

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Madeleine Clayton 03/11/2002
Departmental Forms Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6086
Washington, DC 20230

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for approval of a new information collection received on 01/10/2002.

TITLE: American Lobster Requirements for Historical Participation in Areas 3, 4, and 5

AGENCY FORM NUMBER(S): None

ACTION : APPROVED
OMB NO.: 0648-0450
EXPIRATION DATE: 03/31/2005

BURDEN	RESPONSES	BURDEN HOURS	BURDEN COSTS
Previous	0	0	0
New	1,087	789	8
Difference	1,087	789	8
Program Change		789	8
Adjustment		0	0

TERMS OF CLEARANCE: None

NOTE: The agency is required to display the OMB control number and inform respondents of its legal significance (see 5 CFR 1320.5(b)).

OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

PAPERWORK REDUCTION ACT (PRA) SUPPORTING STATEMENT
for
AMERICAN LOBSTER HISTORICAL PARTICIPATION PROPOSED RULE FOR
FEDERAL LOBSTER MANAGEMENT IN THE EXCLUSIVE ECONOMIC ZONE
National Marine Fisheries Service
Northeast Regional Office
July 2001

INTRODUCTION

This submission requests the Office of Management and Budget (OMB) to authorize processing of this submission for a collection of information under the procedures set forth under the Paperwork Reduction Act of 1995 (PRA). The information collection would allow the National Marine Fisheries Service (NMFS) to obtain data from Federal lobster permit holders (permit holders) necessary in implementing a system of historical participation to reduce fishing effort on the American lobster resource. A Proposed Rule prepared by NMFS proposes management measures for the American lobster fishery in the Exclusive Economic Zone (EEZ) which are consistent with the recommendations of the Atlantic States Marine Fisheries Commission (Commission) in Addendum 1 to Amendment 3 of the Interstate Fishery Management Plan for American lobster (ISFMP), as authorized by the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). Prior to development of the proposed rule, a detailed analysis of the impacts of the preferred and alternative measures was conducted in a draft supplemental environmental impact statement (DSEIS).

The measures in the proposed rule are intended to assist in the American lobster stock rebuilding efforts of the ISFMP by restricting fishing effort in the EEZ portions of Lobster Conservation Management Areas (LCMAs, areas) 3, 4 and 5 based on historical participation. In addition to historical participation, the proposed rule also acknowledges conservation equivalent measures for lobster trap fishing in New Hampshire state waters and boundary clarifications for LCMAs 1, 2 and the Outer Cape Area. These additional measures do not require a collection of information and, therefore, are not discussed in this submission.

A. JUSTIFICATION

1. Why is this information collection necessary?

This information collection requirement is necessary in order for NMFS to establish and implement a system of limited access and effort reduction in the trap fishery for American lobster in certain parts of the EEZ to aid in ending overfishing and rebuilding American lobster stocks. The data collected will allow NMFS to determine which permit holders are eligible to fish in LCMAs 3, 4 or 5, and the number of traps each eligible permit holder may fish. The subsequent management measures implemented will be consistent with the measures put forth in Addendum I to Amendment 3 of the ISFMP, and will reflect the recommendations of the Commission and the majority of comments received by the public. Additional background information follows.

On December 6, 1999, NMFS published the American Lobster Fishery Final Rule (final rule). The final rule removed the existing lobster management measures under the Magnuson-Stevens Act and replaced them with the same and a variety of new measures authorized under the ACFCMA, including designation of lobster management areas, fishing gear restrictions, and a trap tagging requirement. With the majority of lobster harvested from state waters, it is expected that Federal management actions under the ACFCMA are most likely to encourage and expedite partnership management in state and Federal waters in a time frame that minimizes the potential for a stock collapse. ACFCMA provides authority for the implementation of management measures in the EEZ which are compatible with the ISFMP and consistent with the National Standards specified in Section 301 of the MSA. Under the final rule, fixed trap limits for the EEZ portions of each of the LCMAs, enforced with a trap tagging requirement, were established.

On August 3, 1999, the Commission approved Addendum I to Amendment 3 of the ISFMP. Addendum I, in part, includes area management measures to reduce lobster fishing effort by further restricting access into the fishery and by restricting the number of traps fished on the basis of historical participation in LCMAs 3, 4 or 5.

To address the measures established under Addendum I, NMFS published an advance notice of proposed rule making (ANPR) in the Federal Register on September 1, 1999. The ANPR informed the public that NMFS was considering and seeking comment on the need to further restrict access to the American lobster fishery in certain LCMAs. The ANPR also noted that NMFS was considering September 1, 1999 as a possible control date for establishing eligibility for future access to the lobster trap fishery. A notice of intent (NOI) was also published in the Federal Register on December 10, 1999, to further inform the public of NMFS' intent to go forward with the rulemaking process regarding historical participation and to seek further public comment on this issue. The DSEIS was also prepared in November 2000 to fully analyze the biological, social and economic impacts of implementing historical participation and other alternatives.

Based on the public comments received in response to the ANPR, NOI, DSEIS and the recommendations of the Commission to adopt compatible regulations to the ISFMP in Federal waters, NMFS proposes to implement effort control measures in Areas 3, 4 and 5 based on historical participation. This action will require permit holders intending to fish in these specific areas to provide documentation of historical participation during the qualifying time period from March 25, 1991 to September 1, 1999, and substantiate the number of lobster traps that they have historically fished (number of lobster traps routinely set, allowed to soak, hauled back and re-set at any given time) in the LCMA of concern during a specific qualifying year.

Regarding current data collections on this universe of permit holders, federal lobster permit holders are currently required to provide basic information for permit renewals including the gear types used and to select LCMAs. Information on the number of traps fished has not been requested by NMFS since 1992. This data was only provided on a voluntary basis, and updated information in this regard received between 1993 and 1995 was used to update the 1992 data for new entrants to the fishery or for those permit holders who continued to adjust this data annually.

Permit holders have never been required under federal lobster regulations to report landings of lobster. However, those federal lobster permit holders with other federal fishery permits which have mandatory reporting, must report lobster landings to meet the reporting requirements of these (non-lobster) permits.

2. How, by whom, how frequently, and for what purpose will the collected information be used?

NMFS will collect data from permit holders for the purposes of determining eligibility to fish for lobster with traps in LCMAs 3, 4 and 5. It is the intent of NMFS to collect this information concurrent with the annual federal fishery permit renewal process to limit burden on the permit holders and to facilitate the renewal of the permits which must list the permit holder's LCMA designations. Thus, permit holders intending to fish with lobster traps in Areas 3, 4 and 5 must complete the qualification process before their permits can be issued. Along with the annual permit renewal materials, each lobster permit holder will receive a letter describing the historical participation effort reduction scheme ("hppermitholderltr.wpd") and a Lobster Trap Fishery Area Eligibility Application and Trap Allocation Affidavit Form ("hpapplicationform.wpd"). This application form must be completed and submitted to NMFS along with documentation supporting (1) the qualification criteria for each LCMA specified and (2) the total number of traps "historically" fished in each specified LCMA.

Some permit holders may be pre-qualified for access to certain LCMAs by NMFS based on past data available at the Northeast Regional Office. These pre-qualified permit holders will not need to provide qualification documentation under this requirement, unless they choose to qualify for access to an LCMA that they have not been pre-qualified for, or unless they are not pre-qualified for all the necessary criteria for the area(s) elected. Those permit holders who pre-qualify under the NMFS system will be notified by letter ("prequalificationltr.wpd"), indicating the degree to which they pre-qualify and the area(s) they have pre-qualified for. The letter will request any outstanding documentation needed and an area eligibility and trap affidavit form for use in substantiating the number of traps historically fished. The permit holder may also use the Lobster Trap Area Eligibility and Trap Affidavit Form to submit documentation for the areas he/she has not pre-qualified for.

Each permit holder that is not pre-qualified by NMFS will have the opportunity to provide NMFS with documentation to substantiate the areas and total number of individual lobster traps fished during a specific year within the qualifying period. NMFS will analyze the documentation submitted by interested permit holders to determine whether or not they are eligible to fish for lobster with traps in LCMAs 3, 4 or 5. Applicants will be notified via letter as to whether or not they qualify based on the documentation submitted ("eligibleltr.wpd" and "ineligibleltr.wpd"). Those with incomplete applications will be notified of the deficiencies of the application ("returnchecklist.wpd") and will have 14 days after the date of the letter to submit the missing information.

Permit holders who have not been pre-qualified by NMFS and intend to qualify to fish for lobster with traps in either LCMA 3, 4, or 5 will have the opportunity to provide the necessary eligibility documentation to NMFS as described below.

Area 3

1. To qualify to fish for lobster with traps in LCMA 3, permit holders must demonstrate possession of a current federal limited access lobster permit.

Any documentation that indicates that the permit holder has a valid federal limited access lobster permit, such as a copy of a federal lobster permit, is sufficient.

