

lobster would continue to be managed in Federal waters under the current fixed trap limit provisions of existing regulations of the Atlantic Coastal Act (50 CFR part 697). Under existing regulations (50 CFR 697.4(a)(7)), qualified vessels may elect to fish with traps in any or all LCMAs, and trap allocations are based on this election. If a permit holder elects to fish in any Nearshore LCMA, or any Nearshore LCMA and LCMA 3, the vessel is restricted to a maximum of 800 traps. If a vessel elects to fish only in LCMA 3, or in LCMA 3 and the LCMA 2/3 overlap, the vessel is restricted to a maximum of 1,800 traps. Non-selected alternative 1C, similar in part to the DSEIS alternatives 1A, and 1D, would also require evidence of a history of active trap fishing for each elected area (LCMA 3, 4, and/or 5) during the same qualification period, and also includes the Area 3 requirement to demonstrate that at least 25,000 lb (11,340 kg) of lobster were harvested throughout the range of the resource during the qualifying year, however under non-selected alternative 1C, there would be fixed trap limits of 800 and 1800, the same as those described in the no-action/status quo non-selected alternative 1B.

2. NOAA Fisheries will implement a mechanism for conservation equivalency and associated trap limits for owners of vessels in possession of a Federal lobster permit (permit holders) fishing in New Hampshire State waters. This regulatory action will 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 additional 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.

Two alternatives to address LCMA 1 trap limits for Federal lobster permit holders fishing in New Hampshire waters were presented for this action in the SEIS. Under the Atlantic Coastal Act, The selected DSEIS alternative 2A, implement measures to allow Federal permit holders who fish for lobster in LCMA1 and who also possess a New Hampshire full commercial lobster fishing license to fish a maximum of 400 additional traps only in the state waters of New Hampshire as specified in New Hampshire state regulations to complement the ISFMP; or continue the no action/status quo non-selected DSEIS alternative 2B that, under current

Federal regulations, restrict Federal permit holders who elect to fish in LCMA 1, or any other Nearshore LCMA and LCMA 3, to a maximum of 800 traps, regardless of whether they fish in state or Federal waters. The selected DSEIS alternative 2A, will allow Federal permit holders who fish for lobster in LCMA1 and who also possess a New Hampshire full commercial lobster fishing license to fish a maximum of 400 additional traps only in the state waters of New Hampshire as specified in New Hampshire state regulations.

3. NOAA Fisheries will clarify lobster management area boundaries in Massachusetts waters. With this action, NOAA Fisheries will implement compatible boundary lines for Area 1, Area 2, and the Outer Cape Area that are compatible to the Commission's American lobster ISFMP.

Due to the unique nature of the alternatives relating to the regulatory actions to address LCMA boundary clarifications, only two alternatives were presented for this action in the SEIS: Implement measures to complement the ISFMP, the selected DSEIS alternative 3A and revise the boundary lines for three of the LCMAs adjacent to Massachusetts, including Area 1, Area 2, and the Outer Cape Area; or continue the no action/status quo alternative, the non-selected DSEIS alternative 3B and maintain the existing Federal boundary lines for all LCMAs including the three LCMAs adjacent to Massachusetts: LCMA 1, LCMA 2, and the Outer Cape LCMA. NOAA Fisheries selected the DSEIS alternative 3A in keeping with the intention of the Atlantic Coastal Act to implement complementary regulations to maintain consistency with the Commission's American lobster ISFMP and to avoid confusion if the Federal and Commission area boundaries and their associated lobster management measures differ.

4. NOAA Fisheries includes a technical amendment to the regulations clarifying that Federal lobster permit holders must attach federally approved lobster trap tags to all lobster traps fished in any portion of any management area (whether in state or Federal waters). This requirement is not new, but was not previously clearly specified in the regulatory text, and this technical amendment is intended to make the regulations easier to understand.

Area 3, 4, and 5 Fishing Effort Control Program

The Lobster Management Areas are defined at 50 CFR 697.18. A copy of a map showing the American lobster EEZ

management areas is available upon request from the Director of the State, Federal and Constituent Programs Office (see ADDRESSES).

Area 3—Qualification Criteria

In order to qualify to fish for lobster with traps in Area 3, Federal lobster permit holders will need to meet or exceed both a landing and fishery intensity threshold. With this action, NOAA Fisheries will limit the number of traps fished in Area 3 based on proof of historical participation in the Area 3 fishery and the number of traps fished by a vessel during a qualifying period from March 25, 1991, through September 1, 1999. Qualification criteria for Area 3 are specified in § 697.4(a)(7)(vi) of this rule. Extensive discussion regarding selection of the Area 3 qualification criteria, qualification period, and the landing and fishery intensity threshold, was presented in the FSEIS prepared by NOAA Fisheries for this rule and is not repeated here (see ADDRESSES).

Area 3—Trap Allocation Criteria

A maximum allocation of 2,656 lobster traps with the associated sliding scale reductions over a 4-year period was recommended by the Commission to NOAA Fisheries as a result of Addendum II to Amendment 3 of the ISFMP. The selection of 2,656 traps and the corresponding matrix of trap allocations as identified in Table 1 specified in § 697.19(b)(2) of this final rule were developed by the Area 3 LCMT. Discussion of the matrix of initial maximum trap allocations was provided in the FSEIS/RIR/FRFA prepared by NOAA Fisheries for this final rule and is not repeated here (see ADDRESSES).

Areas 4/5 Fishing Effort Control Program with a Maximum Trap Limit

In order to qualify to fish for lobster with traps in Area 4 or Area 5, Federal lobster permit holders will need to meet or exceed a fishery participation threshold. NOAA Fisheries will limit the number of traps fished in Area 4 and/or Area 5 based on proof of historical participation in the Area 4 and Area 5 fishery and the numbers of traps fished by a vessel during a qualifying period from March 25, 1991, through September 1, 1999. This particular threshold for Area 4 and 5 is identical to the Area 3 qualification threshold specified in § 697.4(a)(7)(vi) of this final rule.

Although establishment of criteria based on a specific minimum number of traps fished by a vessel during the qualifying period was not specifically