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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Gary Mendivil
Department of Environmental Conservation

FROM: April Simpson, Office of the Lieutenant Governor
465.4081 

DATE: July 22, 2019

RE: Filed Permanent Regulations: Department of Environmental Conservation

Department of Environmental Conservation regulations re: seafood processing and inspection (18 AAC 34)

Attorney General File:	JU2012200958
Regulation Filed:	7/22/2019
Effective Date:	8/21/2019
Print:	231, October 2019

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached 69 pages of regulations, dealing with seafood processing and inspection, are adopted and certified to be a correct copy of the regulation changes that the Department of Environmental Conservation adopts under the authority of AS 17.20.005; AS 17.20.010; AS 17.20.030; AS 17.20.044; AS 17.20.050; AS 17.20.180; AS 44.46.020; and AS 44.46.025 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Environmental Conservation paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: July 8, 2019




Jason W. Brune, Commissioner



FILING CERTIFICATION

I, ¹Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on July 22, 2019, at 1:29 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor Kevin Meyer

Effective: August 21, 2019.

Register: 231, October 2019.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on December 11th, 2018.



K. Meyer
.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

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18 AAC 34.005(b)(2) is amended to read:

(2) persons who store, clean, package, or [AND] distribute whole seafood products to be sold as part of commerce and intended for human consumption;

18 AAC 34.005 is amended by adding a new subsection to read:

(h) An operator of a fishing vessel or a tender vessel who is not processing or storing seafood on board the vessel is exempt from the requirements of this chapter, except for 18 AAC 34.600 - 18 AAC 34.625. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

Editor's note: Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.005, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.005 [18 AAC 34.005(a) AND (g)]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

Words and phrases used in 18 AAC 34 are defined in 18 AAC 34.990.

18 AAC 34.010(1) is amended to read:

(1) 21 U.S.C. 348(a), as revised as of August 14, 2018 [NOVEMBER 21, 1997];

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18 AAC 34.010(3) is amended to read:

(3) 21 C.F.R. 101.1 - 101.108 (Food Labeling), as revised as of April 1, 2018, [2006] except 21 C.F.R. 101.69 and 21 C.F.R. 101.108 are not adopted by reference;

18 AAC 34.010(4) is amended to read:

(4) 21 C.F.R. 102.5 - 102.57 (Common or Usual Name for Nonstandardized Foods), as revised as of April 1, 2018, [2006] except 21 C.F.R. 102.19 is not adopted by reference;

18 AAC 34.010(5) is amended to read:

(5) 21 C.F.R. 108.35 (Thermal Processing of Low-acid Foods Packaged in Hermetically Sealed Containers), as revised as of April 1, 2018 [2006];

18 AAC 34.010(6) is repealed:

(6) repealed 8 / 21 / 2019;

18 AAC 34.010(7) is amended to read:

(7) 21 C.F.R. 113.3 - 113.100 (Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers), as revised as of April 1, 2018 [2006]; these provisions are adopted by reference as amended from time to time;

18 AAC 34.010(8) is amended to read:

(8) 21 C.F.R. 114.3 - 114.100 (Acidified Foods), as revised as of April 1, **2018** [2006]; **these provisions are adopted by reference as amended from time to time;**

18 AAC 34.010(9) is amended to read:

(9) 21 C.F.R. 123.3 - 123.28 (Fish and Fishery Products), as revised as of April 1, **2018** [2006]; **these provisions are adopted by reference as amended from time to time;**

18 AAC 34.010(10) is amended to read:

(10) **21 C.F.R 172.5 - 172.898 (Food Additives Permitted for Direct Addition to Food for Human Consumption)** [21 C.F.R. 172.160, (POTASSIUM NITRATE)], as revised as of April 1, **2018** [2006];

18 AAC 34.010(11) is repealed:

(11) repealed 8 / 21 / 2019;

18 AAC 34.010(12) is repealed:

(12) repealed 8 / 21 / 2019;

18 AAC 34.010(13) is repealed:

(13) repealed 8 / 21 / 2019;

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18 AAC 34.010(14) is amended to read:

(14) 21 C.F.R. 179.21 - 179.45 (Irradiation in the Production, Processing, and Handling of Food), as revised as of April 1, **2018** [2006];

18 AAC 34.010(15) is repealed:

(15) repealed 8 / 21 / 2019;

18 AAC 34.010(16) is repealed:

(16) repealed 8 / 21 / 2019;

18 AAC 34.010(17) is repealed:

(17) repealed 8 / 21 / 2019;

18 AAC 34.010(18) is repealed:

(18) repealed 8 / 21 / 2019;

18 AAC 34.010(21) is amended to read:

(21) 29 C.F.R. 1910.141(c)(1)(i) and Table J-1, as revised as of **July 1, 2018**;
[JULY 1, 2000.]

18 AAC 34.010 is amended by adding new paragraphs to read:

(22) 21 U.S.C. 343(w) (Misbranded Food, Major Food Allergen Labeling

Requirements), as revised as of March 23, 2010;

(23) 21 U.S.C. 381(e)(1) and (2), as revised as of October 24, 2018;

(24) 21 C.F.R. 73.1 - 73.615 (Listing of Color Additives Exempt from Certification; Foods), as revised as of April 1, 2018;

(25) 21 C.F.R. 74.101 - 74.706 (Listing of Color Additives Subject to Certification; Foods), as revised as of April 1, 2018;

(26) 21 C.F.R. 108.25 (Acidified Foods), as revised as of April 1, 2018;

(27) 21 C.F.R. 117.3 - 117.110 (Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food; General Provisions, Current Good Manufacturing Practice), as revised as of April 1, 2018, except the definition of "facility" is not adopted by reference; these provisions are adopted by reference as amended from time to time;

(28) 21 C.F.R. 117.301 - 117.330 (Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food: Requirements Applying to Records That Must Be Established and Maintained), as revised as of April 1, 2018; these provisions are adopted by reference as amended from time to time;

(29) 21 C.F.R. 161.30 - 161.190 (Fish and Shellfish), as revised as of April 1, 2018;

(30) 21 C.F.R. 170.3 - 170.285 (Food Additives), as revised as of April 1, 2018, except 21 C.F.R. 170.6, 21 C.F.R. 170.15 , and 21 C.F.R. 170.17 are not adopted by reference;

(31) 21 C.F.R. 173.5 - 173.405 (Secondary Direct Food Additives Permitted in Food for Human Consumption), as revised as of April 1, 2018;

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(32) 21 C.F.R. 175.105 - 175.390 (Indirect Food Additives: Adhesives and Components of Coatings), as revised as of April 1, 2018;

(33) 21 C.F.R. 176.110 - 176.350 (Indirect Food Additives: Paper and Paperboard Components), as revised as of April 1, 2018;

(34) 21 C.F.R. 177.1010 - 177.2910 (Indirect Food Additives: Polymers), as revised as of April 1, 2018;

(35) 21 C.F.R. 178.1005 - 178.3950 (Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers), as revised as of April 1, 2018;

(36) 21 C.F.R. 180.1 - 180.37 (Food Additives Permitted in Food or in Contact with Food on an Interim Basis Pending Additional Study), as revised as of April 1, 2018;

(37) 21 C.F.R. 181.22 - 181.34 (Prior-Sanctioned Food Ingredients; Specific Prior-Sanctioned Food Ingredients), as revised as of April 1, 2018;

(38) 21 C.F.R. 182.1 - 182.8997 (Substances Generally Recognized as Safe), as revised as of April 1, 2018;

(39) 21 C.F.R. 184.1 - 184.1985 (Direct Food Substances Affirmed as Generally Recognized as Safe), as revised as of April 1, 2018;

(40) 21 C.F.R. 186.1 - 186.1839 (Indirect Food Substances Affirmed as Generally Recognized as Safe), as revised as of April 1, 2018;

(41) 21 C.F.R. 189.1 - 189.300 (Substances Prohibited from Use in Human Food), as revised as of April 1, 2018. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 6/28/2001, Register 158; am 8/6/2006, Register 179; am 11/24/2007, Register 184; am 8 / 21 / 2019, Register 231)

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Authority:	AS 17.20.005	<u>AS 17.20.045</u>	AS 17.20.072
	<u>AS 17.20.020</u>	<u>AS 17.20.048</u>	AS 17.20.180
	AS 17.20.044	AS 17.20.065	AS 44.46.020

Editor's note: Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.010, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended **18 AAC 34.010** [18 AAC 34.010(16) AND (19) AND ADDED 18 AAC 34.010(21)]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

[THE DOCUMENTS ADOPTED BY REFERENCE IN 18 AAC 34.010 MAY BE REVIEWED AT THE DEPARTMENT'S ANCHORAGE, JUNEAU, AND KENAI OFFICES. THE SEAFOOD LIST IS AVAILABLE FROM THE SUPERINTENDENT OF DOCUMENTS, U.S. GOVERNMENT PRINTING OFFICE, MAIL STOP: SSOP, WASHINGTON, D.C. 20402-9328.] The *National Shellfish Sanitation Program: Guide for the Control of Molluscan Shellfish*, may be obtained from the United States Department of Health and Human Services, Food and Drug Administration, Office of Seafood, **5001 Campus Drive** [5100 PAINT BRANCH PARKWAY], College Park, MD **20740** [20740-3835]; Internet address: **<http://www.fda.gov/Food/GuidanceRegulation/FederalStateFoodPrograms/ucm2006754.htm>** [HTTP://WWW.CFSAN.FDA.GOV/~EAR/NSS2-TOC.HTML AND MAY BE VIEWED IN THE DEPARTMENT'S KETCHIKAN, KODIAK, AND VALDEZ OFFICES, AS WELL AS AT THE DEPARTMENT'S ANCHORAGE, JUNEAU, AND KENAI OFFICES]. The *American National Standard Sampling Procedures and Tables for Inspection by Attributes* is

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available from the American Society for Quality Control, Quality Press, 600 North Plankinton Avenue, Milwaukee, Wisconsin 53203; telephone: 800-248-1946; Internet address: www.asq.org.

On November 14, 2018, as required by AS 44.62.245 and AS 17.20.005(6), the department gave notice that the following amended version of material, previously adopted by reference in 18 AAC 34.010, would be in effect on November 15, 2018: the *The National Shellfish Sanitation Program (NSSP): Guide for the Control of Molluscan Shellfish, 2017 Revision*. **The amended** [THE AMENDED CONTROL OF MOLLUSCAN SHELLFISH,] version may be reviewed on the Alaska Online Public Notice System and at the following Department of Environmental Conservation offices: 555 Cordova Street, Anchorage, Alaska 99501; 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801; 540 Water Street, Suite 203, Ketchikan, Alaska 99901; 901 Halibut Point Road, Suite 3, Sitka, Alaska 99835; and 43335 Kalifornsky Beach Road, Suite 11, Soldotna, Alaska 99669. Additionally, the material may be obtained by contacting the United States Department of Health and Human Services, Food and Drug Administration, Office of Seafood, 5001 Campus Drive, College Park, Maryland 20740 or by accessing it on the Internet at <http://www.fda.gov/Food/GuidanceRegulation/FederalStateFoodPrograms/ucm2006754.htm>.

18 AAC 34.035 is repealed and readopted to read:

18 AAC 34.035. Permit requirements. (a) A person may not conduct an activity described in 18 AAC 34.005(b) unless the person has been issued a permit or provisional permit in accordance with this section.

