

with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternative and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duties on any of these governmental entities or the private sector. In addition, the UMRA excludes from the definition of "Federal private sector mandate" duties that arise from participation in a voluntary federal program. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Air pollution control, Gasoline, Motor vehicles, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: February 12, 1996.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble, 40 CFR part 86, is amended as follows:

PART 86—CONTROL OF AIR POLLUTION FROM NEW AND IN-USE MOTOR VEHICLES AND NEW AND IN-USE MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

1. The authority citation for part 86 continues to read as follows:

Authority: Secs. 202, 203, 206, 207, 208, 215, 216, 217, 301(a), Clean Air Act as amended (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, 7552, and 7601(a)).

2. Section 86.1105–87 of subpart L is amended by adding paragraphs (g)(2) and (3) and paragraph (h), reading as follows:

§ 86.1105–87 Emission standards for which nonconformance penalties are available.

* * * * *

(g) * * *

(2) Light-duty truck 3 diesel-fueled vehicle at full useful life (as defined in § 86.094–2) oxides of nitrogen emission standard of 0.98 g/mi.

(i) The following values shall be used to calculate an NCP for the standard set forth in § 86.094–9(a)(1)(ii) in accordance with § 86.1113–87(a):

(A) COC₅₀: \$654.

(B) COC₉₀: \$779.

(C) MC₅₀: \$908 per gram per mile.

(D) F: 1.2.

(ii) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.094–9(a)(1)(ii) in accordance with § 86.1113–87(h): 0.082.

(3) 1996 Urban Bus (as defined in § 86.094–2) particulate matter emission standard of 0.05 g/BHp-hr.

(i) The following values shall be used to calculate an NCP for the standard set forth in § 86.094–9(a)(1)(ii) in accordance with § 86.1113–87(a):

(A) COC₅₀: \$576.

(B) COC₉₀: \$6,569.

(C) MC₅₀: \$28,800 per gram per brake horsepower-hour.

(D) F: 1.2.

(ii) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.094–9(a)(1)(ii) in accordance with § 86.1113–87(h): 0.500.

(h) Effective in the 1998 model year, NCPs will be available for the following emission standard:

(1) Petroleum-fueled diesel heavy-duty engine oxides of nitrogen standard of 4.0 grams per brake horsepower-hour.

(i) For petroleum-fueled light heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):

(1) COC₅₀: \$833.

(2) COC₉₀: \$1,513.

(3) MC₅₀: \$833 per gram per brake horsepower-hour.

(4) F: 1.2.

(B) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.094–9(a)(1)(ii) in accordance with § 86.1113–87(h): 0.039.

(ii) For petroleum-fueled medium heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):

(1) COC₅₀: \$444.

(2) COC₉₀: \$1,368.

(3) MC₅₀: \$444 per gram per brake horsepower-hour.

(4) F: 1.2.

(B) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.094–9(a)(1)(ii) in accordance with § 86.1113–87(h): 0.043.

(iii) For petroleum-fueled heavy heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):

(1) COC₅₀: \$1,086.

(2) COC₉₀: \$2,540.

(3) MC₅₀: \$1,086 per gram per brake horsepower-hour

(4) F: 1.2.

(B) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.094–9(a)(1)(ii) in accordance with § 86.1113–87(h): 0.039.

(2) [Reserved]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 951128281–5281–01; I.D. 112795A]

Groundfish Fishery of the Bering Sea and Aleutian Islands Area, Trawl Closure to Protect Red King Crab

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

ACTION: Inseason adjustment; response to comments.

SUMMARY: NMFS responds to comments received on an inseason adjustment

closing a portion of the Bering Sea to all trawl vessels to protect red king crab. NMFS published this inseason adjustment in the Federal Register on December 11, 1995, for a 30-day comment period. No change in the trawl closure was made as a result of the comments received.

EFFECTIVE DATE: The inseason adjustment is effective January 20, 1996, through March 31, 1996.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907-586-7228.

SUPPLEMENTARY INFORMATION:

NMFS published an inseason adjustment in the Federal Register on December 11, 1995 (60 FR 63451) that implemented a closure to all trawl vessels in part of the Bristol Bay area located in the Bering Sea. The closure area encompasses an area between 56° and 57° N. lat. and between 162° and 164° W. long., and is intended to protect female red king crab, in view of the declining Bristol Bay red king crab stocks. One letter of comments on the inseason adjustment was received within the comment period, which ended January 10, 1996, and is summarized in the "Response to Comments" section, below. After review of the comments received, NMFS determined that no change to the inseason adjustment is warranted.

Response to comments

Comment 1: Closure of areas that experience high red king crab bycatch rates is supported.

Response: NMFS agrees.

Comment 2: The North Pacific Fishery Management Council (Council), NMFS, and the Alaska Department of Fish and Game (ADFG) should consider implementing regulations that provide appropriate management tools for controlling bycatch of crab in the crab fisheries as well as other causes of crab mortality.

Response: The current Fishery Management Plan for the Commercial King and Tanner Crab Fisheries (FMP) defers the right to implement bycatch limits of other species of crab in the directed crab fisheries to the State of Alaska. Proposals to implement crab bycatch limits in directed crab fisheries could be addressed to the State of Alaska Board of Fisheries and the Alaska Department of Fish and Game or proposals could be made to the North Pacific Fishery Management Council for amendments to the current FMP.

Comment 3: Regulations that authorize inseason adjustments at § 675.20(e) specify that the selection of inseason management measures, including time/area closures, must be based on the least restrictive action necessary to protect the species in need of conservation protection and allow fisheries to continue for other species. Therefore, the trawl closure implemented under the December 11, 1995, inseason adjustment should prohibit only bottom trawling, not pelagic trawling, in the closed area. The seasonal timing of the closure is supported to allow other fisheries with low bycatch of red king crab to be prosecuted later in the year.

Response: The authority for various types of inseason adjustments is provided in regulations at 50 CFR 675.20(e). However, the specific regulatory authority under which the December 11, 1995, inseason closure was promulgated (§ 675.20(e)(1)(iv)) does not require that the least restrictive action be implemented. Furthermore, justification for applying the interim closure to pelagic trawl operations is provided in the publication of the inseason adjustment.

Comment 4: NMFS and the Council should begin to collect data and pursue analyses of conservation benefits of red king crab bycatch reduction measures, impacts on groundfish target fisheries that may be affected by time/area closures, and impacts on bycatch of other species by potentially displaced groundfish fisheries.

Response: NMFS collects a variety of fisheries data that may be used to analyze the impacts of bycatch of groundfish and non-groundfish species. These data were used as the basis for the analysis supporting the inseason adjustment and are provided in the environmental assessment/regulatory impact review/initial regulatory flexibility analysis prepared for this action.

Dated: February 16, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

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