

**§ 906.1 Purpose and scope.**

(a) This part sets forth the procedures governing administrative adjudications before the National Appeals Office (NAO).

(b) NAO will adjudicate appeals of initial administrative determinations in limited access privilege programs developed under section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and approved after the effective date of these regulations. Those appeals are informal proceedings.

(c) The procedures in this part may be incorporated by reference in regulations other than those promulgated pursuant to section 303A of the MSA.

(d) The Secretary of Commerce may request that NAO adjudicate appeals in any matter in controversy that requires findings of fact and conclusions of law, and other quasi-judicial matters that the Secretary deems appropriate, consistent with existing regulations. The Secretary will provide notice to potential appellants and to any affected party in these other matters through regulations or actual notice.

(e) The procedures in this part may not be used to seek review of the validity of statutes or regulations.

**§ 906.2 Definitions.**

As used in this part:

*Agency record* means all material and information, including electronic, the office that issued the initial administrative determination relied on or considered in reaching its initial administrative determination, or which otherwise is related to the initial administrative determination.

*Appeal* means an appellant's petition to appeal an initial administrative determination and all administrative processes of the National Appeals Office related thereto.

*Appellant* means a person who is the named recipient of an initial administrative determination and appeals it to the National Appeals Office.

*Appellate officer* means an individual designated by the Chief of the National Appeals Office to adjudicate the appeal. The term may include the Chief of the National Appeals Office.

*Day* means calendar day unless otherwise specified by the Chief of the Na-

tional Appeals Office. When computing any time period specified under these rules, count every day, including intermediate Saturdays, Sundays, and legal holidays. If the date that ordinarily would be the last day for filing with NAO falls on a Saturday, Sunday, or Federal holiday, or a day NAO is closed, the filing period will include the first NAO workday after that date.

*Department* or *DOC* means the Department of Commerce.

*Initial Administrative Determination* or *IAD* means a determination made by an official of the National Marine Fisheries Service that directly and adversely affects a person's ability to hold, acquire, use, or be issued a limited access privilege. The term also includes determinations issued pursuant to other federal law, for which review has been assigned to the National Appeals Office by the Secretary.

*NAO* means the National Appeals Office, an adjudicatory body within the Office of Management and Budget, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce. The term generally means all NAO personnel, including appellate officers.

*NAO case record* means the agency record and all additional documents and other materials related to an appeal and maintained by NAO in a case file.

*NMFS* means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

*National Oceanic and Atmospheric Administration* or *NOAA* means the National Oceanic and Atmospheric Administration, Department of Commerce.

*Party* means a person who files a petition for appeal with NAO and an office that issued the IAD if that office participates in the NAO appeal.

*Regional Administrator* means the administrator of one of five regions of NMFS: Northeast, Southeast, West Coast, Alaska, or Pacific Islands. The term also includes an official with similar authority within the DOC, such as the Director of NMFS Office of Sustainable Fisheries.