

NAO's mission is to review IADs and decide whether an IAD under appeal is consistent with existing regulations.³ As noted above, that is what NAO did in the Decision.

Appellant also states that he applied for a CCHP but the CQE chose not to lease one of its permits to him. That fact was acknowledged in the Decision.⁴ Furthermore, NAO is not authorized under the Charter Halibut Limited Access Program regulations to adjudicate issues concerning how or to whom CQEs allow for use of their permits. As noted in the Decision:

CCHPs can only be requested by a representative of a community.⁵ In this matter, Appellant has not shown that he is requesting the permit in such a capacity. Further, CQEs who receive CCHPs have discretion in granting the use of their permits. The CHLAP regulations⁶ and the procedural regulations that govern this appeal,⁷ do not state that on appeal an appellant can challenge a decision made by a CQE recipient of a CCHP.

In summary, on reconsideration Appellant does not raise an issue that was overlooked in rendering the Decision. CQEs can decide how and to whom to lease their permits. Further, that decision making process is not subject to substantive review on appeal pursuant to the provisions of the CHLAP regulations.

The new effective date of the Decision is September 12, 2011 subject to the Regional Administrator's review.⁸

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Eileen G. Jones
Chief Administrative Judge

Date Issued: August 12, 2011

³ See 50 C.F.R. § 300.43(b),(f), and (k).

⁴ Decision issued July 22, 2011 at pages 2-4.

⁵ 50 C.F.R. § 300.67(k).

⁶ 50 C.F.R § 300.67(k).

⁷ 50 C.F.R. § 679.43(b) and (f).

⁸ <http://www.fakr.noaa.gov/appeals/reconsiderationpolicy.htm>; 50 C.F.R. § 679.43(o).