

SJR

12

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 3/13/03

FURTHER:

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4-4-03

Resources Committee considered SENATE JOINT RESOLUTION NO. 12

**SJR 12 SUPPORTING HALIBUT BY-CATCH PROJECT**

Supporting the halibut by-catch utilization project of the Alaska Food Coalition.

and recommends:

- be replaced with S CS SJR 12 (RES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
F+G	4/1/03		✓	

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>Alphon Seelau</i>	✓			
<i>Ben Stevens</i>	✓			
<i>Jon Wagoner</i>	✓			
<i>David ...</i>	✓			
<i>...</i>	✓			
CHAIR: <i>Scott ...</i>	✓			



**SENATOR SCOTT OGAN** Alaska State Legislature

Senate District H Lazy Mountain \* Butte \* Chugiak \* Peters Creek  
Knik-Goose Bay \* Big Lake \* Houston \* Willow \* Talkeetna \* Trapper Creek

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Senator\_Scott\_Ogan@legis.state.ak.us

Http://www.akrepublicans.org/ogan

FACSIMILE TRANSMITTAL SHEET

TO: <u>Leg Legal</u>	FROM: <u>Linda Hay</u>
COMPANY:	DATE: <u>4-3-03</u>
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER: <u>2</u>
PHONE NUMBER: <u>Room 103</u>	RE: <u>SJR 12</u>

URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

NOTES/COMMENTS:

SJR 12 moved out of Senate Resources yesterday as amended. Please prepare a Senate CS for review + eventual final.

Thank you

adopted.

AMENDMENT 1

OFFERED IN SENATE RESOURCES

BY SENATOR G. STEVENS

TO: SJR 12, Draft Version "A"

- 1 Page 1, line 6: After "halibut", delete "wastefully".
- 2 Page 1, line 10: delete "wasted", replace with: "at sea discarded".
- 3 Page 1, line 16: after "otherwise", delete "a wasted", replace with: "an unutilized".
- 4 Renumber accordingly.

adopted

Amendment to the Amendment

page 1 line 16 after the insert  
the word dead

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# Senator Gary Stevens

## Alaska State Legislature

INTERIM ADDRESS:  
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### Sponsor Statement SJR 12

Senate Joint Resolution 12, "Supporting the halibut by-catch utilization project of the Alaska Food Coalition".

Currently, fishermen operating trawl vessels are prohibited from retaining accidentally caught halibut, and are required by federal regulation to dump halibut by-catch at sea, even dead halibut.

Kodiak processors have indicated an interest in handling and processing otherwise wasted halibut by-catch for charitable purposes. The Alaska Food Coalition has established a plan, has acquired funds, and is ready to distribute the halibut by-catch to assist Alaskans in need.

This resolution comes in response to a critical need, one that is growing ever more serious with slowdowns in many of Alaska's fisheries. This proposal would create jobs for fishery workers while providing them and others in need across the state much needed food assistance.

This resolution will be sent to the North Pacific Fishery Council and the National Marine Fisheries Service to develop policy for the project's implementation. I urge your support.

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**Memorandum**

DT: March 17, 2003  
TO: Senator Scott Ogan, Chair  
Senate Resources Committee  
FR: Senator Gary Stevens  
RE: SJR 12

I would like to request a hearing at your earliest convenience on Senate Joint Resolution 12, "Supporting the halibut by-catch utilization project of the Alaska Food Coalition".

Thank you for your consideration of this request.

Sincerely,

  
Senator Gary Stevens

Backup

MAR 10 2002



1944 EAST REZANOF DRIVE  
KODIAK, ALASKA 99615  
(907) 486-4126 FAX 486-5567

KODIAK ISLAND FOOD BANK

March 3, 2003

Dear Senator Stevens:

It was a real honor to be your first constituent visitor on 2/24 following your appointment to the Senate, thank you. While there in Juneau with the Alaska Food Coalition I also met with Senator Dyson and he proposed to sponsor a Legislative Resolution supporting our by-catch project. Being the Senator from where this project is originating I thought you should be aware of the proposed resolution in the event that you might desire to cosponsor. In the event that you would be interested I am forwarding some proposed wording that may be helpful toward that end. We are also looking for someone in the House if you have any ideas.

This project is being developed in response to a critical need, one that is growing ever more serious with the progressing fishing crisis now underway in Alaska. In Kodiak and certainly other coastal communities 60% of the people seeking food bank assistance are either un or underemployed workers from the fishing industry. The impact of this project is two fold as it provides labor to those now most in jeopardy (fishery workers) while providing them and others in need across the state much needed food assistance.

