is far too burdensome on all parties, especially the private sector and State managers.

I sincerely hope that we can pass this noncontroversial bill quickly.

I look forward to hearing from our witnesses.

Senator THUNE. Thank you, Mr. Chairman.

I don't know if we want to start down that road today. This was scheduled to be a fairly brief hearing.

[Laughter.]

Senator THUNE. Thank you, Mr. Chairman, very much for your statement and your comments in support of the legislation.

In terms of questions, Ms. Bodine, could you explain to the committee why the share and savings approach in the bill is so critical to the creation of an e-Manifest system?

Ms. BODINE. Thank you, Senator Thune.

Yes, that is the approach that had been authorized under the e-Government Act and the authority that expired. That is a tool that would allow EPA to enter into a contract with a vendor where the vendor would incur the costs up front of developing the e-Manifest system, and then would recoup those costs from the fees paid by the use of the system afterward. So it is a very flexible procurement tool and we believe it is one that, first, will allow us to get an e-Manifest system up and running most quickly; and second, then is very equitable because it establishes an e-Manifest system that is paid for, funded for by the users themselves.

Senator THUNE. If the legislation were enacted into law, let's say just hypothetically, early next year, how long would it take EPA to get an e-Manifest system up and running?

Ms. BODINE. We have already started working on rulemaking, and so we are proceeding in parallel now with the legislation. We can't actually promulgate until we get the legislative authority, but we are working now. I firmly believe that the deadlines in your legislation are ones that we can meet. We can get the rule promulgated within a year, because they have already started, and that we would be able to have the system in place within 2 years after that because we will need some time to develop the contract and get the system up and running, but the 3 years is definitely achievable.

Senator THUNE. Ms. Coleman, in your opinion, is there any reason not to move forward with creating this sort of a system?

Ms. COLEMAN. No, sir. We fully support the establishment of this system as part of the reporting system.

Senator THUNE. I don't know, maybe this isn't a fair question for you to do this off of your head, but what would you estimate that a State like South Carolina could save if it could access hazardous waste manifest data in near real-time?

Ms. COLEMAN. I think that the savings, monetarily I can't make an estimate, but I believe that being able to access this information would greatly increase our ability to be able to regulate effectively. We need to be able to identify potential problems. RCRA is a preventive program, and I think that the e-Manifest system would allow us to be able to identify potential problems more quickly, and the savings in cost I cannot even begin to estimate how much it would cost to save lives and our environment.

Senator THUNE. As someone who is involved with enforcement regarding the management of hazardous wastes, it would seem that the bill would drastically improve the manner in which your State tracks the movement of regulated waste. Is there a particular area that you think that this legislation would help your State in compliance and enforcement?

Ms. COLEMAN. I do. We view the manifest as an accountability and a responsibility document. It is in fact a validation that this generator did in fact produce this waste; that these transporters did transport this waste; and this facility, the destination facility did receive this waste.

We monitor those closely and take appropriate enforcement action if there is a failure to comply with any of that. We do, however, want the system to be designed in a manner that allows us to validate the e-signatures, to say that this company did in fact enter this data, and be able to use that in a court proceeding if necessary.

Senator THUNE. I want to get back to one point that you made in your testimony. Maybe this is a question for Ms. Bodine, because you referenced the concern about having States involved in the process, the rulemaking et cetera. Ms. Bodine, how involved would States be in future rulemaking that would come from the legislation? Is there any reason to believe that some of the outstanding issues that were referenced in Ms. Coleman's testimony couldn't be addressed?

Ms. BODINE. First, the States are involved in the rulemaking. We have five or six States that are already on our work group. In addition, we make sure that we get the comments and input from all States through the organization, ASTSWMO, the Association of State and Territorial Solid Waste Management Officials. So we definitely are involving and will continue to involve States in the process.

Second, yes, the issues that have been raised, we have identified the authorities that we need, and then the specific implementation issues could easily be addressed in the rulemaking.

Senator THUNE. Great.

I understand, Senator Jeffords, that you want Senator Boxer to go next for questions? OK. Senator Boxer is recognized.

Senator BOXER. Thank you so much.

Thank you, Senator Jeffords. As I said, I need to run down to the floor of the Senate.

I just have this opportunity, Ms. Bodine, to ask you when Senator Thune and I can expect an answer to our letter. We did get a response back and said we are working on a letter; we will have it for you as soon as possible, regarding the out of control sites. So I wondered if you had a date-certain that we could count on getting it?

Ms. BODINE. The letter is in our clearance process, so I would expect it shortly. I don't have a date-certain. In addition, there is some data—

Senator BOXER. Shortly meaning within the next 2 weeks?

Ms. BODINE. Yes.

Senator BOXER. OK, good. OK, that is great, because we are looking forward to that.

Just so, Mr. Chairman, you know where I am coming from on this, I want to see this legislation go forward, but I do share Ms. Coleman's concerns about States feeling comfortable with it. We did receive a letter from California, which I am going to go over with you and your staff because I think they really have some good ideas on how to make this the best it can be.

I wanted to ask Ms. Bodine just one more question, and then I will leave. That is, EPA currently has an electronic docketing system where it places records that support the Agency's rulemaking online. I have printed out an example of that, so that the public can access this information over the Internet.

So you have an electronic docket for the e-Manifest rulemaking process, but ironically it fails to make available documents that were submitted to EPA as far back as June 2001. So I always have problems because, again, high-tech is the way to go. Look, I come from the State that invented it, pretty much, notwithstanding the Defense Department's role, which was huge. Once that happened, California, Silicon Valley and the rest. So I want to move in this direction.

So I am a little worried about your own e-docketing system at this stage being flawed when somebody goes up and reads about this, and they have no way to access it. For example, comments by Russell Hanson, manager of Hazardous Materials at the University of Missouri, they can't get the record.

Ms. BODINE. Senator, I would have to go back and investigate the issues that you are identifying with respect to EPA's comment docket, but in the context of e-Manifest, we certainly in the rulemaking and then in the contract that we would be negotiating with a vendor, we would be putting in all of the quality control and information security and ability to verify signatures, all of the issues that you have identified, that California has identified, that South Carolina has identified. Those would all be addressed in the rulemaking and in the contract itself. So we would be dealing with those issues.

Senator BOXER. OK. My only point here is, it is only as good as what you put in the system, right? The information.

Ms. BODINE. The information.

Senator BOXER. An electronic document is only as good as the system it gets in. Here, you don't have the system operational, and

there are documents posted here from 2001, but if a citizen goes on, and this is just about this particular rulemaking. It concerns me. I have been around too long. I know that the best intentions don't always turn out. I worry, that's all.

So I think, Mr. Chairman, as we move forward, I am very, very anxious to make this work. I think we can. I think we just want to make sure in your legislation we have taken into account the concerns of the various States. Again, it is not really rocket science. It is just simple, I think, goals that are clearly stated and to make sure that we have the backup documents that we need.

Before I leave, I want to acknowledge that unless something happens and the Chairman of the full committee calls a hearing on global warming, this will be Senator Jeffords's last hearing with us. Yes. I just wanted to say that we will all miss you and we look forward to staying in touch with you on all the important issues.

Senator JEFFORDS. OK, thank you.

Senator BOXER. All right.

[Applause.]

Senator THUNE. Thank you, Senator Boxer. With the use of all that technology that California puts out, you will be able to stay in touch with Senator Jeffords, I am quite certain.

[Laughter.]

Senator THUNE. I, too, want to recognize Senator Jeffords and thank you for your very distinguished service to this committee. This very well could be the last hearing. I don't know that we have any global warming hearings scheduled.

[Laughter.]

Senator THUNE. In the event that happens, we will have another opportunity to recognize you, but we want to thank you and wish you absolutely the very best.

Senator JEFFORDS. Thank you.

Senator THUNE. Do you have any question, Senator?

Senator JEFFORDS. Yes.

Ms. Bodine, as the head of the Nation's hazardous waste program, you are obligated by the Resource Conservation and Recovery Act to promulgate regulations assuring that the use of a manifest system will track hazardous waste from the point of generation to ultimate disposal. If this bill becomes law, can you guarantee that the future electronic manifest regulations will give State agencies and the Federal Government the same ability to track manifests and determine accountability as the current paper system?

Ms. BODINE. Yes, Senator Jeffords, that is exactly the kind of system that we intend to establish.

Senator JEFFORDS. Based upon your experience with the paper manifest system, if this bill, were it to become law, what information would be available to the public in an electronic manifest?

Ms. BODINE. The timing of when information would be public is something that we have received comments on in response to the NODA and is something that we would want to work out in the rulemaking process. There are issues. Well, right now some States have tracking systems where they manually key in information to their system and then it becomes public later because there is a lag time.

Now, with an electronic manifest system, we would be able to have real-time tracking, but there might be security reasons or confidential business information reasons why we wouldn't want to make that information available immediately. That isn't to say that later it wouldn't then become publicly available within generally the same time period that some States make it publicly available now.

Senator JEFFORDS. I think you have answered this, but I will ask it anyway. If this bill were to become law, what are your estimates for how promptly this information would be available to the public, States and first responders?

Ms. BODINE. Well, States and first responders would have the information right away. Nothing in this legislation and nothing in our rulemaking would change any of the requirements under the Hazardous Materials Transportation Act, which requires that a paper manifest follow and be carried with the transporters. That would still be in effect. It is all the same information that we have in our uniform manifest that is in place right now. That paper manifest would still be following the shipment so all of that information would still be available to the first responders.

Senator JEFFORDS. Ms. Coleman, I know that your State of South Carolina has permit requirements for those who transport hazardous waste. If this bill becomes law, how would the electronic manifest system work with this permit system?

Ms. COLEMAN. You are absolutely correct. We do require hazardous waste transporters to obtain a permit, and that permit is put in place for several reasons. One, it is to verify that that transporter has appropriate insurance coverage should there be some type of catastrophic event. Two, he or she is also saying to the State, we have trained our drivers in how to manage this material while it is in transit. We have very real concerns about the transportation phase. And three, that that driver is able to provide that information to the inspectors or emergency personnel should there be some sudden event that would require them to perform some type of response activity.