2. The permit holder is also required to provide NMFS with documentation which demonstrates that a vessel linked to the permit set, allowed to soak, hauled back, and re-set at least 200 lobster traps in Area 3 during a two consecutive calendar-month period in any calendar year during the qualification period from March 25, 1991 to September 1, 1999. The qualification period excludes the time period in calendar years 1991 and 1999 which are outside of the qualification period, i.e. January 1, 1991 through March 24, 1991 and September 2, 1999 through December 31, 1999. Documentation may include copies of vessel logbooks; permit applications; Federal fishing trip reports (NOAA Form 88-30); official state reporting documentation indicating the number of traps fished including, but not limited to, state report cards, license application forms, and catch reports; an approved Federal Fishing Vessel and Gear Damage Compensation Fund Report (VGD) (NOAA Form 88-176); and/or other forms of credible documentation that indicate at least 200 traps were set, allowed to soak, hauled back, and re-set in Area 3 during a 2 consecutive calendar-month period in any calendar year during the qualification period.

Federal Fishing Trip Reports for various permit categories on a trip by trip basis are useful to NMFS, the Mid-Atlantic and New England Fishery Management Councils and the ASMFC for quota management, effort, landings, and other fishery management related purposes. These reports are also useful to the Coast Guard and state and Federal enforcement agencies for fisheries enforcement. The VGD Reports have been used to verify claims from vessel owners for damage to fishing gear and vessels due to gear conflicts at sea. The information contained in both Federal Fishing Trip Reports (NOAA Form 88-30) and VGD Reports may be used to verify areas and number of traps fished during a particular period and would not require the permit holder to necessarily re-complete this information if previously submitted.

3. Provision of sales receipts or other documents pertaining to the sale of lobsters that indicate the landing of at least 25,000 pounds (11,340 kg) of lobster from any location during the year used as the qualifying year from March 25, 1991 to September 1, 1999.

Permit holders may provide any form of documentation considered valid in the final rule for this action that will substantiate this landing requirement. Previously submitted VTR data or sales receipts may be the most readily available means of documentation. Regardless, the majority of lobster permit holders would likely have some form of documentation to verify past landings.

NMFS will use data submitted for this reason exclusively for the purposes of qualifying permit holders for eligibility to fish for lobster with traps in Area 3.

In addition to the three criteria above and consistent with the Commission's recommendations, all permit holders submitting an application to fish for lobster with traps in Area 3 would also be required to indicate on the Lobster Area Eligibility and Trap Allocation Affidavit Form (Eligibility and Affidavit Form), the total number of individual lobster traps a vessel linked to the federal permit set, allowed to soak, and hauled back in Area 3 at any one time during the qualifying year. This certification of the number of traps must be accompanied by the same or similar type of documentation used to fulfill qualification criterion number 2 to demonstrate that at least 200 lobster traps were set, allowed to soak, hauled back, and re-set in Area 3 during a 2 consecutive calendar-month period in any calendar year during the qualification period. Documentation submitted to support the number of traps fished on the Eligibility and Affidavit Form may reflect activity during any point within the qualifying year and does not necessarily need to represent the two consecutive month period used to substantiate qualification criterion number 2.

Some fishermen would likely need a combination of documents to support the affidavit (in this case the declaration of the number of traps historically fished on the Eligibility and Affidavit Form). NMFS recognizes the importance of this information as a basis to certify historical participation in the Area 3 fishery, yet is sensitive to the fact that there have not been mandatory reporting requirements in the lobster fishery. NMFS believes at this point that the use of such a declaration of the number of traps fished and the provision of supporting documentation to NMFS, would accommodate the necessary procedures to implement lobster trap fishing effort controls on the basis of historical participation.

The certification of the number of traps fished will be used by NMFS as a basis for establishing initial lobster trap allocations for vessels that qualify to fish for lobster with traps in Area 3. A trap reduction schedule will be employed for permit holders qualifying for access to Area 3. Initial trap allocations for qualifying vessels will not exceed 2,656 traps. Those vessels starting at 1,200 traps or less will have no further reductions. Each trap allocation of greater than 1,200 traps will be reduced on a sliding scale basis over four years. The revised trap reduction schedule in Addendum II to Amendment 3 of the ISFMP, as referenced in the rule, will be employed for this purpose.

Areas 4 or 5

1. To qualify to fish for lobster with traps in LCMAs 4 or 5 permit holders must demonstrate possession of a current federal limited access lobster permit.

Any documentation that indicates that the permit holder has a valid federal limited access lobster permit, such as a copy of a federal lobster permit, is sufficient.

2. Provision of documentation to demonstrate that a vessel linked to the permit set, allowed to soak, hauled back, and re-set at least 200 lobster traps in Area 4 or Area 5 during a 2 consecutive calendar-month period in any calendar year during the qualification period from March 25, 1991 through September 1, 1999, but excluding the time period in calendar years 1991 and 1999 that are outside of the qualification period, i.e. January 1, 1991 through March 24, 1991 and September 2, 1999 through December 31, 1999. Documentation may include copies of vessel logbooks; permit applications; Federal fishing trip reports (NOAA Form 88-30); official state reporting documentation showing the number of traps fished including, but not limited to, state report cards, license application forms, and catch reports; an approved Federal Fishing Vessel and Gear Damage Compensation Fund Report (VGD) (NOAA Form 88-176); and/or other forms of credible documentation that indicate at least 200 traps were set, allowed to soak, hauled back, and re-set in LCMA 4 or 5 during the 2 consecutive calendar-month period in any calendar year within the qualifying period.

As required for Area 3, all permit holders submitting an application to fish for lobster with traps in Area 4 or 5 would also be required to indicate on the Eligibility and Affidavit Form, the number of traps a vessel linked to the permit set, allowed to soak, hauled back, and re-set in Area 4 or 5 at any one time during the qualifying year. This certification of the number of traps must be accompanied by the same or similar type of documentation used to fulfill qualification criterion number 2 to demonstrate that at least 200 lobster traps were set, allowed to soak, hauled back, and re-set in Area 4 or 5 during a 2 consecutive calendar-month period in any calendar year during the qualification period. Documentation submitted to support the number of traps fished on the Eligibility and Affidavit Form may reflect activity during any point within the qualifying year and does not necessarily need to represent the two consecutive month period used to substantiate qualification criterion number 2.

Some fishermen would likely need a combination of documents to support the affidavit (in this case the declaration of the number of traps historically fished on the Eligibility and Affidavit Form). NMFS recognizes the importance of this information as a basis to certify historical participation in the Area 4 or 5 fishery, yet is sensitive to the fact that there have not been mandatory reporting requirements in the lobster fishery. NMFS believes at this point that the use of such a declaration of the number of traps fished and the provision of supporting documentation to NMFS, would accommodate the necessary procedures to implement lobster trap fishing effort controls on the basis of historical participation. The number of traps declared on the Eligibility and Affidavit Form will be used by NMFS as a basis for establishing initial trap allocations for vessels that qualify to fish for lobster with traps in Area 4 or Area 5.

The Commission's recommendations for Areas 4 and 5 do not include either trap limits or a sliding scale trap reduction schedule as in Area 3. However, NMFS's proposed rule recommends the implementation of a 1,440 trap limit per vessel for Areas 4 and 5. NMFS believes that the implementation of a trap limit, in combination with the proposed qualification criteria for eligibility to fish for lobster with traps in Area 4 and Area 5, will preclude excessive trap fishing effort, and corresponding levels of lobster fishing mortality, which could result in the

absence of a trap limit which exists in these areas under current lobster regulations (800 traps per vessel).

All of the information requested by NMFS in this collection has practical utility in that it will be used specifically to determine the eligibility of the permit holder for trap fishing in the specified LCMA(s).

3. Can improved technology reduce the burden?

Federal lobster permit holders will not likely have landings receipts, logbook entries, copies of federal fishing permits, and other documentation required under this action stored in an electronic format. Additionally, they are required under this action to submit a hard copy signed and notarized Eligibility and Affidavit Form with an original signature. As a result of this, as well as the remote location of many federal lobster permit holders, and the supposed limited access to email and facsimile machines, NMFS expects to receive all the applications in hard copy format by the U.S. Postal Service or private mail carrier.

Copies of the permit holder letter and instructions for this information collection will be posted on the NMFS home page subsequent to mailing to permit holders. This is intended to reduce the burden on permit holders who have lost the originally mailed information, or who inadvertently did not receive the information by mail. The majority of the information received from federal permit holders in response to this information request is confidential and NMFS has no intention of posting the results of this collection on the Internet for public access.

4. Describe any duplication of effort.

Some of the information submitted to establish eligibility to fish for lobster with traps in Areas 3, 4 and 5 may have already been submitted by some permit holders for other purposes. NMFS will also use previously submitted data to pre-qualify as many eligible permit holders as possible, thereby, precluding those who pre-qualify from the initial data submission requirements. However, NMFS may not have all components of the data that address the eligibility requirements for the specific LCMAs for a particular permit holder. In such cases, the permit holder will be required to submit all outstanding components of the eligibility documentation with the application. Permit holders may provide any form of documentation considered valid in the final rule for this action that will substantiate the specific qualification criteria. However, the use of previously submitted or completed federal fisheries data forms may help reduce the burden on permit holders.