Alaska is undeniably blessed with remarkable resources and with these resources we are given the obligation of stewardship. This year in the GOA alone, 4,409,171 pounds of dead caught halibut will simply be dumped at sea. Clearly this is a tragedy, especially when we consider the present need for this resource. Everyone would like to see these otherwise wasted fish put to good use and we are hopeful that this project can play a small part toward that end.

To accomplish this goal our proposal will have to successfully go before and receive the approval of the North Pacific Fishery Council and NMFS. Making NMFS aware that support for this project is not only wide spread but that is also at the highest levels will be quite beneficial. A legislative resolution could go a long way toward that end.

We are very much looking forward to seeing this project mature beyond a dream and a concept to become a tangible expression of this broadly held desire to see an unutilized and presently wasted resource put to good use. Any part you can play in making that happen is greatly appreciated.

Sincerely,

Trevor Jones,  
Alaska Food Coalition Chair

# Prohibited Species Donation Program Proposal and Application Of the Alaska Food Coalition

## Contact Information

**Applicant:** Alaska Food Coalition  
**Primary Agent:** Kodiak Island Food Bank  
**Project Coordinator:** Trevor Jones  
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**Submission Date:** February 21, 2003

## Project History:

When the Kodiak Island Food Bank (KIFB) was established it set three main objectives, to meet the food banking needs of the local community, to make services available to outlying villages and to work with the local fishing industry to develop untapped food resources for food banking. To address the goal of developing untapped resources related to the fishing industry the KIFB formed an advisory committee made up of fishing industry researchers, processors and local government representatives with this specific objective. As the work of this committee took shape the concepts and goals it formulated were presented to the Alaska Food Coalition to form an even larger network of partners and beneficiaries for the program. In 2002 the Coalition adopted this fish project as a primary focus offering the combined expertise of Alaska's largest food banks toward accomplishing its goals. In October of 2002 the Executive committee of the Alaska Food Coalition met with key stakeholders in Kodiak to formulate a strategic plan for implementing the program. Representatives from enforcement, processing, fishing and the Coalition explored the feasibility of the project and voiced their support and participation, setting a goal of 50,000lbs to be processed during the 2003 trawl fishery. In attendance were Ken Hansen, NMFS Assistant Special Agent in Charge, Mitch Kilborn, Western Alaska Plant Manager Matt Moir, APS Plant Manager, Al Burch, Alaska Draggers Association and key members of the Alaska Food Coalition.

## PSDP Project Description

Targeting the 2003 - 2006 Trawl fishery in Kodiak, the Alaska Food Coalition in conjunction with Kodiak fisherman and processors looks to process 50,000lbs of halibut to be distributed throughout its Alaska food bank network. The halibut will be delivered by participating fisherman to Kodiak processors where the fish will be filleted, frozen and packaged. The Kodiak Island Food Bank acting as the Alaska Food Coalition's principal agent will receive the product in Kodiak and forward it on to the coalitions food bank network throughout the State of Alaska.

To our knowledge this project will constitute the second application of the PSDP following the very successful Northwest Food Strategies (now Sea Share) project conducted out of Dutch Harbor. It goes without saying that our project has been significantly furthered by the ground breaking efforts of NWFS and that we are grateful for all of the regulatory hurdles and bridges crossed and built by Tuck Donely and his staff.

While there are significant similarities between the NWFS program and our proposed project there are some noteworthy differences. First it is a much more conservative proposal regarding resource extraction. While the Dutch Harbor program allowed any participating vessel (observed or not) to retain all by-catch Halibut for the program this proposal only looks to employ observed vessels and retain only dead caught halibut. This of course provides enforcement and other politically interested entities a significantly greater level of comfort regarding the potential abuse of sorting and retention regulations. This project also differs from NWFS program in that all of the product will be processed and distributed in Alaska. We are interested in forging a program in which all value-added work will be completed in state and the products produced will be distributed to assist those living in Alaska. This creates jobs and will significantly help our families hit hardest by our current fishing disaster.

