



U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Governmental, International and Public Affairs
Washington, D.C.

Enforcement Notice

PHMSA # 8-05
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Pipeline and Hazardous Materials Safety Administration July 2005 Notice of Hazardous Materials Regulations Enforcement

The Pipeline and Hazardous Materials Safety Administration (PHMSA) today gave notice to the regulated industry and its stakeholders of the 38 hazardous materials civil penalty cases it closed in the month of July 2005 for violations of the Hazardous Materials Regulations (HMR) (49 Code of Federal Regulations Parts 171 – 180). For calendar year 2005, PHMSA has closed a total of 271 hazardous materials civil penalty cases and collected \$1,065,016 in penalties.

It is the task of PHMSA's inspection and enforcement staff to improve compliance with the safety and training standards of the HMR by inspecting companies and individuals who offer hazardous materials for transportation or who manufacture, maintain, repair, recondition or test packages authorized for transporting hazardous materials.

| Company | SUMMARY | Penalty |
|---|---|---------|
| AMERICAN CONTAINER NET, INC. A/K/A ACN-CHARLOTTE, Matthews, NC (Shipper) | Failed to develop and adhere to a security plan; offered hazardous waste, solid, n.o.s. (containing lead and chromium), 9, accompanied by shipping papers that listed an emergency response telephone number that was not monitored at all times while the material was in transportation; provided closure instructions to persons to whom packaging was transferred that differed in materials and methods from those used during design testing. [172.800(b), 172.802(a) and (b), 178.2(c), 172.604(a)(1) and (b)] Case No. 04-297-SD-SO | \$4,000 |
| AMSAN KANSAS MISSOURI, INC. D/B/A CITY WIDE CHEMICAL, Wichita, KS (Shipper) | Failed to develop and adhere to a security plan; failed to provide recurrent employee training; failed to register with RSPA/PHMSA. [172.800(b), 172.802(a) and (b), 172.702(b), 172.704(c)(2), 107.601(a)(6), 107.608(b)] Case No. 05-0220-SD-SW | \$5,360 |
| ARC TIMER SALES & MFG., INC., Vicksburg, MS (Shipper) | Failed to develop and adhere to a security plan. [172.800(b)(7), 172.802(a)] Case No. 05-0036-SC-SO | \$2,835 |
| ARYLESSENCE, INC., Marietta, GA (Shipper) | Failed to develop and adhere to a security plan. [172.800(b)] Case No. 04-288-SD-SO | \$2,810 |

PHMSA Notice of Hazardous Materials Regulations Enforcement

| Company | SUMMARY | Penalty |
|--|--|---------|
| ASSASSIN FIRE SERVICES, Port Neches, TX (Cylinder Retester) | Marked cylinders as successfully retested after the calibrated cylinder recorded permanent expansion during system calibration; failed to maintain current copies of applicable DOT exemptions at its facility; failed to provide recurrent employee training and failed to provide security awareness employee training. [180.205(g)(4), 180.215(a)(5), 172.702(b), 172.704(c)(2), 172.704(a)(4)] Case No. 05-0093-CR-SW | \$4,240 |
| AUTO-CHLOR SYSTEM OF JACKSONVILLE INC., Jacksonville, FL (Shipper) | Failed to develop and adhere to a security plan; failed to register with RSPA; offered corrosive liquid, basic, inorganic, n.o.s. (containing potassium hydroxide), and others, without retaining a copy of the shipping paper for at least 375 days after shipment; failed to close packaging in accordance with the manufacturer's closure notification. [172.800(b)(7), 172.802(b), 107.601(a)(6), 107.608(a) and (b), 172.201(e), 173.22(a)(2) and (4), 173.24(f)(2)] Case No. 05-0032-SD-SO | \$4,880 |
| BERENFIELD CONTAINERS (SE), LTD., Harrisburg, NC (Steel Drum Manufacturer) | Manufactured, marked, certified, and sold (1) 55-gallon open-head steel drums marked as meeting the UN1A2/Y1.6/150 standard, when they were not capable of passing the drop test, and (2) 55-gallon open-head steel drums marked as meeting the UN1A2/Y1.5/150 standard, when they were not capable of passing the leak-proofness and hydrostatic pressure tests. [178.2(b), 178.601(b) and (d), 178.603-605] Case No. 04-099-DM-EA | \$5,575 |
| BERENFIELD CONTAINERS (SW), LTD., Pine Bluff, AR (Steel Drum Manufacturer) | Manufactured, marked, certified, and sold 55-gallon closed-head steel drums marked as meeting the UN1A1/Y1.8/300 standard, when they were not capable of passing the drop test; manufactured, marked, certified, and sold 55-gallon open-head steel drums marked as meeting the UN1A2/Y1.8/150 standard, when they were not capable of passing the drop leak-proofness, and hydrostatic pressure tests [178.2(b), 178.601(b) and (d), 178.603, 178.2(b), 178.601(b) and (d), 178.603-605] Case No. 04-204-DM-EA | \$7,680 |
| BERENFIELD CONTAINERS (SW), LTD., Pine Bluff, AR (Steel Drum Manufacturer) | Manufactured, marked, certified, and sold 55-gallon open-head steel drums marked as meeting the UN1A2/Y1.8/300 standard, when the design qualification testing was not conducted and test records were not maintained. [178.2(b), 178.601(c)(1), (d), and (k)(1)] Case No. 04-217-DM-EA | \$6,430 |
| BERENFIELD CONTAINERS (SE), LTD., Harrisburg, NC (Steel Drum Manufacturer) | Manufactured, marked, certified, and sold 55-gallon open-head steel drums marked as meeting the UN1A2/Y1.6/150 standard, when they were not capable of passing the drop test, leak-proofness, and hydrostatic pressure tests. [178.2(b), 178.601(b), 178.603-605] Case No. 05-0105-DM-EA | \$5,865 |

