



# Shipping Container Institute

# NEWS

September – October 2006

## SSCI NEWS

### SSCI to Aggregate and Publish Annual Production Statistics

At its recent meeting in Washington, D.C. in conjunction with the IPANA 2006 Fall Conference, the Steel Shipping Container Institute's (SSCI) Board of Directors agreed to move forward with a program to gather, aggregate, and publish annual steel drum and pail production statistics. It was agreed that publication of this data would commence with the year-end 2006 statistics.

While agreeing in principle to move forward with the details of how the data will be gathered, aggregated, and published remain to be finalized. As this project progresses, SSCI members will be kept apprised of developments.

### SSCI Publishes Brochures on UN Marks, Lining Issues; More to Follow

The Steel Shipping Container Institute (SSCI) recently published in brochure and electronic form two informational documents designed to provide steel drum and pail purchasers with guidance concerning drum marking and lining selection issues. These instruments are the first in a series addressing a range of issues that a drum or pail purchaser should consider when specifying packaging.

Developed by the SSCI's Technical Projects Committee (TPC), the two documents are formally titled *Certifiable UN Marks for Steel Drums and Pails* and *Lining Selection Guidelines for Interior Lined Steel Drums and Pails*. The documents previously had been circulated, in electronic form, to SSCI's manufacturer members. They also are available on the SSCI's Web Site at [www.steelcontainers.com](http://www.steelcontainers.com). Look for the

Buyer's/Shipper's Guide listing in the box on the Home Page.

At its recent meeting in Washington, the TPC neared completion of work on two additional information documents: *Container Assembly and Closure Instructions* and *Steel Drum and Pail Accessory Compatibility*. Also, the Committee advanced efforts to publish a revised and expanded *Buyer's/Shipper's Checklist for Packaging Regulated and Non-Regulated Materials*. The checklist is a useful tool designed to focus steel drum and pail buyers on their obligations under the law in choosing packaging and to assist the buyer and manufacturer in determining the appropriate package for the product being shipped.

It is anticipated that the checklist will be published before the end of the year.

### SSCI Chairman Addresses Members at RIPA Annual Meeting

SSCI Chairman Len Berenfield, President and CEO of Berenfield Containers, Inc., recently spoke at the Reusable Industrial Packaging Association's (RIPA) 65<sup>th</sup> Annual Meeting in Miami, Florida. This is the first speaking opportunity that SSCI's chairman has had at RIPA in a number of years.

In his comments, Mr. Berenfield reminded his audience of the long and close relationship that new drum manufacturers and reconditioners have had over the years. He noted that several SSCI manufacturers got their start in the business as reconditioners. "So, it is clear," Mr. Berenfield noted, "that our histories, and to some extent, our destinies, have been tied together for a long time."

“For that reason,” he continued, “it has been a great experience to see and be part of the bridge-building process between RIPA and SSCI over the past year and a half by re-implementation of the Steel Drum Council (SDC). The spirit of cooperation and friendship between Paul Rankin and John McQuaid has clearly been a catalyst to make this happen. Although John will soon be moving to the west coast, I want to make it clear that SSCI will continue forward with the work of the Council under the same philosophy as the recent past.

“Certainly, there will always be fundamental differences between SSCI and RIPA,” Chairman Berenfield acknowledged, “but there are also areas where there is total agreement. Those of us on the Steel Drum Council have recognized those realities from the outset, and set the agenda, meetings, and goals from that perspective. We have agreed that while we may disagree, we will not be disagreeable. We attempt to come out of the meetings with positive, substantive outcomes on items where goals are common.”

## **REGULATORY NEWS**

### **Several SSCI Issues Addressed in PHMSA NPRM on Miscellaneous HM Packaging Issues**

Two petitions filed by the Steel Shipping Container Institute with the DOT almost a decade ago are included among a number of matters the agency’s Pipeline and Hazardous Materials Safety Administration (PHMSA) addressed in a recent *Federal Register* notice of proposed rulemaking (NPRM). The agency acted in Docket No. HM-231, *Hazardous Material: Miscellaneous Packaging Amendments*. An alert on this proceeding and a copy of the *Federal Register* notice previously was sent to all SSCI members.

