'Back cargos' criticized in trucking industry

It is common practice in the U.S. trucking industry for tanker trucks to haul liquid food commodities and then hazardous chemicals back-to-back, often without adequate cleanup of the trailers in between, several witnesses said during a hearing by the Investigations and Oversight subcommittee (of the U.S. House of Representatives' Public Works and Transportation Committee) on Oct. 5, 1989.

Lawmakers are offering more cautious pronouncements about the practice, but nevertheless Rep. William F. Clinger (R-PA) has introduced legislation—the Safe Transportation of Food Act (HR 3386)—to ban garbage hauling in food trucks and chemical hauling in food carrying tankers. In his opening statement, Clinger said, "To the best of our knowledge, the percentage of truckers engaging in these practices is probably small." He added, however, that backhauling is "unfortunately legal."

Chairman of the Investigations and Oversight subcommittee, Representative Glenn M. Anderson (D-CA), blamed shippers and receivers as well as the carriers for the practice. "Not willing to pay the higher rates of a dedicated food-only truck line, shippers may be looking the other way and in so doing, tacitly permitting this practice to occur," said Anderson.

Spokespersons from food firms testifying at the hearing maintained their ignorance of the practice. Robert DeLashmit, of Premier Edible Oils Corp., formerly known as Palmco, based in Portland, Oregon, said "It's a practice we were not aware of, would not condone, and were sorry to have been a part of." The firm, according to a story in the *Seattle Post-Intelligencer,* loaded an oil shipment on a tanker that had previously hauled chemicals. The trucking firm had said that the trailer had only hauled food.

DeLashmit said his firm is still trying to find a way to determine if a tanker has been used only for food, and pointed out that firms could not perform analytical tests on the tankers before loading because they would not know which chemicals to test for without knowing which chemicals the tankers had hauled. Until eight years ago, he said, his firm used all its own trucks, but it was too expensive to run them home empty. "We felt we were getting dedicated food equipment. We simply must (dedicate equipment) whatever the costs to insure the safety of the product."

Several truck drivers testified that they had been instructed to lie to shippers if asked about the last three loads the trailer had carried. James and Ruth Pomerenke of Yakima, Washington, said they were fired for direct insubordination because they refused to haul a chemical load after hauling a food grade load. The couple discovered earlier this year that they hauled a plastic resin which had dried onto the inner stainless steel surface of the tanker like nail polish and could not be detected. After hauling 21 more

loads, including food grade loads, the resin began flaking off. The inside of the tanker had to be cleaned with razor blades and scouring pads, they said.

Another trucker, David Helzer, stated in his written testimony that he had carried such chemicals as Di Klor, spent caustic, marine lube, lime sulfur, fire retardant, shellac, turpentine, and naphtha, interspersed with grape juice concentrate, pear concentrate, cooking oil, vinegar and edible tallow.

The drivers all criticized the adequacy of the "washouts" the tankers received between loads. Pomerenke said the wash-out workers are "minimum wage people," that it was a "dirty job," and that the workers "were careless lots of times" and were in a hurry to get as many trucks through as possible. The drivers said they were instructed to use deodorants to take away chemical smells or even strong food smells between loads if the washing did not remove the smell entirely.

Clara J. Stoehr, a food safety officer at the Washington Department of Agriculture, said that "Tanker cleaning practices are varied and of questionable sufficiency, and there is a shortage of suitable cleaning facilities available."

Allen Matthys, Director of Technical Regulatory Affairs at the National Food Processors Association, said he did not think the trucks could be effectively cleaned between loads of chemicals and food, noting that most of the food industry was requiring dedicated tankers for food uses and "thought they were getting it."

Clinger asked whether it would help food companies if the last three loads were submitted from trucking lines in the form of an affidavit with a penalty attached if it was not true. Matthys, DeLashmit and Robert Reeves, of the Institute of Shortening and Edible Oils, said this would help.

Clifford J. Harvison, president of National Tank Truck Carriers Inc., acknowledged that chemicals are transported in the same vehicles as food grade products, but said responsible carriers always clean the tanks between loads. In addition, he claimed that the chemicals transported "are always related to human consumption or personal care." Harvison said he would support federal regulations that would permit some chemicals, such as those intended for use in food, to be transported in food grade vehicles.

Robert Shertz, chairman of Chemical Leaman Tank Lines, said company policy requires that food be hauled only in trailers dedicated to that type of service. However, Shertz said he is probably at a competitive disadvantage because of this policy. He recommended regulations requiring that the shipper receive a certification, and that the carrier and the cleaning rack each certify that a tank has been properly prepared to haul food in accordance with established procedures.

In addition to banning the backhauling, the Clinger bill would require the Department of Transportation to write regulations enforcing the law within one year. It also calls for an in-depth study of garbage backhauling in dry or nonfood trucks. The bill is cosponsored by Reps. Guy V. Molinari (R-NY) and Robert A. Borski (D-PA). *Food Chemical News,* Oct. 9, 1989, pp. 62-66.

