TABLE OF 896–901/935–940 MHZ CHANNEL DESIGNATIONS—Continued

Channel No.	Base Frequency (MHz)
262	.2750
263	.2875
264	.3000
265	.3125
266	.3250
267	.3375
268	.3500
269	.3625
270	.3750
271	.3875
272	.4000
273	.4125
274	.4250
275	.4375
276	.4500
277	.4625
278	.4750
279	.4875
280	.5000
281	.5125
282	.5250
283	.5375
284	.5500
285	.5625
286	.5750
287	.5875
288	.6000
289	.6125
290	.6250
291	.6375
292	.6500
293	.6625
294	.6750
295	.6875
296	.7000
297	.7125
298	.7250
299	.7375
300	.7500
301	.7625
302	.7750
303	.7875
304	.8000
305	.8125
306	.8250
307	.8375
308	.8500
309	.8625
310	.8750
311	.8875
312	.9000
313	.9125
314	.9250
315	.9375
316	.9500
317	.9625
318	.9750
319	.9875
320	939.0000
321	.0125
322	.0250
323	.0375
324	.0500
325	.0625
326	.0750
327	.0875
328	.1000
329	.1125
330	.1250

TABLE OF 896–901/935–940 MHZ CHANNEL DESIGNATIONS—Continued

Channel No.	Base Frequency (MHz)
331	.1375
332	.1500
333	.1625
334	.1750
335	.1875
336	.2000
337	.2125
338	.2250
339	.2375
340	.2500
341	.2625
342	.2750
343	.2875
344	.3000
345	.3125
346	.3250
347	.3375
348	.3500
349	.3625
350	.3750
351	.3875
352	.4000
353	.4125
354	.4250
355	.4375
356	.4500
357	.4625
358	.4750
359	.4875
360	.5000
361	.5125
362	.5250
363	.5375
364	.5500
365	.5625
366	.5750
367	.5875
368	.6000
369	.6125
370	.6250
371	.6375
372	.6500
373	.6625
374	.6750
375	.6875
376	.7000
377	.7125
378	.7250
379	.7375
380	.7500
381	.7625
382	.7750
383	.7875
384	.8000
385	.8125
386	.8250
387	.8375
388	.8500
389	.8625
390	.8750
391	.8875
392	.9000
393	.9125
394	.9250
395	.9375
396	.9500
397	.9625
398	.9750
399	.9875

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–18698 Filed 9–27–05; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383 and 384

[Docket No. FMCSA–2005–21603]

RIN 2126–AA94

Commercial Driver's License Standards; School Bus Endorsement

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Interim final rule.

SUMMARY: FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSRs) to specify that a driver who passed knowledge and skills tests approved by the Agency for a Commercial Driver's License (CDL) school bus endorsement prior to September 30, 2002, meets the requirements of 49 CFR 383.123. FMCSA also amends the FMCSRs to provide that States have until September 30, 2006, to administer knowledge and skills tests that comply, to all school bus drivers. Finally, to conform with extension of the compliance date, the expiration date for allowing States to waive the driving skills test under 49 CFR 383.123(b) is extended to September 30, 2006. As a result of this interim rule, the 2-year exemptions for drivers in 11 States from the knowledge and skills testing requirement proposed in the FMCSA notice published July 14, 2005, are no longer necessary.

DATES: Effective September 28, 2005. Comments must be received by October 28, 2005.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FMCSA–2005–21603 by any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington,

DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number (FMCSA–2005–21603) or Regulatory Identification Number (RIN) for this rulemaking (RIN 2126–AA94). Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

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, (65 FR 19477) or you may visit *http://dms.dot.gov*.

Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable. FMCSA may, however, issue a final rule at any time after the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lamm, Chief, State Programs Division (MC–ESS), Federal Motor Carrier Safety Administration, 202–366–6830.

SUPPLEMENTARY INFORMATION:

Legal Basis for Rulemaking

The Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Pub. L. 9–570) established the commercial driver's license (CDL) program and directed the Secretary of Transportation to prescribe regulations establishing minimum standards which States must meet when licensing drivers of commercial motor vehicles (CMVs), as defined in 49 U.S.C. 31301.[1] Sec. 12005 of the CMVSA directed that these regulations must, among other things, prescribe minimum standards for written and driving tests of an individual operating a CMV (see 49 U.S.C. 31305). The regulations governing minimum testing and fitness standards for obtaining a CDL are contained in 49 CFR part 383.

