

Under current Federal regulations, Federal lobster permit holders may elect to fish in any LCMA, but must abide by the most restrictive measures in effect for any LCMA elected. Based on an upper bound estimate of 60 qualifiers in LCMA 4 and 5, there is a total of 2,189 vessels that may not qualify to fish for lobster with traps under the selected regulatory action. This number, however, is potentially misleading because it represents all Federal permit holders across the range of the fishery, from Maine to North Carolina. As such, the number includes permit holders who have never fished in Areas 3, 4 or 5 and who have no intention of ever doing so, but who could potentially put Areas 3, 4 or 5 on their permit because current regulations do not prohibit such. Accordingly, the figure represents a theoretical upper boundary useful for analysis, but not intended to suggest the actual suspected impact set.

More realistic, however, is that of the 2,000 plus potential qualifiers, only 185 vessels designated at least area 4 or area 5 (or both) on their permit application records analyzed at the time the environmental impacts of this actions were completed. These vessels represent the set of permit holders that are most likely to be potentially impacted by historic participation in LCMA 4 and 5 (Table 3). Similarly, of the total theoretical upper boundary set of non-qualifiers for LCMA 3, 566 permit holders elected area 3 on the permit application. This set of 566 can be further reduced because many permit

holders declare into an area even if they have no intention of fishing in that area. Reasons for this include maintaining fishing flexibility and the idea that in declaring an area one is preserving his or her right to fish there in the future if access to that area is limited. Certainly commenters have suggested that the number of vessels that actually fish in Area 3 is quite limited. Consistent with the findings for qualifying vessels, the majority of LCMA 4 and 5 non-qualifiers would be from home ports in New York and New Jersey. However, vessels from home ports in Maine would comprise the majority of LCMA 3 non-qualifiers and are believed to be predominantly Area 1 fishers.

To examine the restrictiveness of the qualification criteria, the alternative levels of qualification were developed to determine how many vessels might qualify under less restrictive requirements. Specifically, qualification for LCMA 3 historic participation for alternative poundage qualification levels of 10,000, 15,000 and 20,000 lb (4,536, 6,804, and 9,072 kg) was estimated. The various levels of assumed catch per trap were also retained. Note that since qualification for LCMA 4 and 5 historic participation has no poundage requirement, the number of qualifiers would only be affected by the ability to demonstrate historic levels of trap fishing. The sensitivity for LCMA 4 and 5 qualifiers to the assumed level of catch per trap was reported in Table 1.

The lower bound estimates for the LCMA 3 historic participation program were similarly insensitive to the poundage qualification criteria and were not particularly sensitive to the assumption of average catch per trap. By contrast, the upper bound estimates for LCMA 3 were sensitive to the poundage qualification criterion and this sensitivity increased as the assumed average catch per trap was reduced. Nevertheless, lowering the poundage criterion would result in, at most, a 37 vessel increase in LCMA 3 qualifiers.

TABLE 3.—SUMMARY OF HOME PORT STATE FOR HISTORIC PARTICIPATION NON-QUALIFIERS FOR PERMIT APPLICATIONS SELECTING LCMA 3 OR LCMA 4 AND 5

Home Port State	LCMA 4 and 5 Non-Qualifiers	LCMA 3 Non-Qualifiers
CT	2	0
DE	6	4
MA	29	161
MD	4	4
ME	11	269
NC	1	0
NH	2	18
NJ	49	43
NY	49	21
RI	27	38
OTHER	5	8
Total	185	566

TABLE 4.—SENSITIVITY ANALYSIS OF QUALIFIERS BY POUNDAGE CRITERION

Poundage Requirement(number)	CPU = 4 Pounds (number)	CPU = 3 Pounds (number)	CPU = 2 Pounds (number)	CPU = 1 Pounds (number)
Upper Bound Estimate for Area 3				
25000 lbs	99	106	111	117
20000 lbs	105	114	124	131
15000 lbs	110	121	133	144
10000 lbs	111	127	140	154
Lower Bound Estimate for Area 3				
25000 lbs	53	55	55	58
20000 lbs	55	57	57	59
15000 lbs	57	59	59	62
10000 lbs	57	60	60	64

The results reported in the Table 3 - Sensitivity Analysis of Qualifiers by Poundage Criterion are based upon limited data. Vessel history that may not be fully represented in NOAA Fisheries data may increase the number of qualifiers. Nevertheless, vessels that will not qualify for either LCMA 3 or LCMA 4 and 5 historic participation, will not be able to expand their businesses into these areas. The

economic effects will be more severe for those vessels that are currently fishing some portion of their traps but will not qualify for historic participation because they could not meet one or more of the qualification criteria. These vessels will either have to sell their Federal permit and fish their allowable number of traps in state waters, assuming they qualify under their individual state program; move their trap fishing effort to other

management areas not requiring historic participation; or, use their vessel and gear in some alternative fishery. Thus, non-qualifying vessels will likely be able to offset some of their losses by fishing other areas or in other fisheries, but associated operations may not be as profitable as before.

A less obvious economic effect is that the value of the non-qualifier's Federal lobster permit might be eroded while