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PHMSA CRACKS DOWN ON STEEL DRUM COATINGS

Recently, RIPA learned that DOT field enforcement officials have cited at least one association member for failing to remove entirely all exterior coatings from steel drums during the reconditioning process. Upon learning of this stringent new interpretation of the reconditioning rules, several RIPA members and staff met with Agency representatives to relay their concerns and educate DOT about both the origins of the rule and historical industry practices.

The regulation in question (Sec. 173.28(c)(1)(i)) describes the reconditioning process for steel drums, saying such drums should be cleaned “…to base material of construction, with all former contents, internal and external corrosion, and any external coatings and labels removed.”

BUCKNER ELECTED RIPA CHAIR

Long time Board member Ricky Buckner, VP, Buckner Barrel and Sales Corp., is Chairman-elect of the Reusable Industrial Packaging Association. Buckner, who was elected unanimously by the Board of Directors, begins his official duties on January 1, 2014 and concludes his term at the close of 2015.

The Board also elected three officers to serve with Buckner: Mr. Jerry Butler, ICS, will be Vice Chair, Dan Burek, Meyer Steel Drum, Inc. will be Treasurer, and Tim O’Bryan, O’Bryan Barrel Company, will be Secretary.

“I am deeply honored to have been elected as Chairman of the association,” said Buckner. “My fellow officers and I will do all we can during the next two years to help our association grow even stronger than it is today,” he said. “I also want to thank outgoing Chairman Spencer Walker and the officers with whom he served for all the great work they have done these past two years,” he added.

According to the association’s by-laws, officers of the association are elected by the Board of Directors every two years. This year, the nominating committee chaired by RIPA past-Chair Dennis Long, developed the excellent slate of officers. RIPA extends special thanks to Dennis, who was ably assisted by Peter DeWitt, Calvin Lee, Rick Rubin and Barry Wingard.
CHAIR’S MESSAGE

Where did the time go? As RIPA’s Chair for 2012 and 2013, I can say it went pretty fast.

And it went pretty far. Amsterdam. Washington. Chicago. California. Florida. Ohio. All these places I had the pleasure to visit while serving as Chair.

Whether it was a RIPA conference, an international conference, or a fly-in for talks in Washington with DOT, I can say that the job makes you cover some ground.

And it needs to! The industrial packaging industry is increasingly a global business. Integration, acquisition and expansion all have been at work in delivering services and packaging products to customers around the world.

As an association, RIPA has maintained for years a high level of effectiveness in serving members’ needs and advancing the role of reusable packaging. I have been pleased and honored to play a role in matters of both the association and the industry, generally. I have seen up-close how much work can go into the smallest things, and how important it is for member companies to participate. I have seen how regulators and other officials respond well to personal dialogue, and how painfully slow the processes of government can be.

A successful outcome is usually attained by paying attention to the smallest details. There is an old proverb that reads:

For the want of a nail, the shoe was lost.
For the want of a shoe, the horse was lost.
For the want of a horse, the rider was lost.
For the want of a rider, the message was lost.
For the want of a message, the battle was lost.
For the want of a battle, the Kingdom was lost.
…..Lost for the want of a horseshoe nail.

We all need RIPA to watch these details for us and make us aware of rules, laws, regulations and training required to run our businesses long before they affect us. These details give RIPA members an advantage in the market.

It has been a pleasure to serve at a time when customers are setting goals for sustainable packaging purchases. This has meant that reconditioning is now earning its equitable share of recognition. Significantly, RIPA is nearing completion of a new Life Cycle Analysis which will help lead customers to optimal, “green” decisions on packagings. At the same time, RIPA continues to lead and educate on “best practices” in reconditioning that enhance the quality of packagings and that build confidence in environmental safety.

As an association, RIPA’s is always seeking to deliver value. I believe members reap great value in representation, education, advocacy, and information sharing. Valuable networking, lobbying and technical activities go on every day in RIPA. And very often, belonging to a group like RIPA is just plain fun.

I am pleased to report that the association is in a sound fiscal position, and that its reputation as a resource and an advocate is as high as ever.

I want to thank my fellow officers for having shared the past term with me. Thank you to Vice Chair Ricky Buckner, Secretary Jeff Bey, and Treasurer Jerry Butler for their support and expertise.

