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December 4, 2003

Dockets Management Branch (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, MD 20852

Re: Comments for Docket 2002N-0276, Bioterrorism Act- Registration

Dear Sir or Madam:

Jevic Transportation is a Less-Than-Truckload (LTL) transportation company within SCS Transportation Inc., one of nation's top 25 largest LTL companies. SCS services over 71,000 customers across North America with over 5 million shipments per year. Jevic transports many types of commodities including general freight, chemicals, foods and food related items.

Following the meeting held on 10/2/03 in Alexandria, VA, attended by representatives of the FDA and hosted by at the American Trucking Association, it is our position that trucking facilities that do not store or warehouse foods should not be required to register as a person who "holds" food. We also request that the FDA issue a clarifying interpretation regarding the term "Hold" within the scope of applicability of the Act.

Specifically, LTL facilities are considered cross-dock operations and act as a transfer site for freight that is moved generally from a trailer that picked up the freight at a shipper's site to a trailer that will be used in the delivery leg of the movement. Due to the nature of the LTL business, most freight moves in a "just-in-time" or guaranteed delivery mode. Freight is not stored or warehoused in these facilities. Most freight is delivered and shipped from one of these facilities within a few hours and is considered to be in a continuous mode of the transportation cycle. The FDA stated in the Facility Comments section of the Federal Register, Vol. 68, No. 197, page 58904 published on 10/10/03 that registration does not apply to, "...a transporter that holds food only in the usual course of business as a carrier." It is our position that cross-dock operations by their definition fall within this interpretation. Cross-dock operations involve handling incidental to normal transportation operations and are not a "holding, warehousing, consolidating, storage, or repackaging" operation that was meant to be registered under the original intent.

Further supporting this position is the fact that LTL carriers and associated cross-dock operations are considered to be transportation operations within the Standard Industrial Code Classification System (SIC #4213- "Trucking Except Local"), and not SIC 4225 - "General Warehousing and Storage". We recommend that the FDA consider SIC classifications as a guide in defining facilities that "hold" food.

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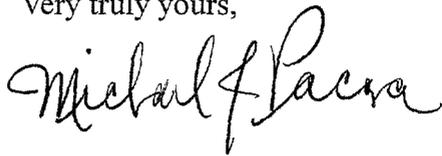
Freight transferring/relaying in cross-dock operations is also no different than relaying full tank trailers of the food material from one tractor driver to another in the bulk industry – an operation that the FDA considered not to be within the scope of registration and stated at the 10/2/03 meeting.

We do agree that facilities that store or hold food should be required to register. However it is our position that there is a difference between someone that may “touch” the freight at a facility during the course of business as an LTL carrier compared to someone that “holds”, stores or warehouses freight at a facility.

We therefore request that the FDA issue a clarifying interpretation of the interim final rule and exempt LTL cross-dock operations from facility registration requirements.

Thank you for the opportunity to comment. Please call me at 800-257-0427, ext. 6213 if you have any questions.

Very truly yours,

A handwritten signature in black ink that reads "Michael J Pacana". The signature is written in a cursive, flowing style.

Michael J Pacana, CHMM
Hazardous Materials and Environmental Compliance Manger
Jevic Transportation