

Impacts of Compatible Management Area Boundaries

Selected Action 3A

The selected action will implement compatible boundary lines for Area 1, Area 2, and the Outer Cape Area to maintain consistency with the Commission's lobster ISFMP. Impacted vessels will benefit from compatible boundary lines, by the elimination of potential regulatory differences between state and Federal area specific regulations, and the elimination of differential enforcement as interpreted by state and Federal agencies.

Non-selected No Action Status Quo Alternative 3B—Boundaries

This non-selected alternative would result in incompatible boundary lines for Area 1, Area 2, and the Outer Cape Area. Incompatible boundaries could result in differential enforcement of area specific management measures as interpreted by state and Federal agencies as well as confusion on the part of impacted Federal permit holders.

Reporting and Recordkeeping Requirements

Small entities applying under the historic participation application process for LCMAs 3, 4, or 5, would be required to comply with the new collection-of-information requirements described in the Classification section of this final rule under the Paperwork Reduction Act section. No professional skills are necessary to comply with any of the reporting requirements associated with this action.

Paperwork Reduction Act

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The following collection-of-information requirements are being restated and have already been approved by the Office of Management and Budget (OMB) as shown: vessel permit applications approved under OMB control number 0648-0202 with the response times per application of 30 minutes for a new application, and 15 minutes for renewal applications; the Area 5 Waiver program approved under OMB control number 0648-0202 with the response times per application of 15 minutes to initiate a permit category change and select the LCMA 5 Trap Waiver Permit category, 2 minutes per response to return a suspended limited access lobster trap permit, and 15 minutes per response to initiate cancellation of a LCMA 5-Trap Waiver Permit and re-activate a suspended limited access lobster trap permit; and

a lobster trap tag requirement approved under OMB control number 0648 0351 with a response time of 1 minute per tag.

This final rule contains new collection-of-information requirements subject to the PRA. The collection of this information has been approved by OMB under OMB control number 0648-0450. These requirements include the compilation of information by Federal permit holders pertaining to historical fishing operations in the lobster fishery, and the submission of one or more affidavits to NOAA Fisheries, certifying the information provided to qualify based on the area specific qualification criteria number in LCMAs 3, 4, and 5. The public reporting burden for each collection of information per response is indicated in the following list of new requirements, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The new requirements are as follows: (1) Provision of a cover letter intended to describe the types of documentation included in the application and the relevance of the documentation to the application process with a response time per application of 15 minutes; (2) Provision of documentation of possession of a current valid Federal lobster permit with a response time per application of 5 minutes; (3) Provision of documentation to demonstrate at least 200 lobster traps were set, allowed to soak, hauled back, and re-set in Areas 3, 4, or 5 during a 2-consecutive calendar month period in any calendar year during the qualification period from March 25, 1991, through September 1, 1999 with a response time per application of 15 minutes; (4) (For Area 3 only) Provision of documents pertaining to the sale of lobsters indicating the landing of at least 25,000 lb (11,340 kg) of lobster from any location during the year used as the qualifying year from March 25, 1991, to September 1, 1999 with a response time per application of 10 minutes; (5) Provision of documentation for proof of historical participation in two rather than one lobster management area with a response time per application of an additional 17 minutes if different consecutive two-month periods of trap fishing are used; (6) Provision of documentation for proof of historical participation in three rather than one lobster management area with a response time per application of an additional 34 minutes if three different consecutive 2-month periods are used; (7) Completion of lobster trap fishing

area eligibility application form with a response time per application of 2 minutes for each area selected; (8) Provision of affidavit stating total number of individual lobster traps the permit holder set, allowed to soak, hauled back, and re-set in Areas 3, 4, or 5 at any one time during the qualifying year with a response time per application of 15 minutes; (9) Provision of a written appeal request to the Regional Administrator by non-qualifying permit holders with a response time per application of 15 minutes; and (10) Provision of affidavits in support of documentary hardship written appeal request to the Regional Administrator by non-qualifying permit holders with a response time per application of 3.25 hours if three affidavits are required and 4.25 hours per application if four affidavits are required.

Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to the Director, State, Federal and Constituent Programs Office, NOAA Fisheries, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA)

Section 7(a)(2) of the Endangered Species Act (ESA) (16 U. S. C. 1531 *et seq.*) requires that each Federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat of such species. When the action of a Federal agency may affect species listed as threatened or endangered, that agency is required to consult with either the National Marine Fisheries Service (NOAA Fisheries) or the U. S. Fish and Wildlife Service (FWS), depending upon the species that may be affected. In instances where NOAA Fisheries or FWS are themselves proposing an action that may affect listed species, the agency must conduct intra-service consultation. Management measures described in this final rule resulted in the initiation of an informal