

*Executive Order 12612*

In accordance with Executive Order 12612, the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This final rule does not impose any obligations on any other Government nor preempt any regulatory authority of any State.

*Executive Order 12988*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act*

The information required by these regulations is the same as the information required by the In-Kind Crude Helium Sales Contracts. The information collections contained in the In-Kind Crude Helium Sales Contracts have been approved by OMB under Approval No. 1004-0179 which expires May 31, 2001. The In-Kind Crude Helium Sales Contracts require Federal helium suppliers and Federal agencies to which the Federal helium suppliers sell the helium to provide specific information to BLM.

*National Environmental Policy Act*

This final rule does not constitute a major Federal action significantly affecting the quality of the human environment. However, BLM has prepared an Environmental Assessment (EA) in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). BLM has placed the EA and Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified previously.

**Author.** The principal author of this final rule is Shirlean Beshir, Regulatory Affairs Group, Room 401LS, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240; Telephone: (202) 452-5033 (Commercial or FTS).

**List of Subjects***30 CFR Part 602*

Government contracts, helium, reporting and recordkeeping requirements.

*43 CFR Part 3195*

Government contracts, mineral royalties, oil and gas exploration, public lands-mineral resources, reporting and recordkeeping requirements, and surety bonds.

Dated: November 23, 1998.

**Sylvia V. Baca,**

*Acting Assistant Secretary, Land and Minerals Management.*

Accordingly, under the authority of 5 U.S.C. 301 and for the reasons stated above, BLM adopts without change as a final rule the interim rule that removed 30 CFR Chapter VI, Part 602; and added 43 CFR Chapter II, Part 3195, which was published at 63 FR 40175, on July 28, 1998.

[FR Doc. 98-31850 Filed 12-2-98; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. NHTSA-98-4807]

RIN 2127-AF51

**Federal Motor Vehicle Safety Standards; Compressed Natural Gas Fuel Containers**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This final rule deletes the material and manufacturing process requirements in the standard on compressed natural gas fuel container integrity. The agency believes that this amendment will facilitate technological innovation, without adversely affecting safety.

**DATES:** This final rule is effective January 4, 1999. Petitions for Reconsideration must be received by January 19, 1999.

**ADDRESSES:** Petitions should refer to the docket number of this rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 7th Street, SW, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues: Mr. Charles Hott, NPS-12, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (Telephone 202-366-0247) (FAX 202-366-4329).

For legal issues: Ms. Nicole H. Fradette, NCC-20, Rulemaking Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (Telephone 202-366-2992) (FAX 202-366-3820).

**SUPPLEMENTARY INFORMATION:****I. Background**

Federal Motor Vehicle Safety Standard No. 304, Compressed natural gas fuel container integrity, serves to reduce the risk of deaths and injuries occurring from fires resulting from fuel leakage during and after motor vehicle crashes. The Standard was patterned after the American National Standards Institute's (ANSI's) voluntary industry standard known as ANSI/NGV2 and developed by the Natural Gas Vehicle Coalition (NGVC). Standard No. 304 specifies detailed material and manufacturing process requirements for different types of CNG containers, including those made with aluminum alloys. The Standard also specifies burst, bonfire, and pressure cycling tests for the purpose of ensuring the durability, initial strength, and venting of CNG containers.

- The burst test evaluates a container's initial strength and resistance to degradation over time by specifying, for each type of container, a unique safety factor for determining the internal hydrostatic pressure that the container must withstand during the burst test. This requirement helps to ensure that a container's design and selected material are sufficiently strong over the life of the container.

- The bonfire test evaluates a container's pressure relief characteristics when pressure builds up in a container, primarily due to an increase in temperature.

- Finally, the pressure cycling test evaluates a container's durability by requiring a container to withstand without leakage, 18,000 cycles of pressurization and depressurization. This requirement helps to ensure that a CNG container is capable of sustaining the cycling loads imposed on the container during refueling over its entire service life.

In addition, the Standard specifies labeling requirements for CNG fuel containers.

