

REUSABLE PACKAGING TODAY

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Did you know...?

UPCOMING EVENTS

Petroleum Packaging
Committee
March 17 - 19, 2013
St. Augustine, FL

RIPA Technical
Conference
April 28 - 30, 2013
Cleveland, OH

Chemical Packaging
Committee
May 6 - 8, 2013
Houston, TX

ICCR 2nd International
Conference
June 5 - 7, 2013
Amsterdam, Netherlands

RIPA Annual Conference
October 14 - 19, 2013
San Diego, CA

2ND INTERNATIONAL CONFERENCE FOCUSES ON SUSTAINABILITY



The canals and bridges of Amster-

ICCR is hosting the 2nd International Conference on Industrial Packaging in Amsterdam, Netherlands. The event will take place June 5 – 7, 2013 at the Grand Hotel Krasnapolsky, one of the most historic and beautiful hotels in Amsterdam.

ICCR has added a special tour of the Janus Vaten B.V. reconditioning plant on Saturday, June 8th. You won't want to miss touring a state-of-the-art reconditioning plant that processes steel and plastic drums, along with IBCs.

To register for the conference, go to www.serred.com and follow the instructions.

2ND IBC COMPLIANCE WORKSHOP IS A HIT!!

Nearly 100 RIPA members convened in Tampa, FL March 5 and 6th to attend RIPA's second IBC Compliance Workshop.

This highly educational event helped attendees sort through and make plain the regulatory requirements for reprocessing composite IBCs for reuse.

With detail and clarity, presenters walked attendees through the marking, testing, handling and record keeping rules that govern IBC reuse.

The principle presenters included RIPA President Paul Rankin, RIPA Chair Spencer Walker, Indy Drum's Wes Ledbetter, and from Fibre Drum Sales, Brian Evoy. Also on hand to contribute were RIPA General Counsel Larry Bierlein and Technical Director C.L. Pettit.

The evening before the session featured an enjoyable reception on the roof deck of the Grand Hyatt.



The esteemed IBC Instructors Wes Ledbetter, Paul Rankin, Spencer Walker and Brian Evoy

...See IBCs on page 3

PHMSA CLARIFIES CLOSURE NOTIFICATION ISSUE; EXPANDS TRAINING RECORD PROVISIONS

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has published a final rule updating and clarifying several key aspects of the Hazardous Materials Regulations. HM-218G was published in the [March 11, 2013 Federal Register](#).

The rule addresses two issues of importance to the industrial packaging industry -- hazmat employee training record inspections and closure notification requirements.

...See "Closure" page 4

CHAIR'S MESSAGE

The year 2013 is already shaping up to be a busy and productive time for RIPA.

The year started with the election of several members to the Board of Directors. I would like to congratulate and thank the following individuals for donating their time and making such a strong commitment to the association:

Mr. Dan Burek	Meyer Steel Drum, Inc.
Mr. Peter DeWitt	DeWitt Barrels, Inc.
Mr. Mike Porreca	National Container Group
Mr. Richard Rubin	Maxi Container, Inc.
Mr. Kyle Stavig	Container Management Services, LLC



Spencer Walker

I also would like to thank outgoing Board member Joe Wirth (Twin City Container) for his six years of service – he will be missed. Our association continues to provide outstanding service to its members due in no small part to our Board of Directors who donate significant amounts of their time and energy to the betterment of the group.

A significant event for 2013 already under RIPA's belt is the second successful IBC Workshop just completed in Tampa, FL. Nearly 100 RIPA members turned out to learn about the proper marking, handling, and reprocessing of these highly-popular containers. Significantly, a large number of attendees were plant personnel and logistics managers, many of whom were attending their first RIPA event. For more on the IBC Workshop, see the story on page 1.

Additionally, RIPA staff and several association members recently participated in a forum on composite IBCs used in the agrochemical sector. Brian Evoy, Fibre Drum Sales, Brian Bilyeu, Stainlez, and RIPA's C.L. Pettit made their way to Mobile, AL to instruct many agchem personnel and EPA officials on the safe and responsible use and reuse of composite IBCs.

On the horizon, there are several important industry events yet to held.

First up is the RIPA Spring Technical Conference. Scheduled for April 28-30, 2013 in Cleveland, OH. The event will feature a tour of the K.P. McNamara reconditioning facility. Information on the agenda, as well as hotel and room reservations, will be provided to members soon.

Next up is the 2nd International Conference for Industrial Packaging, June 5-7, 2013 in Amsterdam. This will be the first time the conference has been held since 2006. I hope RIPA will field a large and strong delegation. For our industry, international issues loom large. Reconditioners need to maintain a strong international presence in global regulatory forums like the UN and ISO. And besides, it's fun! People still talk excitedly about the conferences in Amsterdam in 2003 and in San Francisco in 2006.

