

delays sought to be reduced or eliminated by this action would continue to occur for initial administrative determinations of QS and initial determinations by appellate officers issued during notice-and-comment rulemaking, including any period of delayed effective date.

If this rule is immediately issued and made effective upon filing with the Office of the Federal Register, only those relatively few applicants for whom an initial administrative determination of QS has been made would be entitled to the previous 4-month time frame in which to file an appeal and only those very few appellants for whom an appellate officer has already issued a decision would be entitled to an appeal to the Regional Director. For all others the harmful delay to the public which this rule seeks to eliminate would be eliminated. Accordingly, for the reason set forth above, the Assistant Administrator finds good cause to dispense with prior notice and opportunity for public comment and to make the rule immediately effective upon filing with the Office of Federal Register.

Similarly, the establishment of QS pool reserves must be effective immediately. By regulation, the calculation to determine how much IFQ will be issued for the 1995 fishing season occurs on January 31, 1995. If QS is not in the pool as of this determination date, the resulting IFQ will not be issued. Providing QS pool reserves for contested QS will benefit successful appellants by allowing them to obtain IFQ that is calculated but not issued pending resolution of an appeal. Without this action, a successful appellant will have to wait until the following season to receive IFQ if the QS involved in the appeal is added to the QS pool after the determination date. As such, this rule must be effective on or before January 31, 1995, for successful appellants to fish during the 1995 season. Given the current time-frame, any delay in the effectiveness of this rule will nullify the benefit. Nullifying this benefit will be contrary to the public interest and thereby constitutes good cause for dispensing with prior notice and opportunity for public comment and for making the rule immediately effective.

Classification

A regulatory impact review/final regulatory flexibility analysis (RIR/FRFA) was prepared for the IFQ limited access program of which the original appeals and determinations are a part. The RIR/FRFA is contained in the Final Environmental Impact Statement for

Amendment 15 to the Fishery Management Plan (FMP) for the Groundfish Fisheries of the Bering Sea and Aleutian Islands Area, and for Amendment 20 to the FMP for Groundfish of the Gulf of Alaska. This document is available (see ADDRESSES).

This final rule makes minor revisions to the regulations affecting the filing of an appeal of an initial administrative determination. No new information is collected, but the period of time within which affected persons would have to submit information is decreased. The estimated response time for filing a written appeal under the IFQ program is 4 hours. This collection of information has been approved by the Office of Management and Budget, OMB control number 0648-0272 (regarding IFQs for Pacific halibut and sablefish).

This rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 676

Fisheries, Reporting and recordkeeping requirements.

Dated: January 30, 1995.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 676 is amended to read as follows:

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

1. The authority citation for part 676 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.* and 1801 *et seq.*

2. In § 676.20, paragraph (d)(3) is revised and paragraph (e) is removed and reserved as follows:

§ 676.20 Individual allocations.

* * * * *

(d) * * *

(3) Catch history, vessel ownership, or lease data that cannot be verified by the Regional Director, following the procedure described in paragraph (d)(1) of this section, will not qualify for QS. An initial determination denying QS on the grounds that claimed catch history, vessel ownership or lease data were not verified may be appealed following the procedure described in § 676.25 of this part. Quota share reflecting catch history, vessel ownership, or lease data that are contested between two or more applicants, at least one of which is likely to qualify for QS when the dispute is resolved, will be assigned to a reserve that will be considered part of

the QS pool for the appropriate IFQ regulatory area. Any QS and IFQ that results from agency action resolving the dispute will be assigned to the prevailing applicant(s) pursuant to paragraphs (b), (c) and (f) of this section. If the assigned IFQ for the 1995 fishing season becomes moot by the passage of time needed to resolve the dispute, the assignment of QS and IFQ for subsequent fishing seasons will be unaffected.

(e) [Reserved]

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3. In § 676.25, paragraphs (a), (b), (d)(1), (d)(2), (g) introductory text, (g)(1), (g)(2), (k), (m)(4), (n)(8), and (o) are revised to read as follows:

§ 676.25 Determinations and appeals.

(a) *General.* This section describes the procedure for appealing initial administrative determinations made under this part.

(b) *Who may appeal.* Any person whose interest is directly and adversely affected by an initial administrative determination may file a written appeal. For purposes of this section, such persons will be referred to as "applicant" or "appellant".

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(d) *Time periods for appeals and date of filing.* (1) If an applicant appeals an initial administrative determination, the appeal must be filed not later than 60 days after the date the determination is issued.

(2) The time period within which an appeal may be filed begins to run on the date the initial administrative determination is issued. If the last day of the time period is a Saturday, Sunday, or Federal holiday, the time period will be extended to the close of business on the next business day.

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(g) *Decision Whether to Order a Hearing.* The appellate officer will review the applicant's appeal and request for hearing, and has discretion to proceed as follows:

(1) Deny the appeal;

(2) Issue a decision on the merits of the appeal if the record contains sufficient information on which to reach final judgment; or

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(k) *Appellate Officers' Decisions.* The appellate officer will close the record and issue a decision after determining that there is sufficient information to render a decision on the record of the proceedings and that all procedural requirements have been met. The decision must be based solely on the record of the proceedings. Except as provided in paragraph (o) of this