

**SUPPORTING STATEMENT  
AMERICAN LOBSTER AREA 1 TRAP (ALAT) FISHERY LIMITED ENTRY  
PROGRAM APPEALS  
OMB CONTROL NO. 0648-xxxx**

**INTRODUCTION**

This is a resubmission of a new information collection request in conjunction with Final Rule 0648-BA56. There were comments made, but no changes to the information collection requirements were made, based on those comments. See Question 8 for a description of the comments and NMFS' responses to them.

The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) is requesting approval of a new information collection, which would allow NMFS to solicit and process applications from Federal lobster permit holders seeking eligibility under a limited access program proposed for the lobster trap fishery in the Federal waters of Lobster Conservation Management Area 1 (Area 1).

NMFS is analyzing three alternatives for a rulemaking (RIN 0648-BA56) based on the recommendations for Federal action by the Atlantic States Marine Fisheries Commission (Commission) in Addendum XV to Amendment 3 of the Interstate Fishery Management Plan for American Lobster (Plan), developed under the authority of the 16 U.S.C. 5101-5109 *et seq*; Title VIII of Pub. L. 103-206, as amended, the [Atlantic Coastal Fisheries Management Act](#) (ACFCMA 1993) *et seq.*\* Addendum XV recommends that the Federal government take action to limit entry into the Area 1 trap fishery, since this area, one of the most lucrative and productive lobster fishing areas, is open to fishing by any vessel that currently holds a Federal lobster permit. One alternative, a no-action alternative, has no collection of information requirements and, therefore, is not referenced in this submission. The other two alternatives consider Federal Area 1 trap fishery eligibility based on the Commission's recommendations in Addendum XV, with a slight variation in the eligibility dates as the only difference between the two alternatives.

The latter two alternatives require a process to determine the eligibility of Federal lobster permit holders for future participation in the Area 1 lobster trap fishery. The total burden estimates on the public and the Federal government vary slightly for each alternative as the number of applications is expected to differ depending on the alternative chosen for Federal implementation. Those burden estimates are examined in this statement.

\*The Atlantic Coastal Act provides authority for NMFS to support state actions, under the umbrella of the Atlantic States Marine Fisheries Commission, for species without a Federal Fishery Management Plan under the Magnuson-Stevens Act. These federal regulations are to complement Commission management actions for species harvested mainly from state waters, and for species where interstate coordination can enhance management and enforcement.

## A. JUSTIFICATION

### **1. Explain the circumstances that make the collection of information necessary.**

Under existing Federal regulations, any Federal lobster permit, whether or not it has a history of trap fishing in Area 1, may be designated by the permit holder, for participation in the lobster trap fishery in Area 1. The Commission has recommended, in Addendum XV, that Federal regulations be implemented to limit future entry into the Area 1 lobster trap fishery to ensure that unchecked trap fishing effort does not compromise the sustainability of the Gulf of Maine lobster stock upon which the Area 1 lobster fishery relies.

#### Area 1 Trap Fishery Eligibility Criteria

Addendum XV sets forth the following criteria for Area 1 trap fishery eligibility: possession of a current, eligible Federal limited access lobster permit; that the permit was designated for trap fishing in Area 1 prior to January 2, 2009; and that the holder of the Federal permit purchased Area 1 lobster trap tags for the vessel associated with the permit in any one year from 2004-2008, inclusive.

As a result of the Commission's actions in Addendum XV, NMFS is analyzing three alternatives for public comment in response to the Commission's recommendations in Addendum XV. The first alternative is a status quo, no-action alternative which would allow any Federal lobster permit to be designated for trap fishing in Area 1. This alternative would not have any collection of information requirements under the Paperwork Reduction Act (PRA).

The second alternative would qualify permits based on the criteria set forth in Addendum XV and would determine eligibility based on whether a permit holder, with an Area 1 trap fishery designation on the permit, renewed his/her Federal lobster permit for the 2008 Federal fishing year (FY 2008) by January 2, 2009<sup>1</sup>. This date serves as a control date for this action since it is the date that NMFS published an Advance Notice of Proposed Rulemaking to notify the public that the Federal government was considering an Area 1 limited entry program, and to recommend that permit holders preserve records that could serve to qualify their permits for Area 1 should the Federal government decide to take such action.

The third alternative, although consistent with the Commission's recommendations in Addendum XV, liberalizes the qualification dates for the permit renewal component of the eligibility criteria. Simply, it would acknowledge eligibility of Area 1 trap permits which were renewed at any time during FY 2008 and would include vessels with permit renewals which occurred after the January 2, 2009 control date and before the end of the FY 2008 on April 30, 2009. Both Alternative 2 and Alternative 3 would also require an eligible permit holder to have met the trap tag purchase requirements as provided in the Addendum.

For the purposes of the PRA, Alternative 2 and Alternative 3 require a collection of information from those permit holders who wish to pursue eligibility for the Area 1 lobster trap fishery. The application process as detailed in the following paragraphs is the same for both alternatives. The burden per applicant is the same for each alternative.

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<sup>1</sup> The 2008 Federal fishing year ran from May 1, 2008 through April 30, 2009.

