

reduction schedule from five years to four years.

HP Comment 21: One supporter of historical participation states that historical trap allocations are needed because uniform trap limits will create latent effort and compromise the conservation benefits of historical participation.

Response: NOAA Fisheries believes that historical participation in Areas 3, 4 and 5 is the best means for controlling trap fishing effort in these management areas since it is expected to, at least, cap and potentially reduce levels of trap fishing in Areas 4 and 5 and reduce trap fishing levels in Area 3. Effort reductions as a consequence of this action are expected to result in decreased lobster fishing mortality, contributing to the fulfillment of the goals of the ISFMP to end overfishing and rebuild American lobster stocks. Further, this management regime is compatible with the recommendations of the Commission in Addendum I to Amendment 3.

HP Comment 22: One comment was received expressing concern that the State of New Jersey's rules weren't coordinated with Addendum I and that some who qualified under the State of New Jersey's historical participation eligibility program will be allowed different numbers of traps under the Federal plan which will cause confusion.

Response: NOAA Fisheries will continue to cooperate with state agencies to the extent practicable and legal to determine the eligibility of Federal permit holders to fish in Areas 3, 4 and 5. However, NOAA Fisheries' determination of eligibility for each applicant will be based on the specific qualifying criteria and documentation as identified in Section III.(2). of the FSEIS, and codified, by way of this final rule, in the Federal regulations at 50 CFR 697.4(a)(7)(vi), (vii) and (viii). These requirements are compatible with those proposed by the LCMTs and recommended for EEZ implementation by the Commission, of which the State of New Jersey is an active participant and voting member.

HP Comment 23: One proponent of historical participation in Area 4 recommends a trap cap at 2,400 traps rather than the proposed 1,440 traps.

Response: NOAA Fisheries established a 1,440 maximum trap limit as a safeguard against trap proliferation. NOAA Fisheries believes the removal of existing 800 traps per vessel limit in Areas 4 and 5 without implementation of an alternative maximum trap limit, could result in excessive lobster fishing mortality and limit the ability of

historical participation to reduce trap fishing effort. A maximum trap limit in Areas 4 and 5 of 1,440 lobster traps per vessel was selected utilizing data provided by the State of New Jersey that indicated the majority of participants fished less than 1,440 traps (32 of 46 Federal permit holders who responded to New Jersey's lobster industry survey). Additionally, the 1,440-trap limit corresponds proportionately to the relationship between the existing fixed trap limits (800 traps in Areas 4 and 5, and 1,800 traps in Area 3) and the LCMA 3—maximum trap limit proposed by the Area 3 LCMT in Addendum I.

HP Comment 24: One person stated that New Jersey fishermen need more traps in general because there are less lobsters spread over a larger area and recommends a 1,500-trap allocation.

Response: The 1,500-trap allocation recommended by this respondent is generally consistent with the maximum trap limit of 1,440 traps per qualified vessel in Areas 4 or 5 implemented with this final rule. NOAA Fisheries believes that establishing a maximum trap cap will prevent a potential escalation of future trap fishing effort and associated lobster fishing mortality in Areas 4 and 5, while allowing qualified vessels to fish their historical trap allocations as evidenced in data provided by the State of New Jersey lobster industry survey. See previous response.

HP Comment 25: Two individuals recommend that NOAA Fisheries limit every vessel to 800 traps in Area 4 and 1,200 traps in Area 3.

Response: The scenario suggested by these individuals runs counter to the management recommendations of the Commission and the LCMTs and could result in more traps being fished than would be expected under the selected alternative, if these commenters are suggesting that historical participation not be implemented under this scenario. Further, if these commenters are suggesting that historical participation not be implemented in these management areas, then the potential for effort shift into other lobster management areas could occur. Additionally, it is likely that not all vessels are fishing up to the current allowable fixed trap limits and, while the selected management action would cap effort at historical levels, this suggested action (similar to status quo) could allow vessels fishing below the current fixed trap limits to expand their trap fishing effort.

HP Comment 26: One fisherman recommends a 600-trap limit be imposed in the Federal waters off the Maine coast.

Response: Assuming the commenter is referring to Area 1, NOAA Fisheries disagrees. This topic is outside the scope of this rulemaking and Addendum I and inconsistent with the recommendations for lobster management in Area 1 provided by the Area 1 LCMT, the Commission, and the ISFMP.

HP Comment 27: One LCMA 2 lobsterman opposes historical participation and recommends that every lobsterman be allocated 500 traps.

Response: The Commission has yet to adopt a historical participation program for LCMA 2 and has not made any recommendations to the Secretary of Commerce that such action be taken in the EEZ portions of LCMA 2. Therefore, this measure was not considered in this rulemaking action and associated analyses.

HP Comment 28: A Federal lobster permit holder who has never fished for lobster believes that historical participation is unfair and that all Federal lobster permit holders should have unlimited access to the lobster resource in Federal waters.

Response: This final rule is the result of extensive public comment and is based upon the Commission's ISFMP for American Lobster which also underwent extensive public comment. All have had the opportunity to engage in and influence deliberations on this matter. Ultimately, the LCMTs, comprised of industry representatives, and the Commission, made up of a number of politically accountable members, chose a management plan that would reflect the historical make-up of the fishery. This final rule is based on that decision and conforms with the applicable law. The intent of the historical participation component of this final rule is to implement a system that caps fishing effort at historical levels, likely reduces effort from current levels, and reflects the traditional fishing practices of the offshore fishing fleet. This selected action considers the recommendations of the industry's LCMTs and the Commission aimed at decreasing fishing effort and increasing egg production in accordance with the ISFMP. This selected action intends to limit participation in LCMA 3, 4 and 5 to those permits with a demonstrated lobster trap fishing history, consistent with the eligibility criteria in this final rule and that recommended by the Commission in Addendum I to Amendment 3 of the ISFMP.

HP Comment 29: Three individuals request that NOAA Fisheries execute the plan as fairly as possible so that no single type of business operation benefits over another. Trap allocations