

requirement in the qualifying period (2004, 2005) because, according to the official charter halibut record, he took no bottomfish logbook fishing trips in 2004 and only six bottomfish logbook fishing trips with one vessel, [REDACTED] in 2005.

Appellant states that the official charter halibut record is incorrect and that he took ten additional bottomfish logbook fishing trip with VESSEL in October 2005.⁵ Appellant states that he reported these ten trips to ADF&G in October 2005 by placing the logbook trip reports for these ten trips in a drop box provided by ADF&G at Statter Harbor, Auke Bay, Alaska. With his application, Appellant submitted copies of the ten logbook trip reports that he stated that he submitted to ADF&G in October 2005. With those ten additional trips, Appellant states that he took sixteen bottomfish logbook fishing trips with VESSEL in 2005 and therefore meets the participation requirement in the qualifying period for a transferable permit.⁶

I concluded that the record was insufficient to decide the appeal, as required by 50 C.F.R. § 679.43(g)(2), and that the appeal met the requirements in 50 C.F.R. § 679.43(g)(3) for a hearing to resolve whether Appellant met the requirements for a transferable charter halibut permit.⁷ I initially ordered the hearing for May 18, 2011, but rescheduled it to May 20, 2011, so I could receive the actual carbon copies of the missing trip reports before the hearing.⁸ I held a hearing on May 20, 2011, by telephone. Appellant testified. After the hearing, Appellant submitted email correspondence with ADF&G.⁹ I conclude that the record now is sufficient for me to decide this appeal as required by 50 C.F.R. § 679.43(g)(2). I therefore close the record and issue this decision.

ISSUE

Did Appellant meet the participation requirements for a transferable charter halibut permit because he reported ten bottomfish logbook fishing trips in 2005 that are not contained in the official charter halibut record?

SUMMARY

The IAD is vacated. Appellant showed, by a preponderance of evidence in the record, that he reported ten additional bottomfish logbook fishing trips to ADF&G that occurred in October 2005, in addition to the six bottomfish logbook fishing trips that are contained in the official charter halibut record. Appellant reported those trips by depositing the logbook trips reports for those

⁵ Statement of Appellant (Apr. 2, 2010), submitted with Application; Letter from Appellant to OAA (Oct. 19, 2010); Letter from Appellant to OAA (May 16, 2011).

⁶ 50 C.F.R. § 300.67(d)(1)(i).

⁷ Order Scheduling Hearing (May 10, 2011). Appellant submitted more than a mere allegation or denial or general description of his position that he reported ten additional trips, as required by 50 C.F.R. § 679.43(g)(3)(ii). The record contained copies of the logbook pages that he stated he submitted, a detailed statement describing the circumstances of his submitting the logbook trip reports and other logbook trip reports that he submitted in 2005.

⁸ Order Rescheduling Hearing (May 17, 2011).

⁹ Email between Appellant and Dora Sigurdsson, ADFG (May 17 – May 23, 2005).

trips in an ADF&G drop box within the time limit for reporting logbook trips in effect in 2005. A trip report that is deposited into an ADF&G drop box is reported within the meaning of 50 C.F.R. § 300.67(f)(2). With these ten additional trips, Appellant took sixteen bottomfish logbook fishing trips in 2005 and meets the participation requirement for a transferable permit in the qualifying period in 50 C.F.R. § 300.67(d)(1)(i), namely fifteen bottomfish logbook fishing trips with one vessel in one year in the qualifying period (2004 or 2005).

FINDINGS OF FACT

I find the following facts by a preponderance of evidence in the record:

1. Appellant reported no bottomfish logbook fishing trips to ADF&G in 2004.¹⁰
2. Appellant reported six bottomfish logbook fishing trips to ADF&G in 2005 with VESSEL that are contained in the official charter halibut record.¹¹ Appellant reported these trips in logbook pages from Logbook 52374. These trips occurred on the following dates: May 11, 2005; June 3, 2005; June 4, 2005; June 23, 2005; August 8, 2005; August 13, 2005.¹²
3. Appellant reported ten bottomfish logbook fishing trips to ADF&G with VESSEL that are not contained in the official charter halibut record. Appellant reported these trips on pages 15 and 16 of Logbook 52374. Page 15 contained the first nine trips. Page 16 contained the last trip, and Appellant marked page 16 as reporting the last charter trip of the 2005 season. Appellant took, and reported, trips on the following dates: October 10, 2005; October 11, 2005; October 12, 2005; October 13, 2005; October 14, 2005; October 15, 2005; October 16, 2005; October 17, 2005; October 18, 2005; October 19, 2005.¹³
4. Appellant reported these ten trips to ADF&G by placing pages 15 and 16 of Logbook 52374, which contained reports of these ten trips, in the drop box provided by ADF&G at Statter Harbor, Auke Bay, Alaska on October 19, 2005.¹⁴
5. The deadline for reporting bottomfish fishing trips to ADF&G, for trips that occurred between October 1, 2005, to December 31, 2005, was January 15, 2006.¹⁵