## Area 1 Application and Eligibility Determination Process

NMFS will send a letter to each Federal lobster permit holder based upon review of existing data relative to the Area 1 eligibility criteria, with two possible scenarios. The letter will either state that NMFS has sufficient information to indicate that the permit qualifies for the Area 1 trap fishery or that insufficient information is available to make an eligibility determination.

The timing of the submission of the letters to permit holders will depend on when the final rule for this action is published. However, it is our intent to conduct the application solicitation, review, and determination process during the 2012 calendar year, make final eligibility determinations by the end of 2012. The final eligibility decisions will be applied to the permit beginning with the 2013 Federal fishing year which begins on May 1, 2013, depending on when the applications are submitted. Those permit holders who designate Area 1 for trap gear on their 2012 Federal fisheries permit, will be able to fish with traps in Area 1 through the end of the fishing year (through April 30, 2013). If they do not apply for eligibility or do apply and are deemed ineligible, their permit will not be valid for Area 1 trap fishing during the 2013 fishing year and beyond.

Once the final rule publishes in the Federal Register, permit holders will be notified consistent with the scenarios explained below. The letters will indicate that applications submitted prior to August 1, 2012 will likely be reviewed and processed in time to apply the final determination to the 2013 permit. Applicants will have until November 1, 2012 to submit an application, although any applications received after August 1, 2012 will not be assured of a final determination of eligibility prior to the start of the 2013 fishing year. Once they are finalized, those determinations will be applied to the permit during the 2013 fishing year. Only those permits that are deemed eligible will be able to designate Area 1 trap gear on the 2013 permit. We will send out a reminder letter prior to the application due date to facilitate the submission of applications.

The dates may be adjusted depending on the timing of the publication of the final rule.

### ***Scenario 1 – Pre-Qualified***

The letter to permit holders in this case would advise the permit holder that sufficient information exists to pre-qualify the permit for the Area 1 trap fishery. The letter will require the permit holder to check a box on the letter to indicate whether they intend to pursue eligibility for the Area 1 trap fishery and to sign the letter. By checking the box, signing the letter and remitting it to NMFS prior to a due date indicated on the letter, the permit holder will actively be applying for Area 1 access and the pre-printed letter will serve as the application.

Once NMFS receives the application, the applicant's permit and tag data will be quickly reviewed, and if consistent with the initial pre-qualification decision the permit will be deemed eligible for the Area 1 trap fishery. The permit holder will be promptly notified of this decision. Those who fail to return the application form within a month from the due date will again be notified that they have until the prescribed date to submit an application for eligibility. Those who fail to apply by the due date will receive a third letter indicating that they are no longer eligible to participate in the Area 1 lobster trap fishery because they did not submit an application during the designated application period.

## ***Scenario 2 – Not Pre-Qualified***

In this case, the permit holder will be notified that NMFS has insufficient data available to support the permit's eligibility based on the criteria set forth in the final rule. Similar to Scenario 1, the permit holder will be required to check a box and sign the letter indicating that they are interested in pursuing Area 1 eligibility despite the lack of data on hand to qualify the permit. The permit holder will have the opportunity to provide documentary proof along with the application to support their permit's eligibility. The permit holder must remit the information required to substantiate that the eligibility requirements are met. The package must be received by NMFS prior to a prescribed deadline.

Upon receipt of the application, NMFS will review the documentation submitted by the applicant. If it is sufficient to address the eligibility criteria, NMFS will notify the applicant that the permit is eligible to fish with up to 800 traps in Area 1. If it is not sufficient, NMFS will render a decision of ineligibility and notify the applicant of the decision. Consistent with Scenario 1, if no response is received within a month of the due date, NMFS will again notify the permit holder that the application deadline is approaching. Those that do not submit an application prior to the deadline will be considered ineligible for future access to the Area 1 lobster trap fishery and will receive no further notification from NMFS.

### Appeals Process

The appeal process would allow non-qualifying permit holders a one-time opportunity to appeal the Federal government's determination of ineligibility of the permit for the Area 1 lobster trap fishery. The appellant could appeal in writing to the Regional Administrator within 45 days of the date indicated on the notice of denial sent to the permit holder by NMFS. The only grounds for appeal would be that the Regional Administrator erred clerically in concluding that the vessel did not meet the eligibility criteria specified in the regulations. At any time during the 45-day appeal period, the applicant may request an extension of up to 30 days which would be added to the end of the 45-day period. Upon receipt of an appeal, the Regional Administrator will assign an appeals officer to who will make findings and a recommendation, advisory only, to the Regional Administrator, who will make the final eligibility determination.

### **2. Explain how, by whom, how frequently and for what purpose will the collected information be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

NMFS will collect the applications from Federal lobster permit holders interested in maintaining access to the Area 1 lobster trap fishery. The information will be used by NMFS to make determinations on a permit's eligibility for the Area 1 trap fishery based on the criteria set forth in the final rule for this action. This will be a one-time opportunity for Federal lobster permit holders to apply for Area 1 trap fishery access.

NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and

electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. NMFS does not intend to disseminate the information collected from applicants to the public. However, should NOAA Fisheries Service decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

NMFS relies on Federal lobster permit data and the tracking of moratorium permit histories through an extensive internal database. Furthermore, NMFS has access to state and Federal lobster trap tag purchase data for the period of interest, i.e, 2004-2008, which will be utilized for the purposes of determining eligibility and used as the basis of making a preliminary determination on the eligibility of each permit. By pre-qualifying those permit holders that meet the eligibility requirements based on NMFS' review of the existing data as described in Scenario 1 in Question 1 of this supporting statement, NMFS will require only that these permit holders sign and remit the application form requesting that their permit be considered for Area 1 eligibility. This process will save a substantial amount of time and economic costs to both the permit holders and the Federal Government in terms of administration and review. Those under Scenario 2 would be required to provide additional documentation to support their eligibility, as would any who are subsequently deemed ineligible and appeal the ineligibility determination.

Applications and appeals must be submitted by U.S .mail or other postal method and will not involve the use of electronic submission. Consequently, the review of the documents received will be done by hand, although relevant databases and other sources of electronic data may be used to verify a permit's eligibility.

**4. Describe efforts to identify duplication.**

There is no duplication of effort in this process. It allows permit holders a one-time chance to apply for Area 1 access and to appeal a decision of ineligibility by the Federal Government. There have not been other attempts or requirements by the Federal Government to solicit information from Area 1 permit holders for this express purpose of determining future eligibility.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

The collection of information involves a reporting burden on Federal lobster permit holders, all of whom are considered small entities. NMFS has taken advantage of the availability of routinely-collected permit data and state and Federal trap tag purchase data to implement an internal process to pre-qualify those permits which clearly meet the eligibility criteria based on the review of information already available to NMFS. Therefore, those that pre-qualify (Scenario 1) will need only to indicate on the application form that they intend to pursue Area 1

eligibility and then sign and remit the letter to NMFS, saving them the burden of locating and submitting information for proof of eligibility. Since the majority of the current Federal Area 1 lobster trap permits would qualify under either alternative, the burden is limited to the signing of the letter and costs of submitting it to NMFS. The major component of the collection of information is reserved for the small sub-set of those whose permit status falls under Scenario 2, as described in Question 1, for whom the Federal Government has insufficient information to substantiate eligibility. In such cases, the paperwork requirements for submission of an application are simple and would have negligible time and cost burden on individual small entities, as would be the burdens associated with most appeals, since the range of documentation that could be used to support eligibility, beyond that which NMFS already has, is relatively limited.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

This is a one-time opportunity for Federal permit holders to declare their intent to qualify their Federal lobster permits for the Area 1 lobster trap fishery, so conducting it less frequently than once is not an option. If it was not conducted, NMFS would not be able to identify those permit holders who intend to seek Area 1 access and those who are deemed ineligible would have no means to appeal the denial of the permit for Area 1 access. If NMFS does not conduct this qualification process through the implementation of this low-burden information collection, it could not effectively administer the limited entry program for Area 1 in accordance with the Commission's recommendations for Federal action in Addendum XV, compromising Federal obligations to support the Commission's plan.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

Not Applicable.

**8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of the collection, the clarity of the instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Describe efforts to get comments from outside the agency.**

A proposed rule, RIN 0648-BA56, was published in the Federal Register on November 18, 2011 and public comments were accepted until January 3, 2012. NMFS received 13 comments on the rule, nearly all of which were in favor of the action. Officials from the state of Maine, a state which is home to the majority of Area 1 Federal lobster trap permits, commented that efforts should be made to have the eligibility decisions made by January 2013 so that the final decisions may be applied to the 2013 Federal permits. Such timing will inform affected state agencies of Federal Area 1 eligibility determinations coincident with the 2013 state lobster fishing year, which begins on January 1, 2013. Nearly all Federal permits are held by state licensees who

obtain lobster trap tags from their respective state fishery agency. Providing the states with eligibility information by the start of the 2013 calendar year (which is also the start of the 2013 fishing year, i.e., January 1, 2013), facilitates the issuance of trap tags to eligible permit holders. NMFS agrees with this approach and has modified the rule in an attempt to meet this timeline (see Item 1).

Maine also inquired why NMFS proposes to pre-qualify permit holders, send them a letter indicating that they pre-qualify, and requires them to apply. The alternative is to simply make a determination on the eligibility of each permit and then simply inform the permit holder whether or not the permit qualifies for the Area 1 trap fishery. We believe that it should be up to the permit holder to decide whether to pursue Area 1 eligibility. There are some permits that may no longer be associated with vessels working in Area 1 due to routine permit transfers as permits and vessels routinely change hands. Also, some permit holders may have elected Area 1 and purchased trap tags (and would potentially pre-qualify) even though they have not, and don't plan to, fish for lobster with traps in Area 1. The proposed pre-qualification process will allow permit holders to make up their own minds as to whether or not to pursue an Area 1 qualification for their permit. It may facilitate effort reduction in the Area trap fishery should the subset of those permits that pre-qualify decline the opportunity to qualify their permits for Area 1 if their businesses are not set up for Area 1 fishing. Further, it could reduce latent trap fishing effort in Area 1 if those whose permits are eligible have not, and don't intend to, fish in Area 1. Therefore, NMFS considered Maine's comment on that issue but has maintained the proposed pre-qualification and notification process.