### Fishing

All fishing for this PSDP will take place on trawl (dragger) vessels delivering to participating processors operating in Kodiak Alaska §679.26(a)(2). Only vessels participating by pre-arrangement will deliver fish for the PSDP. Participation in the PSDP is purely volunteer. Operators can suspend or cancel participation in the PSDP at anytime. Deliveries will be made only to processors agreeing by pre-arrangement and listed in this application. These vessels must have all the applicable information listed on the Vessel Information Sheet of this application before retaining any fish for the PSDP. Each vessel will be issued a certificate of participation as proof of authorization to retain halibut for the PSDP. Fishing crews will be informed of participation in the PSDP and briefed on regulations and procedures for handling PSDP halibut (see letter to vessel operators and crew enclosed). Halibut for the program will be collected in two ways, as dead caught by-catch and incidental by-catch. For purposes of this project Incidental by-catch is defined as fish that through misidentification during deck sorting are delivered to shore. These fish are typically small and of similar size to the target fish and are as such more difficult to identify and separate. They are fish that are simply lost in the mass of target fish. Only observed vessels will be permitted to retain dead caught fish. All vessels retaining prohibited species under the PSDP must comply with all applicable record keeping and

reporting requirements. A vessel participating in the PSDP must comply with applicable regulations at §§679.7(c)(1) and 679.21(c) that allow for the collection of data and biological sampling by a NMFS-certified observer prior to retaining any fish under the PSDP.

## Sorting

During the sorting of the catch fishing crews will maintain standard practices regarding the sorting of fish §679.21(b)(2)(ii). Due diligence will be maintained to reduce by-catch regardless of participation in the PSDP §679.21(b)(2)(i). On observed vessels dead catch halibut will be retained for inclusion in the PSDP as provided for in §679.21(b)(2)(ii)(A) and §679.21(b)(3) and made allowable by §679.26. All live caught halibut will be returned overboard.

**Procedure.** After the haul has come on deck and the observer has completed collecting data and biological samples and has given the crew the go ahead to sort, the crew will separate dead and live halibut from the catch. Viability determination procedures employed for this procedure are derived from the Alaska Fisheries Science Center's (AFSC) North Pacific Groundfish Observer Manual using the Key to Trawl Condition Codes for Pacific Halibut. When employed by NMFS Observers this viability flowchart not only determines obviously dead fish as dead (step 1) but it also through further tests looks to determine which presently living fish will die (this is done mainly through visual inspection and stimulating the operculum). These fish although alive during the viability test are tallied as dead for research purposes. The drafters of this proposal being quite aware of and sensitive to potential errors arising during the more complicated assessment procedures practiced in step 2 through 5 of the Viability Key, have adopted only the most conservative steps in this procedure and will not proceed beyond steps 1a. and 1b.. As it is employed by this project the Viability Key is utilized more accurately as an assessment of mortality vs. vitality, vitality of course being potentially a much more subjective measure. Halibut showing any signs of life will be returned over the stern ramp. Halibut scored as Excellent (E), Poor (P) or Unknown (U) will be returned over the stern ramp. Only Halibut meeting criteria of 1b. of the Viability Key will be retained (i.e. "*Fish is dead when sorted from catch. Fish is in rigor and lifeless, even if no apparent injuries. Gills appear washed out, i.e., dull red, pink, or white in color. Mouth may contain sediment.*") Regardless of obvious mortal injuries, any fish falling into the category 1a. of the first viability step will be returned over board and the crew assessors will not proceed to step 2. Even though NMFS for its purposes is confident in using steps 2b, 3b, 4b, or 5b as an additional condition to count as fish as dead, this program will only offer the strictest employment of step 1. The only exception to this is a fish that the certified NMFS observer has conducted viability test for, in this case any fish the Observer has assessed as dead may be retained for the program. Fish under 18 inches regardless of mortality will be discarded at sea.

Vessel operators will assign and designate to the observer aboard the vessel a crew person to be responsible for sorting, retention, and storage of halibut as required by §679.21(c)(4). On non-observed vessels there will be no intentional retention of halibut (dead or alive) for the PSDP. Any incidental catch delivered to shore by non-observed boats may be included in the PSDP.

**Observers:** The developers of this project with the training oversight of NMFS enforcement and the Observer Program will coordinate to insure that observers are informed of the project, regulations applicable to it and the observers role on boats retaining halibut for it. For purposes of this project observer will mainly act as a third party aboard a participating vessel, their presence will be a deterrent to crews who might otherwise relax sorting standards as a result of participation in the PSDP. The observer will also act as a training agent and coach crews in the implementation of mortality criteria for the PSDP. Otherwise being aboard a participating boat will not result in any additional duties for an observer. As on any trip observers would be expected to record irresponsible fishing practices and in respect to this project, this would include abuses of PSDP deck procedures. Observers witnessing crews demonstrating no intent or attempt to sort and discard live halibut would be expected to submit affidavits of such violations as they would any violation taking place on an observed vessel. Vessels found to be in violation of project standards will be removed by project administrators from participation in the PSDP. As referenced in the preceding section, halibut determined to be dead by the observer during their normal activities of data collection can be retained for the PSDP and will be disposed to the vessels fish hold.

