

News and Information UPDATE for the Industrial Packaging Professional



IPANA NEWS

Fall Conference Registration Opens

The summer is slipping away quickly and it is time to plan for IPANA's Fall Annual Conference co-located with RIPA. This event will be held at The [InterContinental Hotel](#) in the fun city of New Orleans on October 14-16. The conference kicks off with a joint networking reception on Tuesday, October 14 and concludes after lunch on October 16. Featured speakers include Jerry Jasinowski, former President of NAM (National Association of Manufacturers) and Dr. Rafael Moure-Eraso, Chairman of the CSB, Chemical Safety Board. The session will also feature keynote speaker, Peter Watson, Chief Operating Officer of Greif, Inc. Bill Schoonover, Deputy Associate Administrator, Field Operations, PHMSA, will also update the membership on current activities in the Enforcement arena.

The traditional golf outing is scheduled for the afternoon of Wednesday, October 15 at the lovely [English Turn](#) Country Club. We are looking forward to seeing you at this exciting meeting in the historic city of New Orleans. Registration materials for the conference have already been sent or you can register by clicking the icon located below. Please remember that fees for the conference go up after September 23, 2014 so be sure to register early! New Orleans is typically sold out this time of year so be sure to book your hotel room now!

Click here to
register for the
IPANA Annual
Meeting



Spring Technical Meeting 2015 Set for Vancouver

With an eye to the future, IPANA will co-locate our 2015 Spring Meeting in Vancouver, British Columbia in conjunction with the ICCR International Conference. While the exact dates are yet to be determined, the conference will be scheduled for the first week of June 2015. Be sure to keep that week open as you will not want to miss this gathering of international professionals in the lovely setting of Vancouver, British Columbia.

*Special points
of interest!
Click here to
Jump to:*

- [PHMSA News](#)
- [Legislative News](#)
- [Department of Labor/OSHA](#)
- [By the numbers](#)
- [EPA News](#)
- [UN COE 45th Session](#)
- [People, Places and Things](#)

IPANA FALL MEETING OCTOBER 14 -16

PHMSA/DOT NEWS

OIG Releases Report Concerning Special Approval and Permit Processes

In 2009 and 2010, the Office of the Inspector General reported on weaknesses in PHMSA's processes for granting special permits and approvals and made several recommendations for improving PHMSA's oversight of hazmat transportation safety. On July 17, 2014, the OIG issued a report stating that PHMSA has addressed most of the weaknesses the OIG had identified in the special permit and approval process. Of particular interest is the comment that SOPs have been issued to describe processes for assessing the "fitness" of entities applying for special permits and approvals. This recent audit found that PHMSA processed all sampled special permit applications and most sampled approval applications in accordance with the SOPs that had been established.



The report also noted that PHMSA has conducted inspections and taken other steps to strengthen its oversight of third-party agencies that inspect cylinder applicants, test explosives, and *certify hazmat packaging* on PHMSA's behalf. However, it was noted that one area still in need of improvement is the information technology (IT) structure that supports the application process. The report noted that proper implementation had been delayed but is still underway. It is felt that improvements in this area will speed the processing of applications and help allocate PHMSA resources more effectively. As reported in the January/February IPANA newsletter, the IT project has been delayed due to inadequate funding.

PHMSA Announces Proposals Regarding Rail Transport of Flammable Liquids

On July 23, 2014, PHMSA announced two proposals regarding the transport of large quantities of flammable liquids by rail. The first proposal was developed with FRA and includes improvements in tank car standards and revisions to ensure proper classification and characterization of mined gases and liquids. This proposal also calls for replacing approximately 80,000 of the oldest tank cars and a 40 mph speed limit until sturdier cars can be built or retrofitted. Although not yet published in the Federal Register, you can [CLICK HERE](#) for a copy of the proposed rulemaking. The second proposal seeks comment on potential revisions to regulations concerning oil spill response plans. You can [CLICK HERE](#) for a copy of the Advance Notice of Proposed Rulemaking.

Finally, PHMSA released the long awaited report summarizing the analysis of Bakken crude oil data from "Operation Classification". PHMSA states in the report that crude oil from the Bakken region in North Dakota tends to be more volatile and flammable than other crude oils. You can [CLICK HERE](#) for a copy of the report.