Section 214 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106–159) directed the Secretary to establish, through rulemaking, a special CDL endorsement for drivers of school buses. At a minimum, this endorsement must include a driving skills test in a school bus, and address proper safety procedures for loading and unloading children, using emergency exits and traversing highway rail grade crossings (see 49 U.S.C. 31305 note). The regulations implementing section 214 of MCSIA are found at 49 CFR 383.123. As provided in 49 CFR 384.301, States must implement § 383.123 no later than September 30, 2005.

Section 4140(a) of the recently enacted Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU or the Act) (Pub. L. 10-59) requires the Secretary to ''* * * recognize any driver who passes a test approved by the Federal Motor Carrier Safety Administration as meeting the knowledge test requirement for a school bus endorsement under section 383.123 of title 49, Code of Federal Regulations.'' Because § 383.123 requires a driver to pass both knowledge and skills tests, FMCSA interprets the Act to require the Secretary to recognize any driver who passes approved knowledge and skills tests. As discussed in greater detail later in this interim final rule, section 4140 was enacted in response to FMCSA's previous determination that a driver who passed a State's knowledge and skills tests before the September 30, 2002, effective date of § 383.123, would not be in compliance with that section, even if the tests were compatible with the Federal standards. Section 4140(a) overrides FMCSA's determination and eliminates the need for States to retest drivers who passed State knowledge and skills tests before September 30, 2002, that FMCSA determines are compatible with § 383.123.

Section 4140(b) of the Act was enacted in response to requests to Congress from interested parties, including the States, to extend the compliance date for meeting the Federal testing requirement from September 30, 2005, to September 30, 2006. Currently section 383.123(b) permits States to waive the driving skills test requirement for currently-licensed school bus drivers who meet certain conditions. However, this provision expires on September 30, 2005. Because this sunset date for waiving the skills tests is part of the testing provisions of § 383.123, FMCSA interprets this section of the Act as also having extended the sunset date of § 383.123(b) from September 30, 2005, to September 30, 2006.

This interim final rule implements section 4140 of SAFETEA–LU. FMCSA issues this interim rule without prior notice and opportunity to comment under section 4 of the Administrative Procedure Act (APA) [5 U.S.C. 553(b)]. Section 4 of the APA allows the Agency to issue a final rule without notice and opportunity to comment when the agency, for good cause, finds that notice and comment procedures are ''impracticable, unnecessary or contrary to the public interest.'' Prior notice and opportunity to comment are impracticable for this interim final rule because Congress directed, in section 4140, that States be given until September 30, 2006, to comply with 49 CFR 383.123, rather than September 30, 2005. Therefore, it is necessary to implement the regulatory changes required by section 4140 before October 1, 2005, to specify that States have an additional year to comply with § 383.123. Because of the need for expedited action, FMCSA finds that providing prior notice and opportunity for public comment under 5 U.S.C. 553(b) is impracticable and contrary to the public interest. Furthermore, because the regulatory changes made by this rule must take effect by no later than September 30, 2005, FMCSA finds there is good cause to make this rule effective upon publication, in accordance with APA provisions found at 5 U.S.C. 553(d).

Background

MCSIA included 17 new provisions aimed at improving the overall effectiveness of the CDL program. Section 214 of MCSIA, codified at 49 U.S.C. 31311(a), directed FMCSA to establish a special CDL endorsement for drivers of school buses. The endorsement is to, at a minimum, include:

1. A driving skills test conducted in a school bus; and

2. A knowledge test that addresses proper safety procedures for—

a. Loading and unloading children;

b. Using emergency exits; and

c. Traversing highway rail grade crossings.

A final rule implementing most of the MCSIA provisions, including the school bus endorsement, was published on July

[1] As pertinent to this rulemaking, a CMV is a motor vehicle used in commerce that is designed to transport at least 16 passengers, including the driver. See 49 U.S.C. 31301(4)(B).

31, 2002, [67 FR 49742] and became effective on September 30, 2002.

Under 49 CFR 384.301(b), States were allowed up to 3 years after the effective date of the regulation to implement the new CDL requirements. Thus, by September 30, 2005, each State was required to pass enabling legislation or issue regulations, as necessary, and begin enforcing the new provisions, including the school bus (''S'') endorsement. States that failed to meet the deadline would be considered ''not in substantial compliance'' with 49 U.S.C. 31311(a) and subject to the loss of highway grant funds, in accordance with 49 CFR part 384, subpart D.