(b) Except as described in (c) of this section, to apply for a permit, a person shall submit to the department a complete application that demonstrates compliance with this chapter and includes

- (1) an application form provided by the department;
- (2) each applicable fee required by 18 AAC 34.900;
- (3) a site plan that accurately depicts the location of all processing and storage buildings, roads, alleys, docks, and other areas that are part of the facility and that will be used to support the processing, storage, or transportation of seafood products;
- (4) a facility floor plan that accurately depicts the location or placement of
 - (A) processing equipment; and
 - (B) storage areas for seafood, food ingredients, and food packaging materials;
- (5) a plumbing schematic that shows
 - (A) piping used for potable water, nonpotable water, and wastewater;
 - (B) each plumbing fixture, including each floor drain and floor sink, located in a processing area; and
 - (C) toilets and handwash sinks;
- (6) a written description of the surface finish of walls, floors, and ceilings in processing, packaging, and storage areas;
- (7) a written description of how garbage and refuse will be stored, handled, and disposed of;
- (8) documentation showing that required approvals have been granted or permit

applications have been submitted to the department for

(A) the facility's drinking water supply as required by 18 AAC 80;

(B) the facility's wastewater disposal system as required by 18 AAC 72;

and

(C) the discharge of pollutants into waters of the United States as required by 18 AAC 83;

(9) a list of ingredients to be used for seafood products that have two or more ingredients;

(10) a written hazard analysis or hazard analysis critical control point (HACCP) plan, that meets the requirements of 18 AAC 34.045;

(11) a recall plan that meets the requirements of 18 AAC 34.047;

(12) sanitation standard operating procedures that meet the requirements of 18 AAC 34.050;

(13) for any thermally processed product, a copy of

(A) the food canning establishment registration (FDA form 2541) and the food canning establishment process filing form (FDA form 2541a) submitted to the United States Food and Drug Administration (FDA); and

(B) the scheduled process as set out in 21 C.F.R. 113.83 (Establishing Scheduled Processes), adopted by reference in 18 AAC 34.010;

(14) for a person who wishes to conduct an activity described in 18 AAC 34.005(b) within a permitted processor's facility, a written statement of consent from the permitted processor authorizing the person to utilize the facility and the agreed upon times or

locations that each person will conduct processing activities;

(15) an example label of the seafood products to be produced that meets the requirements of 18 AAC 34.110 and 21 C.F.R. 101.1 - 101.108, adopted by reference in 18 AAC 34.010; and

(16) any other information the department determines is necessary to find the application complete.

(c) To renew a permit, a permittee shall submit to the department a complete renewal application that demonstrates compliance with this chapter and includes

(1) the current year's application form;

(2) each applicable fee required by 18 AAC 34.900; and

(3) any plans and documents listed in (b)(3) - (16) of this section that have changed since the prior year, are not minor, and affect seafood processing.

(d) After receiving a complete application or complete renewal application, the department will review the application and will, to the extent possible, within 60 days

(1) issue a permit;

(2) issue a provisional permit that will state in writing the reasons for and the terms of the provisional approval; or

(3) deny a permit.

(e) A permit or provisional permit issued under this section

(1) will be assigned a permit number by the department;

(2) must be maintained at the facility;

(3) is not transferable; and

(4) expires on December 31 of the year in which the permit is issued, or in accordance with the terms of the provisional permit.

(f) A permittee who extensively remodels an existing seafood processing facility or adds a new type of operation or process to an existing seafood processing facility must submit to the department for the department's approval any documentation described in (b)(3) - (16) of this section related to the activity, including updated plans or procedures; a permittee must allow the department at least 60 days to review and approve the documentation.

(g) A person seeking a permit or approval under this section may request informal review of the department's decision under 18 AAC 15.185.

(h) If the department denies a permit or issues a provisional permit, it will notify the applicant in writing of the reasons for denial or provisional permit. Not later than 30 days after issuance of the notice of denial or provisional permit, the applicant may request an adjudicatory hearing under AS 44.62 (Administrative Procedure Act) by submitting a request to the commissioner. Upon receipt of a timely request for an adjudicatory hearing, the commissioner will refer the matter to the office of administrative hearings (AS 44.64.010) for a hearing and recommended decision under 2 AAC 64.100 - 2 AAC 64.990 to the commissioner or to the commissioner's designee if the designee is a person other than the person who issued the contested decision. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/5/2017, Register 224; am 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

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Editor's note: Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.035, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended **18 AAC 34.035** [18 AAC 34.035(a)(3)(b) AND (d)(1)]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

[INFORMATION ABOUT HOW TO REVIEW OR OBTAIN A COPY OF A REQUIREMENT REFERRED TO IN 18 AAC 34.035 AND ADOPTED BY REFERENCE IN 18 AAC 34.010 IS SET OUT IN THE EDITOR'S NOTE TO 18 AAC 34.010.]

18 AAC 34.045(d) is repealed:

(d) Repealed 8 / 21 / 2019. (Eff. 12/18/97, Register 144; am 12/2/99, Register 152; am 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

18 AAC 34 is amended by adding a new section to read:

18 AAC 34.047. Recall plan. (a) A processor shall develop, maintain, and make available for department review written procedures sufficient to notify consumers of a product recall and remove affected product from commerce. These written procedures must describe the steps to be taken, and assign responsibilities for taking those steps, to perform the following actions as appropriate to the facility:

(1) notify each direct consignee of the recalled seafood, including how to return

or dispose of the affected seafood;

(2) notify the public about the hazard presented by the recalled seafood;

(3) appropriately dispose of the recalled seafood by reprocessing, reworking, diverting to a use that does not present a safety concern, or destroying the seafood; and

(4) verify, by means such as personal visits, telephone calls, written communications, or a combination of those means, that each consignee received notification of the recall and has taken the appropriate action.

(b) A processor shall notify the department immediately if the processor knows or has reason to believe that a product released into commerce might be adulterated or misbranded.

(c) A processor shall implement the recall procedures developed in (a) of this section either at the direction of the department or of the processor's own accord if the processor knows or has reason to believe that a product released into commerce might be adulterated or misbranded.

(d) A processor shall maintain records relating to implementation of recall procedures, including notifications to the department, consignees, and the public, and records of the product disposition. (Eff. 8 / 21 / 2019, Register 231.)

Authority:	AS 17.20.005	AS 17.20.230	AS 17.20.270
	AS 17.20.072	AS 17.20.250	AS 44.46.020
	AS 17.20.080	AS 17.20.260	

The section heading of 18 AAC 34.050 is changed to read:

18 AAC 34.050. Sanitation standard operating procedures [PLAN].

18 AAC 34.050(a) is amended to read:

(a) A [EXCEPT AS PROVIDED IN 18 AAC 34.525 FOR A DIRECT-MARKET FISHING VESSEL OPERATION AND 18 AAC 34.740 FOR A DIRECT-MARKET LAND-BASED FACILITY, A] processor **subject to this chapter** shall have and **implement** [COMPLY WITH A] **written** sanitation **standard operating procedures** [PLAN] that **meet the requirements of this chapter and 21 C.F.R. 123.3 - 21 C.F.R. 123.28, adopted by reference in 18 AAC 34.010** [DESCRIBES THE SANITATION PROCEDURES TO BE FOLLOWED AT THE FACILITY. THE PLAN MAY BE STRUCTURED TO APPLY TO EACH AREA WITHIN THE FACILITY OR TO EACH TYPE OF OPERATION WITHIN THE FACILITY]. The sanitation **standard operating procedures** [PLAN] must **also** describe how the processor will meet **any** [THE SANITATION REQUIREMENTS OF THIS CHAPTER, INCLUDING THE] monitoring **requirements in this chapter** [REQUIRED BY (b) OF THIS SECTION].

18 AAC 34.050(b) is repealed:

(b) Repealed 8 / 21 / 2019.

18 AAC 34.050(c) is repealed:

(c) Repealed 8 / 21 / 2019.

18 AAC 34.050(d) is repealed:

(d) Repealed 8 / 21 / 2019. (Eff. 12/18/97, Register 144; am/readopt 12/2/99,

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Register 152; am 8/6/2006, Register 179; am 8 /21 /2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

Editor's note: Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.050, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.050 [18 AAC 34.050(b)(2)(F)]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

[INFORMATION ABOUT HOW TO REVIEW OR OBTAIN A COPY OF A REQUIREMENT REFERRED TO IN 18 AAC 34.050 AND ADOPTED BY REFERENCE IN 18 AAC 34.010 IS SET OUT IN THE EDITOR'S NOTE TO 18 AAC 34.010.]

18 AAC 34.055 is repealed:

18 AAC 34.055. Facility plan approval. Repealed. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; repealed 8 /21 /2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.055, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. THE DEPARTMENT ALSO AMENDED 18 AAC 34.055(a). CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN

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18 AAC 34 FROM AS 03.05 TO AS 17.20.]

18 AAC 34.060 is repealed:

18 AAC 34.060. Facility requirements. Repealed. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; repealed 8/21/2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.060, WITHOUT CHANGE, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. CHAPTER 72, SLA 1998 RELOCATED, FROM AS 03.05 TO AS 17.20, DEPARTMENT AUTHORITY TO ADOPT REGULATIONS SET OUT IN 18 AAC 34.

INFORMATION ABOUT HOW TO REVIEW OR OBTAIN A COPY OF A REQUIREMENT REFERRED TO IN 18 AAC 34.060 AND ADOPTED BY REFERENCE IN 18 AAC 34.010 IS SET OUT IN THE EDITOR'S NOTE TO 18 AAC 34.010.]

18 AAC 34.065 is repealed:

18 AAC 34.065. Chemicals and compounds. Repealed. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; repealed 8/21/2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF

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ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.065, WITHOUT CHANGE, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. CHAPTER 72, SLA 1998 RELOCATED, FROM AS 03.05 TO AS 17.20, DEPARTMENT AUTHORITY TO ADOPT REGULATIONS SET OUT IN 18 AAC 34.

INFORMATION ABOUT HOW TO REVIEW OR OBTAIN A COPY OF A REQUIREMENT REFERRED TO IN 18 AAC 34.065 AND ADOPTED BY REFERENCE IN 18 AAC 34.010 IS SET OUT IN THE EDITOR'S NOTE TO 18 AAC 34.010.]

18 AAC 34.070 is repealed:

18 AAC 34.070. Sanitizing. Repealed. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; repealed 8 / 21 / 2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.070, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. THE DEPARTMENT ALSO AMENDED 18 AAC 34.070(a) AND (b)(2). CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN 18 AAC 34 FROM AS 03.05 TO AS 17.20.]

18 AAC 34.075 is repealed:

18 AAC 34.075. Plumbing. Repealed. (Eff. 12/18/97, Register 144; readopt 12/2/99,

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Register 152; repealed 8 / 21 / 2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.075, WITHOUT CHANGE, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN 18 AAC 34 FROM AS 03.05 TO AS 17.20.

THE SCHEDULE 80 SPECIFICATION REFERRED TO IN THIS SECTION IS THAT SET OUT IN THE ANNUAL BOOK OF ASTM STANDARDS PUBLISHED BY THE AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM), 100 BARR HARBOR DRIVE, WEST CONSHOHOCKEN, PA 19428-2959. THE SPECIFICATION MAY BE OBTAINED FROM ASTM OR MAY BE REVIEWED AT THE DEPARTMENT'S ANCHORAGE, JUNEAU, AND KENAI OFFICES.]

18 AAC 34.080 is repealed:

18 AAC 34.080. Water supply and ice. Repealed. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/24/2007, Register 184; am 5/3/2019. Register 230; repealed 8 / 21 / 2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.080, TO AFFIRM THE

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VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. THE DEPARTMENT REPEALED AND READOPTED 18 AAC 34.080(a) - (c), AMENDED (e) AND (g)(1). THE DEPARTMENT ALSO REPEALED 18 AAC 34.080(i), MOVING THE DEFINITION OF THE FORMER TERM "CLASS A PUBLIC WATER SYSTEM," NOW THE TERMS "COMMUNITY WATER SYSTEM" AND "NON-TRANSIENT NON-COMMUNITY WATER SYSTEM," TO THE DEFINITIONS SECTION AT 18 AAC 34.990. CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN 18 AAC 34 FROM AS 03.05 TO AS 17.20.]

18 AAC 34.085 is repealed:

18 AAC 34.085. Toilet and handwash sink requirements. Repealed. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; repealed 8 / 21 / 2019, Register 231.)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.085, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. THE DEPARTMENT ALSO AMENDED 18 AAC 34.085(a). CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN 18 AAC 34 FROM AS 03.05 TO AS 17.20.

