

telephone number 415-399-3547 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the COTP or his designated representative.

(c) *Enforcement.* All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. Patrol personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zones by local law enforcement and the MOTCO police as necessary. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel must proceed as directed.

(d) *Notice of enforcement or suspension of enforcement of security zone(s).* The COTP San Francisco Bay will cause notification of enforcement of the security zone(s) to be made by issuing a Local Notice to Mariners and a Broadcast Notice to Mariners to inform the affected segments of the public. During periods that the security zone(s) are being enforced, Coast Guard patrol personnel will notify mariners to keep out of the security zone(s) as they approach the area. In addition, Coast Guard Group San Francisco Bay maintains a telephone line that is maintained 24 hours a day, 7 days a week. The public can contact Group San Francisco Bay at (415) 399-3530 to obtain information concerning enforcement of this rule. When the security zone(s) are no longer needed, the COTP will cease enforcement of the security zone(s) and issue a Broadcast Notice to Mariners to notify the public. Upon notice of suspension of enforcement, all persons and vessels are granted general permissions to enter, move within and exit the security zone(s).

Dated: January 12, 2005.

**Gerald M. Swanson,**

*Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.*

[FR Doc. 05-1232 Filed 1-21-05; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 171, 173, 174, 176, and 177

[Docket No. RSPA-03-16370 (HM-233)]

RIN 2137-AD84

### Hazardous Materials; Incorporation of Exemptions Into Regulations

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Hazardous Materials Regulations by incorporating into the regulations the provisions of certain widely used exemptions which have established a history of safety and which may be converted into regulations for general use. We are also making minor revisions to the requirements for use of packagings authorized under exemptions. The revisions provide wider access to the benefits of the provisions granted in these exemptions and eliminate the need for the current exemption holders to reapply for renewal of the exemption, thus reducing paperwork burdens and facilitating commerce while maintaining an acceptable level of safety.

**DATES:** *Effective Date:* The effective date of these amendments is March 25, 2005.

*Incorporation by Reference Date:* The incorporation by reference of certain publications listed in these amendments is approved by the Director of the Federal Register as of March 25, 2005.

*Voluntary Compliance Date:* RSPA is authorizing immediate voluntary compliance. However, RSPA may further revise this rule as a result of appeals it may receive for this rule.

**FOR FURTHER INFORMATION CONTACT:** Gigi Corbin, Office of Hazardous Materials Standards, (202) 366-8553 or Diane LaValle, Office of Hazardous Materials Exemptions and Approvals, (202) 366-4535, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Research and Special Programs Administration (RSPA) (hereafter, "we" or "us") is amending the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to incorporate a number of changes based on existing exemptions. This rulemaking is part of an ongoing effort to identify commonly

used exemptions that have an established history of safety and may be converted into regulations. Adoption of these exemptions as rules of general applicability provides wider access to benefits of the provisions granted in these exemptions. Additionally, these changes eliminate the need for the current holders to reapply for extension of the exemptions every two years and for us to process these renewal requests. In addition, we are making minor revisions to the requirements for use of packagings authorized under exemptions. We have identified the following subjects as suitable for incorporation into the HMR in this final rule:

*Salvage cylinders:* The use of non-DOT specification salvage cylinders for the overpacking and transportation in commerce of damaged or leaking cylinders of certain pressurized and non-pressurized hazardous materials has been authorized under various exemptions for several years. The exemptions affected are DOT-E 9507, 9781, 9991, 10022, 10110, 10151, 10323, 10372, 10504, 10519, 10789, 10987, 11257, 11459, 12698, 12790, and 12898. This final rule also responds to a petition for rulemaking (P-1168) submitted by the Chlorine Institute, Inc.

*Meter provers:* A mechanical displacement meter prover is a mechanical device, permanently mounted on a truck or trailer, consisting of a piping system that is used to calibrate the accuracy and performance of meters that measure the quantity of product being pumped or transferred at facilities such as drilling locations, refineries, tank farms and loading racks. Exemptions provide relief from both bulk and non-bulk specification packaging requirements for mechanical displacement meter provers that are either truck or trailer mounted. The hazardous materials provided for are in Class 3 and Division 2.1. The exemptions affected are DOT-E 8278, 9004, 9048, 9162, 9287, 9305, 9352, 10228, 10596, 10765, 12047, and 12808.

*Segregation:* Exemptions provide relief from the segregation requirements in §§ 174.81, 176.83 and 177.848 which prohibit storage, loading, and transportation of (1) cyanides, cyanide mixtures or solutions with acids; and (2) Division 4.2 materials with Class 8 liquids, on the same transport vehicle. The exemptions affected are DOT-E 9723, 9769, 10441, 10933, 11153, and 11294.

RSPA received six comments in response to the NPRM. These comments were submitted by representatives of trade organizations, hazardous materials shippers and carriers, and packaging

manufacturers. Most commenters expressed support for various proposals, but several raised concerns about certain provisions in the proposal that are discussed below.

The following is a section-by-section summary of the changes, and where applicable, a discussion of comments received.

## Section-by-Section Review

### Part 171

#### Section 171.7

We are incorporating by reference chapters II, III, IV, V and VI of the American Society of Mechanical Engineers (ASME) "Pipeline Transportation Systems for Liquid Hydrocarbons and other Liquids," ASME B31.4-1998 Edition. See the § 173.3 preamble discussion.

We are also updating the entry for the Compressed Gas Association's Pamphlet C-6 to include a reference to § 173.3.

