

selected management action will result in a closed system, restricting future participation in these areas to a known universe of qualified vessels that fished in these areas prior to the access control date of September 1, 1999. A closed universe of participants will effectively cap effort in Areas 4 and 5 at historic levels and, in Area 3, is intended to result in an estimated 20 percent reduction in gear after a 4-year trap reduction period compared to 1991–1993 estimated fishing. However, due to the ability of fishermen to compensate for a reduction in traps by increased fishing intensity, i.e.; more frequent trips and more frequent trap hauls per trip, landings and revenue are likely to be unaffected. A reduction in participants will also reduce the likelihood of gear conflicts and reduce associated loss of gear, while allowing the remaining trap gear to fish more efficiently since it will be possible to set gear in the more productive lobster grounds. A halt in effort expansion will effectively prevent a shift in effort by non-qualifiers from non-trap to trap gear in the impacted areas, and prevent a geographic shift by non-qualifiers from other areas that may be attracted to participate in the impacted areas for a variety of reasons, including potential financial incentives, localized overcrowding, or a resource decline such as that experienced in Long Island Sound.

A major economic effect of trap allocations based on historical participation will be to preserve the competitive position of fishing businesses in the offshore fishery. Vessels that have historically fished a greater volume of gear will be able to more effectively set gear to hold productive ground or claim seasonally productive lobster territory rather than always setting gear to maximize catch levels. It will also, to some unknown extent, increase the relative share of landings in these LCMA's for those who are able to meet the qualification criteria. However, increased trap usage may correlate into increased costs for qualifiers since increasing the numbers of traps fished brings with it increases in cost in purchasing and maintaining those extra traps, additional costs for bait, as well as the added time and fuel expenses necessary to tend the extra gear.

It is difficult to provide a more concrete statement of benefits associated with implementation of limited access in LCMA 3, 4, and 5, to historic participants for reasons described in this analysis. However, the lobster resource in these LCMA's is overfished and available data evaluated for this

action indicates the number of traps will decrease. Notwithstanding data limitations, quantifiable impacts are discussed in greater detail in this regulatory flexibility analysis if possible. Additional benefits are described in the FSEIS (see **ADDRESSES**).

Assuming that the data provided by the Area 3 LCMT on the proportion of vessels fishing in each trap category is representative of the majority of vessels that currently fish and that may eventually qualify for historic participation, the economic effect of the selected regulatory action may be viewed in contrast to the trap caps under the non-selected status quo alternative and that of non-selected Alternative 1C.

Under the fixed trap cap identified in the non-selected status quo alternative and that of non-selected Alternative 1C, nearly half of the 64 vessels reporting trap numbers would be forced to reduce their traps by at least 100 traps and 16 vessels would have to reduce their traps fished by at least 500 traps. By contrast, under the fixed trap cap alternatives, 27 vessels would be able to increase trap numbers by at least 200 traps and 10 vessels would be able to increase trap numbers by at least 600 traps. Under the non-selected status quo and Alternative 1C, the potential for increased trap usage by 27 vessels and possible decreased trap usage by 30 vessels does not necessarily correlate to increased or decreased vessel profits for these respective vessels. That is, increasing the numbers of traps fished brings with it increases in cost in purchasing and maintaining those extra traps, additional costs for bait, as well as the added time and fuel expenses necessary to tend the extra gear. Similarly, decreases in traps usage will result in savings in time and costs. In fact, some have observed that decreases in traps do not result in decreases in harvest. (Acheson, 1997). Reasons for such include increased trap efficiencies—e.g. the same number of lobsters are caught, but concentrated in fewer traps and increased time and ability to more frequently tend the traps existing. Where a lack of data resolution prevents a quantifiable analysis of the potential economic benefits, qualitative benefits are provided. Certainly, based upon available data, many vessels fish below their current cap limit, presumably in order to maximize the economic efficiencies of their own circumstances. NOAA Fisheries anticipates this practice to continue, further ameliorating the expected financial impacts and disparity of the proposed action. In any event, trap allocations based on historical participation is not designed to create

new financial positioning so much as it will preserve the historical competitive position and structure of the offshore fishery.

Among the regulatory alternatives considered in this action, the non-selected Alternative 1C would compromise the historic competitive balance of the offshore fishery by allowing vessels that currently fish below the existing fixed trap limits to increase effort and would permit some room for growth among the small entities (in terms of numbers of traps fished). Vessels currently fishing below the current cap may be able to use surplus gear above their current effort level and below the current trap cap to more effectively set gear to hold productive ground or claim seasonally productive lobster territory rather than always setting gear to maximize catch levels. It will also increase the relative share of landings in these LCMA's for vessels fishing below the current cap at the expense of reducing industry share for entities that have historically fished above the trap cap. Vessels that have historically fished above the current trap cap may find increased competition for seasonally productive lobster territory. On balance, however, both the selected regulatory action and the non-selected Alternative 1C would have the same general economic effect among qualifiers. Given the similarities, ultimately the selected actions are intended to implement Federal regulations that are compatible with the Commission's lobster ISFMP.

Economic Effects on Historic Participation Non-qualifiers

Given the relatively small number of historic participation qualifiers there will be a large number of vessels that will not qualify. Note, however, that the number of vessels that have participated in the offshore fishery has historically been low so the selected regulatory action will primarily affect vessels that may currently be actively pursuing entry into the offshore fishery (i.e.; Permit holders who have a vessel under construction or agreement, for example), vessels that began trap fishing effort after the qualification period ended, and other vessels that have participated in the offshore fishery but may not qualify due to one or more of the qualification criteria. However, as explained in detail in the FSEIS/RIR/FRFA (see **ADDRESSES**), NOAA Fisheries believes that potentially displaced fishers, having been given ample notice, are expected to have already diversified prior to the time the measures in this final rule take effect.