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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 *hale*

DATE: May 26, 2020

RE: Filed Permanent Regulations: Department of Environmental Conservation
Department of Environmental Conservation regulations re: update to Alaska Food Code
(18 AAC 31)

Attorney General File:	2019200450
Regulation Filed:	5/26/2020
Effective Date:	6/25/2020
Print:	234, July 2020

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached 47 pages of regulations, dealing with the Alaska Food Code, 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.

Although no comments were received, 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: May 6, 2020



Jason W. Brune, Commissioner

April Simpson for
↑

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

May 26th, 2020, at 10:45a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

for April Simpson
Kevin Meyer

Lieutenant Governor

Effective: June 25, 2020.

Register: 234, July 2020.

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.**



A handwritten signature in blue ink, appearing to read "K. Meyer", is written over a horizontal dotted line.

**KEVIN MEYER
LIEUTENANT GOVERNOR**

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18 AAC 31.010(c) is amended to read:

(c) The requirements of this chapter do not apply to those portions of a food establishment subject to 18 AAC 32 (milk, milk products, and reindeer slaughtering and processing [MILK, MILK PRODUCTS, AND REINDEER SLAUGHTERING AND PROCESSING]) or 18 AAC 34 (seafood processing and inspection [SEAFOOD PROCESSING AND INSPECTION]).

18 AAC 31.010(e) is amended to read:

(e) Table A of this subsection illustrates how the categories and types of operation are classified in this chapter.

TABLE A		
FOOD ESTABLISHMENTS		
Categories of Food Establishments		
FOOD SERVICE	MARKET	FOOD PROCESSING ESTABLISHMENT
Types of Operations Within Each Category		
restaurant delicatessen takeout or drive-in	convenience store grocery grocery portion of a	<u>Any establishment that processes food for wholesale distribution by</u>

caterer	supermarket	- <u>acidifying</u>
limited food service	retail meat market	- <u>curing</u>
temporary food service	retail seafood market	- <u>dehydrating</u>
mobile food unit	retail bakery	- <u>thermal processing of</u> [,]
kiosks	food bank	low-acid food
schools	mobile <u>retail</u> [RETAILER]	- <u>reduced-oxygen packaging</u>
institution	vendor	- <u>baking</u> [BAKERY]
bar or tavern	[WAREHOUSE]	- <u>bottling beverages</u>
club or organization	food salvager	[BOTTLED BEVERAGE]
labor camp	<u>food hub</u>	- <u>manufacturing</u> ice
other similar operations	<u>retail marijuana store</u>	- <u>making</u> jam, jelly, syrup,
	other similar operations	<u>or other</u> confections
		- <u>warehousing</u>
		- <u>coffee roasting</u>
		- <u>juicing</u>
		- <u>freezing</u>
		- <u>milling</u>
		- <u>fermenting</u>
		- <u>manufacturing marijuana</u>
		<u>products</u>
		- <u>manufacturing marijuana</u>

		<u>concentrates</u> - other similar operations
<p><u>NOTE: A food establishment may fall under more than one category and may be subject to regulations in several areas of this chapter. For example, a restaurant that also produces a bottled beverage sold in wholesale markets would fall under the regulations for a food service as well as a food processing establishment for the different activities.</u></p>		

(Eff. 5/18/97, Register 142; am 12/19/99, Register 152; am 6/28/2001, Register 158; am 6/25/2020, Register 234)

Authority: AS 17.20.005 AS 17.20.072 AS 17.20.290
AS 17.20.010 AS 17.20.180 AS 44.46.020
AS 17.20.020

18 AAC 31.011 is repealed and readopted to read:

18 AAC 31.011. Requirements adopted by reference. (a) The following federal requirements are adopted by reference:

(1) 21 U.S.C. 321(qq) (definition of "major food allergen"), revised as of December 13, 2016;

(2) 21 U.S.C. 343(w) (misbranded food; major food allergen labeling requirements), revised as of March 23, 2010;

(3) 21 U.S.C. 348(a) (unsafe food additives; exception for conformity with exemption or regulation), revised as of August 14, 2018;

- (4) 21 U.S.C. 379e(a) (unsafe color additives), revised as of August 13, 1993;
- (5) 21 U.S.C. 381(e)(1) and (2) (exports), revised as of October 24, 2018;
- (6) 7 C.F.R. Part 56 (voluntary grading of shell eggs), revised as of January 1, 2019;
- (7) the definition of "meat," as set out in 9 C.F.R. 301.2 (definitions), revised as of January 1, 2019;
- (8) 9 C.F.R. Part 317 (labeling, marking devices, and containers), revised as of January 1, 2019;
- (9) 9 C.F.R. Part 319 (definitions and standards of identity or composition), revised as of January 1, 2019;
- (10) the definition of "poultry," as set out in 9 C.F.R. 381.1 (definitions), revised as of January 1, 2019;
- (11) 9 C.F.R. 381.125(b) (special handling label requirements: safe handling instructions), revised as of January 1, 2019;
- (12) 9 C.F.R. 424.21 (preparation and processing operations: use of food ingredients and sources of radiation), revised as of January 1, 2019;
- (13) 9 C.F.R. Part 590 (inspection of eggs and egg products), revised as of January 1, 2019;
- (14) 21 C.F.R. 73.1 - 73.615 (listing of color additives exempt from certification; foods), revised as of April 1, 2019;
- (15) 21 C.F.R. 74.101 - 74.706 (listing of color additives subject to certification; foods), revised as of April 1, 2019;

(16) 21 C.F.R. Part 101 (food labeling), revised as of April 1, 2019, except 21 C.F.R. 101.69 and 101.108 are not adopted by reference;

(17) 21 C.F.R. Part 102 (common or usual name for nonstandardized foods), revised as of April 1, 2019, except 21 C.F.R. 102.19 is not adopted by reference;

(18) 21 C.F.R. 108.25 (emergency permit control; acidified foods), revised as of April 1, 2019;

(19) 21 C.F.R. 108.35 (emergency permit control; thermal processing of low-acid foods packaged in hermetically sealed containers), revised as of April 1, 2019;

(20) 21 C.F.R. Part 113 (thermally processed low-acid foods packaged in hermetically sealed containers), revised as of April 1, 2019;

(21) 21 C.F.R. Part 114 (acidified foods), revised as of April 1, 2019;

(22) 21 C.F.R. Part 117 (current good manufacturing practice, hazard analysis, and risk-based preventive controls for human food), revised as of April 1, 2019, except 21 C.F.R. 117.201 - 117.206, 21 C.F.R. 117.251 - 117.287, and the definition of "facility" are not adopted by reference;

(23) 21 C.F.R. Part 120 (hazard analysis and critical control point (HACCP) systems for juice), revised as of April 1, 2019;

(24) 21 C.F.R. Part 123 (fish and fishery products), revised as of April 1, 2019, as amended from time to time;

(25) 21 C.F.R. Part 129 (processing and bottling of bottled drinking water), revised as of April 1, 2019;

(26) 21 C.F.R. Parts 130 - 169 (food standards), revised as of April 1, 2019,

except 21 C.F.R. 130.5 and 21 C.F.R. 130.17 are not adopted by reference;

(27) 21 C.F.R. Part 170 (food additives), revised as of April 1, 2019, 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;

(28) 21 C.F.R. Part 172 (food additives permitted for direct addition to food for human consumption), revised as of April 1, 2019;

(29) 21 C.F.R. Part 173 (secondary direct food additives permitted in food for human consumption), revised as of April 1, 2019;

(30) 21 C.F.R. Part 175 (indirect food additives: adhesives and components of coatings), revised as of April 1, 2019;

(31) 21 C.F.R. Part 176 (indirect food additives: substances for use only as components of paper and paperboard), revised as of April 1, 2019;

(32) 21 C.F.R. Part 177 (indirect food additives: polymers), revised as of April 1, 2019;

(33) 21 C.F.R. Part 178 (indirect food additives: adjuvants, production aids, and sanitizers), revised as of April 1, 2019;

(34) 21 C.F.R. Part 179 (irradiation in the production, processing and handling of food), revised as of April 1, 2019;

(35) 21 C.F.R. Part 180 (food additives permitted in food or in contact with food on an interim basis pending additional study), revised as of April 1, 2019;

(36) 21 C.F.R. 181.22 - 181.34 (prior-sanctioned food ingredients; specific prior-sanctioned food ingredients), revised as of April 1, 2019;

(37) 21 C.F.R. Part 182 (substances generally recognized as safe), revised as of

April 1, 2019;

(38) 21 C.F.R. Part 184 (direct food substances affirmed as generally recognized as safe), revised as of April 1, 2019;

(39) 21 C.F.R. Part 186 (indirect food substances affirmed as generally recognized as safe), revised as of April 1, 2019;

(40) 21 C.F.R. Part 189 (substances prohibited from use in human food), revised as of April 1, 2019;

(41) 40 C.F.R. 180.1 and 180.101 - 180.708 (tolerances and exemptions for pesticide chemical residues in food; specific tolerances), revised as of November 1, 2019;

(42) 40 C.F.R. 180.940 (tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions)), revised as of July 1, 2019.

