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By Order of the Maritime Administrator.

Dated: January 22, 2009.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–1990 Filed 1–29–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2009 0005]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MALAMA KAI.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

The complete application is given in DOT docket MARAD 2009 0005 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before March 2, 2009.

ADDRESSES: Comments should refer to docket number MARAD 2009 0005. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140,

1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MALAMA KAI is:

Intended Use: “Small passenger vessel for SCUBA Diving Charter Service.”

Geographic Region: “Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, California, Hawaii.”

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, 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 (Volume 65, Number 70; Pages 19477–78).

Dated: January 22, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–1991 Filed 1–29–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0004]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel SANTANA.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD 2009 0004 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before March 2, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009 0004. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SANTANA is:

Intended Use: "Carrying up to 6 passengers, sailing instruction, and advertising on sails & hull."

Geographic Region: "New York Harbor, Hudson and East Rivers, and sailing areas in close proximity."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, 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 (Volume 65, Number 70; Pages 19477-78).

Dated: January 22, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9-1992 Filed 1-29-09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2009-0017 (PDA-34(R))]

Common Law Tort Claims Concerning Design and Marking of DOT Specification 39 Compressed Gas Cylinders

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: Interested parties are invited to comment on an application by AMTROL, Inc., for an administrative determination as to whether Federal hazardous material transportation law preempts State common law tort claims alleging that the manufacturer of DOT specification 39 compressed gas cylinders should have designed the cylinders to resist rusting over time and/or provided additional warnings of the potential rusting over time, beyond requirements in the Hazardous Materials Regulations (HMR) for the manufacture, marking, and labeling of these cylinders.

DATES: Comments received on or before March 16, 2009, and rebuttal comments received on or before April 30, 2009, will be considered before an administrative determination is issued by PHMSA's Chief Counsel. Rebuttal comments may discuss only those

issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and all comments received may be reviewed in the Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The application and all comments are available on the U.S. Government Regulations.gov Web site: <http://www.regulations.gov>.

Comments must refer to Docket No. PHMSA-2009-0017 and may be submitted to the docket in writing or electronically. Mail or hand deliver three copies of each written comment to the above address. If you wish to receive confirmation of receipt of your comments, include a self-addressed, stamped postcard. To submit comments electronically, log onto the U.S. Government Regulations.gov Web site: <http://www.regulations.gov>. Use the Search Documents section of the home page and follow the instructions for submitting comments.

A copy of each comment must also be sent to (1) Stephen J. Maassen, Esq., Hoagland, Fitzgerald, Smith & Pranaitis, P.O. Box 130, Alton, IL 62002, counsel for Amtrol, Inc., and (2) Rex Carr, Esq., The Rex Carr Law Firm, LLC, 412 Missouri Avenue, East St. Louis, IL 62201-3016, counsel for survivors and next of kin to Kenneth Elder, Jr. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: "I certify that copies of this comment have been sent to Mr. Maassen and Mr. Carr at the addresses specified in the **Federal Register**.")

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing a comment 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 (70 FR 19477-78), or you may visit <http://www.dot.gov>.

A subject matter index of hazardous materials preemption cases, including a listing of all inconsistency rulings and preemption determinations, is available through the home page of PHMSA's Office of Chief Counsel, at <http://phmsa.dot.gov/legal>. A paper copy of the index will be provided at no cost upon request to Mr. Hilder, at the address and telephone number set forth in **FOR FURTHER INFORMATION CONTACT** below.

FOR FURTHER INFORMATION CONTACT:

Frazer C. Hilder, Office of Chief Counsel (PHC-10), Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone No. 202-366-4400; facsimile No. 202-366-7041.

SUPPLEMENTARY INFORMATION:

I. Application for a Preemption Determination

AMTROL, Inc. has applied for a determination that Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts State common law tort claims relating to the design and marking or labeling of DOT specification 39 compressed gas cylinders. AMTROL contends that these common law tort claims impose requirements that are not substantively the same as requirements in the HMR for the design and marking or labeling of a cylinder that has been marked and certified as qualified for use in transporting hazardous material.

In its original application dated June 26, 2007, AMTROL stated that it was a defendant in a products liability lawsuit, *Elder v. AMTROL, Inc., et al.*, No. 042-08718, brought in the Circuit Court of the City of St. Louis, Missouri. According to AMTROL, a DOT specification 39 cylinder manufactured by AMTROL in 1995 had ruptured "on January 24, 2003, when Plaintiffs' decedent placed the rusted cylinder under 170 degree water." With its application, AMTROL provided a copy of the transcript of a deposition at which the Elders' expert witness testified (at p. 60) that "the bottom of the tank ruptured * * * as a result of the thinned and rusted area on the bottom of the tank." This witness testified (at pp. 63 and 64) that the cylinder "could be better designed to prevent rusting and corrosion and include warnings" and "at a minimum I would say there needs to be warnings for rust," even though he acknowledged (at p. 68) that the cylinder complied with the specification "as nearly as I can tell."

The Elders' expert witness also took the position (at p. 69) that the specification requirements in the HMR deal [] with the transportation of the container. [They do] not deal specifically with the use of the container after it's already in the hands of a technician. It's intended to be used for the transportation of the container with a hazardous material. So just because it meets this particular regulation doesn't mean it is necessarily safe, reasonably safe for its intended use.

In response to a question seeking his opinion of "what should be done * * *