5. How are the impacts on small businesses minimized?

All the respondents are considered to be small businesses. Therefore, efforts to minimize the impacts of reporting will be implemented by requesting only data that is essential in determining the eligibility of the respondent in meeting the criteria for eligibility to fish for lobster with traps in specific management areas based on historical participation. NMFS also intends to use

previously acquired data to pre-qualify permit holders for certain LCMAs. This measure would waive eligible, pre-qualified permit holders from submitting some, and possibly all, the initial area qualification documentation (except the certification of the total number of traps fished which is required of all permit holders applying for access to the lobster trap fishery in Areas 3, 4 and 5), thereby reducing the burden of this collection on as many permit holders as possible.

For those who do not pre-qualify and must submit documentation under this action, NMFS recommends the provision of federal fishery reports or documents that may have previously been submitted by permit holders in fulfillment of other requirements.

Further, the Eligibility and Affidavit Form which must be completed when applying for access into LCMAs 3, 4 or 5 will be included with the annual pre-printed permit renewal application, eliminating confusion encountered through multiple mailings. Many permit holders may choose to designate into and apply for access to more than one area using one Eligibility and Affidavit Form.

Those permit holders who do not intend to qualify for entry into the trap fishery in either of Areas 3, 4, and/or 5 will not be required to provide any additional information or documentation with the exception of the certification of the total number of traps fished. Those who previously designated into areas 3, 4 or 5 and do not wish to provide the additional documentation to substantiate historical participation will have the option of not designating those areas for lobster trap fishing. They also have the option of removing the trap gear code (gear code 800) when renewing their federal lobster permit. This latter action would preclude them from the requirements of this data collection, but would also prohibit them from fishing for lobster with traps in all LCMAs, unless a subsequent request to change the gear code back to trap gear is provided to NMFS at a later point during the fishing year.

6. What are the consequences of no, or a less frequent collection?

Until 1992, permit holders provided information on the number of traps and areas fished on a voluntary basis, and this data has been updated by subsequent submissions up to 1995. In the absence of both current effort data and a requirement for reporting landings on lobster permit holders, specific data is now needed to determine which permit holders are eligible to fish for lobster with traps in areas 3, 4 and 5. With the exception of those permit holders which NMFS could pre-qualify based on previously submitted data, NMFS would be unable to determine who qualifies for inclusion in the fishery under a system of historical participation unless this data collection requirement is implemented. The failure to implement this data collection could undermine the cooperative state and federal management of the lobster resource. NMFS intends to request this information only once. Therefore, the concept of a less frequent collection is not applicable in this case.

7. Explain if the request is not consistent with OMB guidelines.

The data collection as described is consistent with the guidelines established by OMB.

8. Describe efforts to get comments from outside the agency.

NMFS first informed the public of the intent to consider using historical participation as a means of limiting access into the lobster trap fishery in the form of an ANPR, published in the Federal Register on September 1, 1999. The ANPR requested comments on the need for limiting access to the American lobster resource based on historical participation in Areas 3, 4 and 5. It also requested that the public provide comments on the type of eligibility requirements that should be used if it was determined that participation in the trap fishery should be restricted. The ANPR also informed the public that the publication date of the notice, September 1, 1999, would likely be used as a control date, or cut-off date, to establish historical participation in these areas if such a system is implemented.

An NOI and request for comments regarding the preparation of an environmental impact statement concerning historical participation, as well as a suite of other lobster management measures at the request of the Commission, was published in the Federal Register on December 10, 1999. On December 15, a letter was sent, along with a copy of the notice, to all federal lobster permit holders which explained the NOI and requested comments.

The DSEIS was published in November 2000 and analyzed the biological, social and economic impacts of three possible management alternatives for historical participation in LCMAs 3, 4 and 5; evaluated a two-tier trap limit program proposed by the State of New Hampshire (and approved by ASMFC) as a conservation equivalent measure to replace an 800 trap limit in New Hampshire waters of LCMA 1; and addressed the need to clarify the boundaries of certain LCMAs off Massachusetts to be consistent with historical fishing practices.

Four public hearings were held coastwide in December 2000 to seek public comment on the DSEIS. In anticipation of ASMFC's approval of Addendum II, the DSEIS also solicited public comment on minimum gauge size increases. In continuation of the rulemaking process responding to ASMFC's recommendations relative to Addendum I, NMFS has drafted a proposed rule which will also solicit public comment, followed by a final rule.

In addition to formal announcements made by NMFS, the use of historical participation as a means of limiting access was discussed at formal ASMFC public meetings with the intention of recommending that the authorized agencies implement such measures in both state and Federal waters.

9. Explain any gifts or payment provided to respondents.

Respondents will not receive any gifts or payment.

10. Describe any assurances of confidentiality.

All data will be kept confidential as required by NOAA Administrative Order 216-100, Confidentiality of Fisheries Statistics, and will not be released for public use except in aggregate statistical form (and without identifying the source of the data, i.e. vessel name, owner, etc.).

11. Provide justification for any questions of a sensitive nature.

There are no questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

A summary of the type of documentation required under this information collection and the time burden estimates on permit holders in providing the documentation is provided below.

Area 3

1. Possession of a current federal limited access lobster permit.

The desired documentation for proof of an active permit during the qualifying period would be a copy of the current federal limited access lobster permit. It is surmised that respondents who hold active permits would likely have a copy of a permit or some type of record to confirm this. The expected time burden for an individual to provide documentation in support of a valid lobster permit during this period would likely be about **5 minutes**. We can assume that most full-time lobster fishermen would retain these types of records for tax and business management purposes and would be able to obtain and provide these documents.

In the absence of a copy of the federal permit, other forms of documentation used to substantiate landings as necessary for criterion 2 for the qualifying year may sufficiently indicate that the permit holder was in possession of a valid federal limited access lobster permit coded for trap gear during that specific period and may be considered by NMFS as an alternative form of documentation of a permit.

2. The permit holder is also required to provide NMFS with documentation which demonstrates that a vessel linked to the federal permit set, allowed to soak, hauled back, and re-set at least 200 lobster traps in Area 3 during a 2 consecutive calendar-month period during any calendar year during the qualification period from March 25, 1991 to September 1, 1999, (excluding the time period in calendar years 1991 and 1999 which are outside of the qualification period, i.e. January 1, 1991 through March 24, 1991 and September 2, 1999 through December 31, 1999). Documentation may include copies of vessel logbooks; permit applications; Federal fishing trip reports (NOAA Form 88-30); official state reporting documentation showing the number of traps fished including, but not limited to, state report cards, license application forms, and catch reports; an approved Federal Fishing Vessel and Gear Damage Compensation Fund Report (VGD) (NOAA Form 88-176); and/or other forms of credible documentation that indicate at

least 200 traps were set, allowed to soak, hauled back and re-set in LCMA 3 during the 2 consecutive month period within the year used as the qualifying year.

It is anticipated that the time burden for locating and submitting relevant documentation such as log book entries, permit applications or trip reports to substantiate that a vessel linked to the permit set, allowed to soak, hauled back and re-set at least 200 lobster traps during the qualification period would be about **15 minutes**.

3. Provision of sales receipts or other records pertaining to the sale of lobsters showing the landing of at least 25,000 pounds (11,340 kg) of lobster from any location during the year used as the qualifying year from March 25, 1991 to September 1, 1999. Locating this information would require approximately **10 minutes** and would likely be readily available to those who have historically had active lobster permits.

All applicants must indicate on the Eligibility and Affidavit Form the number of traps he/she fished at any one time in Area 3 during the qualifying year. This number must be based upon the same or similar type of documentation used to fulfill qualification criterion number 2. Documentation submitted to support the number of traps fished may reflect activity during any point within the qualifying year and does not necessarily need to represent the two consecutive month period used to substantiate qualification criterion number 2. However, documentation submitted to substantiate qualification criterion number 2 may also be used to support the total number of traps fished and, in this case, will minimize the burden on the applicants.

The estimated time burden for preparing and submitting the certification of the total number of traps fished and providing the supporting documentation with the Eligibility and Affidavit Form is **15 minutes**. Permit holders qualifying for access to multiple areas will need only to provide documentation substantiating one overall trap allocation (and, therefore, only one Eligibility and Affidavit Form) since their trap allocation will be based on the most restrictive number of traps fished of the areas selected. Therefore, no additional time burden for preparing the trap allocation portion of the Eligibility and Affidavit Form is expected for permit holders qualifying for access to multiple areas .

The estimated time necessary to complete the Area 3 section of the Eligibility and Affidavit Form is approximately **2 minutes**.

Therefore, to qualify for eligibility to fish for lobster with traps in Area 3, the time burden on the permit holder would be approximately **47 minutes**.

Areas 4 or 5 - Eligibility requirements for Areas 4 and 5 are the same and are, therefore, grouped together in one section.

1. Provision of a current federal limited access lobster permit.

The desired documentation for proof of an active permit during the qualifying period would be a copy of the federal permit. It is surmised that respondents who hold active permits would likely have a copy of a permit or some type of record to confirm this. The expected time burden for an individual to provide documentation in support of a valid lobster permit during this period would likely be about **5 minutes**. We can assume that most full-time lobster fishermen would retain these types of records for tax and business management purposes and would be able to obtain and provide them.

In the absence of a copy of the federal permit, other forms of documentation used to substantiate landings as necessary for criterion 2 for the qualifying year may sufficiently indicate that the permit holder was in possession of a valid permit eligible for trap gear during that specific period and may be considered by NMFS as an alternative form of documentation of a permit.