I also want to congratulate the in-coming officers, Ricky Buckner as Chair, Jerry Butler as Vice Chair, Dan Burek as Treasurer, and Tim O’Bryan as Secretary. I hope they find their roles as interesting and enlightening as I did.

Thank you once again for the opportunity to serve the association as Chair in 2012 and 2013. I leave you in good hands, and look forward to all the other good things to come.
Mr. Spencer Walker, National Container Group, was recognized and thanked for his service as RIPA Chair over the last two years. Ending his term in 2013, Spencer thanked everyone for “having been given the opportunity to lead the organization and play a pivotal role in industry matters.” See Spencer’s final column as Chair in this edition of “Reusable Packaging Today.”

Also recognized for his tenure as IPANA President, Mr. John McQuaid was thanked for his exceptional 10 years leading IPANA and its constituent groups. John’s energy, enthusiasm and expertise will be missed. Announced as his successor, Ms. Sue Nauman is an experienced packaging tester and engineer formerly with Hedwin Corporation in Maryland. Sue has many years of experience with the many technical, regulatory and political issues that face the industrial packaging industry today.

Elsewhere on the program was the prestigious Morris Hershson Award of Excellence, this year bestowed to Mr. Howard Skolnik of Skolnik Industries, Inc. in Chicago.

Howard was toasted in comments by several renowned colleagues including Rick Rubin, Peter MacKay, Paul Rankin and Dean Ricker. He was joined in celebration by his children Sasha, Caroline, Anastasia and Theodora, and his partner Robert Milanowski. The award ceremony was a heartfelt expression of appreciation for his years of service to the association.

The RIPA Suppliers Exhibition had kicked things off previously with a festive reception which included drawings for door prizes. Fourteen exhibitors this year set up booths and offered a prize. Fourteen lucky attendees went home with prizes ranging from gift cards to golf shop coupons to a GPS unit.

The Accompanying Persons events featured a choice between a behind-the-scenes tour of the world famous San Diego Zoo, or a voucher for use in the luxurious Torrey Lodge spa.

The Main Speakers Program on Thursday was cosponsored and attended jointly by members of RIPA and IPANA. Featured talks covered subjects including the new health care law, America’s energy future, and regulatory compliance with U.S. rules for drivers and trucking. Also, Mr. Elliot Pearlman offered his views on the recent trends in industrial packaging and his predictions for the future.

See the RIPA website for copies of the slideshow presentations, as well as galleries of all photos for the main events: click HERE.

RIPA’s Board of Directors met, as it does with each conference, to conduct administrative business and plan for future endeavors. A new slate of officers was approved (see related story), as was a budget for 2014. The association is in sound condition and all indicators are for continued success.

Plans for future conferences were discussed, including an international conference to be hosted by RIPA in North America in mid-2015.

RIPA’s Product Groups met to review work and plan future projects in a wide range of technical, regulatory and business topics. See the Product Group Reports on page 4.

The conference ended with an upbeat celebration at a bistro overlooking the ocean in downtown La Jolla. Music was furnished by the RIPA “in-house” band Parkin’ Lot. Thanks to Mike Bank for bringing his guitar and fellow musicians. And thanks to RIPA’s California members for sponsoring the entire evening!

The next RIPA conference will be the 2014 Technical Conference April 27-29, 2014 in Birmingham, AL. See you there!
Steel Drum Product Group  The group was advised of ongoing discussions with PHMSA regarding “cleaning to base material of construction”. A recent meeting in Washington with key personnel had produced a better understanding of how DOT should interpret this language……. The update of an ISDI / RIPA guidance manual on testing is nearing completion. RIPA staff will consult with a key member workgroup in finalizing the guidance document this year……. Periodic retesting of certain 1A1 drums will be scheduled for February 2014. As in past years, signup for member company participants will be circulated in January. Each participant’s share of the total costs would be again around $300……. Applications for approval of ultrasonic leakproofness testing were discussed. After a period of some inactivity, RIPA will assess on a broad front the best move forward, including an assessment of available test data. Perhaps the issue is ripe for incorporation into the regulations.

