



COUNCIL ON SAFE TRANSPORTATION  
OF HAZARDOUS ARTICLES, INC.

# COSTHA Chronicle

WINTER 2010/SPRING 2011

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## What's With The Name?

Formerly the COSTHA Quarterly, the COSTHA newsletter is now named the COSTHA Chronicle. The following pages are filled with the latest in regulatory updates, industry issues, and member news. The COSTHA Chronicle will be distributed twice per year. We welcome members to submit feature articles about themselves or their company, or ideas/information to be included in the newsletter. Please email: mail@costha.com.

## COSTHA Appeals US DOT Final Rule HM-233B

COSTHA, the Council on Safe Transportation of Hazardous Articles, recently submitted an appeal to the US DOT Pipeline and Hazardous Materials Safety Administration (PHMSA) final rule HM-233B, Hazardous Materials Transportation: Revisions of Special Permits Procedures, published on January 5, 2011.

In their appeal, COSTHA emphasized the importance of a data driven, risk based approach to rulemakings. In the case of the special permit program, historical data indicates that there has not been a single fatality attributed to hazardous materials transported pursuant to a special permit or approval in over ten years. During the same time period, there have been on average less than two serious injuries involving special permits or approvals each year. The safety benefits to the public from the recent revisions to the special permit application are virtually non-existent, while the costs associated with PHMSA's new special permits procedures – both to the regulated industry and the agency itself – are significant.

The COSTHA appeal draws specific attention to the new requirements to include the name, address, physical address(es) of all known locations where the special permit would be used, email address (if known), and telephone number of the applicant. Many special permits are utilized throughout a company's operations and distribution operations. Thus, the locations where a Special Permit may be used would likely include every physical location owned by a company. In some instances this can be interpreted to be over 100,000 vehicles.

COSTHA includes three examples provided by different industry segments to illustrate the vast amount of information that would be required to be collected, the lack of value to the agency, and the fact that the requirement to gather and provide the information does not comply with President Obama's recent regulatory strategy regarding simplifying and streamlining regulatory reporting.

In addition to COSTHA members, the American Pyrotechnics Association, the Agricultural Retailers Association and the National Association of Chemical Distributors supported the appeal.



COUNCIL ON SAFE TRANSPORTATION  
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## MEETING SCHEDULE

**April 10-13, 2011**  
**2011 COSTHA Annual Forum**  
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**September 12-14, 2011**  
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**April 22-25, 2012**  
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## MESSAGE *from the* PRESIDENT

### Message from the President

In today's challenging environment, it is heartwarming to see the tremendous response to the COSTHA 2011 Annual Forum. Members have gone to extraordinary lengths to obtain approval to travel to the meeting and participate. This is yet another example of the professionalism and dedication that members of our industry exhibit time and time again. COSTHA staff along with your volunteer committee members have worked hard to ensure the meeting provides attendees the highest return on investment for your time and financial commitment. The theme for this year's forum is "Shaping the Future of Safety and Global Compliance", truly capturing what COSTHA and this Forum are all about. Ensuring compliance is a given for most of us in our jobs, but the key to our success as professionals and success for our companies is our ability to anticipate and prepare for changes in the DG transportation arena so we can implement best practices and make effective use of resources to ensure safety and efficiency in DG transportation beyond basic compliance.

Registrations for the meeting and training courses at this year's meeting are at peak levels. Popular topics indicate the growing need for this type of specialized training:

- Understanding the Exceptions - Limited Quantity/Consumer Commodity, MOTs and Other Exceptions
- Hazardous Materials/Dangerous Goods Training IMDG/IATA/49CFR Recurrent - Advanced
- Safe & Compliant Transportation of Batteries

- Cargo Safety & Security/Blocking & Bracing

We are much anticipating the full and encompassing line-up of speakers we will be hearing from at the meeting.

The COSTHA Intra-Air Carrier Roundtable has air carriers coming from all across the globe to discuss problems facing industry, and the North American Automotive HazMat Action Company (NAAHAC) has a strong contingent of members who are attending from across the country. COSTHA member, International Vessel Operators Dangerous Goods Association (IVODGA) is holding their annual meeting in conjunction with the COSTHA Annual Forum - the former VOHMA/Shippers Roundtable and Air Carrier/Shipper Roundtable will be held together at the Multimodal Roundtable. The Life Sciences roundtable will focus on the pharmaceutical and healthcare industries. We are very excited to introduce two new roundtables, the Battery Roundtable and the EPA/DOT Developing Technology Roundtable, which will complete the action packed agenda.

Finally, as always, we will have a range of high level government speakers from around the world including the US, UK, Mexico, Canada, and South America who will be discussing global harmonization and how to meet the demands of developing technology.

