



Shipping Container Institute

NEWS

November – December 2005

SSCI NEWS

'06 Membership Payments Due by January 10

Members are reminded that payment of fees for membership in IPANA/SSCI is due on January 10. For Manufacturer members of SSCI, dues for 2006 increased three percent pursuant to a proposal approved by the Board of Directors last September.

For SSCI Associate members, meanwhile, the dues for 2006 are unchanged. However, the portion of dues allocated to IPANA for administrative/overhead expenses has been reduced somewhat for the new year with an amount equal to that reduction shifted to IPANA's affiliated organizations for their use in supporting program activities.

SSCI Board Meeting Set for January 17

The SSCI's Board of Directors will conduct its first meeting of 2006 on January 17 in Washington, D.C. The primary focus of the meeting will be to set the Institute's program priorities for the coming twelve months. To support its work agenda, the SSCI is in the process of hiring a full-time program director whose efforts will be solely focused on Institute projects such as the Steel Packaging Alliance for Public Safety (SPAPS). At its meeting, the Board also will identify and prioritize other work projects for the year.

Among other agenda items for the meeting will be a report by a Board task group on its review of the SSCI's investment policy guidelines as well as a year-end briefing by the Institute's investment advisor at Legg Mason Wood Walker LLC. The Board also will be

briefed on developments at the December 2005 meeting of the UN Committee of Experts in Geneva as well as the November meeting of the Steel Drum Council.

Staff also will provide updates on pending regulatory and legislative matters of interest as well as various publication projects that are close to being completed.

SSCI, RIPA Representatives Hold 2nd Steel Drum Council

Representatives from the Steel Shipping Container Institute (SSCI) and the Reusable Industrial Packaging Association (RIPA) met in Chicago in November for the second time under the guise of the Steel Drum Council (SDC). The meeting was held at the offices of Trilla Steel Drum Corporation and included a discussion of mutual issues of concern and a plant tour. SSCI representatives at the SDC meeting included Len Berenfield -SSCI chairman, John Dergentis – Grief, Inc., Les Trilla, the host, as well as Counsel and staff.

The SDC, chaired by Len Berenfield, discussed a wide range of issues, including organizational updates, steel drum testing at Tobyhanna, "preferred" markings for steel drums, NMFTA Item 260, and emerging issues affecting drum closure systems.

The SDC agreed that Tobyhanna should be the group's top priority and representatives of the two groups should work through the Council on key issues related to drum testing and performance. The SDC will prepare a draft paper for consideration by SSCI and RIPA that focuses on a cooperative approach for dealing with DOT in determining why steel drum performance in the field differs from test results at Tobyhanna.

REGULATORY NEWS

PHMSA Withdraws Long-Pending Rulemaking on Sanitary Food Transport

The Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT, recently published a *Federal Register* notice withdrawing a May 21, 1993, notice of proposed rulemaking and a similar supplemental notice dated December 21, 2004, containing proposals to implement provisions of the Sanitary Food Transportation Act of 1990.

The agency's action was prompted by the enactment of the *Sanitary Food Transportation Act of 2005* that was signed by President Bush in August. That legislation transferred authority for regulating the safe transportation of food from the U.S. Department of Transportation to the U.S. Department of Health and Human Services' Food and Drug Administration (FDA).

There had been considerable industry opposition to the DOT's withdrawn proposals – particularly the 2004 supplemental notice -- which, at the time of publication, appeared to reference more than 5,000 pages of regulations by other agencies that needed to be evaluated for a carrier to ensure compliance with the rule as proposed.

In withdrawing the proposed rules, PHMSA said that it will work with U.S. Department of Agriculture's Food Safety and Inspection Service and the FDA to develop standard training for transportation inspectors to enable them to recognize suspected incidents of contamination or other potential food safety or security concerns encountered during their inspections.

PHMSA Issues Rule Revising Definitions, Paperwork Requirements

On December 9, the Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT, issued a final rule in HM-240 revising certain terminology, definitions, and requirements for consistency with the *Hazardous Materials Safety and Security Reauthorization Act of 2005*. These amendments include revising the definitions of "hazmat employee" and "hazmat employer" as well as shipping paper retention requirements. It also provides a security plan exception

for farmers handling hazardous materials in connection with agricultural activities.

PHMSA said it revised the hazmat employee and employer definitions to specify that both include self-employed individuals, in addition to persons who represent, mark, certify, or sell packaging components qualified for transporting hazardous materials. The definition of hazmat employee was expanded to include railroad maintenance-of-way workers and railroad signalmen, as well.

Importantly, the definition of hazmat employee extends to part-time or temporary employees who in the course of their employment, for example, prepare shipping documents related to hazmat shipments. Such employees now will have to be provided hazmat training.

In amending Part 172.201 of the hazardous materials regulations in Title 49 CFR, the agency noted that shipping papers related to the transport of hazardous waste must be retained by the offeror for three years after the material is accepted by the initial carrier. Moreover, such papers related to the transport of other hazardous products must be retained for two years after the initial carrier accepts the material for transport.

The new rule, which becomes effective on January 9, 2006, can be found in the December 9 *Federal Register* at: <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-23754.pdf>.

HazMat Interests Urge President to Appoint PHMSA Administrator

More than 35 trade associations representing a broad range of hazardous materials interests – including the SSCI – in November wrote to President Bush urging him to appoint an administrator for the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Department of Transportation. The letter was signed by most organizations participating in the so-called Interested Parties group – an informal gathering of hazardous materials transportation interests.