FMCSA News

FMCSA Definition of Tank Vehicle Used for Determining the License Endorsement Requirement – Delay of Mandatory Enforcement

The FMCSA issued a notice of proposed rulemaking and request for comments on the agency's latest effort to deal with its controversial decision in May 2011 concerning the truck transport of loaded intermediate bulk containers (IBCs) and portable tanks. In that decision, FMCSA adopted a final rule that stated that all vehicles moving cargoes of bulk tanks (capacity of greater than 119 gallons) that are permanently or temporarily attached to the vehicle's chassis and have an aggregate capacity of more than 1,000 gallons are considered tank vehicles requiring driver's transporting such loads to have a tank vehicle endorsement on their CDL. In subsequent guidance on this issue published in May 2012, the agency confirmed that the transportation of IBCs is covered by the definition whether they are temporarily or permanently attached – by bolts, straps,

chains, or by blocking and bracing – because the characteristics of tanks and their liquid contents, and the driving skills required to safely operate a tank vehicle, are essentially identical, no matter how the tanks are secured in or on the vehicle. The guidance also clarified that the definition of tank vehicle does not cover the transportation of empty IBCs or other tanks when these containers are cargo manifested on a bill of lading as either empty or empty except for residue.

In its latest proceeding, FMCSA proposed to slightly revise its definition “to clarify that vehicles transporting multiple IBCs (over 119 gallons each) with an aggregate capacity of 1,000 gallons or more are tank vehicles that would require an endorsement; and that the endorsement is needed if one or more tanks on the vehicle, regardless of method by which the tanks are secured to the vehicle. In addition, this definition clearly explains that tanks manifested as empty or as residue as part of the load (assuming they are actually empty or contain only residue) do not make the vehicle a ‘tank vehicle’ provided the tanks are actually empty or container only residue. The revised definition incorporates the substance of the regulatory guidance published on May 24, 2013,” the agency concluded.

The mandatory enforcement date of the federal regulation has been changed to *July 8, 2015*. However, states are free to implement the rule by an earlier date. The DOT/FMCSA representative in California recently provided IPANA with an update on California’s enforcement of this requirement. He confirmed that an internal memo was sent to all scale operators and they are enforcing the “tank vehicle endorsement” requirement if the aggregate capacity is over 1000 gallons. In advance of the compliance date, state highway personnel will be issuing warnings followed by citations. The following states have also begun implementation ahead of the mandatory enforcement date, Louisiana, South Carolina, Wyoming and Texas. To date, only warnings have been issued.

Although formal implementation of the regulation has been delayed until July 2015, there have been reports of truck drivers not having a tank vehicle endorsement on their CDL leaving loaded IBCs and portable tanks on loading docks.

Regulations Driving Increases in Cost of Trucking

According to economist Noel Perry, senior consultant with FTR transportation intelligence, for the next few years one of the main factors driving up the cost of trucking will be government regulations. Historically, economic factors were the primary impetus behind cost pressures on motor carriers. According to Perry, “looking back, changes in regulations and public policy [such as building the Interstates] made trucking more profitable. But by 1995, the arguments for allowing larger trucks and for reducing regulations lost steam.” Since then the impact of regulations on motor carriers has become “negative” cost-wise. A good example is the impact of the changes in the Hours of Service Regulations phased in last year.

Perry also noted that trucking regulations are also on the front burner for one simple reason - “most auto drivers are afraid of large trucks, which makes [highway] safety a political argument” . The recent Walmart [crash](#) on the New Jersey Turnpike and subsequent lawsuit involving Tracy Morgan will almost certainly have an impact on the complex trucking regulatory landscape. Even though it appears that the driver had a lapse in attention, this will probably be used as an argument against rolling back the Hours Of Service (HOS) rules.

A final concern described by Perry, is the current shortage of qualified drivers. That shortage will only become worse as the regulations begin to pile up over the next several years. According to ATA, the industry currently has 30,000 to 35,000 unfilled truck driver jobs and will need to add more drivers — nearly 100,000 in the next decade — in order to keep pace.

Department of Homeland Security

DHS Extends Deadline for Mandatory Screening of All Incoming Maritime Cargo

In June, the Department of Homeland Security (DHS) extended by two years the enforcement deadline for a federal provision mandating 100 percent cargo scanning for incoming maritime containers. The Security and Accountability for Every Port (SAFE Port) Act was passed in 2006 and requires that all cargo destined for the U.S. be scanned by radiation detection equipment, prior to landing of the vessel at the foreign port.