Consumer group urges ban on FD&C Red No. 3

FD&C Red No. 3 has become the target of a lawsuit filed in federal court by Public Citizen, a Washington, D.C.-based consumer group that wants the dye off the market. Public Citizen filed suit in U.S. District Court in Washington against Food & Drug Administration Commissioner Frank E. Young and Health and Human Services Secretary Louis W. Sullivan.

On Aug. 29, 1989, FDA continued the provisional use of the dye for another two months. That action was the latest in a series of similar extensions granted since 1984. The group urged the court to declare the most recent extension of the provisional listing "arbitrary and capricious and in bad faith, in violation of the APA and the Color Additive Amendments." In the suit, the group noted that FDA had not provided opportunity for public comment on the extensions in June or in August.

FDA scientists have said the additive has been proven to cause cancer in laboratory animals, but they are still evaluating industry claims that red dye 3 has no direct effect on humans. *Chemical Marketing Reporter,* Oct. 2, 1989, p. 50; and *Food Chemical News,* Oct. 2, 1989, p. 67.

1989 soybean loan rate confirmed at $4.53 bu.

Secretary of Agriculture Clayton Yeutter announced the final price support loan and purchase rate for 1989 crop soybeans is $4.53 a bushel. This rate is the same as the preliminary rate announced previously. All producers of 1989 crop soybeans will be eligible for loans and purchases. A regulatory impact analysis on the 1989 soybean program may be obtained by writing to: Director, Commodity Analysis Division, USDA/ASCS, Room 3741-S, PO Box 2415, Washington, DC 20013.

Field test sought for biotech soybeans

The Animal and Plant Health Inspection Service of the USDA has received an application to permit field testing of soybeans genetically engineered for glyphosphate herbicide tolerance.

If approved, the test would be conducted by Monsanto Agricultural Co. in Puerto Rico. For more infor-

mation, contact: Mary Petrie, Program Analyst, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permit Unit, Animal and Plant Health Inspection Service, USDA, Rm. 844, Federal Building, 6505 Belcrest Rd., Hyattsville, MD 20782, telephone (302) 436-7612. *Federal Register,* Sept. 25, p. 39215.

Alternative agriculture supported in new bill

The Alternative Agricultural Research Commercialization Corporation, a not-for-profit organization, could become part of the USDA if a new Senate bill becomes law. The bill would earmark $30 million to promote research, development and marketing of agriculturally derived industrial products, such as cornstarch plastic, soybean ink, kenaf paper and industrial oils from oilseeds.

Senators Kent Conrad (D-ND) and Tom Harkin (D-IA) announced their joint sponsorship of the bill, the Alternative Agricultural Research and Commercialization Act, on Sept. 27. The lawmakers described the bill as a "marriage of a Harkin-sponsored ag research bill and Conrad-sponsored commercialization legislation." *Washington Correspondence,* National Institute of Oilseed Products, Oct. 6, 1989.

FDA told food label rules need modifying

The first of the Food and Drug Administration's (FDA) four public hearings on food labeling was held in Chicago on Oct. 16, 1989. The one thing all the consumers, nutritionists and food industry executives agreed on was the need for change. There have been no changes in food labeling regulations since 1973.

The FDA intends to draft proposed rules by the middle of 1990 and have the regulation completed a year after that. Among topics considered for change are fat labeling, with FDA asking whether to continue "and/or" labeling for fats and oils; whether a detailed quantitative listing of saturated, monounsaturated or polyunsaturated fatty acid content should be required; and whether other components such as omega-3 and omega-6 fatty acids, *trans* fatty acids and cholesterol should be listed on labels.

At the hearing, industry spokespersons, concerned that some states have begun developing separate food labeling requirements and other states have sued to stop some food health claims, said they favored the FDA labeling overhaul as long as it is applied nationwide. Several speakers urged FDA commissioner Frank E. Young to prohibit food companies from making health claims without having the agency pre-approve the documentation.

The deadline for comments on U.S. food labeling requirements has been extended, from the original deadline of Dec. 6, 1989, to Jan. 5, 1990. Written comments must be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Comments from the fast-food industry on possible food labeling rules for the fast-food industry have been negative. Kin Restaurants (Burger King) President Michael Olander said, "People are very aware of the basic ingredients in fast food. In the absence of any potentially dangerous chemical additives in fast food, I see no benefit to the public of labeling fast food."

Burger King's Steven Tucker cited the "complexity, cost, and possible penalties for violation" of federally mandated ingredient labeling on fast-food items.

For more information on the hearing, contact Patricia Kuntze, Office of Consumer Affairs (HFE-2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443-5006.

In the Senate, food labeling measures proposed by Senator Orrin Hatch (R-UT), and by Senators Howard Metzenbaum (D-OH) and Henry Waxman (D-CA), were still in subcommittee hearings in mid-October.