INFORMATION ABOUT HOW TO REVIEW OR OBTAIN A COPY OF A REQUIREMENT REFERRED TO IN 18 AAC 34.085 AND ADOPTED BY REFERENCE IN

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18 AAC 34.010 IS SET OUT IN THE EDITOR'S NOTE TO 18 AAC 34.010.]

18 AAC 34.090 is repealed:

18 AAC 34.090. Equipment and utensils. Repealed. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; repealed 8 / 21 / 2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.090, WITHOUT CHANGE, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN 18 AAC 34 FROM AS 03.05 TO AS 17.20.]

18 AAC 34.095 is repealed:

18 AAC 34.095. Waste disposal. Repealed. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; repealed 8 / 21 / 2019 , Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.095, WITHOUT CHANGE, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN 18 AAC 34 FROM AS 03.05

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TO AS 17.20.]

18 AAC 34.100 is repealed:

18 AAC 34.100. Personnel. Repealed. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; repealed 8 / 21 / 2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.100, WITHOUT CHANGE, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN 18 AAC 34 FROM AS 03.05 TO AS 17.20.]

18 AAC 34.105 is repealed:

18 AAC 34.105. Handling. Repealed. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; repealed 8 / 21 / 2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.105, WITHOUT CHANGE, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN 18 AAC 34 FROM AS 03.05

TO AS 17.20.]

18 AAC 34.110 is repealed and readopted to read:

18 AAC 34.110. Labeling requirements. (a) Except as specified at 18 AAC 34.112, a seafood processor shall ensure that seafood products are not misbranded, and that each product label conforms to this section and the following requirements, adopted by reference in 18 AAC 34.010:

- (1) 21 U.S.C. 343(w);
- (2) 21 C.F.R. 101.1 - 101.108;
- (3) 21 C.F.R. 102.5 - 102.57; and
- (4) 21 C.F.R. 161.30 – 161.190.

(b) Each master container and retail package of a seafood product must be labeled in letters at least one-eighth inch high and comparable in size and style to other label lettering as follows:

- (1) at the time of packaging, the date of packaging using a mark that is not removable, erasable, or able to be washed away;
- (2) before distribution, the permit number assigned to the processor under 18 AAC 34.035(e); if more than one processor is involved in manufacturing of a seafood product, the permit number must be that of the processor who last handled the product before sealing; or if participating in the Salmon Control Plan, the Seafood Products Association number;
- (3) except when the department has approved other language, if a seafood

product is not shelf-stable, the holding statement "KEEP REFRIGERATED" or "KEEP FROZEN"; if the product is a smoked seafood product that is also packaged in a reduced oxygen package or a modified atmosphere package, each container must include the holding statement

(A) "KEEP REFRIGERATED BELOW 38° F" or "KEEP FROZEN", if

the product

(i) contains at least 3.5 percent water phase salt;

(ii) contains, if allowed by 21 C.F.R. 172.175, adopted by reference in 18 AAC 34.010, both at least 3.0 percent water phase salt and not less than 100 ppm nitrite;

(iii) has other barriers to control *Clostridium botulinum* growth and toxin production; or

(iv) is equipped with a time temperature indicator; or

(B) "KEEP FROZEN, THAW UNDER REFRIGERATION

IMMEDIATELY BEFORE USE" if the product does not meet the requirements of (A) of this paragraph;

(4) the words "PREVIOUSLY FROZEN" if a container holds a seafood product

that

(A) has been previously frozen and thawed; and

(B) will be sold without further processing;

(5) the words "NOT FOR SALE" if that container holds a seafood product that

(A) is described in 18 AAC 34.830(g) and is being held or processed at a facility subject to this chapter; or

(B) was not processed in compliance with this chapter; and

(6) if a seafood product processed or sold in this state contains an ingredient that

is

(A) farmed halibut, salmon, or sablefish product, the words “MADE WITH FARMED {HALIBUT, SALMON, OR SABLEFISH} FROM {STATE OR COUNTRY}”; or

(B) genetically modified fish or fish product, the words “MADE WITH GENETICALLY MODIFIED {MARKET NAME OF FISH OR FISH PRODUCT}”.

(Eff. 12/18/97, Register 144; am 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/24/2007, Register 184; am 8 / 21 / 2019, Register 231)

Authority:	AS 17.20.005	AS 17.20.045	AS 17.20.180
	AS 17.20.010	AS 17.20.065	AS 17.20.290
	AS 17.20.040	AS 17.20.072	AS 44.46.020
	AS 17.20.044		

The introductory language for 18 AAC 34.112(b) is amended to read:

(b) A seafood product labeled "FOR EXPORT ONLY" may not be sold or offered for sale in domestic commerce and must be labeled on the outside of the container in **English,** **except as provided in 21 C.F.R. 101.15, adopted by reference in 18 AAC 34.010,**

[ACCORDANCE WITH 18 AAC 34.110(b) AND] with

• • •

18 AAC 34.112(b)(2) is amended to read:

(2) the identity and name of the seafood product as described in

18 AAC 34.110(a) [18 AAC 34.110(c)(4)];

18 AAC 34.112(b)(3) is amended to read:

(3) the temperature holding statement described in **18 AAC 34.110(b)(3)**

[18 AAC 34.110(c)(8)] if applicable; and

(Eff. 12/2/99, Register 152; am 8/6/2006, Register 179; am 8/21/2019, Register 231)

Authority:	AS 17.20.005	AS 17.20.045	AS 17.20.230
	AS 17.20.010	AS 17.20.065	AS 17.20.290
	AS 17.20.040	AS 17.20.072	AS 44.46.020
	AS 17.20.044	AS 17.20.180	

18 AAC 34.115 is amended to read:

18 AAC 34.115. Adulterated seafood products. The term "adulterated seafood product" has the meaning given "adulterated food" in AS 17.20.020 and [AS] 17.20.030. In addition, a seafood product is adulterated if

(1) it is contaminated with oil or another hazardous substance;

(2) it contains a food additive that is unsafe under 21 U.S.C. 348(a), adopted by reference in 18 AAC 34.010, or that is prohibited by the department;

(3) it contains a color additive that is unsafe under 21 U.S.C. 379e(a), adopted by reference in 18 AAC 34.010, or that is prohibited by the department; [OR]

(4) it was accidentally or intentionally subjected to radiation, unless the use of radiation was in conformity with 21 C.F.R. 179.21 - 179.45, adopted by reference in 18 AAC 34.010;

(5) for a food that is exported, it is not in compliance with 21 U.S.C. 381(e)(1) and (2), adopted by reference in 18 AAC 34.010; or

(6) it does not meet the requirements of this chapter. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8 / 21 / 2019, Register 231)

Authority:	AS 17.20.005	AS 17.20.065	AS 17.20.230
	AS 17.20.010	AS 17.20.072	AS 17.20.290
	AS 17.20.020	AS 17.20.180	AS 44.46.020
	AS 17.20.030		

The authority citation for 18 AAC 34.120 is changed to read:

Authority:	AS 17.20.005	<u>AS 17.20.048</u>	AS 17.20.180
	AS 17.20.010	<u>AS 17.20.049</u>	AS 17.20.230
	AS 17.20.040	AS 17.20.065	AS 17.20.290
	AS 17.20.044	AS 17.20.066	AS 44.46.020
	AS 17.20.045	AS 17.20.072	

Editor's note: As of Register 231 (October 2019), a change was made to the authority citation that follows 18 AAC 34.120. The text of 18 AAC 34.120 was unchanged.

18 AAC 34.122 is repealed and readopted to read:

18 AAC 34.122. Seafood product standards. (a) Seafood products that are processed for or placed into domestic commerce for human consumption may not be adulterated as described in 18 AAC 34.115 and must meet the following standards:

- (1) for fresh or frozen seafood products other than shellfish for
 - (A) organoleptic: no contamination or decomposition detected; and
 - (B) histamine in scombroid fish: less than or equal to 50 ppm;
- (2) for refrigerated or frozen ready-to-eat seafood product for
 - (A) *Listeria monocytogenes*: none detected;
 - (B) *Salmonella* species: none detected;
 - (C) *Escherichia coli*: less than or equal to 1,000 MPN per gram, or the equivalent;
 - (D) *Staphylococcus aureus*: less than or equal to 10,000 MPN per gram, or the equivalent; and
 - (E) organoleptic: no contamination or decomposition detected;
- (3) for smoked salmon or sablefish for
 - (A) sodium nitrite: less than or equal to 200 ppm; and
 - (B) sodium nitrate: less than or equal to 500 ppm;
- (4) for smoked tuna, sodium nitrite: less than or equal to 10 ppm;
- (5) for cod roe, potassium nitrate: less than or equal to 200 ppm;
- (6) for shelf-stable seafood product,
 - (A) the product must be capable of being stored at room temperature for

extended periods without production of pathogenic or toxigenic microorganisms or product deterioration; and

(B) the product must meet one of the following standards:

(i) the product has been thermally processed;

(ii) the product has a water activity below 0.85 or a water phase salt of 20 percent or greater;

(iii) the product is acidified below a pH of 4.6; or

(iv) the product complies with 21 C.F.R. 172.385, adopted by reference in 18 AAC 34.010, for whole fish protein concentrate;

(7) for shellfish,

(A) either in the shell or shucked, but not eviscerated:

(i) a fecal coliform density less than or equal to 230 MPN per 100 grams; and

(ii) an aerobic or standard plate count of less than or equal to 500,000 colony-forming units (CFU) per gram; or

(B) shucked and eviscerated, fresh or frozen:

(i) a fecal coliform density of less than or equal to 100 MPN per 100 grams; and

(ii) an aerobic or standard plate count of less than or equal to 100,000 colony-forming units (CFU) per gram;

(8) for live, fresh, or frozen snails and shellfish, including uneviscerated

shellstock:

(A) PSP: less than 80 µg per 100 grams tissue; and

(B) domoic acid: less than 20 ppm; and

(9) for live, fresh, cooked, or frozen whole crab product for

(A) PSP: less than 80 µg per 100 grams tissue; and

(B) domoic acid: less than 30 ppm.

(b) A substance, color additive, indirect food additive, or direct food additive may be added to food if the substance, color additive, indirect food additive, or direct food additive is not prohibited, has been approved for use in human food, is used for its intended use, is used at appropriate use rates, and is considered by FDA to be generally recognized as safe under the following requirements, adopted by reference in 18 AAC 34.010:

- (1) 21 C.F.R. 73.1 - 73.615;
- (2) 21 C.F.R. 74.101 - 74.706;
- (3) 21 C.F.R. 170.3 - 170.285;
- (4) 21 C.F.R. 172.5 - 172.898;
- (5) 21 C.F.R. 173.5 - 173.405;
- (6) 21 C.F.R. 175.105 - 175.390;
- (7) 21 C.F.R. 176.110 - 176.350;
- (8) 21 C.F.R. 177.1010 - 177.2910;
- (9) 21 C.F.R. 178.1005 - 178.3950;
- (10) 21 C.F.R. 180.1 - 180.37;
- (11) 21 C.F.R. 181.22 - 181.34;
- (12) 21 C.F.R. 182.1 - 182.8997;

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(13) 21 C.F.R. 184.1 - 184.1985;

(14) 21 C.F.R. 186.1 - 186.1839; and

(15) 21 C.F.R. 189.1 - 189.300. (Eff. 12/18/97, Register 144; am/readopt 12/2/99,

Register 152; am 8/6/2006, Register 179; am 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.030 AS 17.20.180

AS 17.20.010 AS 17.20.065 AS 17.20.290

AS 17.20.030 AS 17.20.072 AS 44.46.020

Editor's note: Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.122, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended **18 AAC 34.122** [18 AAC 34.122(2)-(3)]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

[INFORMATION ABOUT HOW TO REVIEW OR OBTAIN A COPY OF A REQUIREMENT REFERRED TO IN 18 AAC 34.122 AND ADOPTED BY REFERENCE IN 18 AAC 34.010 IS SET OUT IN THE EDITOR'S NOTE TO 18 AAC 34.010.]