We look forward to seeing everyone at the meeting.

Best Regards,  
Bob Heinrich

## COSTHA Submits Letter of Interpretation for HM-231A

COSTHA has submitted a request for interpretation on the DOT Pipeline and Hazardous Materials Safety Administration (PHMSA) notice of proposed rulemaking Hazardous Materials; Packages Intended for Transport by Aircraft (HM-231A), regarding the requirement to maintain closure instructions identified in §178.2(c) and required to be maintained by §173.22(a)(4).

§173.22(a)(4) requires a person using DOT Specification or UN Standard packaging subject to the requirements of Part 178 to prepare and close the packaging in accordance with instructions provided by the packaging manufacturer or subsequent distributor. In the Final Rule HM-231 issued February 2, 2010, PHMSA revised §173.22(a)(4) to require a shipper to maintain package closure instructions for a minimum of 365 days after offering the package for transportation. However, in referencing a “package” in the discussion of “packaging” closure instructions, confusion has been introduced as to who is actually required to maintain the closure instructions.

In the preamble at paragraph E, Packaging closure instructions, PHMSA states “In accordance with §178.2(c) a packaging manufacturer and subsequent distributors of the packaging must provide written instructions for assembling and closing the packaging so that it will maintain its integrity during transportation.”

COSTHA contends that the §178.2(c) notification requirements apply to the manufacturer of the packaging and each subsequent distributor of that packaging. §178.2(c) does not provide any such applicability to the secondary shipping of a package that was properly closed by the original offeror and not reopened and reclosed by Company B. Phrased another way, the closure instruction maintenance requirements of §173.22(a)(4) are applicable to a shipper who performs the act of closing the packaging prior to it being offered for transportation, and would also include shippers who open and reclose those packagings (for example, packaging covered by §173.28). We believe §173.22(a)(4) is not applicable to a shipper who subsequently reoffers a package that has not been opened and reclosed since this shipper did not actually perform the closure function.

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## DOT Special Permit and Approvals Process

COSTHA continues to work with members to facilitate permits and approvals. We have also been working with the Interested Parties Group and our Legislative Affairs Committee to get the word out about our concerns. In the interim, we are developing a short electronic survey for members to complete so that we have the most current feedback from the membership about the efficiency of their transactions with DOT. It will be important for all members to respond to the survey even if it is merely to report that they do not utilize the permitting or approval process. If you are interested in assisting us in the development of the survey please let us know. – [lara@costha.com](mailto:lara@costha.com)

Have a new product or service for the industry? Send us your press release for the next COSTHA Chronicle - [mail@costha.com](mailto:mail@costha.com)

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using packagings with a capacity greater than 450L without significant incidents. The Subcommittee agreed to an Intercessional Working Group to discuss the point further. COSTHA volunteered to participate in the correspondence group.

**Working Paper 2010/54, Inf.14, Inf.42, and Inf.56 - Portable tank provisions for chemicals under pressure**  
 Having successfully addressed the issue of chemicals under pressure in non-bulk and IBCs, International Council of Chemical Associations (ICCA) presented conditions which would permit chemicals under pressure to be offered in tanks under Packing Instruction T50. The final text in Inf.56 was adopted, thus fully approving these materials in all levels of packaging.

**Working Paper 2010/61, 2010/73, and Inf.52 – Used health care products**  
 Switzerland requested clarifying statements that devices and equipment contaminated with infectious substances other than Category A but containing no free liquid are not subject to the regulations as long as the outer surfaces are decontaminated. COSTHA presented a further exemption for materials which have free liquid but present a limited risk due to the material not being readily spilled or released even in an incident. Of importance was the initial confusion that the Swiss paper and the COSTHA paper were addressing two completely separate issues, one with free liquid (COSTHA) which would be subject to UN3373 today, and one without free liquid (Swiss) which may or may not be subject to UN3373. During three Lunchtime Working Groups, the Subcommittee agreed to text to address the COSTHA and Swiss proposals. These final provisions are similar to provisions adopted earlier this year in the ADR/RID/ADN regulations. No reference is given to internal marking (the COSTHA proposal included the inclusion of the Biohazard mark on internal packagings) but the external marking, “Used Medical Device” or “Used Medical Equipment”, was adopted. Finally, a clarification note was adopted to address the concern presented by Switzerland. The final language is presented in Inf.52 with only minor additional revisions.

**Working Paper 2010/63, Inf.44 – Comments on toxic subsidiary risk for mercury**  
 ICAO presented a concern that inclusion of a sub-risk of 6.1 for mercury will adversely impact the movement of mercury by air. The US presented additional arguments that the data is based on older information that even experts cannot agree on. However, a US proposal to delay adoption of the toxic sub-risk for mercury failed by a vote of 5-9.

