



# Shipping Container Institute

# NEWS

July – August 2005

## SSCI NEWS

### ***Purchasing Magazine's Steel Flash Report Continues to Cause Marketplace Confusion***

In a reprise of his famous 1980s spots urging car buyers to consider Chrysler products, the company's former chairman and CEO, Lee Iacocca, has returned to the airwaves for the firm in ads with others who mouth his famous challenge, "If you find a better automobile, buy it!"

Steel drum manufacturers would like to apply a variation of that message to their needs for cold rolled steel. They would like, in effect, to purchase steel in the marketplace at the price posted in *Purchasing Magazine's* monthly *Steel Flash Report* – if only they could. The disparity between the monthly spot-market steel price for cold rolled steel determined by *Purchasing* and published in its *Steel Flash Report* and the real-world experience of steel drum manufacturers continues to roil the marketplace. The publication's survey price has no relation whatsoever to what steel drum manufacturers are paying for their base raw material in the marketplace.

Granted, that *Purchasing* inoculates itself concerning the veracity of its data with a footnote in the survey that states its "current market price is the average transaction price pulled from electronic surveys and personal interviews." However, month in and month out, its survey price for cold rolled steel and the market realities of steel drum manufacturers purchasing this raw material are starkly dissimilar.

In fact, several steel drum manufacturers have contacted the editors of *Purchasing* requesting assistance in connecting with mills and service centers who are

prepared to sell cold rolled steel at the published index price. To date, these efforts have not borne fruit.

The SSCI has assisted its manufacturer members in explaining to customers the disconnect between what they read in *Purchasing's* survey and what drum manufacturers pay for cold rolled steel. It has posted a notice to customers at the Institute's Web Site ([www.steelcontainers.com](http://www.steelcontainers.com)) explaining the evident discrepancy. The SSCI statement notes, in part, "Our members report that deviations from *Purchasing's* indices are usually caused by mill up-charge items common to our industry such as coil width, coil weight, surface finish, special chemistry, etc. Today, mills are enforcing these 'extras' to a far greater degree than they have been able to do in the past. Additionally, many mills have recently eliminated longstanding traditions such as freight equalization.\*\*\*"

The SSCI continues its dialogue with *Purchasing* editors in an effort to insure that the price index reflected in the *Steel Flash Report* more accurately reflects the realities of the marketplace.

### **SSCI to Conduct Steel Drums Primer at PPC Conference in Boston**

Jerry Massa, director of quality for CP Louisiana, Inc., and chairman of the SSCI's Technical Projects Committee (TPC), and John McQuaid, SSCI's executive director, will lead a class at the so-called PPC College providing a primer on steel drums. The class will be held as part of the education component, "Containers 101," at the Petroleum Packaging Council's August 21-23 Fall Conference in Boston.

The session, geared to newcomers to the industrial packaging industry, will focus on the evolution of

performance packaging, container markings and what they represent, and drum selection guidelines. The latter topic will include a discussion of interior linings, exterior colors, steel thickness combinations, and performance marks (with a focus on the filler's need to avoid consideration of so-called "macho marks" when specing their steel packagings).

## IPANA NEWS

### IPANA Fall Conference Set for September 19-20 in Arlington

IPANA's 3<sup>rd</sup> Annual Fall Conference will be held on Monday and Tuesday, September 19-20, at the Hilton Crystal City at Ronald Reagan National Airport. This is IPANA's first fall meeting outside the District of Columbia. It is hoped that the proximity of the conference hotel to the airport as well as the lower hotel costs will result in increased attendance.

In addition to the plenary sessions and networking opportunities provided by the conference, each of IPANA's affiliated groups will conduct meetings on broad-based agendas of matters affecting their respective industry segments. Of particular concern to all of IPANA's affiliated groups is the Working Group established at the July meeting of the UN Committee of Experts (COE) on the Transport of Dangerous Goods that will be focusing on IBC performance tests. (See report elsewhere in this newsletter.)

While the Working Group will focus initially on IBCs, it is not lost on all industrial packaging manufacturers that any precedents set by this effort that applies to IBCs may, eventually, be targeted to them.

In addition to the individual affiliates meetings, one plenary session at the Fall Conference will focus on PHMSA – the Pipeline and Hazardous Materials Safety Administration. A panel of PHMSA representatives will make presentations and take questions on matters related to international standards, technical and regulatory developments, and enforcement activities.

Other elements of the Fall Conference are in development and members will be alerted to them as they are finalized. Importantly, IPANA members should note that the **deadline for making hotel reservations**

**for the Fall Conference is August 26.** Please contact the Hilton Crystal City before that date to assure your preferred accommodations for the Conference at IPANA's conference rate of \$169 single/double. After August 26, reservation requests will be honored on a space available basis.