¹⁰ Summary of Official Charter Halibut Record (Jan. 27, 2010).

¹¹ Summary of Official Charter Halibut Record (Jan. 27, 2010); Logbook Pages from Logbook 52374, attached to Letter from Appellant to OAA (May 16, 2011).

¹² Logbook Pages from Logbook 52374, attached to Letter from Appellant to OAA (May 16, 2011).

¹³ Letter from Appellant with application (Apr. 2, 2010); Letter from Appellant to OAA (May 16, 2011); Carbon Copies of Logbook pages 1 to 16 of Logbook 52374; Appellant's Testimony (Hearing, May 20, 2011); VESSEL Log for dates Sept. 18, 2005 to Dec. 18, 2005. The vessel's activity after October 19, 2005, was a hunting and crabbing trip on December 25, 2005, and a hunting trip on December 28, 2005. I analyzed the evidence in the record for this finding at pages 6 and 7 of the Decision.

¹⁴ The evidence for this finding is the evidence in footnote 13. I analyze the evidence in the record for this finding at pages 7 and 8 of the Decision.

¹⁵ The 2005 ADF&G Saltwater Charter Logbook and Instructions, and the Transmittal Letter from ADF&G, are on the NMFS Alaska Region website, Administrative Appeals. See http://www.fakr.noaa.gov/appeals/adfg_logbooks/2005.pdf; http://www.fakr.noaa.gov/appeals/adfg_logbooks/transmittalltr.pdf.

6. In 2007, Appellant reported nineteen halibut logbook fishing trips with VESSEL to ADF&G.¹⁶
7. In 2008, Appellant reported seventeen halibut logbook fishing trips with VESSEL to ADF&G.¹⁷
8. Appellant submitted a timely application for a charter halibut permit on April 5, 2010.¹⁸

APPLICABLE REGULATIONS

The issuance of charter halibut permits is governed by regulations implementing the Charter Halibut Limited Access Program (CHLAP), which is codified at federal regulations 50 C.F.R. § 300.61, 300.66, and 300.67.

The official charter halibut record is the information prepared by NMFS on participation in charter halibut fishing that NMFS used to implement the CHLAP.¹⁹ NMFS based the official charter halibut record on data from ADF&G that linked each logbook fishing trip reported to ADF&G with the ADF&G Business Owner License that authorized the trip.²⁰

To receive a charter halibut permit, an applicant must be a person to whom ADF&G issued the Business Owner Licenses that authorized logbook fishing trips that met the minimum participation requirements for a permit.²¹ A person can be an individual, a corporation, firm or association.²²

The relevant unit of participation is a logbook fishing trip. A logbook fishing trip is either a bottomfish logbook fishing trip or a halibut logbook fishing trip that was reported as a trip to the State of Alaska in a Saltwater Charter Logbook within the time limits for reporting the trip in effect at the time of the trip except that for multi-day trips, the number of trips will be equal to the number of days of the multi-day trip, e.g., a two-day trip will be counted as two trips.²³

A bottomfish logbook fishing trip is a logbook fishing trip that was reported with one of the following pieces of information: the statistical area(s) where bottomfish fishing occurred, the boat hours that the vessel engaged in bottomfish fishing, or the number of rods used from the vessel in bottomfish fishing.²⁴

The deadline for submitting logbook trip reports in 2005 is on page iii of the 2005 Logbook. I am placing a copy of the 2005 Logbook with Instructions and the Transmittal Letter in the record of this appeal.

¹⁶ Email from Mukhya Khalsa, Computer Specialist, NMFS Alaska Region, to Mary Alice McKeen, attached to Order Scheduling Conference and Order Adding Document to the Record (May 9, 2011).