In its notice, PHMSA states that numerous amendments it is proposing are based on changes in the UN Recommendations, petitions for rulemaking received from interested parties, and its own initiatives. The agency said that the proposed amendments are intended to clarify certain regulatory requirements, incorporate requirements for the construction, maintenance and use of large packagings, clarify specification marking requirements, and revise certain packaging definitions. Comments on the proposed amendments must be received by DOT by November 30, 2006.

Acting on an SSCI request, the agency proposes to modify the marking requirements under Parts

178.3(a)(5) and 178.503(a)(10) relating to dual marking of drums. Currently, packages with a gross mass of more than 30 kg (66 pounds) must be marked on the top or side. However, if the package marking is on the bottom, then a duplicate marking must be on the side or top. SSCI’s petition relates to this duplicate mark and requests a change in the regulations to allow the duplicate marking, when applicable, to be a lesser design standard than is marked on the bottom of the package.

For example, a package would be tested and marked on the bottom as meeting the Packing Group I performance standard and the duplicate marking on the side of the drum would indicate that the packaging is certified to the Packing Group II performance standard. PHMSA is proposing to adopt the SSCI’s proposal noting that this change “would not impact safety and would allow drum manufacturers more flexibility when manufacturing and reusing drums.”

PHMSA also is proposing to revise Part 178.601(g)(8) of the regulations to include drums with a capacity of 12 liters (3 gallons) or more. Currently, this provision applies to steel drums with a capacity of greater than 50 liters, or 13 gallons. This proposed change is in response to SSCI’s request that the agency make several changes to the provisions of this section of the regulations which apply to the approval of selective testing of steel drums that differ in minor respects from a tested type of drum.

While PHMSA proposes to adopt the request that this regulation apply to a broader capacity of steel drums, it declined to advance the Institute’s additional request that Part 178.601(g)(8)(viii) should be changed to allow increased thickness of 1.35 mm, rather than the 10 percent provision currently provide in the regulations, before the container would be considered a “different packaging.” The agency noted, “When a drum’s thickness is altered, the properties of the drum are changed, and further testing must be conducted. Therefore, we are not proposing this provision in SSCI’s petition.”

Among other amendments considered in the NPRM, the agency proposes: (1) clarification of shippers’ responsibilities for complying with packaging standards (including a requirement to maintain a copy of packaging closure notifications); (2) addition of a prohibition on stacking any cargo on bulk packagings unless the packaging has been designed and tested for stacking, and limiting the weight of cargo that may be loaded on tested packagings to the stacking load marked

on the package; (3) revision of the requirements for the packaging manufacturer's closure notification to require the notification to provide for a "consistent and repeatable" closure of the packaging in the same manner in which it was closed for testing; and, (4) revision of selective testing variation § 178.601(g)(1) to require written documentation of the methodology used to determine compliance with the variations authorized.

### **PHMSA Issues NPRM on HM Transport Registration Fee Program**

The Pipeline & Hazardous Materials Safety Administration (PHMSA) recently published a *Federal Register* notice proposing substantial increases in the hazardous materials (HM) registration fees for persons who transport or offer for transportation certain categories and quantities of such products. The agency acted in Docket No. PHMSA-2006-25589 (HM-208F), *Hazardous Materials Transportation; Registration and Fee Assessment Program*

In the proceeding, PHMSA proposes to require registrants not qualifying as a small business or not-for-profit organization, to pay an increased fee of \$1,975 (plus a \$25 administrative fee) for registration year 2007-2008. Further, the agency proposes to increase this fee for the registration year 2008-2009 and following years to \$2,975 (plus a \$25 administrative fee).

Title 49 U.S.C. 5108(a)(1) stipulates that a person shall file a registration statement with DOT if the person is transporting or causing to be transported in commerce any of the following:

- (A) a highway-route-controlled quantity of radioactive material.
- (B) more than 25 kilograms of a Class A or B explosives in a motor vehicle, rail car, or transport container.
- (C) more than one liter in each package of a hazardous material the Secretary of Transportation designates as extremely toxic by inhalation.
- (D) hazardous materials in a bulk packaging, container, or tank, as defined by the Secretary of Transportation, if the bulk packaging, container, or tank has a capacity of at least 3,500 gallons or more than 468 cubic feet.
- (E) a shipment of at least 5,000 pounds (except in a bulk packaging) of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required under

regulations prescribed under this chapter of the U.S.C.

