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| Title : | Regulations for the Approval and Management of the Exporters of Catches or Fisheries Products of Distant Water Fisheries  |
| Date : | 2017.01.20 |
| Legislative : | The full text of 18 articles promulgated by the Council of Agriculture, Executive Yuan on January 20, 2017, under Order No. Nong-Yu-Tsu 1061332070. |
| Content : | <p>Article 1 These Regulations are established pursuant to Article 25, paragraph 4 of the Act for Distant Water Fisheries (hereinafter referred to as “the Act”).</p> <p>Article 2 The industry related to distant water fisheries intending to conduct the export trade of catches or fisheries products of distant water fisheries listed in Appendix 1 shall fill in the application form (format as shown in Appendix 2) and apply to the competent authority with the following documents for approval to be the exporter of catches or fisheries products of distant water fisheries (hereinafter referred to as “the exporter of distant water fisheries products”) : (1) A copy of the National Identity Card of the legal representative or the person in charge. (2) The basic registered company, business or factory information of the applicant downloaded from the website of the Department of Commerce of the Ministry of Economic Affairs. (3) The basic registered importer/exporter information of the applicant downloaded from the website of the Bureau of Foreign Trade of the Ministry of Economic Affairs. (4) Business Operation Prospectus (as shown in Appendix 3), which shall include the company's organizational chart, manpower deployment, items for purchases and sales, contractors for purchases and sales, risk management, etc. (5) Code of Conduct and standard operating procedures (SOP) for the purchase and sale of catches or fisheries products of distant water fisheries as listed in Appendix 1. The applicant as referred to in the preceding paragraph shall be limited to the importer/exporter registered with the Bureau of Foreign Trade of the Ministry of Economic Affairs. The Code of Conduct as referred to in subparagraph (5) of paragraph 1 shall, in addition to meeting the requirements of the corresponding trading country on imported fisheries products, include the requirements for the exporters of distant water fisheries products stipulated in Article 6. The SOP as referred to in subparagraph (5) of paragraph 1 shall include procedures for purchase, transport, storage, processing, or sales and shall be sufficient to trace the flow of catches or fisheries products and the legitimacy of their sources.</p> <p>Article 3 For any application document(s) that does not meet the requirement(s) prescribed in Article 2, the competent authority shall request the supplementation within the required timeframe. Any application which fails to supplement within the required timeframe or with incomplete supplementation shall be denied.</p> |

Article 4

The competent authority will issue the approval certificate of the exporter of distant water fisheries products after the application as referred to in Article 2 has passed the examination. The approval certificate will record the following:

- (1) Name and Tax ID Number.
- (2) Operation address.
- (3) Name of the legal representative or the person in charge.
- (4) Approval number and issuing date.
- (5) The issuing authority.

Any exporter of distant water fisheries products whose exportation eligibility has been revoked by the competent authority in accordance with Article 16 may only re-apply for the approval of the exporter of distant water fisheries products after the defect(s) found during the audit has been corrected and the rating above "A" has been given following the review conducted by the competent authority.

Article 5

In case of any of the following circumstances, the application made in accordance with Article 2 shall be denied:

- (1) The applicant does not meet the requirement stipulated in Article 2, paragraph 2.
- (2) The Code of Conduct and SOP do not meet the requirements stipulated in Article 2, paragraphs 3 and 4.
- (3) Three years have not passed since the exportation eligibility has been revoked pursuant to Article 38, paragraph 3 of the Act.
- (4) Five years have not passed since the exportation eligibility has been revoked pursuant to Article 38, paragraph 5 of the Act.

Article 6

Any exporter of distant water fisheries products shall comply with the following provisions when purchasing or selling catches or fisheries products of distant water fisheries as listed in Appendix 1:

- (1) In case that the fish species of the catches or fisheries products is under the management of the international fisheries organization(s), such catches or fisheries products shall come from the fishing vessel(s) authorized by relevant international fisheries organization(s).
- (2) Catches or fisheries products shall not come from any fishing vessel listed on the illegal, unreported, and unregulated (IUU) fishing vessels list promulgated by the competent authority pursuant to Article 13, paragraph 2 of the Act.
- (3) Catches or fisheries products shall not be imported from any country under trade sanction imposed by the international fisheries organization(s).
- (4) The supplying fishing vessel(s) of the Republic of China shall not violate provisions stipulated in Article 13, paragraph 1 of the Act.
- (5) The supplying fishing vessel(s) of foreign flag(s) shall not violate relevant regulations of the flag State(s) or conservation and management measures.
- (6) The catches or fisheries products purchased, transported, stored, processed, or sold shall come from legitimate sources and be traceable.
- (7) Respective SOP in case of self-detecting or being notified by a client or the competent authority of catches or fisheries products involving in IUU fishing shall be established. The SOPs shall include manners such as receiving notifications, self-notifications, stopping or suspending transactions or compensation.

(8) A management unit or personnel in charge of supervising and ensuring the execution of the Code of Conduct and the SOP shall be established or assigned.

(9) The purchase and sales information of each batch of catches or fisheries products, checklist(s), annual internal audit reports, and education/training records shall be archived for at least five years.

