

⁷ Id.

On February 17, 2023, NAO sent to Appellant a letter acknowledging receipt of his appeal, and requesting Appellant submit any additional material concerning the appeal to NAO by February 28, 2023.⁸ Appellant provided no additional supporting documentation.

After carefully reviewing the information contained in the record, I have determined it is sufficient to adjudicate this appeal. I therefore close the record and render this decision.⁹

ISSUES

The legal issue in this case is whether Vessel associated with permit number ██████████ qualifies for additional IBQ share. However before I may consider the merits of the case, I must first determine whether Appellant timely appealed the IAD.

If Appellant did not timely file his appeal, I am barred from determining Vessel's eligibility for additional IBQ share.

FINDINGS OF FACT

1. HMS issued to Appellant its initial IAD on December 14, 2022.¹⁰
2. HMS issued to Appellant its revised IAD on December 20, 2022.¹¹
3. NAO received Appellant's appeal on February 9, 2023.¹²

PRINCIPLES OF LAW

"Atlantic Tunas Longline Permit holders may appeal the IAD by submitting a written request for an appeal to the National Appeals Office within 45 days after the date the IAD is issued."¹³

"A document transmitted to NAO is considered filed upon receipt of the entire submission by 5 p.m. Eastern Time at NAO."¹⁴

"When computing any time period specified under these rules, count every day, including intermediate Saturdays, Sundays, and legal holidays."¹⁵

A person may not request an extension of time to file a petition to appeal.¹⁶

⁸ Appeal Correspondence Tab, Acknowledgment Letter, dated February 16, 2023.

⁹ 15 C.F.R. § 906.11(a)(1) (2014); 15 C.F.R. § 906.12(a) (2014).

¹⁰ IAD Tab, initial IAD.

¹¹ IAD Tab, revised IAD.

¹² Appeal Tab, Appellant's appeal letter sent by mail, received February 9, 2022.

¹³ 50 C.F.R. § 635.15(e)(1) (2023).

¹⁴ 15 C.F.R. § 906.4(a)(2) (2014).

¹⁵ 15 C.F.R. § 906.2 (2014).

¹⁶ 15 C.F.R. § 906.3(e)(2) (2014).

ANALYSIS

Did Appellant timely appeal the IAD issued to [REDACTED]

On December 20, 2022, HMS issued its revised IAD to Appellant.¹⁷ Pursuant to 50 C.F.R. § 635.15(e)(1), Appellant had 45 days after December 20, 2022, to timely file [REDACTED] appeal, which was February 3, 2023.

Appellant states in [REDACTED] appeal letter that the IAD is inaccurate, and that the error “hurts [REDACTED] ability to fish in a cost effective manner.”¹⁸

The record establishes that Appellant did not appeal the revised IAD that HMS issued [REDACTED] within the 45-day time limit specified in 50 C.F.R. § 635.15(e)(1). Furthermore, 15 C.F.R. § 906.3(e)(2) explicitly states that a person may not request an extension of time to file an appeal. Additionally, neither 50 C.F.R. § 635.15(e)(1) nor 15 C.F.R. § 906 contain any provisions allowing medical, financial, or other hardship to be considered when determining the timeliness of an appeal filing. I understand Appellant’s concern in not receiving the quantity of IBQ share that [REDACTED] believes [REDACTED] should have received. Unfortunately, the applicable regulations preclude an appellate review on the merits of [REDACTED] case.

CONCLUSIONS OF LAW

Appellant has not shown by a preponderance of the evidence that [REDACTED] timely filed his appeal. Accordingly, I must uphold the IAD.

ORDER

The IAD dated December 20, 2022, is upheld. Appellant may submit a Motion for Reconsideration.¹⁹ Any Motion for Reconsideration must be transmitted by email or fax to NAO no later than March 18, 2023. A Motion for Reconsideration must be in writing and contain a detailed statement of one or more specific material matters of fact or law that the administrative judge overlooked or misunderstood.

[REDACTED]
Ryan McQuighan
Administrative Judge

Date Issued: March 8, 2023

¹⁷ IAD Tab, revised IAD.

¹⁸ Appeal Tab, Appellant’s appeal letter sent by mail, received February 9, 2022.

¹⁹ 15 C.F.R. § 906.16 (2014).