**Critical Analysis:** This section is offered as a frank and critical discussion of the potential problems arising from the practice of this proposal. Of chief concern is the potential for crews to abuse the sorting of their catch. This of course would result in higher mortality rates for pacific halibut as potentially viable halibut would not be returned to sea.

Worst case scenario – This project intends to operate using vessels fishing only in the GOA. Combined these fisheries have a Mean Discard Mortality Rate of 0.6031 The mean size of the halibut caught during these fisheries is 70.89 cm. equaling 4.17 kg or 9.19 lbs. Based on the mean DMR we can compute the maximum error for determining fish mortality to be 0.3969. Using this figure we can predict that for a 50,000 lbs. project, if the crews were in error 100% of the time they would retain a total of 19,844 pounds in error to achieve the 50,000 lbs. goal. Based on the mean size of the halibut caught in these fisheries, this would equate to 2,159 fish. This scenario is of course absurd but it is offered to demonstrate the maximum potential risk of the project. Although an impossibility, for argument sake if we continue on this scenario at a 100% error rate the program would increase (by weight) halibut mortality in the GOA by 0.0045.

Realistically participation in the PSDP has only this one abusive incentive (not sorting) and many natural disincentives. Most of the vessel operators while not able to retain halibut commercially while trawling, at some point in the season will participate in a commercial halibut fishery. There will be no incentive for them to keep viable PS (for which they receive no compensation) when at a latter time they will be back in these same waters and catching/selling these fish. Fish retained for the PSDP will also cause complications for the operators. First they will occupy valuable hold space and displace capital generating target fish. These PSDP fish will also create delays in off loading that will far out weigh any time saved by not sorting. In most cases the uniformity of target fish allows them to be simply pumped off the boats, the halibut included for this project will be of dissimilar sizes precluding pumping and causing added time and handling for off loading.

Beyond the natural disincentives discouraging abuses this project has intentionally imposed on itself an extremely conservative approach to retaining ½ of 1% of the 4.5 million pounds of dead halibut that will otherwise be wastefully dumped at sea. This restrictive approach is taken to satisfy our own hope to further responsible fishing. It would be quite objectionable to us to find that we have through this project added to by-catch rates full well knowing that there presently exist vastly more than we can already use without having to add to it. It is quite important to us that every fish that goes into this project is without question taken from those that would have otherwise gone to waste.

**Data Collection** As the principal agent for the Alaska Food Coalition the Kodiak Island Food Bank will be collecting data related to the project. We will be seeking from vessels participating in the program volunteers who will offer us access to their fish tickets. This will provide us a means to test our project controls and measure and compare the by-catch rates of participating vessels to the historical numbers for each fishery.

### Stowage

Vessels will store PSDP halibut with the rest of the catch for delivery to a participating processor. Whole fish in the round will be stored on board and maintained at 32F by means of a seawater/ice slurry or a refrigerated seawater system. Vessels lacking available hold capacity may maintain an on deck tote for storage of PSDP halibut. This Tote will be marked Prohibited Species Donation Program Halibut Only. Fish will be iced with a one to two part ice to fish ratio or greater to maintain PSDP product at 32F. PSDP fish will be sorted along with any incidental by-catch by the receiving processor. All fish temperatures will be monitored upon delivery and temperatures along with weight and origin of fish will be recorded.

### Processing

The following procedures were developed in conjunction with the principal processors partnering with this project and are derived from their HACCP plans.

### Receiving

Procedure: PSDP Fish will be stored and transported to the processing facility along with target fish in a seawater/ice slurry or refrigerated seawater system. Fish will be transferred from the vessel via wet pumps or brailer onto the dock sorting area. Prohibited halibut will be sorted from the target fish and placed in a segregated tote marked "Prohibited Species for PSDP Only." Totes will be weighed, top iced and covered with a lid. If fish will be held for more than 5 hours fish will be layer iced.

Potential Hazards: Receiving spoiled, decomposed, or unwholesome fish. Receiving fish that are contaminated or tainted with petroleum products, other chemicals or filth. Fish could be pilfered by crews or mixed up with commercial products.