(b) The following publications are adopted by reference:

(1) *Hazard Analysis and Critical Control Point Principles and Application Guidelines*, revised as of August 14, 1997, National Advisory Committee on Microbiological Criteria for Foods;

(2) *Fish and Fisheries Products Hazards and Controls Guidance*, Fourth Edition, revised as of March 2020, Table #3-2 (potential vertebrate species-related hazards) and Table #3-3 (potential invertebrate species-related hazards), United States Food and Drug Administration;

(3) *International Mechanical Code (I.M.C.)*, 2018 Edition, Chapter 5, Sections 506 - 509, International Code Council, Inc.;

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(4) *NSF/ANSI International Standard 25 - 2017, Vending Machines for Food and Beverages*, National Sanitation Foundation (NSF);

(5) *The Standard for the Sanitary Design and Construction of Food and Beverage Vending Machines*, revised as of October 2003, National Automatic Merchandising Association (NAMA);

(6) *Standard Methods for the Examination of Water and Wastewater*, 20th Edition, January 1, 1999, American Public Health Association, American Water Works Association, & Water Environment Federation. (Eff. 6/28/2001, Register 158; am 12/28/2006, Register 180; am 6/25/2020, Register 234)

Authority:	AS 17.20.005	AS 17.20.040	AS 17.20.290
	AS 17.20.010	AS 17.20.072	AS 44.46.020
	AS 17.20.020	AS 17.20.180	

Editor's note: The documents adopted by reference in **18 AAC 31.011(b)** [18 AAC 31.011] may be reviewed at the department's Anchorage, Fairbanks, and Juneau offices. The *Hazard Analysis and Critical Control Point Principles and Application Guidelines* are available from the **U.S. Food and Drug Administration** [NATIONAL ADVISORY COMMITTEE ON MICROBIOLOGICAL CRITERIA FOR FOODS] at that organization's website: **<https://www.fda.gov/food/hazard-analysis-critical-control-point-haccp/haccp-principles-application-guidelines>** [HTTP://WWW.CFSAN.FDA.GOV/~COMM/NACMCFP.HTML]. *Vending Machines for Food and Beverages (NSF/ANSI 25)* may be obtained from NSF International, **P.O. Box 130140**, 789

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North Dixboro Road, Ann Arbor, MI 48105, telephone (800) 673-6275 [673-8010] or at that organization's website: <http://www.nsf.org> [WWW.NSF.ORG]. The [THE] *Standard for the Sanitary Design and Construction of Food and Beverage Vending Machines* may be obtained from the National Automatic Merchandising Association, 20 N. Wacker Drive, Suite 3500, Chicago, IL 60606-3102, telephone (312) 346-0370 or at that organization's website:

<http://www.namanow.org>. [WWW.VENDING.ORG. THE SANITARIAN & HEALTH OFFICIAL GUIDE, PORTABLE RESTROOM REQUIREMENTS AT SPECIAL EVENTS & CROWD GATHERINGS, DETERMINATION OF PORTABLE SANITATION REQUIREMENTS AT LARGE PUBLIC EVENTS MAY BE OBTAINED FROM THE CENTER FOR BUSINESS AND INDUSTRIAL STUDIES, UNIVERSITY OF MISSOURI, ONE UNIVERSITY BOULEVARD, ST. LOUIS, MISSOURI 63121-4400, TELEPHONE: (314) 516-6108. THE SEAFOOD LIST, FDA'S GUIDE TO ACCEPTABLE MARKET NAMES FOR SEAFOOD SOLD IN INTERSTATE COMMERCE 1993 IS AVAILABLE FROM THE DEPARTMENT.] *Standard Methods for the Examination of Water and Wastewater* may be ordered from the American Public Health Association, Publication Services [SALES, DEPARTMENT 5037], 800 I Street, N.W., Washington, DC 20001-3710, telephone (888) 320-2742, [(202) 777-2762] or at that organization's website:

<https://secure.apha.org/iMIS/APHA/Store>. The *International Mechanical Code* may be ordered from the International Code Council, Inc. [CONFERENCE OF BUILDING OFFICIALS (ICBO), 5360 WORKMAN MILL ROAD, WHITTIER, CA 90601-2298], telephone (800) 786-4452, [OR (562) 699-0541] or at that organization's website:

<https://shop.iccsafe.org/>. *Fish and Fisheries Products Hazards and Controls Guidance* may be

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obtained from the Center for Food Safety and Applied Nutrition, [OFFICE OF SEAFOOD,]

United States Food and Drug Administration, [OFFICE OF SEAFOOD, 5100 PAINT BRANCH PARKWAY, COLLEGE PARK, MARYLAND, 20740], telephone **(888) 463-6332** [(301) 436-2300, FACSIMILE (301) 436-2601], or at that organization's website:

<https://www.fda.gov/food/seafood-guidance-documents-regulatory-information/fish-and-fishery-products-hazards-and-controls-guidance-4th-edition>

[HTTP://WWW.CFSAN.FDA.GOV/~COMM/HACCP4.HTML].

18 AAC 31.020(f)(2)(C)(ii) is amended to read:

(ii) reduced oxygen packages under **18 AAC 31.265(c)** [18 AAC 31.760(c)];

(Eff. 5/18/97, Register 142; am 12/19/99, Register 152; am 12/23/99, Register 152; am 12/31/2000, Register 156; am 6/28/2001, Register 158; am 12/28/2006, Register 180; am 6 / 25 / 2020, Register 234)

Authority:	AS 17.20.005	AS 17.20.072	AS 44.46.020
	<u>AS 17.20.010</u>	AS 17.20.180	AS 44.46.025
	AS 17.20.070	AS 17.20.200	

18 AAC 31.030(c)(1) is amended to read:

(1) if required by **18 AAC 31.260** [18 AAC 31.710], must include a hazard analysis critical control point (HACCP) plan;

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18 AAC 31.030(c)(2) is amended to read:

(2) as required by 18 AAC 31.720, for thermally processed low-acid food, must include a copy of the canning form submitted to FDA under 21 C.F.R. 108.35, adopted by reference in 18 AAC 31.011, and the scheduled process from a recognized processing authority [, SUCH AS THE FOOD PRODUCTS ASSOCIATION,] or from a food science department of an accredited university, as required under 21 C.F.R. 113.83, adopted by reference in 18 AAC 31.011;

18 AAC 31.030(c) is amended by adding a new paragraph to read:

(9) as required by 18 AAC 31.720, for acidified food, must include a copy of the scheduled process submitted to FDA under 21 C.F.R. 108.25, adopted by reference in 18 AAC 31.011, from a qualified person who has expert knowledge acquired through appropriate training and experience in the acidification and processing of acidified foods as required under 21 C.F.R. 114.83, adopted by reference in 18 AAC 31.011.

