

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle only if the standard is identical to the Federal standard. However, the United States Government, a state or political subdivision of a state may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings is not required before parties may file suit in court.

G. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal 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 in any one year (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives 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 us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if we publish with the final rule an explanation why that alternative was not adopted.

This final rule will not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

H. Executive Order 13045

Executive Order 13045 (62 *Fed Reg* 19885, April 23, 1997) applies to any rule that: (1) is determined to be

“economically significant” as defined under Executive Order 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental, health or safety effects of the rule on children, and explain why the regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866. It does not involve decisions based on health risks that disproportionately affect children.

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

Issued on: April 13, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 010125024-1089-02; I.D. 121500D]

RIN 0648-AO88

American Lobster; Interstate Fishery Management Plans; Cancellation of Moratorium

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

ACTION: Cancellation of Federal moratorium.

SUMMARY: NMFS announces the cancellation of the Federal moratorium on fishing for American lobsters in the State of Rhode Island waters. NMFS canceled the moratorium, as required by the Atlantic Coastal Fisheries Cooperative Management Act (Act), based on the determination that Rhode Island is now in compliance with the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for American lobsters.

DATES: Effective April 17, 2001.

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, Chief, Staff Office

for Intergovernmental and Recreational Fisheries, NMFS, 301-427-2014.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 2000, NMFS determined that Rhode Island was not in compliance with Amendment 3 to the Commission's ISFMP for American lobster and that the measure Rhode Island failed to implement and enforce is necessary for the conservation of the American lobster fishery. Rhode Island was notified by letter on December 18, 2000, of this determination, and that NMFS required additional time to analyze the timing and impacts of the moratorium's implementation before publishing a declaration of a moratorium, as required by law. The Act allows the effective date of the moratorium to be delayed for up to 6 months from the date on which the moratorium is declared.

On March 6, 2001 (66 FR 13443), NMFS declared a Federal moratorium on fishing for American lobsters in Rhode Island waters effective May 1, 2001, if Rhode Island has not complied with the Commission's ISFMP for American lobster by that date. Details were provided in the March 6, 2001, **Federal Register** document and are not repeated here.

The Act specifies that, if, after a moratorium is declared with respect to a State, the Secretary of Commerce (Secretary) is notified by the Commission that it is withdrawing the determination of noncompliance, the Secretary shall immediately determine whether the State is in compliance with the applicable plan. If the State is determined to be in compliance, the moratorium shall be terminated. The Secretary's decision-making authority under the Act has been delegated to NMFS.

Activities Pursuant to the Act

On April 6, 2001, the Secretary received a letter from the Commission prepared pursuant to the Act. The Commission's letter stated that Rhode Island has taken corrective action to comply with Amendment 3 to the Commission's ISFMP for American lobsters by implementing and enforcing the nontrap gear limit of no more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip, for trips 5 days or longer as required by Amendment 3. The Commission found Rhode Island in compliance with the ISFMP for American lobster and withdrew its determination of noncompliance.

Cancellation of the Moratorium

Based on the Commission's April 6, 2001, letter, and a review of the ISFMP and Rhode Island's revised regulations, NMFS determined that Rhode Island is now in compliance with Amendment 3

to the Commission's ISFMP for American lobster. Therefore, the moratorium on fishing for American lobsters in Rhode Island waters is canceled.

Dated: April 16, 2001.

Clarence G. Pautzke,

*Acting Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

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