Monitoring: The temperature and quality of PSDP fish from each hold will be monitored along with the target species as fish are unloaded from the boat. In the event that the target species is rejected due to spoilage, decomposition, contamination or temperature abuse any and all accompanying PSDP fish will also be rejected. Rejected PSDP halibut will be routed back into the plants normal procedure for handling prohibited species in keeping with §679.21(b). To avoid pilfering both boat and dock crews will be trained in the handling of PSDP halibut and the consequences of violations. Presently both vessel operators and processors employ practices recognized to be quite effective in Kodiak. Because of the existing good management practices enforcement presently has few problems with Prohibs. This project will emphasis that because we are now processing certain PS the seriousness of handling prohibs has not changed, that the same due diligence will be required. The potential mixing of PSDP products and other commercial product in the plant will avoided through exhaustive labeling and identification. At each stage from the moment fish enter the plant until they leave PSDP product will be labeled and identified as such.

Critical Limits: Accept no halibut that has been delivered from holds where the target species is being rejected. Accept no PSDP fish that show indications of spoilage, decomposition, or contamination.

Heading and Gutting:

PSDP halibut will be processed separate from any commercial target species. Whole fish will be headed and gutted either mechanically or by hand butchering. The H&G fish will be washed in continuously flowing water containing a trace of free residual chlorine (0.5 to 3.0 PPM).

In the event that there is a delay in processing and the H&G halibut cannot go directly to filleting it will be top and bottom iced in covered totes. Totes will be labeled Prohibited Species PSDP Only. Fish must be kept at no greater than 40 F. and completely processed within three day of entering plant. Temperatures of H&G fish will be monitored as they are taken from the totes for further processing.

Filleting: Fish will be hand or when possible, mechanically filleted. To reduce costs and improve product shelf life, skinning fillets will be optional.

Alternative Products: In addition to fillets halibut may also be processed into Individually Quick Frozen (IQF) halibut steaks.

Packaging Labeling:

Packages will 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, along with the words "NMFS Prohibited Species Donation Program – Not For Sale Perishable Product – Keep Frozen" §679.26(c)(2).

### Record Keeping:

Processors retaining or receiving fish under the PSDP 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 by-catch. This documentation will be retained until 3 years after the effective period §679.26(c)(3).

### Shipping and distribution

CSX shipping lines offers the Food Bank of Alaska several containers a year to be shipped at no charge to the food bank. For purposes of this project Food Bank of Alaska is designating two of its donated hauls. Since there are no direct shipping routes to Anchorage from Kodiak PSDP product will be routed through Tacoma and then up to Anchorage.

The Food Bank of Alaska located in Anchorage is coordinating shipment to Homer, Seward and Kenai using their own in-house trucks. They will also coordinate transportation to Nome, Kotzebue, Bethel and Dillingham using by-pass mail, to Valdez by ground, Barrow by air carrier and Juneau by common carrier.

The Fairbanks Food Bank has arranged donated shipment from Anchorage to Fairbanks with Lynden Transport. The Fairbanks Food Bank will act as a distribution hub to the rest of the interior, coordinating product to the communities of Delta Junction, Anderson, Tok, North Pole and Salcha.

The Kodiak Island Food Bank will be the distributing agent in Kodiak Alaska. There will of course be no cost associated with shipping, as Kodiak will be the point of origin for all PSDP product.

### Food Bank Expertise in Distributing Food in Rural Alaska

The Alaska Food Coalition is a collaborating organization made up of representatives from the leading hunger relief organizations throughout Alaska. Working together the Coalition has organized special projects to make new food resources available for distribution around the state, on average the coalition has distributed 167,000lbs of food across the state annually. To understand the significance of what the Alaska Food Coalition represents it is important to know a little about its component agencies. The Food Bank of Alaska has been working in the field of hunger relief since 1979 and presently manages distributions throughout the State of over 3,000,000 pounds. The Fairbanks Food Bank is distributing more 2,000,000 pounds a year throughout the interior, the Kenai Peninsula Food Bank is managing close to 1,000,000pounds in it's area of the State and the Kodiak Island Food bank is making distributions of over 85 tons a year. All of these agencies have a clearly demonstrated track record both individually and as a collaborative organization. Their expertise is demonstrated in quantities of food distributed, the

ability to acquire the necessary funding to back these huge endeavors and the high level of consumer satisfaction with the services delivered. The Alaska Food Coalition has worked with an average annual budget of \$82,500, funding more than adequate for significant accomplishments across Alaska. Even more assuring is the combined budgets of the four main coalition agencies represented in this proposal, a figure exceeding \$ 1.5 million.