(Eff. 5/18/97, Register 142; am 12/19/99, Register 152; am 6/28/2001, Register 158; am 6/23/2006, Register 178; am 12/28/2006, Register 180; am 6/25/2020, Register 234)

Authority: AS 17.20.005 AS 17.20.180 AS 44.46.020
AS 17.20.072

18 AAC 31.050(a)(1)(G) is amended to read:

(G) conducts a process listed in 18 AAC 31.260(a) [ALSO ACIDIFIES, CURES, DEHYDRATES, OR THERMAL PROCESSES LOW ACID FOOD, OR

THAT REDUCED OXYGEN PACKAGES UNDER 18 AAC 31.760(c)]: \$125 in addition to the applicable fee required under (A) - (F) ([A]) of this paragraph;

18 AAC 31.050(a)(2)(A) is amended to read:

(A) conducts baking [IS A BAKERY]: \$310;

18 AAC 31.050(a)(2)(F) is amended to read:

(F) conducts [IS A] thermal processing [PROCESSOR] of low-acid food: \$400;

18 AAC 31.050(a)(2) is amended by adding a new subparagraph to read:

(H) conducts warehousing: \$250;

18 AAC 31.050(a)(3) is amended to read:

(3) for a market that

(A) is a convenience store: \$125;

(B) is a grocery: \$310;

(C) is a grocery portion of a supermarket: \$310;

(D) is a retail bakery: \$310;

(E) is a retail meat market: \$310;

(F) is a retail seafood market: \$310;

(G) [IS A WAREHOUSE: \$250;

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(H)] is a food bank or food salvager: \$250;

(H) [(I)] is a mobile retail vendor: \$190;

(I) conducts a process listed in 18 AAC 31.260(a) [(J) ALSO

ACIDIFIES, CURES, DEHYDRATES, OR THERMAL PROCESSES LOW ACID
FOOD, OR THAT REDUCED OXYGEN PACKAGES UNDER 18 AAC 31.760(c)]:

\$125 in addition to the applicable fee required under (A) - (H) [(A) - (I)] of this
paragraph;

(Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am 12/23/99, Register 152; am
12/31/2000, Register 156; am 6/28/2001, Register 158; am 7/11/2002, Register 163; am
12/1/2004, Register 172; am 12/28/2006, Register 180; am 11/16/2016, Register 220; am
6/25/2020, Register 234)

Authority: AS 17.20.005 AS 44.46.020 AS 44.46.025
AS 17.20.180

18 AAC 31.060(b)(3) is amended to read:

(3) with the name of the food source for each major food allergen in accordance
with [CONTAINED IN THE FOOD UNLESS THE FOOD SOURCE IS ALREADY PART OF
THE COMMON OR USUAL NAME OF THE RESPECTIVE INGREDIENT; FOR
PURPOSES OF THIS PARAGRAPH, "MAJOR FOOD ALLERGEN"

(A) MEANS MILK, EGG, FISH, TREE NUTS, WHEAT, PEANUTS,
OR SOYBEANS, OR A FOOD INGREDIENT THAT CONTAINS PROTEIN
DERIVED FROM MILK, EGG, FISH, TREE NUTS, WHEAT, PEANUTS, OR

SOYBEANS; AND

(B) DOES NOT INCLUDE

(i) A HIGHLY REFINED OIL DERIVED FROM A FOOD
SPECIFIED IN (A) OF THIS PARAGRAPH AND ANY INGREDIENT
DERIVED FROM THAT HIGHLY REFINED OIL; OR

(ii) AN INGREDIENT THAT IS EXEMPT UNDER THE
PETITION OR NOTIFICATION PROCESS SPECIFIED IN] 21 U.S.C. 343(w),
adopted by reference in 18 AAC 31.011;

18 AAC 31.060(b)(6) is amended to read:

(6) with information required in **18 AAC 31.265 and** 18 AAC 31.700 - 18 AAC
31.770.

(Eff. 5/18/97, Register 142; am 12/19/99, Register 152; am 6/28/2001, Register 158; am
12/28/2006, Register 180; am 6 / 25 / 2020, Register 234)

Authority:	AS 17.20.005	AS 17.20.049	AS 17.20.290
	AS 17.20.010	AS 17.20.072	AS 17.20.300
	AS 17.20.040	AS 17.20.180	AS 44.46.020
	AS 17.20.044		

18 AAC 31.200 is amended by adding a new subsection to read:

(e) The operator of a food establishment shall ensure that the date when the last
shellstock from the container is sold or served is recorded on the tag or label. (Eff. 5/18/97,

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Register 142; am 5/23/98, Register 146; readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am 9/6/2003, Register 167; am 12/28/2006, Register 180; am 12/3/2010, Register 196 [169]; am 6 / 25 / 2020, Register 234)

Authority:	AS 17.20.005	AS 17.20.040	AS 17.20.346
	AS 17.20.010	AS 17.20.072	[AS 17.20.347]
	AS 17.20.020	AS 17.20.180	AS 44.46.020
	AS 17.20.030	AS 17.20.345	

18 AAC 31.210(6) is amended to read:

(6) reduced-oxygen packaged food, unless

(A) the food is obtained from a food processing establishment permitted under this chapter or 18 AAC 34;

(B) the food meets the requirements of 18 AAC 31.265; [AND IS PACKAGED AS REQUIRED BY 18 AAC 31.760] or

(C) the food is obtained from a source approved by the USDA or FDA;

(Eff. 5/18/97, Register 142; am 12/19/99, Register 152; am 6/28/2001, Register 158; am 12/28/2006, Register 180; am 6 / 25 / 2020, Register 234)

Authority:	AS 17.20.005	<u>AS 17.20.040</u>	AS 17.20.290
	AS 17.20.010	AS 17.20.072	AS 44.46.020
	AS 17.20.020	AS 17.20.180	

18 AAC 31 is amended by adding new sections to Article 2 to read:

18 AAC 31.260. Hazard analysis critical control point (HACCP) plan. (a) Unless otherwise provided in this section, and except as provided in 18 AAC 31.265(b) or 18 AAC 31.700, the operator of a food establishment shall develop and follow a hazard analysis critical control point (HACCP) plan if the following processes are used:

(1) smoking as a method of food preservation rather than a method of flavor enhancement;

(2) curing;

(3) using food additives or adding ingredients, such as vinegar,

(A) as a method of food preservation rather than a method of flavor enhancement; or

(B) to render a food so that it is not a potentially hazardous food;

(4) packaging a potentially hazardous food using a reduced oxygen packaging method, unless using a method described in 18 AAC 31.265(b);

(5) sprouting seeds or beans; or

(6) using any other process that allows the rapid and progressive growth of infectious or toxigenic microorganisms, or the slower growth of *Clostridium botulinum*.

(b) Before engaging in an activity described in (a) of this section, an operator shall submit to the department for approval a properly prepared HACCP plan that includes

(1) the operator's name, the food establishment address, and contact information;

(2) the food or type of food that is to be controlled under the plan;

(3) a process flow diagram or chart for each specific food or type of food that

identifies

(A) each step in the process;

(B) the hazards and controls for each step in the process flow diagram or chart;

(C) the steps that are critical control points;

(D) the ingredients, materials, and equipment used in the preparation of that food; and

(E) formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved; and

(4) a critical control point summary for each specific food or type of food that clearly identifies

(A) the critical control point being summarized;

(B) the critical limit for each critical control point;

(C) the method and frequency for monitoring and controlling each critical control point and the identification or job title of the designated employee or the person in charge of monitoring and controlling;

(D) the method and frequency for the person in charge to routinely verify that the designated employee is following standard operating procedures and monitoring critical control points;

(E) action to be taken by the designated employee or person in charge if the critical limits for each critical control point are not met; and

(F) records to be maintained by the person in charge to demonstrate that

the HACCP plan is properly operated and managed.

(c) In addition to meeting the requirements of (b) of this section, the operator must also submit a copy of the HACCP plan for department review and comment for a new product or a change in processing procedures if the department finds that a review is necessary to determine compliance with this chapter. (Eff. 6/25/2020, Register 234)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.010 AS 17.20.180

Editor's note: The subject matter addressed in 18 AAC 31.260 was formerly addressed in 18 AAC 31.710. The history for 18 AAC 31.260 does not include the history of the earlier section.

18 AAC 31.265. Reduced oxygen packaging at food services or markets. (a) In addition to meeting the other applicable requirements of this chapter, the operator of a food service or market who packages potentially hazardous food using reduced oxygen packaging methods shall comply with this section.

(b) The operator of a food service or market may reduce oxygen package the following without developing a HACCP plan under 18 AAC 31.260:

- (1) nonpotentially hazardous food;
- (2) food that is received frozen and kept frozen until use, subject to (3) of this subsection; and
- (3) food that is rapidly frozen before or as part of a reduced oxygen packaging

process and stored frozen until reheated or thawed for immediate use; food described in this paragraph and (2) of this subsection must meet the following continuous cooling, freezing, and thawing requirements:

(A) once a food has been cooled to 135° F, the food must be further cooled to 70° F or below within two hours;

(B) once a food has been cooled to 70° F, the food must be further cooled to 41° F or below within four hours;

(C) the food must be frozen completely to below 10° F within 24 hours;

(D) for seafood, the food must be removed from the packaging

(i) before thawing in accordance with 18 AAC 31.230(2)(A); or

(ii) immediately after completion of thawing in accordance with 18 AAC 31.230(2)(B);

(4) food that is always

(A) labeled with the production time and date;

(B) held at 41° F or less during refrigerated storage; and

(C) removed from its package in the food establishment not later than 48 hours after packaging.

