groundfish and crab fisheries are set out at 50 CFR parts 620, 676, and 677.

This action implements revisions of Amendment 23 to the BSAI groundfish FMP, Amendment 28 to the GOA groundfish FMP, and Amendment 4 to the BSAI crab FMP, which were approved by NMFS on June 29, 1995, under section 304(b)(3) of the Magnuson Act. These revised amendments address fishery management problems caused by excess harvesting capacity or overcapitalization by establishing temporary entry controls until more permanent controls on harvesting capacity can be implemented. The problems and issues these amendments address are discussed in the EA/RIR/ FRFA and the notice of proposed rulemaking (60 FR 25677, May 12, 1995). A general description of the moratorium and these implementing regulations follows.

Vessel Moratorium

The moratorium limits access to the groundfish and BSAI Area crab resources off Alaska to vessels whose owners have been issued a moratorium permit for the vessel by NMFS or that are within a vessel category specified as exempt from the moratorium permit requirements in § 676.3(b). A moratorium permit is required in addition to any other permits required by Federal or State regulations. NMFS has revised its permit application and issuance process so that an integrated application may be used to apply for annual Federal groundfish permits and the Federal moratorium permit for groundfish and crab vessels. Part 677 is amended to remove and reserve Figure 1—the Fisheries Permit Application and Fisheries Processor Permit Application (Form FPP–1). That form will be revised for use as an integrated permit application.

1. Vessels Affected by the Moratorium

Any vessel that is not exempt and that catches and retains any species of king and Tanner crabs in a commercial fishery governed by the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands Area and its implementing regulations at 50 CFR part 671 ("moratorium crab species") is required to have on board a moratorium permit issued for that vessel. Any vessel that is not exempt and that conducts directed fishing for any groundfish species in a commercial fishery governed by the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, and the Fishery Management Plan for Groundfish of the

Gulf of Alaska and their respective implementing regulations at 50 CFR parts 672 and 675, except for sablefish caught with fixed gear ("moratorium groundfish species"), also is required to have on board a moratorium permit issued for that vessel.

Moratorium crab species and moratorium groundfish species are referred to collectively as "moratorium species." The term "directed fishing" is defined in the groundfish FMPs implementing regulations at 50 CFR parts 672 and 675. Basically, this term refers to the criteria by which NMFS determines which species of groundfish a vessel has been targeting when any fish are on board the vessel. A vessel that retains only incidental catches of moratorium groundfish species in the EEZ is not required to have a moratorium permit; however, it is required to have a Federal fisheries permit. A vessel without a moratorium permit in the EEZ is required to discard any catch of a moratorium groundfish species that exceeds the maximum retainable bycatch amount specified in parts 672 and 675. Crab species are prohibited species in the groundfish fishery, which means that any bycatch of crab must be immediately returned to the sea.

The Council specifically exempted certain categories of vessels from the moratorium permit requirement. The rationale for the exemptions was provided in the notice of proposed rulemaking for the initially proposed moratorium (59 FR 28827, June 3, 1994). Vessels within the following categories are not required to have moratorium permits, however, other Federal and State of Alaska permit requirements continue to apply:

 Vessels that are not used to catch fish (e.g., processor vessels, tenders, or support vessels);

• Vessels that do not catch and retain moratorium crab species or that do not conduct directed fishing for moratorium groundfish species;

• Vessels that catch and retain moratorium crab species or that conduct directed fishing for moratorium groundfish species only within State of Alaska waters:

• Vessels that conduct directed fishing for moratorium groundfish species in the GOA and that are no greater than 26 ft (7.9 m) in length overall (LOA):

• Vessels that catch and retain moratorium crab species in the BSAI Area or that conduct directed fishing for moratorium groundfish species in the BSAI management area and that are no greater than 32 ft (9.8 m) LOA;

 Vessels that are fishing for IFQ halibut, IFQ sablefish, or halibut or sablefish under the Western Alaska Community Development Quota (CDQ) program; or

• Vessels that, after the implementation of the CDQ program for pollock on November 18, 1992 (57 FR 54937, November 23, 1992), are specifically constructed and used in accordance with a Community Development Plan (CDP), are specially designed and equipped to meet specific needs that are described in the CDP, and are no greater than 125 ft (38.1 m) LOA. A vessel operating under the CDQ exemption also may be used to harvest non-CDQ species, but the exemption does not apply to a vessel if the vessel is transferred to an entity that does not have a CDP.

2. Moratorium Qualification

Generally, a vessel is qualified for a moratorium permit if it made a legal landing of any moratorium species during the qualifying period of January 1, 1988, through February 9, 1992. Exceptions to this general rule are described below.

A "legal landing" is defined as any amount of a moratorium species that was landed in compliance with Federal and state commercial fishing regulations in effect at the time of the landing. This definition is intended to limit landing claims to those that can be verified through required Federal and state catch or landing reports. A vessel owner who alleges that government records are in error must produce a copy of a valid state fish ticket or other report required at the time of landing as evidence that the vessel made a legal landing of a moratorium species from January 1, 1988, through February 9, 1992.

If the owner presents acceptable evidence of a legal landing of a moratorium species that the vessel made from January 1, 1988, through February 9, 1992, the vessel is qualified for a moratorium permit, unless that vessel is exempt from the moratorium permit requirements as described above. For example, a vessel that is less than or equal to 26 ft (7.9 m) LOA and that conducts directed fishing for groundfish in the GOA is exempt from the moratorium permit requirements. It is not qualified for a moratorium permit even if it made a legal landing of moratorium species from January 1, 1988, through February 9, 1992. Likewise, a vessel that made legal landings only of halibut and/or sablefish caught with fixed gear from January 1, 1988, through February 9, 1992, is not qualified for a moratorium permit since halibut is not a groundfish species and sablefish caught with fixed gear is not a moratorium groundfish species.