### Part 173

#### Section 173.3

We are authorizing the use of salvage cylinders for overpacking a damaged or leaking cylinder containing hazardous materials other than Class 1 or 7 or acetylene. Salvage cylinders must be designed, constructed and marked in accordance with section VIII, division I of the ASME Code. Salvage cylinders are limited to a maximum capacity of 450 L (119 gallons). Contents of the damaged cylinder must be limited in pressure and volume so that if the cylinder totally discharges into the salvage cylinder, the pressure in the salvage cylinder will not exceed the maximum allowable working pressure (MAWP). We have authorized the use of salvage cylinders under exemptions for several years with a safe and satisfactory transportation experience. Materials in Classes 1 and 7 and acetylene were not authorized under the terms of these exemptions; therefore, we have no transportation experience and are not including them in this final rule. Salvage cylinders must be retested in accordance with the Compressed Gas Association's (CGA) Pamphlet C-6; however, because a salvage cylinder is not a DOT specification cylinder, the requirement for a Requalification Identification Number (RIN) does not apply.

In the NPRM, in paragraph (d)(2), we proposed that a "salvage cylinder must have provisions for securely positioning the damaged cylinder therein." A commenter, Air Products, pointed out that not all cylinders have "provisions" for securing a damaged cylinder and

asked RSPA to clarify what we meant. The intent of this requirement is to ensure that a damaged cylinder is secured in any manner that will prevent excessive motion during transportation; this could mean devices to secure the damaged cylinder or it could be compatible cushioning material that surrounds the damaged cylinder and restricts movement in the salvage cylinder. We revised the language in § 173.3(d)(2) to reflect our intent.

In the NPRM, we proposed that the contents of the damaged cylinder must be limited in pressure and volume so that if totally discharged into the salvage cylinder, the pressure in the salvage cylinder will not exceed the MAWP at 21 °C (70 °F) for non-liquefied gases, or 55 °C (131 °F) for liquefied gases. A commenter stated that under this proposal certain liquefied gases, such as carbon dioxide and nitrous oxide liquid, could not be transported in currently available salvage cylinders unless controls are employed to prevent the pressure from exceeding the MAWP. The commenter suggested that one way to control the pressure in a salvage cylinder would be refrigeration or, alternatively in the case of short distances in extremely hot environments, the use of a canopy to shade a salvage cylinder being transported on an open trailer. Under the exemption program, neither of these methods was authorized to prevent exceeding the MAWP. Instead of the pressure limits proposed in the NPRM, we amended paragraph (d)(4) to state that the contents of the damaged cylinder must be limited in pressure and volume so that if totally discharged into the salvage cylinder, the pressure in the salvage cylinder will not exceed 5/4 of the MAWP at 55 °C (131 °F). An exception to this is added for liquefied nitrous oxide and carbon dioxide cylinders. This is consistent with the general requirements for shipment of compressed gases in cylinders in § 173.301.

The same commenter requested that we allow placement of the requalification marking on a metal plate affixed to the pressure vessel. In the NPRM, in paragraph (d)(13), we proposed that each requalified cylinder "must be durably and legibly marked on the sidewall \* \* \*", however, we did not specify how the marking would be applied to the cylinder. Based on the commenter's request, we reconsidered various means of marking the cylinder and revised (d)(13) to allow the requalification marking to be placed on any portion of the upper end of the cylinder or on a metal plate permanently secured to the cylinder. No

stamping is authorized on the cylinder sidewall. This is consistent with the requalification markings in § 180.213(b) and does not compromise the integrity of the cylinder.

In the NPRM we proposed that a salvage cylinder must be visually inspected and pressure tested every two years. The Chlorine Institute pointed out that in § 180.209 of the HMR we require cylinder requalification every five years for most cylinders. The commenter stated that a "two year interval is unwarranted and would result in an increased burden to the industry." We agree with the commenter and are adopting a requalification frequency of five years.

The Chlorine Institute also suggested that we should require all gaskets, valves and fittings be compatible with the hazardous materials overpacked in the salvage cylinder. We agree. Since all requirements for use of salvage cylinders are contained in § 173.3(d), we are adding a new paragraph to include compatibility requirements for all gaskets, valves and fittings. We are also reformatting paragraph (d) for clarity.

#### Section 173.5a

We are editorially revising the requirements in § 173.5a and redesignating the current requirements as paragraph (a). We are also adding a new paragraph (b) to include provisions for the transportation of mechanical displacement meter provers. We have authorized the transportation of mechanical displacement meter provers under exemptions for several years with a safe and satisfactory transportation experience. A mechanical displacement meter prover is excepted from the specification packaging requirements when: (1) They have a capacity not over 1,000 gallons; (2) they are permanently mounted on a truck chassis or a trailer; and (3) they contain only the residue of a Class 3 or Division 2.1 material. A mechanical displacement meter prover must be designed and constructed in accordance with certain provisions specified in the ASME Standard B31.4, and is subject to periodic visual inspection and hydrostatic retesting. We did not receive any comments on this proposal and are adopting the amendment as proposed.

#### Section 173.12

We are amending paragraph (b) to allow lab packs to also be transported for disposal and recovery by rail and cargo vessel. Currently, § 173.12 authorizes the transportation of lab packs for disposal and recovery by highway only. However, under certain exemptions lab packs have been

authorized to be transported by rail and cargo vessel. Lab packs are combination packagings used for the transportation of waste materials in Class or Division 3, 4.1, 4.2, 4.3, 5.1, 6.1, 8 or 9. Lab packs are excepted from the specification packaging requirements for combination packagings if packaged in accordance with § 173.12(b).