(c) Except as provided in (e), (h), and (i) of this section, the operator of a food service or market may reduce oxygen package food in addition to the food described in (b) of this section if the food has characteristics that will present a barrier to the growth of infectious or toxigenic microorganisms, including *Listeria monocytogenes* and *Clostridium botulinum*, and a HACCP plan is developed and followed as required in 18 AAC 31.260. Food subject to this subsection

includes

- (1) food with a water activity that measures below 0.91;
- (2) food with a pH of 4.6 or less;
- (3) food cured onsite using a standard recipe approved by the department with an initial sodium nitrite concentration of 120 ppm and 3.5 percent water phase salt concentration;
- (4) a meat or poultry that is product cured at a food processing plant regulated by the USDA using substances specified in 9 C.F.R. 424.21, adopted by reference in 18 AAC 31.011, and that is received in an intact package; and
- (5) food with a high level of competing organisms, including raw meat, raw poultry, or raw vegetables.

(d) Except as specified in (h) and (i) of this section, and except for seafood subject to 18 AAC 34, if food is reduced oxygen packaged under (c) of this section, the operator of a food service or market shall

(1) discard the food if, later than 30 days after packaging, it is not served or sold for consumption;

(2) limit the refrigerated shelf life of the reduced oxygen packaged food to the earlier of the following:

(A) not more than 30 days from packaging to sale, service, or consumption, except the time the product is maintained frozen;

(B) the original manufacturer's "sell by" or "use by" date; and

(3) attach the following labels:

(A) "Keep refrigerated at 41° F or below and use within 30 days of

purchase, unless frozen."; and

(B) "Sell by month/day/year.", with the date specified being not more than 30 days after packaging.

(e) The following food products may not be reduced oxygen packaged at a food service or market:

(1) uncured meat and poultry cooked at a food service or market unless they meet the requirements of (i) of this section;

(2) ricotta cheese, cottage cheese, cheese spread, and combinations of cheese and other ingredients, such as vegetables or meat;

(3) seafood products that are acidified, dehydrated, smoked, or thermally processed unless the food service or market also has a current permit issued under 18 AAC 34; and

(4) other seafood products unless they meet requirements in (b)(2) or (3) of this section.

(f) In addition to meeting the requirements in (a) - (e) of this section, the operator of a food service or market shall ensure that

(1) all aspects of a reduced oxygen packaging process are conducted in an area completely separated by partition or space from areas used for raw or fully cooked products, except those raw or fully cooked products being reduced oxygen packaged, and that the dedicated reduced oxygen packaging area is not used for any other purpose;

(2) conspicuous signs are posted in the reduced oxygen packaging area that

(A) list products that may be reduced oxygen packaged; and

(B) warn against packaging or reduced oxygen packaging any other product in that area;

(3) only persons who are trained regarding use of the equipment, procedures, and concepts required for safe packaging are allowed to use reduced oxygen packaging equipment;

(4) potentially hazardous food approved for reduced oxygen packaging is refrigerated at a temperature of 41° F or below or frozen at a temperature of 0° F or below, as appropriate, at all times except during short periods of processing, not to exceed 30 minutes;

(5) gases, if used in reduced oxygen packaging, are of food grade; and

(6) reduced oxygen packaging material is appropriate and adequate for the food, associated pathogens, and method of processing, including the type of gas, if any.

(g) In addition to meeting the labeling requirements of this section, the operator of a food service or market shall ensure that reduced oxygen packaging meets the applicable requirements of 18 AAC 31.060.

(h) Except as provided in (e)(2) of this section, the operator of a food service or market may package cheeses using a reduced oxygen packaging method if the operator

(1) limits the cheeses that are reduced oxygen packaged to those that

(A) are commercially processed in a food processing plant with no ingredients added in the food service or market; and

(B) meet the standards of identity as specified in 21 C.F.R. 133.150, 21 C.F.R. 133.169, or 21 C.F.R. 133.187, adopted by reference in 18 AAC 31.011;

(2) has a HACCP plan developed and followed as required in 18 AAC 31.260;

(3) complies with (a), (b), (f), and (g) of this section;

(4) labels the reduced oxygen package on the principal display panel with a "use by" date that does not exceed 30 days or the original manufacturer's "sell by" or "use by" date, whichever occurs first; and

(5) discards the reduced oxygen packaged cheese if it is not sold, served, or consumed 30 days or fewer after its packaging.

(i) The operator of a food establishment who reduced oxygen packages potentially hazardous food using a cook-chill or *sous vide* process shall ensure that

(1) the food is prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer;

(2) the food is cooked to heat all parts of the food to a temperature and time as specified under 18 AAC 31.232;

(3) the food is placed

(A) in a package with an oxygen barrier and sealed before cooking; or

(B) placed in a package with an oxygen barrier and sealed immediately after cooking and before reaching a temperature below 135° F;

(4) the food is cooled to 41° F or below in the sealed package or bag as specified under 18 AAC 31.234(2) and either

(A) once the food is cooled to 41° F, cooled to 34° F or below within 48 hours and held at that temperature until consumed or discarded within 30 days after the date of packaging;

(B) held at 41° F or below for not more than seven days after the date of

packaging, at which time the food must be consumed or discarded; or

(C) held frozen with no shelf life restriction while frozen until consumed or used;

(5) the food is held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily;

(6) if the food is transported off site to a satellite location of the same food establishment, the transport vehicle or container is equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation;

(7) the food is labeled with the product name and date packaged; and

(8) records are

(A) maintained to confirm that cooling and cold-holding refrigeration time and temperature requirements are met as required as part of the HACCP plan;

(B) retained for at least six months; and

(C) available upon request of the department. (Eff. 6 / 25 / 2020,

Register 234)

Authority:	AS 17.20.005	AS 17.20.040	AS 17.20.290
	AS 17.20.010	AS 17.20.072	AS 44.46.020
	AS 17.20.020	AS 17.20.180	

Editor's note: The subject matter addressed in 18 AAC 31.265 was formerly addressed in 18 AAC 31.760. The history for 18 AAC 31.265 does not include the history of the earlier

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section.

18 AAC 31.325(c) is amended to read:

(c) The following food establishments are not required to have a certified food protection manager:

(1) a limited food service;

(2) a food establishment where food preparation is solely limited to one or more of the following activities:

(A) grinding coffee beans;

(B) packaging foods that are not potentially hazardous;

(C) serving bulk food that is displayed for self-service by consumers;

(D) [THE FOLLOWING FOOD PROCESSING OPERATIONS:

(i) JAMS, JELLIES, AND CONFECTIONARY;

(ii) ICE MANUFACTURING;

(iii) BOTTLED BEVERAGES;

(iv) RAW MEAT, POULTRY, SEAFOOD, OR GAME

INTENDED FOR COOKING BY THE CONSUMER AFTER SALE;

(v) OTHER FOOD PROCESSING OPERATIONS REQUIRED

UNDER 18 AAC 31.710 TO DEVELOP AND FOLLOW A HACCP PLAN;

(E)] heating as the only preparation step for a bakery product;

(E) [(F)] providing prepackaged, commercially processed food in its original package;

(F) [(G)] cleaning or sanitizing utensils, if the only food served is prepared off site;

(G) providing [(H) A FOOD ESTABLISHMENT THAT PROVIDES] meals no more than one day in a seven-day period and that is owned and operated by a business or a nonprofit organization whose primary activity is not food service;

(3) a convenience store; **and**

(4) a food processing establishment.

(Eff. 12/28/2006, Register 180; am 6/25/2020, Register 234)

Authority:	AS 17.20.005	AS 17.20.072	AS 17.20.290
	AS 17.20.020	AS 17.20.180	AS 44.46.020

18 AAC 31.700 is repealed and readopted to read:

18 AAC 31.700. Food processing and good manufacturing practices. (a) In addition to complying with other applicable requirements of this chapter, the operator of a food processing establishment shall meet the good manufacturing practice requirements in 21 C.F.R. Part 117, adopted by reference in 18 AAC 31.011.

(b) The operator of a food processing establishment that is not required to have a food safety plan described in 21 C.F.R. 117.126, or that is not subject to 21 C.F.R. Part 113, 21 C.F.R. Part 114, or 21 C.F.R. Part 120, and where processes are used that allow the rapid and progressive growth of infectious or toxigenic microorganisms, or the slower growth of *Clostridium botulinum*, shall develop and follow a HACCP plan as described in 18 AAC 31.260. (Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am 12/28/2006, Register 180;

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am 6 / 25 / 2020, Register 234)

Authority:	AS 17.20.005	AS 17.20.040	AS 17.20.290
	AS 17.20.010	AS 17.20.072	AS 17.20.300
	AS 17.20.020	AS 17.20.180	AS 44.46.020

Editor's note: Effective 12/19/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 31.700, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended **former** 18 AAC 31.700(e). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 31 from AS 03.05 to AS 17.20.