2. Provision of documentation to demonstrate that a vessel linked to the permit set, allowed to soak, hauled back, and re-set at least 200 traps in Area 4 and/or Area 5 during a 2 consecutive calendar-month period in any calendar year during the qualification period from March 25, 1991 through September 1, 1999 (excluding the time period in calendar years 1991 and 1999 that are outside of the qualification period, i.e. January 1, 1991 through March 24, 1991 and September 2, 1999 through December 31, 1999). Documentation may include copies of vessel logbooks; permit applications; Federal fishing trip reports (NOAA Form 88-30); official state reporting documentation showing the number of traps fished including, but not limited to, state report cards, license application forms, and catch reports; an approved Federal Fishing Vessel and Gear Damage Compensation Fund Report (VGD) (NOAA Form 88-176); and/or other forms of sufficient credible documentation that indicate a vessel linked to the permit set, allowed to soak, hauled back, and re-set at least 200 traps in Area 4 and/or 5 during the two consecutive month period within the qualifying year.

The estimated time burden for a federal permit holder to compile and submit documentation supporting criterion number 2 would be approximately **15 minutes**.

All applicants must indicate on the Eligibility and Affidavit Form the number of traps he/she fished at any one time in Area 4 and/or Area 5 during the qualifying year. This number must be based upon the same or similar type of documentation used to fulfill qualification criterion number 2. Documentation submitted to support the number of traps fished may reflect activity during any point within the qualifying year and does not necessarily need to represent the two consecutive month period used to substantiate qualification criterion number 2. However, documentation submitted to substantiate qualification criterion number 2 may also be used to support the total number of traps fished and, in this case, will minimize the burden on the applicants.

The estimated time burden for preparing and submitting the certification of the total number of traps fished and providing the supporting documentation with the Eligibility and Affidavit Form

is **15 minutes**. Permit holders qualifying for access to multiple areas will need only to provide documentation substantiating one overall trap allocation (and, therefore, only one Eligibility and Affidavit Form) since their trap allocation will be based on the most restrictive number of traps fished of the areas selected. Therefore, no additional time burden for preparing the trap allocation portion of the Eligibility and Affidavit Form is expected for permit holders qualifying for access to multiple areas .

As with Area 3, permit holders selecting either Area 4 or Area 5 are required to complete the Eligibility and Affidavit Form. Completion of either the Area 4 or Area 5 sections of the form should take approximately **2 minutes** per Area.

Therefore, the total estimated time required for a permit holder to compile and submit the required information to determine eligibility to fish for lobster with traps in either, or both of Area 4 or Area 5 would be approximately **37 minutes**.

Qualifying for Multiple Areas

The proposed rule requires permit holders who apply for access to more than one area to use the same qualifying year for both or all three areas. Thus, the documentation submitted to substantiate eligibility in multiple areas would be the same, unless the 2 consecutive months of trap fishing activity for each area, although within the same qualifying year, were different.

2 Areas

If the permit holder applies for access to Area 3 and either Area 4 or 5 using the same two month qualifying criteria, the total time burden would be the total time for compiling the data for Area 3 (47 minutes) plus an additional 2 minutes to complete the additional section of the Area Eligibility and Affidavit Form, for a total of **49 minutes**. If the permit holder applies for access to both Areas 4 and 5 using the same two month period, the total time burden would be **39 minutes** to compile the data and fill out the application form for the two areas. (37 minutes plus an additional 2 minutes for the additional area on the Eligibility and Affidavit Form).

In the event that a permit holder applies for access to more than one area using different two month periods for each area during the same qualifying year, the burden would increase. For example, a permit holder submits documentation for consideration of both Area 3 and Area 4 using 1995 as the qualifying year. The permit holder can verify with the documentation submitted that he fished June and July in Area 3 and August and September in Area 4. Therefore, all the documents he submits in favor of both areas would be the same with the exception of the proof of two consecutive months of fishing at least 200 traps in the two separate areas. The total time burden for this example in which the permit holder submits an application for access to LCMA 3 and LCMA 4 using the same qualifying year but different two consecutive month periods for each area is:

All documentation for Area 3: 47 minutes

Documentation for different two-month period for Area 4 using same qualifying year: 15 min.

Additional time to complete Area 4 section of Area Eligibility Application Form: 2 min.

Total for Area 3 and Area 4 as exemplified: **64 minutes**.

If a permit holder applies for access to both LCMAs 4 and 5, the total estimated time burden depends on whether the applicant uses the same or different consecutive month periods to document that a vessel linked to the federal permit set, allowed to soak, hauled back and re-set at least 200 lobster traps in each area. If the same consecutive month period is used to document fishing activity for both areas, the burden will be 5 minutes for documentation of the permit, 15 minutes to document the fishing of at least 200 traps during a two consecutive month period, 15 minutes for the affidavit certifying the number of traps fished, and 4 minutes to complete the Area Eligibility Application Form, for a total of **39 minutes**. If the permit holder uses different consecutive month periods in this case, the burden would include an additional 15 minutes for providing documentation for the additional consecutive month period for a total of **54 minutes**.

3 Areas

If a permit holder applies for access to all three areas using the same two month qualifying period for all three areas, then the burden would equal the total time for qualifying for Area 3 (47 minutes) plus an additional 2 minutes for Area 4 and Area 5 to complete the additional sections of the Eligibility and Affidavit Form (an additional 4 minutes, totaling **51 minutes**). The most burdensome scenario would be a permit holder applying for access to all three areas using different two month trap fishing periods for each area. In this case, we can assume that the time burden of the applicant would be the 51 minutes for compiling the documentation for Area 3 and completing the Eligibility and Affidavit Form for each area, plus an additional 15 minutes to compile the data substantiating two consecutive months of fishing at least 200 traps for both Area 4 and Area 5 (an additional 30 minutes), for a grand total of **81 minutes**.

Pre-qualified Permit Holders

Permit holders who pre-qualify for access to certain LCMAs based on data currently available to NMFS are not required to submit documentation to support their eligibility for the area or areas they have been pre-qualified for but would be required to submit documentation certifying the total number of traps they have historically fished as indicated on the Eligibility and Affidavit Form. Therefore, the perceived time burden on pre-qualified permit holders is **17 minutes** (15 minutes to provide documentation to support the number of traps fished plus 2 minutes to complete the Area Eligibility and Affidavit Form for that area). Permit holders will be notified if pre-qualified for a specific area, and will also have the option of submitting a full application for access to the other areas. The time burdens in such cases will always vary due to the nearly unlimited number of scenarios but would generally include the burdens associated with the areas the permit holder has not been pre-qualified for but is applying for access to, plus the 17 minutes to provide the information for the pre-qualification area. For example, if a permit holder is determined to be pre-qualified for Area 4, his/her time burden in applying for access to that area is 15 minutes for providing the documentation to support the total number of traps historically fished plus 2 minutes to complete the form for this area, or 17 minutes. If the permit holder decides to also submit an application for Area 3, an area that he/she is not pre-qualified for, then the total burden in submitting eligibility documentation for Area 3, or 32 minutes, is added. The 15 minutes for certifying the total number of traps fished for this area is not added since the

permit holder would already have provided this information for Area 4. Therefore, the total time burden for submitting an application for this scenario is 17 minutes plus 32 minutes, or 49 minutes.

The estimated burdens of this reporting requirement for federal permit holders are summarized in Tables 1 and 2.

The estimates above can be expanded to determine the overall public burden of the proposed action. NMFS permit data indicates that as of March 14, 2001, 785 federal permit holders selected Area 3 as at least one of the areas they intend to fish, 248 designated Area 4 as one of their lobster fishing areas, and 154 permit holders designated Area 5 as one of their areas for lobster trap fishing. There is some overlap of permit holders among these areas since permit holders can elect into more than one area. This represents a total of 1,187 area selections by 937 unique vessels. Using preliminary data from permit year 2000 as a template, we can estimate that approximately 937 individual applications may be received.

NMFS estimates, however, that some vessels may be pre-qualified for access into certain LCMAs, reducing the time and cost burdens of this requirement on those permit holders and to the government. A recent NMFS analysis indicates that approximately 48 vessels will pre-qualify for Area 3, 79 will pre-qualify for Area 4, and 56 will pre-qualify for Area 5, for an estimated total of 183 permit holders who will pre-qualify for at least one area and be required to submit only an affidavit for that particular area. If we subtract this number from the expected 937 applications, it would reduce the number of full applications to be processed to 754.

Appeals by Non-qualifying Permit Holders

NMFS intends to have a process in place to allow those permit holders who do not qualify a one-time opportunity to appeal that decision. Any applicant who is denied a federal limited access lobster permit for LCMA 3, 4 and/or 5 may appeal in writing to the Regional Administrator within 30 days of the date indicated on the notice of denial. The only ground for appeal is that the Regional Administrator erred in concluding that the vessel did not meet the criteria specified in the regulations. It is estimated that the total time for an applicant to appeal by sending a written appeal request to the Regional Administrator would be **15 minutes**.

