maximum LOA. If reconstruction was completed prior to June 24, 1992, and the reconstructed vessel is less than 125 feet (38.1) LOA, further increases in LOA are allowed between June 24, 1992. and the end of the moratorium subject to the 20 percent rule discussed above under "Moratorium Qualification." If reconstruction was completed prior to June 24, 1992, and the reconstructed vessel is equal to or greater than 125 feet (38.1 m) LOA, the LOA of the reconstructed vessel is the maximum LOA. If reconstruction of a vessel began before June 24, 1992, and was completed after that date, the maximum LOA is the LOA of the reconstructed vessel on the date reconstruction was completed. This is the maximum LOA even if the LOA of the reconstructed vessel is less than 125 ft (38.1 m). The purpose of this exception to the 20 percent rule for vessels less than 125 ft (38.1 m) LOA is to prevent the disqualification of a vessel that was undergoing reconstruction on the date that the Council initially recommended its original moratorium proposal. The Council decided that such a vessel should be allowed to participate in the moratorium fisheries, but that it should not be allowed any additional length increases under the 20 percent rule.

Vessel reconstruction begins and ends with the start and completion of the physical modification of the vessel. For a vessel undergoing reconstruction on June 24, 1992, any increase in the LOA of the vessel resulting from that reconstruction must be documented. Acceptable documentation of the beginning and ending dates of reconstruction is limited to a notarized affidavit signed by the vessel owner and the owner/manager of the shipyard that specifies the beginning and ending dates of the reconstruction. If acceptable, the Regional Director will certify the new LOA as the maximum LOA for that vessel.

## 5. Administration

The final rule implements the moratorium by limiting the issuance of moratorium permits to moratoriumqualified vessels or their replacements. The Restricted Access Management Division, Alaska Region, NMFS, will administer the moratorium by maintaining a database of moratorium qualifications, receiving and reviewing permit and transfer applications, making initial determinations of eligibility, and issuing moratorium permits. This Division also will issue or renew a Federal fisheries permit to or for each vessel qualified for a moratorium permit and to each vessel for which a moratorium permit is not

required but that otherwise would participate in the groundfish fisheries in the EEZ (i.e., a moratorium-exempt vessel such as a processor, support vessel, and a small vessel).

Most moratorium permits will be valid until the moratorium expires on December 31, 1998. For some salvaged vessels and some vessels that replace qualified vessels that are lost or destroyed, however, moratorium permits will expire after the first 2 years of the moratorium (i.e., on January 1, 1998). However, those moratorium permits can be renewed if the vessel makes a legal landing of a moratorium species in 1996 or 1997. The multi-year duration of a moratorium permit differs from that of a Federal fisheries permit, which is valid only for the year in which it is issued.

An application for a moratorium permit may be submitted at any time. Application forms for Federal Fisheries Permits, Federal Processor Permits, and Vessel Moratorium Permits will be integrated into a single application form. Submission of only one completed form is required for application for all three types of permits. A moratorium permit application for a vessel will be approved if the vessel's owner has a moratorium qualification and the vessel's LOA is less than or equal to the maximum LOA. If a moratorium permit is requested for a vessel that is not in the NMFS moratorium qualification database, then the applicant will be requested to provide evidence of the vessel's qualification either by demonstrating a legal landing of a moratorium species from January 1, 1998, through February 9, 1992, or a transfer of moratorium qualification. As stated above, moratorium qualification is presumed to remain with the current owner of a vessel that made a legal landing of any moratorium species from January 1, 1988, through February 9, 1992. Otherwise, a valid contract or agreement to transfer a vessel's moratorium qualification or retain it when the vessel is transferred is required to demonstrate ownership of the moratorium qualification. Determination of a vessel's maximum LOA is based on Federal or state permits or registration documents that demonstrate the original qualifying LOA of the vessel. If these documents are not available, NMFS may request the vessel owner to produce a marine survey, builder's plans, or other third-party documentation of the vessel's LOA on June 24, 1992.

An application for approval of transfer of moratorium qualification may be submitted at any time. Approval of a transfer requires the submission of a transfer agreement signed by the original owner(s) and receiver(s) of the moratorium qualification, and the submission of proof that the vessel to which the moratorium qualification would be applied for purposes of qualifying for a moratorium permit is less than or equal to the maximum LOA of the original qualifying vessel.

An initial administrative determination to deny the issuance of a moratorium permit will be explained in writing to the permit applicant, and the denial may be appealed following the procedures set forth at 50 CFR 676.25. A written appeal must be submitted to the Alaska Region, NMFS, within 60 days after the date that the determination was made. An initial administrative determination to deny an application for a permit will include a letter of authorization to the applicant authorizing the affected vessel to operate as if the application were approved pending appeal. The temporary authority granted by the letter of authorization will expire on the effective date of the final agency action on the appeal. The final agency action on the appeal, for purposes of judicial review, occurs at the end of the 60-day appeal period if no appeal were filed, or 30 days after the appellate officer's decision is issued, except as provided at 50 CFR 676.25. No appeal is provided for a denial of approval of a transfer of moratorium qualification. The maximum LOA restrictions would be too easily circumvented and the purpose of the moratorium undermined if appeals of denials of approvals of transfer were allowed. An administrative determination to deny approval of a transfer of a moratorium qualification and the issuance of a permit based on that moratorium qualification will be the final agency action for purposes of judicial review.

## **Changes From the Proposed Rule**

The vessel moratorium implemented by this rule is described in the notice of proposed rulemaking published on May 12, 1995. The principal parts of the vessel moratorium remain as discussed in that notice. NMFS made changes regarding applications for fisheries permits and the duration of moratorium permits. NMFS also made editorial and formatting changes for clarity.

1. An application for a Federal Fisheries Permit must be submitted annually. This application provides NMFS with specific information regarding the vessel, fisheries, vessel operations, and owner. This information is necessary to maintain accurate and up-to-date records of the currently active vessels in the groundfish fisheries