## Summary of Results from the 38th Session - UNSCOE TDG

The United Nations Subcommittee of Experts on the Transport of Dangerous Goods held their 38th Session from Nov. 29-Dec. 7, 2010. This was the 4th and final meeting of the 2009-2010 biennium, and a significant number of documents were reviewed for final adoption. A brief summary of certain documents of interest is provided below. The papers are organized into the Plenary Agenda order presented at the meeting.

### Listing, Classification, and Packing

Working Paper 2010/46 and Inf.6 - Classification of Class 3 viscous liquids in packing group III

IATA pointed out that the process to calculate alternate packing group designation for Class 3 viscous liquids (to PGIII) is not consistent between the Model Regulations and the Manual of Tests and criteria. Of particular interest is the fact that the Manual of Tests and Criteria appears to indicate materials reclassified in this manner are not permitted in packagings greater than 450L capacity. European Council of producers and importers of paints, printing inks and artists' colours (CEPE) is strongly opposed to this interpretation and pointed out that Industry is currently

### **Inf.15, Inf.51 – Proposal for a new UN number for Mercury in manufactured articles**

Given that the Subcommittee decided to keep a toxic sub-risk for mercury, the question then addresses the issue of mercury contained within manufactured articles. Germany was insistent that the sub-risk carry to manufactured articles. The ADR contains a division that exempts many of these materials (1.1.3.4(a)). The United Kingdom pointed out further problems which will be encountered when shipping manufactured articles. A solution would be to create a new proper shipping name and UN Number with additional exemptions noted. The language in Inf.51 was eventually adopted, however ICAO noted they will likely adopt a special provision exempting the labeling for a toxic sub-risk and indicating the sub-risk would not be considered for segregation purposes (for example, separate from foodstuffs or live animals). Since the issues addressed in 2010/63 and Inf.15 were adopted as amended, significant work will need to be done by the modes to determine if any unintentional impacts will result.

### **Inf.9 – New UN entries for environmentally hazardous paints and printing inks**

Due to the growing number of paints and printing inks which do not meet any other hazard class but do meet the criteria for Environmentally Hazardous Substance, IPPIC proposed to include a new UN number for a Paint or Printing Ink with a Class 9. The Subcommittee recognized the growing problem of the EHS classification on commodities not otherwise regulated, however they were not inclined to adopt a new UN number for each commodity where this situation occurs. The paper was not adopted, although IPPIC was invited to propose a broader approach at the next session.

### **Electric Storage Systems**

2010/72 – Testing of large lithium batteries and lithium battery assemblies.

Based on available regulatory standards and applicable and available studies, COSTHA proposed the accelera-

tion constant in the Manual of Tests and Criteria, Section 38.3, Test 4 for large batteries be reduced from 50g to 9g. The Subcommittee was understanding of the problem and noted agreement with the premise that 50g is not an appropriate value. A number of delegations were in support of modifying the value. However, most of the commenters were not in favor of the methodology used in the COSTHA proposal. COSTHA was invited to obtain more data regarding forces encountered by large bodies in transport and resubmit a proposal in the next biennium. COSTHA requested the Subcommittee make available data which could be used to support the continuing review. Several members also suggested informally that COSTHA should present an automotive value specifically, thus separating automotive from other industry battery types.

### **2010/81 – Testing of lithium batteries and cells – proposals drafted by the ad hoc intersessional working group.**

This document contains the totality of work completed by the Lithium Battery Working Group, including new definitions, modifications to several of the cell and battery tests, and inclusion of new test conditions under Test 6. COSTHA's recommended modifications to T3 were adopted in this text as well. Although there was significant discussion about the definition of a large cell (eventually agreed to be 500 g), the rest of the recommendations were adopted.

### **2010/58, 2010/82, Inf.8, and Inf.47 – Possible use of flexible bulk containers (FBCs) for the transport of dangerous goods**

Flexible Bulk Containers has been on the agenda for much of this biennium. The Subcommittee agreed at the 37th session to hold a parallel working group during this session to rework the IDGCA proposal and draft a workable document in alignment with the Model Regulations. The 2 day working group presented their results in Inf.47. In Plenary, the Subcommittee adopted the provisions detailed in Inf.47

continued on page 6

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with minor amendments. This result means flexible bulk containers will be recognized as “BK3”, and the testing and construction requirements will be published in Part 6 of the Model Regulations. BK3 is only authorized for a limited list of solids in Packing Group III. The full list can be reviewed in Inf.47.

