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IWLA Asks FDA to Maintain 3PL Warehouse Responsibility Over Recalled Food Products

July 28, 2010 (DES PLAINES, IL) – Joel D. Anderson, President and Chief Executive Officer of the International Warehouse Logistics Association, asked the U.S. Food and Drug Administration to clarify a recently issued draft regulatory guidance regarding the reporting of adulterated food product by third-party logistics providers.

The FDA guidance document implements the requirements of the Reportable Food Registry and the reporting of adulterated food products. IWLA's letter specifically responds to FDA's request for recommendations for determining when a food product has been transferred in the supply chain.

“Whether or not an article of food has been transferred from customer to the 3PL warehouse is a significant issue for the 3PL industry,” Mr. Anderson said in a July 26 letter to FDA. He urged the agency to make clear in its written guidance that a transfer of product occurs upon transfer of ownership, not upon transfer of possession.

“A 3PL *never* takes title to or ownership of the products in the warehouse – rather he serves as a logistics intermediary in the supply chain,” Mr. Anderson said. “Although the customer ships product to a 3PL warehouse to be held until further direction, no transfer of legal title of the food has occurred. Accordingly, we recommend that FDA clarify in the guidance document that ‘transfer’ occurs upon change of ownership, not a change in physical possession or control.”

He pointed out that the guidance issued by FDA correctly maintains the statutory standard holding a report is not required if the adulteration originated with the responsible party, which detected the adulteration prior to any transfer and corrected the adulteration or destroyed the article of food.

This clarification of the reference to “transfer” in the guidance that IWLA seeks would allow the customer of the 3PL warehouse to correct or destroy the adulterated product through contractual arrangements governed by the Uniform Commercial Code, Mr. Anderson said.

“This clarification will eliminate the submission of unnecessary or duplicative filings to the Food Registry in situations where the owner of the product is able to correct the defect or destroy the product, and further ensure the efficiency of the reporting system,” Mr. Anderson told the FDA. “Of course, this clarification would not absolve the 3PL warehouse from responsibility if it knowingly shipped an adulterated product.”

For a copy of Mr. Anderson's July 26 letter, [click here](#).

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Since 1891, the International Warehouse Logistics Association has been defining the standards of excellence in warehousing and logistics outsourcing. Based in Des Plaines, IL, IWLA promotes the growth and success of third-party logistics companies by providing its more than 500 member companies with resources, information, education and professional programs designed to advance their businesses and provide greater value to their customers. For more information, visit www.iwla.com