

UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
WASHINGTON, D.C. 20230

IN THE MATTER OF:)	
)	Docket Number:
William C. McLaughlin, III,)	NE2003013
)	<i>F/V Just for the Haters</i>
Respondent.)	
)	

**ORDER DENYING RESPONDENT’S
PETITION FOR ADMINISTRATIVE REVIEW**

This order addresses a fishery enforcement case brought by the National Oceanic and Atmospheric Administration (NOAA) against William C. McLaughlin, III, the owner and operator of *F/V Just for the Haters*. On February 23, 2021, the Agency charged Respondent with fishing for, harvesting, and possessing Atlantic striped bass in the Exclusive Economic Zone (EEZ) off the coast of Block Island, Rhode Island, outside the area described in 50 C.F.R. § 697.7(b)(2), on June 30, 2020, in violation of the Atlantic Striped Bass Conservation Act, 16 U.S.C. § 5158(c), and implementing regulations at 50 C.F.R. § 697.7(b). On December 9, 2021, the Agency filed a First Amendment to the Notice of Violation and Assessment of Administrative Penalty, in which the Agency amended the regulatory citation from 50 C.F.R. § 697.7(b)(2) to 50 C.F.R. § 697.7(b)(3). For this violation, the Agency proposed a penalty of \$10,000.

Upon receipt of the charging document, Respondent requested a hearing before an Administrative Law Judge (ALJ). On March 14, 2022, the ALJ conducted a hearing in this matter. On July 6, 2022, the ALJ issued an Initial Decision. In her analysis of liability, she found that the evidence presented in the matter was uncontroverted and established that Respondent violated 50 C.F.R. § 697.7(b)(3) by possessing two Atlantic striped bass while in the EEZ. The ALJ assessed a civil monetary penalty in the amount of \$9,000.

On August 1, 2022, Respondent filed a timely Petition for Discretionary Review with the NOAA Administrator. As grounds for discretionary review, Respondent challenges the ALJ’s factual findings and credibility determinations as they relate to the assessment of the penalty and asserts that the amount of the penalty is “unfair and ludicrous.” The Agency elected not to file an answer in response.

For the reasons stated below, the Respondent’s Petition for Discretionary Review is **DENIED**.

DECISION ON DISCRETIONARY REVIEW

The NOAA Administrator has broad discretion in deciding whether to grant or deny a petition for discretionary review.¹ Two criteria guide the decision: “(1) [w]hether the Initial Decision contains significant factual or legal errors that warrant further review by the Administrator; and (2) [w]hether fairness or other policy considerations warrant further consideration by the Administrator.”² Types of cases that fall within these criteria include, but are not limited to, those in which:

- The Initial Decision conflicts with one or more other NOAA administrative decisions or federal court decisions on an important issue of federal law;
- The Judge decided an important federal question in a way that conflicts with prior rulings of the Administrator;
- The Judge decided a question of federal law that is so important that the Administrator should pass upon it even absent a conflict; or
- The Judge so far departed from the accepted and usual course of administrative proceedings as to call for an exercise of the Administrator’s supervisory power.³

Applying these criteria to the issues presented in Respondent’s Petition, I find no significant factual or legal errors in the Initial Decision and no fairness or other policy considerations have been identified that would warrant further review. Therefore, Respondent’s Petition for Discretionary Review is **DENIED**.

¹ See 15 C.F.R. § 904.273(c) (“Review by the Administrator of an Initial Decision is discretionary and is not a matter of right.”); See also 15 C.F.R. § 904.273(i) (“The Administrator need not give reasons for denying review.”).

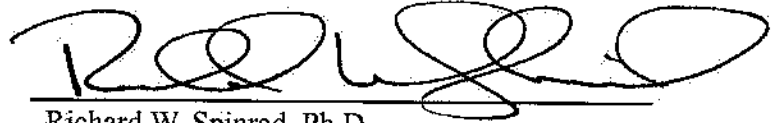
² 15 C.F.R. § 904.273(c).

³ *Id.*

CONCLUSION

The ALJ's Initial Decision will become effective as the final agency decision⁴ on the date this Order is served on Respondent.

28 NOV 2022
Dated



Richard W. Spinrad, Ph.D.
NOAA Administrator and Under Secretary of
Commerce for Oceans and Atmosphere

⁴ Per the Administrative Procedure Act, final agency decisions are subject to judicial review. 5 U.S.C. § 704.