

BOTTOMFISH	
Primary Stat Area Fished (Incl. Halibut)	The 6-digit area code where you caught most of the bottomfish on this trip. If you fished for bottomfish, but caught none, write the 6-digit code for the location fished the most time on this date and trip.
Maximum Rods Fished	The maximum number of rods/lines fished when targeting bottomfish (incl. halibut) and targeting salmon and halibut simultaneously. . . .
No. Boat Hours Fished	The number of boat hours that at least one rod/line was targeting bottomfish (incl. halibut) and targeting salmon and bottomfish simultaneously. . . .
Fish Kept & Released	The total number of fish kept and released by client and crew . . . Halibut kept and released is no longer being collected in logbooks, but effort continues to be collected . Halibut kept and released data is collected through established survey programs.
NOTES AND EXAMPLES – RODS, BOAT HOURS	
What species group was targeted? Example 3: Two Targets Salmon and Bottomfish (including halibut) simultaneously (i.e., mooching)	. . . [R]ecord the maximum number of rods and boat hours spent fishing simultaneously for salmon and bottomfish in the appropriate columns in BOTH the salmon and bottomfish sections.
Example 4: A combination of any of the above	. . . [R]ecord the maximum number of rods and boat hours spent targeting salmon AND targeting both salmon and bottomfish (including halibut) simultaneously in the appropriate columns in the salmon section, and the maximum number of rod and boat hours spent bottomfish AND targeting both salmon and bottomfish simultaneously in the appropriate columns in the bottomfish section.
SPECIAL NOTES AND INSTRUCTIONS	
“Halibut”	The number of halibut kept and released is no longer requested in the logbook. However, we ask that you continue to record your effort. . . .

When it published the Final Rule implementing the CHLAP, NMFS considered the issue of bottomfish reporting and the possibility that some participants may have received confusing or conflicting advice from ADF&G officials. After due consideration of comments received on the Proposed Rule, NMFS stated:

If a business owner did not comply with specified reporting requirements, then the fishing trip will not be counted as either a bottomfish logbook fishing trip during the qualifying period or a halibut logbook fishing trip during the recent participation period for purposes of this rule. Regardless of what any particular ADF&G personnel may say to an operator, each operator or business is responsible for complying with applicable Federal halibut fishery regulations and ADF&G reporting requirements.³

Appellant also argues NMFS has improperly coordinated with ADF&G to gather an applicant's logbook information. That argument was not raised in Appellant's appeal. Therefore, it is not a basis for overturning the Decision. A request for reconsideration is not a new level of appeal in which new arguments may be raised. Pursuant to the procedural regulations governing this appeal, "[t]he appellate officer will limit his/her review to the issues stated in the appeal; all issues not set out in the appeal will be waived."⁴

Appellant also alleges that the logbook reporting process is flawed as currently implemented, and as such, NMFS should be more flexible in determining whether the CHLAP's minimum participation requirements have been met. However, this argument is beyond the scope of a motion for reconsideration since it was not raised in Appellant's appeal and since reconsideration is reserved for a review of material facts and law relevant to the Decision. NAO's mission is to review NMFS's Initial Administrative Determinations (IAD) and decide whether an IAD on appeal is consistent with existing regulations.⁵

In summary, on reconsideration Appellant does not raise an issue that was overlooked in rendering the Decision. Appellant did not follow the written instructions accompanying the 2004 logbooks and improperly relied on the alleged verbal statements of an ADF&G official.

³ Final Rule, 75 Fed. Reg. 554, 592 (January 5, 2010).

⁴ See 50 C.F.R. § 679.43(f).

⁵ See 50 C.F.R. § 300.43(b),(f), and (k).

[REDACTED]
Appeal No. 10-0081

The new effective date of the Decision is September 12, 2011 subject to the Regional Administrator's review.⁶

[REDACTED]

Eileen G. Jones
Chief Administrative Judge

Date Issued: August 12, 2011

⁶ <http://www.fakr.noaa.gov/appeals/reconsiderationpolicy.htm>; 50 C.F.R. § 679.43(o).