Plastic Drum Product Group  The group discussed the 5-year regulatory limit on drums in closed loop use. After 5 years, plastic drums must undergo a leakproofness test prior to each reuse. Some people confuse this U.S. rule with the more stringent European provisions to retire plastic drums completely after 5 years….. Mr. Peter Apostoluk from Greif made a presentation on emerging regulatory issues for plastic industrial packagings. Peter addressed the industry’s position regarding resin specifications and DOT’s recent contention that a change in resin supplier necessitated a change in design type. He also touched on various issue related to food uses and recycling. For a copy of the presentation, click HERE.

Fiber Drum Product Group  The group discussed the most recent periodic re-testing for UN qualification of certain common design types. The testing was conducted in Chicago in July. Testing for 2014 will likely be in the Detroit area. As in past years, participation is open to any RIPA member who wishes to attend the testing. The resulting annual test reports belong to the participating members. They are not held or distributed by the association….. The group discussed ongoing difficulties with recycling. Manufacturers and reconditioners continue to explore easier means of recycling. Problems with adhesives and glues have made recycling somewhat difficult compared to other packagings.

Flexible IBC Product Group  Product Group Chair Richard Rubin made a presentation on flexible ISO container liners. He discussed how these products may be soon expanding their role in the market. As with FIBCs and IBCs before them, Richard advised members that reconditioners should position themselves as the professionals ready to manage these products after use or reuse.

IBC Product Group  The IBC Product Group is busier than ever, these days. The association’s petition to revise marking and placarding requirements for trucks transporting empty IBCs has yet to be acted upon by DOT. RIPA General Counsel Larry Bierlein hopes the petition will receive the attention it deserves before the end of the year….. The PG discussed at length a new letter of interpretation from DOT regarding leakproofness testing of IBC inner bottles and IBC marking. DOT is still trying to make IBC reprocessors who perform repair operations re-test bottles that have already been tested by the original manufacturer. Additionally, DOT has indicated that it wants the date on inner bottles to conform to the date of repair applied to the cage. RIPA does not agree with the agency on either matter, and will seek a meeting with key Agency officials to discuss how the issues can be resolved……. Also discussed is an ongoing effort by the Swedish UN Expert to gather information about IBC leakproofness testing practices globally. RIPA plans to work through ICCR to respond to questions raised by the UN delegate.

Plenary Product Group Session  In this session, members were provided an update on RIPA’s Life Cycle Analysis which is nearing completion. The “Eco Packaging Calculator” will allow users to estimate carbon “footprints” and other measures associated with different choices for industrial packaging. Comparing new and reconditioned packagings will be a major function of the tool. The tool will be available only to members as an aid in their marketing and customer relations….. Members also received required training on OSHA’s new “Hazcom 2012 GHS” labels and Safety Data Sheets. New “GHS” container labels and standardized “Safety Data Sheets” (formerly, “MSDSs”) are required as part of the “Globally Harmonized System” recommended by a UN committee of experts. Harmonization will facilitate transnational shipments and will enhance workers’ understanding of chemical related hazards in the workplace. Trainees at the plenary session left with a Certificate of Training. The training module will be sent to all RIPA members in time for the December 1, 2013 deadline. A version in Spanish also will be shared with all members. Copies also can be accessed at the Members Only section of the RIPA website.
During the meeting, RIPA Counsel Larry Bierlein explained the Agency has long been concerned that harsh exterior cleaning processes, including shot blasting, could affect container safety. When the language in question was adopted in HM-181, it simply appeared in the final rule without prior public notification or opportunity for comment. In addition, the preamble to the rule said, in effect, the reconditioning process for steel drums authorizes the use of “…traditional reconditioning procedures.”

RIPA Chairman Spencer Walker, National Container Group, and ICS President Calvin Lee, explained that the global reconditioning industry has for many decades utilized both shot blasting and caustic washing with brushing to remove exterior coatings. Both processes are effective and both invariably leave small amounts of exterior coating. Importantly, RIPA also made clear that coating removal is actually a procedure used to facilitate the effective application of future coatings (e.g. paint).

RIPA provided DOT with pictures of shot blasted drums that showed coating “shadows” and small flecks of paint, seeking to determine if such drums would be acceptable to agency enforcement staff. After discussion, it became clear that the Agency is primarily concerned with the integrity of the finished packagings. They believe that drums retaining excessive coating material could hide flaws in the steel or rust spots.