So we would be looking during the regulation development phase of the electronic manifest system for those abilities to remain. It is very important that we be able to access that information in a timely manner and be able to respond appropriately. You certainly don't want to put water on a water-reactive waste. So we need to be able to access that information, and I was very happy to hear Ms. Bodine say that that is a very real intent of EPA that they will include that information in the transit phase.

Senator JEFFORDS. Thank you.

Senator THUNE. Thank you, Senator Jeffords.

And thank you very much, panel, for your testimony and for your insights. We appreciate it, and welcome your continued input as we move forward with the legislation, and hopefully ultimately getting it enacted, and want to make sure that we are addressing as best we can the needs that the States have as a stakeholder in this, obviously an important partner in making sure that we get it right. So thank you very much.

We will ask the next panel to come forward. Our second panel consists of Frederick Florjancic, who is chief executive officer and

president of Safety-Kleen Systems, Incorporated; and Mr. Phillip Bond, who is president and CEO of Information Technology Association of America.

I will ask those gentlemen to come forward. We welcome you both to the subcommittee and look forward to your testimony.

Mr. Florjancic, if you would like to start off, that would be great.

STATEMENT OF FREDERICK J. FLORJANCIC, JR., CHIEF EXECUTIVE OFFICER AND PRESIDENT, SAFETY-KLEEN SYSTEMS, INC.

Mr. FLORJANCIC. Thank you and good morning, Mr. Chairman, Senator Jeffords. Thank you for inviting Safety-Kleen to testify on S. 3871, the Hazardous Waste Electronic Manifest Establishment Act.

I have filed for the record more extensive comments which I will summarize for the committee.

I am Fred Florjancic, and I am CEO and president of Safety-Kleen Systems, which is a major environmental service provider throughout the United States, Canada and Puerto Rico. We are now expanding into Mexico as well. We employ more than 4,500 people in North America at more than 200 locations, of which approximately 4,100 people at 190 locations are in the United States. We provide more than 400,000 customers of all sizes, including 440 of the Fortune 500 companies 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, re-refining it back into high-quality lubricating oil and other products that extend the life of this precious resource. Safety-Kleen also collects approximately 300 million gallons of hazardous waste annually in North America.

I am particularly pleased to be here today in support of S. 3781. 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 Chairman Thune and Senator Jeffords and Committee Chairman Inhofe 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 manifests, the paper-based manifest 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 United States.

Needless to say, this proposed legislation could have a significant and we believe positive impact on Safety-Kleen, our customers, the industry, and 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 the time, that was then known as orphaned waste, waste that could not be tracked 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 waste, 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, the first responders know the materials that they would be managing. Second, the manifest identifies who ships the waste, who is transporting the waste, and where it is ultimately headed so that it can be tracked at every step of the way to ensure proper disposition.

The 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 it in a better way. 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, regulated customers and State regulatory agencies. The recent economic analysis prepared by the EPA estimates more than 92,000 regulated entities track between 2 and 4 million waste shipments per year. Keep in mind that each manifest form is six copies containing 83 fields of information. The current form must be filled out by the customer using a combination of computer-generated and manually inserted information, and 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 all of our facilities. For Safety-Kleen, our mailings costs alone are close to \$1 million a year, and the paperwork burden is so significant that 22 States no longer even accept paper copies of the manifest.

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

The potential benefits of moving forward to include an electronic manifest system are significant. For example, the system would provide that States with manifest data would have easily usable, searchable and storable formatted information. It would 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 each year by reducing the paperwork burden.

Additionally, the e-Manifest system would produce a national security benefit by improving our overall ability to track hazardous materials. Under the current system, it takes weeks to provide

verification of information to generators or regulators when a waste shipment is complete.

I note for the committee five specific items that S. 3871 should include. Safety-Kleen believes that any fee structure established to pay for the e-manifesting system must be limited to providing funding for the designing and implementing of the program specifically and exclusively. In other words, any fee structure must not become a de facto tax or fund other programs.

Second, the e-Manifest system must be cost-effective to the regulated community and the Government as a whole, and we endorse the bill's proposal to have a qualified IT contractor build the system and then receive payment on a per-manifest basis.

The regulated community, the industry needs to have a place at the table to provide recommendations to the Administrator of the e-Manifest system and the system must be flexible and scalable to take into consideration not only today's needs, but tomorrow's manifesting requirements. It should provide real-time information for the generation, transportation and disposal of waste.

In closing, I believe S. 3871 provides a solid foundation for moving our Nation into the 21st century hazardous waste manifest tracking system. Enactment of this legislation will produce significant improvements in data quality, real-time tracking capability, cost reduction and productivity improvements, not only for industry, but the State and Federal regulatory agencies.

Thank you again for the opportunity to testify today, and I would be pleased to answer any questions.

Senator THUNE. Thank you, Mr. Florjancic. Your entire statement will be made a part of the record.

Mr. Bond, it is nice to have you back on Capitol Hill. You served with distinction in the Congress as a member of the staff of Jennifer Dunn over there, and someone that I worked with quite a bit at that time, and living proof that there is good life after your service in Congress. Correct?

Mr. BOND. There you go.

Senator THUNE. We welcome you in front of the committee today and would love to hear your testimony.

**STATEMENT OF PHILLIP J. BOND, PRESIDENT AND CEO,
INFORMATION TECHNOLOGY ASSOCIATION OF AMERICA**

Mr. BOND. Thank you, Chairman Thune and Senator Jeffords for the opportunity to present on behalf of the 325 corporate members of the Information Technology Association of America. Obviously, we have a very favorable perspective on this, and I also want to thank you for your continued leadership to amend RCRA to make such a system possible.

I will try to edit myself in real-time for the benefit of the Senators, to spare you recitation of some of the statistics and other things that you have heard. But I do want to underscore the point that this is fundamentally a very creative approach, a 21st century approach that we believe solves problems for the public, for policy-makers, for taxpayers, streamlines the process, makes it more efficient, just as IT has done throughout the national and global economies, and State governments, and certainly can do in this process.

As has just been noted, I want to underscore that in addition to the policy and environmental benefits, a very real national security, homeland security benefits of such a system as well.

We know the reasons for a manifest system. They are legitimate reasons. You need to know in the event of an incident where materials are. You have to be able to track that shipment all the way to the final disposal facility to meet the environmental and national security goals inherent.

This system is a bit of an anachronism in this information age. The paperwork burden is extensive. You have heard some of the statistics generated by EPA itself in terms of the number of regulated entities and shipments that are covered, with each manifest manually filled out, signed with pen and ink, physically carried, mailed to multiple sites, and then stored among facility records as well.

Ironically, at the end of this, some States charge a fee to cover the processing, but that fee also goes to convert the data often to an electronic format at the end of the process. So this would perhaps put it in the right place at the front of the process. It really does seem to us and the IT industry at large as a system that is still stuck in the last century, too costly, too manpower-intensive, too cumbersome, too time-consuming.

Notably, especially I think for the committee and policymakers in general, I want to note that the information often does not get where it needs to go. Currently, 22 States and the EPA do not collect copies. States that do not receive copies often simply store them without review. So the information is bottled up and not useful.

The e-Manifest proposal would solve these problems. It would help States. It would help the public. It would help members of this committee, policymakers, all would know exponentially more about where these materials are at any given time. You heard earlier from EPA itself the estimates of the savings, some \$100 million and more.

Homeland Security has been mentioned. I would just note that there are clear benefits to knowing the nature of a shipment, its location, and the risks inherent, the parties involved in it, in a matter of minutes at the most, or even seconds, instead of hours, days or weeks under the current system. We can know if there has been any kind of delay, or if we pick up intelligence about any sinister plans and be able to respond quickly.

Authentication has been just kind of referenced slightly in the earlier panel. That is an issue, I think, but it is hardly insurmountable in the 21st century. I would observe that Congress itself accepts digital signatures as a way to secure important documents. Lobbying reports, for instance, are required to be filed and authenticated with digital signatures. Digital signatures are now widely accepted throughout the financial, legal and insurance sectors of our economy.

An electronic process of this type with the use of digital signatures would actually be more secure, rather than less secure, in a less secure system where the paper often is ignored or filed without review. This would be a more secure system.

In short, an elegant solution to a rather ugly problem, a 21st century approach. It also is a 21st century approach in terms of how you get the private sector to bid, to ask bidding companies at their own expense to come up with a system. The winning bidder then would recover their investment through a user fee as part of the initiative by EPA. This allows industry to make the initial investment. It allows private industry to share in some of the risk, and then ultimately the reward of a successful system.

Without the legislation that you are considering, fees that would be collected under the e-Manifest system, under current law those would be considered Federal revenues and prohibited from some of the uses envisioned. So the legislation truly is necessary. As we mentioned, this is not a new burden. Fees are being collected now.

Finally, I would just like to note that the legislation upholds the broader aims, the very bipartisan aims of e-Government, making bureaucratic government less so, making it more efficient, enhancing security, providing more information, making government better in a fiscally responsible way. It might be described as government of, by, and for the people.

Thank you.

Senator THUNE. Well put.

Let me proceed to questions for this panel. I will start with Mr. Florjancic. Where does Safety-Kleen currently store its paper manifest forms?

Mr. FLORJANCIC. We currently store in just about all 200 facility locations, multiple locations. Obviously, an electronic manifest system would allow us to do that much more cheaply, much more effectively, and much more efficiently, and make those records available real-time.

Senator THUNE. We talked a little bit about how we would structure this system in terms of underwriting the cost of getting it up and operating. What do you think would be a reasonable fee, for your company to use an electronic manifest system? Do you care to comment on that?

Mr. FLORJANCIC. Senator, I don't have a specific dollar in mind, except to say that the current manifest system costs Safety-Kleen approximately \$10 to \$12 million a year to execute. That includes printing fees and I am sure includes some permitting fees, et cetera, et cetera. I don't know precisely what the savings would be. I can tell you that there would be some savings, and clearly the efficiency factor is the most important that we are after.