¹⁷ Summary of Official Charter Halibut Record (Jan. 27, 2010).

¹⁸ Application (dated Mar. 15, 2010; received Apr. 5, 2010).

¹⁹ 50 C.F.R. § 300.67(f)(5).

²⁰ Final Rule, 75 Fed. Reg. 554, 556 (Jan. 5, 2010).

²¹ 50 C.F.R. § 300.67(b)(1)(ii).

²² 50 C.F.R. § 300.61 (definitions).

²³ 50 C.F.R. § 300.67(f)(4).

²⁴ 50 C.F.R. § 300.67(f)(2).

A halibut logbook fishing trip is a logbook fishing trip that was reported with one of the following pieces of information: the number of halibut kept, the number of halibut released, the statistical area(s) where bottomfish fishing occurred, or the boat hours that the vessel engaged in bottomfish fishing.²⁵

An applicant must prove participation through logbook fishing trips in two periods: a qualifying period, which is the sport fishing season for halibut in 2004 and 2005,²⁶ and a recent participation period, which is the sport fishing season for halibut in 2008.²⁷

An applicant must prove different levels of participation to receive a non-transferable and a transferable permit. To receive a non-transferable charter halibut permit, an applicant must have reported a minimum of five bottomfish logbook fishing trips in one year in the qualifying period (2004 or 2005), and a minimum of five halibut logbook fishing trips in the recent participation period (2008).²⁸

To receive a transferable charter halibut permit, an applicant must have reported a minimum of fifteen bottomfish logbook fishing trips with the same vessel in one year in the qualifying period (2004, 2005), and fifteen halibut logbook fishing trips with the same vessel in the recent participation period (2008).²⁹

Appellant must prove, by a preponderance of evidence in the record, that the official record is incorrect and that he meets the participation requirements for a transferable charter halibut permit.

ANALYSIS

The issue on appeal is whether Appellant meets the minimum participation requirements for a transferable permit. There is no question that Appellant meets the minimum participation requirement in the recent period for a transferable charter halibut permit: fifteen halibut logbook fishing trips with the same vessel in 2008.³⁰ Appellant reported seventeen halibut logbook fishing trips in 2008.

But the question is whether Appellant meets the minimum participation requirement in the qualifying period (2004, 2005) for a transferable charter halibut permit: fifteen bottomfish logbook fishing trips with one vessel in either 2004 or 2005.³¹ According to the official charter

²⁵ 50 C.F.R. § 300.67(f)(3).

²⁶ 50 C.F.R. § 300.67(f)(6).

²⁷ 50 C.F.R. § 300.67(f)(7).

²⁸ 50 C.F.R. § 300.67(b)(1)(ii)(A) (B). In 2004 and 2005, ADF&G did not require participants in the charter halibut fishery to report halibut specifically but did require participants to report halibut effort as bottomfish effort. Therefore, for 2004 and 2005, the regulation evaluates an applicant's participation by bottomfish logbook fishing trips, which means that the applicant reported one of three pieces of information that showed bottomfish effort. Beginning in 2006, ADF&G required participants to report halibut specifically. Proposed Rule, 74 Fed. Reg. 18,178, 18,185 (Apr. 21, 2009).

²⁹ 50 C.F.R. § 300.67(d)(1)(i)(ii).

³⁰ 50 C.F.R. § 300.67(d)(1)(ii).

³¹ 50 C.F.R. § 300.67(d)(1)(i).

halibut record, Appellant reported six bottomfish logbook fishing trips with VESSEL in 2005, which is less than the fifteen logbook fishing trips required for a transferable permit. Appellant states, however, that he took ten additional bottomfish logbook fishing trips with VESSEL in 2005.

To prove that he took ten additional bottomfish logbook fishing trips with VESSEL in 2005, Appellant must show three things: Appellant took the trips, Appellant put the trip reports in an ADF&G drop box by January 15, 2006, and these trips are bottomfish logbook fishing trips, as defined by federal regulation 50 C.F.R. § 300.67(f)(2). I have found that Appellant took the trips and reported the trips. Since these are the essential findings of fact in this appeal, I will explain the basis for these findings of fact.

A. Appellant took the trips.

I have found that Appellant took charter halibut fishing trips with VESSEL on the following dates in October 2005: October 10, October 11, October 12, October 13, October 14, October 15, October 16, October 17, October 18 and October 19.³² I base that finding primarily on the following evidence: Appellant's testimony, the carbon copies of pages from Logbook 52374, and the ship's log.

