NOYES LAW CORPORATION

April 23, 2018

Chair Mary D. Nichols
Air Resources Board
1001 I Street
Sacramento, CA 95812

(Comment submitted via email to cotb@arb.ca.gov)

RE: Request for Clarification of Specified Source Feedstock, 17 CCR §95488.8(g)

Dear Chair Nichols,

Safety-Kleen appreciates the opportunity to provide comments regarding the Low Carbon Fuel Standard regulations ("LCFS") proposed by the Air Resources Board ("ARB"). This comment provides input from Safety-Kleen, an established and innovative company that plans to supply a low carbon feedstock to refineries.

Safety-Kleen is supportive of ARB's plans to facilitate LCFS credit generation through co-processing. The LCFS has proven to be an effective, market-based program that has driven the development and expanded the supply of low carbon fuels in California. By developing rules that facilitate co-processing, ARB will further expand the supply of less carbon-intense fuels and facilitate attainment of California's greenhouse gas ("GHG") reduction policies.

This Comment requests clarification regarding the specified source feedstock provision, §95488.8(g). When applied to the feedstock that Safety-Kleen utilizes, used motor oil, this provision could be interpreted to impose an impossible standard if a fuel producer were required to trace the used motor back to the original source. Safety-Kleen recommends a word change to resolve this ambiguity.

Safety-Kleen

Safety-Kleen is the leader in North American used oil recycling and re-refining, parts cleaning and environmental solutions. Safety-Kleen services more than 200,000 customers in the United States, Canada and Puerto Rico, and is the largest used oil collector in North America, collecting more than 200 million gallons of used oil annually.

Safety-Kleen has recently acquired Emerald Services (Emerald) in Tacoma, Washington. Emerald is a leading environmental company in the Northwest, providing recovery and recycling of solvents, antifreeze and waste oil. Emerald's operations include fuel blending, chemical waste management, marine and industrial cleaning, waste and source reduction services, automotive and transportation services, and a variety of industrial services.

Emerald's Co-processing Plans

Emerald manufactures a vacuum gas oil ("VGO") from used motor oil ("UMO"). The resulting refinery feedstock is referred to as "Emerald VGO". Emerald is working with a refinery partner to introduce Emerald VGO at a blend ratio of 5% or less to the fluid catalytic cracker (FCC) in a California petroleum refinery. Emerald plans to supply up to 10 million gallons per year of Emerald VGO to its refinery partner. Other re-refiners of UMO also generate VGO,[1] so it is likely that other companies may develop comparable plans in the future to supply VGO derived from UMO into FCC units for co-processing. Given the significant supply of UMO, this approach could produce significant new quantities of less carbon intense fuels and deliver corresponding GHG reductions to California.

Specified Source Feedstock

The specified source provision pertains to feedstock that is a "waste, residue, by-product or similar material." §95488.8(g)(1). The feedstock that Emerald will utilize to produce fuel, UMO, falls within the scope of this definition. For specified source feedstocks, the proposed regulation imposes additional obligations as follows:

> *(B) Chain-of-custody Evidence. Fuel pathway applicants using specified source feedstocks must maintain either (1) delivery records that show shipments of feedstock type and quantity directly from the point of origin to the fuel production facility, or (2) information from material balance or energy balance systems that control and record the assignment of input characteristics to output quantities at relevant points along the feedstock supply chain between the point of origin and the fuel production facility. Chain-of-custody evidence is used to demonstrate proper characterization and accurate quantity.(...)*[2]

For a producer that utilizes UMO as a feedstock, a concern arises as to what is meant by "point of origin". Taken to an extreme in the UMO context, point of origin could require following the used motor oil all the way back to the original source. Given the method in which UMO is collected and transported, it is infeasible to trace the material back to the original source. This ambiguity is not resolved by reference to the definitions, as point of origin is not included. However, there is a related term that is defined, Feedstock First Collection Point. The term is defined as follows:

> *'"Feedstock First Collection Point" means the facility that aggregates and stores or treats feedstock materials collected from a point of origin. The first collection point may be upstream of the fuel production facility, or, if feedstocks are transported to the fuel*

[1] Roland Geyer et al., "Life Cycle Assessment of Used Oil Management in California," California Department of Resources Recycling and Recovery (CalRecycle), July 29, 2013.

[2] 17 CCR §95488.8(g)(1). *(emphasis supplied)*

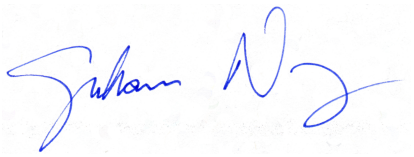
production facility directly from the point of origin, the first collection point is the fuel production facility"[3]

As applied to UMO, it would be feasible to obtain chain-of-custody evidence to trace the feedstock back to the Feedstock First Collection Point. Safety-Kleen therefore requests that this term be substituted for the less precise "point of origin" in §95488.8(g)(1).

Conclusion

Thank you for your consideration of our input.

Sincerely,



Graham Noyes

Cc: Phillip Retallick, Sr. Vice President, Compliance and Regulatory Affairs, Clean Harbors
Scott M. Miller, Vice President of US Refinery Operations, Safety-Kleen

[3] 17 CCR §95481(a)(44).