Preemption of state labeling laws was not included in Waxman's bill; Waxman has not decided yet whether to support preemption. The Hatch bill expressly gives the Food and Drug Administration preemption authority on food labeling.

Testifying at the House Energy and Commerce Committee's subcommittee on Health and Environment earlier during September, Richard L. Frank, of the Washington law firm of Olsson, Frank & Weeda said, "Express national uniformity should be made part of the Food, Drug and Cosmetic Act and Federal Trade Commission Act for all labeling and advertising." While it's assumed at the congressional level that there are major problems with the food label regulations, Frank said, the only issue with broad support is mandatory nutrition labeling. Industry, he said, is willing to have mandatory nutrition labeling, but wants it to be uniform.

USDA transfer funds to fight boll weevils

The U.S. Department of Agriculture has declared there is a boll weevil emergency threatening the U.S. cotton industry.

The official declaration was necessary to permit transfer of USDA funds from other programs to the weevil eradication program. The Southeastern Boll Weevil Eradication Program, operated by the USDA and the Southeastern Boll Weevil Eradication Foundation and financed in part by assessments on cotton producers based on cotton acreage, has had lower revenues and higher costs than anticipated. Unusually mild winters and heavy rainfall which aggravated the pest situation, low producer revenues, and decreased cotton acreage were cited as factors contributing to the program's financial woes.

Without additional funding, eradication efforts would become ineffective in Alabama, Florida and Georgia, with subsequent crop damage and increased private pesticide use, USDA said, and within two to three years, Virginia, North Carolina and South Carolina, states in which the weevil had been nearly eradicated, could become reinfested. *Federal Register,* Sept. 15, 1989, p. 38258.

FDA orders detention of mustard oil imports

On Sept. 8, 1989, the Food and Drug Administration (FDA) ordered automatic detention of expressed mustard oil because it is an unapproved food additive. The agency noted that it originally blacklisted mustard oil labeled as a drug, but added that "the importer proposed to relabel the product for food use, indicating it is 'widely used in cooking, especially frying, by most Indians, Pakistanis, Bengalladeshis, Butanis, and Nepalis who are living in this country.' "

"The product is not the subject of an approved Food Additive Petition and has no acceptable food use," FDA said. The agency noted that mustard oil contains 20-40% erucic acid, adding, "In laboratory studies with test animals, erucic acid has been associated with nutritional deficiencies as well as cardiac lesions."

FDA pointed out that the import alert does not cover essential oil or oleoresin of mustard, which is listed as GRAS (generally recognized as safe) for use as a flavoring substance.

Efamol urges GRAS status for evening primrose

A panel of experts assembled by a manufacturer of evening primrose oil (EPO), Efamol Ltd., has concluded that EPO should be generally recognized as safe (GRAS), and that the Food and Drug Admin-

istration's (FDA) concerns about EPO are scientifically unfounded and invalid. The firm said care was taken to assure that the experts understood the GRAS review process, and that they operated "with total scientific independence."

This was the testimony of Efamol in a motion to the U.S. District Court for the Central District of California. The motion asked that the government's motion for summary judgment be denied, requesting the court to rule that EPO is GRAS as a dietary supplement or that FDA has not established that EPO is a food additive.

The motion claimed that the lawsuit "could easily have been avoided." Efamol representatives came to discuss with FDA the data supporting the GRAS status of EPO and the possibility of filing a GRAS affirmation petition in March 1988. The firm charged that FDA instituted the first seizure of EPO within weeks of the meeting, "rendering pointless the filing of the petition."

Efamol argued that FDA "has the burden of demonstrating that evening primrose oil is not GRAS," and said that for the government to prevail in the lawsuit, "it must show that there is a legitimate scientific dispute among properly informed and qualified experts about the safety status of evening primrose oil."

A hearing in the case was scheduled for Sept. 25, 1989.

Biotech pest control field test proposed

The Environmental Protection Agency (EPA) has received applications from NPP Inc., a biotechnology company specializing in the development of biological controls for agricultural pests, for permission to do small-scale field testing using nonindigenous isolates of *Mamestra brassica* Nuclear Polyhedrosis Virus (NPV) and of *Beauvaria bassiana.* NPP intends to evaluate the efficacy of the microorganisms in soybeans, cotton and other crops for control of a wide variety of insects. The NPV occurs naturally in several countries, and has been isolated in Bulgaria, Czechoslovakia, China, France, Germany, Japan, The Netherlands and the Soviet Union. *B. bassiana* was originally isolated in the "Le Vesdille" region of France. All crops will be destroyed after tests have been completed.

Written comments may be submitted to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. S.W., Washington, DC 20460. For further information contact Phil Hutton, Product Manager (PM) 17, Registration Division (H7503C), at the above address. Telephone: (703) 557-2690. *Federal Register,* Oct. 5, 1989, p. 41153.