Senator THUNE. Mr. Bond, based on your understanding of how the current paper manifest system operates, are there any concerns among the IT community that a system couldn't be adequately designed to meet the needs of the regulated community, the States and the Federal Government?

Mr. BOND. No. In fact, there is a high degree of confidence based on many other e-Government applications, the wide use of digital signatures and so forth, that indeed this could be constructed in this creative way envisioned in the legislation, that would be very efficient both to the government, but also efficient in terms of operation, very fast.

Senator THUNE. Under the competitive bid procedures that are outlined in the legislation, what is your assessment as to the num-

ber of qualified bidders? Would there be any shortage of those who would want to bid on the opportunity?

Mr. BOND. Yes, Mr. Chairman. I can assure you, based on interest expressed directly by a number of companies just at our association, that there is no shortage of interest in companies able and interested in pursuing exactly this kind of design.

Senator THUNE. Senator Jeffords.

Senator JEFFORDS. Mr. Florjancic, in your written testimony, you state that public access to electronic manifests would provide an advantage to your competitors because it may include business information. Do you think that limiting the public's access to information about toxic waste traveling through their neighborhood is justified because of financial considerations?

Mr. FLORJANCIC. Senator, I believe that real-time information can be made available to certainly the regulating areas, both State and Federal, and the public can have access under the Freedom of Information Act. But I believe in the State of California, in particular, let me cite how they handle the confidential business information of customer lists, et cetera. That is what I am concerned about:

"The department shall make [available] all of the information in quarterly reports submitted pursuant to this subdivision, available to the public through its usual means of disclosure. . . ." [each State has their own methodology] ". . . except that the department shall not disclose the association between any specific transporter and specific generator. The list of generators served by a transporter shall be deemed to be a trade secret and confidential business information . . ." for various purposes.

So even under the current paper manifest system in existence, the States have taken care of that issue. California even has it in their statute. So all we were concerned about, Senator, was protecting the confidential trade secret customer information.

In terms of the actual hazardous waste being transported, that is not an issue.

Senator JEFFORDS. How will the electronic manifest system impact your company's handling of hazardous waste?

Mr. FLORJANCIC. Really, the physical handling of the waste would not be impeded whatsoever. It would continue to be handled in the same way that we currently do it, meeting both State and Federal regulations. It would simply allow us to more effectively transmit information to the appropriate regulators and the originators of the waste.

Senator JEFFORDS. Mr. Bond, EPA will maintain the Web site for the electronic manifest system. As we all know, sometimes computer servers fail. Would hazardous waste generators, transporters and receiving facilities that use electronic manifests delay transporting waste? Or would they temporarily revert to the paper manifest system?

Mr. BOND. Well, a couple of points, one that I learned this morning from listening, and one technological point, learning this morning that the paper would go with the cargo. You have one redundant backup there. But then as a technological matter, for something this important, certainly it is not at all difficult to have a mirrored site and a backup and so forth, so that electronic recovery can be very, very rapid.

If I could, Senator, too, to your question asked of the other panel, I just wanted to observe that the concerns about business proprietary information are real. Certainly, our members had those concerns as contractors with government, too. I just wanted to observe that if you imagine a data base with all of the information of the e-Manifest system here, EPA may be able to pull all of the information out of that data base, including proprietary information they may need to see.

On this side, the public would pull less information out of that, so that you can take out the proprietary information. Indeed, you would have perhaps some homeland security issues to think about what you would even want on the public-facing side of that. But it is technologically very easy to take care of both concerns, make sure EPA has all the detail they need, then the public has what they need as well.

Senator JEFFORDS. Under the electronic manifest system, how would regulated parties certify that they received the hazardous waste or sent it offsite?

Mr. BOND. Let's see. The digital signature would authorize and authenticate at both ends of the process, just as is done in millions of financial transactions every day. There are different technologies for and levels of encryption for that so that it is secure and done in an electronic method so that it is instantaneous.

Senator JEFFORDS. Thank you.

Mr. BOND. Yes, thank you.

Senator THUNE. Thank you, Senator Jeffords.

I just want to point out that I have a copy here of what is a paper manifest which seems to me that, for the number of transactions and the number of times each company like Safety-Kleen and others around the country have to keep track of this, at a cost of almost a \$½billion annually, that in light of the technology that we have today, a paper-driven system really is kind of a dinosaur. I think it really is time that we transition effectively to an electronic system.

I appreciate very much the testimony of this panel, as well as the one before in terms of some of the parameters about proceeding with that. We are obviously open to suggestions on improvement in the bill, but we think the bill provides a great starting point. Hopefully before it is all said and done, we will be able to move it forward and get it passed.

We will keep the record open for at least a week for any additional comments that anyone would like to include for the record, but this will serve as the public record with respect to the bill. Hopefully, as I said, this is something that it seems to me at least in terms of issues that we deal with here in the Congress, which in many cases have a great deal of controversy, this seems to be fairly noncontroversial. If we can come up with a way of moving it fairly quickly through here and getting this process up and going, I think the sooner the better.

So thank you all very much for your testimony. Senator Jeffords, congratulations again and thank you for your very distinguished service on this committee and advocacy on the issues that come before it.

With that, the hearing is adjourned.

[Whereupon, at 10:38 a.m. the subcommittee was adjourned.]
 [Additional statements submitted for the record follow.]

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE
 STATE OF NEW JERSEY

Mr. Chairman, thank you for holding today's hearing on S. 3871, a way to electronically track hazardous waste as we move it—and safely get rid of it—across the country. S. 3871 would create a virtual manifest to track the hazardous waste we relocate and discard of across America. Coming from the computer world, I see the economy, transparency and power in that idea. Electronic manifests could make our paper-based system more secure, accurate and accessible to the public. But as we move our hazmat tracking into the modern age, we must make sure that age-old problems with data do not plague us.

First, data needs protection. Virtual records—even more so than paper ones—can be lost. Second, people need access to data. First responders need it quickly and reliably—and people with and without computers also need it equally. Third, good data can prevent bad accidents from taking place. One reason we track hazardous waste from its cradle to its grave is to prevent the birth of new Superfund sites.

The Nation already has 1,200—more than 110 in New Jersey alone. Neither New Jersey nor our Nation needs more. If we know more about the whereabouts of our waste, the less chance they have of causing us or our environment harm. I hope today's witnesses will address these concerns and recommend changes to strengthen the bill before us.

Now, let me make two more comments on Superfund. This week—after requests from myself and others—the Ringwood Mines Superfund site in New Jersey was added back to the National Priorities List. I appreciate the EPA's action and hope it will ensure that the site is cleaned quickly to protect Ringwood's residents from toxic pollutants.

In September, the Chairman and Ranking Member of our subcommittee urged the EPA Administrator to develop a plan to deal with Superfund sites where men, women and children are exposed to uncontrolled contaminants. New Jersey has 14 of these sites. Let me thank Senators Thune and Boxer for their support, and urge the EPA to make the uncontrolled exposure sites a top priority.

STATEMENT OF SUSAN PARKER BONDINE, ASSISTANT ADMINISTRATOR, OFFICE OF
 SOLID WASTE AND EMERGENCY RESPONSE, U.S. ENVIRONMENTAL PROTECTION
 AGENCY

Good morning, Mr. Chairman and members of the committee. I am Susan Parker Bodine, Assistant Administrator for EPA's Office of Solid Waste and Emergency Response. I am pleased to be here today to discuss tracking hazardous waste shipments under the Resource Conservation and Recovery Act (RCRA). In particular, I will focus my remarks on the efforts underway at EPA to establish a national electronic manifest system, or e-Manifest, to track hazardous waste shipments more effectively and efficiently.

I will summarize EPA's current authority to track hazardous waste shipments under RCRA, and the paper-based manifest system that EPA and the Department of Transportation (DOT) established more than 25 years ago. In addition, I will describe EPA's ongoing efforts to revise and modernize the manifest system, including the effort underway to transition the manifest system from one that is very paper-intensive and burdensome to a system that will rely on information technology to track waste shipments. Finally, I will discuss the new statutory authorities that EPA will need in order to establish a national e-Manifest system that will meet our needs and the needs identified by our stakeholders.

EPA supports Chairman Thune's efforts and I look forward to working with the committee to address any issues that may arise as the bill moves through the legislative process.

HAZARDOUS WASTE CONTROL AND THE RCRA MANIFEST SYSTEM

Subtitle C of the Resource Conservation and Recovery Act establishes the statutory framework for the regulation of hazardous wastes. Pursuant to this, EPA has developed a comprehensive regulatory system prescribing "cradle-to-grave" controls on the generation, transportation, storage, and disposal of hazardous waste. As a threshold level of protection, Subtitle C of RCRA required that EPA establish a manifest system to ensure that hazardous wastes are designated for, and indeed arrive at, designated hazardous waste management facilities. The manifest require-

ment was the congressional answer to episodes of “midnight dumping” in the hazardous waste transportation and management industries.

The manifest effectuates the very important function in our “cradle-to-grave” waste management system of documenting that the hazardous waste shipments that originate at a specific “cradle” or generator site arrive intact at the selected “grave” or waste management facility. The manifest collects information about the quantity, composition, origin, and destination of all hazardous waste shipments. The manifest also documents the actual chain of custody for a waste shipment, by recording in turn the signatures of the generator, the transporters, and the receiving facility responsible for handling the waste.

Under Section 3003(b) of RCRA, EPA is required to coordinate our waste transportation regulations with the Department of Transportation (DOT). This requirement exists in order to minimize duplication and ensure consistency between RCRA’s hazardous waste transportation requirements and DOT’s hazardous materials regulations. EPA’s coordination with DOT has resulted in completing a hazardous waste manifest that assures compliance with DOT’s requirements for completing a hazardous materials shipping paper.