FMCSA worked with States to determine whether their tests would be in compliance with the new school bus endorsement requirement. An example of these efforts is documented by the October 22, 2004, letter to Ohio approving its CDL school bus tests as meeting the requirements of § 383.123. The letter clearly points out that FMCSA approval applies only to drivers who took the tests on or after September 30, 2002. A copy of the letter to Ohio is in the docket for this rulemaking.

At the annual American Association of Motor Vehicle Administrators (AAMVA)/FMCSA co-sponsored meeting for CDL coordinators from all States, held in December 2004, FMCSA was asked to explain more details about the school bus endorsement requirement. FMCSA explained that because § 383.123 sets current and future requirements, tests administered before the rule took effect could not be recognized as complying with the rule. Therefore, every current school bus driver was required to take and pass the tests required by § 383.123 on or after September 30, 2002. Drivers who passed otherwise compatible State tests before September 30, 2002, would have to be retested before September 30, 2005, if the States were to remain in substantial compliance under 49 CFR part 384.

Subsequently, Ohio wrote to FMCSA expressing its disagreement with FMCSA's position that only school bus drivers who had passed the State's FMCSA approved test on or after September 30, 2002, could be issued an ''S'' endorsement. Ohio was unhappy about the costs associated with retesting drivers who had passed an approved test, particularly because it did not see how the retesting requirement contributed to safety. A copy of Ohio's letter to FMCSA is in the docket for this rulemaking. Other States also advised FMCSA that they needed an alternative to reduce the near-term burden on those States that previously administered compatible knowledge and skills tests to drivers, and who did not require such drivers to retake the knowledge and skills tests for the school bus endorsement when they last renewed their CDLs.

Two separate actions were initiated to mitigate the potential adverse impact on school bus operations for the fall of 2005. First, based on expressions from State representatives at the AAMVA meeting, the letter from Ohio and similar expressions from other States, FMCSA began a process to grant 2-year exemptions from testing requirements for school bus drivers who had passed tests compatible with FMCSA's requirements before September 30, 2002. Second, several interested parties, including the States, the National Education Association, and the school bus transportation industry requested Congress to grant authority for FMCSA to accept certain tests administered prior to September 30, 2002, and to extend the September 30, 2005, compliance date for issuing school bus CDL endorsements for all States, as part of the transportation reauthorization bill (subsequently SAFETEA–LU).

FMCSA initiated its effort to offer 2-year exemptions to drivers through a memorandum to all FMCSA Division Administrators, dated March 25, 2005, signed by William Paden, Associate Administrator for Enforcement and Program Delivery. That memorandum and the FMCSA response to Ohio based on this initiative are in the docket for this rulemaking.

Each Division Administrator was to notify his or her State that the State could apply on behalf of its drivers for 2-year exemptions from the retesting requirement. If the State wished to do so, it was to submit copies of its tests administered before September 30, 2002, including what was the minimum allowed passing test score. FMCSA would review the tests and determine whether the tests were compatible. A determination of whether exemptions would be granted to the drivers would be made according to the procedures of Part 381, Subpart C—Procedures for Applying for Exemptions. Sixteen States responded to that announcement.

Tests submitted by three States were not deemed to meet the new requirements of § 383.123, and two States withdrew their tests from consideration. Thus, tests for school bus drivers that were administered by 11 States prior to September 30, 2002, were determined by FMCSA to meet the requirements of the current regulations. The State submissions also provided a measure of the number of school bus CDL drivers who would need to be retested absent the proposed exemption.

FMCSA proposed in a July 14, 2005, notice [70 FR 40779] to grant 2-year exemptions to the approximately 170,000 drivers identified by these 11 approved States. The applications in response to the FMCSA initiative, from the 11 approved States, are in the docket for this rulemaking. Even with the proposed 2-year exemption for those drivers, they would have been required to be retested by the end of the 2-year exemption period.

The 11 States whose tests administered before September 30, 2002 were recognized by FMCSA as meeting Federal regulations are: Alabama, Delaware, Illinois, Minnesota, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, and Wisconsin. These States required applicants to take a skills test in a school bus of the same vehicle group as the vehicle the applicant intended to drive. They also used school bus knowledge tests that incorporated the three topics required by § 383.123:

1. Loading and unloading children, including the safe operation of stop signals, external mirror systems, flashing lights and other warning devices and passenger safety devices required for school buses by State or Federal law or regulation.

