transport of aircraft spares and supplies may be used, provided such packagings provide at least an equivalent level of protection to those that would be required by this subchapter;

(ii) Aircraft batteries are not subject to quantity limitations such as those provided in § 172.101 or § 175.75(a) of this subchapter; and, (iii) A tire assembly with a serviceable tire is not subject to the provisions of this subchapter provided the tire is not inflated to a gauge pressure exceeding the maximum rated pressure for that tire.

The first sentence of paragraph (a)(2) addresses hazardous materials required for the operation of an aircraft under applicable provisions of Federal Aviation Administration regulations in 14 CFR. These items include equipment required to be carried aboard the aircraft, such as portable fire extinguishers, and installed equipment containing hazardous materials, such as cylinders containing oxygen. This sentence simply reiterates that the HMR do not apply to installed components of an aircraft and other items required to be on the aircraft, because the HMR regulate hazardous materials transported in commerce (e.g., hazardous materials transported as cargo, baggage, or as items carried on by passengers or crewmembers).

The second sentence of paragraph (a)(2) contains introductory text and three subparagraphs and states, in part, that '' * * * items of replacement *for such hazardous materials* must be transported in accordance with this subchapter [the HMR] * * * '' [emphasis added]. The sentence addresses only items of replacement for those hazardous materials required aboard an aircraft in accordance with the applicable airworthiness requirements and operating regulations. These replacement items are transported in commerce and must be offered and transported in conformance with the HMR, except for the limited relief provided in subparagraphs (i), (ii), and (iii).

The exceptions in the second sentence do not apply to many of the hazardous materials consumed or used in the aircraft industry such as paints, chemicals for corrosion removal, automotive batteries, engine-powered ground equipment containing fuel, and wastes. These materials must be offered and transported in conformance with the HMR.

Serviceable items and items removed for servicing or repair, that are items of replacement, are eligible for the exceptions in § 175.10(a)(2) when otherwise offered for transportation in compliance with the HMR. However, an expendable device such as a fuel saturated filter or an oxygen generator removed from an aircraft for immediate or eventual disposal is not an item of replacement and may not be carried aboard aircraft under § 175.10(a)(2).

Subparagraph (a)(2)(i) permits the use of packagings specially designed for the transport of aircraft spares and supplies, provided such packagings provide at least an equivalent level of protection to those that would otherwise be required by the HMR. This exception allows air carriers to use specialized packagings not specifically addressed in the HMR, such as lined aluminum cases for overpacking cylinders. It does not address materials that are not necessary to meet applicable airworthiness requirements and operating regulations. Subparagraph (a)(2)(ii) provides relief from quantity limitations for aircraft batteries, allowing aircraft batteries which are COMAT to be transported in larger sizes or in greater quantities than would normally be permitted, when all other provisions of the HMR are followed.

Subparagraph (a)(2)(iii) removes the application of the HMR from a tire assembly with a serviceable tire provided the tire is not inflated to a gauge pressure exceeding the maximum rated pressure for that tire. Only this third exception relating to tires, removes the application of the HMR. Therefore, among other requirements, the following apply to *all* hazardous materials carried as items of replacement (as discussed above) under the COMAT provisions of subparagraphs (a)(2)(i) and (ii):

Subject	Citation: 49 CFR—
Training	Part 172, Subpart H and § 175.20.
Forbidden Materials	§§ 173.21 and 173.54.
Packaging	Parts 172, 173 and 178. In particular 173.24, 173.24a and 173.27.
Marking	Part 172, Subpart D.
Labeling	Part 172, Subpart E.
Shipping Papers and Certification.	Part 172, Subpart C.
Quantity limitations per package—Passenger Aircraft.	§§ 172.101 and 173.27.
Quantity limitations per package—Cargo Aircraft.	§§ 172.101 and 173.27.
Quantity limitations—Inaccessible cargo compartments.	§ 175.75.
Notification of Pilot-in-Command.	§ 175.33.
Reports of discrepancies.	§ 175.31.
Incident Reporting	§§ 171.15 and 171.16.

RSPA published a document entitled ''Advisory Guidance; Offering, Accepting, and Transporting Hazardous Materials'' in the Federal Register on June 14, 1996 (61 FR 30444). The guidance addressed a number of topics related to the safe transportation of hazardous materials.

Persons who supervise or perform hazardous materials functions, including persons who manufacture packagings, prepare and package hazardous materials and otherwise perform functions leading to the introduction of hazardous materials into transportation, are encouraged to review the guidance in its entirety. See the definition of ''Hazmat employer'' and ''Hazmat employee'' in 49 CFR 171.8. In many cases, more than one person may be involved in the performance of offering functions in addition to the person executing the certification required by § 172.204. *See* RSPA's interpretations at 55 FR 6758 (Feb. 26, 1990) and 57 FR 48740 (Oct. 28, 1992).

As stated in section III of the advisory guidance (61 FR at 30446):

> The HMR are only effective when persons who engage in day-to-day transportation-related activities make a concerted effort to ensure their own compliance, as well as that of others from who they may receive shipments.

RSPA urges all persons involved in hazardous materials transportation activities to carefully examine all of their procedures to ensure conformance with the HMR.

Issued in Washington, DC, on December 10, 1996.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 96–31648 Filed 12–12–96; 8:45 am]

BILLING CODE 4910–60–P

49 CFR Chapter I

[Notice No. 96–24]

Advisory Guidance; Transportation of Hazardous Materials in MC 330 and MC 331 Cargo Tanks

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

ACTION: Advisory guidance.