Standard No. 304 specifies certain material and manufacturing characteristics for aluminum containers using alloy 6010 and alloy 6061, based on the specifications set forth in ANSI/NGV2. The material characteristics specify the percentage of various elements, including magnesium, silicon, copper, and manganese. On November 24, 1995, NHTSA issued a final rule amending the labeling and the bonfire test requirements in Standard No. 304, Compressed Natural Gas fuel container integrity. In the final rule, the agency decided to defer consideration of two

rulemaking petitions to add additional aluminum alloys to Standard No. 304, until the new version of the ANSI/NGV industry standard was issued. Northwest Aluminum Association requested that the standard be amended to add 6069 aluminum alloy, and Luxfer requested the addition of 7032 aluminum alloy. In explaining its decision to defer consideration of the petitions, the agency noted that the new ANSI/NGV2 industry standard may not specify CNG fuel container material and may be more performance-oriented than the current version, thereby allowing manufacturers more flexibility to improve container design with respect to cost and performance. The agency also noted that adopting some of the new provisions of the revised voluntary industry standard may eliminate the need to amend the standard to allow the use of two new aluminum alloys in CNG containers.

## II. Summary of NPRM

In a May 30, 1997 notice of proposed rulemaking (NPRM), NHTSA proposed amending Standard No. 304 to eliminate the Standard's detailed material and manufacturing process requirements. The agency explained it had tentatively determined that CNG fuel container manufacturers should be allowed to use materials other than those materials currently listed in the standard. NHTSA explained that such an amendment would provide manufacturers with the flexibility to design lighter weight, higher capacity fuel containers using the latest innovations, without having to petition the agency to amend the standard each time a new material or manufacturing process is developed.

The agency also noted that the proposal to remove the material and manufacturing requirements was consistent with the proposed revision to ANSI/NGV, which removed many of the design restrictions that were in the 1992 version of NGV2 on which Standard No. 304 was initially modeled. In October 1996, the ANSI committee working on the revised standard completed its revisions and sent the revised document to its members for review. The proposed revision of ANSI/NGV2 removed many of the detailed material and manufacturing restrictions, but retained the impurity limits for certain materials. NHTSA explained that it understood that although the industry had not reached a consensus with respect to certain environment testing procedures, the industry had tentatively agreed to eliminate the material and manufacturing requirements.

NHTSA also stated it believed that eliminating the material and

manufacturing process requirements would have no detrimental affect on safety. The agency explained that Standard No. 304's performance requirements, including those requirements that evaluate initial strength and resistance to degradation over time, would still apply to CNG containers. Thus, CNG container manufacturers would have to comply with the standard's pressure cycling, burst, and bonfire tests. NHTSA further explained that such containers would be subject to recall if they failed for any reason, including the degradation of material.

NHTSA proposed deleting the following sections from the standard:

- Section S5.2 *Material designations*. This section specifies the material requirements for the various types of CNG fuel containers.
- Section S5.3 *Manufacturing processes for composite containers*. This section specifies the manufacturing process for each type of composite CNG fuel container.
- Section S5.4 *Wall thickness* and Section S5.5 *Composite Reinforcement for Type 2, Type 3, and Type 4 containers*. These sections contain the design criteria for specifying the wall thicknesses and stresses for each type of CNG fuel container. These sections also specify procedures for designing CNG fuel container walls along with the theoretical formula for calculating maximum wall stress.
- Section S5.6 *Thermal Treatment*, and S5.7 *Yield Strength*. These sections contain detailed manufacturing process requirements for chrome-moly and carbon-boron steels, including specifying the temper temperatures for each steel.

In June 1998, ANSI published the new ANSI/NGV2 industry standard. The new standard is similar to the proposed standard in that much of the design restrictive language has been removed. ANSI/NGV2 now specifies that the material composition for steels should be known and defined by at least the contents of certain elements such as carbon, manganese, aluminum and the other alloying elements that are added to enhance the material properties. For aluminum, ANSI/NGV2 simply states that it should be in line with the Aluminum Association's practice and the 6xxx series with yield strengths above 250 MPa should not be used. It also specifies impurity limits for steels and aluminums.