The manifest system stems from the so-called Uniform Manifest that EPA and DOT issued jointly in 1984. The Uniform Manifest is a multi-copy form that generators of hazardous waste must complete before hazardous wastes can be shipped off-site. There are minimal Federal requirements that apply to all manifests. First, the generator is responsible for entering information that describes its wastes and that identifies the transporters and the waste management facility that will receive the waste. The manifest form is then physically carried with the waste shipment, and with each change of custody that occurs during transportation, a signature is obtained from the waste handler receiving custody. Each waste handler that signs the manifest must also retain a signed copy of the form among its company records to document its compliance. Finally, when the waste arrives at the designated waste management facility, that facility must sign the manifest and either verify that all the hazardous waste types and quantities were received, or identify any discrepancies. This final copy verifying receipts must then be sent to the generator, so that the generator receives confirmation of receipt by the designated facility.

Authorized State programs may require the submission of one or more manifest copies so that the data may be entered into the States’ tracking systems. There are currently 24 such States that collect manifest copies, and these States use manifest data for program management, revenue collection, and enforcement purposes. The States that collect manifest copies generally must enter the data manually into their tracking systems. All the manual processing steps described above add up to a very significant paperwork burden. We estimate that each year, hazardous waste generators prepare 2.4 to 5.1 million manifest forms, and that the completion and processing of all these forms results in an annual paperwork burden of between \$200 million and \$500 million.

BENEFITS OF AN E-MANIFEST SYSTEM

EPA believes there are very significant benefits of an e-Manifest system—both cost savings and program efficiencies for the regulated community and regulators.

One benefit of moving to an e-Manifest system is the cost savings that will result to manifest users and to the State agencies that collect manifests and process their data. When EPA began analyzing the business case for e-Manifest several years ago, we projected that an e-Manifest system that handled 75 percent of the current manifest traffic electronically could result in annual net savings of approximately \$100 million to users and to State agencies. Again, these substantial cost savings result primarily from eliminating all of the manual processing steps that are necessary to support the completion, carrying, signing, filing, and mailing of paper manifests and data.

However, a variety of other significant benefits also would be realized that are equally important, if not more important, to the hazardous waste program. An e-Manifest system would improve the overall effectiveness of the national hazardous waste tracking system and thus, provide increased protection to human health and the environment. I would like to highlight a few of these benefits.

First, we would expect that the e-Manifest would produce better quality data and more timely information on waste shipments. The e-Manifest could be developed with automatic quality checks that would identify data entry errors, and we would likely avoid many of the data interpretation errors that result currently from illegible handwritten entries or from illegible copies.

Second, the e-Manifest system would make it possible to have nearly real-time tracking capabilities for waste shipments. Users could check the status of shipments

as needed, and would no longer need to wait 30 days or more for paper copies to be mailed and processed before they could determine if their hazardous waste shipments have been delivered. This electronic tracking capability would also provide much more rapid notification of any discrepancies, delays, or other problems connected with a particular shipment.

Third, users could rely on the national e-Manifest system as their single point of contact for both their Federal and State-required manifest data reporting. Since all States would be linked to the e-Manifest network, the submission of one e-Manifest to the national system also would supply necessary copies to all appropriate State programs. Thus, there would be one-stop reporting of manifest data.

Fourth, the e-Manifest system, with its ability to provide a single point of contact for transmitting and storing manifests, also would support enhanced inspection and enforcement capabilities. Federal or State regulators conceivably could inspect a facility's manifests and shipment data quite readily without having to go on-site for a labor-intensive inspection of paper records. Regulatory program management also would benefit by having access to manifest data that can be imported easily into a Federal or State Agency's tracking system, without having to re-enter data from paper forms.

Finally, the full implementation of e-Manifest could foster new data management possibilities, such as simplification or consolidation of existing requirements and systems for biennial reporting of hazardous waste data, for reporting of hazardous waste export and import data, and possible consolidation or streamlining of duplicative Federal and State tracking systems.

MANIFEST PROGRAM REVISIONS

Over the years, EPA has sought to improve the current manifest system. In May 2001, EPA proposed significant revisions to the manifest system. These proposed changes were motivated by EPA's desire to reduce the substantial paperwork burden that resulted under the 1984 Uniform Manifest requirements, as well as to enhance the effectiveness of the manifest as a means to track hazardous waste shipments. A key shortcoming of the 1984 Uniform Manifest was that it was not truly uniform. The Uniform Manifest included 11 "optional" data fields that authorized States could elect to incorporate into their State-specific manifest forms. Some 24 States in fact printed and distributed their distinct manifest forms, and generators were required to obtain the forms from either the State to which they shipped their waste, or from the State where the waste was generated. Thus, rather than having a truly "uniform" manifest, we instead had a system that featured many distinct manifest forms, which varied from State to State.

Therefore, the May 2001 proposed Manifest Revisions Rule included two distinct components: (1) proposed form revisions aimed at fully standardizing the manifest form; and (2) proposed electronic manifesting standards aimed at automating the exchange of manifest data and eliminating, as far as possible, the manual processes involved with using paper forms. The proposed form revisions met with strong support from public commenters, and a final rule announcing a fully standardized hazardous waste manifest was published in March 2004. The new standardized manifest form just went into effect on September 5 of this year. Now, everyone is using the same manifest form, and the optional fields that resulted in variability among manifest forms have been eliminated. This standardized manifest form also is an important first step in the establishment of an electronic manifest, since an electronic manifest would not be feasible to implement without a standardized format for the exchange of manifest data.

While EPA enjoyed success with standardizing the paper manifest form, the electronic manifesting standards proposed in May 2001 generated a number of concerns from public commenters. The 2001 proposal suggested a decentralized approach to electronic manifesting, under which EPA would issue standards to govern the development of manifest systems by various private sector entities. Public commenters suggested that EPA's proposed decentralized approach was not cost-effective, as it would likely result in inconsistent proprietary systems being developed that could not communicate with each other nor provide the necessary data security. These comments expressed a strong preference for an alternative e-Manifest approach that featured one consistent, centralized and secure system for completing and transmitting electronic manifests.

As a result of these comment, EPA engaged in additional analysis of options and outreach with stakeholders before deciding on the future direction of the e-Manifest project. Therefore, in May 2004, EPA conducted a national stakeholders meeting to have a broader discussion of system alternatives, policy and technical issues, and funding options. Based on that input and feedback, and based on other discussions

with interested parties since May 2004, the Agency has been exploring how it could develop and fund an e-Manifest system that would be centralized, secure, and sustainable, so that the regulators and users might realize the many benefits that are possible under an electronic system.

A SUSTAINABLE E-MANIFEST

EPA is convinced that a fee-based, centralized e-Manifest system has the greatest likelihood of succeeding. Because the manifest users would actually enjoy the greater part of the benefits and cost savings that would result from using the e-Manifest, it seems fitting to the Agency and to the users themselves that the manifest users should fund the system development and operation costs. In addition, EPA already has the capability to host the e-Manifest system on the Agency's electronic reporting architecture known as the Central Data Exchange or CDX. Using EPA's CDX electronic reporting hub would ensure the legal validity and integrity of any e-Manifest records that would be transmitted. Further, this EPA system already has established links to networks operated by EPA and the States as part of the Environmental Information Exchange Network.

In early 2005, EPA sought to fund the development of the e-Manifest system under the Electronic Government Act of 2002 which authorized, on a pilot basis, a new contracting approach for Federal information technology (IT) projects. The General Services Administration (GSA) was authorized to manage the program, and we worked closely with GSA to formulate a project plan and a procurement action for developing e-Manifest. Unfortunately, we were not able to complete the e-Manifest procurement activity before the expiration of the pilot authority in September 2005. EPA's final e-Manifest rule was not yet completed and issues remained about the legal sufficiency of the E-Gov Act provisions as a basis for EPA collecting and retaining user fees.

STATUTORY AUTHORITY

EPA's efforts in 2005 to initiate a fee-funded e-Manifest procurement under the pilot program helped us better understand what authorities were needed to pursue such an approach. First, legislation should authorize EPA to collect, retain, and use the fees collected to pay the costs associated with the development, operation, support, management, and future upgrade or enhancement of the e-Manifest system. This authorization should explicitly provide that the monies collected as user fees are available to EPA to use for the payment of e-Manifest system costs, without fiscal year limitation. Second, legislation should contain contracting provisions for e-Manifest that would authorize a performance-based contracting approach similar to the pilot program approach that was authorized in the Electronic Government Act of 2002. This would enable EPA and the IT vendor to enter into a procurement relationship under which the vendor would develop and operate a system meeting EPA's performance objectives.

Third, legislation should include provisions that will ensure that the e-Manifest system and the authorizing regulations developed by EPA could be implemented in all States. The e-Manifest can be successful as a cost savings project for users and a profitable venture for vendors only if it is assured that the e-Manifest will be implemented consistently in the States. The e-Manifest will not be successful if some States choose not to recognize the validity of electronic manifests, or if some States require a paper manifest to be completed in addition to an e-Manifest. Similarly, EPA believes that the e-Manifest should be effective in all States as a Federal requirement on the effective date designated in the authorizing regulation.

Thereafter, as authorized State programs revise their regulations to adopt e-Manifest and become authorized for this program modification, the e-Manifest would become effective as well under State law. However, to avoid confusion for users, and to assure that the IT vendor developing e-Manifest has a stable market, we need to be sure that e-Manifest will be effective as a Federal requirement on the same date in all States.

CONCLUSION

In summary, EPA supports the enactment of legislation that would allow EPA to establish a national e-Manifest system. We believe that such an electronic system can produce better tracking services for our citizens, better data for informed policy decisions and program management, greater accountability for how hazardous wastes are transported and managed, and provide cost savings to both the e-Manifest users and regulators. EPA looks forward to working with Congress to develop legislation which would provide EPA with the appropriate authorities to help us ac-

compish these goals and to provide for the development of an efficient, effective e-Manifest system.

RESPONSES BY SUSAN PARKER BODINE TO ADDITIONAL QUESTIONS FROM
SENATOR JEFFORDS

Question 1. Questions regarding the Solvent-Contaminated Industrial Wipes Proposed Rule (68 FR 65586) What is the status of the rule?