NMFS published an Advance Notice of Proposed Rulemaking (ANPR) in the Federal Register on January 2, 2009, for the express purpose of notifying the public that the Federal Government was considering action to limit entry into Area 1, and to solicit comments. However, the notice did not explicitly request comments on this data collection since the process for determining Area 1 eligibility and accommodation for subsequent appeals had not yet been established.

Eight individuals commented on the Area 1 limited entry program in response to the ANPR. However, none of the comments were related to the data collection described in this submission; rather, they were germane to the concept of implementing a limited entry program for the Area 1 lobster trap fishery. NMFS considered those comments in the development of the draft Environmental Assessment and proposed rule.

Further, the Commission obtained feedback from the industry representatives on the Commission's Area 1 lobster conservation management team (LCMT) – an appointed body of lobster fishers who advise the Commission's Lobster Management Board on various management needs. The LCMT had concerns about the potential for increase lobster trap fishing effort in Area 1 under the current Federal regulations which allow all Federal lobster trap permits to be designated for trap fishing in Area 1. The LCMT meetings were open to the public as were meetings of the Lobster Management Board in 2009 when Addendum XV was contemplated. Further, the Commission made Addendum XV available for public comment in draft form and considered those public comments received prior to the final adoption of Addendum XV into the Plan.

**9. Explain any decisions to provide payment or gifts to respondents, other than remuneration of contractors or grantees.**

Not Applicable.

**10. Describe any assurances of confidentiality provided to respondents and the basis for assuring in statute regulation, or agency policy.**

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 additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

There are no questions of a sensitive nature.

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

The individual time and cost burdens associated with the application submission process are the same regardless of whether Alternative 2 or Alternative 3 is selected (see Table 1).

NMFS estimates that it would take an applicant under Scenario 1 (a pre-qualified applicant) approximately **2 minutes** to check the box, sign and mail the application form indicating interest in Area 1 eligibility. NMFS expects that all **1,611 pre-qualified permit holders** will respond affirmatively in favor of seeking Area 1 eligibility. **The total burden for pre-qualified permit holders in Alternative 2 would be 54 hours.**

Under Scenario 2 (non-pre-qualified permit holders) respondents would incur the 2 minutes, plus the time needed to locate any supporting documentation to support the application (e.g., documentation from the state or Federal Government supporting that the permit holder had a valid Area 1 permit during the specified time-frame and that trap tags were purchased) and the costs to include it in the application. The time expected for the document search is 20 minutes. Added on to the standard time burden for an application (2 minutes), **the total time burden for non-pre-qualified applicants is 22 minutes.**

Under Scenario 2, 213 permits that were renewed prior to the control date but don't have a record of purchasing trap tags would not pre-qualify. Additionally, 43 permits whose owners did not renew the permit until after the control date would not pre-qualify, bringing the sub-total under Scenario 2 to 256. Further, 1,285 Federal lobster permit holders, who did not elect Area 1 on their Federal permit at all during 2008, will not pre-qualify. In total, **1,541** permit holders would not be pre-qualified and would be contacted accordingly.

NMFS expects that all 256 that meet at least one of the criteria would submit an application and 5 percent (n= 64) of those from the 1,285 with no Area 1 designation would attempt to qualify.



Based on these estimates, NMFS expects 320 permits (256 + 64) notified under Scenario 2 would submit an application. Thus, the total burden for this group would be 117 hours.

Based on these estimates, the total number of Scenario 1 and Scenario 2 applications expected in Alternative 2 is 1,931 (1,611 + 320), with an overall combined burden of 171 hours.

### Alternative 3

Alternative 3 would pre-qualify all Federal Area 1 lobster trap permits which were renewed at any time during the 2008 fishing year and also had a record that the owner purchased trap tags during any year from 2004-2008. Therefore, 1,643 permits would pre-qualify and be notified consistent with Scenario 1. These include the 1,611 permits that bought tags and renewed prior to the control date, plus the 32 permits that bought tags and renewed after the control date but before the end of fishing year 2008. These are the pre-qualifiers that would be notified consistent with Scenario 1. The burden for each applicant in Scenario 1 is 2 minutes bringing the total burden for all pre-qualified applicants in Alternative 3 to 55 hours (Table 2).

In contrast, 1,509 permit holders would be contacted consistent with the process identified for Scenario 2 in Question 1, since NMFS does not have sufficient information available to show that these permits meet all the eligibility criteria for the Area 1 trap fishery. These include the 213 permits renewed prior to the control date but under which no trap tags were purchased, and 11 permits renewed after the control date but under which no trap tags were purchased, totaling 224 non-qualifiers for Alternative 3 that elected Area 1 in 2008. Added to this, consistent with Alternative 2, are the 1,285 permits without an Area 1 designation in 2008. NMFS expects that all Scenario 2 (non-pre-qualified) permit holders who meet at least one of the criteria, representing 224 permits, would submit an application, along with 5 percent of those under Scenario 2 that did not elect Area 1 and don't meet any of the eligibility criteria, representing 64 permits. Therefore, the total number of Scenario 2 applications expected under Alternative 3 is 288 (224 + 64). With an estimated time for each Scenario 2 applicant at 22 minutes, the total burden for all applicants combined in this group is 106 hours (Table 2).

