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

In re Application of	)	Appeal No. 11-0079
[redacted]	)	ORDER DENYING MOTION FOR RECONSIDERATION
Appellant	)	

On January 20, 2012, the undersigned issued the Decision in this appeal. In the Decision, I affirmed the Initial Administrative Determination (IAD) in which NMFS denied Appellant's application for a Charter Halibut permit (CHP). On January 30, 2012, [redacted] doing business as (dba) [redacted] (Appellant) timely filed a Motion for Reconsideration (Motion).

A motion for reconsideration is not a new layer of appeal or an opportunity to present arguments or evidence that were available prior to the date the record closed. A motion for reconsideration must state material issues of law or fact the appellant believes were misunderstood or overlooked in the decision. In support of a motion for reconsideration, an appellant must include argument, or points and authorities in support thereof.[1]

Appellant states in her Motion the Decision fails to mention it took over a year for Appellant to locate her partner. Appellant explains it was quite a struggle to locate her partner due to his mental illness. Appellant states she does all of the day-to-day work that qualified the business for a charter halibut permit. Appellant started the fishing business at twenty-four years of age, and her silent partner helped her financially to get established. Appellant states in 2006 the entire business fell on her shoulders; by the end of 2008 her business partner had "disappeared completely."

Initially, I would like to assure Appellant I carefully reviewed her appeal and the entire file before the Decision was rendered. I understand in attempting to get the CHP application filed, she searched long and hard to find her business partner, who unfortunately has suffered from mental illness for a few years.

Despite Appellant's unfortunate circumstances, NAO must abide by the Charter Halibut Limited Access Program regulations. Under those regulations, late applications cannot be granted. To quote the regulatory language: "Any application that is submitted by mail and postmarked, or submitted by hand delivery or facsimile, after the last day of the

---

[1] http://www.fakr.noaa.gov/appeals/reconsiderationpolicy.htm

application period will be denied."[2] The regulations have no provision for accepting late applications based on hardship or exercising equity to allow late filing of applications. As stated in the Decision, since Appellant's application was not filed by April 5, 2010, but on July 15, 2011, it must be denied.

I have carefully reviewed the January 20, 2012 Decision and conclude Appellant's Motion does not show error of law or fact. Therefore, Appellant's motion is denied.

The new effective date of the Decision is March 12, 2012 subject to the Regional Administrator's review.[3]

[redacted]

_____
Eileen G. Jones
Chief Administrative Judge

Date Issued: February 10, 2012

[2] 50 C.F.R. § 300.67(h).
[3] http://www.fakr.noaa.gov/appeals/reconsiderationpolicy.htm; 50 C.F.R. § 679.43(o).