In proposing the fee hikes, PHMSA noted that it is complying with provisions of the August 2005 reauthorization of the Hazardous Materials Transportation Act that was part of an omnibus transportation authorization measure. A provision in that measure authorizes approximately \$28 million for so-called Hazardous Materials Emergency Preparedness (HMEP) grants. However, the Act also lowers the statutorily-mandated maximum registration fee from \$5,000 to \$3000. Now, the Administration's FY2007 budget proposal to Congress requests \$28 million in support of HMEP activity. The HMEP grants support HM emergency response planning and training activities by the various States, local governments, and Indian tribes.

The fee increases are substantial when compared to the most recent scaled back fees that registrants had been paying because a surplus of program funds that had been accumulating. In 2003, the agency temporarily adjusted the registration fee to \$125 (plus a \$25 administrative fee) for small business and not-for-profit organizations and \$275 (plus a \$25 administrative fee) for all other registrants. Then, this year, the agency boosted the fees to \$250 (plus a \$25 administrative fee) for small businesses and not-for-profit organizations and \$975 (plus a \$25 administrative fee) for all other registrants.

PHMSA's new proposal for next year would double the fee yet again and raise it another \$1,000 the following year while the fee for small businesses and not-for-profit organizations would remain unchanged at \$275 (plus a \$25 administrative fee).

### **Increase in Retirements Expected When DOT Moves to New Offices in 2007**

As the finishing touches are applied to the massive building that will house the U.S. Department of Transportation beginning next January, the word among many agency veterans is "I'm not going there."

Sometime after the first of the year, DOT will begin an exodus from its longtime headquarters at 400 Seventh Street in southwest Washington to brand new quarters in southeast D.C., off South Capitol Street, in the vicinity of the Nationals' new baseball stadium that is now under construction. At present, it is a somewhat remote, distressed area of the city near the Navy Yard Green

Line Metro station and the Anacostia River. It is expected that the new stadium will be a magnet for development in the area. However, it will take several years for the fruits of that development to be evident.

In the meantime, virtually all of DOT's agencies will be moving to the new offices and a number of staff whose age and years of service make them eligible for retirement have said they will retire rather than move to the agency's new headquarters building. Others are hoping that the agency will extend buy-outs in connection with the move.

Consequently, there is likely to be a significant loss of institutional memory as these retirements occur that could impact the DOT's various constituent groups, including industrial packaging manufacturers.

### **OSHA Posters and Publications: Free for the Asking**

Advertisements and threatening phone calls suggesting and demanding that Occupational Safety and Health Administration (OSHA) workplace posters must be purchased from private companies is misleading employers, the agency reported. OSHA reminds employers that official posters – such as the OSHA Workplace Poster – are available free for the asking.

Posters, and most publications, are available at no cost to anyone who asks simply by visiting the publications page on the agency's Web Site (<http://www.osha.gov/pls/publications/pubindex.list>), or by calling the publications office in Washington, D.C. at (202)693-1888.

### **OSHA Adopts Final Rule Revising Respiratory Protection Standard**

The Occupational Safety and Health Administration (OSHA) in the August 24 *Federal Register* published a final rule (Docket No. H049C; RIN 1218-AA05) revising its existing respiratory protection standard to add definitions and requirements for assigned protection factors (APFs) and minimum use concentrations (MUCs). The revisions also supersede the respirator selection provisions of existing substance-specific standards with these new APFs (except for the respirator selection provisions of the 1.3-Butadiene Standard).

In its notice, OSHA explained that it developed the final APFs after thoroughly reviewing the available literature, including chamber-simulation studies and workplace protection factor studies, comments submitted for the record, and hearing testimony in a proceeding that was initiated in June 2003.

