



**BEFORE THE ADMINISTRATOR
FOOD AND DRUG ADMINISTRATION
IN THE MATTER OF:
DOCKET NO. FDA-2010-N-0013**

**COMMENTS REGARDING: REQUEST FOR DATA AND INFORMATION IN REGARD TO
IMPLEMENTATION OF SANITARY FOOD TRANSPORTATION ACT OF 2005**

National Tank Truck Carriers, Inc.
950 N. Glebe Rd. Suite #520
Arlington VA 22203
(703) 838-1960 phone/(703) 838-8860 fax
John L. Conley, President
jconley@tanktruck.org

August 30, 2010 (Via online submission and fax)

The National Tank Truck Carriers, Inc. (NTTC) is a trade association composed of over 200 for-hire trucking companies that specialize in bulk transportation services by cargo tank throughout North America. Our membership includes trucking companies who move food products in bulk in liquid tanker trucks and in dry bulk trailers. Members also include shippers of food materials in bulk, manufacturers of tank trailers, sanitary pumps, hoses, and other materials used in transporting food products, and carrier-owned and commercial tank trailer cleaning facilities used to clean food grade tank trailers.

National Tank Truck Carriers has long been involved in the issue of food transportation safety. In response to some very careless practices by a limited number of carriers regarding “backhauling” nonfood products in trailers used to transport food products in the 1980s, Congress rightly held hearings on food transportation and passed the Safe Food Transportation Act of 1989. The Congressional and media attention to those limited but potentially harmful actions did send shock waves through the food and transportation industries.

The private sector took action to improve the selection of carriers and equipment and of products eligible for transportation prior to cleaning the tanker for a food load long before the Act was passed. Congress later passed the Sanitary Food Transportation Act of 2005 which has resulted, in part, in the Docket we are now addressing.

In response to legitimate concerns about food transportation, National Tank Truck Carriers held several meetings with food grade carriers and shippers and developed food grade transportation and equipment cleaning information which is still widely in use today. NTTC also worked with other food related organizations to produce information for the industry such as the Tank Truck Inspection Guidelines produced by the National Food Processors Association in conjunction with the Corn Refiners Association, Institute of Shortening and Edible Oils, and National Institute of Oilseed Products. We call your attention to the *Model Tanker Wash Guidelines for the Fruit Juice Industry* developed by the Juice Products Association and included in their filing to this docket as an example of ongoing industry attention to this issue.

Since many carrier and commercial tank wash facilities are operated by NTTC members, our Tank Truck Cleaning Council developed a Tank Truck Cleaning Facility Audit Form in the early 1990s. That form is widely used throughout the tank truck industry and is regularly updated by the Council. The form is available to the public at our website, www.tanktruck.org, and is included with this filing.

With the terrorist attacks of September 2001, the Food and Drug Administration published Dockets 02N-0275, 02N-0277, to address potential attacks on the food transportation industry. The potential threat of terrorism involving food was quickly recognized by the tank truck industry and its shippers and the FDA Dockets further focused that attention on industry practices. NTTC and other organizations developed enhanced security plans and procedures after 9/11 and did address food transportation in those efforts which are ongoing today. It is almost irrefutable that food transportation in the tank truck industry is both safer and more secure than it was at the beginning of this decade. An already outstanding food transportation system was made even better.

We will focus only on bulk food transportation by tank truck or dry bulk in our comments. That is the unique sector of the trucking industry within which our members participate and our professional staff in Washington focuses on at the regulatory, legislative and operational levels. NTTC has participated with other industry groups in developing responses to this docket and fully supports the comments of the American Trucking Associations on behalf of the entire trucking industry and our organization also is a signatory to the Stakeholders Letter submitted by the American Bakers Association.

National Tank Truck Carriers is recognized as an informed and credible source for information on the safe and secure transportation of materials in bulk, from food products to hazardous materials. NTTC was pleased to take part in the research conducted in development of this ANPRM by the Eastern Research Group that is referenced in the preamble. NTTC has a long history of working constructively with government and industry on tank truck transportation issues.