PHMSA Notice of Hazardous Materials Regulations Enforcement

| Company | SUMMARY | Penalty |
|--|--|----------|
| BKC INDUSTRIES, INC., Creedmoor, NC (Cylinder Retester) | (1) Failed to demonstrate the accuracy of the test equipment to within one percent of the calibrated cylinder's pressure and corresponding expansion values, (2) tested cylinders when it had not calibrated the test equipment at a pressure within 500 psi of the actual test pressure, and (3) failed to calibrate the test equipment at the beginning of every days of testing; failed to provide function-specific employee training, or create and retain records of training testing; failed to maintain complete and accurate records of daily calibration and cylinder re-qualification; failed to inform the Associate Administrator for Hazardous Materials Safety of changes in retest personnel and equipment, and failed to comply with the terms of its retester identification number approval letter. [173.34(e)(4)(iii) and (iv), 172.702(b), 172.704(a)(2) and (d), 173.34(e)(8), 173.34(e)(2)(i) and (iv)] Case No. 02-254-CR-SO | \$20,610 |
| BWAY CORPORATION, Homerville, GA (Steel Jerrican Manufacturer) | Manufactured, marked, certified and sold five-gallon closed-head steel pails as meeting the UN1A1/Y2.1/300 standard, when they were not capable of passing the drop, leak-proofness, and hydrostatic pressure tests. [178.2(b), 178.601(b), 178.603-605] Case No. 03-120-JM-CE | \$9,410 |
| BWAY CORPORATION, Homerville, GA (Steel Drum Manufacturer) | Manufactured, marked, certified and sold five-gallon closed-head steel pails as meeting the UN1A1/Y2.1/300 standard, when they were not capable of passing the drop test. [178.2(b), 178.601(b), 178.603] Case No. 03-121-DM-CE | \$9,410 |
| BWAY CORPORATION, Dallas, TX (Steel Drum Manufacturer) | Manufactured, marked, certified and sold steel drums as meeting the UN1A1 or UN1A2 standards, when the following packaging was not capable of passing required testing: (1) five-gallon closed-head steel pails marked as meeting the UN1A1/Y1.6/150 standard failed the drop test, and (2) five-gallon open-head steel pails marked as meeting the UN1A2/Y1.5/90 standard failed the drop and hydrostatic pressure tests. [178.2(b), 178.601(b), 178.603, 178.605] Case No. 03-223-DM-SW | \$10,340 |
| BWAY CORPORATION, Homerville, GA (Steel Drum Manufacturer) | Manufactured, marked, certified and sold steel drums as meeting the UN1A1 and UN1A2 standards, when the design qualification test reports were incomplete; manufactured, marked, certified and sold steel drums as meeting the UN1A1 and UN1A2 standards, when the stacking tests were not conducted using the proper weight. [178.601(d), 178.606(a)-(c), 178.601(l)] Case No. 03-261-DM-SO | \$6,200 |