2. Emergency exits and procedures for safely evacuating passengers in an emergency.

3. State and Federal laws and regulations related to safely traversing highway rail grade crossings.

All comments to the docket for the July 14, 2005, notice supported the proposed exemption. The commenters also pointed out that unless some form of relief, such as the driver exemptions in the proposed notice, was granted to their State from the September 30, 2005, compliance retesting deadline, school bus operations would experience major driver shortage problems beginning the first school day in October 2005.

A second initiative took place at the same time. Several interested parties including the States, the National Education Association, and the school bus transportation industry, also requested Congress to: (1) Clarify that tests administered before September 30, 2002 that complied with FMCSA standards meet the compliance provisions of the CDL school bus endorsement; and (2) extend the compliance date for the school bus endorsement requirement.

In response to the first part of their request, Congress enacted section 4140(a) of SAFETEA–LU directing the Secretary to recognize any driver who passes a test approved by FMCSA as meeting the knowledge test requirement

for a school bus endorsement under 49 CFR 383.123. Because § 383.123 requires both knowledge and skills tests, FMCSA believes Congress intended to give FMCSA the authority to accept FMCSA-approved knowledge *and skills* tests administered prior to September 30, 2002, as being in compliance with § 383.123. This is the interpretation FMCSA is adopting today in this IFR. Therefore, 2-year exemptions for such drivers in the 11 approved States are no longer necessary or appropriate.

Additionally, in response to the second part of their request, section 4140(b) requires that all States be given an additional year to fully implement 49 CFR 383.123. Therefore, the compliance date in § 384.301(b) for full implementation and enforcement of the requirements in 49 CFR 383.123 is extended to September 30, 2006. Because § 383.123(b)(3), which includes a sunset date for waiving the skills test, is explicitly tied to the compliance date of September 30, 2005, FMCSA believes Congress also intended that the sunset date be extended to September 30, 2006. This is the interpretation FMCSA is adopting today in this IFR.

The provisions of this IFR, as directed by section 4140 of SAFETEA–LU, provide the required relief cited by the States in the docket, and thus avoids any adverse impact on school bus driver availability beginning the first school day in October 2005.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA determined this action is a not a significant regulatory action according to Executive Order 12866, and is not significant within the meaning of Department of Transportation regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 26, 1979). This rule implements congressionally-mandated changes, including acceptance of approved knowledge and skills tests administered prior to September 30, 2002, for CDL school bus endorsements, and States are provided an additional year to finish administering such knowledge and skills tests to school bus drivers. There are no new costs imposed on the States.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), requires Federal agencies to analyze the impact of rulemakings on small entities, unless the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The Agency certifies that this interim final rule does not have a significant economic impact on a substantial number of small entities. This rule does not impose any additional costs or burdens on school bus companies or local governments. A brief analysis of the impact of this rule on small entities has been placed in the docket for this rulemaking.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; 2 U.S.C. 1532) requires each agency to assess the effects of its regulatory actions on State, local, and tribal governments and the private sector. The Act requires that any agency promulgating a final rule likely to result in a Federal mandate requiring expenditures by a State, local, or tribal government or by the private sector of $100 million or more in any one year must prepare a written statement incorporating various assessments, estimates, and descriptions that are delineated in the Act. The Department of Transportation uses a threshold value of $120.7 million, which is the value of $100 million 1995 dollars inflated to 2003 dollars. FMCSA has determined that the changes in this rulemaking will not have an impact of $120.7 million or more in any one year.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (April 23, 1997, 62 FR 19885), requires that agencies issuing ''economically significant'' rules that also have an environmental health or safety risk that an agency has reason to believe may disproportionately affect children must include an evaluation of the environmental health and safety effects of the regulation on children. Section 5 of Executive Order 13045 directs an agency to submit for a ''covered regulatory action'' an evaluation of its environmental health or safety effects on children. The agency has determined that this rule is not a ''covered regulatory action'' as defined under Executive Order 13045.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

Congress initially mandated establishment of CDL school bus endorsements in MCSIA. Congress most recently, in section 4140 of SAFETEA–LU, mandated that FMCSA-approved tests given before September 30, 2002, be accepted as meeting the requirement for a school bus endorsement, and that States be given an additional year to meet the school bus endorsement requirement of MCSIA. There are no new Federalism impacts associated with this rulemaking's implementation of the Congressional mandate.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires Federal agencies to obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. FMCSA has determined that the changes in this interim final rule will not change any of the existing information collection requirements.

