

that of qualifying vessels could increase in certain hypothetical situations. Thus, while there may be no distinct operational effect the equity position of the business could be affected. The normal cost associated with baiting and hauling traps may not change but if the value of the lobster permit is capitalized into the value of the vessel, then the value of the owners' business could similarly be reduced. Since owner equity is an important component of obtaining favorable loan conditions non-qualifiers may be put at some competitive disadvantage when seeking business loans. If nothing else, the resale value of the business could be affected in certain circumstances.

Impacts of Historic Participation Alternatives on Small Entities

On balance, the non-selected Alternatives 1A and 1C would not have significant differential impacts on non-qualifiers. Thus, under alternative 1A and 1C, non-qualifiers that are participants in the offshore fishery would still be forced to seek alternative fishing locations. These vessels would suffer some loss in profitability since alternative areas would likely already have been heavily fished. Non-qualifiers might also suffer a decline in the value of their business affecting resale and possibly putting them at a competitive disadvantage when seeking business loans.

Non-selected Alternative 1A would have approximately the same impact as that of the selected regulatory action except that vessels in LCMA 4 and 5 might be less negatively affected relative to the selected regulatory action. The possible negative effect of the selected action is due to the imposition of a cap on initial trap allocations. Such a cap would require some portion of qualifying vessels to reduce the number of traps fished proportionally more than vessels that will qualify for initial allocations at or below the cap.

Non-selected Alternative 1C might have mixed effects on qualifying vessels in LCMA 3 and LCMA 4 and 5. Vessels that are operating above the cap would have to reduce traps while vessels below the cap would be able to increase their traps. On balance, approximately the same number of vessels would be forced to reduce as would be able to increase their traps. At an industry level, this non-selected alternative might result in an equalization of competitiveness but would do so by negatively impacting relatively larger businesses.

Rationale for Selecting this Regulatory Action

Based on information available at this time, NOAA Fisheries concludes that the selected regulatory action is the best among the considered alternatives. The reader is referred to the preamble of this final rule and Section III of the FSEIS completed for this action (see **ADDRESSES**) for a detailed description of the selected regulatory action and its rationale and environmental consequences.

Impacts of New Hampshire Conservation Equivalency on Small Entities

Selected Action—New Hampshire Conservation Equivalency

Under New Hampshire conservation equivalency measures contained in this final rule, Federal permit holders with New Hampshire full licenses may be able to increase their relative share of landings compared to New Hampshire limited license holders and other non-New Hampshire LCMA 1 Federal participants because full license holders will be allowed to fish up to 400 more traps in New Hampshire state waters than is allowed under the current trap cap. Gross revenues for New Hampshire full license holders fishing above the current 800 maximum trap limit in the state waters of New Hampshire may be increased. To the extent that revenue increases are offset by equipment expenses (i.e. the procurement, tending, and maintenance of more gear), profits may remain unchanged. New Hampshire full license holders may also be able to more efficiently "hold ground" or claim seasonally productive lobster territory. However, gear conflicts may increase and offset the benefits of increased landings. Limited license holders fishing below the current maximum trap limit may experience reduced landings, and, since prices are expected to remain unchanged, gross revenues may decrease. However, reduced equipment expenses and the ability to increase efficiencies through an increase in the number of trips and more frequent trips may offset revenue losses and profits may remain unchanged. However, the State of New Hampshire has already implemented this conservation equivalency program notwithstanding the coordinated Federal measures contained in this rule. Accordingly, the financial impacts associated with fishing 1,200 traps would be encountered regardless of Federal action (see NH Comment 4).

Non-Selected No Action/Status Quo Alternative 2B—New Hampshire

Under the non-selected status quo alternative, Federal permit holders with New Hampshire full license would be restricted to the current 800-maximum trap limit. This non-selected alternative might result in a variety of responses on the part of impacted Federal permit holders. If NOAA Fisheries did not implement the selected action to allow fishers who qualify to use 1,200 traps in New Hampshire state waters, the impacted fisher could relinquish his Federal permit, sell the vessel and associated Federal permit, or continue to fish for lobster with traps under the existing Area 1 trap limit (800 traps) in both state and Federal waters. Relinquishment of the Federal permit would result in less gear being fished in Federal waters although the 1,200 traps would still be fished, but entirely in state waters, potentially greatly increasing line density in state waters. However, given the economic value of a vessel with an associated Federal limited access lobster permit, it is unlikely that a fisher would simply relinquish the Federal permit. Sale of the vessel and associated Federal limited access lobster permit to a fisher who did not possess a New Hampshire lobster permit would not be expected to result in a reduction in trap gear. It is likely that a sale would result in increased effort under the assumption that the seller would continue to fish the 1,200 traps entirely in state waters, thereby potentially greatly increasing fishing effort, traps, and trap line density in state waters, while the buyer of the vessel and Federal lobster permit could fish up to the maximum trap limit in Federal waters for the area(s) elected. If the impacted fisher were to elect to continue to fish for lobster with traps under the existing Area 1 trap limit (800 traps) in both state and Federal waters, vessels unable to increase efficiencies and make adjustments to fishing practices to compensate for trap reductions might experience a reduction in profits. Not taking action to establish a 600-trap ceiling for Federal limited license holders, a more conservative limit than the 800-trap limit required by the ISFMP, might result in an increase in lobster landings for license holders actually fishing above the 600-trap limit. However, an absence of information on the actual number of traps actively fished by New Hampshire lobstermen makes it impossible to quantify the impact on landings.