

On April 3, 2020, Appellant appealed the IAD.⁵ On April 13, 2020, NAO sent to Appellant a letter acknowledging receipt of his appeal and requested Appellant submit any additional material concerning the appeal to NAO by April 23, 2020.⁶ The Appellant sent no additional information by April 23, 2020.

After carefully reviewing the information contained in the record, I have determined it is sufficient to adjudicate this appeal. Therefore, I close the record and render this decision.⁷

ISSUES

The legal issue in this case is whether Vessel qualifies for 2020 carryover QP. However, before I may consider the merits of Vessel's eligibility for 2020 QP, 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 2020 carryover QP.

FINDINGS OF FACT

1. WCRO issued to Appellant an IAD on February 20, 2020.⁸
2. Appellant received WCRO's IAD sometime after February 20, 2020.⁹
3. NAO received Appellant's appeal on April 3, 2020.¹⁰

PRINCIPLES OF LAW

Vessel accounts expire at the end of each calendar year, and must be renewed between October 1 and November 30 of each year in order to ensure the vessel account is active on January 1 of the following year. A complete vessel account renewal package must be received by SFD no later than November 30 to be accepted by NMFS.¹¹

Any vessel account for which SFD does not receive a vessel account renewal request by November 30 will have its vessel account inactivated by NMFS at the end of the calendar year. NMFS will not issue QP or IBQ pounds to the inactivated vessel account. Any QP or IBQ pounds in the vessel account will expire and surplus QP or IBQ pounds will not be available for carryover.¹²

⁵ Appeal Tab, Appellant's appeal letter sent by fax, dated March 20, 2020, and received April 3, 2020.

⁶ Appeal Correspondence Tab, Acknowledgment Letter, dated April 13, 2020.

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

⁸ IAD Tab, Initial Administrative Determination Notice of Right to Appeal, dated February 20, 2020.

⁹ Appeal Tab, Appellant's appeal letter stated that "he is writing to appeal the Initial Administrative Determination for vessel account carryover from 2019." Sent by fax, dated March 20, 2020, and received April 3, 2020.

¹⁰ Appeal Tab, Appellant's appeal letter sent by fax, dated March 20, 2020, and received April 3, 2020.

¹¹ 50 C.F.R. § 660.140(e)(3)(i)(A) (2020).

¹² 50 C.F.R. § 660.140(e)(3)(i)(C) (2020).

SFD will send vessel notification to renew vessel accounts by September 15 each year. These notifications will be sent to the vessel account owner’s most recent address in the SFD record. “The vessel account owner shall provide SFD with notice of any address change within 15 days of the change.”¹³

Vessel account renewals are subject to the appeals process: An IAD appeal “must be postmarked, faxed, or hand delivered to NMFS no later than 30 calendar days after the date on the IAD.”¹⁴ If an IAD is not appealed within 30 calendar days, it becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.¹⁵ “If the last day of the time period is a Saturday, Sunday, or Federal holiday, the time period will extend to the close of business on the next business day.”¹⁶

“A document transmitted to NAO is considered filed upon receipt of the entire submission by 5 p.m. Eastern Time at NAO.”¹⁷

A person may not request an extension of time to file a petition to appeal.¹⁸

ANALYSIS

Did Appellant timely appeal the IAD issued to him?

On February 20, 2020, WCRO issued its IAD to Appellant. Pursuant to 50 C.F.R. § 660.25(g)(4)(ii), Appellant had 30 calendar days after February 20, 2020, to timely file his appeal, which was Saturday March, 21, 2020. Because March 21, 2020, was a Saturday, 50 C.F.R § 660.25(g)(4)(iii) instructs that the appeal filing deadline was extended to Monday March 23, 2020. The record, however, establishes that NAO received Appellant’s appeal letter on April 3, 2020.

Appellant stated in his appeal letter that he owns the vessel in a partnership with ██████████. Appellant also stated that mail related to Appellant’s vessel account went to an address in Sitka, Alaska, which ██████████ wife received.¹⁹ Appellant maintains, however, that ██████████ never forwarded the account-related mail, so neither Appellant nor his business partner received the renewal reminder.

The record establishes that Appellant did not file his appeal within the Regulation’s 30-day time limit for appealing WCRO’s eligibility determination. Further, under 15 C.F.R. § 906.3(e)(2), a person may not request an extension of time to file an appeal. Consequently, I am barred from considering whether Vessel qualified for a 2020 carryover QP. As the Regulation explains, if an

¹³ 50 C.F.R § 660.140(e)(3)(i)(B) (2020).

¹⁴ 50 C.F.R. § 660.25(g)(4)(ii) (2019).

¹⁵ 50 C.F.R. § 660.25(g)(4)(ii) (2019).

¹⁶ 50 C.F.R. § 660.25(g)(4)(iii) (2019).

¹⁷ 15 C.F.R. § 906.4(a)(2).

¹⁸ 15 C.F.R. § 906.3(e)(2).

¹⁹ Appellant stated that he changed the address. Appeal Tab, Appellant’s appeal letter sent by fax, dated March 20, 2020, and received April 3, 2020.

IAD is not appealed within 30 days, it becomes the final decision of the Department of Commerce. The Regulation precludes an appellate review on the merits of this case.

CONCLUSIONS OF LAW

Appellant has not shown by a preponderance of the evidence that he timely filed his appeal, and, therefore, is not entitled to a review on the merits of WCRO's determination that Vessel did not qualify for 2020 carryover QP. Accordingly, I must uphold the IAD.

ORDER

The IAD dated February 20, 2020, is upheld. Appellant may submit a Motion for Reconsideration.²⁰ Any Motion for Reconsideration must be emailed or transmitted by fax to NAO no later than May 8, 2020. 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: April 28, 2020

²⁰ 15 C.F.R. § 906.16 (2014).