We are adding a new paragraph (e) in § 173.12 to authorize the transportation of waste cyanides and waste cyanide mixtures or solutions with acids under certain conditions. The HMR prohibit the loading, storage and transportation of cyanides and cyanide mixtures or solutions on the same transport vehicle with acids, if a mixture of the materials would generate hydrogen cyanide (see §§ 174.81, 176.83, and 177.848). Transportation of these materials on the same transport vehicle has been authorized under the terms of numerous exemptions with certain packaging and segregation requirements with a satisfactory and safe transportation experience. The exemptions affected are DOT-E 9723, 9769, 10441, and 10933. The NPRM proposed a maximum quantity limit of 1 kg for waste cyanides and waste cyanide mixtures and 1 L per inner receptacle for waste cyanide solutions. One commenter supported our proposal unconditionally. Another commenter, Onyx Environmental Services L.L.C., believes the "quantity limits for inner packagings are overly restrictive" and recommends that we allow up to 2 kg (4.4 lbs) or 2 L (0.6 gallon) net of cyanides per inner receptacle. The commenter pointed out that under a current exemption (DOT-E 13192) RSPA has allowed 2 kg per inner packaging. We agree with the commenter and are revising the quantity limits per inner packaging from 1 kg to 2 kg for solids and from 1 L to 2 L for liquids in this final rule.

We are also authorizing the transportation of waste Division 4.2 materials with Class 8 liquids under certain conditions. Storage, loading and transportation of Division 4.2 materials with Class 8 liquids on the same transport vehicle or storage facility is prohibited by the HMR. However, we have authorized the transportation of these materials on the same transport vehicle under various exemptions and specified conditions with a safe and satisfactory transportation experience. The exemptions affected are DOT-E 11153 and 11294. In the NPRM we proposed a maximum quantity limit of 1 kg per inner packaging. Onyx Environmental Services L.L.C. requested that we allow 2 kg of Division 4.2 material instead of 1 kg for the exception in 173.12(e)(2)(iii). We agree

with the commenter and are allowing 2 kg per inner packaging for solids in this final rule.

The same commenter requested we clarify that the quantity limits for inner packagings set forth in paragraph (e)(1) and (e)(2) are the net amounts of hazardous material, and not the gross weight of the package. We believe that the proposed language clearly indicates that quantity limits apply to the hazardous material in the inner packaging and not the completed package, and, therefore, are not amending this language.

In the NPRM we proposed certain separation requirements. Specifically, we stated that the cyanide materials and the Division 4.2 materials must be "secured on pallets of not less than 100 mm (4 inches) in height." A commenter suggested that in addition to securement on pallets, we allow the hazardous material to be otherwise elevated at least 100 mm (4 inches) off the floor of the freight container, unit load device, transport vehicle, or rail car. The commenter stated that this would allow shippers "to load lab packs of cyanides on top of other packages (*i.e.*, 55-gallon drums) that contain compatible materials in lieu of using a pallet." Since the intent of this requirement is to prevent commingling, we agree that means other than pallets that achieve this goal may be employed and are revising § 173.12(e) accordingly. Readers are reminded that any package containing any hazardous material, not permanently attached to a motor vehicle, must be secured against movement, including relative motion between packages, within the vehicle on which it is being transported.

#### Section 173.13

Section 173.13 excepts Class or Division 3, 4.1, 4.2, 4.3, 5.1, 6.1, 8 or 9 materials from labeling and placarding requirements of the HMR if the material is packaged in accordance with the provisions of this section. The current exception applies to hazardous materials being transported by motor vehicle, rail car, or cargo aircraft. For transportation by cargo aircraft, the hazardous material must also be permitted to be transported on cargo aircraft in column (9B) of the Hazardous Materials Table (HMT). Section 173.13 restricts the net quantity per inner packaging to 1 L for liquids and 2.85 kg for solids and requires triple packaging which significantly exceeds the packaging standard currently authorized. For many years, we have also authorized transportation by passenger aircraft with certain limitations with a safe and satisfactory

transportation experience. The affected exemptions are DOT E-7891, 8249, 9168, 10672, 10962, 10977, 11248, 12177, 12230, and 12401. In the NPRM, we proposed to amend the HMR by expanding the exception to include transportation by passenger aircraft with certain limitations for materials that are permitted to be transported on passenger aircraft in column (9A) of the HMT. The exception provides a level of safety that is comparable to the level of safety previously provided under the exemption program.

Two commenters (Federal Express and All-Pak) opposed the proposal to incorporate the provisions allowed under the exemption program into the regulations. The commenters expressed concern about the loss of controls that are provided under an exemption and believe that the packaging required under the exemption program is better than the packaging required by § 173.13. FedEx goes on to say they "believe this will significantly increase the chance for packaging failures." An exemption permits a person to perform a function that is not otherwise permitted under the HMR. RSPA believes that the safety record of the "poison pack" exemption packagings over the years has shown that they are safe and are acceptable for inclusion in the HMR. All-Pak states that their outer packaging is marked and certified as a PG I packaging, whereas § 173.13 packagings are not. Both, FedEx and All-Pak, are under the impression that, as proposed in the NPRM, "outer packagings would not be marked with UN/ICAO packaging specification markings." We disagree. All § 173.13 packagings are UN packages tested at the PG I level. Furthermore, a packaging that is represented as manufactured to a UN standard must be marked as specified in part 178.

All-Pak questions whether RSPA has "a sufficient track record upon which to base the proposed expansion of authority into passenger air traffic" because they believe that there is little or no substantive experience with § 173.13 packages. According to All-Pak, neither UPS nor FedEx allow packages prepared in accordance with § 173.13 on their aircraft. RSPA has knowledge that § 173.13 packages are extensively used by leading life science and high technology chemical companies and are accepted by a number of carriers for both ground and air transportation. Because UPS and FedEx have made a business decision not to accept these packages, there may be less data concerning the performance of such packages than there would otherwise have been. Nevertheless, we believe

incorporation of these exemption provisions into the general regulation is appropriate based on the safe transportation of packages prepared in accordance with § 173.13 by other modes of transportation, as well as on the safety record of the exemption program.

