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§ 679.26 Prohibited Species Donation Program.

(a) Authorized species. The PSD program applies only to the following species:

(1) Salmon.

(2) Halibut delivered by catcher vessels using trawl gear to shoreside processors.

(b) Authorized distributors—(1) Application. An applicant seeking to become an authorized distributor must provide the Regional Administrator with the following information:

(i) Proof of the applicant’s tax-exempt status.

(ii) A description of the arrangements for processing, shipping, storing, and transporting donated fish and an estimate of the associated costs.

(iii) A statement describing the applicant’s expertise in providing for the distribution of food product from remote Alaskan locations to hunger relief agencies, food bank networks, or food bank distributors, including arrangements for transportation, distribution costs, and product quality control.

(iv) Documentation of support from cold storage and transportation facilities.

(v) A proposed operating budget that is adequate to ensure that fish donated under this program will be distributed to hunger relief agencies, food bank networks, or food bank distributors and that the fish will be maintained in a manner fit for human consumption.

(vi) Proof of the applicant’s ability to obtain and maintain adequate funding for the distribution of fish under the PSD program.

(vii) A copy of the applicant’s articles of incorporation and bylaws showing that the purpose of the applicant includes providing food resources to

(5) Inseason prohibited species by-catch rates observed in groundfish fisheries in all or part of a statistical area;

(6) Historical prohibited species by-catch rates observed in groundfish fisheries in all or part of a statistical area;

(7) Economic impacts on fishing businesses affected;

(8) Any other factor relevant to the conservation and management of groundfish species or any incidentally caught species that are designated as prohibited species or for which a PSC limit has been specified.

(c) Procedure. (1) No inseason adjustment issued under this section will take effect until—

(i) NMFS has filed the proposed adjustment for public inspection with the Office of the Federal Register; and

(ii) NMFS has published the proposed adjustment in the Federal Register for public comment for a period of 30 days before it is made final, unless NMFS finds for good cause that such notification and public procedure is impracticable, unnecessary, or contrary to the public interest.

(2) If NMFS decides, for good cause, that an adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the adjustment will be received by the Regional Administrator for a period of 15 days after the effective date of notification.

(3) During any such 15-day period, the Regional Administrator will make available for public inspection, during business hours, the aggregate data upon which an adjustment was based.

(4) If written comments are received during any such 15-day period that oppose or protest an inseason adjustment issued under this section, NMFS will reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, will either—

(i) Publish in the Federal Register notification of continued effectiveness of the adjustment, responding to comments received; or

(ii) Modify or rescind the adjustment.

(5) Notifications of inseason adjustments issued by NMFS under paragraph (a) of this section will include the following information:

(i) A description of the management adjustment.

(ii) Reasons for the adjustment and the determinations required under paragraph (a)(2)(i) of this section.

(iii) The effective date and any termination date of such adjustment. If no termination date is specified, the adjustment will terminate on the last day of the fishing year.
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hunger relief agencies, food bank networks, or food bank distributors.

(viii) Proof of the applicant’s ability to take full responsibility for the documentation and disposition of fish received under the PSD program, including sufficient liability insurance to cover public interests relating to the quality of fish distributed for human consumption.

(ix) Quality control criteria to be followed by vessels, processors, hunger relief agencies, food bank networks, and food bank distributors.

(x) The number of vessels and processors that the applicant is capable of administering effectively.

(xi) A list of all vessels and processors, food bank networks and food bank distributors participating in the PSD program. The list of vessels and processors must include:

(A) The vessel’s or processor’s Federal fisheries permit number or Federal processor permit number.

(B) The name of the vessel owner or responsible operator or the name of the owner or plant manager of the processor.

(C) The vessel’s or processor’s telephone number and fax number.

(D) The signature of the vessel owner or responsible operator or the owner or plant manager of the processor.

(xii) A signed statement from the applicant and from all persons who are listed under paragraph (b)(1)(xi) of this section and who would conduct activities pursuant to the PSD permit waiving any and all claims against the United States and its agents and employees for any liability for personal injury, death, sickness, damage to property directly or indirectly due to activities conducted under the PSD program.

(xiii) A list of locations where fish must be delivered by participating vessels and processors.

(xiv) A separate application must be submitted for each species listed under paragraph (a) of this section that the applicant seeks to distribute.

(2) Selection. The Regional Administrator may select one or more tax-exempt organizations to be authorized distributors under the PSD program based on the information submitted by applicants under paragraph (b)(1) of this section. The number of authorized distributors selected by the Regional Administrator will be based on the following criteria:

(i) The number and qualifications of applicants for PSD permits.

(ii) The number of harvesters and the quantity of fish that applicants can effectively administer.

(iii) The anticipated level of bycatch of prohibited species listed under paragraph (a) of this section.

(iv) The potential number of vessels and processors participating in the groundfish trawl fisheries.

(3) PSD Permit. (i) After review of qualified applicants, the Regional Administrator will announce the selection of authorized distributor(s) in the FEDERAL REGISTER and will issue PSD permit(s).

(ii) The Regional Administrator may impose additional terms and conditions on a PSD permit consistent with the objectives of the PSD program.

(iii) A PSD permit may be suspended, modified, or revoked, under 15 CFR part 904 for noncompliance with terms and conditions specified in the permit or for a violation of this section or other regulations in this part.

(iv) Effective period. A PSD permit issued for salmon or halibut remains in effect for a 3-year period after the selection notice is published in the FEDERAL REGISTER unless suspended or revoked. A PSD permit issued to an authorized distributor may be renewed following the application procedures in this section.

(v) If the authorized distributor modifies any information on the PSD permit application submitted under paragraph (b)(1)(xi) or (b)(1)(xiii) of this section, the authorized distributor must submit a modified list of participants or a modified list of delivery locations to the Regional Administrator.

(c) Reporting and recordkeeping requirements. (1) A vessel or processor retaining prohibited species under the PSD program must comply with all applicable recordkeeping and reporting requirements. A vessel or processor participating in the BS pollock fishery and PSD program must comply with applicable regulations at §§679.7(d) and
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§ 679.27 Improved Retention/Improved Utilization Program.

(a) Applicability. The owner or operator of a vessel that is required to obtain a Federal fishery or processor permit under §679.4 must comply with the IR/IU program set out in this section while fishing for groundfish in the GOA or BSAI, fishing for groundfish in waters of the State of Alaska that are shoreward of the GOA or BSAI, or when processing groundfish harvested in the GOA or BSAI.

(b) IR/IU species. The following species are defined as “IR/IU species” for the purposes of this section:

(1) Pollock.

(2) Pacific cod.

(3) Shallow-water flatfish species complex in the GOA as defined in the annual harvest specifications for the GOA (beginning January 1, 2003).

(4) All species listed in Table 2a to this part for purposes of the GRS program described in paragraph (j) of this section, except for groundfish in prohibited species status at the end of each reporting week.