

P-1371

# Steel Shipping Container Institute



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Email: ssci@steelcontainers.com

January 26, 1999

RSPA -1999-13401-1  
QA# 188477

Mr. Alan I. Roberts  
Associate Administrator (DHM-1)  
Research and Special Programs Administration  
U.S. Department of Transportation  
Washington, DC 20590-0001  
Attn: Regulatory Review and Reinvention

Petition for rulemaking under 49 CFR §106.31

Dear Mr. Roberts:

The Steel Shipping Container Institute (SSCI), the North American trade association of manufacturers of steel drums and pails, submits this petition for rulemaking to clarify §178.3(a)(5) and §178.503(a)(10). These clauses specify that "the marking or a duplicate thereof" must be placed on the top or side of the container and that the "marking on the top head or side must be the same as the information ... permanently marked ... on the bottom of the drum". This petition for rulemaking is similar to the SSCI application for exemption (11938-N), which was denied by the Associate Administrator on January 26, 1999, and submitted to DHM-12 for rulemaking consideration. The SSCI would like to see this petition included in the next miscellaneous rulemaking (HM-218).

The SSCI requests that its all steel container manufacturers be allowed to mark the top or side of the container with a durable marking that is less than or equal to the permanent mark. The SSCI does not request to be exempt from applying a mark on the top or side. In addition, the container marked with a durable marking that is less than the permanent mark must meet all the prescribed tests required with the permanent mark. This rulemaking clarification would only apply to containers whose gross mass exceeds 30 kgs (66 lbs). In addition, the marking of nominal thickness as required by §178.503(a)(9) and (a)(10) shall not be affected by this petition.

Some steel drum shippers will not accept a Packing Group I level drum if their product is a PG II or PG III, or will only accept a drum marked exactly to their specifications, although the packaging is capable of meeting the higher performance marking on the drum bottom head. To minimize inventory SSCI members have limited the number of marks for tighthhead and open head drums by marking drums to the highest attainable drop height

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and hydrostatic pressure even though this exceeds what some customers require.

The alternatives are to maintain a ready supply of variously marked bottom heads (with different Packing Group, specific gravity, and hydrostatic pressure levels) or to reject the business. Special bottom heads need to be embossed with the lesser marking so that they are the same as the durable marking under §178.3. This is an extra investment in inventory, dies and labor that does not contribute to improved safety. In addition, with a permanent marking that indicates a lower performance level than the container is capable, subsequent users and reconditioners will be unaware that the container can meet a higher performance level and its use will be unnecessarily limited.

Section 178.503(c)(2) presently allows reconditioners to apply a durable marking that "may identify a different performance capability" than that tested. ~~The SSCI requests its members be given the permission to durably mark drums to identify "a different performance capability" than tested.~~

SSCI suggests the following special provision in the exemption to allay any concerns that the partial permanent mark might be considered less of a certification than the full durable mark.

Regardless of any lower performance level durably marked on the top or side of the drum, the information in Section 178.503(a)(1) through (a)(6) and (a)(9) permanently marked on the bottom of the drum is the manufacturer's certification under Section 178.2(b) that the drum complies in all respects to the provisions of the regulations applicable to such a permanent mark.

It is clear in the CFR that the manufacturer's mark must be legitimate. Section 178.2(c)(1)(i) requires a manufacturer to notify a customer if any part of the requirement is not complied with. This includes a permanent mark which exceeds that of the performance capability of the drum. In addition, 49 CFR §178.2(d) states that a packaging not conforming to the applicable specifications may not be marked to indicate such conformance. Also, Section 178.503(a)(10) requires a permanent marking for all steel drums over 100 liters and that "this marking indicates a drum's characteristics at the time it was manufactured...." Thus, to place a permanent mark on the drum which represents a performance capability greater than that tested of the design type would not only be illegal but unethical.

The drum must meet all the applicable performance tests in Subpart M and the applicable marking and construction requirements of Subpart L. Under

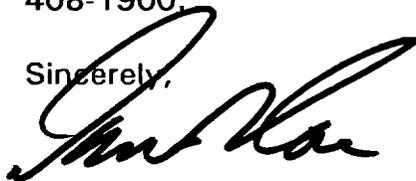
Given the number of different design types (i.e. non-identical pails) our members produce, such as tighthead with round-flange closures, tighthead with octagonal-flange closures, pails from various steel suppliers meeting strict specifications, pails with bails from various suppliers and of varying thicknesses, the level of design qualification testing, periodic retesting, and record-keeping is burdensome.

The SSCI believes that many variations in design elements are "minor" and thus do not impact performance. The design elements which do constitute a change in design type were originally listed in the SSCI and ACR approval letters of 1994 after much discussion with RSPA staff. These letters were codified into the HMR in 1996 and the application of these regulations should be extended to manufacturers of steel containers less than 50 liters but not less than 12 liters. Members of the SSCI do not manufacture jerricans or drums smaller than 12 liters.