18 AAC 34.125(d) is repealed and readopted to read:

(d) A processor producing a refrigerated or frozen ready-to-eat product shall submit to a qualified laboratory 12 random product samples from the first lot produced each calendar year.

In addition,

(1) the processor shall hold the lot and may release the lot only when results

show the product samples meet the standards of 18 AAC 34.122(a)(2)(A) and (B); and

(2) the processor shall immediately notify the department of a result that does not meet the standards of 18 AAC 34.122(a)(2)(A) and (B).

18 AAC 34.125(e) is repealed:

(e) Repealed 8 / 21 / 2019.

18 AAC 34.125(f) is amended to read:

(f) A processor who uses sodium nitrite, sodium nitrate, or potassium nitrate in a seafood product intended for the domestic market shall submit to a qualified laboratory [OR OTHER COMMERCIAL LABORATORY] a sample for testing from the first lot produced in each calendar year. A seafood product containing sodium nitrite, sodium nitrate, or potassium nitrate must meet the applicable standards in 18 AAC 34.122 and the applicable requirements of 21 C.F.R. 172.160, 21 C.F.R. 172.170, or 21 C.F.R. 172.175, adopted by reference in 18 AAC 34.010. [IN ADDITION, IF THE PRODUCT IS A SMOKED OR SMOKE-FLAVORED PRODUCT, IT MUST MEET THE REQUIREMENTS OF 18 AAC 34.310(d). IF A SAMPLE IS SUBMITTED TO A COMMERCIAL LABORATORY THAT IS NOT A QUALIFIED LABORATORY, THE DEPARTMENT WILL NOT ACCEPT THE SAMPLE UNLESS THE COMMERCIAL LABORATORY TESTS THE SAMPLE

(1) USING AOAC OFFICIAL METHOD 935.48, WHEN TESTING FOR SODIUM NITRATE OR POTASSIUM NITRATE; AND

(2) USING AOAC OFFICIAL METHOD 973.31, WHEN TESTING FOR

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SODIUM NITRITE.]

18 AAC 34.125(g) is amended to read:

(g) Products that are thermally processed by a processor covered under the Salmon Control Plan are exempt from the requirements of (a) [AND (e)] of this section. The processor shall, upon request from the department, provide copies of the results of laboratory tests conducted under the Salmon Control Plan to show compliance with **18 AAC 34.122(a)(6)** [18 AAC 34.122(6)].

(Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 8 / 21 / 2019, Register 231)

Authority:	AS 17.20.005	AS 17.20.072	AS 17.20.200
	AS 17.20.065	AS 17.20.180	AS 44.46.020
	AS 17.20.070		

Editor's note: Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.125, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended **18 AAC 34.125** [18 AAC 34.125(c), (d), AND (f), AND REPEALED AND READOPTED 18 AAC 34.125(g)]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

[INFORMATION ABOUT HOW TO REVIEW OR OBTAIN A COPY OF A REQUIREMENT REFERRED TO IN 18 AAC 34.125 AND ADOPTED BY REFERENCE IN

18 AAC 34.010 IS SET OUT IN THE EDITOR'S NOTE TO 18 AAC 34.010.

THE AOAC OFFICIAL METHODS REFERRED TO IN 18 AAC 34.125 MAY BE FOUND IN THE OFFICIAL METHODS OF ANALYSIS OF AOAC INTERNATIONAL, AVAILABLE FROM AOAC INTERNATIONAL, SUITE 500, 481 NORTH FREDERICK AVE., GAITHERSBURG, MARYLAND 20877-2417.]

18 AAC 34.200(a) is amended to read:

(a) A person who harvests, handles, prepares, processes, shucks, packs, repacks, or transports fresh or frozen shellfish for sale as part of commerce intended for human consumption shall meet the requirements of 18 AAC 34.200 - 18 AAC 34.210. In addition, except for a person who is a shellfish harvester, a person described in this section must also meet the requirements of **18 AAC 34.030, 18 AAC 34.035, 18 AAC 34.110 - 18 AAC 34.125, 18 AAC 34.820,** [18 AAC 34.030 - 18 AAC 34.125] and 18 AAC 34.900 - 18 AAC 34.990.

18 AAC 34.200(b) is amended to read:

(b) A person described in (a) of this section, including a person who is a shellfish harvester, shall comply with the standards for fresh or frozen shellfish relating to sanitation, harvesting, handling, shucking, and transporting contained in the *National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish*, [AND 21 C.F.R. 1240.60, BOTH OF WHICH ARE] adopted by reference in 18 AAC 34.010.

(Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8 / 21 / 2019, Register 231)

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Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

Editor's note: Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.200, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.200 [18 AAC 34.200(a) AND (b)]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

Information about how to review or obtain a copy of a requirement referred to in 18 AAC 34.200 and adopted by reference in 18 AAC 34.010 is set out in the editor's note to 18 AAC 34.010.

18 AAC 34.205(b) is amended to read:

(b) Except for a shellfish harvester, a shellfish permit applicant shall meet the requirements of 18 AAC 34.035 [18 AAC 34.035 - 18 AAC 34.060] and pay the permit fee required by 18 AAC 34.900.

(Eff. 12/18/97, Register 144; am 12/2/99, Register 152; am 8/21/2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

18 AAC 34.300 is repealed:

18 AAC 34.300. Applicability of smoked or smoke-flavored seafood product

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processing requirements. Repealed. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; repealed 8 / 21 / 2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.300, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. THE DEPARTMENT ALSO AMENDED 18 AAC 34.300(b). CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN 18 AAC 34 FROM AS 03.05 TO AS 17.20.]

18 AAC 34.310 is repealed:

18 AAC 34.310. Processing requirements for smoked or smoke-flavored seafood products. Repealed. (Eff. 12/18/97, Register 144; am 12/2/99, Register 152; repealed 8 / 21 / 2019, Register 231)

[EDITOR'S NOTE: INFORMATION ABOUT HOW TO REVIEW OR OBTAIN A COPY OF A REQUIREMENT REFERRED TO IN 18 AAC 34.310 AND ADOPTED BY REFERENCE IN 18 AAC 34.010 IS SET OUT IN THE EDITOR'S NOTE TO 18 AAC 34.010.]

18 AAC 34.315 is repealed:

18 AAC 34.315. Native-style smoked or smoke flavored dried salmon. Repealed. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am

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11/24/2007, Register 184; repealed 8 /21 /2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.315, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. THE DEPARTMENT ALSO AMENDED 18 AAC 34.315(a), (d), (g), AND (h). CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN 18 AAC 34 FROM AS 03.05 TO AS 17.20.]

18 AAC 34.320 is repealed:

18 AAC 34.320. Finished product handling. Repealed. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; repealed 8 /21 /2019, Register 231)

[EDITOR'S NOTE: EFFECTIVE 12/2/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 34.320, TO AFFIRM THE VALIDITY OF THAT SECTION FOLLOWING STATUTORY AMENDMENTS MADE IN CH. 72, SLA 1998. THE DEPARTMENT ALSO AMENDED 18 AAC 34.320(b). CHAPTER 72, SLA 1998 RELOCATED DEPARTMENT AUTHORITY TO ADOPT REGULATIONS IN 18 AAC 34 FROM AS 03.05 TO AS 17.20.]

The article heading of 18 AAC 34, Article 4, is changed to read:

Article 4. Thermal and Acidified Food Processing.

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The section heading of 18 AAC 34.400 is changed to read:

18 AAC 34.400. Thermal and acidified food processing.

18 AAC 34.400(a) is amended to read:

(a) A person who [THERMALLY] processes seafood products intended for human consumption,

(1) if the seafood product is thermally processed, must meet the requirements of [THIS SECTION AND THE REQUIREMENTS OF] 21 C.F.R. 108.35 and 21 C.F.R. 113.3 - 113.100, adopted by reference in 18 AAC 34.010, in addition to the requirements of 18 AAC 34.030 - 18 AAC 34.125, **18 AAC 34.803 - 18 AAC 34.855** [18 AAC 34.200 - 18 AAC 34.215, 18 AAC 34.300 - 18 AAC 34.320], and 18 AAC 34.900 - 18 AAC 34.990;

(2) if the seafood product is acidified, must meet the requirements of 21 C.F.R. 108.25, 21 C.F.R. 113.3 - 113.100, and 21 C.F.R. 114.3 - 114.100, adopted by reference in 18 AAC 34.010, in addition to the requirements of 18 AAC 34.030 - 18 AAC 34.125, 18 AAC 34.803 - 18 AAC 34.855, and 18 AAC 34.900 - 18 AAC 34.990.

18 AAC 34.400(b) is repealed:

(b) Repealed 8 / 21 / 2019.

18 AAC 34.400(c) is repealed:

(c) Repealed 8 / 21 / 2019. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020

Editor's note: Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.400, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

[INFORMATION ABOUT HOW TO REVIEW OR OBTAIN A COPY OF A REQUIREMENT REFERRED TO IN 18 AAC 34.400 AND ADOPTED BY REFERENCE IN 18 AAC 34.010 IS SET OUT IN THE EDITOR'S NOTE TO 18 AAC 34.010.]

18 AAC 34.500(a) is amended to read:

(a) A person who operates a direct-market fishing vessel to process seafood products for sale as part of commerce intended for human consumption shall meet the requirements of 18 AAC 34.500 - 18 AAC 34.525. In addition, **the** [AN] operator [OF A DIRECT-MARKET FISHING VESSEL] must meet the requirements of **18 AAC 34.030 - 18 AAC 34.122** [18 AAC 34.030 , 18 AAC 34.035(a)(1), (3), (5), AND (6), 18 AAC 34.035(c) - (g), 18 AAC 34.045, 18 AAC 34.055, 18 AAC 34.060(1)(A), (B), (D), AND (E), 18 AAC 34.060(2) - (3), 18 AAC 34.060(4)(A), (B), AND (D), 18 AAC 34.060(5), 18 AAC 34.065 - 18 AAC 34.075, 18 AAC 34.090 - 18 AAC 34.122], 18 AAC 34.125(a), (c), and (h), **18 AAC 34.803 - 18 AAC 34.810, 18 AAC 34.820(a) - (c), (g), (h), (i), and (l), 18 AAC 34.825 - 18 AAC 34.855,** and 18 AAC 34.900 - 18 AAC 34.990.

(Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8 / 21 / 2019, Register

231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

Editor's note: Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.500, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended **18 AAC 34.500** [18 AAC 34.500(a) AND ADDED NEW SUBSECTION (d)]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

The International Pacific Halibut Commission may have other restrictions on processing halibut. Information on those restrictions may be obtained by contacting the International Pacific Halibut Commission, **2320 West Commodore Way** [P.O. BOX 95009], Seattle, Washington **98199-1287** [98145-2009]; **telephone: (206) 634-1838; Internet address: www.iphc.int.**

18 AAC 34.520(e) is amended to read:

(e) Ice used on a direct-market fishing vessel must comply with **18 AAC 34.830(b)** [18 AAC 34.080(g)].

18 AAC 34.520(f)(1) is amended to read:

(1) each **food-contact** [PRODUCT CONTACT] surface is cleaned and sanitized as specified in **18 AAC 34.815** [18 AAC 34.070]; and
(Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am

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8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

18 AAC 34.525 is repealed:

18 AAC 34.525. Cleaning and sanitizing. Repealed. (Eff. 12/18/97, Register 144; am 12/2/99, Register 152; repealed 8 / 21 / 2019, Register 231)

18 AAC 34.600 is repealed and readopted to read:

18 AAC 34.600. Applicability. (a) The requirements of 18 AAC 34.600 - 18 AAC 34.625 are in addition to all other applicable requirements of this chapter.

(b) The requirements of 18 AAC 34.602 apply

(1) where there is a visible oily sheen on the water; and

(2) to

(A) fishing vessels;

(B) tender vessels;

(C) buying stations; and

(D) processing facilities.