## III. Summary of Comments

Eight comments were submitted in response to the NPRM from the following companies/organizations: Chrysler Corporation (Chrysler), General Motors (GM), Gas Technology Canada (GTC), the Natural Gas Vehicle Coalition (NGVC), Lincoln Composites (Lincoln), Pressed Steel Tank Co. (PST), Structural

Composites Industries (SCI), and New York City Transit (NY Transit).

Chrysler, GM, and GTC supported the proposed rule. Chrysler and GM stated that deleting the material and manufacturing process requirements would facilitate technological innovation without reducing safety. GTC stated that CNG containers sold in Canada that are manufactured from at least four material types that are not offered for sale in the United States have performed well in service. GTC cautioned, however, that additional performance tests might be needed to prevent in-service failures. Chrysler also commented that S7.2.2 of Standard No. 304 refers to S5.5.1, which is proposed for deletion, and suggested that S7.2.2 be revised accordingly.

NGVC and Lincoln also supported NHTSA's efforts to facilitate technological innovation, but were concerned that deletion of the material performance requirements without including the additional tests from the draft revision of ANSI/NGV2 industry standard, could lead to a serious safety problem. The latest draft standard, while deleting many of the specific material design requirements, includes the following three enhanced material performance test requirements:

1. Sulfide stress cracking resistance of high strength steels using the methods of NACE Standard TM0177-90;
2. Sustained load cracking for aluminum alloys in accordance with Annex D of ISO/DIS 7866; and
3. Intercrystalline corrosion and stress corrosion tests for aluminum alloys in accordance with Annex A of ISO/DIS 7866.

NGVC stated that these tests are needed to ensure the integrity of the materials that were previously excluded by the standard while Lincoln argued that these requirements were needed to reduce the risk of in-service leakage or rupture and inadequate shear strength of resins over the life of the CNG container. NGVC argued that NHTSA should retain Standard No. 304's current requirements until the industry's revision of ANSI/NGV2 is complete. Lincoln argued that NHTSA should simply amend Standard No. 304 to include the materials requested by Northwest Aluminum Association and Luxfer, aluminum alloys 6069 and 7032 respectively, rather than delete the material and manufacturing requirements.

PST supported removing the thermal treatment, wall thickness, and manufacturing process requirements from the standard, but argued that the standard should continue to limit materials to specific alloys and reinforcing fibers. PST argued that most

CNG container failures occurred because the CNG manufacturer used materials with insufficient toughness, damage tolerance, long term stability and environmental resistance. PST argued that a single safety factor cannot protect against such material deficiencies. PST further claimed that high-strength aluminum alloys were originally excluded from Standard No. 304 because of their susceptibility to sustained load cracking (SLC) and stress corrosion cracking (SCC). PST noted that the draft ISO/DIS 7866 standard, which is included in the proposed revision to NGV2, includes material tests intended to exclude SLC and SCC susceptible materials. PST argued that NHTSA should evaluate the SLC, SCC and accelerated stress rupture tests, and amend the standard to include these tests, as well as a resistance to impact requirement. Finally, PST asserted that the agency must address the potential failure modes of organic reinforcing fibers, stainless steels, copper alloys and other materials, if the agency is going to permit the use of these materials. PST stated that the time and the cost involved with developing adequate performance tests for all of these materials was high and any resulting economic benefits questionable.

SCI opposed the proposed rule and argued that Standard No. 304's current performance tests are insufficient to prevent time related failures resulting from corrosion, stress rupture, viscoelastic yielding, and aging. SCI stated that the small sample size and short time period involved with testing made it too difficult and complex to test for such time related failures. SCI also argued that the history of CNG fuel containers demonstrated that the standard's current test requirements were insufficient to prevent catastrophic failures, such as battery fluid field failures occurring from in-service abuse or impact damage from roadway debris.

While New York City Transit stated that it did not oppose the proposed changes, it did express concern that Standard No. 304 is insufficient to prevent CNG container failures. NYCT's concern is based on the fact that nearly six percent of one model of CNG fuel containers produced by a particular manufacturer has experienced failures after only a few years in service. NYCT stated that 31 of its CNG transit buses were equipped with these containers and that it was unable to retrofit the containers because the manufacturer is out of business.

