



# Shipping Container Institute

# NEWS

July – August 2007

## SSCI NEWS

### SSCI, RIPA at Impasse on Minimum Thickness

Former SSCI Chairman Leonard H. Berenfield late last month met with the Board of Directors of the Reusable Industrial Packaging Association (RIPA), in effect, completing the circle of dialogue that was initiated by a discussion with RIPA's elected chairman at that group's annual meeting last October in Florida. At issue is the subject of minimum thickness of steel drums. Mr. Berenfield's appearance at the RIPA Board meeting was authorized by Chairman Brooks and members attending the SSCI Board's July 17 meeting in Chicago.

Specifically, and with the approval of the SSCI Board, representatives of the Institute and RIPA leaders have been discussing the feasibility of the two groups reaching agreement on a unified proposal to petition the Pipeline and Hazardous Materials Safety Administration (PHMSA) requesting that the agency change the minimum thickness requirement for re-use of steel drums for hazardous materials shipments after reconditioning. Up to now, SSCI and RIPA have had significantly divergent views on the issue.

Both the informal conversation that ensued at RIPA's 2006 Annual Meeting and subsequent the dialogue involving representatives of both RIPA and SSCI centered around the concept of a 1.0/0.9/1.0 mm drum as potentially supportable by both groups for re-use. In discussing a shift toward the 1.0/0.9/1.0 drum as the new recommended minimum thickness goal, SSCI noted that such a shift in the face of market realities was appropriate. The Institute, moreover, noted that its members are manufacturing more and more 1.1/0.8/1.1 mm drums in response to market demand as customers revise their specifications to minimize costs. It was noted that this construction performs well in commerce and, as a result, most SSCI member firms believe that

this construction is even more appropriate as the new "re-use standard."

RIPA, while acknowledging the shift in demand to lighter gauge packagings, said that it would still like to see heavier steel drums produced and authorized for re-use. However, RIPA noted that a change in its members' thinking on minimum thickness could potentially increase the ever-eroding inventories of reconditionable packagings in the marketplace. RIPA's consideration of a formal effort to address the current minimum thickness issue at PHMSA is colored by the divergent views of its members. While the 1.1/0.8/1.1 drum, generally, is acceptable to RIPA's tight head reconditioners, such a drum would present challenges for those members who recondition and convert tight head drums for open head use. Consequently, the 1.0/0.9/1.0 mm marked drum has been at the center of the dialogue.

However, RIPA has expressed skepticism at the SSCI's claim that a shift from the current requirement to a new 1.0/0.9/1.0 approach would result in a significant shift by fillers to these drums, resulting in an expanding network of packagings available for reconditioning. RIPA seeks assurances that such a shift would be forthcoming.

Subsequently, RIPA countered with a modified proposal suggesting a new alternative: a 1.0/0.8/1.0 mm drum marked with minimum, rather than nominal, thickness designations. The RIPA proposal was formally discussed with the SSCI Board at its May meeting in Phoenix.

The SSCI, after considering the modified RIPA proposal at that meeting, concluded to affirm its original position in support of the 1.0/0.9/1.0 mm drum with nominal thickness designations. The SSCI Board concluded that it could not support RIPA's proposal for the following reasons:

- SSCI believes that the U.S. must remain in harmony with the global community that provides for nominal thickness marks. A change to minimum thickness markings would have profound implications, not only in the U.S., but in the global market.
- SSCI believes it unlikely that PHMSA/DOT would approve a change in minimum thickness markings that would put the U.S. out of step with the global community; and,
- RIPA's alternative proposal provides no benefit for the new drum customer and is diametrically opposite of the goal of making the new steel drum a more cost effective packaging because an actual minimum, rather than nominal, thickness component would require manufacturers to purchase heavier steel that, in turn, would raise the cost of all drum constructions in the marketplace.

Mr. Berenfield delivered this message to the RIPA Board last month.

As reported the July/August edition of RIPA's newsletter, *Reusable Packaging*, its chairman, Peter DeWitt, thanked Mr. Berenfield and his colleagues for all they have done on this issue and the seriousness with which they have dealt with it. "I can assure SSCI that RIPA will again review the drum thickness proposal; we do not consider this a closed issue," DeWitt said.

### **SSCI Sets Visit to PHMSA's Tobyhanna Testing Facilities**

SSCI Official Representatives and technical representatives from member manufacturing firms, on October 10, will participate in an orientation visit to the U.S. Army's facilities in Tobyhanna, Pennsylvania, where it conducts packaging testing under contract for the Pipeline and Hazardous Materials Safety Administration (PHMSA). While details of the visit have not been finalized, it appears that most participating SSCI representatives will travel together from Arlington, Virginia to Pennsylvania at the conclusion of the Fall Meeting.