Based on these estimates, the total number of Scenario 1 and Scenario 2 applications expected in Alternative 3 is 1,931 (1,643 + 288), with an overall combined burden of 161 hours.

### Appeals

Of the non-pre-qualified group (Scenario 2), there are between 224-256 (depending on whether Alternative 2 or 3 is chosen) permit holders that had Area 1 on their permit in 2008 (meet one of the criteria). NMFS expects all permit holders in this category would submit an eligibility application. Given the restrictive qualification criteria and the fact that NMFS has access to the data needed to determine eligibility, it is unlikely that any of these applicants, with the exception of perhaps a small number, would qualify. Therefore, the majority would not qualify and NMFS expects that about 10 percent of Scenario 2 permit holders would appeal, which works out to either 22 or 26 potential appeals, depending on the alternative chosen. Of the other sub-group of

Scenario 2 permit holders (non-pre-qualifiers that did not elect Area 1 on their permit in 2008, n=1,285 for both Alternative 2 and 3), NMFS expects that about 5 percent (n=64) may apply and all will likely be denied. Of those, if 10 percent appeal, then an additional 6 appeals will be received, bringing **the total number of appeals to 28 for Alternative 3 (22 + 6) and 32 for Alternative 2 (26+6)**. NMFS estimates that the time burden to submit an appeal is 20 minutes to locate the necessary documentation to support the qualification criteria and 10 minutes to prepare an appeal letter, **totaling 30 minutes per appeal (Table 1), for a total of 32 x 30 minutes = 16 hours for Alternative 2 and 28 x 30 minutes = 14 hours for Alternative 3.**

**Table 1. Estimated Burden on Individual Federal Permit Holders**

Eligibility Scenario <sup>2</sup>	Submit Signed Application Letter and Check Box	Locate and Prepare Supporting Documentation	Preparation of Appeal Letter	Total Burden for Each Applicant /Appellant	
	Time (Min.)	Time (Min.)	Time (Min.)	Time (Min.)	Economic* (Dollars)
<b>Scenario 1 (pre-qualified)</b>	<b>2 minutes</b>	<b>N/A</b>	<b>N/A</b>	<b>2 minutes</b>	<b>\$0.74</b>
<b>Scenario 2 (not pre-qualified)</b>	<b>2 minutes</b>	<b>20 minutes</b>	<b>N/A</b>	<b>22 minutes</b>	<b>\$1.14</b>
<b>Appeals</b>	<b>N/A</b>	<b>20 minutes</b>	<b>10 minutes</b>	<b>30 minutes</b>	<b>\$4.22</b>

\*Costs are associated with postage, copying fees and envelope costs. See response to Question 13 for details.

**The higher burden (Alternative 2), 171 for permits + 16 for appeals = 187, will be requested, as the maximum possible burden. Unduplicated respondents would be 1,931, with 1,963 responses (1,931 applicants/applications and appeals by 32 of the applicants).**

**13. Provide an estimate of the total annualized cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).**

To provide an accurate accounting of the cumulative cost burdens for affected permit holders, each management alternative must be analyzed separately since the potential number of applicants is different, albeit slightly, for each alternative.

<sup>2</sup> Scenario 1 - a permit holder receives a letter from NMFS indicating that sufficient information is already available to qualify the permit for the Area 1 trap fishery and the applicant needs only to sign and remit the form to be granted eligibility. Scenario 2 - the permit holder receives a letter from NMFS indicating that insufficient evidence is available to qualify the permit and if interested in pursuing Area 1 eligibility, the permit holder must sign and submit the application form along with any documentation that would support the eligibility criteria.

## Alternative 2

Under Alternative 2, NMFS has sufficient data on-hand to pre-qualify **1,611** Federal lobster permits. These are the pre-qualifiers that would be notified consistent with **Scenario 1**. **NMFS estimates that all 1,611 permit holders will respond with an application** and once received, they would qualify since NMFS data supports eligibility for this sub-set of permits. The costs would be limited to the cost of a small envelope (\$0.10), a copy of the letter (\$0.20), if desired by the applicant, and the price of postage (\$0.44 for a one-ounce letter). Therefore, the **total cost for a pre-qualified respondent is \$0.74** and the **total cost would be \$1,192.14 (Table 2)**.

Due to the limited nature of the documents that could support the application, it is expected that each non-pre-qualified applicant would submit approximately 2 documents along with the application form. If the applicant chooses to make a copy of the documents, it would cost about \$0.20 per copy. Therefore, the additional cost for non-pre-qualified applicants would be about \$0.40. When added to the standard application cost (\$0.74) **the total for each non-pre-qualified applicant is \$1.14**. Therefore, NMFS calculates the cost for all 320 Scenario 2 applicants to be **\$364.80 (Table 2)**.

When added to Scenario 1, **the total number of applications expected under Alternative 2 is 1,931 (1,611 + 320)**. **The combined cost burden for all applicants under Alternative 2 is \$1,556.94 (Table 2)**.