PHMSA Notice of Hazardous Materials Regulations Enforcement

| Company | SUMMARY | Penalty |
|--|---|----------|
| BWAY CORPORATION, Homerville, GA (Steel Drum Manufacturer) | Manufactured, marked, certified and sold steel drums as meeting the UN1A1 or UN1A2 standards, when the following packaging was not capable of passing required testing: (1) five-gallon open-head steel pails marked as meeting the UN1A2/Y1.5/90 standard failed the drop, leak-proofness, and hydrostatic pressure tests; (2) five-gallon open-head steel pails marked as meeting the UN1A2/Y2.1/100 standard failed the drop and leak-proofness tests; and (3) five-gallon closed-head steel pails marked as meeting the UN1A1/Y165/150 standard failed the drop and leak-proofness tests. [178.2(b), 178.601(b), 178.603-605] Case No. 03-269-DM-SO | \$11,170 |
| BWAY CORPORATION, Memphis, TN (Steel Jerrican Manufacturer) | Manufactured, marked, certified and sold jerricans as meeting the UN3A1 standard, when the ink markings on the jerricans were not of a permanent nature. [178.3(a)(3)] Case No. 03-276-JM-SO | \$1,610 |
| BWAY CORPORATION, Garland, TX (Steel Jerrican Manufacturer) | Manufactured, marked, certified and sold one-gallon closed-head steel jerricans as meeting the UN3A1/Y1.8/100 standard, when they were not capable of passing the drop and leak-proofness tests. [178.2(b), 178.601(b), 178.603, 178.604] Case No. 04-096-JM-EA | \$9,410 |
| C.A.R. PRODUCTS, INC., Holyoke, MA (Shipper) | Failed to provide recurrent general awareness and function-specific employee training; offered and transported compounds, cleaning liquid (containing sodium hydroxide), in reused plastic drums marked as meeting the UN1H1 standard that were not tested for leak-proofness prior to reuse, and were therefore unauthorized packagings. [173.22(a)(2), 173.28(b)(2), 173.202(a), 172.702(b), 172.704(a)(1) and (2), 172.704(c)(2)] Case No. 05-0252-SD-EA | \$3,600 |
| FASTENAL COMPANY, Houston, TX (Shipper) | Failed to develop and adhere to a security plan, provide security awareness employee training, or create and retain records of training testing; offered and transported compounds, cleaning liquid, 8, while failing to execute a shipping paper for a shipment of hazardous materials; offered and transported compounds, cleaning liquid, 8, while failing to mark the packages with the proper shipping name and identification number. [172.800, 172.802, 172.702(b), 172.704(a)(4) and (d), 172.200(a), 172.201(a)(4), 172.202(a), 172.300(a), 172.301(a)] Case No. 04-751-SD-SW | \$10,000 |
| FPPF CHEMICAL COMPANY, INC., Buffalo, NY (Fiberboard Box Manufacturer/Shipper) | Failed to provide written notification of proper closure to persons to whom the packaging was transferred; failed to provide employee training, including security awareness training, and failed to provide testing for this training; failed to close packaging in accordance with the manufacturer's closure notification; failed to develop and adhere to a security plan. [173.22(a)(4), 178.2(c), 172.702(b), 172.704(a)(1)-(4), 172.704(c)(4), 172.800(b), 172.802(a) and (b)] Case No. 04-612-BMS-EA | \$8,500 |