PHMSA officials who participated in the SSCI's Technical Projects Committee (TPC) meeting in Phoenix last May extended an invitation to visit the facilities as part of a new agency outreach program initiated by PHMSA's Packaging Program Director, Anthony Lima.

The purpose of the visit is for SSCI members to learn about the Tobyhanna facilities, observe live testing of both open- and tight-head steel drum designs, and discuss with agency officials matters of interest to SSCI members, including Institute efforts to educate fillers about the difficulties associated with so-called "macho-marked" packagings.

Due to space limitations at Tobyhanna, this visit is limited to manufacturer representatives only. SSCI inquired about participation by interested Associate members, but the agency demurred due to the need to place a limit on the number of participants due to facility constraints.

A report on the Tobyhanna trip will be provided in the next issue of the newsletter.

## **IPANA NEWS**

### **Register Today for IPANA/SSCI October 8-9 Fall Meetings**

The 5<sup>th</sup> Fall Conference conducted by the Industrial Packaging Alliance of North America (IPANA), and featuring its four affiliated, independent organizations, will be held October 8-9, 2007, at the Hyatt Regency Crystal City Hotel, Arlington, Virginia.

This day and one-half session is comprised of meetings of IPANA's affiliates as well as two plenary sessions that focus on issues of importance to all industry segments. This event also affords participants the opportunity to network among manufacturer representatives as well as raw materials and component suppliers to the industry.

Confirmed speakers at press time include David Huether, chief economist at the National Association of Manufacturers and Jeffrey Birnbaum, a journalist with *The Washington Post*. Mr. Huether will provide an update and forecast on the U.S. economy and its implications for manufacturers. Mr. Birnbaum, at the October 9 Newsmaker's Breakfast, will share insights on the convergence of business and politics in the Nation's Capitol.

An invitation is pending with a senior executive of a major chemical company to address IPANA members on packaging trends and the growing emphasis on sustainable packaging that, it is hoped, will be confirmed soon.

Preliminary materials on the Fall Meeting, including registration forms and instructions for securing preferred hotel accommodations, recently were circulated to all IPANA members. **Please note that the deadline for hotel reservations at the Hyatt is September 14.**

Registration materials and other information on the Fall Meeting is available on the SSCI web site at: <http://www.steelcontainers.com>

### **IPANA Sets Annual Meeting Dates for 2008 and 2009**

During a recent teleconference, the IPANA Board of Directors approved the dates for the Alliance's 2008 and 2009 annual meetings. The 2008 event will be held April 26-30 at the Marriott Marco Island, on Florida's southwest Gulf coast. A contract for this event on those dates has been signed.

Meanwhile, the Board also approved the selection of the Hilton Head Marriott, Hilton Head Island, South Carolina for the 2009 annual meeting, on April 25-29, subject to successful contract negotiations.

IPANA is on a rotation to conduct two successive annual meetings in Florida and/or other southeast venues and one in the southwest.

Mark your calendars now for these important future events.

## **REGULATORY NEWS**

### **PHMSA Proposes Conversion of Special Permits to Regulations**

The Pipeline and Hazardous Materials Safety Administration, (PHMSA), DOT, recently published a *Federal Register* notice proposing to convert a number of existing special permits (formerly exemptions) to regulations of general applicability.

In its notice, the agency invites public comment on special permits that should be considered for such treatment. PHMSA noted that, periodically, it conducts an assessment of special permits that should be converted to regulatory language as part of a broader regulatory reform effort. The agency noted that only those permits that have been in existence for long enough periods for them to prove their efficacy in

meeting the requirement for offering an equivalent level of safety can be considered.

Comments on the proposal are due at PHMSA on September 14. For further information on this proposal, contact the IPANA office.

### **PHMSA Mulling Options for Dealing With OH Test Failures at Tobyhanna**

The Pipeline and Hazardous Safety Administration (PHMSA) reportedly has shelved, for now, a proposal for dealing with open head drum failures at its Tobyhanna testing facilities that could have restricted the use of open head reconditioned steel drums to solid or highly viscous hazardous materials.

PHMSA officials at the SSCI Technical Projects Committee (TPC) meeting in Phoenix last May noted that the poor compliance testing results on open heads at Tobyhanna compelled them to consider such a restriction. However, in a subsequent meeting with the agency, executives of the Reusable Industrial Packaging Association (RIPA) noted that incident data reflects no particular problems in the field with the performance of either new or reconditioned open head steel drums. While the compliance testing results for open head drums are problematic, the real world experience is quite different.

As reported by RIPA in its July/August newsletter, *Reusable Packaging*, the agency has determined to hold in abeyance any action on the matter pending efforts by RIPA to develop and implement a plan of action to improve results in compliance testing. For its part, RIPA noted, PHMSA also indicated a willingness to make some changes in the way it procures and prepares sample packagings for testing.

### **PHMSA Issues Final Rule on Lithium Batteries on Aircraft**

Cargo shipments of certain types of lithium batteries will remain banned from passenger aircraft under a final rule issued August 9 by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

The rule amends the Hazardous Materials Regulations by adopting a limited ban on primary, non-rechargeable lithium batteries – such as those found in cameras, laptop computers and mobile telephones – to reduce the risk of potential fire caused by electrical short circuit. This final rule also tightens standards for testing,

handling, and packaging lithium batteries to reduce the likelihood of a lithium battery-related fire during shipment.

“Keeping shipments of metal lithium batteries off of passenger aircraft is a prudent step to help keep America’s airlines the safest in the world,” said PHMSA Chief Safety Officer and Assistant Administrator Stacey L. Gerard. Lithium batteries are considered a hazardous material because they can overheat and ignite in certain conditions. Safety testing conducted by the Federal Aviation Administration found that current aircraft cargo fire suppression systems are not capable of suppressing a fire if a shipment of primary lithium batteries is ignited in flight. While the rule bans shipments of the batteries on passenger flights, it does not affect the ability of passengers to carry or use personal devices containing lithium batteries while aboard aircraft.

In addition to the new rule, PHMSA is working with the Federal Aviation Administration, the National Transportation Safety Board, the Consumer Product Safety Commission, the battery and airline industries, airline employee organizations, testing laboratories, and the emergency response communities to increase public awareness about battery-related risks and developments, and to promote improvements in industry standards and best practices. These non-regulatory activities are highlighted at the public website: <http://safetravel.dot.gov>.

### **New Electronic Guidebook for First-Responders Issued**

Two federal agencies have joined forces to give fire fighters and other emergency responders instant access to information that will help them determine – in the first critical moments of an incident – the best way to safely contain hazardous materials spills and battle chemical fires.

Emergency responders will, for the first time, have electronic access through laptops and personal digital assistants (PDAs) to the 2008 *Emergency Response Guidebook* (ERG) under the new arrangement involving the U.S. Departments of Transportation (DOT) and Health and Human Services (HHS). The guidebook is the “go-to” reference for first responders to help them quickly identify hazardous materials classifications, determine the best response, and protect themselves and the general public immediately following an incident.

“This new digital tool will give our police, fire fighters, and other emergency responders first on the scene the best information they need to make the rapid-fire decisions necessary to protect the public and themselves,” said Ted Willke, PHMSA’s Associate Administration for Hazardous Materials Safety.

The new electronic guidebook was made possible by a new agreement between DOT’s PHMSA and the HHS’s National Library of Medicine. The library developed special software to give emergency responders access to the guidebook through PDAs as well as Windows-based laptops and desktops. The software application, called Wireless Information System for Emergency Responders (WISER), will be available later this year.

For more information on the ERG, visit <http://hazmat.dot.gov/pubs/erg/guidebook.htm/>. For information on WISER visit <http://wiser.nlm.nih.gov/>.

## **OTHER NEWS**

### **Federal Appeals Court Overturns DOT’s 11-hour Rule and 34-Hour Restart**

The U.S. Court of Appeals for the District of Columbia Circuit recently issued its long-awaited opinion that may have a dramatic effect on federal hours-of-service rules for drivers of commercial motor vehicles. A three-judge panel granted a petition from the safety advocacy group Public Citizen and vacated portions of the hours-of-service rules issued by the Federal Motor Carrier Safety Administration (FMCSA), DOT, in August 2005. Specifically, the court tossed out the FMCSA’s increase in the daily driving limit from 10 to 11 hours, and the rule that allows an off-duty period of 34 hours to restart the weekly on-duty limits.

The court agreed with Public Citizen that FMCSA failed to provide an opportunity for the public to comment on a statistical model the agency used to determine the risks associated with driver fatigue. The agency used the model as the basis for adopting the 11-hour rule and 34-hour restart. Public Citizen argued that the model failed to take into account the cumulative fatigue caused by increased weekly driving and working hours allowed by the 34-hour restart. Using the restart option, a driver can theoretically gain an extra 17 hours of driving time in a 7-day work week, but FMCSA failed to explain its reasoning for keeping the 34-hour restart in its 2005 rules, the court said.