#### IV. Agency Decision

The agency is deleting the material and manufacturing process

requirements from Standard No. 304 and amending S7.2.1 and S7.2.2 of the standard to eliminate any reference to those requirements. NHTSA believes that the deletion of these requirements will facilitate technological innovation without having an adverse affect on safety.

For the following reasons, the agency is not replacing the deleted requirements with other requirements, as suggested by some commenters. First, the agency has concluded that Standard No. 304's current testing requirements—pressure cycling, burst, and bonfire—are sufficient to ensure an appropriate level of safety for CNG fuel containers. The tests indirectly ensure that the containers are manufactured using appropriate materials and wall thicknesses. The agency believes, therefore, that the Standard's design and material requirement are unnecessary and restrict the ability of manufacturers to use the latest technology in manufacturing CNG fuel containers.

Second, NHTSA has no evidence indicating the existence of a safety problem that would be addressed by including additional tests, such as those contained in the proposed NGV2 revision, in the Standard.<sup>1</sup> NHTSA knows of six CNG fuel container ruptures that have occurred since 1993. According to a safety bulletin published by the Gas Research Institute in October 1996, all six ruptures could have been prevented if appropriate precautions had been taken. Mishandling, misuse, and improper placement and maintenance of the CNG fuel containers caused the failures. In four of the cases, the CNG fuel container did not have a shield surrounding it to protect it from impact damage. A vehicle design change would address this problem. In the other two cases, the CNG fuel containers ruptured after prolonged exposure to acidic fluids. In those two cases, the shielding surrounding the CNG fuel containers lacked adequate drainage. Consequently, acidic fluids accumulated in the area beneath the containers and damaged the CNG fuel containers. NHTSA believes that the proper placement and shielding of the CNG fuel containers along with a periodic inspection of the container, as directed by the CNG fuel containers label, could have prevented these

<sup>1</sup>The agency notes that while several of the commenters stated that NHTSA should amend Standard No. 304 to require additional tests to prevent in-service failures of CNG containers, none provided evidence indicating the existence of a safety problem with in-service failures that was not addressed by the Standard's current tests and would be addressed by the inclusion of additional tests.

failures. None of the additional testing provisions in the new ANSI/NGV2 industry standard would have prevented these cylinder failures. The agency, therefore, does not believe that inclusion of the additional tests is necessary.

Finally, NHTSA agrees with the comments of SCI that testing for such time related failures as corrosion, stress rupture, viscoelastic yielding, and aging may be impracticable due to the small sample size and short time period involved with testing. Thus, even if there were a safety problem that could not be addressed by the standard's current testing requirements, NHTSA believes it would be inappropriate to require these particular tests given the current uncertainty concerning their effectiveness.

The agency does not believe that manufacturers will fail to exercise care in selecting appropriate materials to manufacture CNG containers. NHTSA does, however, stress that any CNG fuel containers that might be found in the future to have an unanticipated safety related failure would be subject to recall. NHTSA, therefore, will continue to monitor the performance of CNG fuel containers closely and should a safety problem arise, NHTSA will take the appropriate regulatory or enforcement action.

While NHTSA understands NYCT's concern that one particular model of CNG containers leaked an excessive amount of gas after only a few years in service, NHTSA notes that a defective manufacturing process, unique to the particular manufacturer, rather than a defective design, was the cause of these failures. No other CNG containers experienced such failures.<sup>2</sup> Neither the Standard as currently drafted nor as revised by this notice would have prevented the failure of this particular model of CNG fuel container.

#### V. Effective Date

The statute under which the agency conducts its vehicle safety rulemaking requires that each order (i.e., final rule) take effect no sooner than 180 days from the date the order is issued unless good cause is shown that an earlier effective date is in the public interest. In the NPRM, NHTSA tentatively concluded that there was good cause not to provide the 180 day lead time since the proposed amendment would delete certain requirements and have no mandatory effect on manufacturers.

<sup>2</sup>The agency notes that the manufacturer of these six containers went out of business and that other transit fleets who had purchased the faulty containers retrofitted their buses with new CNG containers.

NHTSA, therefore, proposed a 30 day effective date and sought comment on whether that date was appropriate or whether more lead time was necessary. No comments were submitted opposing the proposed effective date. NHTSA has, therefore, determined that there is good cause for an effective date 30 days after publication of the final rule.