Based on recent NMFS data on appeals by those denied access to another limited access fishery, NMFS estimates that approximately 20% of those applicants who do not initially qualify for access to a particular lobster management area under this action will appeal that decision. It is unknown how many permit holders will qualify for each area. If we assume that only those 183 vessels that pre-qualify are initially eligible for access, then the remaining 754 applications would be denied and eligible for appeal. If 20% of those that are denied appeal the decision, then approximately 150 letters of appeal may be expected.

The breakdown by area selection category of the expected applications is provided in Table 2.

13. Provide estimates of the total annualized cost burden to the respondents.

A summary of the type of documentation required under this information collection and the associated cost burden estimates on permit holders in providing the documentation is provided below.

Area 3

As previously described, permit holders who are not pre-qualified by NMFS will be required to submit proof of a current federal lobster permit; proof of history of two consecutive calendar-months of active lobster trap fishing (consisting of at least 200 traps) in Area 3 during any calendar year within the qualification period; and sales receipts or records showing that the permitted vessel landed at least 25,000 lbs. of lobster from any location during the qualifying year.

The total financial burden to the respondents would be the associated costs of obtaining photo copies of the required documentation, if the respondent chooses to do so, and postage for mailing the information. The cost of photo copying a federal permit, landings receipts and logbook entries or permit applications, and Eligibility and Affidavit Form would likely be, at roughly \$0.10 per copy, not more than \$5.00. This cost is dependent on the type of documentation the respondent uses to substantiate eligibility. For example, one permit holder may be able to document the 25,000 lb. landing requirement using only four weigh out slips, while another permit holder may need to provide fifty or more weigh out slips to fulfill this requirement. A permit holder who does not choose to photo copy the documentation sent in would only need to cover the postage costs. The postage for the packet sent first class in a standard 8.5 X 11" envelope at a weight of less than 2 pounds by U.S. mail would likely amount to \$1.20.

Therefore, the costs of a submission for qualification into LCMA 3 would range from approximately \$1.20 to \$6.20.

Area 4 or 5

Permit holders who elect to fish in either Area 4 or 5 and have not been pre-qualified by NMFS must provide proof of a current federal lobster permit and proof of having fished at least 200 traps in Area 4 or 5 during two consecutive calendar-months of the qualifying year. Unlike Area 3 fishermen, those attempting to qualify for access into Areas 4 or 5 are not required to document the harvest of at least 25,000 lbs. of lobster during the qualifying year, thereby minimizing the burden on lobster fishers attempting to qualify into either Area 4 or Area 5.

A qualifying year during the eligibility period must be selected and documentation submitted to demonstrate that the permit holder possessed a valid permit and fished traps in either Area 4 or 5, depending on the area they are attempting to qualify for, for two consecutive months during the qualifying year. All the required documentation could be provided through copies of two vessel and trip reports and the federal permit. If copies of each report, the federal permit for the qualifying year, and the Eligibility and Affidavit Form are made at approximately \$0.10 per copy, the cost of providing this documentation is \$0.50. If other forms of documentation are

provided by the applicant, it may add to the costs of meeting the requirements of this collection and could, conceivably, amount to \$2.60 to pay for photo copies of the documentation. Those choosing not to photo copy the documentation before submitting would not incur any costs in compiling the information.

This documentation could likely fit in a standard letter sized envelope, costing approximately \$0.10 and requiring standard postage of \$0.34. Thus, a range of costs in submitting this documentation for permit holders applying for either Area 4 or Area 5 would be dependent upon the type of documentation provided and would range from approximately \$0.64 to \$3.24.

Applications for Access to More Than One Area

Permit holders are required to use a single qualifying year when submitting an application for access to more than one LCMA. Therefore, no additional costs are expected if the permit holder applies for access to two or more areas.

However, some relatively insubstantial increases may occur if the two consecutive month periods within the same qualifying year are different for all the areas selected. In this case, the permit holder may be subject to the additional photo copying costs of \$2.60 for each additional area for which a different two consecutive month period is used. These additional costs are only relevant if the permit holder decides to photo copy the documentation before submitting. If the same two month period is used for all areas, then no additional costs would be incurred.

If Area 3 is selected, then the initial cost would be \$1.20 plus the cost of any photo copied information up to \$6.20. If the second area assumes a different two consecutive month period and photo copies are made, then an increase of up to \$2.60 may be incurred for each additional area. This would set the range for Area 3 and one other area from \$1.20 - \$8.80, and the potential costs for all three areas to between \$1.20 and \$11.40. For Areas 4 and 5 with different two consecutive month periods used, the costs, if copies of the documents are made, could fall between \$0.64 - \$8.44. The cost burden of other potential area qualification application scenarios is provided in Table 1.

Submission of Affidavits Stating Number of Traps Fished

All federal permit holders must indicate on the Eligibility and Affidavit form the total number of traps fished during the qualifying period. Permit holders are expected to have documentation on hand to substantiate this and may be asked to provide it upon request by NMFS. Permit holders will be required to have the Eligibility and Affidavit Form notarized. Depending on where or by whom the document is notarized, the cost range for this would be from \$0.00 to \$10.00.

Pre-qualified Permit Holders

Permit holders who pre-qualify for access to certain LCMA's based on data currently available to NMFS are not required to submit documentation to support their eligibility for the area or areas they have been pre-qualified for, but would still need to indicate the number of traps they historically fished in those areas on the Eligibility and Affidavit Form and submit supporting documentation. It is currently unknown to what degree NMFS will be able to pre-qualify permit

holders for each LCMA. Permit holders may pre-qualify for some or all criteria in one LCMA, but may not pre-qualify for criteria under any of the other LCMAs. These permit holders, however, may choose to submit documentation for access to those other areas that they have not pre-qualified for, making the perceived cost burden on pre-qualified permit holders difficult to determine. Therefore, for the purposes of this submission, the permit holder burden for applying for Area 3 and either Area 4 or Area 5 using the same two consecutive month periods can be applied as a reasonable (as well as an average time and cost burden) scenario. Thus, the estimated range of cost for a pre-qualified permit holder would be from \$1.20 - \$16.20.

Appeals

Any applicant denied a limited access American lobster permit for Area 3, 4, and/or 5, may appeal to the Regional Administrator within 30 days of the date indicated on the notice of denial. Any such appeal must be in writing. The only ground for appeal is that the Regional Administrator erred in concluding that the vessel did not meet the qualification criteria for the respective area(s) specified in the application for eligibility. The appeal must set forth the basis for the applicant's belief that the Regional Administrator's decision was made in error. The Regional Administrator will appoint a designee who will make the initial decision on the appeal. The appellant may request a review by the Regional Administrator of the initial decision on the appeal by so requesting such a review in writing within 30 days of the date on the notice of the initial decision on the appeal. The appellant may present his/her objections to the initial decision on the appeal, at a hearing before an officer appointed by the Regional Administrator. The hearing officer must make findings of fact and a recommendation to the Regional Administrator. Upon receiving the findings and a recommendation, the Regional Administrator must make a decision on the appeal, which will be the final decision of the Department of Commerce. If the appellant does not request a review of the initial decision on the appeal within 30 days of the date on the notice of the initial decision on the appeal, then the initial decision is the final administrative action of the Department of Commerce.

A vessel denied a limited access American lobster permit for Area 3, 4, and/or 5 may fish in Area 3, 4, and/or 5, provided that the denial has been appealed, the appeal is pending, and the vessel has on board a letter from the Regional Administrator authorizing the vessel to fish in Area 3, 4, and/or 5. The Regional Administrator will issue such a letter for the pendency of any appeal, which decision is the final administrative action of the Department of Commerce pending a final decision on the appeal. The letter of authorization must be carried on board the vessel. While the appeal is pending, the vessel may fish up to 800 lobster traps, unless the vessel's Federal lobster permit has designated only Area 3 for lobster trap fishing, whereby, the vessel may fish up to 1,800 lobster traps in Area 3 only. If the appeal is finally denied, the Regional Administrator must send a notice of final denial to the vessel owner; the authorizing letter will become invalid 5 days after receipt of the notice of denial. Those permit holders who do not initially qualify for access into one or more of the areas may appeal in writing. The costs associated with an appeal would be the cost of postage for submitting a written letter of appeal, or approximately \$0.34 for postage and \$0.10 for a letter sized envelope, totaling \$0.44. NMFS expects approximately 150 appeals for a total applicant cost burden of \$66.00.

A summary of the cost burden estimates is provided in Tables 1 and 2.

Table 1. Estimated Burden on Individual Federal Permit Holders

INDIVIDUAL APPLICANT BURDEN	Eligibility Documentation *		Certification of Number of Traps Fished		TOTAL	
	Time (minutes)	Economic (dollars)	Time (minutes)	Economic (dollars)	Time (minutes)	Economic (dollars)
Area 3	32	1.20 - 6.20	15	0.00 - 10.00	47	1.20 - 16.20
Area 4 or 5	22	0.64 - 3.24	15	0.00 - 10.00	37	0.64 - 13.24
Area 3 and either 4 or 5 w/ same two month period	34	1.20 - 6.20	15	0.00 - 10.00	49	1.20 - 16.20
Area 3 and either 4 or 5 w/different two month period	49	1.20 - 8.80	15	0.00 - 10.00	64	1.20 - 18.80
Areas 4 and 5 w/ same two month period	24	0.64 - 5.84	15	0.00 - 10.00	39	0.64 - 15.84
Areas 4 and 5 w/ different two month period	39	0.64 - 8.44	15	0.00 - 10.00	54	0.64 - 18.44
Areas 3, 4 and 5 w/ same two month period of all three areas	36	1.20 - 11.40	15	0.00 - 10.00	51	1.20 - 21.40
Areas 3, 4 and 5 w/ different two month period of all three areas	66	1.20 - 16.60	15	0.00 - 10.00	81	1.20 - 26.60
Pre-Qualified**	34	1.20 - 6.20	15	0.00 - 10.00	49	1.20 - 16.20
Appeals	15	0.44	N/A	N/A	15	0.44

* Eligibility documentation includes compilation and submission of proof of permit, Lobster Area Eligibility Application Form, and proof of two consecutive months of fishing at least 200 lobster traps during the qualifying year for Areas 4 and 5. Area 3 eligibility documentation includes all previously listed items plus proof landing at least 25,000 lbs. of lobster during the qualifying year.

