

§ 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 **and stationary floating 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 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, **and** food bank networks **or** 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.

(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 **PSD program**.

(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) An 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 paragraphs (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, **including allowing the collection of data and biological sampling by an observer prior to processing any fish under the PSD program.** A vessel or processor participating in the BS pollock fishery and PSD program:

(i) **In the BS pollock fishery** must comply with applicable regulations at §§ 679.7(d) and (k), 679.21(c), and 679.28; **and**

(ii) **In the Central or Western GOA pollock fishery** must comply with applicable regulations at §§ 679.7(b), 679.21(h), and 679.28.

(2) Prohibited species retained under the PSD program must be packaged, and all packages must be labeled with the date of processing, the name of the processing facility, the contents and the weight of the fish contained in the package, and the words,

“NMFS PROHIBITED SPECIES DONATION PROGRAM - NOT FOR SALE PERISHABLE PRODUCT - KEEP FROZEN”.

(3) A processor retaining or receiving fish under the PSD program and an authorized distributor must keep on file and make available for inspection by an authorized officer all documentation, including receipt and cargo manifests setting forth the origin, weight, and destination of all prohibited species bycatch. Such documentation must be retained until 3 years after the effective period of the PSD permit.

(d) **Processing, handling, and distribution.**

(1) Processing and reprocessing of all fish retained under the PSD program must be carried out under the direction of the authorized distributor. A processor retaining or receiving fish under the PSD program, at a minimum, must head, gut, and freeze the fish in a manner that makes it fit for human consumption.

(2) Fish that are determined to be unfit for human consumption prior to delivery to an authorized distributor must be discarded under § 679.21(b). Fish that are determined to be unfit for human consumption after delivery to the authorized distributor must be destroyed in accordance with applicable sanitation laws and regulations.

(3) Authorized distributors and persons conducting activities supervised by authorized distributors may retain prohibited species only for the purpose of processing and delivering the prohibited species to hunger relief agencies, food networks or food distributors as provided by this section. Such persons may not consume or retain prohibited species for personal use and may not sell, trade or barter, or attempt to sell, trade or barter any prohibited species that is retained under the PSD program, except that processors may convert offal from salmon or halibut that has been retained pursuant to the PSD program into fish meal, fish oil, or bone meal, and sell or trade these products.

(4) No prohibited species that has been sorted from a vessel's catch or landing may be retained by a vessel or processor, or delivered to a delivery location under this section, unless the vessel or processor and delivery location is included on the list provided to the

Regional Administrator under paragraph (b)(1)(xi),
(b)(1)(xiii) or (b)(3)(v) of this section.