PHMSA Notice of Hazardous Materials Regulations Enforcement

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|---|---|---------|
| GARLAND FLOOR COMPANY, Cleveland, OH (Shipper) | Failed to develop and adhere to a security plan, and failed to provide security employee training. [172.800(b), 172.802(b), 172.704(a)(4) and (5)] Case No. 05-0075-SBP-CE | \$2,100 |
| GULBRANDSEN TECHNOLOGIES, INC., La Porte, TX (Shipper) | Offering for transportation in commerce a hazardous material, Corrosive Liquid, Acidic, inorganic, n.o.s., 8, UN3264, PG III, in non-UN-standard rigid plastic intermediate bulk containers that were not authorized for the material. [173.22(a)(2), 173.241(d)] Case No. 04-533-SIBC-SW | \$5,000 |
| IC&S DISTRIBUTING COMPANY, Lancaster, PA (Shipper) | Failed to develop and adhere to a security plan and failing to conduct in-depth security training. [172.800, 172.802, 172.704(a)(5)] Case No. 05-0045-SD-EA | \$3,375 |
| JOHNSON FIBERGLASS & RESIN, South Houston, TX (Shipper) | Failed to develop and adhere to a security plan; offered hazardous materials accompanied by a shipping paper that failed to contain a legibly signed shipper's certification; failed to provide employee training, including security awareness training. [172.800(b), 172.802(a) and (b), 172.204(d), 172.702(b), 172.704(a)(1)-(4)] Case No. 04-766-SD-SW | \$8,440 |
| KEYSTONE FIRE PROTECTION COMPANY, INC., Montgomeryville, PA (Cylinder Retester) | Failed to develop a security plan and failing to conduct in-depth security training; after an equipment malfunction, repeated the hydrostatic test at the same pressure, rather than at 10 percent or 100 psi higher (whichever is lower). [180.205(g)(5), 172.800, 172.802, 172.704(a)(5)] Case No. 04-610-CRS-EA | \$2,300 |
| LONG'S PREFERRED PRODUCTS, INC., Alexandria, LA (Shipper) | Offered four different hazardous materials that qualified for the exception for materials of trade without informing the motor vehicle driver of the requirements and when one of the materials was not marked with the proper shipping name or a common name of the material. [173.6(c)(1) and (4)] Case No. 01-245-SB-SW | \$1,600 |
| O'CONNELL FIRE PROTECTION, INC., Worcester, MA (Cylinder Retester) | Conducted hydrostatic testing on cylinder after conducting system calibrations at pressures, none of which were within 500 psi of the pressures actually applied to the cylinders during testing; failed to maintain a current copy of the regulations at its facility; failed to provide security awareness employee training. [180.205(g)(3)(i), 180.215(a)(4), 172.702(b), 172.704(a)(4)] Case No. 05-0078-CR-EA | \$3,705 |
| PARKER SOLVENTS COMPANY, INC., Little Rock, AR (Shipper) | Failed to develop and adhere to a security plan; failed to provide security awareness employee training. [172.800(b), 172.802(a) and (b), 172.702(b), 172.704(a)(4)] Case No. 05-0126-SD-SW | \$4,530 |

PHMSA Notice of Hazardous Materials Regulations Enforcement

| Company | SUMMARY | Penalty |
|---|--|---------|
| RESEARCH PRODUCTS OF ALABAMA, INC., Theodore, AL (Shipper) | Failed to close a 55-gallon steel drum marked as meeting the UN1A1/Y1.4/200 standard in accordance with the manufacturer's closure notification; failed to provide general awareness and function-specific employee training; offered paint-related material, 3, in unauthorized, non-UN-standard packaging; offered sulfuric acid and corrosive liquid, n.o.s. (containing aluminum sulfate solution), in bulk packaging marked as meeting the UN31HH1/Y standard without conducting leak-proofness testing within the previous five years. [173.22(a)(4) and (b), 173.24(f)(1), 178.601(b), 172.702(b), 172.704(a)(1) and (2), 173.22(a)(2), 173.173(b), 173.28(b)] Case No. 04-255-SD-SO | \$5,000 |
| RONSON CONSUMER PRODUCTS CORPORATION, Woodbridge, NJ (Shipper) | Offered lighters containing flammable gas, 2.1, UN1057, in outer packaging marked as meeting a UN standard packaging that had a gross mass greater than the gross mass marked on the packaging; offered lighters, containing flammable gas, 2.1, UN1057, that were forbidden to be transported because the lighters and their inner packaging had not been examined by the Explosives Bureau and approved by the Associate Administrator for Hazardous Materials Safety. [173.24a(b)(2), 178.503(a)(4)(ii), 173.21(i), 172.101, 172.102(c)(5)--Special Provision N10] Case No. 05-0066-SB-EA | \$8,300 |
| ROYALTY WELDING SUPPLY, INC., Freeport, TX (Shipper) | Failed to develop and adhere to a security plan; failed to provide employee training, including security awareness training; failed to register with RSPA; offered hazardous materials accompanied by shipping papers that failed to include an emergency response telephone number; offered oxygen, compressed, 2.2, accompanied by a shipping paper that failed to include the hazard class or division, and failed to show the basic description in the specified sequence. [172.800(b), 172.802, 172.702(b), 172.704(a)(1)-(4), 107.601(a)(6), 107.608(b), 172.201(d), 172.604(a), 172.200(a), 172.202(a)(2), 172.202(b)] Case No. 04-759-SC-SW | \$6,100 |
| SAFETY TECH PROTECTION SYSTEMS, INC., Lapel, IN (Cylinder Retester) | Failed to demonstrate the accuracy of the pressure-indicating device on the test equipment by calibrating its test equipment at a pressure that was within 500 psi of actual test pressure; failed to provide general awareness and safety employee training, or create and retain records of training testing. [180.205(g)(3)(i), 172.702(b), 172.704(a)(1) and (3), 172.704(d)] Case No. 03-131-CRS-CE | \$3,000 |