## Alternative 3

Under Scenario 1, Alternative 3 would pre-qualify all Federal Area 1 lobster trap permits which were renewed at any time during the 2008 fishing year and also had a record that the owner purchased trap tags during any year from 2004-2008. Therefore, **1,643** permits would pre-qualify and be notified consistent with Scenario 1. These include the 1,611 permits that bought tags and renewed prior to the control date, plus the 32 permits that bought tags and renewed after the control date but before the end of fishing year 2008. With an estimated cost of \$0.74 for each of the 1,643 applicants in Scenario 1, **the total cost for all pre-qualified applicants in Alternative 3 to \$1,215.82 (Table 2)**.

The total number of Scenario 2 applications expected under Alternative 3 is **288 (224 + 64)**. With an estimated cost burden for each Scenario 2 applicant at \$1.14, **the total cost for all applicants combined in this group is \$328.32 (Table 2)**.

**Based on these estimates, the total number of Scenario 1 and Scenario 2 applications expected in Alternative 3 is also 1,931, with an overall cost of \$1,544.14.**

**Table 2. Total Estimated Application Burdens on Federal Permit Holders**

Mgmt Alternative	Scenario (Pre-qualified v. Not Pre-qualified)	Burden per Application			Burden All Applications	
		Number	Time (Min)	Economic (Dollars)	Time (Hours)	Economic (Dollars)
Alternative 2	Scenario 1 – Pre-qualified	1,611	2	\$0.74	53.7	\$1,192.14
	Scenario 2 – Not pre-qualified	320	22	\$1.14	117.3	\$364.80
	<b>Alt 2 TOTAL</b>	<b>1,931</b>	N/A	N/A	<b>171.0</b>	<b>\$1,556.94</b>
Alternative 3	Scenario 1 – Pre-qualified	1,643	2	\$0.74	54.8	\$1,215.82
	Scenario 2 – Not pre-qualified	288	22	\$1.14	105.6	\$328.32
	<b>Alt 3 TOTAL</b>	<b>1,931</b>	N/A	N/A	<b>160.4</b>	<b>\$1,544.14</b>

**Appeals**

The total number of appeals estimated for Alternative 3 is 28 and for Alternative 2, 32.

If a respondent whose eligibility application is denied chose to submit a letter of appeal along with supporting documentation, then additional postage and copying expenses may be incurred. Given the simplicity of the qualification criteria which are limited to permit and trap tag data only, the documentation needed to support an appeal is not likely to exceed 5 pages of documentation including the letter of appeal. The cost of copying five one-page documents, including the appeal letter, would be approximately \$1.00 (5 x \$.20 per copy). Further, the additional documents may require a larger envelope measuring 8.5” x 11” which is expected to cost about \$2.00. The postage on a letter weighing up to 3 ounces is \$1.22. **Therefore, a typical appeal package would cost a respondent approximately \$4.22.**

Given the estimated number of appeals and the estimated cost per appeal, the **total burden for all appellants would be \$118.16 for Alternative 3 (28 appeals), and 14 hours and 135.04 for Alternative 2 (32 appeals) (Table 3).**

**Table 3. Total Estimated Appeals Burdens on Federal Permit Holders**

Mgmt Alternative	Estimated Burden Per Appeal			Total Burden for All Appellants	
	Number	Time (Min.)	Economic (Dollars)	Time (Hours)	Economic (Dollars)
Alternative 2	32	30	\$4.22	16 hours	\$135.04
Alternative 3	28	30	\$4.22	14 hours	\$118.16

Table 4 provides the total burden for each alternative which includes the overall burden for submitting an application and filing an appeal. **For Alternative 2, NMFS estimates that the total burden on Federal permit holders would be 187 hours and \$1,691.98 and the burden for Alternative 3 is calculated as 174 hours and \$1,662.23 (Table 4).**

**Table 4. Total Burdens on Federal Permit Holders by Alternative**

Mgmt Alternative	Total Application Burden (Tables 1 and 2)		Total Appeals Burden (Table 3)		Total Burden by Alternative	
	Time (Hours)	Economic (Dollars)	Time (Hours)	Economic (Dollars)	Time (Hours)	Economic (Dollars)
Alternative 2	171 hours	\$1,556.94	16 hours	\$135.04	<b>187 hours</b>	<b>\$1,691.98</b>
Alternative 3	160 hours	\$1,544.14	14 hours	\$118.16	<b>174 Hours</b>	<b>\$1,662.23</b>

**The higher cost to the public for Alternative 2, \$1,691.98, will be requested, as the maximum possible cost.**

**14. Provide estimates of annualized costs to the Federal Government.**

Scenario 1 Processing, Review and Determination

NMFS will establish an internal review process for handling applications under the Area 1 limited entry program. NMFS will receive a maximum of between 1,611 and 1,643 applications<sup>3</sup>, depending on the management alternative chosen. One employee, equivalent to a GS-12 level, with a salary of approximately \$85,251<sup>4</sup> (GS-12 Step 5, equivalent to \$40.98 per hour) will be tasked with receiving, logging in, cataloguing and reviewing the applications as they are received. The log-in and initial review process will take approximately 10 minutes per application. All the Scenario 1 applications are known qualifiers – the only action needed is that the permit holder requests eligibility via the application. Therefore, once the Scenario 1 applications are received and documented, a letter will be generated to inform the applicants that their permits are eligible for the Area 1 lobster trap fishery. The generation of the letter is expected to take another 10 minutes, totaling **20 minutes** for the review and response per application, totaling **\$13.52 per application**. For the total number of **Scenario 1 applications**, that total time burden for the 1,611 to 1,643 applications would be **between 537 and 548 hours**, depending on the alternative chosen, costing between **\$7,260.24 - \$7,408.96 (Table 5)**.