### **Distribution Quality Control**

All organizations participating in this project are food distribution professionals operating under the Alaska Food Code regulations with oversight by Department of Environmental Conservation (DEC). Each participating facility employs standard operating procedures adequate to meet Department of Environmental Conservation's requirements to carry a type FM-4 Food bank establishment permit under the Alaska Food Code. All the organizations participating in this project receive at a minimum annual inspections by the DEC and most participants also undergo additional USDA and Second Harvest inspections as required for the handling of their products.

All food distribution organizations participating in this project will maintain the following practices in handling PSDP product. These procedures are modeled after the Good Manufacturing Practices (GMP's) promulgated by the FDA as the current Good Manufacturing, Processing, Packing, or Holding of Human Food; these regulations are found in Chapter 21 of the Code of Federal Regulations, Section 110.1 et. Seg.

### **Sanitation and Safety**

- The participating organization's operations must comply with all applicable health and regulatory requirements for the health and well being of food bank personnel and most importantly the recipients of PSDP products.
- Each food bank must have an organized sanitation and safety program that shall comply with applicable local, state and federal governmental regulations.
- Warehouses must be maintained in the best possible sanitary condition for the protection and safety of all food bank goods, as well as the personnel working therein.
- General orderliness and cleanliness must be maintained in all areas of food storage.

### **Incoming Product – Good Receiving Practices**

- **Carrier Arrival.** Carrier equipment used for delivery on PSDP product must be inspected for adequacy of proper food protection and sanitation. This inspection must identify possible problems before the load is accepted.
- **Temperature Controls.** PSDP products must be received at 0 degrees Fahrenheit or lower.

- During unloading, receiving personnel must be particularly alert for odors: sour, putrid, or chemical odors that could indicate contaminated food.
- **Isolation of damaged or contaminated product.** Product received that has any evidence of contamination must be immediately isolated from acceptable product. (See following section on control of damaged product).

### **Control of Damaged Product.**

- Upon receipt, all items must be inspected; damaged product must be reconditioned before they are placed in storage.
- Any lots of product containing packages that are obviously contaminated, infested, spoiled, leaking, spilling their contents, or demonstrating problem conditions must be isolated upon arrival at the food bank.
- All isolated lots must be properly inspected and reconditioned as follows:
  - Broken or leaking containers must be removed; adjacent soiled containers must be cleaned.
  - Individual boxes or bags where product is exposed must be discarded.
- Any product sorted out as unsatisfactory must be promptly discarded. Every precaution must be taken to avoid transferring or disseminating contamination of such affected lots to satisfactory product in storage.
- Prompt attention must be given to frozen products that have been exposed to abusive temperatures. Quality and shelf life must be established promptly to ensure timely distribution and avoid further quality deterioration.

### **Food Storage Practices**

- **Temperature Controls.** Product must be stored at temperatures according to their specific food category requirements. PSDP product should not exceed 0 degrees Fahrenheit in freezers.
- Adequate air circulation must be provided in freezers and coolers. Product should be stored four inches from walls and four inches from floors.
- Each freezer and cooler unit must be provided with an accurate, easily visible and readable thermometer.

- Temperature readings are to be made daily and recorded on the temperature log posted on freezer.

## Liability

All food banks participating in this project carry adequate liability protection to safe guard their agencies, officers, executives, staff and the public interest. Supporting documentation is included in the insurance section of this application. It is also noteworthy to site specific federal legislation protecting food banks and donors from liability.

**The Bill Emerson Good Samaritan Act of 1996** releases all food donors from liability if the product was good at the time of donation. P.L. 104-210 was named in honor of the late Congressman who championed efforts to expand food donations to the poor and to protect those who make donations. This law is designed to encourage the donation of food and groceries to nonprofit charitable agencies by minimizing the risks of legal actions against donors and distributors of foods. The 1996 amendments excludes from civil or criminal liability a person or nonprofit food organization that, in good faith, donates or distributes donated foods for hunger relief.

**Release from Liability** Agencies distributing PSDP product will in addition to carrying appropriate liability coverage employ the use of a release from liability to be signed by the donee. This statement should contain at a minimum the elements found in the following example:

The recipient accepts this gift of food "as is" and releases the original donor, the Kodiak Island Food Bank, and its suppliers from any liability resulting from the condition of the donated food and further agrees to indemnify and hold the original donor, the Kodiak Island Food Bank and its suppliers against any and all liabilities, damages, losses, claims, causes of actions and suits of law or inequity or any obligation whatsoever arising out of or attributed to storage and use of the donated food.