A moratorium permit will be issued to the owner of a qualified vessel after submission and approval of a completed application for a moratorium permit for that vessel. Moratorium qualification is a prerequisite for issuance of a moratorium permit. Moratorium qualification stays with the vessel, unless it is transferred by the vessel's owner (see transferability discussion below). NMFS will maintain a database of vessels that have moratorium qualification according to Federal or state catch or landings reports. Generally, a moratorium permit will be valid through December 31, 1998, unless the moratorium qualification on which it is based is transferred, or until the permit is revoked or suspended under 15 CFR part 904 (Civil Procedures). A moratorium permit based on the moratorium qualification of a vessel that was lost or destroyed before January 1, 1996, will be valid only through December 31, 1997, but may be renewed if the vessel makes a legal landing of a moratorium species in 1996 or 1997 (see transferability discussion below).

If a vessel has moratorium qualification, a moratorium permit will be issued for it provided it is not an exempt vessel, and provided the vessel's LOA does not exceed its "maximum LOA." A vessel's maximum LOA is the greatest LOA that the vessel, or its replacement, may have and remain qualified for a moratorium permit. A vessel's maximum LOA is based on the LOA of the original qualifying vessel on June 24, 1992. If the original qualifying LOA of a vessel is equal to or greater than 125 ft (38.1 m), the maximum LOA is the original qualifying LOA. If the original qualifying LOA of a vessel is less than 125 ft (38.1 m) LOA, the maximum LOA is 1.2 times the original qualifying LOA or 125 ft (38.1 m), whichever is less. This limited length increase allowance, known as the "20 percent rule," is intended to allow an owner of a small vessel to improve the vessel's stability by widening and lengthening its hull. Although increasing a small vessel's length under the 20 percent rule could improve the vessel's safety, it also could increase the vessel's fishing capacity. The Council recognized this possibility and allowed vessel length increases only for vessels less than 125 ft (38.1 m) LOA. The Council made this decision on June 24, 1992, to discourage owners of large vessels from increasing their vessels' length substantially between that date and the implementation date of the moratorium.

Vessels under reconstruction on June 24, 1992, are a special case, and the

maximum LOA of such vessel is the vessel's LOA on the date reconstruction is completed. This special case is discussed in more detail below. Any vessel that exceeds its maximum LOA is not eligible for a moratorium permit and any moratorium permit already issued will be invalidated.

NMFS will use the existing definition of LOA in 50 CFR parts 672 and 675 for purposes of implementing the maximum LOA limitation. This definition refers to the length of a vessel "rounded to the nearest foot." NMFS will use standard arithmetic rounding in determining the LOA of a vessel for purposes of the moratorium. For example, a vessel that is 124 feet 7 inches in length would have an LOA of 125 feet (38.1 m), a vessel that is 125 feet 5 inches in length would have an LOA of 125 feet (38.1 m), and a vessel that is 125 feet 6 inches in length would have an LOA of 126 feet (38.4 m).

3. Crossovers

The Council's original moratorium proposal (59 FR 28827, June 3, 1994) would have allowed a vessel that qualified for a moratorium permit because of a legal landing, for example, of a moratorium crab species during the qualifying period, to cross over to moratorium groundfish species fisheries even if it had no previous landing history in a groundfish fishery. However, the Council decided at its meeting in December 1994 to propose limiting crossovers. Under the revised proposal, which this final rule adopts, a vessel that made a legal landing from January 1, 1988, through February 9, 1992, in either a groundfish or crab fishery, but not both, can cross over as a new vessel in the fishery in which it did not make a legal landing in the qualifying period provided:

- 1. It uses in the new fishery only the same fishing gear type that it used to qualify for the moratorium in the other fishery; or
- 2. It made a legal landing in the crossover fishery during the period February 10, 1992, through December 11, 1994, and it uses only the same fishing gear type that it used during that period.

Example 1. A vessel that made a legal landing in the BSAI Area crab fisheries from January 1, 1988, through February 9, 1992, would be eligible for a moratorium permit to operate in that fishery and in the BSAI management area or GOA groundfish fisheries using pot gear where that gear is authorized. The only legal fishing gear in the BSAI Area crab fisheries is pot gear. Therefore, if the vessel crosses over into

the groundfish fisheries it is limited to using pot gear.

Example 2. A vessel that made a legal landing in the BSAI management area or GOA groundfish fisheries from January 1, 1988, through February 9, 1992, is eligible for a moratorium permit to operate in that fishery using any authorized fishing gear for groundfish. The same vessel also made a legal landing in the BSAI Area crab fishery from February 10, 1992, through December 11, 1994. Therefore, this vessel also is eligible for a moratorium permit to operate in the BSAI Area crab fishery, and it may move between fisheries using any authorized gear.

Example 3. A vessel that made a legal landing in the BSAI Area crab fisheries from January 1, 1988, through February 9, 1992, is eligible for a moratorium permit to operate in that fishery and in the BSAI management area or GOA groundfish fisheries using pot gear where that gear is authorized. The same vessel also made a legal landing in the groundfish fisheries using hook-and-line gear from February 10, 1992, through December 11, 1994. Therefore, this vessel is eligible for a moratorium permit to operate in the groundfish fisheries using pot gear and hook-andline gear. However, unless the vessel made a legal landing in the groundfish fisheries using trawl gear during the period February 10, 1992, through December 11, 1994, it is not eligible to cross over into the groundfish fishery using trawl gear.

This crossover gear restriction recognizes the similarity of fishing gear used in the BSAI Area crab fisheries and some groundfish fisheries. It also recognizes that some vessels qualified in one moratorium fishery and crossed over to a new moratorium fishery after the cutoff date of February 9, 1992, based on the Council's original moratorium proposal. These vessels are allowed to continue to operate in the crossover fisheries under the moratorium, but are restricted to using the fishing gear they used in the crossover fisheries from February 10, 1992, through December 11, 1994, the date of the Council's decision to revise its original moratorium proposal.

This revision to the original proposed moratorium requires the issuance of moratorium permits with fishery-specific fishing gear type endorsements. Four fishery-specific/gear type endorsements are set forth in § 676.3(d) to cover the categories of fishing gear authorized in the Federal regulations (with respect to groundfish) and in the State of Alaska regulations (with respect to crab). These are: