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

In re Application of	)	Appeal No. 11-0072
[redacted]	)	ORDER DISMISSING APPEAL
Applicant	)	September 8, 2011

The National Appeals Office (NAO) is a division within the National Marine Fisheries Service (NMFS), Office of Management and Budget. NAO operates out of NOAA's headquarters in Silver Spring, MD and maintains an office in NMFS's Alaska Regional office. NAO is the successor to the Office of Administrative Appeals (OAA), Alaska Region, and is charged with processing appeals that are on file with OAA.

On April 12, 2011, OAA received [redacted] (Applicant's) appeal dated April 6, 2011. The appeal was based on an Initial Administrative Determination (IAD) issued by the Restricted Access Management program (RAM) within NMFS. On July 28, 2010, the IAD was sent to Applicant by certified mail. RAM addressed the IAD to Applicant's summer address Applicant provided on his CHP application. On July 31, 2010, [redacted] as agent for Applicant, signed the certified mail receipt.

Pursuant to applicable regulations, appeals to OAA must be filed within sixty days of the date an IAD is issued. *See* 50 C.F.R. § 679.43(d). In the IAD, RAM informed Applicant that in order to appeal the IAD, he must file an appeal with OAA by September 24, 2010. Since the appeal was received on April 12, 2011, more than sixty days after the IAD was issued, Applicant has not complied with the procedural requirements for perfecting an appeal with OAA. Accordingly, since the IAD was sent to Applicant's last known address and was signed for by [redacted] on behalf of Applicant, OAA does not accept Applicant's appeal for review on the merits, and I dismiss the appeal with prejudice. *See* 50 C.F.R. § 679.43(d).

In deciding to dismiss Applicant's appeal, I have carefully read the entire file, including Applicant's appeal letter. Applicant states in his appeal letter that he refused to accept the determination and would be retaining counsel. However, Applicant did not indicate in his appeal letter the reason why he filed his appeal late. NAO has also not been contacted by Counsel on behalf of Applicant.

[redacted]
Eileen G. Jones
Chief Administrative Judge