Article 7

Any exporter of distant water fisheries products shall declare, in the format as shown in Appendix 4, the information on the purchased, sold, and stored catches or fisheries products as listed in Appendix 1 during the preceding three months within 15 days after the end of each quarter.

In the event that a catch certificate has been applied for the catches or fisheries products as referred to in the preceding paragraph in accordance with the Regulations for Issuing Distant Water Fisheries Catch Certificates, write-off shall be conducted in accordance with such Regulations.

Article 8

For any exporter of distant water fisheries products whose employees are 30 persons and above, a management unit shall be established; for that less than 30 persons, personnel shall be assigned, so as to be in charge of the execution and management of the Code of Conduct and SOP.

The management unit or the assigned personnel as referred to in the preceding paragraph shall receive, at least for 12 hours in every three years, education/training courses organized by the competent authority on combating IUU fishing.

Article 9

Any exporter of distant water fisheries products shall comply with its own Code of Conduct and SOP in case of purchasing or selling catches or fisheries products as listed in Appendix 1, and shall conduct internal audit at least once a year. The internal audit report(s) of the preceding year shall be submitted to the competent authority for perusal before January 20 of each year.

Article 10

Any exporter of distant water fisheries products shall cooperate with the competent authority in the event of auditing the Code of Conduct and SOP for the purchase or sales of catches or fisheries products, and shall not evade, obstruct or deny. Items and criteria for the audit as referred to in the preceding paragraph are shown in Appendix 5.

Article 11

The competent authority shall, based on the contents of Business Operation Prospectus enclosed in the approved application and pursuant to the criteria listed in Appendix 6, categorize the exporters of distant water fisheries products into high, medium, and low risk level. Unless otherwise provided in these Regulations, audits shall be conducted pursuant to the following provisions:

(1) Audits shall be conducted at least once a year for the high risk level.

(2) Audits shall be conducted at least once in every two years for the medium risk level.

(3) Audits shall be conducted at least once in every three years for the low risk level.

For any exporter of distant water fisheries products whose annual average export volume of the catches or fisheries listed in

Appendix 1 is under 100 tons in the recent three years, the competent authority may not audit such exporter in accordance with the provision stipulated in the preceding paragraph.

In the event that any exporter of distant water fisheries products is reported to be involved in or support the transaction of IUU fishing activities; or any anomaly appears in relevant catch certificates applied by any exporter of distant water fisheries products, the competent authority may conduct the audit at any time.

Article 12

Before auditing, the competent authority may require any exporter of distant water fisheries products to provide, within the required timeframe, relevant information such as the management for traceability of the catches or fisheries products it purchases or sells.

The competent authority shall, after examining the information as referred to in the preceding paragraph, draw up the audit plan and notify the exporter of distant water fisheries products to cooperate with the audit.

Article 13

In the event of field audit, the competent authority may require the exporter of distant water fisheries products to provide the following documents or information:

- (1) Information on contractor(s) for purchases and sales.
- (2) Purchase and sales contracts and documents proving the transaction and exportation.
- (3) Other documents and information designated by the competent authority.

Auditor(s) shall keep confidential the contents of the documents and information as referred to in the preceding paragraph.

Article 14

Ratings of the audit are categorized as the following:

- (1) A plus: No defect was found.
- (2) A: minor defects are five items and less, or one major defect.
- (3) B: minor defects are six items and above but less than 12, or major defects are two items and above but less than four.
- (4) C: minor defects are 12 items and above, or major defects are four items and above.

In terms of calculating the number of defect as referred to in the preceding paragraph, three minor defects are equivalent to one major defect.

For any exporter of distant water fisheries products that is rated "A plus", it may be exempted from the audit for five years starting from the date of the completion of the most recent audit.

Article 15

For any exporter of distant water fisheries products that is rated "B", it shall submit the improvement report within 30 days starting from the next day that the audit report is delivered.

In the event that the exporter of distant water fisheries products is unable to submit the improvement report by the deadline prescribed in the preceding paragraph, it may apply to the competent authority for the extension before the deadline. The application of extension shall be limited to once and the extension shall be limited to only 30 days.

For any exporter of distant water fisheries products failing to submit the improvement report and complete improvements as

referred to in the preceding two paragraphs, the competent authority may continue to require such exporter to improve within the required timeframe till the completion of improvements.

For the purpose of being deemed as improvements completed, the improvement report submitted by the exporter of distant water fisheries products shall be rated "A" and above by the competent authority.

Article 16

In case of any of the following circumstances, the competent authority shall revoke the exportation eligibility of any exporter of distant water fisheries products:

- (1) The exporter of distant water fisheries products is rated "B" and has not completed improvements within the required deadline for three times.
- (2) The exporter of distant water fisheries products is rated "C" .

Article 17

The competent authority may commission other institution(s) to conduct audits and education/training courses of the exporters of distant water fisheries products.

Article 18

These Regulations shall become effective on January 20, 2017.

Attachments : Articles and Appendix.pdf

Data Source : MONISTRY OF AGRICULTURE Laws and Regulations Retrieving System