18 AAC 31 is amended by adding new sections to read:

18 AAC 31.702. Food additives. 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 rates, and is generally recognized as safe by FDA under the following requirements, adopted by reference in 18 AAC 31.011:

- (1) 21 C.F.R. 73.1 - 73.615 (listing of color additives exempt from certification; foods);
- (2) 21 C.F.R. 74.101 - 74.706 (listing of color additives subject to certification; foods);
- (3) 21 C.F.R. Part 170 (food additives);

(4) 21 C.F.R. Part 172 (food additives permitted for direct addition to food for human consumption);

(5) 21 C.F.R. Part 173 (secondary direct food additives permitted in food for human consumption);

(6) 21 C.F.R. Part 175 (indirect food additives: adhesives and components of coatings);

(7) 21 C.F.R. Part 176 (indirect food additives: substances for use only as components of paper and paperboard);

(8) 21 C.F.R. Part 177 (indirect food additives: polymers);

(9) 21 C.F.R. Part 178 (indirect food additives: adjuvants, production aids, and sanitizers);

(10) 21 C.F.R. Part 180 (food additives permitted in food or in contact with food on an interim basis pending additional study);

(11) 21 C.F.R. 181.22 - 181.34 (prior-sanctioned food ingredients; specific prior-sanctioned food ingredients);

(12) 21 C.F.R. Part 182 (substances generally recognized as safe);

(13) 21 C.F.R. Part 184 (direct food substances affirmed as generally recognized as safe);

(14) 21 C.F.R. Part 186 (indirect food substances affirmed as generally recognized as safe);

(15) 21 C.F.R. Part 189 (substances prohibited from use in human food). (Eff.

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

18 AAC 31.704. Labeling requirements specific to food processing establishments.

(a) In addition to complying with the labeling requirements listed under 18 AAC 31.060, the operator of a food processing establishment shall ensure that food products are labeled with a lot number or other code.

(b) The operator shall keep lot records that include

(1) the lot number or other code;

(2) the date of production; and

(3) other information that will allow production lots to be identified if the food is recalled, contaminated, or otherwise found to be unfit for human consumption.

(c) The operator shall keep lot records for a period that exceeds the shelf life of the product by six months, or for two years, whichever is less. (Eff. 6 / 25 / 2020, Register 234)

Authority:	AS 17.20.005	AS 17.20.072	AS 17.20.300
	AS 17.20.010	AS 17.20.180	AS 44.46.020
	AS 17.20.040	AS 17.20.290	

18 AAC 31.706. Recall procedures. (a) The operator of a food processing establishment shall develop, maintain, and make available for department review written procedures sufficient to notify consignees and consumers of a product recall and remove the affected product from

commerce as described in 21 C.F.R. 117.139 (recall plan), adopted by reference in 18 AAC 31.011. 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 establishment:

- (1) notify each direct consignee of the recalled food product, including instruction of how to return or dispose of the affected product;
- (2) notify the public about the hazard presented by the recalled food product;
- (3) appropriately dispose of the recalled food product by reprocessing, reworking, diverting to a use that does not present a safety concern, or destroying the food product; 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) The operator of a food processing establishment shall notify the department immediately if the operator knows or has reason to believe that a product released into commerce might be adulterated or misbranded.

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

(d) The operator of a food processing establishment shall maintain records relating to implementation of recall procedures, including notifications to the department, consignees, and

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the public, and product disposition. (Eff. 6/25/2020, Register 234)

Authority: AS 17.20.005 AS 17.20.230 AS 17.20.270
AS 17.20.010 AS 17.20.250 AS 17.20.290
AS 17.20.072 AS 17.20.260 AS 44.46.020
AS 17.20.180

18 AAC 31.710 is repealed:

18 AAC 31.710. Hazard analysis critical control point (HACCP). Repealed. (Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am 6/28/2001, Register 158; repealed 6/25/2020, Register 234)

[EDITOR'S NOTE: EFFECTIVE 12/19/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 31.710, 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 31 FROM AS 03.05 TO AS 17.20.]

18 AAC 31.720 is repealed and readopted to read:

18 AAC 31.720. Thermal processing and acidified food. In addition to complying with other applicable requirements of this chapter, an operator of a food processing establishment who

(1) thermally processes low-acid foods packaged in hermetically sealed

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containers shall meet the requirements of 21 C.F.R. 108.35 and 21 C.F.R. Part 113, adopted by reference in 18 AAC 31.011; or

(2) processes acidified foods shall meet the requirements of 21 C.F.R. 108.25 and 21 C.F.R. Part 114, adopted by reference in 18 AAC 31.011. (Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am 12/28/2006, Register 180; am

6 / 25 / 2020, Register 234)

Authority: AS 17.20.005 AS 17.20.072 AS 17.20.290

AS 17.20.010 AS 17.20.180 AS 44.46.020

AS 17.20.020

Editor's note: Effective 12/19/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 31.720, 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 31 from AS 03.05 to AS 17.20.

[COPIES OF THE FEDERAL REGULATIONS ADOPTED BY REFERENCE IN THIS SECTION MAY BE OBTAINED FROM THE DEPARTMENT'S ANCHORAGE, FAIRBANKS, OR JUNEAU OFFICE.]

18 AAC 31.730 is repealed and readopted to read:

18 AAC 31.730. Glacier ice and ice manufacturing. (a) In addition to complying with other applicable requirements of this chapter, except for a person who exports glacier ice without further processing and a person that manufactures ice primarily for use by a seafood processor

permitted under 18 AAC 34, the operator of a food establishment where glacier ice or ice is manufactured shall comply with the requirements of 21 C.F.R. Part 117, adopted by reference in 18 AAC 31.011.

(b) For glacier ice, the operator of a food establishment shall ensure that

(1) contamination of glacier ice is minimized during harvesting, transportation, and storage; and

(2) before processing, glacier ice is cleaned with potable water to remove surface debris and contaminants.

(c) Glacier or manufactured ice may not exceed the maximum contaminant levels set for drinking water in 18 AAC 80.300. If the operator finds or suspects that a maximum contaminant level has been exceeded, the operator shall submit samples of the glacier or manufactured ice to a certified laboratory for analysis of the contaminants of concern listed in 18 AAC 80.300, at a frequency necessary to assure that the water quality meets the requirements of this subsection. Samples submitted must produce a minimum of 100 ml of water when melted. (Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am 12/28/2006, Register 180; am

6 / 25 / 2020, Register 234)

Authority:	AS 17.20.005	AS 17.20.072	AS 17.20.290
	AS 17.20.010	AS 17.20.180	AS 44.46.020
	AS 17.20.020		

Editor's note: Effective 12/19/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 31.730, to affirm the validity of that section following statutory

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amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 31.730(c) (formerly (e)) [18 AAC 31.730(e)]. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 31 from AS 03.05 to AS 17.20.

18 AAC 31.740 is repealed and readopted to read:

18 AAC 31.740. Bottled drinking water. (a) In addition to complying with other applicable requirements of this chapter, an operator of a food processing establishment who bottles drinking water shall comply with this section and meet the food standard, quality, and labeling requirements in 21 C.F.R. 165.110 and the requirements for processing and bottling of bottled drinking water in 21 C.F.R. Part 129, both adopted by reference in 18 AAC 31.011.

(b) Subject to (c) of this section, quality testing of product water must use the methods described in 21 C.F.R. 165.110(b) or an alternate method that has been approved by the department in writing.

(c) The operator of a food processing establishment is exempt from quality testing of product water if the operator

(1) is also the operator of the public water system used as the water source; and

(2) has a copy of one of the following on file at the food processing

establishment:

(A) a valid interim approval to operate issued under 18 AAC 80.210(e);

or

(B) a valid final approval to operate issued under 18 AAC 80.210(f).

(d) Each analysis described in (b) of this section shall be conducted by a certified

laboratory.

(e) If a result of an analysis under 21 C.F.R. 129.80(g)(1) indicates the presence of coliform bacteria, the operator shall detain each affected product lot pending follow-up testing for *Escherichia coli* (*E. coli*).