**2010/79 - “De minimis” quantities of dangerous goods**  
Norway proposed a change in the maximum amounts for commodities in E1, E2, or E3 available for the De minimis exemptions. Specifically Norway suggested the maximum values for E1, E2, and E3 eligible materials be permitted in packaging up to 3g or 3ml. The Subcommittee was not in favor of the proposal since it was based on a rationalization not specific data. Norway decided to withdraw the proposal instead of requesting a vote on a paper that would likely not pass. Norway indicated they are interested in renewing the discussion in the next biennium.

The full report of the 38th Session has been distributed to the membership and is available on the Members Only website.

The COSTHA delegation included Alicia Gaines from Abbott Laboratories, Lisa Colles from Eli Lilly, Sean Broderick and Khalid Bellazrak from Procter and Gamble, and Tom Ferguson as Head of Delegation.

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## **COSTHA Announces New Board Member**

Lara Currie, COSTHA Administrator, announced that COSTHA is pleased to welcome Mr. Sean Broderick as their newest member to the Board of Directors. The COSTHA Board of Directors is comprised of 15 members serving staggered terms of office.

Mr. Broderick is the North America Regulatory & Technical Relations Section Manager for the Procter & Gamble Company, which includes P&G’s Distribution Center network. Sean completed a Bachelors degree in Civil Engineering from the University of Cincinnati (UC) in 1996, and a Masters degree in Environmental Engineering from UC in 1997, and Masters in Business Administration from Xavier University in December of 2007. Mr. Broderick has been leading Safety, Environmental and Regulatory compliance programs at Procter & Gamble for over 13 years. Sean also serves as the Regulatory Affairs Committee Chairman with COSTHA.

To participate in a committee simply contact the COSTHA office at  
mail@costha.com

## HM-224F Final Rule

COSTHA Technical Consultant, Tom Ferguson, continues to monitor the anticipated release of the HM-224F Final Rule regarding lithium battery transport in the United States. On January 11, 2010, PHMSA issued the Notice of Proposed Rulemaking (NPRM) HM-224F. The Final Rule was originally scheduled for release in late December 2010 or January 2011. However, the Office of Management and Budget continues to review the potential impact to U.S. businesses. Thus, the release has been delayed.

In the proposed Rule, PHMSA addresses several issues including differences in the US DOT Hazardous Materials Regulations (HMR) vs. international regulations, battery design type testing, concerns regarding transporting batteries by aircraft, and consolidating the lithium battery regulations within the HMR. To provide points of discussion, please find below a summarization of some of PHMSA's proposals:

### New Shipping Names

PHMSA proposes to harmonize with international regulations by adopting the proper shipping names (PSNs) recognized in international regulatory texts. The new PSNs would reflect the chemistries of the batteries, either metal or ion. It is interesting to note PHMSA has already given approval to use of the PSNs in their PHMSA Docket number PHMSA-2009-0253; Notice No. 09-4 issued on August 25, 2009. This Rule would adopt these PSNs in the approval into the HMR.

### Watt Hours versus Equivalent Lithium Content

PHMSA is proposing to harmonize with ICAO, IMO, and the UN by eliminating reference to Equivalent Lithium Content, and replace it with Watt Hours. The ELC is a term describing the potential amount of lithium content contained within lithium ion batteries before the term Watt Hours was adopted by international texts. The Watt Hour rating (Wh) can be calculated by multiplying the Ampere-hour (Ah) by the battery voltage (v).

### Design Type Testing

PHMSA already requires batteries to be transported to meet the requirements of the UN Manual of Tests and Criteria to be classified as a Class 9 battery and thus permitted to be shipped. PHMSA makes note of the continuing discussions at the UN Lithium Battery Working Group but is considering several additional requirements. These differences would require cells to be retested any time there is a 5% gain or loss of mass to the anode, cathode, or electrolyte material or for rechargeable batteries, a change in the nominal energy or a 5% increase in the nominal voltage. Additionally, cells and batteries would need to be retested anytime there is:

- A change in the material of the anode, cathode, separator, or the electrolyte;
- A change of protective devices, including hardware or software;
- A change of safety design in cells or batteries, such as a venting device;
- A change in the number of component cells;
- A change in connecting mode of component cells.

PHMSA is also considering a mark to be visible on the outside of each cell or battery. The leading candidate is the current UN specification mark which designates packaging that has passed the US packaging design tests.

### Elimination of Small Battery Exceptions for Air Shipments

PHMSA and the FAA are proposing to eliminate the current exceptions for small batteries (removal of SP29, 188, 189, and 190 as well as A54, A55, A100, A101, A103, and A104) by air transport, but setting up a threshold below which the batteries are completely exempt (<0.3 g lithium metal, 3.7 Wh for lithium ion). This action would require most lithium batteries to be offered by air as Class

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9 materials and would require specification packaging, marking and labeling, as well as documentation in accordance with §173.185. Specifically, these are batteries that today would be offered under the IATA/ICAO Section II provisions. Only “will-carry” airlines would be permitted to accept and all lithium batteries by air would require Notice to the Captain or Pilot.

