

FDA Public Meetings about Product Tracing Systems for Fresh Produce
Docket No. FDA-2008-N-0513 The deadline for written comments is January 22, 2009.

Let me introduce myself. My name is Charles Lake; I was an independent trucker for over 17 years until I was poisoned while unloading food product at a food warehouse. I have since been trying to make the transportation of our food supply safe; eliminating cross contamination between loads.

I have read the Transcripts from the Meetings that were accessible at <http://www.regulations.gov> Monday, December 01, 2008. Not one had provisions to prevent cross contamination between loads within the United States most were focused globally.

1990-1998 Congress enacted the Sanitary Food Transportation Act that had a provision for the tracking of all of America's food supply not just the produce, along with many other provisions that we need to protect America's food supply from terrorism whether it is from hauling toxins then foods in the same trailers or from terrorist. Evidently the FDA has not been looking too hard to solve this problem. This Act can be viewed at <http://www.comfortncolor.com/HTML/CompleteLaw.html>

Unfortunately President Bush number one, President Clinton nor the current President Bush **never signed** The Sanitary Food Transportation Act of 1990-1998 into law. However, the current President Bush signed into law the Sanitary Food Transportation Act of 2005. This Act only addresses the tanker trailers/trucks that haul our food supply it does not address the dry vans or the refrigerated trailers/trucks that haul most of America's food supply. In August 2008 I received an E-mail making me aware of the Guidance for Industry from the FDA titled "A Notice from the Food and Drug Administration to Growers, Food Manufacturers, Food Warehouse Managers, and Transporters of Food Products on Decontamination of Transport Vehicles" (Here is the link to this Guidance notice, <http://www.cfsan.fda.gov/~dms/decongu2.html>).

Unfortunately this Guidance notice did not address the day-to-day decontamination of trailers/trucks. It only addresses the decontamination of trailers/trucks that have been affected by flood areas or otherwise impacted by hurricanes. However, this sets a precedent for why all trailers/trucks that haul our food supply should be decontaminated. It also shows a need for Section 5706 (Dedicated vehicles) of the Sanitary Food Transportation Act of 1990-1998.

I e-mailed Mr. Kashtock from the Guidance on September 06, 2008 and received his reply on September 22, 2008 enclosed are these e-mails. When you read the E-mails you can see that Mr. Kashtock did not understand that the Sanitary Food Transportation Act of 2005 does not address the issues.

I do not understand WHY it has taken the FDA more than three years to write the regulations specific to food transportation pursuant to the Sanitary Food Transportation

Act of 2005, especially when it only addresses the transportation of less than 1/3 of America's food supply.

Recently (September 29, 2008) Andrew Amelinckx of the Hudson-Catskill Newspapers Corp. has written an article titled **Food for thought: Charles Lake works to prevent food from getting contaminated during transport** (see enclosed). This is one way I have been trying to inform the public of this issue. I have done several Talk radio shows and TV shows for public access that can be viewed on my web site on this subject (<http://www.comfortncolor.com/HTML/PoisoningPage.html>).

You would have thought that when Health and Human Services Secretary Tommy Thompson resigned, warning of a potential global outbreak of the flu and health-related terror attacks, ("For the life of me, I cannot understand why the terrorists have not attacked our food supply because it is so easy to do," he said. Reported on *Dec. 3, 2004*); the Bush administration would have issued guidance or regulations specific to daily procedures for food transportation operations because the food industry is a high target industry.

Mr. Kashtock is not only part of the FDA but he is also part of HHS according to his E-mail address and still doesn't get it!

I am going to continue to inform the public about this subject through talk radio and other sources of media.

If I can be of further assistance please contact me.

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From: "Kashtock, Michael E" <michael.kashtock@fda.hhs.gov>
To: "Charles Lake" <considerthis@verizon.net>
Subject: RE: Transportation of our food supply
Date: Monday, September 22, 2008 9:33 AM

Mr. Lake

We have not issued guidance or regulations specific to daily procedures for food transportation operations. However, all food manufacturing and holding operations, including the transport of food are subject to the regulations in 21 CFR Part 110 (see http://www.access.gpo.gov/nara/cfr/waisidx_08/21cfr110_08.html). Government safety inspections can currently be conducted according to these regulations. FDA is currently taking steps toward issuing regulations specific to food transportation

pursuant to the Sanitary Food Transportation Act of 2005. No date has yet been set for the publication of a proposal. We encourage you to comment on the proposal when it publishes.