SUMMARY: Recently, RSPA was advised by the Federal Highway Administration of a hazardous materials incident which occurred in North Carolina on September 8, 1996. Preliminary information suggests there may be a problem in the unloading configuration of a number of MC 330 and MC 331 cargo tank motor vehicles used to

transport liquefied petroleum gas. The problem may result in a failure of a cargo tank's excess flow feature within its emergency discharge control system to function when a transfer hose or piping fails. Persons involved in the design, manufacture, assembly, maintenance, or transportation of hazardous materials in MC 330 and MC 331 cargo tank motor vehicles are reminded that these tanks and their components must conform to the Hazardous Materials Regulations.

FOR FURTHER INFORMATION CONTACT: Ron Kirkpatrick, Office of Hazardous Materials Technology, Research and Special Programs Administration, telephone (202) 366–4545, or Steve Keppler, Office of Motor Carrier Safety and Technology, Safety & Hazardous Materials Division, Federal Highway Administration, telephone (202) 366–2978, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590–0001.

SUPPLEMENTARY INFORMATION: On September 8, 1996, more than 35,000 gallons of propane were released during a delivery at a bulk storage facility in Sanford, NC. During the unloading of an MC 331 cargo tank into two 30,000-gallon storage tanks, the discharge hose became separated from its hose coupling at the storage tank inlet connection. Most of the cargo tank's 9800 gallons and more than 30,000 gallons from the storage tanks were released during this incident.

The driver became aware of the system failure when the hose began to violently oscillate while releasing liquid propane. He immediately shut down the engine, stopping the discharge pump, but he could not access the remote closure control to close the internal stop valve. The excess flow feature of the emergency discharge control system did not function, and propane continued to be released from the system. Additionally, the back flow check valve on the storage tank system did not function and propane was released from the storage tanks. In light of the large quantity of propane released, this incident could have resulted in a loss of life and significant property damage if the gas had reached an ignition source. Fortunately, there was no fire.

Over the past ten years, nine similar instances of propane release have been reported that involved local deliveries by small cargo tank motor vehicles. In each instance, the amount of propane released was much less than in the Sanford incident. However, fires resulted in the majority of these incidents, and several persons were injured. From a review of the reports, it appears that the excess flow feature of the emergency discharge control systems did not function as intended. In most cases, leakage was stopped by using the remote emergency shut-down operator to close the internal stop valve.

Manufacturers of MC 331 cargo tanks and persons who operate, repair, test, inspect, assemble or modify MC 330 or MC 331 cargo tanks are reminded of the following requirement in the Hazardous Materials Regulations (HMR):

For MC 331 cargo tanks intended for use in transporting compressed gas (except carbon dioxide, refrigerated liquid), § 178.337–11(a)(1)(i) specifies: Each internal self-closing stop valve and excess flow valve must automatically close if any of its attachments are sheared off or if any attached hoses or piping are separated.

Although the regulatory citation is not the same as when the rule was first adopted, this requirement has been in the HMR for more than forty years.

For MC 330 and MC 331 cargo tanks, § 173.315(n) specifies: Each MC 330 and MC 331 cargo tank used to transport a flammable gas, anhydrous ammonia or hydrogen chloride, refrigerated liquid must have each liquid opening equipped in accordance with § 178.337–11 of this subchapter.

Similar requirements also are specified in Occupational Safety and Health Administration regulations (29 CFR 1910.110) and in the National Fire Protection Association's ''Standard for the Storage and Handling of Liquefied Petroleum Gases'' (NFPA 58).

On June 14, 1996, RSPA published a document entitled *''Advisory Guidance; Offering, Accepting, and Transporting Hazardous Materials''* in the Federal Register (61 FR 30444). The guidance addressed a number of topics related to the safe transportation of hazardous materials. Persons who supervise or perform hazardous materials functions, including persons who design, manufacture, assemble, maintain or operate cargo tanks, or otherwise perform functions leading to the introduction of hazardous materials into transportation, are encouraged to review the guidance in its entirety and to take all necessary measures to ensure compliance with the HMR.

Issued in Washington, DC on December 10, 1996.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 960919266–6336–02; I.D. 082096D]

RIN 0648–AD91

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands; Initial Regulations

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the Fishery Management Plan for Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands (FMP). The FMP restricts the taking of queen conch in or from the exclusive economic zone (EEZ) around Puerto Rico and the U.S. Virgin Islands (USVI) in order to restore overfished stocks.

EFFECTIVE DATE: January 13, 1997.

ADDRESSES: Requests for copies of the Final Regulatory Flexibility Analysis (FRFA) should be sent to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Requests for copies of the FMP, which includes a regulatory impact review (RIR)/initial regulatory flexibility analysis (IRFA), and a final environmental impact statement (FEIS), should be sent to the Caribbean Fishery Management Council (Council), 268 Muñoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813–570–5305.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Council under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background information on the conch resources of the Caribbean EEZ and the rationale for the management measures in the FMP were contained in the preamble to the proposed rule (61 FR 50794, September 27, 1996) and are not repeated here.

Public comments were invited on the FMP, the proposed rule, the IRFA, and other supporting documents through November 12, 1996. NMFS approved the FMP on November 22, 1996.

Comments and Responses

Comments were received from the U.S. Fish and Wildlife Service