## VI. Rulemaking Analyses and Notices

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

This final rule was reviewed under E.O. 12866. NHTSA has analyzed this rule and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. This final rule allows manufacturers to use materials other than those materials currently listed in Standard No. 304. This rulemaking action will provide manufacturers with the flexibility to design lighter weight, higher capacity fuel containers. The performance requirements in Standard No. 304 are met by CNG fuel container manufacturers, who produce and test containers in accordance with ANSI/NGV2. A full regulatory evaluation is not required because the rule will not significantly affect costs or benefits.

### *Regulatory Flexibility Act*

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I hereby certify that the final rule would not have a significant economic impact on a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The final rule primarily affects manufacturers of CNG containers. The Small Business Administration's size standards (13 CFR Part 121) are organized according to Standard Industrial Classification Codes (SIC). SIC Code 3714 "Motor Vehicle Parts and Accessories" has a small business size standard of 750 employees or fewer.

The agency believes that this final rule will not have a significant

economic impact on a substantial number of small businesses because the manufacturers of CNG containers currently manufacture according to the ANSI/NGV2 industry standard, and this rulemaking is consistent with those requirements. NHTSA has stated that this final rule deletes certain requirements and does not require any CNG container design changes. The changes will not affect the cost of new CNG containers.

### *Paperwork Reduction Act*

NHTSA has analyzed this rule under the Paperwork Reduction Act of 1995 (Pub. L. 104-13) and determined that it will not impose any information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320.

### *National Environmental Policy Act*

Finally, the agency has considered the environmental implications of this final rule in accordance with the National Environmental Policy Act of 1969 and determined that it will not significantly affect the human environment.

### *The Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. Annual expenditures from this final rule will not exceed the \$100 million threshold.

### *Executive Order 12612 (Federalism)*

The agency has analyzed this rule in accordance with the principles and criteria set forth in Executive Order 12612. NHTSA has determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### *Civil Justice Reform*

This rule has no retroactive effect. NHTSA is not aware of any state law

that would be preempted by this rule. This rule does not repeal any existing Federal law or regulation. It modifies existing law only to the extent that it deletes the material and manufacturing process requirements in Standard No. 304, Compressed natural gas fuel container integrity. This rule does not require submission of a petition for reconsideration or the initiation of other administrative proceedings before a party may file suit in court.

### **List of Subjects in 49 CFR Part 571**

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, the agency is amending part 571 of title 49 of the Code of Federal Regulations as follows:

### **PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

1. The authority citation for part 571 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50

2. Section 571.304 is amended by removing S5.2 through S5.7.3 and by revising S7.2, S7.2.1, and S7.2.2 to read as follows:

#### **§ 571.304 Standard No. 304; Compressed natural gas fuel container integrity.**

\* \* \* \* \*

#### **S7.2 Hydrostatic burst test.**

S7.2.1 Each Type 1 CNG fuel container shall not leak when subjected to burst pressure and tested in accordance with S8.2. Burst pressure shall not be less than 2.25 times the service pressure for non-welded containers and shall not be less than 3.5 times the service pressure for welded containers.

S7.2.2 Each Type 2, Type 3, or Type 4 CNG fuel container shall not leak when subjected to burst pressure and tested in accordance with S8.2. Burst pressure shall not be less than the value specified in Table 1 times the service pressure, as follows:

TABLE 1.—STRESS RATIOS

Material	Type 2	Type 3	Type 4
E-Glass .....	2.65	3.5	3.5
S-Glass .....	2.65	3.5	3.5
Aramid .....	2.25	3.0	3.0
Carbon .....	2.25	2.25	2.25

Issued on: November 23, 1998.

**Ricardo Martinez,**

Administrator.