Appellant testified that he took ten charter halibut trip near Juneau on the above dates in October 2005.³³ Appellant testified that the anglers on these trips were his two cousins who were visiting Juneau from out of town and a third angler, either his father-in-law or a family friend, depending on the trip. Appellant identified his cousins by name, without hesitation. He identified the third passenger, whether it was his father-in-law or a family friend, by referring to a fishing log that he consulted while testifying.

Appellant's testimony was corroborated by logbook pages from Logbook 52374³⁴ and the ship's log.³⁵ Appellant submitted carbon copies of pages 15 and 16 of Logbook 52374. The carbon copies of pages 15 and 16 showed ten trips from October 10 to October 19, 2005. For each trip, the logbook pages identify two nonresident anglers (Appellant's cousins) and one resident angler. Each trip is listed as occurring in statistical area 111401, which is near Juneau.³⁶

Appellant submitted copies of the ship's log covering the dates September 28, 2005, to December 28, 2005. The log lists ten trips between October 10 and October 19, and for nine of the trips, the log notes state "cousins." For the trip that does not explicitly list cousins, the trip on October 17, the log notes state, "Seeing some better clamming tides now. Friday, but hard work." The gear is listed as "clam & fish," and the logbook entry on page 15 for October 17 has three pieces of

³² Finding of Fact # 3.

³³ All testimony of Appellant is to sworn testimony at the hearing that occurred on May 20, 2011.

³⁴ Logbook Pages for 2005 from Logbook 52374, attached to Appellant's Letter to OAA (May 16, 2011).

³⁵ VESSEL's Log from September 28, 2005 to December 28, 2005, attached to Appellant's Letter to OAA (May 16, 2011).

³⁶ ADF&G "Juneau Vicinity Map," attached to Email from Mary Alice McKeen to Appellant (May 9, 2011).

information in the “Bottomfish Fishing” part of the form, any one of which make the trip a bottomfish logbook fishing trip: primary statistical area where most fish were caught, maximum number of rods fished and number of boat hours.³⁷

I credit Appellant’s testimony that it is a near-universal practice in commercial fishing to maintain a ship’s log and to keep a log as a record of the ship’s activity and that Appellant keeps a log whenever he took his ship out. The log entries for days other than October 10 to October 19 support that testimony. For example, the entry on September 28, 2001 was “move boat from summer moorage to boathouse downtown,” and the entry on October 18, 2005, states “Cousins” and “Fuel appt. @ Petro.”

The logbook pages and ship’s log were prepared contemporaneously with the trips. They were consistent with each other, with Appellant’s written statements and with sworn testimony. I therefore found that Appellant took ten charter halibut fishing trips between October 10 and October 19, 2005. But that is not sufficient for a trip to be a bottomfish logbook fishing trip. To be a bottomfish logbook fishing trip, the trip had to be reported to ADF&G within the time limit for reporting the trip.³⁸ Appellant stated that he reported these trips by putting the trip reports in an ADF&G drop box at Statter Harbor, Auke Bay, Alaska on October 19, 2005.

B. Appellant put these trip reports in the ADF&G drop box on October 19, 2005.

I have found that Appellant put the trip reports for the ten trips from VESSEL between October 10 and October 19, 2005, in the ADF&G drop box on October 19, 2005.³⁹ I weighed the evidence as follows.

The evidence tending to show that Appellant did not submit these reports is the fact that ADF&G did not enter these trips in its database in 2005 and that ADF&G cannot find the originals of these logbook reports. This is strong evidence because ADF&G did carefully search for these reports. In reviewing Appellant’s application, RAM contacted ADF&G staff, who did not find pages 15 and 16.⁴⁰ In connection with the appeal, ADF&G checked its files again and also checked its “late” file where it stores original hard copies for reports that are submitted late. ADF&G did not find the originals of pages 15 or 16 of Logbook 52374.⁴¹

The evidence tending to show that Appellant did submit these reports was Appellant’s written statements and sworn testimony, the evidence that he actually did take the trips, the carbon copies of pages 15 and 16 of Logbook 52374 and his pattern and practice of submitting trip reports in 2005 and other years. Appellant submitted a written statement:

³⁷ Only one of those pieces of data is required for a trip to meet the regulatory definition of a bottomfish logbook fishing trip. 50 C.F.R. § 300.67(f)(2).