(f) The sample for follow up testing required under (e) of this section must consist of a unit package from the same lot as the initial sample, or if sampling from the same lot as the original sample is not possible, from the next available lot.

(g) Each product lot detained under (e) of this section may only be released if the results of the follow-up testing confirm the absence of *E. coli* and meet the standards of 21 C.F.R. 165.110(b)(2).

(h) If the presence of *E. coli* is verified, the product is adulterated and the operator shall prevent the lot from being distributed.

(i) If the presence of coliform bacteria is verified, the operator shall review the transportation, storage, and bottling procedures to find the source of contamination and immediately correct any deficiencies found.

(j) Every three months, a bacteriological swab or rinse count shall be made from at least four containers and closures selected just before filling and sealing. Each analysis shall be conducted by a qualified or certified laboratory.

(k) If a result of an analysis under (j) of this section or 21 C.F.R. 129.80(f) indicates the presence of coliform bacteria, the operator shall review the transportation, storage, and bottling procedures to find the source of contamination and immediately correct any deficiencies found.

(l) Bottled water that is bottled in this state and that is labeled as

(1) "glacier water," "pure glacier water," or words of similar meaning must be

(A) the runoff directly from the natural melting of a glacier;

(B) water obtained from the melting of glacier ice at a food processing establishment permitted under this chapter; or

(C) water from a stream that flows directly from a glacier and that has not been diluted or influenced by a non-glacial stream; and

(2) "glacier-blend," "glacially influenced," or words of similar meaning must be water taken from a

(A) glacial stream that is influenced by a mapped tributary whose headwaters are not from a glacier; or

(B) lake that is fed by a glacial stream.

(m) For purposes of (l) of this section, a mapped tributary is a surface water channel drainage in the state that has been mapped by the United States Department of Interior, United States Geological Survey (USGS).

(n) Bottled water that is bottled in this state and labeled as "glacier water," "pure glacier water," "glacier-blend," "glacially influenced," or words of similar meaning may

(1) be collected and transported by pipes, tunnels, trucks, or similar devices;

(2) not be altered at the food processing establishment by the addition or deletion of minerals, or by blending the water with water from another source, except that the water may be filtered or otherwise treated; and

(3) be drawn from a catchment that is connected to the stream or lake that is the source of the water.

(o) A food processing establishment shall maintain and make available for department review the following documents:

(1) results of the testing required by (j) of this section or 21 C.F.R. 129.80(f); those results must include

(A) the date the samples were collected;

(B) the date the samples were analyzed and

(i) for a qualified laboratory, the name of each individual who analyzed the samples; and

(ii) for a certified laboratory, the name of the laboratory;

(C) the analytical results; and

(D) any actions taken under (k) of this section; and

(2) results of the testing required by 21 C.F.R. 129.80(g); those results must include

(A) the date the samples were collected and the lot numbers;

(B) the date the samples were analyzed, the type of analyses conducted, and the name and address of the laboratory;

(C) the analytical results; and

(D) any actions taken under (e) and (i) of this section.

(p) Records that are required under (o) of this section may be kept at

(1) the food processing establishment; or

(2) a location other than the food processing establishment if the records can be produced for the department not later than 24 hours after a department request. (Eff. 5/18/97,

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Register 142; am 12/19/99, Register 152; am 6/28/2001, Register 158; am 12/28/2006, Register 180; am 5/3/2019, Register 230; am 6/25/2020, Register 234.)

Authority:	AS 17.20.005	AS 17.20.070	AS 17.20.290
	AS 17.20.010	AS 17.20.072	AS 17.20.300
	AS 17.20.020	AS 17.20.180	AS 44.46.020
	AS 17.20.040	AS 17.20.200	

Editor's note: [AN OPERATOR WHO BOTTLES DRINKING WATER FOR INTERSTATE COMMERCE MAY ALSO BE SUBJECT TO 21 C.F.R. 129 AND SHOULD CONTACT THE FDA.]

USGS maps may be obtained from the United States Geological Survey, at <https://www.usgs.gov/core-science-systems/national-geospatial-program/national-map> [EARTH SCIENCES INFORMATION CENTER, 4230 UNIVERSITY DRIVE, ROOM 101, ANCHORAGE, AK 99508; TELEPHONE (907) 786-7011.]

18 AAC 31 is amended by adding a new section to read:

18 AAC 31.745. Juice. In addition to complying with other applicable requirements of this chapter, an operator of a food processing establishment who processes juice shall meet the requirements of 21 C.F.R. Part 120, adopted by reference in 18 AAC 31.011. (Eff. 6/25/2020, Register 234)

Authority:	AS 17.20.005	AS 17.20.070	AS 17.20.290
	AS 17.20.010	AS 17.20.072	AS 17.20.300

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AS 17.20.020

AS 17.20.180

AS 44.46.020

AS 17.20.040

AS 17.20.200

18 AAC 31.760 is repealed:

18 AAC 31.760. Reduced oxygen packaging at food services or markets. Repealed.

(Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am 12/28/2006, Register 180; repealed 6/25/2020, Register 234)

[EDITOR'S NOTE: EFFECTIVE 12/19/99, REGISTER 152, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION READOPTED 18 AAC 31.760, 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 31 FROM AS 03.05 TO AS 17.20.

INFORMATION ABOUT HOW TO REVIEW OR OBTAIN A COPY OF THE REQUIREMENTS REFERRED TO IN 18 AAC 31.760 AND ADOPTED BY REFERENCE IN 18 AAC 31.011 IS SET OUT IN THE EDITOR'S NOTE TO 18 AAC 31.011.]

18 AAC 31.770(a) is amended to read:

18 AAC 31.770. Meat, poultry, and game slaughtering and processing. (a) Except as provided in 18 AAC 31.205, 18 AAC 31.820, (b) and (c) of this section, and 18 AAC 32, meat, poultry, and game meat slaughtered, processed, distributed, or sold as part of commerce and

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intended for human consumption must

(1) come from a facility **operating** under a USDA mandatory or voluntary inspection program; **or**

(2) for poultry, be exempt from USDA poultry inspection.

(Eff. 6/28/2001, Register 158; am 6/25/2020, Register 234)

Authority: AS 17.20.005 AS 17.20.072 AS 17.20.290
AS 17.20.010 AS 17.20.180 AS 44.46.020
AS 17.20.020

18 AAC 31.915(a), Table K, Row 20 is amended to read:

A HACCP plan is not provided as required in violation of <u>18 AAC 31.260</u> [18 AAC 31.710]	\$250	\$500	\$1,000
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(Eff. 12/28/2006, Register 180; am 11/5/2017, Register 224; am 6/25/2020, Register 234)

Authority: AS 17.20.005 AS 17.20.072 AS 17.20.290
AS 17.20.010 AS 17.20.180 AS 44.46.020
AS 17.20.020

18 AAC 31.990(2) is amended to read:

(2) "acidified food" **has the meaning given in 21 C.F.R. 114.3, adopted by reference in 18 AAC 31.011**

[(A) MEANS A LOW-ACID FOOD TO WHICH ACID OR ACID FOOD IS ADDED; LOW-ACID FOODS THAT ARE FREQUENTLY ACIDIFIED INCLUDE BEANS, CUCUMBERS, CABBAGE, ARTICHOKES, CAULIFLOWER, PEPPERS, TROPICAL FRUITS, AND PUDDINGS, SINGLY OR IN COMBINATION; SOME OF THESE FOODS MAY BE CALLED "PICKLES" OR "PICKLED _____ [INSERT NAME OF FOOD]"; AND

(B) DOES NOT INCLUDE

(i) CARBONATED BEVERAGES;

(ii) JAMS, JELLIES, OR PRESERVES;

(iii) ACID FOOD SUCH AS FOOD DRESSINGS AND CONDIMENT SAUCES THAT CONTAIN SMALL AMOUNTS OF A LOW-ACID FOOD AND HAVE A RESULTANT FINISHED EQUILIBRIUM PH THAT DOES NOT DIFFER FROM THE PREDOMINANT ACID OR ACID FOOD; AND

(iv) FOODS THAT ARE STORED, DISTRIBUTED, AND DISPLAYED UNDER REFRIGERATION];

18 AAC 31.990(4) is amended to read:

(4) "adulterated" has the meaning given in AS 17.20.020 and [AS] 17.20.030; in

addition, "adulterated" means food that [CONTAINS]

(A) **contains** an unapproved food additive or an additive in an amount that exceeds an amount allowed in 21 C.F.R. Parts 170 - 180, adopted by reference in 18 AAC 31.011;