National Environmental Policy Act

The agency analyzed this Interim Final Rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1, published March 1, 2004 in the **Federal Register** (69 FR 9680), that this action is categorically excluded (CE) under Appendix 2, paragraph 6.s (6) of the Order from further environmental documentation. That CE relates to establishing regulations and actions taken pursuant to these regulations that concern requirements for States to give knowledge and skills tests to all qualified applicants for commercial driver's licenses. In addition, the agency believes that the action includes no extraordinary circumstances that would have any effect on the quality of the environment. Thus, the action does not

require an environmental assessment or an environmental impact statement.

We have also analyzed this proposed rule under the Clean Air Act, as amended (CAA) section 176(c), (42 U.S.C. 7401 *et seq.*) and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's General conformity requirement since it involves rulemaking and policy development and issuance. See 40 CFR 93.153(c)(2). It would not result in any emissions increase nor would it have any potential to result in emissions that are above the general conformity rule's *de minimis* emission threshold levels. Moreover, it is reasonably foreseeable that the rule would not increase total CMV mileage, change the routing of CMVs, how CMVs operate, or the CMV fleet-mix of motor carriers. This action merely clarifies procedures and extends compliance dates for CDL school bus operators obtaining a school bus endorsement on their CDL.

Executive Order 13211 (Energy Supply, Distribution, or Use)

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. This action is not a significant energy action within the meaning of section 4(b) of the Executive Order because it is not economically significant and not likely to have a significant adverse effect on the supply, distribution, or use of energy. Additionally, the Administrator of the Office of Information and Regulatory Affairs has not designated this rule as a significant energy action. For these reasons, a Statement of Energy Effects under Executive Order 13211 is not required.

List of Subjects

49 CFR Part 383

Administrative practice and procedure, Highway safety, and Motor carriers.

49 CFR Part 384

Administrative practice and procedure, Highway safety, and Motor carriers.

■ In consideration of the foregoing, FMCSA amends title 49, Code of Federal Regulations chapter III, subchapter B, as set forth below.

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

■ 1. The authority citation for 49 CFR part 383 is revised to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.*, 31502; sec. 214 of Pub. L. 106–159, 113 Stat. 1766, 1767; sec. 1012(b) of Pub. L. 107–56, 115 Stat. 397; sec. 4140 of Pub. L. 10-59, 119 Stat. 1144; and 49 CFR 1.73.

■ 2. Amend § 383.123 by adding a new paragraph (a)(4), and revising paragraph (b)(3) to read as follows:

§ 383.123 Requirements for a school bus endorsement.

(a) * * *

(4) *Exception.* Knowledge and skills tests administered before September 30, 2002 and approved by FMCSA as meeting the requirements of this section, meet the requirements of paragraphs (a)(2) and (a)(3) of this section.

(b) * * *

(3) After September 30, 2006, the provisions in paragraph (b) of this section do not apply.

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 3. The authority citation for part 384 is revised to read as follows:

Authority: 49 U.S.C. 31136, 31301 *et seq.*, 31502; sec. 103 of Pub. L. 106–159, 113 Stat. 1753, 1767; sec. 4140 of Pub. L. 10-59, 119 Stat. 1144; and 49 CFR 1.73.

■ 4. Section 384.301 is amended by revising paragraph (b) to read as follows:

§ 384.301 Substantial compliance-general requirements.

* * * * *

(b)(1) A State must come into substantial compliance with the requirements of subpart B of this part in effect as of September 30, 2002 as soon as practical, but, unless otherwise specifically provided in this part, not later than September 30, 2005.

(2) *Exception.* A State must come into substantial compliance with 49 CFR 383.123 not later than September 30, 2006.

Issued on: September 20, 2005.

Annette M. Sandberg,

Administrator.

[FR Doc. 05–19292 Filed 9–27–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 050922245–5245–01; I.D. 092005A]

RIN 0648–AT89

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 from the Florida/Alabama border, westward to the boundary of Cameron Parish, Louisiana (approximately 92° 37′ W. long.), and extending offshore 50 nautical miles. This action is necessary because environmental conditions resulting from Hurricane Katrina are preventing some fishermen from using TEDs effectively.

DATES: Effective from September 23, 2005 through October 24, 2005.

ADDRESSES: Requests for copies of the Environmental Assessment on this action should be addressed to the Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

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 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,