**Follows the example of a specific, and likely expected, scenario in which the permit holder is pre-qualified for Area 4 and elects to also apply for access to Area 3. The eligibility documentation figure includes the 2 minutes to fill out the Eligibility and Affidavit Form for Area 4 plus the 32 minutes in providing the necessary eligibility documentation and filling out the Eligibility and Affidavit Form for Area 3. The 15 minutes for certifying the total number of traps historically fished is shown under the Certification of Number of Traps Fished column.

Table 2. Total Estimated Time and Cost Burdens on Permit Holders.

OVERALL APPLICANT BURDEN	Estimated Number of Applications	Estimated Burden Per Applicant		TOTAL BURDEN		
		Time * (Min.)	Economic (Dollars)	Time (Hrs.)	Economic (Dollars)	Average (Dollars)
Area 3 only	516	47	1.20 - 16.20	404	619.20 - 8359.20	4489.20
Area 4 or 5	93	37	0.64 - 13.24	57	59.52 - 1231.32	645.42
Area 3 and either 4 or 5	59	57	1.20 - 18.20	56	70.80 - 1073.80	572.30
Areas 3, 4 and 5	57	66	1.20 - 26.60	63	58.20 - 1516.20	787.20
Areas 4 and 5	29	47	0.64 - 18.44	23	18.56 - 534.76	276.66
TOTALS non-pre-qualified	754	N/A	N/A	603	826.28 - 12715.28	6770.78
Pre-qualified	183	49	1.20 - 16.20	149	219.60 - 2964.60	1592.10
TOTALS - Initial Applications	937	N/A	N/A	752	1045.88 - 15679.88	8362.88
Appeals	150	15	0.44	37.5	66.00	66.00
GRAND TOTALS - ALL RESPONSES	1087	N/A	N/A	789.5	1111.88 - 15745.88	8428.88

*Total time for each area combination calculated by averaging total time of using the same two month period and different two month period, e.g. from Table 1, takes the average of the total time to apply for Area 4 and 5 (47 minutes) using the same two month period (39 minutes) and the total time for applying for Area 4 and 5 using different two month periods for each area (54 minutes).

14. Provide estimates of annualized costs to the government.

The estimates of the burden to the government of this data collection are based on the estimated number of vessels (an individual or entity may have more than one federally permitted lobster vessel) who apply for access to one or more of LCMAs 3, 4 and 5. As stated in Question 13 and summarized in Table 2 an estimate of the total number of expected applications is based on area designations from federal lobster permits during the 2000 fishing year. In fishing year 2000, 937 federal permit holders selected one or more of areas 3, 4 and 5 for lobster trap fishing. Of these, it is expected that approximately **183** will pre-qualify for access to at least one of the areas,

leaving approximately 754 permit holders who may submit applications for access to one or more areas. The total estimated burden on the government from this action is calculated based upon the 754 expected permit holders who apply to this program and the burden associated in handling the pre-qualification process, mailing out letters and application materials to all lobster permit holders, preparing and mailing responses to all applicants, and reviewing applications and affidavits. Government burden from appeals by permit holders whose applications are initially denied is also analyzed.

Processing of the required information would be done as the information is received with the permit renewal applications. The documents for this data collection would be scheduled for mailing concurrent with the permit renewal applications. Permits must be renewed by April 30 of each year, and the NMFS permit office usually sends out the permit renewal applications in February. The materials will begin arriving back at NMFS within two weeks of mailing out to the permit holders and this information will continue to come in through June. The bulk of the renewal applications and area eligibility information will likely be returned the months of February, March and April.

Two GS-10 employees with an average annual salary of \$48,000 each would be assigned to evaluate the documentation submitted for access into the areas of concern to determine eligibility. It is estimated that it would take approximately 10 minutes to review each application. If 754 individual applications were submitted, then 126 person hours would be required to complete the initial review and determination of eligibility for each application.

The annual employee salary of \$48,000 broken down by week is \$923.00, and equates to \$23.08 per hour for a standard 40 hour week. This would put the cost of 126 person hours of review time at \$2,908.08. If 10%, or 75 applications were either incomplete or required follow-up with the permit holder, it could take about 10 minutes to contact the permit holder either by telephone or letter and if the revised documentation is received, an additional 10 minutes to incorporate the new information into the application package and complete the evaluation. This would amount to an additional 20 minutes per incomplete application, or approximately 25 hours for 75 applications, adding another \$577.00 to the total federal costs in labor. Thus, the total labor costs for review of the applications would be **\$3,485.08**.

Costs would also be realized in labor and materials in producing and mailing the permit holder letters and instructions to all federal lobster permit holders. Labor costs in accomplishing this would be roughly equivalent to 60 person hours at \$23.08 per hour or \$1,384.80. Costs for materials including 3,200 envelopes (7 boxes at \$9.00 per box) at \$63.00, postage at approximately \$.55 per permit holder (assumes a standard letter size envelope with no more than 5 letter sized pages within) for 3,200 permit holders would be approximately \$1,760.00, 5 sheets of paper per package for 3,200 packages is 16,000 pages is approximately \$75.00. Thus, the total cost for mailing the initial materials is estimated at **\$3,282.80**.

Further, it is expected to take approximately 80 person hours to respond to the applicants at \$1,846.40, and an additional 80 person hours to evaluate the documentation on the numbers of

traps historically fished by each eligible permit holder also totaling \$1,846.40. These two tasks would amount to labor costs of **\$3,692.80**.

Costs of materials for these follow-up tasks would include responding to all of the estimated 937 vessel applications since even those who are pre-qualified for a single area may submit a full application in support of access to another area, requiring some type of response by NMFS. Included in the expenses would be postage at \$0.34 for a total of \$318.58; standard letter size envelopes (2 boxes at \$9.00 per box) at \$18.00; and paper for response letters (approximately 1,200 sheets of paper) totaling about \$7.00. The total materials for the follow up portion of the program would therefore be approximately **\$343.58**.

Approximately 40 person hours would be required to complete the analysis to determine which vessels would pre-qualify for access into the LCMAs. This analysis would likely be conducted by a GS-12 Programming Specialist with an approximate annual salary of \$65,000. Therefore, 40 hours of work at the corresponding hourly rate is **\$1,250.00**.

The total estimated costs to the government of this action are equal to the costs of the initial application review of applications, including response to permit holders with incomplete applications and re-evaluation upon completion, of \$3,485.08; costs for labor and materials associated with mailing the application materials to permit holders of \$3,282.80; labor costs to review the affidavits of \$1,846.40; costs of materials to follow up with all applicants of \$343.58 and associated labor costs of 1,846.40; and the costs of analyzing data to pre-qualify vessels of \$1,250. The total costs to the government of this data collection are **\$12,054.26**.

NMFS intends to have a process in place to allow those permit holders who do not qualify a one-time opportunity to appeal that decision. Any applicant who is denied a federal limited access lobster permit for LCMA 3, 4 and/or 5 may appeal in writing to the Regional Administrator within 30 days of the notice of denial. Permit holders who were not notified of the application process for access to LCMAs 3, 4 and/or 5 may submit an application for consideration within twelve months of the effective date of the regulations.

Based on recent NMFS data on appeals by those denied access to another limited access fishery, NMFS estimates that approximately 20% of those applicants who do not initially qualify for access to a particular lobster management area under this action will appeal that decision. It is unknown how many permit holders will qualify for each area. If we assume that only those 183 vessels that pre-qualify are initially eligible for access, then the remaining 754 applications would be denied and eligible for appeal. If 20% of those that are denied appeal the decision, then approximately 150 letters of appeal may be expected. The estimated time for reviewing an appeal would be approximately 10 minutes for a total of 25 hours in review time for 150 appeals. Using the previously calculated hourly wage of reviewers of \$23.08, the total estimated review time for all appeals is approximately **\$577.00**.

The costs of this action to the Federal government are summarized in Table 3.