The final APFs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants found in general industry, construction, shipyards, longshoring, and marine terminal workplaces. Proper respirator selection using APFs is an important component of an effective respiratory protection program, the agency emphasized. Therefore, OSHA concluded, the final APFs are necessary to protect employees who must use respirators to protect them from airborne contaminants.

OSHA's 72-page decision in this proceeding can be accessed using the following link: [http://www.access.gpo.gov/su\\_docs/fedreg/a060824c.html](http://www.access.gpo.gov/su_docs/fedreg/a060824c.html). The final rule becomes effective November 22, 2006.

### **OSHA Seeks Comments on GHS**

OSHA [published](#) an Advanced Notice of Proposed Rulemaking in the Sept. 12 *Federal Register* seeking comments on the implementation of the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). The GHS includes harmonized provisions for classification of chemicals for their health, physical, and environmental effects, as well as for labels on containers and material safety data sheets. Adoption of the GHS would require proposed changes to the [Hazard Communication Standard](#). To help individuals better understand the GHS approach, OSHA prepared a [guidance document](#) that summarizes the requirements. Comments must be submitted no later than Nov. 13.

## **INTERNATIONAL NEWS**

### **DGAC, ICCR Submit UN Paper on French Proposal for Drop Test Target**

The Dangerous Goods Advisory Council (DGAC) and the International Confederation of Container Reconditioners (ICCR) have submitted to the UN Committee of Experts on the Transport of Dangerous Goods (COE) a paper responding to amendments to the

*Model Regulations* proposed by the expert from France that provisionally have been adopted by the COE at its 29<sup>th</sup> Session in July and been docketed for final action at the group's 30<sup>th</sup> Session in December in Geneva.

The changes relate to the platform, or target, used in conducting drop tests of packagings, packagings for infectious substances, IBCs, and large packagings. In their paper, DGAC and ICCR noted that they have reviewed the adopted text and also the source of the adopted requirements in ISO 2248 paragraph 4.4 and "believe that some reconsideration of the adopted provisions may be appropriate."

"ISO 2248 does not actually impose the requirements of the drop target as adopted in paragraph 6.1.5.3.4 [of the UN COE's July meeting report]," the parties noted. "ISO 2248 paragraph 4.4 requires an Impact surface, horizontal and flat, massive enough to be immovable and rigid enough to be non-deformable under test conditions."

DGAC and ICCR observed that a note associated with paragraph 4.4 of the ISO 2248 document states that, in normal circumstances, the impact surface provided shall be:

- integral with a mass at least 50 times that of the heaviest package to be tested;
- flat, such that no two points on its surface differ in level by more than 2 mm;
- rigid such that it will not be deformed by more than 0.1 mm when an area of 100 mm<sup>2</sup> is loaded statically with 10 kg anywhere on the surface; and
- sufficiently large to ensure that the test package falls entirely upon the surface.

"As a note in ISO 2248," the DGAC/ICCR explained, "the target surface provision is not a requirement. While providing guidance on criteria for a target surface, it allows for flexibility when strict compliance with the criteria may be impracticable."

Further, the parties noted that the current drop test requirements in the *Model Regulations* have been in use for more than 20 years and that, with the exception of a limited number of new facilities being built, target drop surfaces are already available throughout the world. "While not having conducted a survey of available target surfaces, we question how many of these surfaces would be in compliance with the adopted requirements. For example, how many were constructed with a 2 mm surface tolerance?" DGAC/ICCR continued.

"With the adopted text making no provision for existing facilities, it would seem that the new requirements, once implemented, will apply to existing facilities," the parties noted. "Those not in compliance would have to be replaced or re-fitted. Not providing for existing facilities also raises the question of how many packagings tested on target surfaces not in compliance with adopted requirements should be regarded. Will they require retesting?" DGAC/ICCR inquired.

The paper also said that the relevance of ISO 2248 impact surface requirements to IBCs and Large Packagings must be questioned. Noting that the ISO text uses a 10 kg mass to evaluate the rigidity of the test surfaces and a surface area of 100 mm<sup>2</sup>, the DGAC/ICCR paper observed that if ISO 2248 had been intended for IBCs and large Packagings, a larger mass and larger surface area should have been specified.