Although the meeting produced no formal outcome, Agency officials asked RIPA to continue to educate members about the need to remove excessive drum coatings. In the meantime, DOT will continue its internal review of the issue and maintain an open dialogue with the association on this matter.

Members seeking additional information on this topic should call RIPA staff.

PHMSA ISSUES RULE AFFECTING CERTIFICATION MARKS AND RECORDKEEPING

U.S. DOT issued a rule on October 31, 2013 which made corrections and clarifications to a number of previous rules affecting packaging marks and test records, among other things.

Regarding packaging test records, DOT decided that the duration of recordkeeping should be limited for 3rd-party labs that qualify through testing a packaging design type for hazmats on behalf of the packaging manufacturer. DOT reasoned that 3rd-party certifiers may not know exactly how long a design remains in production by the manufacturer. Therefore, the 3rd-party certifier should no longer be required to maintain records for as long as the design is produced, and 2 years thereafter (the previous requirement). DOT agreed with RIPA that the new wording should be revised to limit the duration of the recordkeeping requirement to 6 years. DOT explained further that the manufacturer has always been the intended repository for records for as long as the packaging may be in production.

In another matter, DOT dismissed complaints from a shippers’ industry group (Dangerous Goods Advisory Council - DGAC) about the previous agency decision that expressly prohibits periodic testers from applying the mark of the original design type tester. DOT was not swayed by arguments that periodic testing is not the same as complete design type qualification testing. DOT countered that the UN requires no periodic testing at all, and that DOT’s insistence on the most recent tester’s mark provides a higher margin of safety and accountability.

These new rulings are effective immediately on a voluntary basis, and will be fully effective no later than January 1, 2014.
FMCSA PROPOSES REVISED TANK VEHICLE DEFINITION

- Empty and residue IBCs exempted

The Federal Motor Carrier Safety Administration (FMCSA) has issued a notice of proposed rulemaking that would revise the definition “tank vehicle.” Truck drivers holding commercial drivers licenses are required to obtain a tank vehicle endorsement to operate tank vehicles.

The new proposal expands substantially the definition of “tank vehicle” to include drivers of trucks carrying as few as four filled 275-gallon intermediate bulk containers.

Importantly, based upon comments provided to FMCSA by RIPA, drivers of trucks carrying empty IBCs or IBCs that contain only residue are exempt from the rule and, therefore, do not have to obtain a tank vehicle endorsement.

About 30 months ago, FMCSA surprised the trucking industry by issuing what it considered to be a “minor” revision to the definition of “tank vehicle.” The old definition required a tank vehicle endorsement for drivers of tank trucks and trucks carrying tanks with a rated capacity of 1,000 gallons or more. The new definition lowered the containment threshold to vehicles transporting containers above 119 gallons in rated capacity, with an aggregate capacity of 1,000 gallons or more.

By lowering the individual size of containers that would be counted against the total capacity threshold to 119 gallons from 1000 gallons, and retaining 1000 gallons capacity as the regulatory trigger, FMCSA brought under regulation virtually any driver who does transport or might expect to transport four or more IBCs.

Once discovered, the new rule created a firestorm among LTL drivers and shippers of IBCs. Drivers realized they may have to take time off work and pay a new annual fee, and shippers worried about a lack of drivers with the proper endorsement, at least in the short term.

For its part, RIPA filed comments with FMCSA and spoke with key agency officials asking why a rule designed to protect drivers from the “sloshing” effects of high-liquid capacity vehicles would cover empty containers or containers with only minimal amounts of residue.

FMCSA responded positively and issued guidance to the regulated industry stating: “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 empty of empty except for residue.” FMCSA considers a standard bill of lading sufficient to meet the letter and intent of the rule.

Members interested in learning more about this rule should contact RIPA.

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PHMSA PROPOSAL: PAY YOUR CIVIL PENALTY OR ELSE!

PHMSA has proposed a new rulemaking that would prohibit a person who fails to pay a civil penalty in a timely manner from operating their hazmat business. Under the proposal, DOT will issue a “Cessation of Operations Order” (COO) if a required payment is not received within 45 days of the due date. Business operations would be shut down 46-days later, unless payment is made.