PHMSA states “a requirement for small lithium batteries and cells to be transported as Class 9 materials will have significant safety benefits that will more than offset any additional transportation costs that may result. PHMSA invites comments on the impacts associated with elimination of existing regulatory exceptions and the risk reduction benefits associated with eliminating the exceptions.” The current exceptions for surface transport (road, rail, vessel) would be contained in §173.185(d) and would be similar to the provisions contained in IMDG and the UN SP 188 but would require all packages to include the wording “LITHIUM BATTERIES-FORBIDDEN FOR TRANSPORT ABOARD AIRCRAFT”.

### Packaging and Stowage

Due to concerns regarding large numbers of small batteries packaged together and the lack of fire suppression systems aboard cargo aircraft, PHMSA is proposing to require lithium

um batteries be transported in Class C cargo compartments (equipped with a fire suppression system), be contained within an FAA-approved lithium battery container (to be defined!), or in an accessible cargo location. PHMSA is also considering limiting the number battery packages that can be contained in any single aircraft, compartment, unit load device, pallet, or overpack. Such limitations were not presented in the NPRM but PHMSA is considering proposing such limitations in a separate Rulemaking expected in April 2011.

### Compliance Date

Many of the proposals contained in this NPRM are harmonization issues. However there are several that PHMSA and the FAA feel address current safety risks. Therefore, PHMSA proposes a mandatory compliance date of 75 days after issuance of the Final Rule. That means that 2.5 months from the Final Rule posting, the SP188 exceptions for air will be eliminated, all packages of current SP188 batteries must be marked with the new “forbidden aboard aircraft” wording, and batteries must meet the new design type and be appropriately marked, as well as any additional items not mentioned.

This summary is intended to identify some of the possible issues for COSTHA Members and other industry organizations impacted. Although the comment period has passed and we are awaiting issuance of the Final Rule, we encourage you to read the document as well and further identify areas of concern for your organization.

COSTHA is offering a half day seminar on the Safe and Compliant Transportation of Batteries in conjunction with the 2011 Annual Forum in Scottsdale, AZ. The seminar, scheduled for April 10, 2011, will include discussion on the Final Rule if issued prior to the meeting



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## 2011 COSTHA Annual Forum

COSTHA Vice President, Don Bossow, Sr. Manager NA Regulatory Affairs/Global Systems, Diversey, Inc. reports that early registrations for the 2011 Forum is exceeding expectations. "At the moment we are just shy of the 220 mark. We hope to beat our all time high attendance of 250 before the event."

The speaker list is shaping up nicely and we have support from many government and industry sectors and a full program of roundtables, training courses and general session agenda items.

Minor modifications to the program are made on a continual basis and the best way to ensure you have the latest information is to check the website for the electronic version - <http://www.costha.com/forum/meeting-info/>

While our hotel sleeping room cut-off date is a few weeks away we have almost sold out at the Hilton Scottsdale Hotel. To ensure everyone has a pleasant experience we have blocked a small number of rooms at the nearby Doubletree Hotel which is also owned by the Hilton. The rate for both of the hotels is \$169 per night. The hotels will be offering shuttle van service between the two properties for the convenience of the guests. If you have any difficulty with your room reservations please let us know and we will attempt to assist.

### Training presented by member volunteers.

- Hazardous Materials/Dangerous Goods Training IMDG/IATA/49 CFR Recurrent – Advanced
- Safe & Compliant Transportation of Batteries
- Understanding the Exceptions – Limited Quantity/Consumer Commodity, MOTs and Other Exceptions
- Cargo Safety & Security/Blocking & Bracing

### Roundtables

- Air Carrier
- Battery
- Multimodal
- Life Sciences
- EPA/DOT Developing Technology

### General Session

- DOT Update
- Operating in Mexico
- Transport Canada Update
- UN Subcommittee of Experts on the Transport of Dangerous Goods
- South America Briefing
- Legal & Legislative Review
- Asian Transport Assessment

- And more

*"COSTHA continually provides quality opportunities to increase the knowledge of domestic and international regulations that affect the shipper as well as the carrier. The opportunity to Network with other Dangerous Goods professionals is always a huge benefit. The value of the COSTHA membership fees and the cost of attending the Forum far outweigh the cost of either."* Dennis Martin, Regulated Goods Coordinator, Supply Chain Solutions – a UPS Company.