Table 3. Estimated Costs to the Federal Government

Federal Burden	Pre-qualification		Initial Application Mailing and Review*		Review of Trap Certifications		Post Review Response to Applicants		Appeals		TOTAL	
	Time (hours)	Economic (dollars)	Time (hours)	Economic (dollars)	Time (hours)	Economic (dollars)	Time (hours)	Economic (dollars)	Time (hours)	Economic (dollars)	Time (hours)	Economic (dollars)
Labor	40.0	1,250.00	190.0	3,485.08	80.0	1,846.40	80.0	1,846.40	25.0	577.00	390.0	9,328.00
Materials	0.0	0.00	0.0	3,282.80	0.0	0.00	0.0	343.58	0.0	0.00	0.0	2,187.96
TOTAL	40.0	1,250.00	190.0	6,767.88	80.0	1,846.40	80.0	2,189.98	25.0	577.00	390.0	12,054.26

* Includes time required to contact permit holders with incomplete applications and to incorporate subsequent documentation received.

15. Explain potential changes in burden.

The change in burden represents a programmatic change resulting from new requirements.

16. Describe any plans for any statistical use of this information.

Results from this collection may be used in scientific, management, technical or general publications such as Fisheries of the United States which follows prescribed statistical tabulations and summary table formats. Data are available to the general public upon request in summary form only; data are available to NMFS employees in detailed format on a need-to-know basis.

17. Explain the reasons why display would be inappropriate.

All forms will display the OMB control number and expiration date along with information relevant to the Paperwork Reduction Act of 1995.

18. Explain each exception to the certification statement.

All instances of this submission comply with 5 CFR 1320.9.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

No statistical methods will be employed for the purposes of this information collection requirement.

Attachments

LOBSTER CONSERVATION MANAGEMENT AREA 3, 4 & 5
LOBSTER TRAP FISHERY AREA ELIGIBILITY APPLICATION
AND TRAP AFFIDAVIT FORM
BACKGROUND INFORMATION AND INSTRUCTIONS
FISHING YEAR 2002

Dear Federal Permit Holder:

Consistent with Addendum I to Amendment 3 of the Interstate Fishery Management Plan for American lobster (ISFMP) the National Marine Fisheries Service (NMFS) has promulgated regulations employing a system of effort reduction in the lobster fishery. Specifically, eligibility to fish for lobster with traps in the Federal waters of lobster conservation management areas (LCMA/Area) 4 and 5, and all of LCMA 3 will be based on historical participation as defined in the qualification criteria described below for each LCMA. These regulations, effective with the 2002 fishing year which begins on May 1, 2002, are based upon the recommendations of the Atlantic States Marine Fisheries Commission, specific lobster conservation management teams (LCMTs), and comments received by the public. If you do not intend to fish for lobster with traps in either of LCMAs 3, 4 or 5 you are not required to complete any forms or submit any documentation associated with this letter and need only to designate your LCMAs for lobster trap fishing on the enclosed pre-printed permit application. Your ability to fish for lobster with traps in one or more of LCMAs 1, 2, the Outer Cape management area, and LCMA 6 (NY and CT license holders only) will not be impacted.

To qualify for future access into the lobster trap fishery in LCMAs 3, 4 or 5, you must demonstrate a history of participation in the fishery in these areas by completing the enclosed Lobster Trap Fishery Area Eligibility Application and Trap Allocation Affidavit Form and submitting documentation to support both the number of traps fished and the qualification criteria as described below. The number of traps fished will be used to determine the initial trap allocation for your permit if you are deemed eligible to fish for lobster with traps in one or more of these areas.

For each LCMA selected, you must select a calendar year between March 25, 1991 and September 1, 1999 as a qualifying year and provide documentation supporting the eligibility requirements for that qualifying year for the LCMA(s) selected. To select the areas you intend to qualify for, place an "X" in the space provided to the right of the area on the application form. Indicate in the right hand column for each area you select, the type of documentation you are submitting to address the qualification criteria.

To qualify for access to LCMA 3, you must submit:

1. Proof of possession of a current valid Federal limited access lobster permit.
2. Documentation demonstrating that a vessel linked to the Federal permit set, allowed to soak, hauled back, and re-set at least 200 lobster traps in Area 3 during a two consecutive calendar-month period within the qualifying year during the qualification period between March 25, 1991 and September 1, 1999. Documentation may include copies of vessel logbooks, state or Federal Fishing Trip Reports, permit applications, or any other forms of credible documentation indicating that at least 200 lobster traps were set, allowed to soak, hauled back and re-set as specified above.
3. Sales receipts or other records pertaining to the sale of lobsters and showing the landing of at least 25,000 pounds of lobster from any location during the qualifying year.
4. Indicate the total number of individual lobster traps that a vessel linked to the permit set, allowed to soak, hauled back and re-set in Area 3 at any given time during the qualifying year. This must be based

upon information contained in: Federal Fishing Trip Reports (NOAA Form 88-30); official state reporting documentation indicating the number of lobster traps fished including, but not limited to, state report cards, license application forms, and catch reports, Federal Fishing Vessel and Gear Damage (VGD) Compensation Fund Reports (NOAA Form 88-176); and /or other forms of credible documentation. Federal permit holders are required to submit this information in support of the affidavit. The Area Eligibility Application and Affidavit Form must be dated and signed by the permit holder or designated representative and must be notarized.

A trap reduction schedule (Table 1) developed by the Area 3 Lobster Conservation Management Team will be employed for permit holders eligible to fish for lobster with traps in Area 3. Initial trap allocations determined by NMFS for each permit holder will not exceed 2,656 traps. Those qualified permit holders starting with 1,200 traps or less will have no further increases or reductions. Each trap allocation greater than 1,200 traps will be reduced on a sliding scale basis over four years.

Table 1. Area 3 Trap Reduction Schedule

Number of Traps in Affidavit	Trap Allocation by Fishing Year			
	2002	2003	2004	2005 and beyond
*1200-1299	1200	1200	1200	1200
1300-1399	1200	1200	1200	1200
1400-1499	1290	1251	1213	1200
1500-1599	1388	1337	1297	1276
1600-1699	1467	1423	1380	1352
1700-1799	1548	1498	1452	1417
1800-1899	1628	1573	1523	1482
1900-1999	1705	1644	1589	1549
2000-2099	1782	1715	1654	1616
2100-2199	1856	1782	1715	1674
2200-2299	1930	1849	1776	1732
2300-2399	2003	1905	1836	1789
2400-2499	2076	1981	1896	1845
2500-2599	2197	2034	1952	1897
2600-2699	2218	2107	2008	1949
2700-2799	2288	2169	2063	2000
2800-2899	2357	2230	2117	2050
2900-2999	2425	2291	2171	2100
3000-3099	2493	2351	2225	2150
3100-3199	2575	2422	2288	2209

Number of Traps in Affidavit	Trap Allocation by Fishing Year			
	2002	2003	2004	2005 and beyond
≥3200	2656	2493	2351	2267

** Eligible permit holders with initial trap allocations below 1,200 traps will remain at that level and will have no further reductions.*

To qualify for access to Areas 4 you must submit:

1. Proof of possession of a current valid Federal limited access lobster permit.
2. Documentation to demonstrate that a vessel linked to the Federal permit set, allowed to soak, hauled back, and re-set at least 200 lobster traps in Area 4 during a two consecutive calendar-month period within the qualifying year during the qualification period between March 25, 1991 and September 1, 1999. Documentation may include copies of vessel logbooks, state or Federal Fishing Trip Reports, permit applications, or any other forms of credible documentation indicating that at least 200 lobster traps were set, allowed to soak, hauled back and re-set as specified above.
3. Indicate the total number of individual lobster traps that a vessel linked to the permit set, allowed to soak, hauled back and re-set in Area 4 at any given time during the qualifying year. This must be based upon information contained in: Federal Fishing Trip Reports (NOAA Form 88-30); official state reporting documentation indicating the number of lobster traps fished including, but not limited to, state report cards, license application forms, and catch reports, Federal Fishing Vessel and Gear Damage (VGD) Compensation Fund Reports (NOAA Form 88-176); and /or other forms of credible documentation. Federal permit holders are required to submit this information in support of the affidavit. The Area Eligibility Application and Affidavit Form must be dated and signed by the permit holder or designated representative and must be notarized.

To qualify for access to Areas 5 you must submit:

1. Proof of possession of a current valid Federal limited access lobster permit.
2. Documentation to demonstrate that a vessel linked to the Federal permit set, allowed to soak, hauled back, and re-set at least 200 lobster traps in Area 5 during a two consecutive calendar-month period within the qualifying year during the qualification period between March 25, 1991 and September 1, 1999. Documentation may include copies of vessel logbooks, state or Federal Fishing Trip Reports, permit applications, or any other forms of credible documentation indicating that at least 200 lobster traps were set, allowed to soak, hauled back and re-set as specified above.
3. Indicate the total number of individual lobster traps that a vessel linked to the permit set, allowed to soak, hauled back and re-set in Area 5 at any given time during the qualifying year. This must be based upon information contained in: Federal Fishing Trip Reports (NOAA Form 88-30); official state reporting documentation indicating the number of lobster traps fished including, but not limited to, state report cards, license application forms, and catch reports, Federal Fishing Vessel and Gear Damage (VGD) Compensation Fund Reports (NOAA Form 88-176); and /or other forms of credible documentation. Federal permit holders are required to submit this information in support of the affidavit. The Area Eligibility Application and Affidavit Form must be dated and signed by the permit holder or designated representative and must be notarized.