"Further," the paper stated, "we note that a 3,000 liter IBC filled with water will require a concrete (normal density) test target of 60 cubic meters. More massive IBCs will require even more massive target surfaces. IBCs with a gross mass approaching 4,500 kgs are not unrealistic. For those IBCs a concrete target volume of 91 cubic meters would be required. Such a target mass is not likely to be available at most test laboratories."

In conclusion, DGAC/ICCR questioned the actual safety benefit provided by the text proposed at the 29<sup>th</sup> session and stated they would prefer to maintain the existing test unchanged. "We consider the ISO 2248 recommended provisions to have relevance only to test surfaces for packagings and packagings of infectious substances."

## **OTHER NEWS**

### **McQuaid Resigns SSCI, IPANA Posts**

John A. McQuaid, who serves as executive director of the Steel Shipping Container Institute (SSCI) and the Industrial Packaging Alliance of North America (IPANA) in Washington, D.C. recently advised the chairmen of both organizations that he is resigning in November and relocating to the west coast.

Mr. McQuaid was named executive director of SSCI in March 2002 and assumed the same position for IPANA when it was created in January 2003. He is a thirty-year veteran of association management in

Washington serving during that time in various senior positions for numerous supply chain and freight transport related groups before joining SSCI.

The SSCI Board of Directors, in consultation with IPANA, has initiated a search for a new executive director. In the meantime, Mr. McQuaid agreed to serve in a consulting capacity with both organizations until the end of the year to assure continuity of management and facilitate the transition to his successor.

### **Mary Peters Sworn In As 15th Secretary of Transportation**

Mary Peters, who earlier in the Bush presidency headed the Federal Highway Administration (FHWA), DOT, recently was sworn in as the fifteenth Secretary of Transportation. Ms. Peters, who served at the FHWA from 2001 to 2005, fills a Cabinet seat that had been vacant since Norman Y. Mineta resigned the post in July after six years. Prior to heading the FHWA, Ms. Peters spent three years as head of the Arizona Department of Transportation.

Most recently, Ms. Peters served as senior vice president at HDR, Inc., an engineering firm. Earlier this year, she was appointed by President Bush to serve as a co-vice chairman of the new-formed National Surface Transportation Policy and Revenue Study, a post she now will relinquish.

Her selection to lead DOT has been met with mixed feelings among freight transportation stakeholders because Ms. Peters has been an advocate of user fees, or tolls, for building new highways. Moreover, she supports so-called innovative funding solutions such as the recent sale for more than \$3 billion of the Indiana Toll Road by that state to foreign investors. Indiana intends to use the proceeds of the Toll Road sale to fund other transportation projects in the Hoosier state. Several other states are exploring the latter option to address their substantial transport infrastructure needs in today's political environment where elected officials are fearful of raising taxes for such purposes..

## **PEOPLE IN THE NEWS**

**Mark V. Rosenker** has been sworn in as the new chairman of the US National Transportation Safety Board (NTSB). He was appointed to the Board in March 2003 and made vice-chairman in April of that year. Since March 2005 he has been acting chairman and will now serve a two-year term as chairman.

**Ryan Posten** has been named as Director of PHMSA's Office of Hazardous Materials Enforcement, succeeding John O'Connell, who retired earlier this year. Mr. Posten has experience at the agency as an inspector, standards writer, and, most recently, was chief of the Special Permits Office.

**Stacey Gerard**, officially, has been named the first assistant administrator and chief safety officer of the Pipeline and Hazardous Materials Safety Administration (PHMSA). Previously, Ms. Gerard a long-time agency employee, has served in an acting capacity in both posts as well as associate administrator for pipeline safety since PHMSA was established in a DOT reorganization in February 2005.

## **CALENDAR OF EVENTS**

### **November 7**

Election Day

### **November 15 – 17**

Dangerous Goods Advisory Council  
28<sup>th</sup> Annual Meeting  
Arlington, VA

### **November 23**

Thanksgiving

### **Nov. 27 – Dec. 1**

National Assn. of Chemical Distributors  
35<sup>th</sup> Annual Meeting  
Carlsbad, CA