



The Decision stated that the charter halibut regulation did not establish a legal obligation for NMFS to send applications to any potential applicant.<sup>15</sup> As noted, the regulation did require that NMFS publish notice of the application period in the Federal Register, which NMFS did. I note that the regulation states that “[a]n application for a charter halibut permit will be made available by NMFS.”<sup>16</sup> NMFS made applications available by sending applications to anyone who requested one and by posting application forms on the NMFS Alaska Region website.

I do not have authority to order that NMFS grant a charter halibut permit to a person who applied after the application deadline for any reason, including the reason offered by Appellants, namely that NMFS sent application materials to persons who, according to the official record, would receive a permit if they applied by the application deadline and did not send application materials to any other person, including the appellants, unless the person requested an application.

#### DISPOSITION

For the reasons stated herein, the motion for reconsideration by the Appellants is denied.

The Decision entered in this appeal, dated February 1, 2011, will take effect on April 22, 2011, unless by that date the Regional Administrator orders review of the decision.

  
Mary Alice McKeen  
Administrative Judge

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<sup>15</sup> Decision at 8.

<sup>16</sup> 50 C.F.R. § 300.67(h)(2).