(c) The requirements of 18 AAC 34.605 - 18 AAC 34.625 apply

(1) if the department finds that an oil spill threatens to contaminate a body of water where seafood that is intended to be sold as part of commerce and intended for human consumption is caught; and

(2) to

(A) fishing vessels or tender vessels involved in the response to and cleanup of the oil spill;

(B) fishing vessels, tender vessels, buying stations, processing facilities, and processors who handle, transport, prepare, store, or process seafood caught in the water affected by the threatened oil spill contamination; and

(C) any other fishing vessel or tender vessel operating in a body of water that the department has found to be threatened. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.065 AS 17.20.180
AS 17.20.020 AS 17.20.072 AS 44.46.020

18 AAC 34 is amended by adding a new section to read:

18 AAC 34.602. Prohibition on taking on water with visible oily sheen. In an area where there is a visible oily sheen on the water, an operator of a fishing vessel or a tender vessel, a buying station, or a processor, may not take on sea water for

(1) fluming, pumping, unloading, or chilling seafood;

(2) holding live seafood products; or

(3) cleanup purposes. (Eff. 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.065 AS 17.20.180
AS 17.20.020 AS 17.20.072 AS 44.46.020

18 AAC 34.605(b)(1) is amended to read:

(1) oil contamination is removed from any surface that might contact seafood, using only chemicals described in **18 AAC 34.815** [18 AAC 34.065]; and (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 8 / 21 / 2019, Register 231)

Authority:	AS 17.20.005	AS 17.20.070	AS 17.20.200
	AS 17.20.020	AS 17.20.072	AS 44.46.020
	AS 17.20.065	AS 17.20.180	

18 AAC 34.620(a) is amended to read:

(a) An operator of a tender vessel or buying station may not accept seafood from a fishing vessel described in **18 AAC 34.600(c)(2)** [18 AAC 34.600(2)] to which the provisions of 18 AAC 34.600 - 18 AAC 34.625 apply unless the fishing vessel has received an inspection or waiver notice under 18 AAC 34.605(b)(2).

18 AAC 34.620(b) is amended to read:

(b) Before accepting delivery from a fishing vessel described in **18 AAC 34.600(c)(2)** [18 AAC 34.600(2)] to which the provisions of 18 AAC 34.600 - 18 AAC 34.625 apply, the operator of a tender vessel or buying station shall inspect each fishing vessel, including the fishing gear, hull, deck, fish hold, work clothes, and equipment that might have been in contact with seafood or fishing gear, for signs of oil contamination.

The introductory language of 18 AAC 34.620(c) is amended to read:

(c) During each delivery from a fishing vessel described in **18 AAC 34.600(c)(2)** [18 AAC 34.600(2)] to which the provisions of 18 AAC 34.600 - 18 AAC 34.625 apply, the operator of a tender vessel or buying station shall inspect the seafood products for signs of oil contamination as the product is offloaded. If the product is offloaded

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(Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8 / 21 / 2019, Register 231)

Authority:	AS 17.20.005	AS 17.20.070	AS 17.20.200
	AS 17.20.020	AS 17.20.072	AS 44.46.020
	AS 17.20.065	AS 17.20.180	

18 AAC 34.700(a)(1) is amended to read:

(1) shall meet the requirements of **18 AAC 34.700 - 18 AAC 34.730** [18 AAC 34.700 - 18 AAC 34.740]; and

18 AAC 34.700(a)(2) is amended to read:

(2) except as specified in **18 AAC 34.700 - 18 AAC 34.730** [18 AAC 34.700 - 18 AAC 34.740], shall meet the requirements of 18 AAC 34.005, 18 AAC 34.010, **18 AAC 34.030 - 18 AAC 34.122** [18 AAC 34.030, 18 AAC 34.035(a)(1), (3)(A) AND (B), AND (6) - (8), 18 AAC 34.035(c) - (g), 18 AAC 34.045, 18 AAC 34.050, 18 AAC 34.055, 18 AAC 34.060(1)(A) - (E), 18 AAC 34.060(2) - (3), 18 AAC 34.060(4)(A) - (D), 18 AAC 34.060(5) - (7), 18 AAC 34.065 - 18 AAC 34.075, 18 AAC 34.080, 18 AAC 34.085,

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18 AAC 34.090, 18 AAC 34.122], 18 AAC 34.125(a), (c), and (h), 18 AAC 34.803 - 18 AAC 34.805, 18 AAC 34.820(a) - (c), (e) - (g), (i), and (l), 18 AAC 34.825 - 18 AAC 34.835, and 18 AAC 34.900 - 18 AAC 34.990.

18 AAC 34.700(c) is repealed:

(c) Repealed 8 / 21 / 2019. (Eff. 8/6/2006, Register 179; am 8 / 21 / 2019,

Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

18 AAC 34.720(d)(1) is amended to read:

(1) each **food-contact** [PRODUCT CONTACT] surface is cleaned and sanitized as specified in 18 AAC 34.815 [18 AAC 34.070]; and

18 AAC 34.720(f) is amended to read:

(f) Ice used in a direct-market land-based facility must comply with 18 AAC 34.830(b) [18 AAC 34.080(g)]. (Eff. 8/6/2006, Register 179; am 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

18 AAC 34.730 is amended to read:

18 AAC 34.730. Toilet and handwash sink requirements. If a direct-market land-based

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facility operator installs a portable toilet or privy in accordance with 18 AAC 34.820(g) [18 AAC 34.085(d)], the operator shall monitor the use of the handwash sink located at the entrance to the processing area to ensure that employees are washing hands after exiting the toilet facility. (Eff. 8/6/2006, Register 179; am 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

18 AAC 34.740 is repealed:

18 AAC 34.740. Cleaning and sanitizing. Repealed. (Eff. 8/6/2006, Register 179; repealed 8 / 21 / 2019, Register 231)

18 AAC 34 is amended by adding new sections to read:

Article 8. Good Manufacturing Practice.

Section

- 803. Qualifications and training.
- 805. Personnel; disease control and hygienic practices
- 810. Plant and grounds
- 815. Sanitary operations
- 820. Sanitary facilities and controls; plumbing, water supply, toilets and handwash sink requirements, and waste disposal
- 825. Equipment and utensils
- 830. Processes and controls; handling; and ice supply

835. Storage and transportation

840. Holding and distribution of human food by-products for use as animal food

855. Defect action levels

18 AAC 34.803. Qualifications and training. A processor shall ensure that each individual who processes seafood is qualified and trained to perform their duties as required in 21 C.F.R. 117.4 and 21 C.F.R. 123.10, adopted by reference in 18 AAC 34.010. Records that document training must be maintained and made available as required in 21 C.F.R. 117.301 - 117.330, adopted by reference in 18 AAC 34.010, and 18 AAC 34.920. (Eff. 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

Editor's note: The subject matter addressed in 18 AAC 34.803 was formerly addressed in 18 AAC 34.100. The history for 18 AAC 34.803 does not include the history of the earlier section.

18 AAC 34.805. Personnel; disease control and hygienic practices. A processor shall ensure adequate disease control and hygienic practices to protect against allergen cross-contact and contamination of food through instruction, training, and supervision of employees as required in 21 C.F.R. 117.10, adopted by reference in 18 AAC 34.010. (Eff. 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

Editor's note: The subject matter addressed in 18 AAC 34.805 was formerly addressed in 18 AAC 34.100. The history for 18 AAC 34.805 does not include the history of the earlier section.

18 AAC 34.810. Plant and grounds. (a) A processor shall ensure that each facility and the grounds about the facility under the control of the processor are designed and constructed in a manner that facilitates sanitary operations and protects food from contamination as required in 21 C.F.R. 117.20, adopted by reference in 18 AAC 34.010, and other requirements of this section.

(b) The outside walls and the roof

(1) if made of a flexible material such as rubberized nylon, polypropylene, polyester-based vinyl, or nylon-based vinyl, must be at least 20 mils thick, with the seams heat-welded; and

(2) must protect the facility from weather and the entry of insects, rodents, and other animals.

(c) The facility must have lighting of at least

(1) 50 footcandles, measured at the work surface, in areas where

(A) seafood products, food ingredients, or additives are inspected, sorted, graded, or processed; and

(B) processing equipment control panels and food packaging materials, including tin stock, jars, and retort pouches, are tested or examined; and

(2) 20 footcandles, evenly distributed to all other areas not described in (1) of this subsection, including product holding, food packaging, food storage, and container cooling areas.

(d) The inside walls in

(1) any area that will likely be splashed with water or other processing wastes during processing and cleaning must be made of a solid material that is nonabsorbent, durable, smooth, easily cleanable, and sealed to the floor; if the material is less than the full height of the wall, the top of the material must be sealed to the wall;

(2) food processing areas, built-in refrigerators, and freezers used in the processing of seafood products must be made of tile, sealed or noncorrosive metal, fiberglass, glassply panels, or another nonabsorbent, durable, smooth, and easily cleanable material designed for its intended use;

(3) storage freezers and ingredient storage areas must be easily cleanable and may be made of wood if the wood is sealed with a visible sealant; and

(4) dry storage areas must be easily cleanable and may be made of unsealed wood if the walls are cleaned without using water or another cleaning liquid.

(e) Floors in

(1) processing areas where large amounts of water are used must be durable, smooth, and easily cleanable, must be made of concrete, sealed or noncorrosive metal, fiberglass, or another suitable material approved by the department, and must be adequately sloped to floor drains;

(2) refrigerator and freezer areas that are subject to dripping from condensation must be durable, smooth, and easily cleanable, and must be made of concrete, sealed or noncorrosive metal, fiberglass, or another suitable material approved by the department; and

(3) warehouse and storage rooms used for dry storage must be made of a material that is easily cleanable; floors may be made of unsealed wood if cleaning methods do not require the use of water or another liquid.

(f) Floor drains are required in areas where

(1) refrigeration or freezer pipes produce condensate that accumulates;

(2) normal operations release or discharge water or other liquid waste onto the floor; and

(3) wastewater could contaminate a processing area. (Eff. 8 / 21 / 2019, Register

231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

Editor's note: The subject matter addressed in 18 AAC 34.810 was formerly addressed in 18 AAC 34.060. The history for 18 AAC 34.810 does not include the history of the earlier section.

18 AAC 34.815. Sanitary operations. (a) A processor shall ensure that each facility meets the requirements of 21 C.F.R. 117.35, adopted by reference in 18 AAC 34.010, and other requirements of this section.

(b) Pesticides must be used according to 18 AAC 90.

(c) When a chemical or compound is used for sanitizing, the processor shall verify the concentration is correct with a test kit, test strip, or other device. (Eff. 8 /21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

Editor's note: The subject matter addressed in 18 AAC 34.815 was formerly addressed in 18 AAC 34.065 and 18 AAC 34.070. The history for 18 AAC 34.815 does not include the history of the earlier sections.

18 AAC 34.820. Sanitary facilities and controls; plumbing, water supply, toilets and handwash sink requirements, and waste disposal. (a) A processor shall ensure that each facility is equipped with sanitary facilities and accommodations as required in 21 C.F.R 117.37, adopted by reference in 18 AAC 34.010, and other requirements of this section.

(b) Notwithstanding the applicability limitations of the state plumbing code, plumbing must be installed and operated in accordance with the state plumbing code under AS 18.60.705. Except for the toilet and sink requirements in (h) and (i) of this section, the state plumbing code applies statewide to all facilities subject to this chapter, including mobile processing vessels.

(c) Water provided by a processing facility for drinking or ice making for human consumption must comply with 18 AAC 80.