"The industries and public safety agencies we represent," the letter noted, "have operations in every

state, have combined business revenues in excess of \$1 trillion, employ millions of works, and provide the products and services that underpin the standard of living we enjoy

“On November 30, 2004, you signed the *Norman Y Mineta Research and Special Programs Improvement Act*, now P.L. 108-426. This legislation created a new administration – PHMSA – to carry out the duties and powers related to pipeline and hazardous materials transportation safety and security vested in the Secretary of Transportation under 49 United States Code,” the letter continued.

“The impetus of this legislation was to elevate the regulatory oversight of these vital sectors of the economy within the Department to ensure a multi-modal approach to issues of transportation safety and security.,” the letter noted. “PHMSA was to be headed by an administrator, subject to your appointment with the advice and consent of the Senate. We are concerned that the necessary and important work of PHMSA is not being accorded its proper status due to the lack of senior leadership at the administrative level.”

“As we approach the first anniversary of the Norman Y. Mineta Act, we urge you to expedite this appointment,” the letter concluded.

INTERNATIONAL NEWS

UN COE Focuses on IBCs

Following extensive discussion of issues related to the transport efficacy of composite intermediate bulk containers (IBCs) by delegates at the recent meeting of the U.N. Committee of Experts (COE) on the Transport of Dangerous Goods, it is expected that a formal proposal aimed at revising UN Model Regulations on IBCs likely will be forthcoming at the July 2006 session.

A report by an IBC Working Group that met in Paris this fall formed the basis for the COE’s consideration of various IBS-related issues. Among the issues discussed at the Working Group session and reported to the COE in Geneva were: vibration testing, IBC stacking, leakproofness testing, so-called “single-trip” IBCs, and UV protection.

However, it appears that any proposed changes will *not* include adoption of a vibration test for IBCs – at

least not in the current biennium that concludes with the December 2006 meeting.

The COE, however, agreed that a vibration proposal could be studied provided that appropriate justification for such a requirement could be demonstrated while bearing in mind that a broad consensus is necessary in order to introduce additional requirements that would significantly affect the packaging industry, particularly since packagings other than IBCs would not be addressed. Moreover, any recommended vibration test would have to have the capability of being performed worldwide and a number of issues contained in the report of the Paris Working Group (Inf. 5) would have to be resolved.

Among those supporting the need for a vibration test were the experts from the U.S. and Transport Canada. The experts from the U.K. and Germany also indicated that they favored the test, while the experts from The Netherlands, Belgium, and Norway remained unconvinced that a vibration test was needed.

Concerning the matter of UV degradation, the expert from Germany agreed to draft a paper for the next session setting forth a minimum level of UV protection for all plastic and composite IBCs, both rigid and flexible. Moreover, it was observed that any proposal should take into account that any UV minimum level of protection adopted by the UN would be insufficient for specific local conditions (e.g., Outback in Australia).

The COE dispensed with the idea of classifying a “single-trip” IBC and, instead, embraced the opinion of the Working Group that concluded to make no distinction between single- and multi-trip or light- and heavy-weight IBCs. Therefore, no further discussion of this issue is expected during this biennium.

OTHER NEWS

DGAC Names Michael Morrisette as President Succeeding AL Roberts

At its November annual meeting, the Board of Directors of the Dangerous Goods Advisory Council (DGAC) elected Michael Morrisette president. He succeeds Al Roberts who recently retired from DGAC culminating a fifty-year career in transportation. DGAC is an international membership organization representing

all aspects of the hazardous materials/dangerous goods transportation industry.

Mr. Morrissette brings more than 35 years of experience in addressing matters related to the transport of dangerous goods, including extensive involvement in both domestic and international regulatory activities. He joined DGAC in 1995 as director of technical services and was elected vice president in 2002.

His principal activities within DGAC are monitoring U.S. regulatory developments affecting the transport of hazardous materials and representing DGAC at international meetings, (UN, ICAO, and IMO) concerning dangerous goods transport.

Mr. Morrissette served four years as an officer in the U.S. Coast Guard and then worked for the agency as a civilian. He earned a bachelor's degree from the University of Wisconsin and a master's degree from Johns Hopkins University with a concentration in health science.

IRS Announces 2006 Standard Mileage Rates

The Internal Revenue Service (IRS) recently issued the 2006 optional standard mileage rates used to calcu-

late the deductible costs of operating an automobile for business, charitable, medical, or moving purposes.

Beginning January 1, 2006, the standard mileage rates for the use of a car (including vans, pickups, or panel trucks) will be:

- 44.5 cents per mile for business miles driven;
- 18 cents per mile driven for medical or moving purposes; and,
- 14 cents per mile driven in service of charitable organizations, other than activities related to Hurricane Katrina relief.

The new rate for business miles compares to a rate of 40.5 cents per mile for the first eight months of 2005. In September, the IRS made a special one-time adjustment for the last four months of 2005, raising the rate for business miles to 48.5 cents per mile in response to a sharp increase in gas prices, which topped \$3 per gallon.

The standard miles rates for business, medical and moving purposes are based on an annual study of the fixed and variable costs of operating an automobile. The mileage rate for charitable miles is set by statute.