Response. The proposed rule was published in the Federal Register for notice and comment on November 20, 2003 (68 FR 65586). The comment period closed in April 2004.

The U.S. Environmental Protection Agency (EPA) received numerous comments both supporting and raising issues with the proposed rule. In particular, EPA received a number of comments about the risk assessment supporting the proposal. To respond to these comments, EPA believes it is necessary to revise the risk assessment. We plan to publish a "Notice of Data Availability" (NODA) requesting review and comment on the revised risk assessment once it is completed. We continue to work on those issues not directly affected by the risk assessment so that we can complete the final rule as quickly as possible after receiving comments on the risk assessment.

Question 2. Under the rule, what are the conditions for excluding solvent contaminated reusable wipes from the definition of solid waste under RCRA? What are the conditions for excluding solvent contaminated disposable wipes from the definition of hazardous waste under RCRA?

Response. EPA is currently revising the risk assessment, and plans to make it available for comment before publishing a final rule. Therefore, it would be premature to speculate what conditions will be in the final rule as EPA is continuing to work through the process to finalize the conditions. EPA will thoroughly consider the numerous comments received both supporting and raising issues on the proposed rule as the final rule is promulgated.

The proposed rule contained the following conditions for reusable wipes:

- accumulate, store, and manage the wipes on-site in covered, nonleaking containers;
- transport the wipes off-site in containers that are designed, constructed, and managed to minimize loss to the environment; and
- containers of wipes sent to a laundry must not contain free liquids.

The proposed rule contained the following conditions for disposable wipes:

- accumulate, store, and manage the wipes on-site in covered, nonleaking containers;
- transport the wipes off-site in containers that are designed, constructed, and managed to minimize loss to the environment;
- transport the wipes in containers labeled "Exempt Solvent-Contaminated Wipes."
- ensure that the wipes transported to a municipal waste landfill or other non-hazardous waste landfill contain less than 5 grams of solvent each, or been treated by solvent extraction; and
- the disposable wipes must not contain 11 solvents identified in the risk assessment for posing a risk or identified as a Toxicity Characteristic solvent.

Question 3. How will the EPA and the States ensure that the conditions for both exclusions will be met?

Response. EPA and States authorized to implement the hazardous wastes regulations have the authority to take enforcement action if persons managing the wipes fail to comply with one or more of the conditions of the exclusion. Both EPA and the authorized States have a range of enforcement mechanisms available to respond to violations of the hazardous waste regulations. Please refer to the preamble of the proposed rule for a more detailed discussion on enforcement (See 68 FR 65607).

Question 4. Will the rule provide any requirements that will protect workers handling these solvent contaminated wipes?

Response. As noted previously, it would be premature to speculate what conditions will be in the final rule. While the Occupational Safety and Health Administration is the Agency primarily responsible for worker protection, the proposed rule included conditions such as the requirement that wipes be stored in nonleaking covered containers, which would increase worker protection.

Question 5. Regarding laundry facilities that clean solvent contaminated wipes for reuse, does the EPA's risk analysis for this rule consider increased solvent dis-

charges in wastewater? If not, please explain why. Will the rule prohibit solvents from entering the wastewater stream?

Response. As noted previously, EPA continues to evaluate comments received on the solvent-contaminated industrial wipes proposal and the proposed risk assessment. EPA is currently revising the proposed risk assessment, and plans to make the revised risk assessment available for comment before publishing a final rule. EPA considered promulgating standards for industrial laundries under the Clean Water Act in the late 1990s, but chose not to do so. The proposed solvent-contaminated industrial wipes rule included conditions that were designed to minimize the quantity of solvent received on wipes at laundries. For example, the proposal included a “no free liquids” standard for wipes, and also requested comment on other approaches for minimizing solvent on wipes. Thus, the proposed rule should lead to reductions in solvents discharged by laundries.

RESPONSES BY SUSAN PARKER BODINE TO ADDITIONAL QUESTIONS FROM
SENATOR LAUTENBERG

Question 1a. Some States that support the concept of e-Manifests want to ensure that their use will be voluntary, and serve as a supplement, not a substitute for paper manifests. What is EPA’s position on whether e-Manifests should supplement, rather than replace paper manifests?

Response. The U.S. Environmental Protection Agency (EPA) believes that to implement the e-Manifest system nationally, it must be effective in all States. Thus, if a member of the regulated community elects to use an electronic manifest, then that electronic manifest would replace the paper manifest for purposes of compliance with RCRA requirements. However, the e-Manifest will not eliminate the need for a paper document entirely, because the e-Manifest will not change the U.S. Department of Transportation’s (DOT) shipping paper requirements—notably the requirement that a paper copy of a shipping paper be carried on the transport vehicle. This DOT requirement, however, could be satisfied by using the e-Manifest system to print a paper document for the transporter to carry on the transport vehicle.

Question 1b. Should the use of the e-Manifest system be voluntary?

Response. EPA’s regulatory workgroup will address the issue of whether the e-Manifest should be mandatory or optional in the final regulations that EPA will publish for e-Manifest. EPA has, in previous statements indicated that the e-Manifest would likely be optional for users. We also asked the public about this issue in an April 18, 2006, Notice of Data Availability. Comments generally supported making the e-Manifest an optional system, at least initially.

If EPA found that there were substantial benefits to other reporting requirements (e.g., biennial report), we might want to consider making e-Manifest mandatory for at least some classes of waste handlers, such as large quantity generators (LQGs) and/or treatment, storage, and disposal facilities (TSDFs). It should be noted that the definition of “use?” in S. 3871 suggests that the e-Manifest will be used at the election of the users.

Question 1c. How will the system work if some of the parties in the chain of custody of the waste are using a paper manifest system and others are using an e-Manifest system?

Response. EPA recognizes that there may be times when an electronic manifest cannot be passed to all the waste handlers involved in a waste shipment. Fundamentally, however, a TSDF must be able to receive and process electronic manifests, and either the generator or transporter should also have the capability to create or transmit an electronic manifest in order for the transaction to be initiated electronically. EPA’s regulatory workgroup will address how the system will work if one or more of the parties in the chain of custody of the waste are unable to use the e-Manifest system.

Question 2a. Does EPA have a firm estimate of the numbers of generators, transporters, and treatment and disposal operators that currently have to comply with the Resource Conservation and Recovery Act (RCRA) manifest requirements?

Response. EPA currently estimates that there are approximately 131,600 generators, 358 transporters, and 569 TSDFs that use the hazardous waste manifest as part of the RCRA program.

Question 2b. Does EPA know how many of those parties have the computers and other tools needed to participate in an e-Manifest program?

Response. While EPA does not have specific estimates of how many parties would have access to computers and other tools, it is expected that most hazardous waste generators have office desktop PCs with Internet capabilities. The e-Manifest will

be designed so that hazardous waste generators, transporters, and TSDFs can access the system through their Internet-enabled once desktop PCs or other portable devices. Further, we understand that some TSDF and transporter companies are already introducing portable devices and computer applications to their generator customers. We expect this will also be the case with e-Manifest, so that many generators will not need to have their own computer equipment to participate in the e-Manifest system.

Question 3a. Does EPA have an estimate of what it would cost to fully implement an e-Manifest system?

Response. On April 18, 2006, EPA published a Notice of data availability (NODA) and request for comment. EPA outlined the range of cost estimates based on a 2002 benefit-cost analysis conducted by Logistics Management Institute, Inc. (LMI) which is an expansion of LMI's October 2000 initial benefit-cost study in support of our May 22, 2001 proposed rule for the e-Manifest. The 2002 study estimates start-up costs for an e-Manifest system from \$2.0 million to \$7.0 million in the initial year, plus \$0.8 million to \$3.2 million per year for future annual operation and maintenance (O&M). In addition to this system cost, industrial facilities are expected to spend upwards of \$60.2 million to \$68.8 million, and State governments upwards of \$2.3 million to \$3.1 million, in start-up costs for modifying existing IT systems to process e-Manifests (assuming 100 percent participation in the centralized e-Manifest system). Industrial facilities and State governments also may spend upwards of \$32.2 million to \$37.0 million in annual future costs for apportionment of a fraction of existing business IT system costs for e-manifesting purposes. However, the expected average annual reduction in paperwork burden for handling the current paper manifest forms that e-Manifest will provide industrial facilities and State governments is expected to offset these costs by a net annual savings exceeding \$103 million per year.

Question 3b. Does EPA envision treating States as "users" for purposes of collecting a user fee to pay for the system?

Response. No. Several States commented on the April 2006 Notice of Data Availability and nearly all of these asked the question as to whether States would be considered "users" of the e-Manifest and therefore, subject to paying user fees when they accessed information from the system. EPA has since indicated to States that the term "users" refers to members of the regulated community who are required to use the manifest to track waste shipments, and not to Federal or State regulators or emergency responders who access the system to obtain manifests.

Question 4a. Concerns have been raised about the access of emergency responders to e-Manifest information. How does EPA plan to address that concern?

Response. As I discussed in a response to a question posed at the hearing, emergency responders will have access to the manifest information that they rely upon to discharge their responsibilities. First, transporters will still be required by DOT to carry a hard copy of the manifest or other hazardous materials shipping paper on the transport vehicle during the entire time that a hazardous waste shipment is in transportation. This requirement is in place to ensure that emergency responders can access information about the materials being transported in the event of an accident or other incident involving the vehicle that would require an emergency response. The hard copy of the manifest or other shipping paper will contain all of the appropriate information about the containers and materials that are involved in the shipment, including the DOT proper shipping name, hazard class, packing group, container information, and quantity of each material in the shipment. As this information will be available on a paper copy that will be accessible from the vehicle, access of the emergency responders to technology should not be a factor. Second, to the extent emergency responders need to access the e-Manifest system to obtain data on hazardous waste shipments, EPA does not intend to restrict in any way the access of emergency responders to the electronic data in the system. We discuss this further below in our answer to Question 5.