While the Food and Drug Administration is clearly the lead agency on this issue, NTTC urges the agency to work closely with the U.S. Department of Transportation to utilize the existing safety and regulatory framework of the agency most experienced in dealing with trucking operations, employees and equipment. Any regulations developed must be consistent across the United States and federal regulations must preempt state and local regulations that might address these issues. Tank trucks and their drivers operate across state lines on a daily basis. A load of orange juice trucked from Florida to Oklahoma, or a load of milk from Wisconsin to Georgia will cross many state lines. Regulatory inconsistency fosters confusion and even noncompliance.

There are two basic kinds of tank truck carriers involved in the bulk transportation of food products. A private carrier uses its own equipment and drivers to haul its own product. For example, a major corn syrup manufacturer in Iowa may use its own trucking fleet to serve its customers. A common or for-hire carrier essentially is a "have truck, will travel" business that specializes in picking up product from a shipper at Point A and taking it to that shipper's customer at Point B. The common carrier does not manufacture the product or determine to whom it will be delivered. NTTC members are primarily involved in the "compensated" common carrier category where they only provide the transportation service.

Tank truck carriers differ from the packaged freight or refrigerated trailer segments of the trucking industry in several ways. In the tank truck industry, the trailer is the package. The most common type of tank trailer involved in food grade liquid transportation is the stainless steel food grade trailer. All gaskets, pumps, and materials of construction of the tanker barrel are designed for food transportation. On the dry bulk side, aluminum trailers that are loaded and unloaded by air flow are used to haul flour, sugars, and other dry food materials. Again, the trailer is the package and all components are specified for food service. In the dairy industry, tank trailers are built to meet the 3-A Sanitary Standards, Inc. Three-A SSI is an independent, not-for-profit corporation dedicated to advancing hygienic equipment design for the food, beverage, and pharmaceutical industries.

Most food grade stainless steel tank trailers are insulated to ensure temperature control during transportation. These tankers are very similar to Thermos bottles on wheels. Because the tank trailer itself is the package used to transport food products, tank trailer cleaning after a load is transported is key to food quality protection. As referenced above, food grade tank trailer cleaning is an essential specialty service. There are some tank cleaning facilities that handle only food grade equipment, some that do not allow food grade equipment, and others that operate facilities to handle both food and non-food trailers.

In a typical bulk food transaction, the food shipper will select a carrier from a pre-approved list of carriers that provide this specialized service. The shipper will describe the product to be transported and any special handling requirements, such as in-transit heating or loading or unloading procedures. The carrier will send a tank trailer

that has been certified to be “clean, dry and odor free” to the shipper loading facility. The shipper will inspect the tanker and accompanying paperwork prior to loading. In most cases, the trailer openings where loading is accomplished will be sealed prior to shipment. The carrier will then transport the load to the designated location where the receiver will examine the paperwork, inspect the trailer, then remove seals and commence unloading using its own personnel or the driver. Upon completion of the delivery, the carrier will then take the trailer to a tank cleaning facility where it will be cleaned and dried in anticipation of the next load.

NTTC is willing and able to work with FDA and the food industry to improve on the already remarkably safe food transportation system that United States citizens expect, deserve and are receiving. We will be happy to work directly with representatives of the agency and to arrange meetings with or trips to the experts on safe and secure food transportation in our industry.

In addition to the overview presented above, we will briefly respond to the specific questions posed in the ANPRM. We recognize that this is just one of the first steps in a process in which both industry and government share the same goals. We again urge the FDA to understand and utilize the very successful regulatory scheme developed by the Department of Transportation as this regulation is developed.

Question 1a. What types of vehicles or methods are used to transport food by motor vehicle or rail vehicle (e.g., bulk tank trucks, cargo tanks, and freight containers)?

