

From: "Charles Lake" <considerthis@verizon.net>
To: "Brooke Jamison" <Brooke.Jamison@mail.house.gov>
Cc: "Benedict McCaffree" <Benedict.McCaffree@mail.house.gov>
Subject: Fw: Transportation of our food supply
Date: Tuesday, September 23, 2008 11:38 AM

Brooke and Benedict,

I have received this reply from Michael E. Kashtock, Ph.D.

Division of Plant and Dairy Food Safety, Office of Food Safety, Center for Food Safety and Applied Nutrition. I hope this information will show that this agency is not following the law and that there is no real law for it to follow.

I could find only this one paragraph about the transportation of food in 21 CFR Part 110. I cannot find any way of upholding this section.

§ 110.93 Warehousing and distribution.

Storage and transportation of finished food shall be under conditions that will protect food against physical, chemical, and microbial contamination as well as against deterioration of the food and the container.

On August 10, 2005, President Bush signed into law the Sanitary Food Transportation Act of 2005 (2005 SFTA). But the FDA has not set a date to set for the publication of a proposal toward issuing regulations specific to food transportation pursuant to the 2005 SFTA over three years later.

According to the experts (Diane B. McColl and Noelle C. Sitthikul (Ms. Sitthikul is an Associate Attorney with the law firm of. Hyman, Phelps & McNamara, P.C., ...) two of many experts) the 2005 SFTA does not address the day to day decontamination of the transport vehicles on a regular basis.

This shows that the transportation of our food product is not safe at this time or will it be safe when regulations specific to the Sanitary Food Transportation Act of 2005 are publicized.

Please question or comment about this issue.

Have a good day.

Charles Lake

----- Original Message -----

From: Kashtock, Michael E

To: Charles Lake

Sent: Monday, September 22, 2008 9:33 AM

Subject: RE: Transportation of our food supply

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.

Michael E. Kashtock, Ph.D.

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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 then 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 checks the manifest for the load that it is hauling and inspects 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

Thank you for your time.

Charles Lake