An e-mail containing a preliminary Fall Conference brochure that included a tentative schedule of events as well as hotel information and conference registration forms recently was sent to all IPANA contacts. If you missed that e-mail, please e-mail John McQuaid at [mcquaid@industrialpackaging.org](mailto:mcquaid@industrialpackaging.org) or phone him at 202-408-1900.

## LEGISLATIVE NEWS

### HMTA Reauthorized as Part Of Omnibus Highway Bill

The long overdue and much anticipated reauthorization of the Hazardous Materials Transportation Act (HMTA) recently was passed by Congress and signed into law by President George W. Bush. The measure was included in an 800-page, \$286 billion five-year highway and mass transit authorization bill. The authorization for the HMTA expired in the late 1990s and its provisions have been continued under the prior act pending the Congress's passage of a new bill.

Efforts to reauthorize the HMTA as a stand-alone measure in recent years languished due to the lack of a legislative champion for the measure in Congress. Thus, the effort, in recent years, was tied to passage of a new six-year highway/mass transit bill. However, that measure, itself, ran into political problems that saw provisions of the prior reauthorization extended twelve times before recent passage of a bill.

The HMTA reauthorization is included as Title VII of the highway/transit act and is formally entitled, the *Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005*. In addition to setting out changes in HM regulations, the Act also contains provisions involving transportation security – a legacy of September 11 and the continuing war on terrorism. These amendments greatly increase DOT inspection and enforcement authority, increase fines – in some case up to four times – and add new criminal penalties.

A summary of the act's provisions related to inspection and enforcement, fines and penalties, and other key changes recently was circulated to all IPANA members in an e-mail from staff that also included the complete text of Title VII.

## **REGULATORY NEWS**

### **Tobyhanna Testing Raises Anew Concerns about "Macho Markings"**

Industry sources report that the Office of Enforcement at the Pipeline and Hazardous Materials Safety Administration (PHMSA) is concerned about a rising incidence of drop test failures involving steel drums tested at the agency's Tobyhanna facilities. As a consequence of the test results, agency officials are stepping up testing and, increasingly, are not liking what they are finding.

Sources explained that most steel drums with an "X" packing group designation are being targeted by PHMSA and are failing the drop test. Many of these drums are manufactured of lighter gauge steel – an industry trend fostered by fillers seeking to control costs associated with rising prices for cold rolled steel used to make drums and pails.

It has been observed that many of the "X" packing group designations are a legacy of packaging specifications established some time ago by firms that, in many cases, no longer directly employ packaging engineers. Moreover, the products being shipped in steel drums and pails, for the most part, do not require an "X" mark. Thus, fillers who insist on such a mark while at the same time specifying a lighter gauge drum to control costs may be exposing themselves to potential liability in the event of a packaging failure.

The SSCI's Technical Projects Committee (TPC) is working on a revised markings brochure to address, among other matters, the "macho marking" issue. An initial draft of the brochure has been completed and will be circulated to TPC members and the SSCI Board prior to the Fall Conference in Arlington, Virginia. It is anticipated that the TPC will finalize the brochure at the conference and re-submit it to the SSCI Board for final approval and publication later in the fall.

In the meantime, SSCI manufacturers should be aware of PHMSA's stepped up enforcement efforts and work with their customers to review packaging group designations in packaging specifications.

### **Brigham McCown Named PHMSA Deputy Administrator**

U.S. Transportation Secretary Norman Y. Mineta has appointed Brigham McCown as the new Deputy Administrator for the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA).

"Brigham brings a diverse range of experience to this newly created safety agency," Secretary Mineta said. "His operational management experience and expertise in the aviation, maritime and motor carrier industries will be critical as we move forward with the reauthorization of the hazardous materials safety program."

McCown, who assumed his new post on June 27, will be charged with helping to lead an agency responsible for the safe and secure movement of more than 800,000 daily shipments of hazardous materials and the 64 percent of the nation's energy transported by pipelines.

McCown most recently served as the first-ever chief counsel of the Federal Motor Carrier Safety Administration, where he was responsible for oversight of legal and legislative issues involving the commercial motor carrier, motor coach and moving industry. Prior to joining the department in 2003, he was a member of Winstead Sechrest & Minick P.C., a Dallas-based law firm where he specialized in litigation and government relations.

In addition to his legal positions, McCown is also an aviator and a member of the U.S. Navy Reserve. During the past 17 years, he participated in Operation Desert Storm, Haiti's Operation Support Democracy, counter-narcotics operations, and most recently in Operation Unified Assistance where he participated in Tsunami relief operations in Southeast Asia. He earned a Bachelor of Arts degree in diplomacy and foreign affairs from Miami University, Oxford, OH, in 1988, and a law degree from Northern Kentucky University in 1997.