FedEx stated that carrier personnel “have long recognized and been trained to understand the exemption markings” and that carriers who choose to accept packagings prepared in accordance with § 173.13 would be required to retrain their personnel. In a final rule published in the **Federal Register** May 30, 1996 (HM-222B; 61 FR 6480), RSPA amended the training requirements in subpart H to require that if a new regulation is adopted, or an existing regulation that pertains to a function performed by a hazmat employee is changed, the hazmat employee must be trained in the new or revised function-specific requirements without regard to the timing of the three year training cycle. The only instruction required is that necessary to assure knowledge of the new or revised regulatory requirement. It is not necessary to test the hazmat employee or retain records of the instruction provided in the new or revised requirements until the next scheduled retraining at or within the three year cycle.

FedEx also asked RSPA to consider labeling packages prepared under exemptions DOT E-7891, 8249, 9168, 10672, 10962, 10977, 11248, 12177, 12230, and 12401. This request is outside the scope of this rulemaking and is not addressed here.

Another commenter requested we add clarifying language to indicate that packages prepared in accordance with § 173.13 are not subject to the segregation requirements. While § 177.848 clearly states that the segregation requirements apply to hazardous materials in packages which require hazard labels, parts 175 and 176 do not contain similar language. It is our intent to except from the segregation requirements those packages that are not required to be labeled in accordance with part 172 of the HMR. Therefore, we are revising paragraph (a) to include the exception from the segregation requirements.

A commenter questioned why we allowed transportation of a hazardous material conforming to the requirements in § 173.13(b) on a passenger vessel, but not on a cargo vessel. This was an error on our part. The first sentence in paragraph (b) should not have included the wording “and passenger vessel.” The preamble text in the NPRM reflects our intent to include transportation by

passenger aircraft for packages prepared in accordance with this section. We did not intend or propose to include transportation by vessel and, therefore, in this final rule, are not authorizing transportation by vessel. Transportation by vessel may be considered in a future rulemaking.

After publication of the NPRM, we found that we had overlooked quantity limits in column (9) of the HMT for a number of materials, both liquid and solid, which are lower than the quantity limits authorized in § 173.13. To correct this oversight, in this final rule, we are limiting the net quantity in one package to the lesser of the amount specified in column (9) or the amount authorized in § 173.13 for materials transported by aircraft.

For the reasons cited above, we are amending § 173.13 of the HMR to include transportation by passenger aircraft with certain limitations for materials that are permitted to be transported on passenger aircraft in column (9A) of the HMT. The provisions in § 173.13 provide a level of safety that is comparable to the level of safety previously provided under the exemption program.

#### *Section 173.22a*

We are revising paragraph (b) of § 173.22a by removing the requirement that a copy of each exemption that authorizes use of a packaging must be maintained at each facility where the package is being used in connection with the transportation of a hazardous material. Currently, the “Special Provisions” section of each exemption states where the exemption must be maintained, if we believe it is necessary. We believe that such a requirement should be handled on a case-by-case basis and see no need for an across-the-board requirement in the HMR. This revision also responds to a petition for rulemaking (P-1293) submitted by W. W. Grainger, Inc. We are also revising paragraph (c) of § 173.22a to clarify that a “current” copy of an exemption must be provided to the carrier by each person offering hazardous materials under the terms of an exemption when the exemption contains requirements that apply to the carrier. Additionally, we are adding the website address where a copy of an exemption can be obtained.

#### **Part 174**

##### *Section 174.81*

We are revising paragraph (c) by adding a cross-reference to § 173.12(e) for cyanides, cyanide mixtures or solutions as well as Division 4.2

materials and, for clarity and consistency with § 177.848, amending the regulatory text. See § 173.12 preamble discussion. We are also editorially revising paragraph (d) for clarity.

#### **Part 176**

##### *Section 176.83*

We are adding a new paragraph (a)(11) to reference a segregation exception in § 173.12(e) for lab packs containing cyanides and cyanide mixtures or solutions transported with acids, and for Division 4.2 materials in lab packs transported with Class 8 liquids. See § 173.12 preamble discussion.

##### *Section 176.84*

We are adding a footnote to paragraph (b), following Code “52” cross-referencing § 173.12(e) for cyanides and cyanide mixtures or solutions in lab packs. See § 173.12 preamble discussion.

#### **Part 177**

##### *Section 177.848*

In the NPRM, we proposed to revise paragraph (c) by adding a cross-reference to § 173.12(e) for cyanides, cyanide mixtures or solutions as well as Division 4.2 materials. (See § 173.12 preamble discussion.) A commenter requested that we clarify that the exception applies to cyanides, cyanide mixtures or solutions stored, loaded or transported with acids, and to Division 4.2 materials stored, loaded or transported with Class 8 liquids. We agree with the commenter and are amending the language in § 173.12(e) accordingly. We are also editorially revising paragraph (d) for clarity.

## **II. Regulatory Analyses and Notices**

### *A. Statutory/Legal Authority for This Rulemaking*

1. 49 U.S.C. 5103(b) authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce.

2. 49 U.S.C. 5117(a) authorizes the Secretary of Transportation to issue an exemption from a regulation prescribed in 5103(b), 5104, 5110, or 5112 of the Federal Hazardous Materials Transportation Law to a person transporting, or causing to be transported, hazardous material in a way that achieves a safety level at least equal to the safety level required under the law, or consistent with the public interest, if a required safety level does not exist. In this rule, we are amending

regulations by converting certain widely used exemptions which have established a history of safety and which may, therefore, be converted into the regulations for general use.