Jeh Johnson, Secretary of DHS, explained that, "I have personally reviewed our current port security and DHS's short term and long term ability to comply with 100% scanning requirement. Following this review, I must report, in all candor, that DHS's ability to fully comply with this unfunded mandate of 100% scanning, even in long term, is highly improbable and hugely expensive, and in our judgment, not the best use of taxpayer resources to meet this country's port security and homeland security needs".

Johnson added that he supports the mandate's objectives and has instructed the agency's employees to in good faith try to comply with the mandates' "underlying objectives". This would include working to increase the percentage of containers scanned abroad with a focus on those deemed as high-risk cargo. Various business organizations, including the National Retail Federation and the U.S. Chamber of Commerce, sent a letter to Johnson, lauding his decision to extend the screening mandate deadline. The groups were concerned about delays at the ports without the proper infrastructure and support in place.

A press release by Security Info Watch can be accessed online [here](#).

Legislative News

Obama Signs Water Bill

In early June, President Obama signed a water policy bill that will allow dredging of ports throughout the country ahead of the completion of the Panama Canal expansion due next year. The Water Resources Reform Development Act authorizes the Army Corp of Engineers to begin 34 dredging projects to develop ports and control floods at a cost of \$12 billion. Additionally, the bill authorizes \$50 million annually through fiscal 2018 for additional dredging of ports. The expansion of the Panama Canal will allow larger ships access to U.S. Waters. The Act is intended to promote our nation's competitiveness and growth of the economy by improving our nation's infrastructure.

Department of Labor/OSHA News

OSHA Releases FY 2013 Statistics

OSHA recently published their statistics for the agency's inspection activity in Fiscal Year 2013. In FY 2013, OSHA conducted a total of 39,228 inspections, including 185 significant and egregious enforcement actions. In addition the agency conducted 22,170 programmed inspections. The data indicates that OSHA devoted more resources to proactively target the industries and employers that are exhibiting the greatest number of workplace injuries and illnesses. OSHA conducted 17,058 unprogrammed inspections, including employee complaints, injuries/fatalities, and referrals. The good news is that Fatality inspections decreased by 8.2 percent in FY 2013. OSHA only made 3 criminal referrals in 2013, a significant decrease compared to 2012.

For more information on OSHA inspections, you can view the OSHA Inspection Fact Sheet at www.osha.gov/OshDoc/data/General_Facts/factsheet-inspections.pdf

EPA NEWS

Executive Order 13650: Chemical Facility Safety and Security

In response to President Obama's Executive Order 13650, *Improving Chemical Facility Safety and Security*, a multi-agency group entitled The **Chemical Facility Safety and Security Working Group**, has published its [report](#) for the president. The report summarizes actions to date, lessons learned, challenges and next steps. The agencies involved have begun work on priority actions in five areas: strengthening community planning and preparedness; enhancing federal operational coordination; improving data management; modernizing policies and regulations; and incorporating stakeholder feedback and developing best practice. For all those involved in chemical manufacture, handling, storage and transport, the 120 page report is worth reading.



INTERNATIONAL NEWS

United Nations Sub-Committee of Experts 45th Session

The 45th session of the UN COE on the Transport of Dangerous Goods met in Geneva from June 23 to July 2. The following results are of interest to IPANA members.

ICPP WP 26 - Marking on Inner Receptacles of Composite IBC's

Background

ICPP presented a paper ([INF. 58](#)) at the 44th session for discussion identifying an error in 6.5.2.2.4 of the *Model Regulations* as the provision relates to composite IBCs and proposed a remedy. The proposal was discussed and the Subcommittee agreed that the date marking is only correct for 1H1 And 3H1 packagings and cannot be adopted for IBC's. The COE supported the ICPP proposal that the term "primary marking" be immediately eliminated in the sentence at issue and the edit adopted in the Corrections document for the 18th Revised Edition of the *Model Regulations*. On the larger issue involving paragraph 6.5.2.2.4, the ICPP returned to the June 2014 session with a another proposal.