Question 4b. Do you think that there is a solution to that problem besides maintaining both a paper and an e-Manifest system?

Response. Currently, we do not know of a solution that would avoid the requirement to carry a paper copy of the manifest or shipping paper, as this is a DOT requirement under its hazardous materials regulations, or HMRs. DOT believes that it is essential that the transport vehicle carry a shipping paper that contains information that is accessible in a readable form to emergency responders who may be called upon to respond to an incident in remote locations or under adverse circumstances where technology is not available or operational. While EPA shares the concern that this will not allow for a completely paperless system, we believe that

the system can be designed and operated efficiently, and that users will realize substantial savings and benefits from being able to enter, transmit, receive, and process their manifest data through the electronic system.

Question 5a. What is the universe of parties that EPA envisions will have access to e-Manifest data? Will State regulators, enforcement officials and others have access?

Response. EPA envisions that the entities named on the manifest as having a role in the shipping, handling, transportation, or management of the hazardous waste shipment will have access to the e-Manifest data. Thus, the generator, transporter(s), and the designated TSDf named on each manifest will be provided access to the manifests, so that they can track the status of their hazardous waste shipments and receipts.

In addition, emergency responders and State and Federal regulators will have access to all manifest information in the system. This means that State and local police and fire officials, State and Federal regulators, State and Federal enforcement officials, and all other emergency responders will have unrestricted access to all the manifest copies and data that will be accessible from the e-Manifest system. This access is necessary to afford prompt and appropriate emergency response, and the necessary police and enforcement oversight of the hazardous waste and hazardous materials regulations, while providing Federal and State oversight agencies with data they need to manage their regulatory programs.

Question 5b. Will there be limits on public access to the data? If so, what will be the limits, and why?

Response. While EPA intends to provide unrestricted data access to regulators, enforcement officials, and emergency responders, EPA is considering the appropriate level of access to other members of the public. EPA has been advised by several parties that there are security and/or commercial concerns over providing immediate and unrestricted public access to all e-Manifest information. For example, some parties have advised EPA that there can be security risks posed from immediate unlimited access to information identifying the whereabouts and destination of certain high risk (e.g., explosive or highly flammable) materials, while they are in transportation. Further, members of the hazardous waste management industry have advised us that they are concerned that competitors might access manifest data to develop customer list information that could be used for competitive purposes.

EPA has not yet determined the appropriate level of access. EPA will consider this to be a regulatory issue that will be worked out by EPA and State participants as part of the regulatory workgroup process. If limits are imposed, they will be developed with the purpose of protecting the security or commercial interests that would be adversely affected by public disclosure.

Question 5c. In New Jersey, as well as other States, manifest data is public and is not treated as confidential business information (CBI). If EPA intends to classify manifest information as CBI, please explain the Agency's reasoning for doing so.

Response. EPA is aware that New Jersey and several other States do not treat manifest data as CBI. These States may do this, as they operate under their own statutes and regulations that address the availability of information. States generally do not need to have the same protections in place for CBI that EPA administers under Federal law for CBI. EPA is required to implement the Federal Trade Secrets Act, the Federal Freedom of Information Act, and the statutory protections included in RCRA for confidential business information. If EPA were to determine that manifest data submitted to EPA through the national e-Manifest system may be claimed to be CBI, it would be the result of applying Federal law addressing CBI to the facts and circumstances of manifest submissions, and whether the release of certain manifest data which might be claimed CBI could harm the competitive position of the claimant. Again, EPA intends to examine this issue as part of the regulatory process when we develop the final regulations on e-Manifest.

STATEMENT OF CHERYL T. COLEMAN, DIRECTOR, DIVISION OF COMPLIANCE AND ENFORCEMENT, SOUTH CAROLINA BUREAU OF LAND AND WASTE MANAGEMENT

Good Morning Chairman Thune, ranking member Boxer and Members of the Senate Committee on Environment and Public Works. I thank the committee for the opportunity to appear before you to discuss the addition of electronic hazardous waste manifests to the existing paper hazardous waste manifest system.

I am the director of the Division of Compliance and Enforcement in the Bureau of Land and Waste Management at the South Carolina Department of Health and Environmental Control. The Division of Compliance and Enforcement is responsible

for ensuring conformance with applicable regulations for management of hazardous, solid, infectious and radiological waste, as well as mining and reclamation, underground storage tank and Superfund activities in the State. Activities associated with these responsibilities include inspections of generators, transporters and treatment, storage and/or disposal facilities. Additionally, I serve as co-chairperson of the Hazardous Waste Subcommittee and chairperson of the Enforcement and Compliance Assurance Task Force for the Association of State and Territorial Solid Waste Management Officials (ASTSWMO).

The Resource Conservation and Recovery Act (RCRA), passed by Congress on October 21, 1976 established authority for EPA to develop a preventive system to control the growing volume of municipal and industrial waste through national goals designed to protect human health and the environment from potential hazards of these wastes; conserve energy and natural resources; reduce the volume of these wastes and ensure the wastes are managed in an environmentally sound manner. The hazardous waste program, managed under RCRA Subtitle C is a cradle to grave system designed to ensure appropriate management of these wastes from generation to disposal.

The hazardous waste manifest is an essential tool for monitoring and tracking hazardous waste from the time the waste leaves the generator facility where it was produced until it is delivered to the destination facility for storage, treatment and/or disposal. Both the Department of Transportation and EPA require the manifest. Each entity handling the waste as it is transported to its destination is required to sign and retain a copy of the manifest. This results in accountability and responsibility for all involved in the disposal process. Once the destination facility receives the waste, a signed copy of the manifest is returned to the generator, thus confirming proper delivery of the entire shipment.

EPA enables States to assume primary responsibility for implementing the RCRA hazardous waste program; and as such, most States have requested and received authorization for the core elements of the RCRA program. As an authorized State, South Carolina applauds the inclusion of electronic reporting of hazardous waste activities in the hazardous waste manifest system and fully supports this initial step in that process.

S. 3871 primarily focuses on the design of a system and does not identify a role for States other than membership on the proposed Hazardous Waste Electronic Manifest System Governing Board and the requirements for development of the regulations. As a supporter of the concept, South Carolina offers the following comments:

(1) S. 3871 should clearly state that participation in the electronic manifest reporting process is voluntary. Companies may be unable to submit this information electronically due to limitations with funding and technology.

(2) The definition of the term "user" should be clarified. The current definition could be interpreted to mean that use of the electronic manifest process is mandatory even though paragraph B indicates participation is voluntary. In addition, States accessing the information as part of the regulatory process could be considered "users" of the system and incur fees.

(3) The system should be designed in a manner that is inclusive of existing State regulatory programs and current manifest procedures and not require additional State financial resources.

(4) It is unclear if potential users will incur fees during the development stages.

(5) Paragraph (g) (B)(2)—Effective Date of Regulations states that regulations promulgated by the Administrator relating to electronic manifesting of hazardous waste shall take effect in each State as of the effective date specified in the regulation. States authorized to implement the RCRA program in lieu of EPA have State specific statutory requirements for promulgating regulations that may be inconsistent with the timeframe established in this paragraph. We respectfully request that this wording be modified to recognize State requirements for promulgation of regulations.

(6) S. 3871 does not address the importance of the manifest in the transportation phase for wastes sent for treatment, storage and/or disposal. Specifically, the bill does not identify how inspectors and/or emergency response personnel will be able to access electronic manifests to identify wastes in transit. This information is vital, particularly in the event of an emergency.

For example, there have been several incidents where emergency personnel responded to a spill of hazardous waste and the transport vehicle driver's English proficiency was limited. The absence of a paper manifest could have delayed or resulted in inappropriate response activities as it includes information needed for appropriate response activities.

(7) Electronic manifests would facilitate pre-inspection activities for State regulators. Because South Carolina, like many other States, does not receive copies of manifests, access to this information prior to the actual inspection would greatly enhance the inspection process.

(8) The regulations should not inhibit public access to the information.

In conclusion, we recognize that paragraphs five through eight can and should be more thoroughly addressed during the promulgation of regulations stage of this process. We wish to take this opportunity to emphasize the importance of including State representatives and strongly encourage the committee to include steps to ensure that States are active participants in subsequent phases of regulation development.

Thank you again for the opportunity to share this information with you this morning.

STATEMENT OF FREDERICK J. FLORJANCIC, JR., CEO AND PRESIDENT,
SAFETY-KLEEN SYSTEMS, INC.

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 4,500 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 83 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 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 2 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 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 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

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

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)(i) 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.

RESPONSES BY FREDERICK J. FLORJANCIC, JR., TO ADDITIONAL QUESTIONS FROM
SENATOR LAUTENBERG

Question 1a. Does Safety-Kleen think the e-Manifest system should be mandatory, once it is past the pilot phase?

Response. Safety-Kleen believes that the electronic manifest should be mandatory at some point in the future. We believe the best approach is to build the system and allow a certain time, say up to 2 years, for the system to be operated, tested, and improved. After that time, a formal decision process on whether to make the e-Manifest mandatory, that includes input from the regulated community, should be conducted. In our opinion, not making electronic manifests mandatory would reduce the savings that would be derived from mandatory electronic manifests.

Question 1b. Should the paper manifest system ultimately be dropped, entirely?

Response. Safety-Kleen believes that if the e-Manifest system is designed and operated properly there will be no need for the paper manifest. Our response to the above question addresses this in more detail.

Question 1c. How would you address the concern raised about access to e-Manifest data for first responders?

Response. Safety-Kleen wants to make sure that first responders have quick access to shipment information for their safety and for the protection of human health and the environment. We believe this information could be provided through one of

two options: (1) The vehicle is equipped with an electronic device that is portable and capable of providing the needed information on demand for emergency responders; or (2) The vehicle transporting the regulated material carries a paper, DOT approved, Bill of Lading. Either option will provide the first responders with the needed information to respond to an emergency.

Question 2. Concerns have been raised about the sufficiency of an e-Manifest system to back-up and not lose data. Could you address those concerns?