PHMSA Notice of Hazardous Materials Regulations Enforcement

| Company | SUMMARY | Penalty |
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| SAINT PETER'S UNIVERSITY HOSPITAL, New Brunswick, NJ (Shipper) | Offered regulated medical waste, 6.2, when the liquid regulated medical waste was not placed in rigid inner packages while being transported in a bulk outer packaging, thereby allowing release of the material and creating unauthorized packaging; offered regulated medical waste, 6.2, UN3291, PGII, in plastic film bags that were not marked as prescribed; failed to provide employee training, including security awareness training, or create and retain records of training testing. [173.24(b)(1) and (f), 173.197(a) and (e)(2), 173.22(a)(2), 173.22(a)(2), 173.197(e)(1)(i), 172.702(b), 172.704(a)(1)-(4), 172.704(d)] Case No. 05-0097-SBG-EA | \$8,000 |
| STRATE WELDING SUPPLY CO., INC., Tonawanda, NY (Cylinder Retester) | Failed to verify the accuracy of the test equipment to within one percent of calibrated cylinder's pressure and corresponding expansion values; after equipment malfunction, repeated the test at the same pressure, rather than at 10 percent or 100 psi higher (whichever is lower); failed to attain and hold the minimum test pressure for at least 30 seconds; conducted retesting with test equipment that included an expansion-indicating device that did not permit incremental reading of the cylinder expansion to one percent of the total expansion of each cylinder tested or 1.0 cc, whichever is larger; failed to create and retain records of employee training testing. [180.205(g)(3) and (4), 180.205(g)(5), 180.205(g)(5), 180.205(g)(2), 172.704(d)] Case No. 03-608-CR-EA | \$10,500 |
| STRATE WELDING SUPPLY CO., INC., Buffalo, NY (Shipper) | Filled and offered oxygen, compressed, in cylinders in excess of the service pressure marked on the cylinders. [173.301a(c)] Case No. 03-611-SC-EA | \$2,250 |
| WESTERN FIRE & SAFETY, INC., Dickinson, ND (Cylinder Retester) | Failed to confirm that the pressure-indicating device on its retest apparatus was accurate at any point within 500 psi of the actual test pressure for test pressures at or above 3,000 psi; failed to provide recurrent function-specific and initial security awareness employee training, or create and retain records of training testing. [180.205(g)(3)(i), 172.702(b), 172.704(a)(2) and (4), 172.704(c)(2), 172.704(d)] Case No. 05-0014-CR-CE | \$2,250 |
| WESTERN SALES AND TESTING OF AMARILLO, INC., Amarillo, TX (Cylinder Restester) | Performed hydrostatic testing after it had calibrated its test equipment with a calibrated cylinder that was not properly certified, thereby not allowing for calibration within one percent of the calibrated cylinder's pressure and corresponding expansion values; failed to maintain complete and accurate records of daily calibration, cylinder re-qualification, and tank re-qualification; failed to mark cylinders with a legible retester identification number. [173.34(e)(4)(iii)(A), 173.34(e)(4)(iv), 173.34(e)(8)(ii), 173.34(e)(1)(ii), 173.34(e)(7)(i)] Case No. 02-206-CR-SW | \$10,790 |

Total number of cases - 38
Total civil penalties - \$237,175

PHMSA Notice of Hazardous Materials Regulations Enforcement

Hazardous Materials Initiatives and Training:

PHMSA uses a number of tools in meeting its goal to improve hazardous materials safety. Enforcement is but one useful safety tool and training is another. The PHMSA Office of Hazardous Materials Initiatives and Training (OHMIT) provides products and programs that aid the regulated industry's compliance with the HMR. Last year, the PHMSA Hazmat Safety Assistance Team reached over 11,200 individuals in the hazmat community, provided over 250 hazmat awareness presentations, and distributed over 39,000 standard information packets. The OHMIT training program includes Multimodal Hazardous Materials Transportation Training Seminars held throughout the country that drew nearly 1,000 participants last year. For fiscal year 2006, seminars are planned for Dallas, TX, December 6-7; Seattle, WA, March 14-15; Newark, NJ, May 16-17; and Chicago, IL, August 22-23. For more information on hazardous materials seminars, go to the PHMSA hazardous materials web site at <http://hazmat.dot.gov/training/training.htm>.

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