The pail and drum must meet all the applicable performance tests in Subpart M and the applicable marking and construction requirements in Subpart L. To change the regulations to include our steel containers would not pose an increase risk to safety, would be consistent with the public interest and would adequately protect against the risks to life and property inherent in the transportation of hazardous materials in commerce. It would also provide a significant benefit to us in reduced testing of non-identical design types.

The SSCI looks forward to the inclusion of these regulatory proposals in the next HM miscellaneous rulemaking to allow the public to comment. If you have any questions on the nature of this petition, please contact me at 202-408-1900.

Sincerely,



David Core  
Director, Technical and Regulatory Affairs

cc: H. Mitchell, DHM-12



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

400 Seventh Street, S.W.  
Washington, D.C. 20590

JAN 26 1999

Mr. David L. Core  
Director, Technical & Regulatory Affairs  
Steel Shipping Container Institute  
1101 14<sup>th</sup> Street, N.W.  
Suite 1020  
Washington, DC 20005

Dear Mr. Core:

This is in reference to your July 17, 1997 application (11938-N) requesting an exemption from the marking requirements contained in 49 CFR Section 178.3(a)(5) and 178.503(a)(10).

In accordance with 49 CFR Section 107.113(g) and (i), your application is denied for the following reason:

The subject of your application is not appropriate for an exemption proceeding because it contains a matter of general applicability and future effect and should be the subject of rulemaking.

I have forwarded your application to the Office of Hazardous Materials Standards for review and consideration for initiating rulemaking under 49 CFR part 106.

If you have any questions, please do not hesitate to contact Mr. Ryan Posten, Exemptions Program Officer at 202-366-4535.

Sincerely,

Alan I. Roberts  
Associate Administrator for  
Hazardous Materials Safety



# Steel Shipping Container Institute



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1193871  
add. inv.

August 18, 1997

**RSPA-97-2809-3**

27337/QA

Ms. Suzanne Hedgepeth  
Research and Special Programs Administration (DHM-30)  
U.S. Department of Transportation  
Washington, DC 20590

RE: SSCI Application for Exemption 17 July 1997

Dear Ms. Hedgepeth:

It has come to our attention that the above application for exemption did not include a copy of a letter of support from the Association of Container Reconditioners (ACR). As ACR has decided not to issue such a statement of support at this time, the application for exemption has been revised and the statement on page 1 referring to ACR has been removed. We appreciate your prompt consideration of this revised application in lieu of the previous application.

Sincerely,

David L. Core  
Director, Technical and Regulatory Affairs

enc.

cc: P. Rankin, ACR

DEPARTMENT OF TRANSPORTATION  
97 SEP 12 AM 9:49  
DOCKET SECTION

6-P6S



# Steel Shipping Container Institute



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August 18, 1997

Ms. Suzanne Hedgepeth  
Research and Special Programs Administration (DHM-30)  
U.S. Department of Transportation  
Washington, DC 20590

Application for Exemption under 49 CFR §107.103

Dear Ms. Hedgepeth:

The Steel Shipping Container Institute (SSCI), the North American trade associations of manufacturers of steel drums and pails, submits this application for exemption to 49 CFR §178.3(a)(5) which specifies that "the marking or a duplicate thereof" must be placed on the top or side of the container and to 49 CFR §178.503(a)(10) which states that the "marking on the top head or side must be the same as the information ... permanently marked ... on the bottom of the drum". This request for exemption is to replace 11830-N which has subsequently been withdrawn.

The SSCI requests that its members be allowed to mark the top or side of the container with a durable marking that is less than or equal to the permanent mark. The SSCI does not request to be exempt from applying a mark on the top or side. In addition, the container marked with a durable marking that is less than the permanent mark must meet all the prescribed tests required with the permanent mark. The exemption only applies to non-bulk containers of 12 liters (3 gallons) to 450 liters (119 gallons) manufactured by the U.S. members of SSCI whose gross mass exceeds 30 kgs (66 lbs). In addition, the marking of nominal thickness as required by §178.503(a)(9) and (a)(10) shall not be affected by this exemption.

The SSCI also requests that this letter be considered a petition for rulemaking under §107.113. This exemption would expire at the time the final rule is effective.

The name and address of the applicant is:

**David L. Core**  
**Director, Technical and Regulatory Affairs**  
**Steel Shipping Container Institute**  
**1101 14th Street, N.W., Suite 1020**  
**Washington, DC 20005**  
**Phone: (202) 408-1900**  
**FAX: (202) 408-1972**

Some steel drum shippers will not accept a Packing Group I level drum if their product is a PG II or PG III, or will only accept a drum marked exactly to their specifications, although the packaging is capable of meeting the higher performance marking on the drum bottom head. To minimize inventory SSCI members have limited the number of marks for tighthhead and open head drums by marking drums to the highest attainable drop height and hydrostatic pressure even though this exceeds what some customers require.

The alternatives are to maintain a ready supply of variously marked bottom heads (with different Packing Group, specific gravity, and hydrostatic pressure levels) or to reject the business. Special bottom heads need to be embossed with the lesser marking so that they are the same as the durable marking under §178.3. This is an extra investment in inventory, dies and labor that does not contribute to improved safety. In addition, with a permanent marking that indicates a lower performance level than the container is capable, subsequent users and reconditioners will be unaware that the container can meet a higher performance level and its use will be unnecessarily limited.