Food products in the tank truck industry are transported either in food grade Type 304 or similar stainless steel tank trailers for liquids or pneumatic aluminum trailers for dry bulk products. All components on the trailers, such as pumps, gaskets, and hoses, are specified for food grade service. In the tank truck industry, the tank trailer or the dry bulker serve as the package for the food transporter.

Most food grade tanker trailers consist of a stainless steel barrel built to food grade specifications for steels and welds, covered with insulation to provide temperature control, and then wrapped on the outside with stainless steel cover (skin.) Tank trailers consist of a single compartment without baffles which could become a source of contamination should any product become trapped.

Question 2a. What industry standards exist for the cleaning of food transportation vehicles?

The tank truck industry has developed stringent tank cleaning standards for all products and especially for food grade cleaning. Several major shippers and trade associations have developed procedures for cleaning and inspecting food grade trailers. (See the Tanker Wash Guidelines submitted to this docket by the Juice Products Association for one example of an industry-developed cleaning standards and the Tank Truck Cleaning Facility Audit Form developed by National Tank Truck Carriers for all cleaning facilities enclosed with this filing.)

The tank trailer can be considered a Thermos bottle on wheels. The type of cleaning process –time, temperature, detergents, drying process – for each product may be as different as for cleaning a bottle that contained molasses or honey and one that contained water or milk. Food manufacturers work with carriers and tank cleaning facilities to determine the best cleaning process for individual products and trailers.

Question 3a. What procedures and practices are in place to prevent contamination of foods not completely enclosed by packaging during transport?

The tank trailer or the dry bulk trailer is the package.

Question 3c. What operations associated with food transport (e.g., intermodal transfer and pumping food from transport tanks into receiving vessels at the destination) pose the greatest potential for contaminating food?

The greatest potential for a possible contamination of food products is posed by a worker not following established procedures developed by the food shipping and transportation industries. The extremely rare contamination of a tank truck load, such as in the eggs and ice cream example cited in the ANPRM are not the result of a lack of regulation or processes, but of a failure to properly implement those procedures by an employee.

A possible source of contamination could be a shipper or consignee hose or pump that has been used for a different product without being cleaned before loading or unloading the tanker.

Question 3d. What procedures and practices are in place to ensure temperature control for TCS foods?

Food grade tank trailers are equipped with insulation to maintain proper temperature and also can be heated by in-transit heating systems utilizing coolant from the tractor. Temperature gauges are used to monitor temperature in the tanker. Tank truck transportation is primarily a short haul operation where loading temperatures can be maintained.

Question 4a. What types of food products are typically transported? simultaneously? What types of food products are typically transported? sequentially?

Food grade tank trailers and pneumatic bulk trailers are single compartment packages and there is no simultaneous transportation of food products.

Food shippers have developed lists of products that may or may not be transported in tank trailers used to haul their products following proper cleaning.

Question 4b. Are there any industry standards or State or local restrictions on the simultaneous or sequential transport of different categories of food?

See answer above.

Question 5a. What types of information are currently disclosed to carriers by persons arranging to transport food? In what form is this information disclosed? What additional information would be useful or necessary to achieve the goals of the 2005 SFTA?

The tank truck private fleet operator uses its own trailers to transport its own products.

In the common carrier segment of the industry, the shipper provides the carrier with information on what product will be transported and what type of special equipment or special handling procedures are required. For example, some food shippers will require a Kosher wash of a trailer to transport certain food products. Likewise, many shippers will require that seals be used on all openings, such as manholes or loading lines, of a tanker for a food shipment. Shippers and carriers use both electronic and written forms of communications in these transactions. The carrier presents the shipper with a cleaning ticket to convey where and when the tanker was cleaned prior to being dispatched to haul the shippers load. That ticket will often list what the previous load or loads were prior to cleaning, if a different product is to be loaded.