³⁸ 50 C.F.R. § 300.67(f)(2); 50 C.F.R. § 300.67(f)(4).

³⁹ Finding of Fact # 4.

⁴⁰ Email from Bob Powers, ADF&G, to Tracy Buck, RAM (May 19, 2010).

⁴¹ Email from Dora Sigurdsson, ADF&G, to Appellant (May 20, 2011).

[I] will absolutely swear, under penalty of perjury, that I placed the white copy of pages 15 and 16 from ADF&G Charter Logbook #52374 in the metal “drop-box” placed by ADF&G at Statter Harbor, Auke Bay, Alaska at approximately 7:15 A.S.T. on October 19, 2005. The event is memorable because the family members who were the charter clients for which the questioned trips were taken asked me to join them for drinks at Squire’s Rest to celebrate their “Alaska Adventure” before returning home October 10, 2005. For the record, Squire’s Rest is a bar and restaurant located at 11806 Glacier Highway, Juneau, AK. Meeting people at this location is quite convenient to drop the questioned logbook pages at Statter Harbor, as Squire’s Rest is directly across the street.⁴²

Appellant did provide sworn testimony to this event at the hearing, and the testimony was consistent with his written statements. Appellant’s testimony was detailed, and he stated that he remembered thinking that it would be better to put them in the drop box, right then and there, rather than having them lay around in his truck and possibly get lost. Appellant’s testimony about the circumstances of depositing the reports is credible – a celebratory family good-bye dinner at a restaurant right across from the harbor where the group had taken its trips.

Appellant’s testimony that he reported these trips is corroborated by the fact that he did take these trips and by his production of the actual carbon copies of the trip reports. I reviewed the carbon copies of all the logbook pages made for 2005, namely pages 1 to 16, and pages 15 and 16 looked similar to pages 1 to 14.

Appellant also has a pattern and practice of submitting logbook reports. It is undisputed that Appellant submitted pages 1 to 14 of Logbook 52374, which contained forty-two salmon trips and six halibut trips. In 2007, he reported nineteen halibut logbook fishing trips; in 2008, he reported seventeen halibut logbook fishing trips. Appellant had no reason not to submit pages 15 and 16, and I found his testimony credible when he stated that he thought he had a moral and legal obligation to submit reports of the trips he took.

This is a close factual question. On the one hand, ADF&G takes great care to maintain its logbook trip database and carefully checked its records for these reports and did not find them. And it is possible that Appellant misplaced or misfiled the originals and did not submit them.

But I am asked whether Appellant has shown it is more likely than not that he delivered these logbook pages to the ADF&G drop box. And I have found that he has shown that it is more likely than not that he did report these ten additional trips. Appellant offered credible, detailed testimony that he put these reports in the drop box. Appellant’s testimony is corroborated by the clear evidence that he actually took these trips, by the carbon copies of the logbook reports of these trips that he retained and by his pattern and practice of submitting logbook trip reports. The final question is whether these trips are bottomfish logbook fishing trips.

⁴² Letter from Appellant to OAA (May 16, 2011). This statement was substantially similar to Appellant’s prior written statement. Letter from Appellant to OAA (Oct. 19, 2010).

C. These trips are bottomfish logbook fishing trips.

A bottomfish logbook fishing trip is a regulatory term. It means “a logbook fishing trip in the qualifying period *that was reported to the State of Alaska* in a Saltwater Charter Logbook with one of the following pieces of information: The statistical area(s) where bottomfish fishing occurred, the boat hours that the vessel engaged in bottomfish fishing, or the number of rods used from the vessel in bottomfish fishing.”⁴³

Thus, a bottomfish logbook fishing trip must first be a logbook fishing trip. A logbook fishing trip is also a regulatory term: “a bottomfish logbook fishing trip or a halibut logbook fishing trip that was *reported* as a trip to the State of Alaska in a Saltwater Charter Logbook *within the time limits for reporting the trip in effect at the time of the trip*, except that for multi-day trips, the number of trips will be equal to the number of days of the multi-day trip, *e.g.*, a two day trip will be counted as two trips.”⁴⁴ Both terms require that the applicant “reported” the trips to the State of Alaska.