(d) A processing water supply must be approved by the department, on the basis of

whether public health and consumers are adequately protected. In addition to complying with (c) of this section, for a processing water supply that is not directly plumbed to a community public water system or a non-transient non-community public water system, a processor

(1) shall disinfect to maintain a measurable residual of free chlorine or another disinfectant approved by the department;

(2) shall sample for coliform bacteria contamination before beginning operations and once every 30 days during the operational season, and shall resample

(A) as required in 18 AAC 80.415, or as required by the department to serve the interests of public health and consumer protection, after notification of a sample result that is positive for total coliform bacteria; however, resampling requires no more than two water samples; or

(B) if a sample is invalidated as set out in 18 AAC 80.425; however, resampling requires no more than one water sample;

(3) shall ensure that the water does not exceed the maximum contaminant level for *Escherichia coli* bacteria set out in 18 AAC 80.300(b)(4);

(4) shall sample for a contaminant listed in 18 AAC 80.300(b) at the applicable frequency set out in 18 AAC 80.310 -18 AAC 80.335, if the department identifies a potential public health problem for inorganic or organic chemical contamination; the department will require more frequent sampling if the department determines it is necessary to serve the interests of public health and consumer protection; if required under this subsection, samples may not exceed the maximum contaminant levels set out in 18 AAC 80.300; and

(5) shall sample at a point at the end of the system and test for disinfectant

residual at least once each day during the operating season; a daily log of the disinfectant residuals must be kept as required by 18 AAC 34.920.

(e) Water supplies used to deliver, chill, or hold live or unprocessed seafood may not contribute to contamination or adulteration of the seafood products and may not have a fecal coliform density of more than 14 colony-forming units (CFU) per 100 ml. These water supplies are exempt from the disinfection requirement of (d) of this section if the water is used at a location that will not allow other seafood products, food ingredients, food-contact surfaces, or food packaging materials to come into contact with the water.

(f) Water tests required under this chapter must be performed by a laboratory certified under 18 AAC 80.1100 - 18 AAC 80.1110 for drinking water analysis and compliant with reporting requirements for positive sample results described in 18 AAC 80.355. Laboratory results of water analysis, including resampling results or notices indicating that samples were too long in transit, must be maintained at the facility as required by 18 AAC 34.920.

(g) The department will allow a land-based facility to have portable toilets or privies if

- (1) due to lack of soil, the existence of permanently frozen ground, or other geological conditions, the land-based facility is unable to install a septic system;
- (2) the department finds that public health is protected;
- (3) each portable toilet and privy meets the applicable requirements of 18 AAC 72;
- (4) each portable toilet and privy is conveniently located for employee use;
- (5) each portable toilet and privy is maintained in a sanitary manner and toilet tissue is provided;

(6) a handwash sink, soap, and towels are located at the entrance to the processing area; and

(7) handwash signs directing employees to wash their hands with soap or detergent before returning to their work stations are posted at each portable toilet or privy and at the entrance to the processing area; the signs must be printed in English and in other languages or pictures if necessary for employee understanding.

(h) The number of toilets on a mobile processing vessel must comply with the Occupational Safety and Health Administration's general environmental controls in 29 C.F.R. 1910.141(c)(1)(i) and Table J-1, adopted by reference in 18 AAC 34.010.

(i) Handwash sinks must be provided and

(1) must be located to allow convenient use by employees in food processing areas and in, or immediately adjacent to, toilet rooms;

(2) must be accessible at all times for employee use;

(3) may not be used for purposes other than handwashing;

(4) must be equipped to provide water at a temperature that is comfortable to encourage and allow for employees to wash their hands thoroughly;

(5) must have hand-cleaning soap or detergent at each sink; and

(6) if the handsink has a self-closing, slow-closing, or a metering faucet, the handsink must provide a flow of water for at least 20 seconds without the need to reactivate the faucet.

(j) For sewage disposal from a mobile processing vessel, only a type II or type III marine sanitation device may be used. If used, marine sanitation devices must be of an adequate size for

numbers of employees and must be operated in accordance with the manufacturer's specifications and United States Coast Guard requirements.

(k) Untreated sewage from a marine sanitation device may not be discharged during processing, facility cleaning, or when within one-half mile of another vessel that can reasonably be expected to be processing or cleaning. A record of the date, time, and location of each discharge from a type III marine sanitation device must be kept as required by 18 AAC 34.920.

(l) Processing waste from seafood products must be disposed of as required by 18 AAC 60 for solid waste, 18 AAC 72 for domestic wastewater, or 18 AAC 83 for wastewater.

(Eff. 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

Editor's note: The subject matter addressed in 18 AAC 34.820 was formerly addressed in 18 AAC 34.070, 18 AAC 34.075, 18 AAC 34.080, 18 AAC 34.085, and 18 AAC 34.095. The history for 18 AAC 34.820 does not include the history of the earlier sections.

18 AAC 34.825. Equipment and utensils. A processor shall ensure that all equipment and utensils are adequate for the intended use and designed, installed, and maintained to facilitate cleaning and preclude adulteration of the seafood products or ingredients as required in 21 C.F.R. 117.40, adopted by reference in 18 AAC 34.010. (Eff. 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

Editor's note: The subject matter addressed in 18 AAC 34.825 was formerly addressed in 18 AAC 34.090. The history for 18 AAC 34.825 does not include the history of the earlier section.

18 AAC 34.830. Processes and controls; handling; and ice supply. (a) A processor shall ensure that all operations in the manufacturing, processing, packing, and holding of seafood products are conducted in accordance with adequate sanitation principles as required in 21 C.F.R. 117.80, adopted by reference in 18 AAC 34.010, and other requirements of this section.

(b) Ice that comes into contact with seafood products must be

(1) made by the seafood processor from water that meets the requirements of 18 AAC 34.820(d) or obtained from an establishment permitted under 18 AAC 31 or this chapter to manufacture ice; and

(2) handled in a sanitary manner.

(c) Vessels or vehicles, including tenders, used to transport raw seafood products shall provide adequate ice or other temperature control and adequate protection against bird droppings and sun when holding or transporting seafood products.

(d) Pitching or puncturing raw seafood product using a long-handled implement is prohibited. Hand gaff hooks are allowed if used only in a portion of the seafood product that will be discarded as waste by the processor or will not otherwise be used for human consumption.

(e) The processor shall record the condition, including quality, of incoming seafood products.

(f) Except for a direct-market fishing vessel or direct-market land-based facility, a processor shall, upon receipt and before additional processing or packaging, inspect and adequately rinse seafood products with a water supply that meets the requirements of 18 AAC 34.820(c) or (d), including those products butchered or filleted in another permitted facility.

(g) A processor shall identify, by label or otherwise, and segregate seafood caught while sport fishing, subsistence fishing, or personal use fishing from commercially caught seafood during all aspects of processing.

(h) A processor shall hold seafood products upon receipt at a temperature of not more than 45° Fahrenheit until processing of the seafood product begins. (Eff. 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

Editor's note: The subject matter addressed in 18 AAC 34.830 was formerly addressed in 18 AAC 34.080 and 18 AAC 34.105. The history for 18 AAC 34.830 does not include the history of the earlier sections.

18 AAC 34.835. Storage and transportation. A processor shall ensure the proper storage and transportation of food as described in 21 C.F.R. 117.93, adopted by reference in 18 AAC 34.010. (Eff. 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

18 AAC 34.840. Holding and distribution of human food by-products for use as animal food. A processor shall ensure that human food by-products for use as animal food are stored, identified, and labeled as described in 21 C.F.R. 117.95, adopted by reference in 18 AAC 34.010. (Eff. 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

18 AAC 34.855. Defect action levels. A processor shall utilize quality control operations to reduce natural or unavoidable defects in seafood products as described in 21 C.F.R. 117.110, adopted by reference in 18 AAC 34.010. (Eff. 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180

The heading of 18 AAC 34, Article 9, is changed to read:

Article 9. General Provisions, Compliance Procedures, and Fees.

18 AAC 34.900(d) is repealed:

(d) Repealed 8 / 21 / 2019.

18 AAC 34.900(e)(1)(B) is amended to read:

(B) numerous violations that indicate a general disregard for sanitation, product safety, or wholesomeness [INDICATED BY A LOW

INSPECTION SCORE];

(Eff. 12/18/97, Register 144; am 12/2/99, Register 152; am 6/28/2001, Register 158; am 12/23/2005, Register 176; am 8/6/2006, Register 179; am 11/24/2007, Register 184; am 8 / 21 / 2019, Register 231)

Authority:	AS 17.20.005	AS 17.20.072	AS 44.46.020
	AS 17.20.065	AS 17.20.180	AS 44.46.025
	AS 17.20.070	<u>AS 17.20.200</u>	

The section heading for 18 AAC 34.920 is changed to read:

18 AAC 34.920. Records availability and retention.

18 AAC 34.920(a)(3) is amended to read:

(3) incoming seafood product records as required by 18 AAC 34.830

[18 AAC 34.105(a)];

18 AAC 34.920(a)(4) is amended to read:

(4) drinking and processing water disinfectant records and laboratory results required by 18 AAC 34.820 [18 AAC 34.080];

18 AAC 34.920(a)(5) is amended to read:

(5) laboratory results required by 18 AAC 34.125(d) and (f)

[18 AAC 34.125(d) - (f)];

18 AAC 34.920(a)(6) is repealed:

(6) repealed 8 / 21 / 2019;

18 AAC 34.920(a)(8) is amended to read:

(8) direct-market vessel water disinfectant records as specified in 18 AAC 34.520
[AND CLEANING AND SANITIZING RECORDS REQUIRED BY 18 AAC 34.525];

18 AAC 34.920(a)(9) is amended to read:

(9) records required by 18 AAC 34.820(k) [18 AAC 34.095] regarding the
discharges from a type III marine sanitation device;

18 AAC 34.920(a)(11) is amended to read:

(11) raw seafood receiving reports required by 18 AAC 34.625; [AND]

18 AAC 34.920(a)(12) is amended to read:

(12) records developed under a plan of operation that was in effect before
December 18, 1997; [.]

18 AAC 34.920(a) is amended by adding new paragraphs to read:

(13) records required by 18 AAC 34.047 regarding recall procedures; and

(14) records required by 18 AAC 34.803 regarding qualifications and training.

(Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am

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Authority: AS 17.20.005 AS 17.20.072 AS 17.20.200
AS 17.20.065 AS 17.20.180 AS 44.46.020
AS 17.20.070

18 AAC 34.930(b) is amended to read:

(b) A processor shall allow a department employee or the department's agent to inspect all portions of the facility, seafood products, food ingredients, processing equipment, labels, plans, and records **required to be retained and available under this chapter** [RELATING TO CRITICAL CONTROL POINTS AND SANITATION, AND ALL OTHER RECORDS NEEDED TO DETERMINE COMPLIANCE WITH THIS CHAPTER]. **The department employee or department's agent may collect samples for analytical testing of food products, of packaging, and from food-contact surfaces. A processor may not charge the department more than the average wholesale market price for a sample.**

18 AAC 34.930(f) is repealed:

(f) Repealed 8 / 21 / 2019.

(Eff. 12/18/97, Register 144; **am/readopt** [READOPT] 12/2/99, Register 152; am 8/6/2006,

Register 179; am 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.070 AS 17.20.200
AS 17.20.065 AS 17.20.072 AS 44.46.020
AS 17.20.066 AS 17.20.180

Editor's note: Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.930, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.930 [18 AAC 34.930(h)]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

18 AAC 34.935 is repealed:

18 AAC 34.935. Inspection seal. Repealed. (Eff. 12/18/97, Register 144; am 12/2/99, Register 152; repealed 9 / 21 / 2019, Register 231)

18 AAC 34.940(c) is amended to read:

- (c) **The** [IN ITS DISCRETION THE,] department **may** [WILL]
- (1) require that the processor provide the department with product for testing under 18 AAC 34.125, subject to the fees required by 18 AAC 34.905;
 - (2) require that the processor provide the department with copies of
 - (A)** the HACCP plan under 18 AAC 34.045; [,]
 - (B)** the sanitation standard operating procedures under 18 AAC 34.050; [PLAN,]
 - (C)** the recall plan under 18 AAC 34.047; and
 - (D)** any other records the department considers necessary in evaluating compliance with this chapter;
 - (3) detain, as described in (e) of this section, any potentially violative seafood

product, food ingredient, or packaging material; [OR]

(4) require a stoppage of processing and immediate correction of a critical violation; **or**

(5) require other actions that the department considers necessary to protect public health and consumers.

