

composite packagings (plastic material), including their closures, must be subjected to the test pressure for 30 minutes. This pressure is the one to be marked as required in § 178.503(a)(5). The receptacles must be supported in a manner that does not invalidate the test. The test pressure must be applied continuously and evenly, and it must be kept constant throughout the test period. In addition, packagings intended to contain hazardous materials of Packing Group I must be tested to a minimum test pressure of 250 kPa (36 psig). The hydraulic pressure (gauge) applied, taken at the top of the receptacle, and determined by any one of the following methods must be:

\* \* \* \* \*

(3) Not less than 1.5 times the vapor pressure at 55 °C (131 °F) of the material to be transported minus 100 kPa (15 psi), but with a minimum test pressure of 100 kPa (15 psig).

\* \* \* \* \*

■ 31. In § 178.700, paragraph (c)(1) is revised to read as follows:

**§ 178.700 Purpose, scope and definitions.**

(c) \* \* \*

(1) *Body* means the receptacle proper (including openings and their closures, but not including service equipment), that has a volumetric capacity of not more than three cubic meters (3,000 L, 793 gallons, or 106 cubic feet) and not less than 0.45 cubic meters (450 L, 119 gallons, or 15.9 cubic feet) or a maximum net mass of not less than 400 kg (882 pounds).

\* \* \* \* \*

■ 32. In § 178.801, paragraph (c)(1) is revised to read as follows:

**§ 178.801 General requirements.**

\* \* \* \* \*

(c) \* \* \*

(1) *IBC design type* refers to an IBC that does not differ in structural design, size, material of construction, wall thickness, manner of construction and representative service equipment.

\* \* \* \* \*

**PART 179—SPECIFICATIONS FOR TANK CARS**

■ 33. The authority citation for part 179 is revised to read as follows:

**Authority:** 49 U.S.C. 5101–5128; 49 CFR part 1.53.

■ 34. In § 179.400–18, paragraph (a) is revised to read as follows:

**§ 179.400–18 Test of inner tank.**

(a) After all items to be welded to the inner tank have been welded in place, the inner tank must be pressure tested at the test pressure prescribed in § 179.401–1. The temperature of the pressurizing medium may not exceed 38 °C (100 °F) during the test. The inner tank must hold the prescribed pressure for a period of not less than ten minutes without leakage or distortion. In a pneumatic test, due regard for the protection of all personnel should be taken because of the potential hazard involved. After a hydrostatic test the container and piping must be emptied of all water and purged of all water vapor.

\* \* \* \* \*

**PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS**

■ 35. The authority citation for part 180 is revised to read as follows:

**Authority:** 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 36. In § 180.209, paragraphs (l) introductory text and (l)(2) are revised to read as follows:

**§ 180.209 Requirements for requalification of specification cylinders.**

\* \* \* \* \*

(l) *Requalification of foreign cylinders filled for export.* A cylinder manufactured outside the United States, other than as provided in §§ 171.12(a) and 171.23(a) of this subchapter, that has not been manufactured, inspected, tested and marked in accordance with part 178 of this subchapter may be filled with compressed gas in the United States, and shipped solely for export if it meets the following requirements, in addition to other requirements of this subchapter:

(1) \* \* \*

(2) It is offered for transportation in conformance with the requirements of § 171.12(a)(4) or § 171.23(a)(4) of this subchapter.

\* \* \* \* \*

Issued in Washington, DC, on September 23, 2008, under authority delegated in 49 CFR part 1.

**Carl T. Johnson,**

*Administrator.*

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**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**49 CFR Part 172**

**Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements**

*CFR Correction*

In title 49 of the Code of Federal Regulations, part 172, revised as of October 1, 2007, beginning on page 132, in § 172.101 the following corrections are made to the Hazardous Materials Table:

1. The first entry for Amines, flammable, corrosive, n.o.s. *or* Polyamines, flammable corrosive, n.o.s. UN2733 is removed.

2. The entry for Amines, liquid, corrosive, flammable n.o.s. *or* Polyamines, liquid corrosive, flammable n.o.s. UN2734 PG I is reinstated above the second PG II entry in UN2733.