Response. Safety-Kleen believes that any e-Manifest system must have redundancy built into it so that the potential failure of one node would not eliminate vital information from the system. The type of IT architecture that can accomplish this is standard for critical applications throughout business and government.

Question 3. In New Jersey, as well as other States, manifest data is public and is not treated as confidential business information (CBI). Does Safety-Kleen support keeping manifest information submitted to EPA public, or classifying it as CBI? If you support classifying some or all of the manifest information as CBI, please explain what specific information and why it should be so classified.

Response. It is not Safety-Kleen's intention to exclude manifesting information from public review or to limit any access to any manifest information to the regulatory authorities. However, we are concerned that, if no limitations are placed upon the public availability of such information,—particularly when such information is available in real time—competitors will have immediate access to our customer list. All members of our industry commit significant time and resources to acquiring, servicing, and maintaining their customers. If competitors have instant access to that customer information, it could significantly affect their business. Accordingly, we recommend that generator information (generator name, address, EPA ID, and phone number) be maintained as confidential for a period of one year after the date on which waste is picked up. For security reasons, we also believe information on certain types of waste being shipped (for example, mixed wastes and wastes that could be vulnerable to terrorist threats) should not be publicly available until after the waste reaches its disposal destination. All information would be immediately available to first responders and Federal and State regulatory authorities as well as information that is not deemed confidential or sensitive. All other information would be released to the public through a more deliberate process consistent with existing laws and regulations concerning the release of information to the public.

STATEMENT OF PHILLIP J. BOND, PRESIDENT AND CEO ON BEHALF OF THE
INFORMATION TECHNOLOGY ASSOCIATION OF AMERICA

Mr. Chairman, distinguished Senators, on behalf of ITAA's 325 corporate members, I'd like to thank you for inviting us to share our perspective on allowing electronic tracking of hazardous waste. I'd also like to take this opportunity to thank you for your continued leadership to amend the Resource Conservation and Recovery Act (RCRA) in order to make such a system possible.

The legislation before the subcommittee today is a creative approach to solving a problem on behalf of the U.S. taxpayer. Information technology drives innovation throughout the national and global economies. Throughout the economy, we see IT streamlining processes and making them more efficient. We see no reason why IT cannot streamline this reporting requirement while simultaneously enhancing our national security.

Our understanding is that EPA requires shippers to include the Uniform Manifest with hazardous waste shipments for two purposes. First, that information is needed by emergency responders in the event of an incident. Second, it allows the government to track every shipment all the way to the final disposal facility. Both are critical environmental, as well as national security goals.

Yet in this high-tech age, the paperwork burden from this process is enormous. In fact, it is the most expensive such burden that the EPA imposes under the Federal hazardous waste law. Further, EPA's economic analysis estimates that over 92,000 regulated entities annually track 2.4 million shipments a year.

Each manifest form has seven or eight copies. Each of those copies must be manually filled out and signed with pen and ink signatures; physically carried with waste shipments; mailed to generators and State agencies; and finally, stored among facility records. Finally, some States charge a fee to help pay the cost of supplying paper forms and to defray the costs of processing the paper copies and converting the data into a useful, electronic format. To put it simply, this process is straight out of the last century—and it is just too costly, too manpower intensive, too cumbersome and too time consuming.

And, perhaps most importantly, because of the administrative burden, this information is not getting where it needs to go. Currently, 22 States and the EPA do not even collect copies. Those States that do receive copies often simply store them without review.

An e-Manifest system would solve all of these problems and greatly enhance capability where it currently does not exist. It would help States—and the public—receive data more readily in a format they can use. Members of this committee and other national policymakers would know exponentially more about hazardous waste transportation in this country than they do today. And it is estimated that it would save over \$100 million every year.

A national e-Manifest would also produce homeland security benefits. To know the nature of a shipment, its location, and the parties involved would take minutes or seconds instead of weeks. If a shipment were diverted for some sinister purpose or if a highly sensitive shipment were delayed because of mechanical failure or road or weather conditions, we can know this and be alerted in time to respond and do something about it.

Authentication is another issue to consider, but it is hardly an insurmountable problem in the 21st century. Congress itself accepts digital signatures as a secure way of authenticating electronic documents. Lobbying reports are required to be submitted on-line and are authenticated by digital signatures. Electronic signatures are also now widely accepted throughout the financial, legal and insurance sectors. And, an electronic process assured through the use of digital signatures would be more secure, not less secure, than the paper-based manifest process employed today.

Your proposal is an elegant solution to an ugly problem, and we commend you for your innovative 21st Century approach. Under this legislation, the EPA would be authorized to develop requirements and conduct a competitive bid. Bidding companies would be asked to create—at their own expense—proposed solutions for an e-Manifest service. The winning bidder would be paid for their investment through a user fee established as part of the initiative by EPA.

This procurement could allow industry to make the initial investment in a solution while providing for a potential premium in return. The legislation allows private industry to share both risk and reward. Operational funding, capital costs and EPA administrative costs for the e-Manifest system would also be generated from the fee. Without the legislation that you are considering, the fees collected would be considered Federal revenues and prohibited from such uses. As we mentioned earlier, fees are already being collected to cover the cost of the manifest management process today, so we are not creating a new burden on the shippers or the government entities that must keep track of these shipments.

Finally, I'd like to note that this legislation upholds the broader aims of e-Government. It makes a bureaucratic government process more efficient and enhances security along the way. It makes government better at what it does for the American people. All in a fiscally responsible manner. Which, from where I sit today, sounds like good government of, by and for the people.

Thank you.



444 North Capitol Street, N.W., Suite 315
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 tel: (202) 624-5828 fax: (202) 624-7875
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September 25, 2006

The Honorable John Thune
 Chairman
 Subcommittee on Superfund and
 Waste Management
 Environment and Public
 Works Committee
 United States Senate
 SD-410 Dirksen Senate Office Bldg.
 Washington, DC 20510-6175

The Honorable Barbara Boxer
 Ranking Minority Member
 Subcommittee on Superfund and
 Waste Management
 Environment and Public
 Works Committee
 United States Senate
 SD-456 Dirksen Senate Office Bldg.
 Washington, DC 20510-6175

Dear Chairman Thune and Senator Boxer:

The purpose of this letter is to share the views of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) regarding the future use of electronic hazardous waste manifests, and to comment briefly on the current legislative vehicle, S. 3871. ASTSWMO is a non-partisan, non-profit association of State hazardous and solid waste, remediation, and underground storage tank program managers. Our members implement these vital environmental protection programs, and have done so for many years. We believe this provides us with a special perspective as State implementers, and we would like to share our views on this important legislation with you, the leadership of the authorizing Subcommittee.

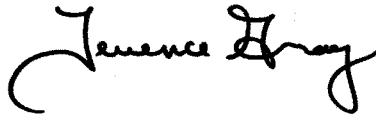
Although we have not focused specifically on the details of S. 3871 as it was developed, we can assure you that our members are overall in favor of adding the electronic manifest dimension to the existing system of paper hazardous waste manifests essential to the management and enforcement of the nation's hazardous waste management program conducted under the authority of the Resource Conservation and Recovery Act (RCRA). It is appropriate, many would say overdue, in this 21st Century economy to have the capability of using electronic reporting for such a tracking system, and we are supportive of your efforts to initiate this process.

It is our understanding that S. 3871 is the necessary first step in designing the detailed system for electronic manifesting, and for that reason we think it should go forward. Candidly, most of the bill's provisions deal in areas outside our expertise, and State participation is not really addressed other than in membership on the proposed governing board, and in the description of how regulations are to be developed – both very positive features. Our primary State interest will be the steps that will follow this authorizing legislation, when detailed regulations will be developed to implement the new electronic manifest system for RCRA and our own equivalent State hazardous waste programs. As RCRA co-regulators, we expect to be an integral part of that regulatory development process, and believe we will contribute materially to the quality of EPA's final rules. As you know from your positions on this Subcommittee, States implement RCRA, with virtually all States authorized to implement the base program including manifests. Our State hazardous waste management and information managers fully understand this process, and its importance to safe handling of hazardous waste.

We also have strong interest in ensuring that implementation fully incorporates our State regulatory programs and existing electronic manifesting procedures, and does not come at added cost or burden-shift to already resource-stressed State programs. Federal resource support for the hazardous waste assistance STAG grants has been flat-funded for years, with an actual loss in purchase power to inflation. We want to ensure that the new implementing regulations are effective and do not compromise the States' ability to access in a timely manner the information required to enforce all provisions of their existing manifest systems and overall hazardous waste programs. Neither should the regulations impede States' ability to make information available to the public. We are certain that you share those same objectives. Our members will also wish to be certain that any authorization steps required by these new regulations allow us to continue to operate existing State manifest procedures in a seamless transition.

In summary, we understand that this legislation is an essential step in that path to electronic manifesting, and so it has our support. We thank the sponsors and the Subcommittee's leadership for your efforts to move this process along and take this important aspect of hazardous waste management into the 21st Century.

Respectfully,

A handwritten signature in black ink, appearing to read "Terrence Gray". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Terrence Gray
ASTSWMO President

cc for:

The Honorable James M. Inhofe
Chairman
Environment and Public Works Committee
United States Senate
SD-410 Dirksen Senate Office Building
Washington, DC 20510-6175

The Honorable James M. Jeffords
Ranking Minority Member
Environment and Public Works Committee
United States Senate
SD-456 Dirksen Senate Office Building
Washington, DC 20510-6175



Environmental Technology Council

734 15th Street, N.W. • Suite 720 • Washington, DC 20005 • (202) 783-0870

September 8, 2006

Senator John Thune
U.S. Senate
Washington, DC 20510

Dear Senator:

On behalf of the Environmental Technology Council, I write to thank you for your leadership in introducing S. 3871, the Hazardous Waste Electronic Manifest Act. The tracking of hazardous waste is the most expensive continuous paperwork burden imposed under Federal environmental laws. An electronic system would provide numerous benefits to industry, regulators and the public.