Delinquent payers would be exempted from the rule only in rare cases, such as bankruptcy.

The proposed rule (HM-258A) does not eliminate or restrict the ability of any company engaged in hazmat activities (e.g. packaging manufacturing or reconditioning) from contesting proposed penalties, or limit a firm’s right to challenge the agency in court. The rule would only come into effect only after a final penalty has been legally assessed.

Since the proposal is in the early stages of the public comment period, RIPA does not expect to see a final rule for at least six months. Comments on the NPRM are due November 25, 2013.
SWEDEN SEEKS MORE DATA ON IBC LEAKPROOFNESS TESTING

Sweden’s UN Expert on dangerous goods transportation continues to press her colleagues and industry packaging experts for information about national leakproofness testing practices for IBCs and other packagings. It remains unclear what Sweden hopes to gain from this informal fact-finding effort; however, it is clear that national requirements governing production leakproofness testing do vary.

At this point in the process, no formal proposals have been offered by any government or industry group. This means the issue continues to be a discussion item and no formal action can be taken by the Sub-Committee of Experts.

ICCR plans to submit responses to the Swedish questions noting that industry leakproofness testing practices in various parts of the world do differ. However, these variances are long-standing and have been proven their efficacy as a matter of transport safety.

RIPA PRESENTS LIFE CYCLE STUDY TO LUBRICANTS MANUFACTURERS

RIPA President Paul Rankin presented preliminary findings from the association’s ongoing packaging life cycle study to the Independent Lubricant’s Manufacturing Association last month in San Antonio, TX.

Rankin provided the group with an overview of global sustainable packaging efforts engaged in by various industry sectors, including the petroleum industry. He noted that although it may be too soon to call “green packaging” a decision-driver for packaging, that day will come in the not too distant future. “More than 70% of consumers recently surveyed in the U.S. consider the environmental impacts of products they purchase,” Rankin noted. And for this reason, corporate America is waking up to the fact that they must develop and maintain a favorable environmental image, or they will lose ground in the marketplace over time, he explained.

Preliminary data from the life-cycle study, which will be completed by contractor Beco/Earnst & Young this fall, shows significant savings in carbon emissions are available to purchasers of reconditioned drums and IBCs, as compared to similar new packagings. Carbon emissions are used by researchers as a proxy for all greenhouse gases. “On a single-trip basis, there is no question that reconditioned industrial packagings are more environmentally efficient when compared to their new counterpart,” said Rankin.

Rankin pointed out that packaging purchasing decisions always take into account more than just environmental impact, but the new study and a soon-to-be-released carbon calculator will be a useful tool for firms that do consider this issue when buying packagings.

MEMBERSHIP REPORT

RIPA is pleased to announce the full acceptance of membership as a RIPA Supplier / Associate member for:

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Mr. Tony Sun, Owner
Mr. Tom DiCarlo, Director
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www.gjlintl.com
With the ever increasing need to respond quickly to changing capacity demands, having a variety of sizes of stainless steel wine barrels on hand allows a wine maker to respond rapidly to unanticipated storage situations. Traditionally, Skolnik has supplied the wine industry with stainless steel wine barrels ranging in size from 5 to 55 gallon. Now, in response to customer demand, Skolnik Industries is pleased to announce the addition of 85 and 110 gallon stainless steel wine barrels. Constructed of 16 gauge 304 stainless steel, these new wine barrels offer wine makers greater storage capacity, and they can still be used with a standard barrel rack. Both sizes are offered with several options for Tri-Clover fitting placement, whether in the body or top, wine makers can choose the fitting options that work best for their unique application. Another important feature of these wine barrels is the 100% weld around the exterior chimes. This robust welded construction provides for additional durability, longevity and the added security that the valuable contents remains unimpaired. The 85 and 110 gallon drums are the ideal solution for wine storage when space is at a premium and additional storage is needed at the last minute. For more information please contact Jason Snow at jason@skolnik.com.

