*Comment 5*: The revised qualification period is a marked improvement over the originally proposed qualification period because it would remove a significant number of vessels from moratorium qualification. The proposed moratorium would allow the Council and NMFS to bypass consideration of another interim license limitation system and to move directly toward an individual transferrable quota program.

*Response*: The Council must make the initial determination on the preferred limited access policy to follow the moratorium, if any. NMFS will review that policy recommendation, when it is submitted, for consistency with the Magnuson Act and other applicable laws.

*Comment 6*: The crossover provisions are too liberal. Crossover privileges would be accorded to three categories of vessels. There is no basis for permitting crossovers for the category which consists of vessels that qualified in only one fishery during the qualifying period and that any time after February 9, 1992, cross over to the other fishery using the same type of gear. This crossover provision is inconsistent with national standards 1, 4, 5, and 6, section 303(b)(6) of the Magnuson Act, and the purposes of the moratorium because it would allow hundreds of vessels to enter the groundfish fishery that did not operate in that fishery during the qualifying period or the recent past. This will contribute to overcapitalization in the groundfish fishery.

*Response*: The limited crossover provision on the revised moratorium proposal is far less liberal than that originally proposed. Although a vessel would be allowed to operate in certain crab or groundfish fisheries in which it had no prior fishing history, the flexibility afforded this vessel to move between fisheries is limited to using the same gear type in both fisheries. The number of vessels able to take advantage of this provision is not likely to overcapitalize seriously either fishery, relative to current capital in each fishery, during the effective period of the moratorium. Although this provision may advantage one group to the detriment of another, it is consistent with the Magnuson Act because it supports the objectives of the moratorium and the respective FMPs to allow fishermen flexibility while not significantly undermining the intent of the moratorium to control temporarily the growth of fishing effort in the affected fisheries.

*Comment 7*: The proposed rule does not distinguish between permits that would allow the landing of incidental catches of moratorium species while directed fishing for a non-moratorium species and permits that would allow directed fishing for a moratorium species by exempt vessels. Retention of a bycatch amount of a moratorium species while directed fishing for a nonmoratorium species should be allowed to reduce discards of moratorium species.

Response: A Federal fishing permit currently is required to catch and retain any groundfish species and a State of Alaska fishing permit is required to catch and retain crab species regardless of whether the species was taken incidental to a targeted harvest of species other than groundfish or crab. These basic licensing requirements will continue under the moratorium. For example, a salmon troller who intends to retain his bycatch of a moratorium groundfish such as rockfish, would be required to have a Federal fisheries permit. Hence, bycatch amounts of a moratorium species will be retainable. The proposed rule provided for this by requiring (for groundfish) either a Federal fisheries permit or a moratorium permit. As changed in the final rule, both permits are required for vessels targeting moratorium species, but only the Federal fisheries permit is required of exempt vessels. The effect is the same, however.

*Comment 8*: The proposed moratorium is necessary as an interim measure to limit fishing capacity pending the establishment of an individual transferrable quota system that will lead to a much-needed reduction in fishing capacity and an end to the dangerous and destructive race for fish prevailing in the current open access system.

*Response*: Comment noted. At its meeting in June 1995, the Council approved license limitation as the recommended limited access system to follow the moratorium. NMFS will review that recommendation for consistency with the Magnuson Act and other applicable laws, and provide opportunity for public comment.

*Comment 9*: The proposed moratorium cuts out vessels that have a substantial history of participation in the crab fishery while allowing entry into that fishery, and the fixed-gear fishery for cod, a large number of vessels with no history of participation. The moratorium was designed to prevent new entrants, and not cut out past participants, while the Council developed a long-range plan. Instead, it has cut out vessels that relied on previously published control date notices. The revised moratorium ignores the primary concern of NMFS in

disapproving the original proposal in that the proposed crossover provisions would allow a vessel with no prior history in a moratorium fishery to enter that fishery based on participation in a different moratorium fishery. The crossover provision would incorrectly treat a vessel entering a fishery in which it has never operated on par with a vessel resuming operations in or reentering the same fishery. The crossover provision would unfairly expand the fishing privileges of one class of vessel while restricting opportunity for another. This ignores the "fair and equitable" requirement of national standard 4. Further, it ignores present participation, historical fishing practices, and the economics of the fishery in violation of section 303(b)(6) of the Magnuson Act. The analysis of the proposed moratorium ignored the fact that vessels that pioneered the Bering Sea crab fishery have exited that fishery because many crab stocks have been depressed since the 1980's.

Response: The moratorium was designed to prevent new entrants into the affected fisheries, but it also was designed to prevent the re-entry of historical vessels that had not participated in one of these fisheries within a reasonable period of time. The Council and NMFS determined that participation during the period January 1, 1988, through February 9, 1992, was a reasonable period of time for a vessel to qualify given the objective of the moratorium. Providing for historical vessels through a qualifying period that begins on January 1, 1980, as originally proposed, would have defeated the objective of the moratorium by qualifying a fleet substantially larger than that operating in any one year. This was one reason for NMFS' disapproving the original moratorium proposal. As approved, the moratorium implementing regulations would allow a vessel that "pioneered" the BSAI Area crab fishery in the early 1980's to reenter that fishery if the vessel had made a legal landing in any groundfish fishery during the qualifying period with pot gear. The vessel also could re-enter the BSAI Area crab fishery if it had made a legal landing in any groundfish fishery during the qualifying period and also made a legal landing in the BSAI Area crab fishery during the period February 10, 1992, through December 11, 1994. If this vessel made no legal landings of BSAI Area crab during the period January 1, 1988 through December 11, 1994, however, then it is arguably no longer dependent on that fishery despite its early history. The allowance of certain vessels with no history in the