Under court rules of procedure, the FMCSA has 45 days to request a rehearing before any changes take effect. If the agency does not request such a hearing, the court will issue a final order within seven days after that. In the meantime, the existing hours-of-service rules remain in effect.

The FMCSA made the following statement on July 24, 2007, in response to the ruling: “We are analyzing the decision issued today to understand the court’s findings as well as determine the agency’s next steps to prevent driver fatigue, ensure safe and efficient motor carrier operations, and save lives. This decision does not go into effect until September 14, unless the court orders otherwise.”

### **BLS Examines Manufacturing Injury Statistics**

In a recent article in *Compensation and Working Conditions Online*, Bureau of Labor Statistics (BLS) economist Tiffany M. Brown examines the 2005 injury and illness statistics for the manufacturing industry. In 2005, the manufacturing industry accounted for 21 percent of occupational injuries and illnesses, but only 8 percent of at-work fatalities. Moreover, the incidence rate in manufacturing for repetitive motion cases with days away from work (10.7 cases per 10,000 full-time workers) was the highest in any industry sector and twice the rate for all private industry.

The manufacturing industry consists of establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. In 2005, 1 in 9 workers in the United States was employed in the manufacturing industry. These workers produce a vast array of items — consumer electronics, food products, steel shipping containers, and automobiles, to name just a few.

To view the article, visit: [www.bls.gov/opub/cwc/sh20070719ar01p1.htm](http://www.bls.gov/opub/cwc/sh20070719ar01p1.htm).

### **Hiding Immigration Violations Leads to Prison for HR Manager**

Press reports indicate that U.S. Immigration and Customs Enforcement (ICE) agents recently arrested twenty employees of one of the nation’s largest processors of pork and beef, including a human resources employee, a union official, and current and

former company employees suspected by the Federal Trade Commission (FTC) as being identity thieves.

Of those apprehended, eighteen were arrested for charges relating to identity theft and administration immigration violations. The personnel employee, and a union official who represents company employees, were arrested and are charged with harboring illegal aliens. The personnel employee, who had been with the company for 17 years, is also charged with misprision (concealment) of a felony. The charge for harboring illegal aliens carries a five-year maximum prison sentence. The misprision offense is punishable by up to three years in prison.

The criminal arrests came in addition to 1,297 administrative arrests of illegal aliens for immigration violations that were made last December when agents executed civil search warrants at six company facilities in a highly publicized action. Subsequently, 274 of those arrested in December were criminally charged with identity theft or use of fraudulent documents.

### **Broader Security Measures Threaten to Impede Commerce, Critics Say**

The recent enactment of legislation that requires, within five years, the scanning of all maritime shipping containers destined for the U.S. at foreign ports of origin has been called “unrealistic” and likely to cause “major delays and supply chain disruptions,” according to an executive with the National Association of Chemical Distributors (NACD).

In responding to the enactment of H.R. 1, *Implementing Recommendation of the 9/11 Commission Act*, NACD Chief Operating Office Christopher L. Jahn noted that NACD is also concerned about the hazardous materials transportation security measures in the legislation regarding security plans, electronic tracking, and routing of security sensitive shipments.

These areas have already been addressed through existing federal regulations or are being addressed through rulemakings in progress, Mr. Jahn observed. “NACD urges the Federal agencies charged with implementing the provisions of H.R. 1 to coordinate with each other and to streamline the requirements to avoid confusion, duplication, and waste,” he said.

## **CALENDAR OF EVENTS**

### **SEPTEMBER 9 – 12**

Asian Oceanic Steel Drum Association  
6<sup>th</sup> Triennial Conference  
Kuala Lumpur, Malaysia

### **SEPTEMBER 16 – 18**

Petroleum Packaging Council  
2007 Fall Meeting  
Baltimore, Maryland

### **SEPTEMBER 19 – 21**

National Association of Chemical Distributors  
OPSEM 2007  
Nashville, Tennessee

### **SEPTEMBER 24 – 27**

Chemical Packaging Committee  
Full & Sub-Committee Meetings  
Alexandria, Virginia

### **OCTOBER 7 – 9**

Association of Rotational Molders International  
32<sup>nd</sup> Annual all Meeting & Technical Exhibits  
Detroit, Michigan

### **OCTOBER 8 – 9**

Industrial Packaging Alliance of North America  
5<sup>th</sup> Annual Fall Conference  
Arlington, Virginia

### **NOVEMBER 14 – 16**

Dangerous Goods Advisory Council  
29<sup>th</sup> Annual Meeting & Hazardous Materials Exhibition  
Santa Fe, New Mexico

### **DECEMBER 1 – 5**

National Association of Chemical Distributors  
36<sup>th</sup> Annual Meeting  
Scottsdale, Arizona

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