18 AAC 34.940(d) is repealed and readopted to read:

(d) Except where the department determines that the nature of the corrective action needed may require additional time for correction and the public's health is protected,

(1) a processor shall correct violations as follows:

(A) for a critical violation, at the time of inspection;

(B) for all other violations, 30 days from the date of inspection or the date

that the processor is provided notice of the violation, whichever is later; and

(2) the processor's facility is subject to a compliance reinspection; the department may conduct the compliance reinspection to verify the processor's correction of a critical violation; a compliance reinspection is subject to the processor's payment of a fee under 18 AAC 34.900(c).

(Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/5/2017, Register 224; am 8 / 21 / 2019, Register 231)

Authority: AS 17.20.005 AS 17.20.180 AS 17.20.260
AS 17.20.065 AS 17.20.200 AS 17.20.270
AS 17.20.070 AS 17.20.230 AS 17.20.280

Register 231, October 2019 ENVIRONMENTAL CONSERVATION

AS 17.20.072 AS 17.20.240 AS 17.20.305

AS 17.20.172 AS 17.20.250 AS 44.46.020

Editor's note: Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.940, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended **18 AAC 34.940** [18 AAC 34.940(d)(2)]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

18 AAC 34.960 is repealed:

18 AAC 34.960. Seafood processing facility recognition program. Repealed. (Eff. 12/2/99, Register 152; repealed 8 / 21 / 2019, Register 231)

18 AAC 34.990(1) is amended to read:

(1) "adequate" **has the meaning given in 21 C.F.R. 117.3, adopted by reference in 18 AAC 34.010** [MEANS THAT WHICH IS NECESSARY TO ACCOMPLISH THE INTENDED PURPOSE, IN KEEPING WITH GOOD PUBLIC HEALTH PRACTICES, WHILE COMPLYING WITH THIS CHAPTER];

18 AAC 34.990(24) is amended to read:

(24) "facility" means the **physical infrastructure, its contents, and the contiguous land or property** [PREMISES], including all or portions of **the** land, docks,

structures, vessels, storage plants, **water supply, wastewater system, plumbing,** and equipment, whether mobile or land-based, used to prepare or process seafood products for human consumption;

18 AAC 34.990(26) is amended to read:

(26) "food" **has the meaning given in AS 17.20.370** [MEANS A LIQUID OR SOLID SUBSTANCE CONSUMED BY HUMANS], including water or another beverage, a confection, condiment, food ingredient, food additive, [OR] ice, or a substance that enters into the composition of these things, whether simple, blended, mixed, or compounded;

18 AAC 34.990(31) is amended to read:

(31) "hazard" **has the meaning given "food safety hazard" in 21 C.F.R. 123.3, adopted by reference in 18 AAC 34.010** [MEANS A BIOLOGICAL, CHEMICAL, OR PHYSICAL PROPERTY THAT MIGHT MAKE FOOD UNSAFE FOR HUMAN CONSUMPTION];

18 AAC 34.990(51) is amended to read:

(51) "processor" means **the owner, operator, or agent in charge of a seafood processing facility who is** [A PERSON WHO PROCESSES OR IS] responsible for processing seafood intended for human consumption; ["PROCESSOR" INCLUDES THAT PERSON'S REPRESENTATIVE;]

18 AAC 34.990(53) is amended to read:

(53) "qualified laboratory" means **a state, federal, or commercial laboratory that adheres to and operates under a documented quality management system that includes proficiency testing and has an accreditation or certification from a third party attesting to the technical competence within the laboratory to perform requested test, method, technology, matrix, or analyte combinations** [THE STATE FOOD SAFETY LABORATORY OR AN FDA LABORATORY, AND, IN ADDITION, IF THE SEAFOOD PRODUCT IS BEING THERMALLY PROCESSED A LABORATORY OPERATED BY THE NATIONAL FOOD PROCESSORS ASSOCIATION];

18 AAC 34.990(54) is amended to read:

(54) "ready-to-eat" **has the meaning given in 21 C.F.R. 117.3, adopted by reference in 18 AAC 34.010** [MEANS A FOOD THAT IS IN A FORM THAT IS EDIBLE WITHOUT COOKING OR ADDITIONAL PREPARATION AND THAT IS REASONABLY EXPECTED TO BE CONSUMED IN THAT FORM];

18 AAC 34.990(57) is amended to read:

(57) "sanitize" **has the meaning given in 21 C.F.R. 117.3, adopted by reference in 18 AAC 34.010** [MEANS A PROCESS THAT IS EFFECTIVE IN REDUCING THE NUMBER OF MICROORGANISMS PRESENT, DOES NOT ADVERSELY AFFECT A SEAFOOD PRODUCT, AND IS SAFE FOR THE CONSUMER];

18 AAC 34.990(58) is amended to read:

(58) "seafood" means any species of aquatic organism, including salt water fish, freshwater fish, amphibians, crustaceans, **and mollusks** [MOLLUSIS, AND AQUATIC PLANTS]; "seafood" includes any part or **by-product** [BY PRODUCT] of any species of aquatic organism;

18 AAC 34.990(59) is amended to read:

(59) "shelf-stable" means a seafood product that meets the standards of **18 AAC 34.122(a)(6)** [18 AAC 34.122(6) AND 18 AAC 34.125(e)];

18 AAC 34.990(76) is amended to read:

(76) "water activity" **has the meaning given in 21 C.F.R. 117.3, adopted by reference in 18 AAC 34.010** [MEANS THE MEASURE OF THE AMOUNT OF WATER IN FOOD THAT IS AVAILABLE FOR THE GROWTH OF MICROORGANISMS, INCLUDING PATHOGENS, AS DETERMINED BY A RATIO OF THE VAPOR PRESSURE OF THE FOOD, DIVIDED BY THE VAPOR PRESSURE OF PURE WATER];

18 AAC 34.990(87) is repealed:

(87) repealed 8 / 21 / 2019;

18 AAC 34.990(88) is repealed:

(88) repealed 8 / 21 / 2019;

18 AAC 34.990(89) is repealed:

(89) repealed 8 / 21 / 2019;

18 AAC 34.990 is amended by adding new paragraphs to read:

(90) "community public water system" has the meaning given "community water system" in 18 AAC 80.1990;

(91) "food-contact surface" has the meaning given in 21 C.F.R. 117.3, adopted by reference in 18 AAC 34.110:

(92) "non-transient non-community public water system" has the meaning given "non-transient non-community water system" in 18 AAC 80.1990. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/24/2007, Register 184; am 5/3/2019, Register 230; am 8 / 21 / 2019, Register 231)

Authority:	AS 17.20.005	AS 17.20.065	AS 17.20.250
	AS 17.20.010	AS 17.20.066	AS 17.20.260
	AS 17.20.020	AS 17.20.070	AS 17.20.270
	AS 17.20.030	AS 17.20.072	AS 17.20.280
	AS 17.20.040	AS 17.20.180	AS 17.20.290
	AS 17.20.044	AS 17.20.200	AS 17.20.305
	AS 17.20.045	AS 17.20.230	AS 17.20.340
	AS 17.20.050	AS 17.20.240	AS 44.46.020

Editor's note: Effective 12/2/99, Register 152, the Department of Environmental

Register 231, October 2019 ENVIRONMENTAL CONSERVATION

Conservation readopted 18 AAC 34.990, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.990 [18 AAC 34.990(12), (13) AND (18)(A), AND ADDED NEW PARAGRAPHS]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

MEMORANDUM

State of Alaska
Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: July 18, 2019

File No.: JU2012200958

Thru: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Tel. No.: 465-3600

From: Steven C. Weaver *SCW*
Senior Assistant Attorney General
Legislation and Regulations Section

Re: Department of Environmental
Conservation regulations re: seafood
processing and inspection (18 AAC
34)

The Department of Law has reviewed the attached regulations of the Department of Environmental Conservation against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Environmental Conservation after the close of the public comment period. The regulations are an omnibus update of the requirements and procedures for seafood processing and inspection.

The November 26, 2018 public notice and the July 8, 2019 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

SCW

cc w/enc: Honorable Jason W. Brune, Commissioner
Department of Environmental Conservation

Gary Mendivil, Regulations Contact
Department of Environmental Conservation

Christina Carpenter, Director
Division of Environmental Health
Department of Environmental Conservation

Kimberly Stryker
Division of Environmental Health
Department of Environmental Conservation

Lorinda Lhotka
Division of Environmental Health
Department of Environmental Conservation

Dorothy Duncan
Division of Environmental Health
Department of Environmental Conservation

Jennifer A. Currie, Assistant Attorney General
Environmental Section

MEMORANDUM

State of Alaska


Department of Environmental Conservation
Office of the Commissioner

TO: Kevin Meyer
Lieutenant Governor

DATE: May 8, 2019

FILE NO: JU2012200958

PHONE NO: 465-5066

FROM: Jason W. Brune 
Commissioner

SUBJECT: 18 AAC 34, Regulation Changes Regarding
Seafood Processing and Inspection

On May 8, 2019 I signed the attached adoption order for the above-referenced changes to the regulations that address seafood processing and inspection. No substantial policy issues are raised by these changes, and there is no fiscal impact anticipated. Notice of the proposed changes was provided to all current seafood processors in Alaska, as well as industry organizations and other interested parties. Comments were received in response only from one organization, which resulted in some minor changes to the proposed regulation language.

Please let me know if you have questions or require additional information. In addition, your staff may contact Christina Carpenter, Director, Division of Environmental Health, at (907) 269-7645 or christina.carpenter@alaska.gov.

SEAFOOD PROCESSING AND INSPECTION:
NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

BRIEF DESCRIPTION

The Department of Environmental Conservation proposes to change regulations on seafood processing and inspection. Amendments include revisions to cite federal rules which will be adopted by reference, rather than using old language that was previously paraphrased based on federal rules. Additional changes relating to recall plans, sanitation plans, and product sampling are also proposed.

The Department of Environmental Conservation proposes to adopt regulation changes in Title 18, Chapter 34 of the Alaska Administrative Code, dealing with seafood processing and inspection, including the following:

General Changes to 18 AAC 34:

- Update article titles and section headings for clarity, make conforming edits to tables of contents.
- Update federal rules adopted by reference.
- Make conforming edits; update citations and cross references.
- Update Editor's Notes.

Specific Changes to 18 AAC 34:

- 18 AAC 34.005 change and clarify applicability of the chapter.
- 18 AAC 34.010 adopt federal requirements by reference, implemented at 18 AAC 34.050 (sanitation control), 18 AAC 34.110 (labeling), 18 AAC 34.115 (adulterated seafood products), 18 AAC 34.122 (seafood product standards), 18 AAC 34.803 - .855 (Article 8 - Good Manufacturing Practice), and 18 AAC 34.990 (definitions).
- 18 AAC 34.035 clarify and streamline permit procedures.
- 18 AAC 34.045(d) repeal (enforcement clauses moved to 18 AAC 34.940).
- 18 AAC 34.047 section added to address product recall.
- 18 AAC 34.050 remove exemption for direct market vessels and direct market land based facilities; clarify language; move monitoring requirements; remove duplicative language and repeal enforcement clauses (which are being moved to 18 AAC 34.940).
- 18 AAC 34.055 repeal, now captured in 18 AAC 34.035.
- 18 AAC 34.060 repeal; now addressed in 18 AAC 34.810.
- 18 AAC 34.065 repeal; now addressed in 18 AAC 34.815.
- 18 AAC 34.070 repeal; now addressed in 18 AAC 34.815 and .820.
- 18 AAC 34.075 repeal; now addressed in 18 AAC 34.820.
- 18 AAC 34.080 repeal; now addressed in 18 AAC 34.820 and .830.
- 18 AAC 34.085 repeal; now addressed in 18 AAC 34.820.
- 18 AAC 34.090 repeal; now addressed in 18 AAC 34.825.
- 18 AAC 34.095 repeal; now addressed in 18 AAC 34.820.
- 18 AAC 34.100 repeal; now addressed in 18 AAC 34.803 and .805.
- 18 AAC 34.105 repeal; now addressed in 18 AAC 34.830.