Scenario 2 Processing, Review and Determination

<sup>3</sup> The government burden analysis considers the range of the maximum number of applications and appeals expected for each scenario under each management alternative and will calculate the burdens using the range of expected submissions for both alternatives.

<sup>4</sup> Pay estimates for GS-12 and GS-14 employees obtained from Federal Government Pay Schedule for January 2011 for the Boston, MA locality pay rate (frozen at 2010 level), obtained from Office of Management and Budget, www.opm.gov.

Scenario 2 applications will take longer to evaluate, since the employee will need to review each application to determine whether the documentation provided by the applicant is sufficient to support the eligibility criteria. Therefore, for each Scenario 2 application, it will take the GS-12 employee approximately 45 minutes to log in and review the application and make an eligibility recommendation to the Regional Administrator. Additionally, it will require a 10 minute review and clearance by both a Supervisory Policy Analyst (GS-14 Step 1, \$105,702 per year and \$50.80 hourly) and Attorney Advisor (GS-14 step 5, \$119,794 per year, \$57.60 hourly) prior to submission for a final determination by the Regional Administrator (149,627<sup>5</sup>, or about \$71.94 per hour) who, in turn would require 10 minutes to review the package and make a determination on the permit's eligibility.

Given these estimates, each application will require 45 minutes at \$40.98 per hour (\$30.74), 10 minutes at \$50.80 per hour (\$8.64), 10 minutes at \$57.60 per hour (\$9.79), and 10 minutes at \$71.94 per hour (\$12.23). Overall, **each Scenario 2 application** will take **75 minutes** for review and disposition, estimated at **\$61.40 per application**. Thus, the overall burden to review **the 288-320 Scenario 2 applications** expected under either alternative is **between \$17,683.20 and \$19,648, and 360-400 hours**.

The material (non-labor) costs to the Federal Government for soliciting, processing and responding to applications would be restricted to costs of paper, envelopes and postage for an initial mailing to all 3,152 Federal lobster permit holders. Each Scenario 1 applicant will receive a follow up mailing indicating that their application was approved and up to 320 Scenario 2 applications will receive a second mailing indicating the determination of eligibility of their permit. About one month before the application deadline, NMFS may choose to do a follow-up mailing – a reminder letter - to those permit holders who have yet to respond to the initial request for applications. We estimate that approximately 50% of the permit holders may not have responded to the initial request for applications prior to 30 days before the application deadline. Therefore, if NMFS opts to send this reminder letter, it would be mailed to approximately 1,576 permit holders.

The items needed for the mailings include envelopes at \$0.09 per envelope (\$9.00 per box of 100 envelopes), one sheet of paper per response at \$.01 per sheet (500 sheets per one ream at \$5.00 per ream). Postage for each response could be covered with a single letter sized envelope and approximately 1 ounce in weight, for a postal charge of \$0.44 per response. Therefore, the total material costs of mailing a letter to each applicant is approximately \$0.55 (\$0.09 + \$0.02 + \$0.44). To accomplish the initial mailing to all 3,152 permit holders and the subsequent mailings to the 1,931 applicants (total 5,083 mailings), **the total material costs for the initial mailing and determinations are estimated at \$2,795.65. If the reminder letter is sent to approximately 1,576 permit holders, it would cost the Federal Government an additional \$866.80, totaling 6,659 mailings, totaling \$3,662.45 (Table 5)**. The additional costs of the reminder letter would also be the same for Alternative 3 at \$866.80.

**Total costs for labor, paper and envelopes, and postage: \$30,570.69 for Alternative 2 and \$28,754.61 for Alternative 3.**

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<sup>5</sup> Based on average salary of SES range for Federal agencies with a certified SES performance appraisal system, effective January 2011 (rates frozen at 2010 levels), [www.opm.gov](http://www.opm.gov).

**Table 5. Estimated Time and Cost Burdens of Applications on the Federal Government**

Mgmt Alternative	Receipt, Review and Response Cost for Each Application	Burden per Application			Burden All Applications	
		Number	Time (Min)	Economic (Dollars)	Time (Hours)	Economic (Dollars)
Alternative 2	Scenario 1 – Pre-qualified	1,611	20	\$13.52	537	\$7,260.24
	Scenario 2 – Not pre-qualified	320	75	\$61.40	400	\$19,648.00
	Materials	N/A	N/A	\$1.10 <sup>6</sup>	N/A	\$2,795.65
	Materials-Reminder Letter	1,576	N/A	\$0.55	N/A	\$866.80
	<b>Alt 2 TOTAL</b>	<b>3,457</b>	<b>95</b>	<b>\$76.02</b>	<b>937</b>	<b>\$30,570.69</b>
Alternative 3	Scenario 1 – Pre-qualified	1,643	20	\$13.52	548	\$7,408.96
	Scenario 2 – Not pre-qualified	288	75	\$61.40	360	\$17,683.20
	Materials	N/A	N/A	\$1.10	N/A	\$2,795.65
	Materials – Reminder Letter	1,576	N/A	\$0.55	N/A	\$866.80
	<b>Alt 3 TOTAL</b>	<b>3,507</b>	<b>95</b>	<b>\$76.02</b>	<b>908</b>	<b>\$28,754.61</b>