## **PHMSA Issues Safety Advisory On High Pressure Cylinders**

The Pipeline and Hazardous Materials Safety Administration recently issued a safety advisory noting that it had suspended an exemption – DOT-E 12695 – issued to an Ontario, California firm that manufactured high-pressure cylinders. The agency said that it and the Office of Inspector General (OIG) are investigating the firm, Global Composites International, Inc. (GCI) after gathering evidence that suggests that GCI manufactured, marked, certified, and sold an undetermined number of high-pressure DOT exemption carbon fiber filament cylinders when the cylinders had not been manufactured in accordance with the HMR, the agency exemption, and the design qualification standards incorporated into the exemption.

The agency noted, “The evidence suggests that some of these cylinders were not wrapped with a sufficient number of carbon fiber layers to insure their structural integrity. In addition, the evidence suggests that many of these cylinders did not undergo the complete series of safety tests and inspections required by the HMR and may not possess the structural integrity to safely contain its contents under pressure.”

PHMSA recommends that any person possessing a cylinder manufactured by GCI and marked with exemption number DOT-E 12695 take the cylinder to a qualified refilling station and have the pressure relieved from the cylinder. “The cylinder is no longer authorized for use,” PHMSA advised.

## **Firm Fined, Executive Jailed for Shipping Undeclared HM on Aircraft**

The Department of Transportation’s Office of Inspector General (OIG) recently announced that Silesia Flavorings, Inc. (SFI), the U.S. subsidiary of an international flavoring extracts company, and a company officer were sentenced in U.S. District Court in Chicago in connection with the illegal transportation of flammable liquids on a commercial flight.

SFI was fined \$130,000 and its executive vice president, Ortwin Winter, was sentenced to three months in prison and fined \$5,000. The firm and Mr. Winter pled guilty to a felony count of transporting flammable

liquids in violation of HM regulations, and to a misdemeanor of misbranding MH, respectively.

Winter admitted that, in order to satisfy customer demand for quick delivery, he encouraged an SFI salesman to place flammable liquids in his personal luggage stowed on board the aircraft. The plea and sentencing of the salesman is scheduled for August.

## **New HOS Rule Out Soon; Possible Rollback Feared**

The Federal Motor Carrier Safety Administration (FMCSA) has sent a new version of its truck driver hours-of-service (HOS) regulation to Bush Administration budget officials for review and the redrafted proposal could be published soon. According to the sources, publication could occur as early as August 19.

The FMCSA is reworking the HOS rule because the U.S. Court of Appeals for the District of Columbia Circuit’s July 2004 ruling directed the agency to more specifically consider the 2003 rule’s impact on the health of drivers.

There is some speculation among trucking interests that the revised rule may revert to a ten hour driving limit, rather than the eleven-hour provision that the FMCSA authorized in the rules the court overturned. The consequences of such a change at this juncture would be widespread in an industry that has adopted its operations to the expanded driving time.

The FMCSA must act to address the court’s concerns on the overturned rules before September 30.

## **EPA Proposes Rules to Reduce Stationary Diesel Engines Emissions**

As part of a nationwide effort to control fine particle and ground-level ozone pollution, EPA proposed emission standards for stationary diesel engines. The proposed standards, known as New Source Performance Standards, will reduce harmful emissions of nitrogen oxides, particulate matter, sulfur dioxide, carbon monoxide, and hydrocarbons from new, modified, and reconstructed stationary diesel internal combustion engines. The standards will subject stationary diesel

engines to the same stringent levels required by EPA's non-road diesel engine rule.

As proposed, the rule will affect 81,500 new stationary diesel engines and result in total pollutant reductions of over 68,000 tons in 2015. Emissions reductions will occur gradually from 2005 to 2015, reaching reductions of 90 percent or more from baseline levels in some cases. EPA estimates the total nationwide annual costs for the rule to be \$57 million in the year 2015.

Stationary diesel internal combustion engines are used to generate electricity and operate compressors at facilities such as power and manufacturing plants. They are also used in emergencies to produce electricity and pump water for flood and fire control. EPA will accept comments on this proposed rule for 60 days following publication of the proposed rule in the *Federal Register*.

For more information on this action visit: [http://www.epa.gov/ttn/oarpg/t3/fact\\_sheets/stadieseleng\\_ineprop\\_fs.html](http://www.epa.gov/ttn/oarpg/t3/fact_sheets/stadieseleng_ineprop_fs.html).

### **Paint Manufacturer Faces Prison for Illegal Waste Storage**

The president of Michigan Industrial Finishes Corporation has pled guilty in U.S. District Court for the Eastern District of Michigan to violating the Resource Conservation and Recovery Act (RCRA) by illegally storing more than 2,000 55-gallon drums and other containers of highly-flammable paint-related solvents.