**THE COUNCIL ON SAFE TRANSPORTATION  
OF HAZARDOUS ARTICLES, INC.**

## COSTHA 2011 Annual Forum

**April 10-13, 2011 - Scottsdale, Arizona**

The program and all of its components - training, roundtables, best practices, general session and networking events have been designed to provide you with the highest return for your time and travel investment.

**The 2011 COSTHA Forum Committee Chair:** Donald Bossow, Diversey, Inc. **Committee Members:** Michael Bowen, DG Supplies, Inc., John D'Aloia, Mary Kay Inc., Robert Heinrich, Novartis Pharmaceuticals, Richard Lattimer, Eli Lilly and Company, Dennis Martin, Supply Chain Solutions, a UPS Company, Howard Skolnik, Skolnik Industries, Inc., Jeanne Zmich, Labelmaster.

### Mission Statement:

The COSTHA Annual Forum Committee seeks input from members in order to develop a strategy for the annual forum. The committee strives to provide the most beneficial program for the membership.

### Sponsor a Member 2011

Congratulations to Kim LeBaron, Pinnacle Airlines Corp. - Winner of the suite upgrade at the 2011 COSTHA Annual Forum. Kim sponsored two new COSTHA members and her name was "added to the hat" for a drawing featuring great prizes. The membership committee would like to remind the members that when you sponsor a member, nice things happen. You are presented with a handsome COSTHA clock or other great gift, and your name is added to "the hat" for a drawing in conjunction with the annual meeting. Prizes range from a complimentary upgrade to a suite at the annual forum, to gift certificates, champagne and other fabulous items. Get your name in the hat for 2012!

## IMDG 35th Amendment Includes Vehicles, Nickel Metal Hydride Batteries

The International Maritime Organization has issued the 35th Amendment to the International Maritime Dangerous Goods Code (IMDG – 2010 Edition). The voluntary effective date of the 35th Amendment was January 1, 2011 with a mandatory effective date of January 1, 2012. The 2010 Edition includes a number of changes for vessel transport including adoption of the new mark for limited quantities, requirements for the shipment of vehicles and engines, and provisions for bulk shipments of nickel metal hydride batteries.

Harmonization of the limited quantity provisions across modes continues in 2011. In the IMDG, the new limited quantity mark has been adopted into Chapter 3.4. For packages packed in accordance with Chapter 3.4 provisions, packages must now be marked with the new mark. In addition, IMO has removed the requirements to place the words “LIMITED QUANTITY” on the outside of freight containers. Now in Chapter 3.4, paragraph 3.4.5.5, cargo transport units containing dangerous goods in only

limited quantities will be required to be marked with enlarged limited quantity marks. IMO also included reference to the air limited quantity mark (containing a “Y” in the center of the diamond). IMO included the mark as packages prepared in accordance with the limited quantity provisions in the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI) meet or exceed the provisions detailed in IMDG Chapter 3.4. Therefore packages marked with the air limited quantity mark are acceptable for carriage by vessel. It is worth noting the air or “Y” limited quantity mark is only for packages, and should not be used as a marking for cargo transport units.

Shipments of engines and vehicles are now subject to certain conditions under the 35th Amendment. IMO adopted two (2) new special provisions against UN3166 and UN3171. The first, SP961, details the conditions under which a vehicle is not subject to the IMDG Code. Specifically, there are two (2) parts to SP961. If the vehicle or equipment is stowed on a roll-on/roll-off ship or in a cargo space specifically designed for the carriage of vehicles and equipment and there is no leakage from batteries, fuel tanks, fuel cells, etc., then the IMDG provisions do not apply. Alternately, if the vehicle or equipment is traveling on a container ship but the following conditions are met, as applicable, then the IMDG provisions do not apply:

- Flammable liquid fuel tank is empty and installed batteries are protected from short circuit;
- Flammable gas cylinder and lines are emptied of liquefied or compressed gas, the positive pressure in the tank does not exceed 2 bar, shut-off or isolation valves are closed and secured, and installed batteries are protected from short circuit; or
- The vehicle or equipment is powered by a wet or dry electric storage battery or a sodium battery, and the battery is protected from short circuit.

If the vehicle, engine, or equipment cannot meet the conditions of SP961, then SP962 applies.

According to SP962, all vehicles and equipment powered by internal combustion engines, fuel cells or batteries which do not meet the conditions of SP961 must be classified as Class 9 materials. In addition, in order to be acceptable for carriage per IMDG, they must meet additional conditions including:

- No signs of leakage from tanks, batteries, fuels cells, or cylinders/accumulators, when applicable;
- Fuel tanks containing flammable liquid fuel must not exceed the lesser of 250 L or ¼ full;



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- Shut-off valves for flammable gas tanks must be closed and secured;
- Batteries must be protected from damage, short circuit and accidental activation. Lithium ion or lithium metal batteries must be of a type proven to meet the UN Manual of Tests and Criteria Section 38.3 requirements or approved by a competent authority;
- Other dangerous goods required for operation of the vehicle must be securely mounted in the vehicle or equipment.