The tank truck industry differs from the general freight industry in that there are not nearly as many shippers or carriers. Shippers tend to use the same carriers on a regular basis. Again, given the fact that most loads are of just one product from Point A to Point B, the opportunities for miscommunications are minimal.

Question 5c. What types of information are currently disclosed to manufacturers or other persons that furnish a tank vehicle or bulk vehicle for the transportation of food? In what form is this

information disclosed? What additional information would be useful or necessary to achieve the goals of the 2005 SFTA?

There is no indication whatsoever that the current system of communications is not working.

Question 6a. What types of records are currently kept by persons arranging to transport food? What additional records would be useful or necessary to achieve the goals of the 2005 SFTA? How long should persons arranging to transport food keep applicable records?

Records and other information will vary by shipper and product. Standard records and information include the basic bill of lading (Product, shipper, customer, quantity and weight), wash tickets and other documentation prepared for a specific product or destination. We are aware of no regulatory set period governing document retention, nor the need for one. This is a business relationship issue that will differ among shippers and carriers.

Question 7a. Are food products transported simultaneously or sequentially with nonfood products? If the answer to this question is yes, what nonfood products are commonly transported in vehicles that also transport food?

Again, tank trailers do not transport more than one food product at a time.

Some trailers can and are used for food and nonfood products where there is no indication that any problems will result if proper communications and cleaning procedures are followed.

The ANPRM did not provide a definition of "food product." There are some materials that can be used in food production and packaging and in other applications. The stainless steel tank trailer is a very versatile tool. With proper cleaning and inspection, there is no technical reason that the same trailer could not be used for food products and some non-food products. It is up to the shipper of the food product to communicate what products may or may not be transported in a tank trailer prior to transportation.

There are some food products that are hazardous materials and must be transported in DOT specification trailers. These would include alcohols and some oils which are flammable or combustible.

Question 8. What reasons might exist for a waiver of any or all foreseeable requirements under section 416 with respect to any class of persons, vehicles, food, or nonfood products? For any such reason for waiver, identify and provide data and information that would support a possible determination that the waiver (A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and (B) will not be contrary to the public interest.

We would need more information on the what this question seeks to determine before answering.

9. Federal Preemption of State and Local Food Transportation Requirements

Food transportation is an interstate function and any federal regulations developed in this area should preempt any state or local regulation. Inconsistent regulations lead to inconsistent compliance.

Question 10a. What data or information are available on investigations that have shown a suspected or documented link between an outbreak of food borne illness and the transport process?

Bulk food transportation is essentially a closed loop process. A food product is loaded into the tanker trailer from a storage tank by hose, then unloaded into the receiving facility tank the same way. We are not aware of any data on this issue.

Question 11a. What is the size of carrier firms (e.g., based on annual revenue or on number of vehicles)? What steps could be taken to lessen the burden on small entities while still protecting the public health?

The tank truck transportation of food products ranges from the one truck operator picking up milk at farms for consolidation to fleets operated by Fortune 500 Companies and those common carriers that serve them. Most common carriers are small to medium family owned businesses.

National Tank Truck Carriers does not see any public health benefit in developing safety regulations based on the size of a company. If a regulation protects the public food supply, compliance with that regulation should be a condition of doing business by anyone who chooses to provide the transportation service.

Summary: The almost miniscule number of incidents involving tank truck transportation of food products resulting in injury or death to the public demonstrates that the current industry practices and regulatory regime is working well. If the FDA determines that some form of regulatory expansion is needed to better protect the public, then those regulations should be based on what currently has proven so successful. Any expansion of the FDA involvement in food transportation should be done in conjunction with the Department of Transportation and be adapted to the interstate safety regulatory process already in place. The rare and unfortunate instances of transportation related food harm to humans have been the result of someone not adhering to established and proven practices, not to a lack of regulations.

National Tank Truck Carriers is ready to work with the Food and Drug Administration with the same strong cooperative spirit it has with the Department of Transportation on highway safety issues.

Respectfully submitted,

John L Conley

President.