#### *B. Executive Order 12866 and DOT Regulatory Policies and Procedures*

This final rule is not considered a significant regulatory action under section 3(f) and was not reviewed by the Office of Management and Budget (OMB). This final rule is not considered a significant rule under the Regulatory Policies and Procedures order issued by the Department of Transportation [44 FR 11034]. The costs and benefits of this final rule are considered to be so minimal as to not warrant preparation of a regulatory impact analysis or a regulatory evaluation. The provisions of this final rule provide a relaxation of the regulations and, as such, impose little or no additional costs to affected industry.

#### *C. Executive Order 13132*

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule preempts State, local and Indian tribe requirements but does not impose any regulation that has substantial direct effects on the states, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Federal hazardous material transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) preempting State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

- (1) The designation, description, and classification of hazardous materials;
- (2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;
- (3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;
- (4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or
- (5) The design, manufacture, fabrication, marking, maintenance, reconditioning, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule concerns classification, packaging, marking, labeling, and handling of hazardous materials, among other covered subjects and preempts any State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are "substantively the same" (see 49 CFR 107.202(d)) as the Federal requirements.

Federal hazardous materials transportation law provides at 49 U.S.C. 5125(b)(2) that if RSPA issues a regulation concerning any of the covered subjects, RSPA must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. The effective date of preemption is 90 days from the publication of this final rule in the **Federal Register**.

#### *D. Executive Order 13175*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

#### *E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities. An agency must conduct a regulatory flexibility analysis unless it determines and certifies that a rule is not expected to have a significant impact on a substantial number of small entities. This final rule incorporates into the Hazardous Materials Regulations certain widely used exemptions. These amendments relax certain requirements, while maintaining safety. The amendments also result in modest cost savings and do not impose significant impacts on any of the entities, small or otherwise, potentially affected by the rule. Therefore, I certify this rule will not have a significant economic impact on a substantial number of small entities.

This final rule has been developed in accordance with Executive Order 13272 ("Proper Consideration of Small Entities in Agency Rulemaking") and DOT's procedures and policies to promote

compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

#### *F. Paperwork Reduction Act*

RSPA has current information collection approvals under: OMB No. 2137–0051, "Rulemaking, Exemption, and Preemption Requirements," with 4,219 burden hours and an expiration date of May 31, 2006; and OMB No. 2137–0022, "Testing, Inspection, and Marking of Cylinders," with 168,431 burden hours and an expiration date of September 30, 2005. We do not anticipate any significant change in burden of these current information collections as a result of this final rule.

Section 1320.8(d), Title 5, Code of Federal Regulations requires that RSPA provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies a new information collection request under OMB No. 2137–xxxx, "Inspection and Testing of Meter Provers" as proposed under this rule requiring annual visual inspections and 5-year pressure tests for meter provers. RSPA has submitted this new information collection request to the Office of Management and Budget (OMB) for approval based on the requirements in this final rule. This new information collection will be assigned an OMB control number after review and approval by OMB. We estimate that this new information collection burden will be as follows:

OMB No. 2137–xxxx, "Inspection and Testing of Meter Provers":

*Annual Number of Respondents:* 50.

*Annual Responses:* 250.

*Annual Burden Hours:* 175.

*Annual Burden Cost:* \$9,500.00.

Requests for a copy of this information collection should be directed to Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8430, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone (202) 366–8553. We will publish a notice advising interested parties of the OMB control number for this information collection when assigned by OMB.

#### *G. Regulation Identifier Number (RIN)*

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the

heading of this document can be used to cross-reference this action with the Unified Agenda.

*H. Unfunded Mandates Reform Act*

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$120.7 million or more to either State, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

*I. Environmental Assessment*

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), requires Federal agencies to consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. We developed an assessment to determine the effects of these revisions on the environment and whether a more comprehensive environmental impact statement may be required. We have concluded that there are no significant environmental impacts associated with this final rule. We received no comments concerning environmental impacts.

*J. Privacy Act*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>.

**List of Subjects**

*49 CFR Part 171*

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

*49 CFR Part 173*

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

*49 CFR Part 174*

Hazardous materials transportation, Radioactive materials, Railroad safety.

*49 CFR Part 176*

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

*49 CFR Part 177*

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR chapter I is amended as follows:

**PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS**

■ 1. The authority citation for part 171 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134 section 31001.

■ 2. In § 171.7, in the paragraph (a)(3) table, under the entry “American Society of Mechanical Engineers”, a new entry is added in appropriate alphabetical order and under the entry “Compressed Gas Association, Inc.”, an entry is revised to read as follows:

**§ 171.7 Reference material.**

(a) \* \* \*

(3) *Table of material incorporated by reference.* \* \* \*

Source and name of material 49 CFR reference

*	*	*	*	*	*	*
<b>American Society of Mechanical Engineers</b>						
*	*	*	*	*	*	*
Pipeline Transportation Systems for Liquid Hydrocarbons and other Liquids, Chapters II, III, IV, V and VI, ASME B31.4–1998 Edition					173.5a.	
*	*	*	*	*	*	*
<b>Compressed Gas Association, Inc.</b>						
*	*	*	*	*	*	*
CGA Pamphlet C–6, Standards for Visual Inspection of Steel Compressed Gas Cylinders, 1993					173.3, 173.198, 180.205, 180.209, 180.211, 180.411, 180.519.	
*	*	*	*	*	*	*

**PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS**

■ 3. The authority citation for part 173 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

■ 4. In § 173.3, paragraph (d) is redesignated as paragraph (e) and a new paragraph (d) is added to read as follows:

**§ 173.3 Packaging and exceptions.**

\* \* \* \* \*

(d) *Salvage cylinders.* Cylinders of hazardous materials that are damaged or leaking may be overpacked in a non-DOT specification full opening hinged head or fully removable head steel

salvage cylinder under the following conditions:

(1) Only a cylinder containing a Division 2.1, 2.2, 2.3, 3, 6.1, or a Class 8 material may be overpacked in a salvage cylinder. A cylinder containing acetylene may not be overpacked in a salvage cylinder.