While vehicles and equipment shipped under SP962 are classified as Class 9 materials, marking, labeling, and placarding provisions of the code do not apply.

Incidents involving nickel metal hydride (NiMH) batteries aboard container ships during the last 5 years led IMO to add conditions on the carriage of such batteries. However, the new provisions do not apply when NiMH batteries are packed with or contained in equipment. When NiMH batteries are shipped by themselves, Special Provision SP963 applies and requires the batteries to be securely packed and protected from short circuit. If more than 100 kg gross mass of NiMH batteries are loaded into a single cargo transport unit, then a dangerous goods declaration is required and segregation from heat is needed. No marking, labeling, or placarding provisions are applicable.

## Japan and the IMDG 35th Amendment

The International Maritime Dangerous Goods Code (IMDG) 35th Amendment became effective for voluntary use on January 1, 2011 with mandatory implementation beginning on January 1, 2012. However, not all competent authorities around the world recognize the one (1) year “transition period”. Japan, for example, requires implementation of the 35th Amendment from the initial effective date. This procedure is not new, but has been in practice for the last several amendments. Shipments to, from, or within Japan being offered or transported in accordance with the IMDG Code for vessel transport must be in compliance with the latest Amendment.



Certain significant changes in the IMDG Code 2010 Edition have given Japan reason to permit a transition period however. Most notably, the adoption of the new limited quantity mark, the adoption of requirements for vehicles, engines, equipment, and shipments of nickel metal hydride batteries. Each of these changes represent a broad

departure from previous Amendments, and in the case of vehicles and nickel metal hydride batteries, were new regulations all together.

On December 26, 2010, Japan issued in the Japanese Official Gazette a notice requiring implementation of the IMDG Code 35th Amendment for all imports to and exports from Japan by vessel except for:

- Limited Quantity mark (IMDG Chapter 3.4, paragraph 3.4.5.1 and 3.4.5.2);
- UN3166 – Special Provisions SP961 and SP962;
- UN3171 – Special Provisions SP961 and SP962; and
- Nickel Metal Hydride Batteries – Special Provision SP963.

The requirements for these four (4) items will become mandatory for Japan on January 1, 2012.

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## COSTHA January 2011 Quarterly Meetings

COSTHA reinstated the January Quarterly meeting with a flourish in 2011.

Board member Rich Moskowitz, Vice President & Regulatory Affairs Counsel, American Trucking Associations, Inc. generously volunteered their state-of-the-art conference room for the two day meetings, January 10-11, 2011.

Members took advantage of the opportunity to meet with regulators and to work through several key technical issues. Members voted to submit an appeal to the US DOT rulemaking HM-233B (Revisions of Special Permits Procedures) and send a request for interpretation on HM-231A (Miscellaneous Packaging Amendments).

Regulators attending the meeting from the US DOT PHMSA office were Magdy El-Sibaie, PhD, Assoc. Admin. for HM Safety, R. Ryan Posten, Assistant Associate Administrator, Ryan Paquet, Division Director Approvals and Permits, Nancy White, Project Leader, Duane Pfund, Acting Director of Engineering and Research Division, and Tonya Stevenson, Special Assistant. Members and regulators had some lively debate about Special Permits and Approvals and other recent changes to the transportation regulations.

The Air Carrier Roundtable (ACRT) members elected Kim LeBaron, Program Mgr DG Compliance, Pinnacle Airlines Corp. to the management team. Kim replaces Brad Hallmark from Continental who has taken a new position with a different company. John Andrus, Sr. Mgr., Safety & Environmental Services, Southwest Airlines Co. and Robert Cogen, Air Dangerous Goods Manager, UPS Airlines also serve on the Management Team. The air carriers held a meeting with the Dangerous Goods Working Group at the Regional Airline Association headquarters in conjunction with the COSTHA meeting. FAA representatives Christopher Glasow, Director Office of HazMat, Janet McLaughlin, Division Manager, Int'l and Outreach, and Angel Collaku, Mgr Compliance & Enforcement Division participated in the meeting. PHMSA representatives, Duane Pfund, Acting Director of Engineering and Research Division, and Ryan Paquet, Division Director Approvals and Permits, attended the meeting as well.



Dr. Magdy El-Sibaie, Assoc. Admin. for HM Safety, and R. Ryan Posten, Assistant Associate Administrator, US DOT PHMSA, participated in the roundtable discussions at the January COSTHA Quarterly meeting hosted at the American Trucking Associations in Arlington VA.