Discussion at 45th session

At the 45th session, the formal ICPP [paper](#) was reviewed and accepted by the COE with one modification. At the meeting in June, ICPP reminded the Subcommittee of previous discussion regarding the marking of inner receptacles on composite IBC's. They noted that the date of manufacture may differ from the mark on the composite IBC. ICPP proposed to add new text clarifying this point in 6.5.2.2.4. While Austria supported the proposal as written, the UK was unsure of the need for the third note in the proposal (regarding the effective date). The ICPP was agreeable to removing the third note. The Subcommittee agreed to the proposal as amended and removed the third note. The note that was stricken read "*The provision in 6.5.2.2.4 shall apply to all composite IBC's manufactured, repaired or remanufactured as from 1 January 2011.*"

UN SCTDG 45th Session
[Click](#) here for the full
 report



The following text was approved:

1. Rephrase the first sentence of 6.5.2.2.4 to read: “Inner receptacles that are of composite IBC design type shall be identified by the application of the markings indicated in 6.5.2.1.1. (b),(c), (d) where this date is that of the manufacture of the plastic inner receptacle, (e) and (f).
2. Indicate the phrase ‘Note’ as “Note 1”
3. Add a second note as follows: Note 2: “**The date of manufacture of the inner receptacle may be different from the marked date of manufacture (see 6.5.2.1), repair (see 6.5.4.5.3) or remanufacture (see 6.5.2.4.) of the composite IBC”**

Sweden WP 34/INF48 Rev 1 Paper on Leakproofness Testing

Background

Sweden had submitted a document to the 43th session noting that it was apparently common practice in certain countries for the production leakproofness test on packagings and composite IBCs, and in some cases the 2.5 year periodic test on IBCs, to be conducted at pressures as low as 2 to 3 kPa rather than the significantly higher pressures required by the UN *Model Regulations*. Sweden then conducted a survey of manufacturers and at the 44th session in December 2013 reported their findings. While they noted test consistency during design type testing, they found differences in leakproofness test methods in the cases of periodic and production testing.

By the Numbers:

85%

Of US adults that have cellphones and use them for more than making calls

30%

Manufacturers use this percent of the energy generated in the USA

6.2%

Unemployment rate July 2014

Discussion at 45th Session

The Swedish [proposal](#) for the 45th session recommended deletion of the reference to a specific leakproofness test procedure for packagings and IBC's. However, the Swedish paper was withdrawn before any discussion could take place during the general session due to insufficient meeting time. Belgium and the Netherlands had proposed a compromise that would eliminate the need to use a *specific* test procedure or pressure and allow substitution of a suitable quality assurance program. Sweden indicated they will return to the 46th session with another proposal after reviewing the matter with other European countries. However, It is most likely that the note referencing a suitable Quality Program will be disregarded.

Belgium INF 29 Availability of Information on UN approved packagings

At the 45th session, Belgium again noted that it is difficult to determine where UN packagings are certified or manufactured. The expert from Belgium, noted that some countries had already taken the initiative of making the information on the certificate readily available to the public. An informal [paper INF 29](#) proposed that the database could be organized by the Secretariat. However, in order to do this

a mandate would be required. The U.S., France, Netherlands and Germany supported a mandate as drafted by Belgium. The UK and Canada wanted a number of editorial revisions. The Secretariat indicated the document would need to be submitted as a formal paper at the 46th session.

U.S./Canada Discussion Paper WP49 Classification and hazard communication provision for crude oil

Canada and the U.S. presented a [paper](#) for discussion concerning the classification of crude oil as North America is experiencing rapid growth in the transport of shale crude oil by rail. The discussion paper states that this “younger” crude oil contains significantly higher “light ends” than what has been traditionally transported as UN1267. The paper provided no proposal but was rather to invite discussion regarding classification and

hazard communication. The paper also asked the Subcommittee to consider whether the current requirements are adequate to ensure the safe transport of this lighter crude.

IPIECA, the global gas and oil industry association for environmental and social issues, described in [INF 17](#) recent studies which suggest the oil recovered from fracking is not significantly different from other crude oils recovered using non-fracking technology. In [INF 26](#), IPEICA presented results suggesting that the Bakken crude oils are not significantly different from other crude oils and that classification of the crude oils as a flammable liquid is sound. China noted they are a large importer and supports continued study of crude oil classification for safety reasons. Belgium pointed out that they are studying a similar issue with a different substance but it appears to be more of a general rail safety issue. They requested the Chairman use caution and to avoid making hasty decisions as there is no tank car that can withstand all accident conditions. Canada then addressed several concerns regarding the current classification scheme.