[FR Doc. 98-31773 Filed 12-2-98; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 217 and 227

[Docket No. 950427117-8292-05; I.D. 112398G]

RIN 0648-AH97

#### Sea Turtle Conservation; Shrimp Trawling Requirements

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

**ACTION:** Temporary rule; request for comments.

**SUMMARY:** NMFS notifies fishermen that it has renewed the authorization for shrimp trawlers to use limited tow times as an alternative to the otherwise required use of Turtle Excluder Devices (TEDs) in the inshore waters of Mississippi. Its previous authorization expired on November 23, 1998. NMFS also has extended the same authorization in Alabama inshore waters which otherwise would expire December 1, 1998 (63 FR 62959, November 10, 1998). The intent of this action is to provide adequate protection for threatened and endangered sea turtles when debris conditions may make TED-use impracticable.

**DATES:** The renewal and the extension are both effective from November 30, 1998 through December 30, 1998. Comments on this notification are requested and must be received by December 30, 1998.

**ADDRESSES:** Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Oravetz, 727-570-5312, or Barbara A. Schroeder, 301-713-1401.

#### SUPPLEMENTARY INFORMATION:

##### Background

All sea turtles that inhabit 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*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take of these species, as a result of shrimp trawling activities, has been documented in the Gulf of Mexico and along the Atlantic. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 227.72. Existing sea turtle conservation regulations (50 CFR part 227, subpart D) require most shrimp trawlers operating in the Gulf and Atlantic areas to have a NMFS approved TED installed in each net rigged for fishing, year-round.

The regulations 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 227.72(e)(3)(ii) specify that the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), may authorize "compliance with tow time restrictions as an alternative to the TED requirement, if [he] 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 227.72(e)(3)(i) specify the maximum tow times that may be used when authorized as an alternative to the use of TEDs. The tow times 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. NMFS has selected these tow time limits to minimize the level of mortality of sea turtles that are captured by trawl nets not equipped with TEDs.

##### Recent Events

On September 27, Hurricane Georges hit the Mississippi and Alabama coasts. The hurricane remained nearly stationary over the coastal area and south Alabama for about 2 days and deposited as much as 36 inches (91 cm) of rain on some areas. The combination of heavy rains and hurricane storm surge produced severe flooding in south Mississippi, Alabama, and Louisiana rivers. This flooding deposited large amounts of debris in the inshore waters of those states.

After the hurricane, NMFS was notified by the Director of the Marine Resources Division of the Alabama Department of Conservation and Natural Resources (Alabama Director), the

Director of the Mississippi Department of Marine Resources (Mississippi Director), and the Secretary of the Louisiana Department of Wildlife and Fisheries that the debris conditions created great difficulty for shrimpers in inshore waters by fouling the trawl nets and clogging the TEDs. As a result of the special environmental conditions that may have made trawling with TED-equipped nets impracticable, the Assistant Administrator issued emergency notifications to authorize the use of restricted tow times as an alternative to the use of TEDs in the inshore waters of the three affected states. In Alabama inshore waters, the authorization was effective from October 7, 1998, through November 5, 1998 (63 FR 5505, October 14, 1998), and was then extended through November 30 (63 FR 62959, November 10, 1998) after the Alabama Director informed NMFS that the debris conditions in Mississippi Sound had been worsening as debris had been flushed out of Mobile Bay and into Mississippi Sound. In Mississippi inshore waters and Louisiana inshore waters northeast of the Mississippi River, the use of limited tow times as an alternative to TEDs was authorized from October 23 through November 22, 1998 (63 FR 57620, October 28, 1998).

NMFS has received letters from the Mississippi Director and the Alabama Director, dated November 17 and November 19, 1998, respectively, stating that excessive debris conditions continue to exist. The letter from the Alabama Director requested the extension of the authorization to use limited tow times as an alternative to the use of TEDs in Alabama inshore waters and the letter from the Mississippi Director requested the renewal of the authorization to use limited tow times as an alternative to the use of TEDs in Mississippi inshore waters. The letter from the Alabama Director stated that many nearshore areas remain untrawlable despite shrimpers' efforts so far to remove the debris.

##### Special Environmental Conditions

The Assistant Administrator finds that special environmental conditions following Hurricane Georges have persisted in Alabama and Mississippi inshore waters and may make trawling with TED-equipped nets impracticable. Therefore, the Assistant Administrator, by this notice, renews the authorization to use restricted tow times as an alternative to the use of TEDs in the inshore waters of Mississippi and extends the authorization to use restricted tow times as an alternative to