Section 178.503(c)(2) presently allows reconditioners to apply a durable marking that "may identify a different performance capability" than that tested. The SSCI requests its members be given the permission to durably mark drums to identify "a different performance capability" than tested.

SSCI suggests the following special provision in the exemption to allay any concerns that the partial permanent mark might be considered less of a certification than the full durable mark.

Regardless of any lower performance level durably marked on the top or side of the drum, the information in Section 178.503(a)(1) through (a)(6) and (a)(9) permanently marked on the bottom of the drum is the manufacturer's certification under Section 178.2(b) that the drum complies in all respects to the provisions of the regulations applicable to such a permanent mark.

It is clear in the CFR that the manufacturer's mark must be legitimate. Section 178.2(c)(1)(i) requires a manufacturer to notify a customer if any part of the requirement is not complied with. This includes a permanent

mark which exceeds that of the performance capability of the drum. In addition, 49 CFR §178.2(d) states that a packaging not conforming to the applicable specifications may not be marked to indicate such conformance. Also, Section 178.503(a)(10) requires a permanent marking for all steel drums over 100 liters and that "this marking indicates a drum's characteristics at the time it was manufactured...." Thus, to place a permanent mark on the drum which represents a performance capability greater than that tested of the design type would not only be illegal but unethical.

The drum must meet all the applicable performance tests in Subpart M and the applicable marking and construction requirements of Subpart L. Under no circumstances shall the durable marking on the top or side of the drum identify a greater performance capability than the tested permanent marking.

As long as the container meets the performance level marked as the permanent marking, then there is no increased risk to safety and this exemption would be consistent with the public interest and adequately protect against the risks to life and property inherent in the transportation of hazardous materials in commerce.

The SSCI requests the duration of the exemption to be the lesser of either two years or the time in which it takes for the HMR to be changed to reflect the nature of this exemption. If you have any questions, please contact me at (202) 408-1900.

Sincerely,



David L. Core  
Director, Technical and Regulatory Affairs



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## ***STEEL SHIPPING CONTAINER INSTITUTE MEMBERSHIP***

### **Regular Members**

#### **ASTRO CONTAINER COMPANY**

2795 Sharon Road

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Tel: 513-771-1230

#### **BERENFIELD CONTAINERS, INC.**

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Mason, OH 45040

Tel: 513-398-1300

#### **EVANS INDUSTRIES, INC.**

1255 Peters Road

P.O. Drawer 68

Harvey, LA 70059

Tel: 504-374-6000

#### **CHICAGO STEEL CONTAINER CORPORATION**

1846 South Kilbourn Avenue

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Tel: 704-525-7160

#### **CLEVELAND STEEL CONTAINER CORPORATION**

12818 Coit Road

Cleveland, OH 44108

Tel: 216-541-1700

#### **CP LOUISIANA, INC.**

6000 Jefferson Highway

New Orleans, LA 70123

Tel: 504-733-6644

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VAN LEER CONTAINERS, INC.  
4300 West 130th Street  
Chicago, IL 60658  
Tel: 708-371-4777

MEYER STEEL DRUM, INC.  
2000 S. Kilborn Street  
Chicago, IL 60623  
Tel: 773-376-8376

MYERS CONTAINER CORPORATION  
A DIVISION OF IMACC CORP.  
5801 Christie Avenue, Suite 255  
Emeryville, CA 94608  
Tel: 510-652-6847

NESCO CONTAINER CORPORATION  
2391 Cassens Drive  
Fenton, MO 63026  
Tel: 314-343-7300

NORTH COAST CALIG  
CORPORATION  
8806 Crane Avenue  
Cleveland, OH 44105  
Tel: 216-441-6214

SIRCO Systems, LLC  
P.O. Box 367  
Birmingham, AL 35201  
Tel: 205-731-7800

TRILLA STEEL DRUM CORPORATION  
2959 West 47th Street  
Chicago, IL 60632  
Tel: 773-847-7588



# Steel Shipping Container Institute

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11738-N  
#29869

July 17, 1997

RSPA-97-2809-1

Ms. Suzanne Hedgepeth  
Research and Special Programs Administration (DHM-30)  
U.S. Department of Transportation  
Washington, DC 20590

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In preparing this application, the SSCI solicited the input of the Association of Container Reconditions (ACR) whose letter of support is herewith attached. The SSCI also requests that this letter be considered a petition for rulemaking under §107.113. This exemption would expire at the time the final rule is effective.

The name and address of the applicant is:

26434/QA

DATE RECEIVED  
97 JUL 22 10:18:12  
GENERAL INVESTIGATIVE DIVISION

DEPARTMENT OF TRANSPORTATION  
97 AUG 18 PM 12: 23  
BULKHEAD SECTION

David L. Core  
Director, Technical and Regulatory Affairs  
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Sincerely



David L. Core  
Director, Technical and Regulatory Affairs



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