(2) Each salvage cylinder—

(i) Must be designed, constructed and marked in accordance with Section VIII, Division I of the ASME Code (IBR, *see* § 171.7 of this subchapter) with a minimum design margin of 4 to 1. Salvage cylinders may not be equipped with a pressure relief device. Damaged cylinders must be securely positioned in the salvage cylinder to prevent excessive movement. The overpack requirements of § 173.25 of this part do not apply to salvage cylinders used in accordance with this section.

(ii) Must have a maximum water capacity of 450 L (119 gallons).

(iii) Except for liquefied nitrous oxide and carbon dioxide, contents of the damaged or leaking cylinder must be limited in pressure and volume so that if totally discharged into the salvage cylinder, the pressure in the salvage cylinder will not exceed  $\frac{5}{4}$  of the MAWP at 55 °C (131 °F).

(iv) Must have gaskets, valves and fittings that are compatible with the hazardous materials contained within.

(3) Each salvage cylinder must be plainly and durably marked. Unless otherwise specified, the markings below must be in the same area on any portion of the upper end:

(i) The proper shipping name of the hazardous material contained inside the packaging;

(ii) The name and address of the consignee or consignor;

(iii) The name and address or registered symbol of the manufacturer; and

(iv) The words "SALVAGE CYLINDER" in letters at least 50 mm (2.0 inches) high on opposite sides near the middle of the cylinder; stamping on the sidewall is not authorized.

(4) Each salvage cylinder must be labeled for the hazardous material contained inside the packaging.

(5) The shipper must prepare shipping papers in accordance with subpart C of part 172 of this subchapter.

(6) Transportation is authorized by motor vehicle only.

(7) Each salvage cylinder must be cleaned and purged after each use.

(8) In addition to the training requirements of §§ 172.700 through 172.704 of this subchapter, a person who loads, unloads or transports a salvage cylinder must be trained in handling, loading and unloading the salvage cylinder.

(9) Cylinder Requalification: At least once every five years, each cylinder must be visually inspected (internally and externally) in accordance with CGA Pamphlet C-6 (IBR, *see* § 171.7 of this subchapter) and pressure tested. A minimum test pressure of at least  $1\frac{1}{2}$  times MAWP must be maintained for at

least 30 seconds. The cylinder must be examined under test pressure and removed from service if a leak or a defect is found.

(i) The retest and inspection must be performed by a person familiar with salvage cylinders and trained and experienced in the use of the inspection and testing equipment.

(ii) Each salvage cylinder that is successfully requalified must be durably and legibly marked with the word "Tested" followed by the requalification date (month/year), *e.g.*, "Tested 9/04." The marking must be in letters and numbers at least 12 mm (0.5 inches) high. The requalification marking may be placed on any portion of the upper end of the cylinder near the marking required in (d)(3) of this section or on a metal plate permanently secured to the cylinder. Stamping on the cylinder sidewall is not authorized.

(10) Record retention: The owner of each salvage cylinder or his authorized agent shall retain a record of the most recent visual inspection and pressure test until the salvage cylinder is requalified. The records must be made available to a DOT representative upon request.

\* \* \* \* \*

■ 5. Section 173.5a is revised to read as follows:

**§ 173.5a Oilfield service vehicles and mechanical displacement meter provers.**

(a) *Oilfield service vehicles.* Notwithstanding § 173.29 of this subchapter, a cargo tank motor vehicle used in oilfield servicing operations is not subject to the specification requirements of this subchapter provided—

(1) The cargo tank and equipment contains only residual amounts (*i.e.*, it is emptied so far as practicable) of a flammable liquid alone or in combination with water,

(2) No flame producing device is operated during transportation, and

(3) The proper shipping name is preceded by "RESIDUE: LAST CONTAINED \* \* \*" on the shipping paper for each movement on a public highway.

(b) *Mechanical displacement meter provers.* (1) For purposes of this section, a mechanical displacement meter prover is a mechanical device, permanently mounted on a truck chassis or trailer and transported by motor vehicle, consisting of a pipe assembly that is used to calibrate the accuracy and performance of meters that measure the quantity of a product being pumped or transferred at facilities such as drilling locations, refineries, tank farms and loading racks.

(2) A mechanical displacement meter prover is excepted from the specification packaging requirements in part 178 of this subchapter provided it—

(i) Contains only the residue of a Class 3 or Division 2.1 material. For liquids, the meter prover must be drained to the maximum extent practicable and may not exceed 10% of its capacity; for gases, the meter prover must not exceed 25% of the marked pressure rating;

(ii) Has a water capacity of 3,785 L (1,000 gallons) or less;

(iii) Is designed and constructed in accordance with chapters II, III, IV, V and VI of the ASME Standard B31.4 (IBR, *see* § 171.7 of this subchapter);

(iv) Is marked with the maximum service pressure determined from the pipe component with the lowest pressure rating; and

(v) Is equipped with rear-end protection as prescribed in § 178.337-10(c) of this subchapter and with 49 CFR 393.86 of the Federal Motor Carrier Safety Regulations.

(3) The description on the shipping paper for a meter prover containing the residue of a hazardous material must include the phrase "RESIDUE: LAST CONTAINED \* \* \*" before the basic description.

(4) *Periodic test and inspection.* (i) Each meter prover must be externally visually inspected once a year. The external visual inspection must include at a minimum: checking for leakage, defective fittings and welds, defective closures, significant dents and other defects or abnormalities which indicate a potential or actual weakness that could render the meter prover unsafe for transportation; and

(ii) Each meter prover must be pressure tested once every 5 years at not less than 75% of design pressure. The pressure must be held for a period of time sufficiently long to assure detection of leaks, but in no case less than 5 minutes.