EPA's economic analysis estimates that over 92,000 regulated entities annually track 2.4 million shipments a year. Each manifest form has six copies, which currently must be filled out and signed with pen and ink signatures, physically carried with waste shipments, mailed to generators and state agencies, and finally stored among facility records. Currently, 22 states and the EPA do not even collect copies because the paperwork burden is too overwhelming, and those states that receive copies often just store them without review.

The e-manifest would remove a tremendous paperwork burden, assist the states in receiving data more readily in a format they can use, improve the public's access to waste shipment information and save over \$100 million every year. It is entirely possible that a national e-manifest would also produce homeland security benefits, since the current paper manifest system takes weeks to provide basic verification to generators or regulators that a waste shipment has been completed, while an e-manifest system would provide electronic tracking on a real-time basis.

Your bill would allow IT vendors at their own risk and expense to develop an e-manifest system. A fee on users, including the waste industry that we represent, would reimburse the private entity on a per-manifest basis. The private entity would need to meet the needs of industry users of the manifest or it would risk its investment or cut into its expected profit. Your bill authorizes the fees collected from such a system to be used to operate and maintain the electronic manifest system. Without S. 3871, the only practical alternative is keeping the antiquated paper system.

Again, we want to thank you for your leadership and look forward to working with you to bring the electronic manifest system into reality.

Very truly yours,

[original signed]

Scott Maris
President



The Honorable John R. Thune
U.S. Senate
383 Russell Senate Office Building
Washington, DC 20510

Dear Senator Thune:

On behalf of the Information Technology Association of America¹, I write to express our support for S. 3871 – the Hazardous Waste Electronic Manifest Establishment - and to thank you for your continued leadership to amend the Resource Conservation and Recovery Act (RCRA) to allow the electronic rather than the paper tracking of hazardous waste. Information technology is a leader of innovation in every arena and there is no reason that IT cannot also be put to use to streamline this reporting requirement while enhancing the security of the materials being transported.

RCRA provides for the tracking of hazardous wastes from “cradle to grave” but the most expensive continuous paperwork burden that Environmental Protection Agency (EPA) imposes under the Federal hazardous waste law is the Uniform Manifest for tracking hazardous waste. EPA requires that the Uniform Manifest accompany hazardous waste shipments to provide information to emergency responders and to track every shipment all the way to the final disposal facility. The paperwork burden from this system is enormous. EPA’s economic analysis estimates that over 92,000 regulated entities annually track 2.4 million shipments a year. Each manifest form has seven or eight copies, which currently must be manually filled out and signed with pen and ink signatures, physically carried with waste shipments, mailed to generators and state agencies, and finally stored among facility records. Some states charge a fee to help pay the cost of supplying paper forms and to defray the costs of processing the paper copies and converting the data into a useful, electronic format. Currently, 22 states and the EPA do not even collect copies because the paperwork burden is too overwhelming, and those states that receive copies often just store them without review.

¹ ITAA provides global public policy, business networking, and national leadership to promote the continued rapid growth of the IT industry. ITAA consists of over 330 corporate members throughout the U.S. and a global network of 67 countries’ IT associations. The Association plays the leading role in issues of IT industry concern, including information security, taxes and finance policy, digital intellectual property protection, telecommunications competition, workforce and education, immigration, online privacy and consumer protection, government IT procurement, human resources and e-commerce policy. ITAA members range from the smallest IT start-ups to industry leaders in the Internet, software, IT services, SaaS, digital content, systems integration, telecommunications, and enterprise solution fields



An e-manifest system would remove a tremendous paperwork burden, assist the states in receiving data more readily in a format they can use, improve the public's access to waste shipment information and save over \$100 million every year. A national e-manifest would also produce homeland security benefits, since the current paper manifest system takes weeks to provide basic information. The nature of a shipment, the location of a shipment and verification to generators or regulators that a waste shipment has been completed would all be automated and available on a real-time basis with an e-manifest system.

The ITAA commends you for the innovative approach whereby the EPA would be authorized to develop requirements and conduct a competitive bid asking companies to create at their own expense proposed solutions for an e-manifest service. The winning bidder, which may include a teaming solution, would be paid for their investment through a user fee established as part of the initiative by EPA. Operational funding, capital costs and EPA administrative costs for the e-manifest system would also be generated from the fee. Without the legislation that you are considering, the fees collected through usage of the e-manifest service would be considered federal revenues and prohibited from the use described above. Your advocacy for this common sense, taxpayer friendly funding solution is indispensable to the e-manifest initiative.

The establishment of an e-manifest program has support of the states, generators, transporters, environmental groups and the waste management industry. All these groups know that opening up RCRA can be problematic because many would like the opportunity to make other, much more controversial and contradictory changes to that statute. Therefore, on behalf of the ITAA, I commend you for your innovative approach to deploying Information Technology to meet a critical need of the government and the public and to support this narrow change to RCRA to allow for a self-funded electronic manifest program.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "P. Bond", written over a horizontal line.

Phillip J. Bond
President and CEO

PaulHastings
ATTORNEYS

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September 11, 2006

VIA ELECTRONIC MAIL

The Honorable John Thune
United States Senate SR-383
Washington, D.C. 20510

Re: **Support for S. 3871**

Dear Senator Thune:

On behalf of many of the hazardous waste transportation, treatment, storage and disposal facilities I represent in California, I am writing to thank you for your leadership in introducing S. 3871, the Hazardous Waste Electronic Manifest Act. The most expensive and continuous paperwork burden that the U.S. Environmental Protection Agency ("EPA") imposes under the Resource Conservation and Recovery Act is the Uniform Hazardous Waste Manifest for tracking shipments of hazardous waste. An electronic system will provide numerous benefits to the hazardous waste industry, regulatory agencies and the public.

EPA's economic analysis estimates that over 92,000 regulated entities annually track 2.4 million hazardous waste shipments. Each manifest form has multiple copies which must be manually filled out and signed, physically carried with hazardous waste shipments, mailed to both generators of hazardous waste and state agencies, and stored with facility records. The paperwork burden is so significant that 22 states and the federal government do not even accept copies of the manifest. In California, to make the data useful, the state sends copies of the manifests to a contractor in India where the data from each manifest is entered into an electronic system. Such a wasteful process needs to end.

The electronic manifest would remove a tremendous paperwork burden, assist the states in receiving data more quickly and in a format they can use, and improve the public's access to hazardous waste shipment information. An electronic manifest system would also save the hazardous waste industry over \$100 million each year due to lower per-manifest fees and removing costs associated with managing paper manifests. It is also possible that an electronic manifest system will provide benefits to homeland security, since the current paper-based manifest system takes weeks to provide basic verification that a hazardous waste shipment has been completed. An electronic manifest system would provide electronic tracking of hazardous waste shipments in real time.

PaulHastings
ATTORNEYS

The Honorable John Thune
September 11, 2006
Page 2

S. 3871 would allow private information technology vendors, at their own risk, to develop an electronic manifest system. Users of the system would be charged a fee, which would be used to reimburse the private vendor on a per-manifest basis. The private vendor would need to meet the needs of the industry users of the manifest, or it would risk its investment or cut into its expected profit. S. 3871 authorizes the fees collected from an electronic manifest system to be used to operate and maintain the system. Without S. 3871, the only practical alternative is to keep the antiquated paper-based hazardous waste manifest system.

Again, thank you for your leadership in introducing S. 3871. I look forward to seeing the electronic manifest system becoming a reality.

Sincerely,



Peter H. Weiner
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

PHW:eav



October 4, 2006

Senator John Thune
U.S. Senate
Washington, DC 20510

Dear Senator:

On behalf of Veolia ES Technical Solutions, L.L.C. (Veolia) we thank you for your leadership in introducing S. 3871, the Hazardous Waste Electronic Manifest Act. The tracking of hazardous waste required by RCRA is the most expensive continuous paperwork burden imposed under Federal environmental laws. An electronic system if adopted would provide numerous benefits to not only the hazardous waste industry, but also general industry and the regulatory agencies overseeing the hazardous waste manifest program.

Veolia provides a complete range of services for industrial and municipal customers needing to dispose of hazardous and non-hazardous waste. With more than 45 sales, service, treatment and disposal facilities, located nationwide, we provide services to a wide variety of manufacturing, research and development, educational, and health care business throughout the U.S. Services provided include thermal destruction, fuels blending, solvent recovery, electronics recycling and on-site technical services.

For each shipment of hazardous waste, Veolia and its customers must complete a six-part manifest to track the shipment from the point of origin through eventual receipt by the destination facility. Copies of the manifest are distributed and then maintained by all parties involved in the transaction, including the generator, transporter (or transporters as there frequently are more than one per shipment), destination facility, generator's state agency, and destination facility's state agency. The paperwork burden and associated costs on these individuals is significant considering that in one year Veolia alone prepares over 100,000 manifests in the course of providing routine customer services.

The benefits of moving our industry's paperwork requirements into the 21st century are clear. The e-manifest would remove a tremendous paperwork burden of mailing and filing manifest copies, assist the states in receiving data more readily in a format they can use, improve the public's access to waste shipment information and overall save over \$100 million every year. It is entirely possible that a national e-manifest would also produce homeland security benefits, since the current paper manifest system takes weeks to provide basic verification to generators or regulators that a waste shipment has been completed, while an e-manifest system would provide electronic tracking on a real-time basis.

Your bill would allow IT vendors at their own risk and expense to develop an e-manifest system. A fee on users would reimburse the private entity on a per-manifest basis. The private entity would need to meet the needs of industry users of the manifest or it would risk its investment or cut into its expected profit. Your bill authorizes the fees collected from such a system to be used to operate and maintain the electronic manifest system. Without S. 3871, the only practical alternative is keeping the antiquated paper system.

Again, we want to thank you for your leadership and look forward to working with you to bring the electronic manifest system into reality.

Very truly yours,

Thomas M. Baker
Director, Environment and Transportation
Veolia ES Technical Solutions, L.L.C.

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