

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE
NATIONAL APPEALS OFFICE

In re Application of



Appellant

)
) Appeal No. 11-0055
)
) ORDER DENYING MOTION for
) RECONSIDERATION
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On August 12, 2011, I issued a Decision in this case. Subsequently, Appellant filed a Motion for Reconsideration.

NAO's policy requires motions for reconsideration to state material matters of law or fact that were misunderstood or overlooked by the Administrative Judge in rendering his or her decision. A Motion for Reconsideration is not a new step in the appeals process, but rather an opportunity to correct errors of law or fact.

In her Motion for Reconsideration Appellant states she sent in her application as soon as she was aware of the application process. This is a new argument Appellant did not raise previously and because it was not raised previously is not a basis for me to find error in my Decision.

Moreover, on January 12, 2010, NMFS published a Notice in the Federal Register that announced the application period for a CHP. It stated as follows:

...The application period for charter halibut permits under the Charter Halibut Limited Access Program begins on February 4, 2010, and ends at the close of business on April 5, 2010... Applications postmarked after April 5, 2010, or delivered after the close of business on April 5, 2010, will be denied. ¹

By publishing this announcement, NMFS put possible applicants on notice of the deadline. Under the CHLAP regulations, after the application deadline RAM had no authority to accept any applications for processing. Similarly, under the CHLAP regulations, NAO has not been authorized to accept late applications.

I have carefully reviewed my August 12, 2011, Decision and conclude that Appellant's motion does not show error of law or fact. Therefore, Appellant's motion is denied.

Pursuant to NAO policy, the effective date of the Decision is now November 14, 2011, subject to the Regional Administrator's review. ²

¹ 75 Fed. Reg. 1595 (January 12, 2010).

² <http://www.fakr.noaa.gov/appeals/reconsiderationpolicy.htm>; 50 C.F.R. §679.43(o).

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Eileen G. Jones
Chief Administrative Judge

Date Issued: October 13, 2011