(5) In addition to the training requirements in subpart H, the person who performs the visual inspection or pressure test and/or signs the inspection report must have the knowledge and ability to perform them as required by this section.

(6) A meter prover that fails the periodic test and inspection, must be rejected and removed from hazardous materials service unless the meter prover is adequately repaired, and thereafter, a successful test is conducted in accordance with the requirements of this section.

(7) Prior to any repair work, the meter prover must be emptied of any hazardous material. A meter prover

containing flammable lading must be purged.

(8) Each meter prover successfully completing the external visual inspection and the pressure test must be marked with the test date (month/year), the type of test or inspection as follows:

(i) V for external visual inspection; and

(ii) P for pressure test.

The marking must be on the side of a tank or the largest piping component in letters 32 mm (1.25 inches) high on a contrasting background.

(9) The owner must retain a record of the most recent external visual inspection and pressure test until the next test or inspection of the same type successfully completed. The test or inspection report must include the following:

(i) Serial number or other meter prover identifier;

(ii) Type of test or inspection performed;

(iii) Test date (month/year);

(iv) Location of defects found, if any, and method used to repair each defect;

(v) Name and address of person performing the test or inspection;

(vi) Disposition statement, such as "Meter Prover returned to service" or "Meter Prover removed from service".

■ 6. In § 173.12, paragraph (b)(1), the first sentence is revised and a new paragraph (e) is added to read as follows:

**§ 173.12 Exceptions for shipment of waste materials.**

\* \* \* \* \*

(b) \* \* \*

(1) Waste materials classed as Class or Division 3, 4.1, 4.2, 4.3, 5.1, 6.1, 8, or 9 are excepted from the specification packaging requirements of this subchapter for combination packagings if packaged in accordance with this paragraph and transported for disposal or recovery by highway, rail or cargo vessel only. \* \* \*

\* \* \* \* \*

(e) *Exceptions from segregation requirements.* (1) The provisions of §§ 174.81(c), 176.83(b) and 177.848(c) of this subchapter do not apply to waste cyanides or waste cyanide mixtures or solutions stored, loaded, or transported with acids in accordance with the following:

(i) The waste cyanides or waste cyanide mixtures or solutions must be packaged in lab packs in accordance with paragraph (b) of this section;

(ii) The Class 8 acids must be packaged in lab packs in accordance with paragraph (b) of this section or in authorized single packagings not exceeding 208 L (55 gallons) capacity;

(iii) Waste cyanides or waste cyanide mixtures may not exceed 2 kg (4.4

pounds) per inner receptacle and may not exceed 10 kg (22 pounds) per outer packaging; waste cyanide solutions may not exceed 2 L (0.6 gallon) per inner receptacle and may not exceed 10 L (3.0 gallons) per outer packaging.

(iv) The waste cyanides or waste cyanide mixtures or solutions must be—

(A) Separated from the acids by a minimum horizontal distance of 1.2 m (4 feet); and

(B) Loaded at least 100 mm (4 inches) off the floor of the freight container, unit load device, transport vehicle or rail car.

(2) The provisions of §§ 174.81(d), 176.83(b) and 177.848(d) of this subchapter do not apply to waste Division 4.2 materials stored, loaded or transported with Class 8 liquids in accordance with the following:

(i) The waste Division 4.2 materials are packaged in lab packs in accordance with paragraph (b) of this section;

(ii) The Class 8 liquids are packaged in lab packs in accordance with paragraph (b) of this section or in authorized single packagings not exceeding 208 L (55 gallons) capacity;

(iii) The waste Division 4.2 materials may not exceed 2 kg (4.4 pounds) per inner receptacle and may not exceed 10 kg (22 pounds) per outer packaging;

(iv) The waste Division 4.2 materials must be separated from the Class 8 liquids by a minimum horizontal distance of 1.2 m (4 feet);

(v) The waste Division 4.2 materials and the Class 8 liquids are loaded at least 100 mm (4 inches) off the floor of the freight container, unit load device, transport vehicle or rail car.

\* \* \* \* \*

■ 7. In § 173.13, the first sentence in paragraph (a) is revised and paragraphs (b), (c)(1)(i) and (c)(2)(i) are revised to read as follows:

**§ 173.13 Exceptions for Class 3, Divisions 4.1, 4.2, 4.3, 5.1, 6.1, and Classes 8 and 9 materials.**

(a) A Class 3, 8 or 9, or Division 4.1, 4.2, 4.3, 5.1, or 6.1 material is excepted from the labeling (except for the CARGO AIRCRAFT ONLY label), placarding and segregation requirements of this subchapter if prepared for transportation in accordance with the requirements of this section. \* \* \*

(b) A hazardous material conforming to the requirements of this section may be transported by motor vehicle and rail car. In addition, packages prepared in accordance with this section may be transported by aircraft under the following conditions:

(1) *Cargo-only aircraft.* Only hazardous materials permitted to be transported aboard either a passenger or cargo-only aircraft by column (9A) or

(9B) of the Hazardous Materials Table in § 172.101 of this subchapter are authorized aboard cargo-only aircraft.

(2) *Passenger carrying aircraft.* Only hazardous materials permitted to be transported aboard a passenger aircraft by column (9A) of the Hazardous Materials Table in § 172.101 of this subchapter are authorized aboard passenger aircraft. The completed package, assembled as for transportation, must be successfully tested in accordance with part 178 of this subchapter at the Packing Group I level. A hazardous material which meets the definition of a Division 5.1 (oxidizer) at the Packing Group I level in accordance with § 173.127(b)(1)(i) of this subchapter may not be transported aboard a passenger aircraft.