3. The entry for Calcium UN1401 is reinstated.

4. In Caustic alkali liquids, n.o.s. UN1719, “, 52” is added to both entries after the number “29”.

5. The entry for Chromosulfuric acid UN2240 is reinstated.

6. The second entry for Lighters containing flammable gas UN1057 is removed.

7. In the entry for Methylhydrazine UN1244, “49, 52 and 100” are added in the last column.

8. The entry for Organometallic substance solid, water reactive UN3395 is reinstated.

The reinstated text reads as follows:

**§ 172.101 Special provisions.**

\* \* \* \* \*

§ 172.101 HAZARDOUS MATERIALS TABLE

| (1)<br>Symbols | (2)<br>Hazardous materials descriptions and proper shipping names                               | (3)<br>Hazard class or Division | (4)<br>Identification Numbers | (5)<br>PG | (6)<br>Label Codes | (7)<br>Special provisions (§ 172.102) | (8)<br>Packaging        |                  |              | (9)<br>Quantity limitations        |                                  | (10)<br>Location       |                    |
|----------------|-------------------------------------------------------------------------------------------------|---------------------------------|-------------------------------|-----------|--------------------|---------------------------------------|-------------------------|------------------|--------------|------------------------------------|----------------------------------|------------------------|--------------------|
|                |                                                                                                 |                                 |                               |           |                    |                                       | Excep-<br>tions<br>(8A) | Non-bulk<br>(8B) | Bulk<br>(8C) | Passenger<br>aircraft/rail<br>(9A) | Cargo air-<br>craft only<br>(9B) | Loca-<br>tion<br>(10A) | Other<br>(10B)     |
| .....          | * Amines, liquid, corrosive, flammable n.o.s. or Polyamines, liquid corrosive, flammable n.o.s. | 8                               | * UN2734                      | I         | 8.3                | * A3, A6, N34, T14, TP2, TP27         | None                    | 201              | 243          | 0.5L                               | * 2.5L                           | A                      | 52                 |
| .....          | * Calcium .....                                                                                 | 4.3                             | * UN1401                      | II        | 4.3                | * IB7, IP2, T3, TP33                  | None                    | 212              | 241          | 15 kg                              | * 50kg                           | E                      | 52                 |
| .....          | * Chromosulfuric acid ....                                                                      | 8                               | * UN2240                      | I         | 8                  | * A3, A6, A7, B4, B6, N34, T10        | None                    | 201              | 243          | 0.5L                               | * 2.5L                           | B                      | 40, 66, 74, 89, 90 |
| .....          | * Organometallic substance, solid, water-reactive.                                              | 4.3                             | * UN3395                      | I         | 4.3                | * N40, T9, TP7, TP33                  | None                    | 211              | 242          | Forbidden                          | * Forbidden                      | E                      | 40, 52             |

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Parts 222 and 223**

[Docket No. 0809241260-81267-01]

RIN 0648-XK78

**Sea Turtle Conservation; Shrimp Trawling Requirements**

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

**ACTION:** Temporary rule.

**SUMMARY:** NMFS issues this temporary rule for a period of 30 days, to allow shrimp fishermen to use limited tow times as an alternative to Turtle Excluder Devices (TEDs) in state and Federal waters offshore of Louisiana (from the Mississippi/Louisiana boundary to the Texas/Louisiana boundary) extending offshore 20 nautical miles. This action is necessary because environmental conditions resulting from Hurricanes Gustav and Ike are preventing some fishermen from using TEDs effectively.

**DATES:** Effective from September 26, 2008 through October 27, 2008.

**ADDRESSES:** Requests for copies of the Environmental Assessment on this action should be addressed to the Assistant Regional Administrator, Protected Resources Division, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**FOR FURTHER INFORMATION CONTACT:** Michael Barnette, 727-551-5794.

