

and 1999 that are outside the qualification period (i.e., January 1, 1991 through March 24, 1991 and September 2, 1999 through December 31, 1999);

(3) That at least 25,000 lb (11,340 kg) of lobster were landed by the qualifying vessel from any location during the qualifying year selected in paragraph (9)(7)(vi)(A)(2).

(B) *Trap allocation criteria.* A qualified applicant must also establish with documentary proof the number of lobster traps fished by the qualifying vessel in Area 3 during the qualifying year. To the extent that the documentation so establishes, the Regional Administrator will then allocate a maximum number of lobster traps with which to fish in Area 3 as it relates to the sliding scale set forth in § 697.19.

(C) *Documentary proof.* To satisfy the Area 3 Initial Qualification and Trap Allocation Criteria set forth in paragraphs (9)(7)(vi)(A) and (B) of this section, the applicants will be limited to the following documentary proof:

(1) As proof of a valid Federal lobster permit, the applicant must provide a copy of the vessel's current Federal lobster permit. The potential qualifier may, in lieu of providing a copy, provide NMFS with such data that would allow NMFS to identify the current permit holder in its data base, which would at a minimum include: the applicant's name and address, vessel name and permit number;

(2) As proof of 200 trap/two consecutive month criterion, the applicant must provide - to the extent that the document(s) clearly and credibly establishes this criterion - one or more of the following types of documentation: copies of Federal Fishing Vessel Trip Reports (NOAA Form 88-30), Federal Port Agent Vessel Interview forms (NOAA Form 88-30), Federal Sea Sampling Observer Reports or a Federal Fishing Vessel and Gear Damage Compensation Fund Report (NOAA Form 88-176); personal vessel logbooks; state permit applications; and/or official state reporting documentation showing the number of lobster traps fished, including, but not limited to, state report cards, state vessel interview forms, license application forms, state sea sampling observer reports, and catch reports. These documents must have been created on or about the time of activity stated in the document. NMFS will not accept recent vessel log book entries or other recently created documents identified in this part as proof of fishing activity that occurred in prior years;

(3) As proof that 25,000 lb (11,340 kg) of lobster were landed the applicant must provide - to the extent that the document(s) clearly and credibly establishes this criterion - one or more of the following types of documentation: copies of Federal Fishing Vessel Trip Reports (NOAA Form 88-30), Federal Port Agent Vessel Interview forms (NOAA Form 88-30) or Federal Sea Sampling Observer Reports; personal vessel logbooks; official state reporting documentation showing the pounds of lobster landed, including, but not limited to, state report cards, state vessel interview forms, state sea sampling observer reports, and catch reports; and/or sales receipts or landing slips. These documents must have been created on or about the time of activity stated in the document. NMFS will not accept recent vessel log book entries or other recently created documents identified in this part as proof of fishing activity that occurred in prior years;

(4) As proof of the number of traps fished during the qualifying year, NOAA Fisheries will accept to the extent that the document(s) clearly and credibly establishes this criterion one or more of the following types of documentation: copies of Federal Fishing Vessel Trip Reports (NOAA Form 88-30); Federal Port Agent Vessel Interview Forms (NOAA Form 88-30); Federal Sea Sampling Observer Reports; Federal Fishing Vessel and Gear Damage Compensation Fund Reports (NOAA Form 88-176); personal vessel logbooks; tax returns and sales receipts; state permit applications; and/or official state reporting documentation showing the number of traps fished, including, but not limited to, state report cards, state vessel interview forms, license application forms, state sea sampling observer reports, and catch reports. Documentation may represent the number of traps fished during any point in the qualifying year and does not necessarily need to represent the 2-consecutive month period used in paragraph (a)(7)(vi)(C)(2) of this section. These documents must have been created on or about the time of the activity stated in the document. NMFS will not accept recent vessel log book entries or other recently created documents identified in this part as proof of fishing activity that occurred in prior years;

(5) All applicants must further provide a signed cover letter that identifies the documents provided and which qualifying and trap allocation criteria the documents are being used to establish;

(6) All applicants must further provide an affidavit attesting under the

penalties of perjury that each aspect of each of the qualification and trap allocation criteria has been met and the submitted supporting documentation is truthful, accurate and created contemporaneously with the dates identified on the documents.

Specifically, each affidavit must attest in separate and specific paragraphs:

(i) The name, address, lobster permit number and vessel of the applicant;

(ii) That at least 200 lobster traps were set, allowed to soak, hauled back and re-set during the 2-month period in the qualifying year in the area being selected by the applicant, identifying those months and that year and further identifying which documents are being offered as proof of such;

(iii) That at least 25,000 lb (11,340 kg) of lobster were landed during the qualifying year by the vessel, identifying that year and further identifying which documents are being offered as proof of such;

(iv) The total number of traps set in the qualifying area during the qualifying year, identifying that area and year, and further identifying which documents are being offered as proof of such; and

(v) That the submitted documents in support of these claims are truthful, accurate and created during the qualifying year.

(7) All documents and submissions must be legible. Illegible documents or submissions will not be considered;

(8) The Regional Administrator may, at his or her discretion, waive documentary obligations for certain elements of the qualification criteria for an applicant if NMFS itself has clear and credible evidence that would satisfy that qualification criteria for the applicant;

(9) At the discretion of the Regional Administrator, all submitted documentation must be accompanied by a completed NMFS Lobster Historical Participation Application Form.

(10) Applicants must retain copies of all the application materials and documentation submitted to NMFS while the application is pending.

(D) *Application period.* The time period for submitting a historical qualification and trap allocation application begins on the date 30 days after publication of this final rule (application period start date) and ends December 31, 2003.

(1) *Earlier submissions.* Applicants who submit their applications to the Regional Administrator by July 31, 2003 (or in less than 60 days after the application period start date, whichever is later) will be eligible to receive a temporary interim permit that would allow the vessel to continue fishing with