Qualifying for access to more than one area:

You must check off each LCMA you intend to qualify for on the Lobster Trap Fishery Area Eligibility Application Form (OMB###). The same qualifying year must be used when applying for access to more than one area. Your initial trap allocation will be the lowest of all areas you qualify for.

Pre-qualification:

NMFS does have the capability to pre-qualify some Federal permit holders for eligibility to fish for lobster with traps Areas 3, 4 and 5 based on historical data. Those who are pre-qualified based on data already available to NMFS will be notified and required to submit only the affidavit and any other outstanding documentation as noted. Permit holders who have pre-qualified for access to a certain area may still submit an application and affidavit for access to other areas.

Submitting the Application:

Sign, date and return the completed Lobster Trap Area Eligibility Application and Trap Affidavit Form, and supporting documentation for each LCMA selected to:

National Marine Fisheries Service
Lobster Area Eligibility Program
One Blackburn Drive
Gloucester, MA 01930

If you have any questions regarding the area eligibility program, please call the NMFS information line at (978) 281-9278.

Enclosure

**AMERICAN LOBSTER TRAP FISHERY AREA ELIGIBILITY APPLICATION
AND TRAP ALLOCATION AFFIDAVIT FORM
LOBSTER CONSERVATION MANAGEMENT AREAS 3, 4 AND 5
FISHING YEAR 2002**

You must complete this form if you are a federal lobster permit holder intending to fish for lobster with traps in one or more of Lobster Conservation Management Areas (LCMAs) 3, 4, or 5 during the 2002 fishing year. Additional background information is provided in the enclosed letter to permit holders.

Use this form as the cover sheet to your application. First, fill in the vessel name, documentation number and federal permit number in the spaces provided below. Second, check off the areas you intend to qualify for. Third, indicate the total number of traps fished during the qualifying year for each area selected. Then, indicate in the right hand column of the table below the type of information you have provided to substantiate your past participation for the specific federal limited access lobster permit indicated. Be sure to provide, along with this application form, documentation to support (1) the qualification criteria and, (2) the number of traps fished for each area selected.

Vessel Name: _____ Vessel Documentation #: _____

Federal Permit #: _____

<p><i>Place an "X" in the space provided in the right hand box if you are applying for access to Area 3. Then indicate below the type of information you have provided to meet the eligibility criteria for this area.</i></p>	<p align="center">Area 3 _____</p>
<p>Qualifying year. (Write in the calendar year between March 25, 1991 - Sept 25, 1999 to be used as your qualifying year for this area in the box to the right.)</p>	
<p>Copy of Permit included for qualifying year? (Enter year of permit in the box to the right if permit included with application package. Otherwise, enter "no".)</p>	
<p>Proof of two consecutive calendar months of lobstering with at least 200 traps in Area 3 during the qualifying year? (Indicate in the box to the right the months and year, and type of documentation provided, e.g. trip reports, landing receipts, etc.)</p>	
<p>25,000 lbs. of lobster landed throughout the range of the resource during the qualifying year? (If yes, indicate in the box to the right the type of documentation provided, e.g. trip reports, landing receipts, etc.)</p>	
<p>Number of Traps: Indicate the total number of individual lobster traps that a vessel linked to the federal lobster permit routinely set, allowed to soak, hauled back and re-set in Area 3 during the qualifying year and describe the type of documentation included to support this figure.</p>	

<p><i>Place an "X" in the space provided in the right hand box if you are applying for access to Area 4. Then indicate below the type of information you have provided to meet the eligibility criteria for this area.</i></p>	<p style="text-align: center;">Area 4 _____</p>
<p>Qualifying year. (Write in the calendar year between March 25, 1991 - Sept 25, 1999 to be used as your qualifying year for this area in the box to the right.)</p>	
<p>Permit included for qualifying year? (Enter year of permit in the box to the right if permit included. Otherwise, enter "no".)</p>	
<p>Proof of two consecutive calendar months of lobstering with at least 200 traps in Area 4 during the qualifying year? (Indicate in the box to the right the months and year, and type of documentation provided, e.g. trip reports, landing receipts, etc.)</p>	
<p>Number of Traps: Indicate the total number of individual lobster traps that a vessel linked to the federal lobster permit routinely set, allowed to soak, hauled back and re-set in Area 4 during the qualifying year and describe the type of documentation included to support this figure.</p>	
<p><i>Place an "X" in the space provided in the right hand box if you are applying for access to Area 5. Then indicate below the type of information you have provided to meet the eligibility criteria for this area.</i></p>	<p style="text-align: center;">Area 5 _____</p>
<p>Qualifying year. (Write in the calendar year between March 25, 1991 - Sept 25, 1999 to be used as your qualifying year for this area in the box to the right.)</p>	
<p>Permit included for qualifying year? (Enter year of permit in box to the right if permit included. Otherwise, enter "no".)</p>	
<p>Proof of two consecutive calendar months of lobstering with at least 200 traps in Area 5 during the qualifying year? (Indicate in the box to the right the months and year, and type of documentation provided, e.g. trip reports, landing receipts, etc.)</p>	
<p>Number of Traps: Indicate the total number of individual lobster traps that a vessel linked to the federal lobster permit routinely set, allowed to soak, hauled back and re-set in Area 5 during the qualifying year and describe the type of documentation included to support this figure.</p>	

Sign, date, notarize and return this completed form along with the supporting documentation indicated in the table above to:

National Marine Fisheries Service
Lobster Area Eligibility Program
One Blackburn Drive
Gloucester, MA 01930

If you have any questions regarding the area eligibility program or the use of this form, call the NMFS information line at (978) 281-9278.

Signature of Applicant: _____ Date: _____

NOTARY PUBLIC: _____ Date: _____ Commission Expiration: _____

I certify that the information provided on this form is true, complete and correct to the best of my knowledge, and made in good faith. Making a false statement on this form is punishable by law (18 U.S.C. 1001). Forms that are not signed and dated will not be processed.

This collection is authorized under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C 1801 et. Seq.). The information will be used in the management of the American lobster fishery. This information collection is necessary in reducing lobster trap fishing effort in Lobster Conservation Management Areas (LCMAs) 3, 4 and 5 consistent with the Interstate Fishery Management Plan for American lobster. The collection will allow NMFS to reduce trap fishing effort using a system of limited access based on historical participation.

Public reporting burden for the collection of information is dependent upon the area or areas that the applicant is applying for access to and the type of documentation used by the applicant to substantiate eligibility for access to the area(s) based on historical participation. The average reporting burden of this action, including submission of an affidavit and excluding appeals and pre-qualified applicants, is estimated at approximately 53 minutes per response. This includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Specifically, the estimated reporting burden for applicants applying for access to an LCMA is approximately 5 minutes for proof of possession of an eligible Federal lobster permit, 15 minutes for proof that a vessel linked to the Federal permit set, allowed to soak, hauled back, and re-set at least 200 lobster traps during a two consecutive calendar month period during the qualifying year, 15 minutes for the affidavit of number of traps fished, approximately 10 minutes for proof of landing at least 25,000 lbs. of lobster (LCMA 3 applicants only), and approximately 2 minutes to complete this form for each LCMA designated (not to exceed a total of 6 minutes). Additional burden is anticipated for permit holders who, when applying for access to multiple areas, use different consecutive month periods of fishing activity for each area, rather than the same consecutive month period for all areas, when documenting the setting, soaking, hauling back, and re-setting of at least 200 lobster traps during a two consecutive calendar-month period within the qualifying year. Therefore, the estimated time burden for a permit holder to submit an application under this action ranges from 37-81 minutes.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Patricia Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298.

All data will be kept confidential as required by Section 402(b) of the Magnuson-Stevens Act and NOAA Administrative Order 216-100, Confidentiality of Fisheries Statistics, and will not be released for public use except in aggregate statistical form (and without identifying the source of data, i.e., vessel name, owner, etc.)

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Permit Holder Name
Permit Number
Street Address
City, State Zip

Dear Permit Holder:

Our records indicate that your vessel, F/V Vessel Name, Federal permit number #####, meets qualification criteria [insert satisfied criteria(on)] to fish for lobster with traps in lobster conservation management area(s) (LCMA) [indicate 3, 4, or 5] based on information from [insert qualifying year]. If you intend fish for lobster with traps in this LCMA, you must submit a Lobster Trap Fishery Area Eligibility Application and Trap Allocation Affidavit Form for this LCMA indicating the number of traps historically fished in LCMA [insert area or areas] during the qualifying year specified above and supporting documentation for (1) the qualification criteria(on) [insert unsatisfied criteria(on)] and, (2) the total number of traps fished.

Insufficient information is currently on hand at NMFS to pre-qualify your vessel into LCMAs [insert LCMAs permit holder has not pre-qualified for]. To be considered eligible to fish for lobster with traps in these LCMAs you must apply for access using the same Lobster Trap Fishery Area Eligibility Application and Trap Allocation Affidavit Form used for LCMA [insert area pre-qualified for] as indicated above, along with the necessary documentation. Your application will be reviewed and you will be informed as to whether you meet the eligibility requirements for these LCMAs.

Sincerely,

Harold C. Mears, Director
State, Federal and Constituent
Programs Office

Enclosures

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) REQUIRED PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to,

information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries and fishing communities affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery and any affected fishing communities, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

16 U.S.C. 1853

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297