PHMSA to Open in Transit Packagings

An issue that has been under consideration for an extended period, has been finalized. The issue concerns the safety for hazardous material packagings to be opened, inspected, and closed in accordance with appropriate closure instructions by Federal agents while in transit. PHMSA is addressing certain matters identified in the Hazardous Materials Transportation Safety Improvement Act of 2012 related to the Department’s enhanced inspection, investigation, and enforcement authority. Specifically, PHMSA is amending the package opening provision to include procedures for an agent of the Secretary of Transportation to open packages of perishable hazardous materials. They must also provide notification to the responsible party that an agent has exercised a safety inspection or investigation authority. In addition, they are establishing equipment requirements for agents. The Department’s enhanced inspection, investigation, and enforcement procedures were previously established through notice and comment rulemaking and thoroughly address the hazardous material transportation matters identified by Congress. This final rule is required to codify changes to Federal hazardous material transportation law and to ensure transparency and consistency for hazardous materials inspectors across all modes of transportation. As it affects only Agency 2 enforcement procedures, there are no additional compliance costs to industry associated with this final rule.

PHMSA increases Non-Compliance Violations

PHMSA is publishing an updated statement of policy revising the list of frequently cited violations (Part 107 Subpart D) and modifying individual baseline assessments. PHMSA has also added assigned penalties instead of penalty ranges, where appropriate to reflect safety risks such as packing group. PHMSA notes that “in order to remain consistent with MAP-21 increase to the maximum civil penalties, as well as make appropriate adjustments for inflation, PHMSA reviewed the entire list of baseline penalties and generally increased them.” A cursory review indicates that the baseline assessment information is more descriptive and some penalties have increased substantially. For example, under B. Training Requirements the baseline assessment has increased from $700 each area (more than 10 hazmat employees) to $1500 for each area. PHMSA is also eliminating many baseline ranges (e.g. $3,000 to $6,000) and replacing them with specific baselines (e.g. $6,000 for PGII, $4,500 for PGIII and $3,000 for PGIV). The maximum civil penalty has been increased by 36% from $55,000 to $75,000 for a knowing violation and by 59% (from $110,000 to $175,000) for violations resulting in serious harm. PHMSA has also increased penalties to go above the baseline based on previous violations.

—Howard Skolnik

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—Howard Skolnik
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News:

Effective December 3, 2012 Watson Standard acquired certain assets of Delta Coatings Corporation, a privately owned coatings company specializing in the development and manufacturing of coatings for the general industrial and packaging industries.

Acquiring Delta allows Watson to re-enter the general industrial coatings marketplace and add to its existing portfolio of coatings and adhesives. The acquired business will operate as Watson Standard Industrial Coatings.

“We are enthusiastic about this return to an industry that was a facet of our foundation and represents our continued investment in and dedication to the coatings industry, “ remarked Jim Lore, President of Watson Standard.

This acquisition provides significant benefits to both companies’ customers, current and prospective. Watson Standard will expand upon Delta’s product offerings through its development capabilities and organizational synergies. Combined, Watson and Delta are able to supply additional general industrial market segments with solvent based, water based, Ultra Violet (UV), and Electron-Beam (EB) products. Watson Standard’s acquisition will also foster additional global growth opportunities.

Watson: Past . . . Present . . . Future

Founded in 1902, Watson Standard is a privately held specialty coatings and adhesives manufacturer, headquartered in Pittsburgh, Pennsylvania, serving the global marketplace.

Watson generates about one third of its business in international markets, which is supported by multi-lingual customer support, a global distribution network with partners in Australia, India and the U.K., toll-manufacturing in Spain and sales and distribution agents in Mexico, Central America and South America.

Watson Standard is dedicated to developing the most innovative coatings, adhesives, and related products for the international general industrial, rigid and flexible packaging markets.

Delta: Strengths and Reputation

Delta Coatings Corporation, located in Melrose Park, IL., has been a vital and innovative member of the industrial coatings community since 1996. Delta is best known for its water-borne coatings for the container and drum industries (interior and exterior), OEM/ general industrial and transportation industries.

Delta’s portfolio includes high solids, conventional solvent-based, HAP’s- free and solvent-free radiation curable coatings for spray, dip, roll-coat, coil, electrostatic and electro-coat applications.
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- Bead Roll Shafts
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- PLASTIC DRUM RECONDITIONING MACHINERY
- COMPLETE IBC RECONDITIONING MACHINERY
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- REBUILDING SERVICES
- PLANT DESIGN & LAYOUT
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- INSTALLATION SERVICES
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