To conclude, the Chairman emphasized that classification is the foundation on which all regulations are based and therefore must be considered carefully. Canada, U.S and IPIECA will be reviewing methodologies to determine if current classification protocols are correct. The Chairman noted that the Subcommittee may not be able to fully address all such possible solutions but asked that the Subcommittee be updated as progress continues.

TDG-GHS Working Group on Corrosives

Background

A working group (WG) of representatives from the UN Sub-Committees on the Transport of Dangerous Goods (TDG) and the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) convened in December of 2013 in Geneva to further discuss classification issues associated with corrosive materials. The GHS criteria are now used as the basis for the UN Model Regulations on the Transport of Dangerous Goods (accepted worldwide). GHS is in the process of being adopted worldwide in national regulations for the workplace. At its meeting in December 2013, the TDG Sub-committee again emphasized a consensus objective to not substantially change the way of transporting corrosive substances (i.e. no significant shift in the packing group assignment). The approach going forward is to devise “other criteria” that place some GHS 1A’s in PG 1 and leave the majority in PG II.

Discussion at 45th Session

With the Netherlands taking the lead, they submitted [WP 25](#), [INF32](#) and [INF3](#) and [INF3add](#) to summarize the intercessional work to be discussed at the 45th session. At this session in June of 2014, the Netherlands described the work conducted to date on corrosivity. The intercessional working group discussed the goals of the effort, set parameters and identified steps to take. Classification of pure substances was not a major issue, but mixtures were more problematic. The group developed a formula which could be used to determine if PG I applies. The group also suggested a new chapter 2.8 be added to the GHS which would include those materials that are currently corrosive to steel and aluminum but not listed in the GHS. In support, Spain also provided a [late paper](#) with a formula for determining whether a material should be classified as a PGI corrosive material. This proposal was submitted too late for consideration.

Regarding the principles of the approach submitted, the US noted that the approach is sound but a lot of work remains to develop the process completely. The US also noted that this approach may only necessitate a new test methodology for mixtures instead of a complete rewrite of Chapter 2.8.

In conclusion, the Chairman stated that the Subcommittee supports the principle of the proposal but noted that much additional work needs to be done prior to implementation. The group remains committed to not substantially changing the Packing Group of materials as currently transported. However, it seems as if a small

percentage will end up reclassified at Packing Group 1. Industry was invited to apply these various formulas to determine their validity.

The direction of this group is heading to conclude their work by the next meeting in December. This would mean that the changes would become effective approximately two years from the December 2014 meeting. It is important for shippers handling corrosives to keep abreast of this pending change.

WP9 Use of the terms “Mark” and “Marking” in the Model Regulations

The UK had previously pointed out that the terms “mark” and “marking” are used interchangeably in the Model regulations. A UK [paper](#) noted confusion between the terms and proposed adding definitions to the Model regulations. This concept was not supported by several members of the Subcommittee including Germany, Poland, IATA, DGAC and Belgium. The US referenced the Oxford English dictionary which indicated “Marking” can also be used as a noun. China did support the effort stating it would help with translation. However, the US reiterated their position against including definitions stating there does not currently seem to be a problem. The UK requested that the Subcommittee provide comments by the end of July and then they will decide whether or not to submit a paper for a future session.

People, Places and Things

Ryan Posten, Deputy Associate Administrator Policy and Programs at PHMSA, is leaving his assignment the end of August. He will be moving into the position of Associate Administrator of Rulemaking with the NHTSA (National Highway Traffic Safety Administration). Ryan had been at PHMSA for 23 years.

Anne Ferro has announced her resignation from FMCSA (Federal Motor Carrier Safety Administration). In August, Ferro is leaving the agency to become President and CEO of the American Association of Motor Vehicle Administrators. Ferro was appointed in 2009 by President Obama and she had been the agency’s longest-serving administrator. Before coming to FMCSA, Ferro was president and CEO of the Maryland Motor Truck Association and Maryland’s Motor Vehicle Administrator.

Did You Know?

On July 21, the federal Sept. 11 security fee that helps fund the Transportation Security Administration more than doubled on many new tickets sold. The fee on a basic domestic nonstop round-trip ticket will go to \$11.20 from \$5. A one-way trip will cost \$5.60 instead of \$2.50 per flight segment. Also worth noting, the current \$10 per-ticket cap has been dropped. If you book a trip with multiple stops that last longer than four hours you could see a whopping TSA fee!