(B) **contains** a substance sanctioned by the FDA, or a substance generally recognized as safe by the FDA, in an amount that exceeds an amount allowed in **21 C.F.R. 181.22 - 181.34, 21 C.F.R. Part 182, 21 C.F.R. Part 184, or 21 C.F.R. Part 186** [21 C.F.R. PARTS 181 - 186], adopted by reference in 18 AAC 31.011; [OR]

(C) **contains** a pesticide residue in an amount that exceeds an amount set out in **40 C.F.R. 180.1 and 180.101 - 180.708** [40 C.F.R. PART 185], adopted by reference in 18 AAC 31.011;

(D) **contains a food additive that is unsafe under 21 U.S.C. 348(a), adopted by reference in 18 AAC 31.011, or that is prohibited by the department;**

(E) **contains a color additive that is unsafe under 21 U.S.C. 379e(a), adopted by reference in 18 AAC 31.011, or that is prohibited by the department;**

(F) **was accidentally or intentionally subjected to radiation, unless the use of radiation was in compliance with 21 C.F.R. Part 179, adopted by reference in 18 AAC 31.011;**

(G) **for a food that is exported, is not in compliance with 21 U.S.C. 381(e)(1) and (2), adopted by reference in 18 AAC 31.011; or**

(H) **does not meet the requirements of this chapter;**

18 AAC 31.990(9) is amended to read:

(9) "bottled water" **has the meaning given to "bottled drinking water" in 21 C.F.R. 129.3, adopted by reference in 18 AAC 31.011** [MEANS WATER THAT IS SEALED IN BOTTLES, PACKAGES, OR OTHER CONTAINERS AND OFFERED FOR SALE FOR HUMAN CONSUMPTION];

18 AAC 31.990(51) is amended to read:

(51) "food processing establishment" **includes**

(A) a food establishment listed in the third column of Table A of 18 AAC 31.010(e); and

(B) any other [MEANS A] food establishment where food intended for human consumption is processed for distribution to a food service, market, or another consumer outlet; ["FOOD PROCESSING ESTABLISHMENT" INCLUDES THE FOLLOWING TYPES OF OPERATIONS:

(i) ACIDIFYING, CURING, DEHYDRATING, OR SMOKING OF FOOD, THERMAL PROCESSING OF LOW-ACID FOOD, AND REDUCED OXYGEN PACKAGING;

(ii) BAKERIES, EXCEPT RETAIL BAKERIES;

(iii) BOTTLING WATER OR OTHER BEVERAGES;

(iv) ICE MANUFACTURING;

(v) JAM, JELLY, SYRUP, OR CONFECTION MANUFACTURING; AND

(vi) OTHER FOOD PROCESSING; AND

(B) WHERE ACIDIFYING, CURING, DEHYDRATING, SMOKING, OR REDUCED OXYGEN PACKAGING OF FOOD, OR THERMAL PROCESSING OF LOW-ACID FOOD OCCURS FOR SALE OR USE IN THAT ESTABLISHMENT;]

18 AAC 31.990(54) is amended to read:

(54) "food service" **includes**

(A) a food establishment listed in the first column of Table A of 18 AAC 31.010(e); and

(B) any other [MEANS A] food establishment where food intended for service to individuals for consumption is prepared and provided, or simply provided ready-to-eat, whether consumption is on or off the premises, with or without charge [, AS SPECIFIED IN 18 AAC 31.010];

18 AAC 31.990(80) is amended to read:

(80) "market" **includes**

(A) a food establishment listed in the second column of Table A of 18 AAC 31.010(e); and

(B) any other [MEANS A] food establishment where food commodities are offered for retail sale to consumers and intended for off-premises consumption, distributed to the needy by nonprofit organizations, or stored before sale or distribution; ["MARKET" INCLUDES THE FOLLOWING TYPES OF OPERATIONS:

- (A) CONVENIENCE STORES;
- (B) GROCERY STORES;
- (C) THE GROCERY PORTIONS OF SUPERMARKETS;
- (D) RETAIL BAKERIES;
- (E) RETAIL MEAT MARKETS;
- (F) RETAIL SEAFOOD MARKETS;
- (G) MOBILE RETAIL VENDORS;
- (H) WAREHOUSES;
- (I) FOOD BANKS;
- (J) FOOD SALVAGERS;
- (K) OTHER MARKETS;]

18 AAC 31.990(82) is amended to read:

(82) "misbranded" has the meaning given in AS 17.20.040; in addition, "misbranded" means food that is not labeled as specified in 18 AAC 31.060, **18 AAC 31.265**, 18 AAC 31.700, 18 AAC 31.740, [18 AAC 31.760,] 18 AAC 31.770, and 18 AAC 31.800 - 18 AAC 31.820;

18 AAC 31.990(118)(O) is amended to read:

(O) a HACCP plan is not provided or followed, as specified in **18 AAC 31.260** [18 AAC 31.710], or the food establishment is not complying with the terms of a variance granted under 18 AAC 31.930 or another procedure for a specialized

process;

18 AAC 31.990(123) is amended to read:

(123) "seafood"

(A) includes

(i) [MEANS ANY SPECIES OF AQUATIC ORGANISM, INCLUDING] salt-water fish, freshwater fish, amphibians, crustaceans, mollusks, and **any other species of aquatic animal intended for human consumption;**

and

(ii) [AQUATIC PLANTS; "SEAFOOD" INCLUDES] any part or byproduct of any species of aquatic **animal intended for human consumption** [ORGANISM];

(B) does not include aquatic plants, birds, or mammals;

18 AAC 31.990(146) is amended to read:

(146) **"warehousing"** ["WAREHOUSE"] means **the storing of** [A TYPE OF MARKET USED EXCLUSIVELY TO STORE] food commodities before distribution, **in a food establishment used primarily for that purpose;**

18 AAC 31.990 is amended by adding new paragraphs to read:

(152) "food hub" means a market that works with food producers and other markets, provides a platform for advertising and selling their food products, and has a location

where purchased food can be aggregated and made available to the purchaser;

(153) "major food allergen" has the meaning given in 21 U.S.C. 321(qq), adopted by reference in 18 AAC 31.011;

(154) "marijuana concentrate" has the meaning given in 3 AAC 306.990(b);

(155) "marijuana product" has the meaning given in AS 17.38.900;

(156) "potentially hazardous food" has the meaning given in 18 AAC 31.975;

(157) "product water" has the meaning given in 21 C.F.R. 129.3, adopted by reference in 18 AAC 31.011;

(158) "retail marijuana store" has the meaning given in AS 17.38.900. (Eff. 5/18/97, Register 142; am 5/23/98, Register 146; am/readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am 12/28/2006, Register 180; am 6/24/2012, Register 202; am 6/25/2020, Register 234)

Authority:	AS 03.05.011	[AS 17.20.190]	AS 17.20.346
	AS 17.20.005	[AS 17.20.200]	[AS 18.35.100]
	AS 17.20.010	[AS 17.20.220]	AS 18.35.120
	AS 17.20.020	AS 17.20.230	[AS 18.35.200]
	AS 17.20.040	AS 17.20.270	AS 18.35.220
	[AS 17.20.070]	AS 17.20.290	AS 44.46.020
	[AS 17.20.072]	AS 17.20.300	[AS 44.46.025]
	AS 17.20.180	AS 17.20.340	

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer Lieutenant Governor	Date: May 21, 2020
	File No.: 2019200450
Thru: Susan R. Pollard <i>SRP</i> Chief Assistant Attorney General and Regulations Attorney Legislation and Regulations Section	Tel. No.: 465-3600
From: Steven C. Weaver <i>SCW</i> Senior Assistant Attorney General Legislation and Regulations Section	Re: Department of Environmental Conservation regulations re: update to Alaska Food Code (18 AAC 31)

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 make an overall update to the Alaska Food Code, particularly an update to federal regulations and other materials being adopted by reference, and updates to reflect the changing nature of food establishments and to improve readability.