- 18 AAC 34.110 clarify; make conforming edits.
- 18 AAC 34.112(b) move old 18 AAC 34.110(b) requirements into this subsection.
- 18 AAC 34.115 define "adulterated seafood product".
- 18 AAC 34.122 clarify; change standard for crab PSP.
- 18 AAC 34.125 amend sampling requirements for ready-to-eat refrigerated or frozen products; repeal requirement to submit samples to a qualified lab for shelf stable products; amend language regarding qualified vs. commercial laboratory.
- 18 AAC 34.205(b) update citations to include recall plan requirements (18 AAC 34.047) and new Article 8.
- 18 AAC 34.300 - 18 AAC 34.320 repeal this article as redundant to FDA Guidance.
- 18 AAC 34.400 update citation for thermally processed seafood products to refer to new Article 8; add requirements for acidified seafood products; repeal subsections that are redundant due to changes made in 18 AAC 34.400(a).
- 18 AAC 34.525 repeal cleaning and sanitizing section.
- 18 AAC 34.600 amend applicability of this article.
- 18 AAC 34.602 add requirement moved from 18 AAC 34.080(f).
- 18 AAC 34.700(c) repeal this subsection because it is redundant to (a)(1).
- 18 AAC 34.740 repeal cleaning and sanitizing section.
- 18 AAC 34.803 – 18 AAC 34.855 add sections covering Good Manufacturing Practice.
- 18 AAC 34.900(d) remove fee for seafood facility recognition program.
- 18 AAC 34.900(e)(1)(B) change in wording for types of violations.
- 18 AAC 34.920(a)(13)-(14) add requirement for availability and retention of records relating to new recall and training provisions at 18 AAC 34.047 and .803.
- 18 AAC 34.930(b) add language to allow inspector to collect samples for analytical testing.
- 18 AAC 34.930(f) repeal requirement for department to leave copy of inspection report at facility.
- 18 AAC 34.930(i) remove Kodiak and Valdez from list of designated ports for onsite inspections since those offices have closed.
- 18 AAC 34.935 repeal regulations regarding authorization and use of inspection seals.
- 18 AAC 34.940(c) amend language to clarify department discretion; add additional types of documents that a processor may be required to provide to the department; make conforming edits.
- 18 AAC 34.940(d) change in wording due to discontinued use of inspection scores. New language addressing timing for corrections of violations.
- 18 AAC 34.960 repeal the seafood processing facility recognition program.
- 18 AAC 34.990 amend definitions of "adequate", "facility", "food", "hazard", "processor", "qualified laboratory", "ready-to-eat", "sanitize", "seafood", and "water activity." Add a new definition for "food-contact surface."

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Lorinda Lhotka, Department of Environmental Conservation, 610 University Avenue, Fairbanks, AK 99709. Additionally, the Department of Environmental Conservation will accept comments by facsimile at (907) 451-5120 and by electronic mail at lorinda.lhotka@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the

system and using the comment link. The comments must be received not later than 5:00pm on February 1, 2019.

You may submit written questions relevant to the proposed action to Lorinda Lhotka, Department of Environmental Conservation, 610 University Avenue, Fairbanks, AK 99709 or by email to lorinda.lhotka@alaska.gov. The questions must be received at least 10 days before the end of the public comment period. The Department of Environmental Conservation will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and <https://dec.alaska.gov/eh/fss.aspx>. The Department of Environmental Conservation may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Theresa Zimmerman by electronic mail at theresa.zimmerman@alaska.gov or by phone at (907) 465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 not later than January 18, 2019 to ensure that any necessary accommodations can be provided

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System or by contacting Lorinda Lhotka at lorinda.lhotka@alaska.gov and (907) 451-2119.

After the public comment period ends, the Department of Environmental Conservation will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

Statutory authority: AS 17.20.005; AS 17.20.010; AS 17.20.030; AS 17.20.044; AS 17.20.050; AS 17.20.180; AS 44.46.020; AS 44.46.025

Statutes being implemented, interpreted, or made specific: AS 17.20.005; AS 17.20.010; AS 17.20.020; AS 17.20.030; AS 17.20.040; AS 17.20.044; AS 17.20.045; AS 17.20.050; AS 17.20.065; AS 17.20.066; AS 17.20.070; AS 17.20.072; AS 17.20.172; AS 17.20.180; AS 17.20.200; AS 17.20.230; AS 17.20.240; AS 17.20.250; AS 17.20.260; AS 17.20.270; AS 17.20.280; AS 17.20.290; AS 17.20.305; AS 17.20.340; AS 17.20.370; AS 44.46.020; AS 44.46.025

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

The Department of Environmental Conservation keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Department of Environmental Conservation notices of proposed regulation changes. To be added to or removed from the list, send a request to the Gary Mendivil, Department of Environmental Conservation at gary.mendivil@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: Nov. 21st 2018



Larry Hartig, Commissioner

SEAFOOD PROCESSING AND INSPECTION:
NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

The Department of Environmental Conservation proposes to adopt regulation changes in Title 18, Chapter 34 of the Alaska Administrative Code, dealing with seafood processing and inspection, including the following:

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- 18 AAC 34.940(c) amend language to clarify department discretion; add additional types of documents that a processor may be required to provide to the department; make conforming edits.
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- 18 AAC 34.990 amend definitions of “adequate”, “facility”, “food”, “hazard”, “processor”, “qualified laboratory”, “ready-to-eat”, “sanitize”, “seafood”, and “water activity.” Add a new definition for “food-contact surface.”

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Lorinda Lhotka, Department of Environmental Conservation, 610 University Avenue, Fairbanks, AK 99709. Additionally, the Department of Environmental Conservation will accept comments by facsimile at (907) 451-5120 and by electronic mail at lorinda.lhotka@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received not later than 5:00pm on February 1, 2019.

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Alaska Online Public Notice System and <https://dec.alaska.gov/eh/fss.aspx>. The Department of Environmental Conservation may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

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A copy of the proposed regulation changes is available on the Alaska Online Public Notice System or by contacting Lorinda Lhotka at lorinda.lhotka@alaska.gov and (907) 451-2119.

After the public comment period ends, the Department of Environmental Conservation will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

Statutory authority: AS 17.20.005; AS 17.20.010; AS 17.20.030; AS 17.20.044; AS 17.20.050; AS 17.20.180; AS 44.46.020; AS 44.46.025

Statutes being implemented, interpreted, or made specific: AS 17.20.005; AS 17.20.010; AS 17.20.020; AS 17.20.030; AS 17.20.040; AS 17.20.044; AS 17.20.045; AS 17.20.050; AS 17.20.065; AS 17.20.066; AS 17.20.070; AS 17.20.072; AS 17.20.172; AS 17.20.180; AS 17.20.200; AS 17.20.230; AS 17.20.240; AS 17.20.250; AS 17.20.260; AS 17.20.270; AS 17.20.280; AS 17.20.290; AS 17.20.305; AS 17.20.340; AS 17.20.370; AS 44.46.020; AS 44.46.025

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

The Department of Environmental Conservation keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Department of Environmental Conservation notices of proposed regulation changes. To be added to or removed from the list, send a request to the Gary Mendivil, Department of Environmental Conservation at gary.mendivil@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: Nov. 21st 2018


Larry Hartig, Commissioner

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Environmental Conservation
2. General subject of regulation: Seafood Processing and Inspection
3. Citation of regulation (may be grouped): 18 AAC 34
4. Department of Law file number, if any: JU2012200958

5. Reason for the proposed action:
 - (x) Compliance with federal law or action (identify): Proposed amendments will bring DEC's seafood regulatory program into conformance with the FDA's Manufactured Food Regulatory Program Standards, as required by FDA contract and grant stipulations to work under Alaska's statutory authority.
 - () Compliance with new or changed state statute
 - () Compliance with federal or state court decision (identify): _____
 - () Development of program standards
 - (x) Other (identify): Technical corrections, clarifications, minor changes, and updates.

6. Appropriation/Allocation: Environmental Health / Environmental Health

7. Estimated annual cost to comply with the proposed action to:

A private person: The majority of proposed revisions update citations to federal rules and clarify current requirements. There is a potential for additional costs to owners and operators of seafood processing facilities and direct market vessels. This cost would be for developing written procedures, recording information, and making records accessible to the Department. This would affect a seafood processor that does *not* currently have: a written recall plan, a record of customers (a recall plan requirement), a record of employee training, and or a written sanitation plan (18 AAC 34.525 and 18 AAC 34.740 HACCP plan exemptions are being repealed). These additional costs would vary across processors.

There is a potential savings that would accrue to seafood processors who produce ready-to-eat (RTE) products and are currently required to show compliance using a process not approved by the Department. Revision to 18 AAC 34.125(d) would impact processors of refrigerated and frozen RTE products, allowing for a potential reduction in shipping costs for sending product samples, as all samples would be sent together once per calendar year, rather than monthly. The repeal of 18 AAC 34.125(e) would affect processors of shelf-stable products resulting in an estimated savings of \$366 per production lot of new product and \$1,464 per year, per product, for products that have had six consecutive

acceptable lot samples, as well as a potential elimination of shipping costs. The actual savings will vary based on the product testing fees charged by the qualified laboratory used for testing and number of samples tested.

Another state agency: None.

A municipality: No identified compliance costs. If a seafood processing facility is owned or operated by a municipality, local, or tribal government this entity could be affected in the manner described above to private persons.

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 2019	Subsequent Years
Operating Cost	\$0	\$0
Capital Cost	\$0	\$0
1002 Federal receipts	\$0	\$0
1003 General fund match	\$0	\$0
1004 General fund	\$0	\$0
1005 General fund/program	\$0	\$0
Other (identify)	\$0	\$0

9. The name of the contact person for the regulation:

Name: Lorinda Lhotka

Title: Environmental Program Manager I

Address: 610 University Avenue, Fairbanks, AK 99705

Telephone: (907) 451-2119

E-mail address: lorinda.lhotka@alaska.gov

10. The origin of the proposed action:

Staff of state agency
 Federal government
 General public
 Petition for regulation change⁷
 Other (identify): _____

- 11.

Date: 11/21/2018 Prepared by: Lorinda Lhotka
[signature]

Name/Title (printed): Lorinda Lhotka, Environmental Program Manager I

Telephone: (907) 451-2119

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Lorinda Lhotka, Environmental Program Manager, of the Department of Environmental Conservation, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 18 AAC 34 regarding seafood processing and inspection has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1).

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 4/24/19



Lorinda Lhotka, Environmental Program Manager

Subscribed and sworn to before me at 555 Cordova Street, Anchorage, AK on
4/24/19

(date)



Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Lorinda Lhotka, Environmental Program Manager, of the Department of Environmental Conservation, being sworn, state the following:

In compliance with AS 44.62.215, the Department of Environmental Conservation has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Environmental Conservation regulation on seafood processing and inspection.

Date: 4/24/19

Lorinda Lhotka
Lorinda Lhotka, Environmental Program Manager

Subscribed and sworn to before me at 555 Cordova Street, Anchorage, AK

4/24/19

(date)

Li AG
Notary Public in and for the State of Alaska



ANCHORAGE DAILY NEWS

AFFIDAVIT OF

Account #: 301992 Order #

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Joleesa Stepetin
being first duly sworn on oath
deposes and says that she is
a representative of the
Anchorage Daily News, a
daily newspaper. That said
newspaper has been approved
by the Third Judicial Court,
Anchorage, Alaska, and it now
and has been published in the
English language continually as a
daily newspaper in Anchorage,
Alaska, and it is now and during
all said time was printed in an
office maintained at the aforesaid
place of publication of said
newspaper. That the annexed is
a copy of an advertisement as it
was published in regular issues
(and not in supplemental form)
of said newspaper on

November 26, 2018

and that such newspaper was
regularly distributed to its
subscribers during all of said
period. That the full amount of
the fee charged for the foregoing
publication is not in excess of
the rate charged private individuals.

Signed Joleesa Stepetin

Subscribed and sworn to before

me this 12 day of December
20 18

Britney Thompson

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska

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Britney E. Thompson
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State of Alaska
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