In his plea, Norman Solomon of Farmington Hills, MI, admitted to storing the drums illegally for more than 90 days a time between 1997 and 2004 despite the fact that he had entered into a consent decree with the Michigan Department of Environmental Quality in 1997 to resolve the storage issues. The ignitable spent solvents being stored illegally included xylene, toluene and methyl ethyl ketone. EPA estimates that Superfund cleanup costs at the site will be approximately \$4 million.

The case was investigated by the Detroit Office of EPA's Criminal Investigation Division acting in conjunction with the Southeast Michigan Multi-Agency Environmental Task Force. EPA's National Enforcement Investigations Center provided technical support. The

case is being prosecuted by the U.S. attorney's office in Detroit.

## **INTERNATIONAL NEWS**

### **UN Fails to Take Up Vibration Test Issue; Forms Working Group on IBCs**

The United Nations Sub-committee of Experts on the Transport of Dangerous Goods (UN COE) at its initial session of the current biennium in July did not take up a proposal to establish a mandatory vibration test for hazardous materials packaging because no proposal was forthcoming. The expert from France, who had conducted a data-gathering session of vibration test proponents earlier in the year in Paris, did not offer a paper at the Geneva meeting as a basis for discussion of a random vibration test.

Instead, the COE formed a Working Group, headed by the expert from Canada, Linda Hume-Sastre, and scheduled a meeting for October, in Paris, to focus on IBC performance tests. The focus on IBCs arose from COE concerns about the performance of IBCs in the transportation environment.

The Working Group, as part of its scope of work, will focus on the UN IBC test protocols using the formal and informal papers discussed at the July 2005 meeting (the 27<sup>th</sup> session) of the UN COE, as well as verbal comments made there. In an Inf. document posted on the UN COE Web Site subsequent to the July meeting, the Working Group identified as its objective: (1) the review of test protocols and test acceptance criteria in the current UN Recommendations to ensure that IBCs that meet the state minimum requirements are strong enough to survive real transport and handling conditions; (2) consideration of recent reported performance experience of "lightweight" IBCs and whether specific marking and test protocols should be developed and prescribed in the Model Regulations; (3) consideration of the need to clarify requirements in light of current compliance/interpretation testing practices (e.g., leakproofness test); (4) propose appropriate changes to the test protocols and IBCs' markings that are deemed necessary as a result of this review; and (5) changes to tests, acceptance criteria or development of new tests as may be considered appropriate.

The Working Group is expected to prepare an interim report as an Inf. document for the UN COE's December meeting in Geneva. If appropriate, the Working Group may prepare a formal proposal to the COE for consideration not later than its 29<sup>th</sup> session in July 2006.

Parties interested in participating in the Working Group should contact Linda Hume-Sastre at Transport Canada.

### **ICDM Board Meeting Tentatively Set for November in Washington**

Les Trilla, Chairman of the SSCI's International Committee has advised that a meeting of the Board of Directors of the International Confederation of Drum Manufacturers (ICDM) tentatively has been scheduled for November in Washington, D.C. ICDM is comprised of representatives of the Steel Shipping Container Institute (SSCI), the Asian Oceanic Steel Drum Association (AOSDA), and the European Association of Steel Drum Manufacturers (SEFA).

Arrangements for the meeting are being coordinated with AOSDA and SEFA. Details on the meeting will be provided as they are finalized.

### **DGAC Adds Wybenga, Altemose as Staff Resources**

Frits Wybenga and Edward (Andy) Altemose have joined the staff of the Dangerous Goods Advisory

Council, effective August 1. Mr. Wybenga retired in March as deputy associate administrator of the Office of Hazardous Materials Safety (OHMS) in the DOT's Research and Special Programs Administration (RSPA). Subsequently, RSPA was abolished and the OHMS was transferred to a newly-created agency the Pipeline and Hazardous Materials Safety Administration. Mr. Altemose is a former RSPA official and currently is a principal with HMT Associates, Alexandria, VA, specialists in hazardous materials transportation.

"I am pleased to announce that Frits Wybenga and Andy Altemos are now staff associates of DGAC," Council Alan I Roberts wrote to members. "Under

different arrangements, each will be performing specifically assigned duties, Frits as a part-time employee, and Andy as a consultant for a limited

number of tasks. We are delighted to have them on board to assist us in improving our services to DGAC members," Roberts observed.

DGAC also has named a general counsel, Jerry W. Cox. Jerry has been involved in a number of DGAC activities since 1981. Mr. Cox, a DGAC member, will be available to provide initial consultations on legal and governmental issues to DGAC and its individual members, Roberts noted..

**REGISTER TODAY FOR IPANA'S 2005 FALL CONFERENCE**

**HOTEL RESERVATIONS DEADLINE IS AUGUST 26. MAKE YOUR ARRANGEMENTS TODAY!!**

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