The November 6, 2019 public notice and the May 6, 2020 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.: Hon. 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

Shannon Miller
Division of Environmental Health
Department of Environmental Conservation

Kimberly Stryker, Program Manager
Food Safety & Sanitation Program
Division of Environmental Health
Department of Environmental Conservation

Lorinda Lhotka
Food Safety & Sanitation Program
Division of Environmental Health
Department of Environmental Conservation

Jennifer A. Currie, Senior Assistant Attorney General
Environmental Section

ALASKA FOOD CODE:
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 31 of the Alaska Administrative Code, dealing with the Alaska Food Code, including the following:

- Update federal rules adopted by reference.
- Update citations and cross references, make conforming edits and clarifications throughout chapter.
- 18 AAC 31.010: amend Table A to more clearly describe facility types in each food establishment category.
- 18 AAC 31.011: adopt federal requirements by reference regarding good manufacturing practices, food additives, labeling, and standards of identity.
- 18 AAC 31.200: require operators to record date on tag or label when last shellstock from the container is sold or served.
- 18 AAC 31.260: add new section dealing with hazard analysis critical control point (HACCP) plans; 18 AAC 31.710, repealed as part of these amendments, previously addressed this topic.
- 18 AAC 31.265: add new section dealing with reduced oxygen packaging at food services and markets; 18 AAC 31.760, repealed as part of these amendments, previously addressed this topic.
- 18 AAC 31.325: repeal the Certified Food Protection Manager requirement for all food processing establishments.
- 18 AAC 31.700: amend section to include newly adopted federal references dealing with good manufacturing practices at food processing establishments.
- 18 AAC 31.701: add a new section dealing with food additives.
- 18 AAC 31.702: add a new section dealing with labeling requirements specific to food processing establishments; 18 AAC 31.700 previously addressed this topic.
- 18 AAC 31.703: add a new section dealing with recall procedures at a food processing establishment.
- 18 AAC 31.720: amend section dealing with thermal processing and acidified food for clarity and consistency with federal rules.
- 18 AAC 31.730: amend section dealing with glacier ice and ice manufacturing for clarity and consistency with federal rules.
- 18 AAC 31.740: amend section dealing with bottled drinking water, for clarity and consistency with federal rules.
- 18 AAC 31.745: add a new section dealing with federal rules for juice manufacturing.
- 18 AAC 31.770: amend section to allow poultry produced under a USDA exemption to be considered an approved source for retail facilities.
- 18 AAC 31.990: amend definitions of "acidified food", "adulterated", "bottled water", "food processing establishment", "food service", and "market"; add a new definition for "product water".

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, by electronic mail at lorinda.lhotka@alaska.gov, and online by visiting <https://dec.alaska.gov/eh/fss/regulations> and using the comment link. The comments must be received not later than 5:00pm on January 10, 2020.

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/regulations/faq>. 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 Kate Orozco by electronic mail at kate.orozco@alaska.gov or by phone at (907) 465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 not later than December 27, 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, at <https://dec.alaska.gov/eh/fss/regulations>, or by contacting Lorinda Lhotka by email at lorinda.lhotka@alaska.gov or by phone at (907) 451-2119.

A copy of material proposed for adoption by reference may be viewed at the agency's office at 555 Cordova Street, Anchorage, Alaska, 99501.

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 03.05.011; 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 17.20.049; AS 17.20.070; AS 17.20.072; AS 17.20.080; AS 17.20.180; AS 17.20.190; AS 17.20.200; AS 17.20.220; AS 17.20.230; AS 17.20.250; AS 17.20.260; AS 17.20.270; AS 17.20.290; AS 17.20.300; AS 17.20.315; AS 17.20.340; AS 17.20.345; AS 17.20.346; AS 17.20.347; AS 17.20.365; AS 18.35.100; AS 18.35.120; AS 18.35.200; AS 18.35.220; 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: 10/30/19



Jason Brune, Commissioner

ALASKA FOOD CODE:
NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

BRIEF DESCRIPTION

The Department of Environmental Conservation proposes to change regulations in the Alaska Food Code to include adopting updated federal rules by reference dealing with good manufacturing practices and sanitation at food processing establishments. Other proposed changes include minor amendments for clarity, defining recall procedures, and putting current Department policy regarding approved sources for poultry into regulation.

The Department of Environmental Conservation proposes to adopt regulation changes in Title 18, Chapter 31 of the Alaska Administrative Code, dealing with the Alaska Food Code, including the following:

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Date: 10/30/19



Jason Brune, Commissioner

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Environmental Conservation
2. General subject of regulation: Alaska Food Code; Good Manufacturing Practices
3. Citation of regulation (may be grouped): 18 AAC 31
4. Department of Law file number, if any: A2019200450
5. Reason for the proposed action:

☒ (x) Compliance with federal law or action (identify): Federal contract conformance
☐ () Compliance with new or changed state statute
☐ () Compliance with federal or state court decision (identify): _____
☒ (x) Development of program standards
☒ (x) Other (identify): Adopt federal standards into state regulation
6. Appropriation/Allocation: Environmental Health / Environmental Health
7. Estimated annual cost to comply with the proposed action to:

A private person: None.
Another state agency: None.
A municipality: None.
8. Cost of implementation to the state agency and available funding (in thousands of dollars):

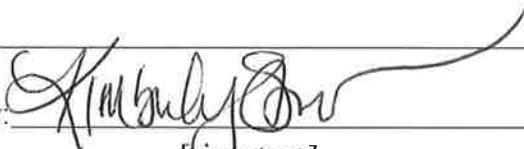
	Initial Year FY <u>2020</u>	Subsequent Years
Operating Cost	\$0 _____	\$0 _____
Capital Cost	\$0 _____	\$0 _____
1002 Federal receipts	\$0 _____	\$0 _____
1003 General fund match	\$0 _____	\$0 _____
1004 General fund	\$0 _____	\$0 _____
1005 General fund/ program	\$0 _____	\$0 _____
Other (identify)	\$0 _____	\$0 _____

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

Name: Lorinda Lhotka
Title: Environmental Program Manager
Address: 610 University Avenue, Fairbanks, AK 99709
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: 11/1/2019 Prepared by: 
[signature]

Name: Kimberly Stryker
Title: Environmental Program Manager III
Telephone: (907) 269-7583

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

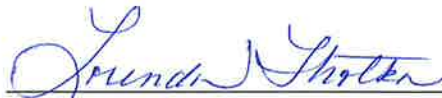
I, Lorinda Lhotka, Environmental Program Manager, of the Department of Environmental Conservation, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 18 AAC 31 regarding the Alaska Food Code 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: 1-23-2020



Lorinda Lhotka, Environmental Program Manager

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

01/23/2020

(date)



Notary Public in and for the State of Alaska



ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 301992 Order #: W0012276 Cost: \$752.06

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Leilisi Misa
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

November 6, 2019

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 _____

Subscribed and sworn to before

me this 6th day of Nov.

20 19

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

STATE OF ALASKA
NOTARY
PUBLIC
Jada L. Nowling

7/14/2020

ALASKA FOOD CODE: NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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- 18 AAC 31.745: add a new section dealing with federal rules for juice manufacturing.
- 18 AAC 31.770: amend section to allow poultry produced under a USDA exemption to be considered an approved source for retail facilities.
- 18 AAC 31.990: amend definitions of "acidified food", "adulterated", "bottled water", "food processing establishment", "food service", and "market"; add a new definition for "product water".

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, by electronic mail at lorinda.lhotka@alaska.gov, and online by visiting <https://dec.alaska.gov/eh/fss/regulations> and using the comment link. The comments must be received not later than 5:00pm on January 10, 2020.

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/regulations/faq>. 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 Kate Orozco by electronic mail at kate.orozco@alaska.gov or by phone at (907) 465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 not later than December 27, 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, at <https://dec.alaska.gov/eh/fss/regulations>, or by contacting Lorinda Lhotka by email at lorinda.lhotka@alaska.gov or by phone at (907) 451-2119.

A copy of material proposed for adoption by reference may be viewed at the agency's office at 555 Cordova Street, Anchorage, Alaska, 99501.

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 03.05.011; 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 17.20.049; AS 17.20.070; AS 17.20.072; AS 17.20.080; AS 17.20.180; AS 17.20.190; AS 17.20.200; AS 17.20.220; AS 17.20.230; AS 17.20.250; AS 17.20.260; AS 17.20.270; AS 17.20.290; AS 17.20.300; AS 17.20.315; AS 17.20.340; AS 17.20.345; AS 17.20.346; AS 17.20.347; AS 17.20.365; AS 18.35.100; AS 18.35.120; AS 18.35.200; AS 18.35.220; AS 44.46.020; AS 44.46.025

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

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

The Department of Environmental Conservation did not receive 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 the Alaska Food Code. No comments were received.

Date: February 20, 2000

Lorinda R. Lhotka
Lorinda Lhotka, Environmental Program Manager

Subscribed and sworn to before me at 610 University Ave., Fairbanks on
February 20, 2000
(date)

Pablo M. Coss
Notary Public in and for the State of Alaska