**Appeals**

NMFS estimates that it would take approximately 30 minutes for the GS-12 employee to log in and catalogue the appeal, review the documents provided by the appellant, analyze the documents in comparison to those used to make the initial agency determination of denial, provide a written recommendation to the Regional Administrator for either approval or denial of the appeal and to draft and mail to the appellant the documentation on the final decision and review of the appeal. At a pay rate of \$40.98 per hour, the labor costs of each appeal to the Federal government would be approximately \$ 20.49.

The appeal package would be reviewed by an Appeals Officer who is likely a NOAA Attorney with an average salary of \$119,794, and hourly wage of \$57.60 per hour. It would take the appeals officer about 30 minutes to review each appeals package and make a recommendation to the Regional Administrator. The cost for each appeal to be reviewed by the Appeals Officer is \$28.80.

The appeals package and the Appeals Officer’s recommendation will be reviewed by the Regional Administrator. Average annual salary is calculated at 149,627, or about \$71.94 per hour. It is estimated that the Regional Administrator would take about 10 minutes to review the recommendations of the Appeals Officer and render a decision. The total labor cost of the Regional Administrator’s review and decision on each appeal is \$12.23.

<sup>6</sup> Assumes the cost of two mailings per application at \$0.55 each.

Therefore, the total cost to review each appeal equals the cumulative cost of the GS-12 review (\$20.49), the Appeals Officer review (\$28.80) and the Regional Administrator’s review (\$12.23), which is \$61.52. **The cumulative labor costs to review 28-32 appeals is \$1,722.56 - \$1,968.64.**

Total time to review each appeal is 1 hour and 10 minutes and the cumulative review time needed for **28-32 appeals is 33–37 hours.**

The material costs associated with responding to each appellant regarding the disposition of the appeal is limited to the costs of postage, paper and envelopes (see breakdown under application burden earlier in this item) which is approximately **\$0.55 per appeal response. For 28-32 appeals, the material burden is estimated to be \$15.40-\$17.60 (Table 6).**

**Table 6. Estimated Time and Cost Burdens of Appeals on the Federal Government– Range Provided for Both Alternatives.**

<i>Federal Burden</i>	<i>Receipt, Review and Response Cost for Each Appeal</i>		<i>Total Appeals Burden</i>	
	Time (hours)	Economic (dollars)	Time (hours)	Economic (dollars)
Costs				
Labor	1.17	\$61.52	32.8-37.4	\$1,722.56 -1,968.64
Materials	N/A	\$0.55	N/A	\$15.40-17.60
<b>TOTAL</b>	1.17	\$62.03	32.8-37.4	\$1,737.96-1,986.24

Table 7 summarizes the combined overall labor and material costs to the Federal Government associated with this program by calculating the cumulative costs to handle the applications and appeals. Overall, Alternative 3, the Preferred Alternative, is much more cost effective since it qualifies more permit holders (and, therefore has less social impact) and does so at lower cost to the Federal Government. The overall time burden for Alternative 2 is about 974 hours compared to about 941 hours for Alternative 3. From a cost perspective, **Alternative 2 is expected to cost the Federal Government about \$32,557 while Alternative 3 would cost an estimated \$30,493.**



**Table 7. TOTAL Program Time and Cost Burdens on the Federal Government**

Mgmt Alternative	Federal Burden	Application Burden		Appeals Burden		Overall Program Burden	
		Time (hours)	Economic (dollars)	Time (hours)	Economic (dollars)	Time (hours)	Economic (dollars)
Alternative 2	Costs						
	Labor	937	\$26,908.24	37.4	\$1,968.64	974.4	\$28,876.88
	Materials	N/A	\$3,662.45	N/A	\$17.60	N/A	\$3,680.05
	TOTAL	937	\$30,570.69	37.4	\$1,986.24	<b>974.4</b>	<b>\$32,556.93</b>
Alternative 3	Costs						
	Labor	908	\$25,092.16	32.8	\$1,722.56	940.8	\$26,814.72
	Materials	N/A	\$3,662.45	N/A	\$15.40	N/A	\$3,677.85
	TOTAL	908	\$28,754.61	32.8	\$1,737.96	<b>940.8</b>	<b>\$30,492.57</b>

**15. Explain the reasons for any program changes or adjustments.**

This is a new information collection.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

There are no plans to use any of the information provided to the Federal government through this programmatic appeals process for statistical purposes or publication, other than for the purposes of tabulating the total number of qualifying permits, non-qualifying permits, and appeals. 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 formats on a need-to-know basis. Permit information, including the status of a permit based on the review of any applications submitted under this collection of information action is available on the Internet.

**17. If seeking approval not to display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

Not Applicable.

**18. Explain each exception to the certification requirement.**

Not Applicable.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

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