**SUPPLEMENTARY INFORMATION:****Background**

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) turtles are listed as endangered. The loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

Sea turtles are incidentally taken, and some are killed, as a result of numerous activities, including fishery-related

trawling activities in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, the taking of sea turtles is prohibited, with exceptions identified in 50 CFR 223.206(d), or according to the terms and conditions of a biological opinion issued under section 7 of the ESA, or according to an incidental take permit issued under section 10 of the ESA. The incidental taking of turtles during shrimp or summer flounder trawling is exempted from the taking prohibition of section 9 of the ESA if the conservation measures specified in the sea turtle conservation regulations (50 CFR 223) are followed. The regulations require most shrimp trawlers and summer flounder trawlers operating in the southeastern United States (Atlantic area, Gulf area, and summer flounder sea turtle protection area, see 50 CFR 223.206) to have a NMFS-approved TED installed in each net that is rigged for fishing to allow sea turtles to escape. TEDs currently approved by NMFS include single-grid hard TEDs and hooped hard TEDs conforming to a generic description, the flounder TED, and one type of soft TED the Parker soft TED (see 50 CFR 223.207).

TEDs incorporate an escape opening, usually covered by a webbing flap, which allows sea turtles to escape from trawl nets. To be approved by NMFS, a TED design must be shown to be 97 percent effective in excluding sea turtles during testing based upon specific testing protocols (50 CFR 223.207(e)(1)). Most approved hard TEDs are described in the regulations (50 CFR 223.207(a)) according to generic criteria based upon certain parameters of TED design, configuration, and installation, including height and width dimensions of the TED opening through which the turtles escape.

The regulations governing sea turtle take prohibitions and exemptions provide for the use of limited tow times as an alternative to the use of TEDs for vessels with certain specified characteristics or under certain special circumstances. The provisions of 50 CFR 223.206(d)(3)(ii) specify that the NOAA Assistant Administrator for Fisheries (AA) may authorize compliance with tow time restrictions as an alternative to the TED requirement if the AA determines that the presence of algae, seaweed, debris, or other special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable. The provisions of 50 CFR 223.206(d)(3)(i) specify the maximum tow times that may be used when tow time limits are authorized as an alternative to the use of TEDs. Each tow may be no more than

55 minutes from April 1 through October 31 and no more than 75 minutes from November 1 through March 31, as measured from the time that the trawl doors enter the water until they are removed from the water. These tow time limits are designed to minimize the level of mortality of sea turtles that are captured by trawl nets not equipped with TEDs.

**Recent Events**

On September 5 and 15, 2008, the NMFS Southeast Regional Administrator received requests from the Louisiana Department of Wildlife and Fisheries (LDWF) and the Mississippi Department of Marine Resources (MDMR), respectively, to allow the use of tow times as an alternative to turtle excluder devices (TEDs) in state and Federal waters because of excessive storm-related debris on the fishing grounds as a result of Hurricanes Gustav and Ike. When a TED is clogged with debris, it can no longer catch shrimp effectively nor can it effectively exclude turtles. Phone conversations between NMFS Southeast Region's Protected Resources staff, fishermen, and the states' resource agency staffs confirm there are problems with debris in state and Federal waters off Louisiana (from the Mississippi/Louisiana boundary to the Texas/Louisiana boundary) extending offshore 20 nautical miles, which are likely to affect the effectiveness of TEDs; discussions between NMFS Southeast Region's Protected Resources staff, fishermen, and the states' resource agency staffs, and a survey of Mississippi waters found no significant remaining issues stemming from storm-related debris on the shrimp fishing grounds. Louisiana has stated that their marine enforcement agents will enforce the tow time restrictions.

**Special Environmental Conditions**

The AA finds that debris washed into hurricane-affected state and Federal waters off of Louisiana (from the Mississippi/Louisiana boundary to the Texas/Louisiana boundary), extending offshore 20 nautical miles, has created special environmental conditions that make trawling with TED-equipped nets impracticable. Therefore, the AA issues this notification to authorize the use of restricted tow times as an alternative to the use of TEDs in state and Federal waters off of Louisiana (from the Mississippi/Louisiana boundary to the Texas/Louisiana boundary) extending offshore 20 nautical miles, for a period of 30 days. Tow times must be limited to no more than 55 minutes measured from the time trawl doors enter the