(3) Packages offered for transportation aboard either passenger or cargo-only aircraft must meet the requirements for transportation by aircraft specified in § 173.27 of this subchapter.

(c) \* \* \*

(1) \* \* \*

(i) The hazardous material must be placed in a tightly closed glass, plastic or metal inner packaging with a maximum capacity not exceeding 1.2 L. Sufficient outage must be provided such that the inner packaging will not become liquid full at 55 °C (130 °F). The net quantity (measured at 20 °C (68 °F)) of liquid in any inner packaging may not exceed 1 L. For transportation by aircraft, the net quantity in one package may not exceed the quantity specified in columns (9A) or (9B), as appropriate.

\* \* \* \* \*

(2) \* \* \*

(i) The hazardous material must be placed in a tightly closed glass, plastic or metal inner packaging. The net quantity of material in any inner packaging may not exceed 2.85kg (6.25 pounds). For transportation by aircraft, the net quantity in one package may not exceed the quantity specified in columns (9A) or (9B), as appropriate.

\* \* \* \* \*

**§ 173.22a [Amended]**

■ 8. Amend § 173.22a:

■ a. In paragraph (b), by removing the second sentence; and revising the last sentence.

■ b. In paragraph (c), by adding the word "current" between the words "the" and "exemption" the last time it appears. The revision reads as follows:

**§ 173.22a Use of packagings authorized under exemptions.**

\* \* \* \* \*

(b) \* \* \* Copies of exemptions may be obtained by accessing the Hazardous Materials Safety Web site at <http://>



hazmat.dot.gov/exemptions\_index.htm or by writing to the Associate Administrator for Hazardous Materials Safety, U.S. Department of Transportation, Washington, DC 20590-0001, Attention: Records Center.

PART 174—CARRIAGE BY RAIL

9. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

10. In § 174.81, paragraphs (c) and (d) are revised to read as follows:

§ 174.81 Segregation of hazardous materials.

\* \* \* \* \*

(c) Except as provided in § 173.12(e) of this subchapter, cyanides, cyanide mixtures or solutions may not be stored, loaded and transported with acids, and Division 4.2 materials may not be stored, loaded and transported with Class 8 liquids.

(d) Except as otherwise provided in this subchapter, hazardous materials must be stored, loaded or transported in accordance with the following table and other provisions of this section:

\* \* \* \* \*

PART 176—CARRIAGE BY VESSEL

11. The authority citation for part 176 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

12. In § 176.83, new paragraph (a)(11) is added to read as follows:

§ 176.83 Segregation.

(a) \* \* \*

(11) Certain exceptions from segregation for waste cyanides or waste cyanide mixtures or solutions transported with acids and waste Division 4.2 materials transported with Class 8 liquids are set forth in § 173.12(e) of this subchapter.

\* \* \* \* \*

13. In § 176.84, in the paragraph (b) Table, following Code "52", a footnote is added to read as follows:

§ 176.84 Other requirements for stowage and segregation for cargo vessels and passenger vessels.

\* \* \* \* \*

(b) \* \* \*

Table with 2 columns: Code, Provisions. Row 1: 52 ..... Stow "separated from" acids.1

1 For waste cyanides or waste cyanide mixtures or solutions, refer to § 173.12(e) of this subchapter.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

14. The authority citation for part 177 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

15. In § 177.848, paragraphs (c) and (d) are revised to read as follows:

§ 177.848 Segregation of hazardous materials.

\* \* \* \* \*

(c) Except as provided in § 173.12(e) of this subchapter, cyanides, cyanide mixtures or solutions may not be stored, loaded and transported with acids, and Division 4.2 materials may not be stored, loaded and transported with Class 8 liquids.

(d) Except as otherwise provided in this subchapter, hazardous materials must be stored, loaded or transported in accordance with the following table and other provisions of this section:

\* \* \* \* \*

Issued in Washington, DC, on January 14, 2005, under authority delegated in 49 CFR part 1.

Elaine E. Joost,

Acting Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 05-1113 Filed 1-21-05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041202338-4338-01; I.D. 011305B]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel Lottery in Areas 542 and 543

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of fishery assignments.

SUMMARY: NMFS is notifying the owners and operators of registered vessels of their assignments for the A season Atka mackerel fishery in harvest limit area (HLA) 542 and/or 543 of the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the harvest of the A season HLA limits established for area 542 and area 543 pursuant to the interim 2005 harvest specifications for groundfish in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 21, 2005, until 1200 hrs, A.l.t., April 15, 2005.

FOR FURTHER INFORMATION CONTACT: Andy Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(8)(iii)(A), owners and operators of vessels using trawl gear for directed fishing for Atka mackerel in the HLA are required to register with NMFS. Six vessels have registered with NMFS to fish in the A season HLA fisheries in areas 542 and/or 543. In order to reduce the amount of daily catch in the HLA by about half and to disperse the fishery over time and in accordance with § 679.20(a)(8)(iii)(B), the Administrator, Alaska Region, NMFS, has randomly assigned each vessel to the HLA directed fishery for Atka mackerel for which they have registered and is now notifying each vessel of its assignment.

Vessels authorized to participate in the first HLA directed fishery in area 542 and/or in the second HLA directed fishery in area 543 in accordance with § 679.20(a)(8)(iii) are as follows: Federal Fishery Permit number (FFP) 4093 Alaska Victory, FFP 2443 Alaska Juris, and FFP 3400 Alaska Ranger.

Vessels authorized to participate in the first HLA directed fishery in area 543 and/or the second HLA directed fishery in area 542 in accordance with § 679.20(a)(8)(iii) are as follows: FFP