In October, RIPA will once again co-locate and coordinate annual conferences with IPANA. The site will be the stupendous [Hilton Torrey Pines La Jolla](#) resort very near downtown San Diego, CA. This stunning resort is right on the ocean, with numerous activities and sights to see. We are happy to be coming to the west coast! We expect a strong turnout for both RIPA and IPANA.

Significantly, RIPA has selected a highly experienced consultant to assist with a new "Life Cycle Analysis" that compares the carbon footprint of new and reconditioned steel, plastic and fiber drums, as well as composite IBCs. This analysis will feed directly into our many efforts to highlight the positive contributions to sustainability made by *reusable* industrial packagings. We are in the data collection phase of this project now, and hope to have the study finished in time for a special presentation at the 2nd International Conference.

Finally, I want to thank all members that renew their membership and continue to support our vital organization. can turn out for our vital conferences and other events. I look forward to working with everyone in the months ahead!



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Chris Shocklee, Bobby Sandoval and Melanie Walker enjoy the rooftop reception

Currently, staff is writing up some of the key concerns raised during the symposium. These will be shared with the IBC Product Group to discuss further, if necessary, in the Product Group format.

The slideshow used in the session will be posted soon on RIPA's website in the Members Only section: www.reusablepackaging.org.

It will make an excellent supplement to the compliance manual that was provided attendees. Extra hard copies of the compliance manual are available for a small fee (\$25). Contact RIPA with any requests.



Wes Ledbetter makes a point in his presentation



A view of the audience



_____, _____, Spencer Walker and Mike Porreca

UK SUPREME COURT UPHOLDS RECONDITIONERS RIGHT TO CROSS-BOTTLE IBCs

The Supreme Court of the United Kingdom, acting on an appeal of a lower court ruling disallowing composite IBC cross-bottling, has ruled that cross-bottling does not infringe the patent of the original IBC producer. Therefore, cross-bottling is considered a legal business practice.

The decision was the culmination of several years of legal wrangling between Schütz (UK) Limited and Werit (UK) Limited over the rights of a reconditioner to engage in cross-bottling (i.e. remanufacturing) of composite IBCs.

Werit produces replacement bottles for composite IBCs, which it sells to several reconditioners, including the firm Delta Containers Limited. Werit was sued by Schütz for, among other things, patent infringement. Schütz argued that Delta was “making” IBCs without the formal consent of the patentee because the product being sold (a cross-bottled IBC) included the proprietary Schütz cage.

In a somewhat complicated decision, the UK Supreme Court decided that reconditioner Delta does not “make” a Schütz IBC and, therefore, does not infringe an existing patent. The court reasoned that Delta does not “make” the patented article because “...the bottle is a freestanding, replaceable component of a patented article, has no connection with the claimed inventive concept, has a much shorter life expectancy than the other, inventive component, cannot be described as the main component of the article and...Delta does no additional work to the article beyond routine repairs.”

RIPA President Paul Rankin said, “While the decision in this case has no direct bearing on composite IBC cross-bottling activities in the U.S., it does clarify the right of reconditioners to engage in cross-bottling activities.” Rankin noted that there are still several ongoing cases similar to the one just decided, but it does appear that claims of patent and trademark infringement by reconditioners that cross-bottle are less likely than ever to be found meritorious by courts.

A summary of the UK Supreme Court decision can be found here.

Training records

In the notice of proposed rulemaking, PHMSA recommended that all hazmat employers make hazmat employee training records available to both Department of Homeland Security (DHS) and PHMSA inspectors. Numerous negative comments were received, most of which argued that such records should only be available to inspectors responsible for enforcing the hazmat law and regulations. PHMSA agreed with this argument and presented a final rule requiring employers to provide hazmat employee training records to an authorized representative "of an entity explicitly granted authority to enforce the Hazardous Materials Regulations."

On a related issue, a trade association asked PHMSA to explicitly authorize companies to maintain electronic rather than hard-copy records of employee training. PHMSA responded by noting that the request was outside to scope of the current rulemaking. However, the Agency went out of its way to make clear that PHMSA does not now prohibit electronic records maintenance. As a general rule, activities that are not prohibited by PHMSA are, in effect, authorized. Therefore, RIPA believes that members may retain employee training records in an electronic format, as long as those records are accessible and available to PHMSA if requested.

Closure notification

Several years ago, PHMSA was asked to clarify if persons shipping "packages" containing residue had to supply closure instructions to recipients of those packages. In the example provided by the questioner, a company was shipping IBCs containing small amounts of residue back to the original shipper. In response, PHMSA issued a letter of interpretation stating that closure instructions must be provided.

This interpretation created a firestorm in the regulated community because the rule applies only to companies that produce or distribute "packagings." A "package" is a packaging plus its contents, i.e. a filled or partially filled receptacle. A "packaging" is, in effect, a new or reconditioned container without contents or residue thereof.

Every commenter opposed the DOT position. RIPA general counsel Larry Bierlein, commenting on behalf of another trade group, suggested that DOT had confused the two key terms and, further, that closure requirements were originally created to "identify those tasks of a packaging manufacturer that had not been completed by that manufacturer." Several associations, including RIPA, objected to the recordkeeping burden and cost that would be imposed on recipients of the instructions. RIPA also said that the rule offered "no safety benefit of any kind."

