

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

In re Application of



Applicant

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Appeal No. 12-0002

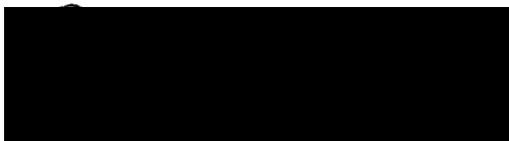
ORDER DISMISSING
APPEAL

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 January 3, 2012, NAO received  (Applicant's) appeal dated November 28, 2011. The appeal was based on an Initial Administrative Determination (IAD) issued by the Restricted Access Management program (RAM) within NMFS. On June 7, 2011, RAM sent the IAD to Applicant by certified mail. On July 10, 2011, someone with an illegible signature signed the certified mail receipt. Appellant does not deny timely receiving the IAD: "Everything was sent but we had a family emergency and we traveled outside the country which we missed the appeal dead line on August 8, 2011."¹

Pursuant to applicable regulations, appeals to NAO must be filed within sixty days of the date an IAD is issued.² In the IAD, RAM informed Applicant that in order to appeal the IAD, he must file an appeal by August 8, 2011. Since the appeal was received on January 3, 2012, more than sixty days after the IAD was issued, Applicant has not complied with the procedural requirements for perfecting an appeal with NAO. Accordingly, NAO does not accept Applicant's appeal for review on the merits, and I dismiss the appeal with prejudice effective today.³

In deciding to dismiss Applicant's appeal, I have carefully read the entire file, including Applicant's appeal letter. I understand he believes his late filing should be excused due to a family emergency. However, I am not authorized under applicable regulations to waive filing requirements.



Eileen G. Jones
Chief Administrative Judge

Date Issued: February 9, 2012

¹ Appeal letter dated November 28, 2011.

² See 50 C.F.R. § 679.43(d).

³ See 50 C.F.R. § 679.43(d).