Did Appellant “report” these trips to the State by placing the reports in an ADF&G drop box? Appellant argues that depositing the trip reports in an ADF&G drop box should constitute reporting those trips.⁴⁵ I agree. In 2005, ADF&G located drop boxes at harbors as a way to encourage reporting by making it convenient to report. ADF&G still maintains drop boxes, including the drop box at Statter Harbor.⁴⁶ In its FY 2011 Operational Plan, ADF&G noted: “Business owners are responsible for ensuring that all trip records are submitted to ADF&G. There are several ways that logbook submission can occur, direct mail-in, submit records in person to a local ADF&G office, or utilize the ADF&G drop boxes available in front of select ADF&G offices.”⁴⁷ NMFS has adopted the ADF&G requirement to submit ADF&G logbook reports as a federal reporting requirement.⁴⁸ In its notice to the public of that reporting requirement, NMFS identified the methods of collection of the logbook reports: “The logsheets may be placed in an ADF&G drop box at one of many ports in Alaska or mailed to ADF&G.”⁴⁹ I conclude that depositing a report in an ADF&G drop box constitutes reporting the trip to ADF&G, and therefore, Appellant reported these trips to the State.

Appellant reported these trips on October 19, 2005. The deadline for reporting trips that occurred between October 1, 2005, and December 31, 2005, was January 15, 2006.⁵⁰ Appellant therefore

⁴³ 50 C.F.R. § 300.67(f)(2) (emphasis added).

⁴⁴ 50 C.F.R. § 300.67(f)(4) (emphasis added).

⁴⁵ Letter from Appellant to OAA (May 16, 2011); Appellant’s Argument at Hearing (May 20, 2011).

⁴⁶ Email from Mary Alice McKeen to Appellant with photograph of ADF&G Drop Box at Statter Harbor (May 20, 2011).

⁴⁷ FY 2011 Operational Plan, ADF&G Statement Freshwater Guided Sport Fishing Logbook Reporting Program, available at docushare.sf.adfg.state.ak.us/dsweb/Get/Rendition-78218/unknown <<visited June 13, 2011>>. The record does not indicate that ADF&G has an office at Statter Harbor.

⁴⁸ Notice, 75 Fed. Reg. 79,341 (Dec. 20, 2010).

⁴⁹ Notice, 75 Fed. Reg. 79,341 (Dec. 20, 2010).

⁵⁰ Finding of Fact # 5.

reported these trips within the time limit for reporting.

I conclude that these ten trips are bottomfish logbook fishing trips and that Appellant has shown that the official charter halibut record is incomplete. With ten additional bottomfish logbook fishing trips added to the six bottomfish logbook fishing trips already in the official record, Appellant meets the participation requirement in the qualifying period for a transferable charter halibut permit: fifteen trips with one vessel in 2004 or 2005.⁵¹

CONCLUSIONS OF LAW

1. A logbook fishing trip report that is put in an ADF&G drop box is reported within the definition of bottomfish logbook fishing trip in 50 C.F.R. § 300.67(f)(2).
2. Appellant's ten trips from October 10 to October 19, 2005 with VESSEL are bottomfish logbook fishing trips and should be included in the official charter halibut record.
3. Appellant meets the minimum participation requirement in the qualifying period for a transferable permit in 50 C.F.R. § 300.67(d)(1)(i), namely fifteen bottomfish logbook fishing trips with one vessel in 2004 or 2005
4. Appellant qualifies for a transferable charter halibut permit through initial issuance.

DISPOSITION

The IAD that is the subject of this appeal is VACATED. RAM is directed to issue a transferable charter halibut permit, endorsed for six anglers, for use in IPHC Regulatory Area 2C to Appellant. This Decision is effective on August 8, 2011, unless by that date the Regional Administrator orders review of the Decision.

Appellant or RAM may submit a Motion for Reconsideration, but it must be received at this Office not later than 4:30 p.m. Alaska Time, on the tenth day after the date of this Decision, July 18, 2011. A Motion for Reconsideration must be in writing, must allege one or more specific material matters of fact or law that were overlooked or misunderstood by the administrative judge, and must be accompanied by a written statement of points and authorities in support of the motion. A timely Motion for Reconsideration will result in a stay of the effective date of the Decision pending a ruling on the motion or the issuance of a Decision on Reconsideration.


Mary Alice McKeen
Administrative Judge

⁵¹ 50 C.F.R. § 300.67(d)(1)(i).