COSTHA Administrators John Currie and Lara Currie work with Regulatory Affairs Chairman and Board of Directors member Sean Broderick, North America Regulatory & Technical Relations Section Manager, Procter & Gamble Distributing LLC in the group discussion regarding an interpretation of HM-231A.



COSTHA President Bob Heinrich, Transportation Safety Advisor, Novartis Pharmaceuticals presents Board Member Rich Moskowitz, Vice President & Regulatory Affairs Counsel, American Trucking Associations, Inc. with a small token of appreciation for hosting the January meeting.



COSTHA President Bob Heinrich, Transportation Safety Advisor, Novartis Pharmaceuticals presents new member Kim LeBaron, Program Mgr DG Compliance, Pinnacle Airlines Corp. with a gift for sponsoring new member Atlantic Southeast Airlines



COSTHA President Bob Heinrich, Transportation Safety Advisor, Novartis Pharmaceuticals presents a token of appreciation to Les Adolph, Manager - Hazardous Materials, American Airlines and Board Member, for sponsoring new member DHL.



COSTHA Air Carrier Roundtable (ACRT) held a joint meeting with the Dangerous Goods Work Group at the Regional Airline Association headquarters in conjunction with the January meeting.



COSTHA President Bob Heinrich, Transportation Safety Advisor, Novartis Pharmaceuticals presents a token of appreciation to Howard Skolnik, President/CEO, Skolnik Industries, Inc. for sponsoring new member Reusable Industrial Packaging Association.

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## gh Testing Becomes First Independent Lab to be Accredited to Certify Insulated Shipping Containers to ISTA Standard 20/7E

FAIRFIELD, OH (January 21, 2011) - gh Package/Product Testing and Consulting, Inc., is the first independent laboratory to be authorized by the International Safe Transit Association (ISTA) to test and certify temperature-controlled insulated shipping containers for overnight and two-day shipment.

With this accreditation gh Testing can assist in achieving FDA compliance through a comprehensive process that includes initial design, thermal qualification of the design, physical qualification of the design, and thermal qualification verification of the design. Additionally, if the temperature controlled product is regulated by the Department of Transportation, gh Testing can include the required regulatory testing into test protocol. This allows customers the ability to have one lab to perform all the package testing. ISTA Standard 20, which includes ISTA Standard 7E, is the first global method for standardizing the establishment of insulated shipping container performance.

Founded in 1987, gh Testing specializes in testing pharmaceutical packaging, temperature-sensitive packaging, medical device packaging, and packaging up to 8000 lbs. gh Testing has been a member of ISTA since 1988 and has been fully authorized to certify non-bulk and intermediate bulk packagings for hazardous materials since 1989. The testing firm previously received ISO 17025 accreditation.

For more information, contact gh Testing at (513) 870-0080, or visit <http://www.ista.org/pages/procedures/ista-standards.php> for information on the specifics of standard and test procedure.



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## New Look, Same Great Company

Niagara Falls, NY - September 2010 ICC Compliance Center is very proud to announce the launch of our re-branding campaign. Our refreshed image is designed to support our vision to become the recognized North American industry expert and provider for transportation, health and safety compliance products and consulting services. ICC Compliance Center has seen a tremendous amount of growth and change over the past 25 years. While we continue to grow and improve, our commitment to provide you with quality compliance products and services at competitive prices, remains our top priority. "Careful and consistent implementation of the new logo and branding guidelines will go a long way towards creating a distinct visual culture for ICC," says our senior graphic designer Paul Panfalone, who developed the concept for the new look. "We are focused on reaching our vision, and feel that this new look will ultimately solidify our image as the industry leader in hazmat compliance," says Karrie Ishmael, Director of Marketing.

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Mr. Leonard Satkowski • Len.satkowski@clrskmgt.com

### DHL Express

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Mr. Jerry Freeman, Manager - Dangerous Goods  
 jerry.freeman@dhl.com

### Energizer Holdings

St. Louis, MO 63129 • (314) 985-1848

Ms. Ana Pieper, International Transportation Manager  
 AnaT.Pieper@energizer.com

### JetBlue Airways

Forest Hills, NY 11375 • (718) 751-7045

Ms. Diane Tobias, Analyst Dangerous Goods  
 Diane.Tobias@jetblue.com

### Labelmaster Services

Chicago, IL 60646-6797 • (773) 279-2342

Mr. Robert Richard, PhD, Vice President Regulatory Affairs  
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### Pinnacle Airlines Corp

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Ms. Kim LeBaron, Program Mgr DG Compliance  
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### Reusable Industrial Packaging Association

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