PHMSA agreed that they had confused the two key regulatory terms, i.e. "packagings" and "packages", and that the proposal would not be adopted.

WASHINGTON UPDATE

If the noises you hear emanating from the nation's capitol sound more like nails on a chalk board than a symphony, that's because discord is the name of the game, these days.

Assigning blame for the current budget mess entirely to Republicans or Democrats is a total waste of time because the fact is that both sides are so entrenched in their positions that true compromise – a "grand bargain" - remains out of reach. Republicans will accept no further tax increases and Democrats are unwilling to offer any real reductions in Medicare or Social Security entitlements, which is where the real savings are to be found.

Following is a brief summary of likely actions that will be taken by Congress to keep the government afloat for the remainder of the fiscal year.

- Congress will pass a stop-gap funding measure to fund government at levels imposed by the sequester. Some additional flexibility in the allocation of these cuts will be granted to the Departments of defense, veteran's affairs and possibly homeland security.
- Expect rhetoric to heat up as we approach the May 19 deadline for extending the debt limit. Republicans want clear reductions in entitlement spending; Dem's want new revenue in the form of taxes or elimination of deductions.
- The debt ceiling will be raised – neither party thinks national default is a good idea at any price. There will be no grand bargain on the budget before the summer recess.

PHMSA CLARIFIES TRAINING REQUIREMENTS FOR PACKAGING COMPONENT SUPPLIERS

In a recent letter to the U.S. Department of Energy's packaging and transportation group, PHMSA has made clear that suppliers of peripheral packaging components, such as rings and gaskets, are not covered by DOT hazardous materials employee training requirements.

DOE asked PHMSA if companies that supply "drum lid locking rings" and "nuts and bolts" used to close hazmat packagings are considered "hazmat employers" and, as such, required to train their employees under the Hazardous Materials Regulations.

PHMSA explained that although the definition of a hazmat employee includes individuals who design or manufacture packaging components that are sold for use in transporting hazardous materials in commerce, "[T]he intent of their inclusion is not to cover producers of parts that may be sold by the manufacturer who are not aware that the purchasers intent is to utilize the component in a hazardous materials packaging."

RIPA President Paul Rankin said, "In this Letter of Interpretation, PHMSA clearly distinguished between companies that assemble, produce and sell completed packagings for the transportation of hazardous materials, and firms that produce and sell packaging components that can be and often are sold for use on packagings used to transport a wide range of non-hazardous commodities."

Copies of the letter may be found on the RIPA web site.

PBS LAUNCHING SUSTAINABLE PACKAGING SERIES

A new PBS program focusing on sustainable packaging will be produced by the maker's of "In Focus," and educational series starring Martin Sheen. The series will examine various that companies save money and help the environment by using environmentally friendly packaging and recycling.

According to PBS, "All along the supply chain, from factories to store shelves, companies have started to reduce the impact of their products and the components used for electronics, automobiles, appliances and other applications" by using smaller boxes and less packaging to ship the finished product. "Smaller packaging costs companies less money and leads to the production of less waste ending up in landfills."

The series will profile different companies that have reduced their ecological footprint and their expenses by embracing sustainable packaging. No dates have been announced for the series.

RIPA PARTICIAPTES IN AN "AGCHEM" CONFERECNE; PRESENTS ON IBC REPROCESSING



Brian Evoy

RIPA and several of its members joined U.S. EPA and many key personnel involved with pesticides and agriculture at a conference in Mobile, AL February 6-8, 2013

The conference was hosted by The Pesticide Stewardship Alliance (TPSA), a joint venture of U.S. EPA (which regulates pesticides), state agricultural authorities, and several prominent pesticide manufacturers.

RIPA was invited to speak on the issue of composite IBCs, particularly the various levels of IBC reprocessing.

The use of composite IBCs in agrochemical markets has increased in recent years. Also, EPA has issued regulations on the design and use of containers intended for refilling. Conference attendees were interested in how reconditioners would fit into the distribution, collection, reuse and recycling of composite IBCs.

There is a strong interest in using existing infrastructure (e.g., reconditioners) to collect used IBCs. However, there also is concern about reusing plastic containers in other than tightly controlled, closed-loop refilling operations.

Many common agrochemical products are not regulated as hazardous by either EPA or DOT.

RIPA's Technical Director C.L. Pettit explained to the group the various terms related to IBC reprocessing (e.g. repair and routine maintenance), as well certain basic DOT hazmat rules and EPA waste criteria that govern IBC reprocessing, transport and management. Brian Evoy of Fibre Drum Sales, Inc. described the detailed in-plant operations in reprocessing. Cropland Container's Brian Bilyeu described rebottling operations and preparation of plastic for recycling.

RIPA will continue to interact with EPA and the agrochemical industry on these and other packaging issues



Brian Bilyeu