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From: Charles Lake [mailto:considerthis@verizon.net]
Sent: Saturday, September 06, 2008 10:20 AM
To: Michael E. Kashtock
Subject: Transportation of our food supply

Mr. Kashtock I am seeking information on the transport of food products and the decontamination of the transport vehicles on a regular basis. The only Guidance for Industry I could find is <http://www.cfsan.fda.gov/~dms/decongu2.html> , which does not apply to the daily operations of the transportation of food product.

The Sanitary Food Transportation Act of 1990-1998 has a section (Sec.5706. Dedicated vehicles) which address the day-to-day concerns of contamination of the food product. But, this Act was never signed into law instead The Sanitary Food Transportation Act of 2005 was. The 2005 Act is a very weak version of the Sanitary Food Transportation Act of 1990-1998 and it does not have section 5706 or other sections that would protect against contamination from one load to another.

For instance if a truck/trailer hauled a load of Asbestos from point A to B and was unloaded and the dispatcher, dispatches that truck/trailer to pick-up a load from point C of food product and transport it to point D, all of this food product would be contaminated because according to Section 5706 Dedicated Vehicles:

-STATUTE-

(a) Prohibitions. - The regulations prescribed under section 5703(a)(1) of this title shall include provisions prohibiting a person from using, offering for use, or arranging for the use of a motor vehicle or rail vehicle to transport asbestos, in forms or quantities the Secretary of Transportation decides are necessary, or products that present an extreme danger to humans or animals, despite any decontamination, removal, disposal, packaging, or other isolation procedures, unless the motor vehicle or rail vehicle is used only to transport one or more of the following: asbestos, those extremely dangerous products, or refuse.

(b) List of Applicable Products. - After consultation required by section 5709 of this title, the Secretary shall publish in the Federal Register a list of the products to which this

section applies. The Secretary may amend the list periodically by publication in the Federal Register.

-SOURCE-

(Pub. L. 103-272, Sec. 1(d), July 5, 1994, 108 Stat. 857.)

I have done some research and have found that transport vehicles are still hauling toxic loads one way and food product the other way. I have also found that I am not the only one that sees a problem with the current way that our food is being transported. Diane B. McColl and Noelle C. Sitthikul (Ms. Sitthikul is an Associate Attorney with the law firm of Hyman, Phelps & McNamara, P.C., ...) wrote this Background Scope of the 2005 SFTA Food Issues (<http://www.hpm.com/pdf/MCCOLLSITTHIKUL1.PDF>). In the Conclusion of this Background Scope they state, "The 2005 SFTA raises several issues for the food industry with respect to the transportation of food and food products." Footnote 24 shows that The Sanitary Food Transportation Act of 2005 protects the transportation industry more than the food supply.

I have a suggestion on how to uphold Dedicated Vehicles Guidance for Industry. I wrote this suggestion to Congressmen John Sweeney in 6/6/2000; he would not talk about the issue: "All trailers have to be inspected once a year and have an inspection sticker affixed on them to prove it has been inspected. To uphold section 5706 of the "Sanitary Food Transportation" Act, an amendment could be written that states, "when a trailer is inspected that is going to haul food or food products that touch the food, that trailer should have a letter F on the inspection sticker that is affixed to that trailer." The rest of the system is already in place. We have D.O.T. inspection stations all over these United States. When a truck is pulled into these inspection stations it is weighted, then the inspectors check the manifest for the load that it is hauling and inspect the vehicle. What would be so hard in having the inspector look at the inspection sticker to see if this vehicle should be hauling the freight that is in it? When an inspector looks at the driver's manifest and then checks the inspection sticker, if there is an F on the inspection sticker and there are chemicals in the trailer or other toxic substances the trailer would be impounded and the inspection sticker stripped from the trailer. The company should also be heavily fined."

Please send me any information that shows how the day-to-day concerns of contamination are being addressed by the FDA.

The best way to contact me is by E-Mail: considerthis@verizon.net
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Thank you for your time.

Charles Lake