

recruitment and favorable environmental conditions, revenue from the 2001 lobster harvest decreased 21.1 percent as compared to 1999. Concerns over the condition of the resource continued into 2003, with reports of a dramatic decline in abundance in Area 2 surrounding Block Island Sound and the state waters of Rhode Island in 2002. A significant decline would have serious implications for the American lobster fishery, which is the most valuable fishery in the northeastern United States. In 2001, approximately 74 million pounds (33,439 metric tons (mt)) of American lobster were landed with an ex-vessel value of approximately 255 million dollars. Additional background information on the status of the stocks was presented in the FSEIS/RIR/FRFA prepared by NOAA Fisheries for this final rule and is not repeated here (see **ADDRESSES**).

The Commission ISFMP Recommendations for Effort Control in Areas 3, 4, and 5

The Commission approved Addendum I on August 3, 1999. The Addendum is principally an effort control measure that determines trap limits based upon historical participation (as opposed to fixed trap limits) in Lobster Management Area 3 (offshore EEZ), and Areas 4 and 5 (inshore EEZ areas south of New York).

Based upon its approval of selected management measures proposed by the Area 3, 4, and 5 LCMTs, the Commission recommended to NOAA Fisheries that access to, and levels of effort in, the lobster trap fishery in EEZ Offshore Area 3 and Nearshore EEZ waters of Areas 4 and 5 be based on historical participation. The Commission recommendations for qualification based on historical participation addressed qualification criteria, allocation of fishing effort, and limitations on vessel upgrades. Qualification criteria are different among the areas and include demonstration of active involvement in the fishery during a specified qualification period through provision of certain documents. The Commission plan for Area 3 proposes that potential participants must meet or exceed both a landing and a fishery intensity threshold in order to qualify and specifically defines that threshold. The Commission plans for Areas 4 and 5 however, although similar, only generally prescribe that qualification and trap limits be based on "historical levels" without providing further definition.

The Commission ISFMP Recommendations for New Hampshire Conservation Equivalency

In October 1998, the Commission approved a proposal from the State of New Hampshire for conservation equivalent lobster trap limits that vary from the 800 lobster trap limit in Area 1 (see subsequent text for details on the state program). In keeping with ISFMP procedures, this conservation equivalent proposal was submitted by the State of New Hampshire to the Board with supporting documentation to support the state's contention that the state lobster fishing effort control program would, in fact, be equivalent to the fixed trap limits for LCMA 1. The state proposal and supporting documentation was submitted to the Commission's Lobster Technical Committee ("TC"), composed of lobster scientists from several states and NOAA Fisheries, and following a review of the conservation equivalency proposal and supporting documentation, the TC concurred with the State of New Hampshire that the state's program would be equivalent to the LCMA 1 fixed trap limit of 800 traps. Following the TC review, and the Commission approval, the Commission recommended that NOAA Fisheries implement compatible measures for impacted Federal lobster permit holders.

The State of New Hampshire's lobster management program provides for a two-tier lobster license system: State fishermen who provide documentation of landing more than 12,000 lb (5,443 kg) of lobster in at least 2 years, from 1994 to 1998, receive a full commercial lobster license issued by the State of New Hampshire; those who cannot provide this documentation are issued a limited commercial lobster license. Those fishermen who qualify for a full license may fish up to 1,200 lobster traps in state waters, and those in the limited category may fish a maximum of 600 lobster traps in state waters. Following approval of the New Hampshire proposal under the ISFMP, the Commission recommended that NOAA Fisheries modify Federal regulations to maintain the biological and socio-economic basis of New Hampshire's lobster management program. The Commission requested that NOAA Fisheries modify Federal regulations to allow Federal permit holders who elect to fish in Area 1 and also possess a New Hampshire full commercial lobster license to fish 400 lobster traps in New Hampshire state waters in addition to the 800 lobster traps they may fish in state and Federal waters of Area 1 under current Federal

regulations. However, these fishermen would not be allowed to fish more than 800 lobster traps in the Federal waters of Area 1.

The Commission ISFMP Recommendations for Revisions to Area Boundaries

In Addendum I to Amendment 3 of the American Lobster ISFMP, the Commission revised the boundary lines for three of the LCMAs adjacent to Massachusetts, including Area 1, Area 2, and the Outer Cape Area, to bring the area boundaries more in line with traditional fishing practices in those areas and to correct an oversight in the specification of an Area 1 boundary line in Amendment 3 to the ISFMP. Following approval of Addendum I, the Commission recommended that NOAA Fisheries modify Federal regulations to maintain compatible boundary lines in Federal regulations. A copy of charts showing the affected American lobster EEZ management areas is available from NOAA Fisheries (see **ADDRESSES**).

Discussion of the selected management actions includes reference to other recommendations made by the Commission, but not extensively analyzed for this action. These include upgrade limitations for vessels participating in the LCMA 3 trap fishery, an increase in the minimum gauge size in Federal waters, and "closed areas" which would prohibit harvest of lobsters taken by trap gear in selected portions of LCMA 4. See subheading "Commission recommendations considered but rejected" in this Summary Information section of this final rule for additional information on recommendations considered but rejected. The selected management actions also include a discussion of concerns raised by NOAA Fisheries in two areas relative to the ability of Federal permit holders to compile and provide documentation which will be required to certify historical participation on the basis of the qualification criteria, and the ability of NOAA Fisheries to accommodate recommendations from the Commission for Federal rulemaking responding to conservation-equivalent management measures specific to state jurisdictional waters. See subheading "Historic participation implementation analysis" in this Summary Information section of this final rule for additional discussion of documentation requirements for measures specified in this final rule.

Federal Rulemaking for Compatible Measures to the ISFMP

The current Federal lobster management program implemented