

18 AAC 34 Seafood Processing Regulation

Proposed Changes

September 2013

Department of Environmental Conservation,

Division of Environmental Health

18 AAC 34.010 is amended to read:

18 AAC 34.010. Requirements adopted by reference. The following requirements are adopted by reference:

- (1) 21 U.S.C. 348(a), as revised as of 2006 [November 21,1997];
- (2) 21 U.S.C. 379e(a), as revised as of 2006 [August 13, 1993];
- (3) 21 C.F.R. 101.1 - 101.108 (Food Labeling), as revised as of April 1, 2013 [2006];
- (4) 21 C.F.R. 102.5 - 102.57 (Common or Usual Name for Nonstandardized Foods), as revised as of April 1, 2013 [2006];
- (5) 21 C.F.R. 108.35 (Thermal Processing of Low-acid Foods Packaged in Hermetically Sealed Containers), as revised as of April 1, 2013 [2006];
- (6) 21 C.F.R. 110.3 - 110.110 (Current Good Manufacturing Practice in Manufacturing, Packing or Holding Human Food), as revised as of April 1, 2013 [2006];
- (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, 2013 [2006];
- (8) 21 C.F.R. 114.3 - 114.100 (Acidified Foods), as revised as of April 1, 2013 [2006];
- (9) 21 C.F.R. 123.3 - 123.28 (Fish and Fishery Products), as revised as of April 1, 2013 [2006];
- (10) 21 C.F.R. 172.160, (Potassium nitrate), as revised as of April 1, 2013 [2006];
- (11) 21 C.F.R. 172.170 (Sodium nitrate), as revised as of April 1, 2013 [2006];
- (12) 21 C.F.R. 172.175 (Sodium nitrite), as revised as of April 1, 2013 [2006];
- (13) 21 C.F.R. 172.385 (Whole fish protein concentrate), as revised as of April 1, 2013 [2006];
- (14) 21 C.F.R. 179.21 - 179.45 (Irradiation in the Production, Processing, and Handling of Food), as revised as of April 1, 2013 [2006];

(15) 21 C.F.R. 1240.60 (Control of Communicable Diseases; Molluscan Shellfish), as revised as of April 1, **2013** [2006];

(16) the state plumbing code as developed for this state under AS 18.60.705, as amended from time to time;

(17) **repealed** / / ____; [*The Seafood List, FDA's Guide to Acceptable Market Names for Seafood Sold in Interstate Commerce 1993*;]

(18) **repealed** / / ____; [*The National Sanitation Foundation's (NSF) NSF International White Book: Listing of Proprietary Substances and Nonfood Compounds*, as revised as of June 14, 2006;]

(19) *National Shellfish Sanitation Program: Guide for the Control of Molluscan Shellfish*, **2011** [2005] Revision, United States Department of Health and Human Services, Public Health Service, Food and Drug Administration; this document is adopted by reference as amended from time to time;

(20) *American National Standard Sampling Procedures and Tables for Inspection by Attributes*, ANSI/ASQC Z1.4 – 2003, as revised as of 2003;

(21) 29 C.F.R. 1910.141(c)(1)(i) and Table J-1, as revised as of July 1, 2000. (Eff. 12/18/97, Register 144; 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 __/ __/ ____, Register ____)

Authority:	AS 17.20.005	AS 17.20.065	AS 17.20.180
	AS 17.20.044	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 34.010, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.010(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: 2011 Revision* may be obtained from the United States Department of Health and Human Services, Food and Drug Administration, Office of Seafood, 5100 Point Branch Parkway, College Park, MD 20740-3835; Internet address:

<http://www.fda.gov/Food/GuidanceRegulation/FederalStateFoodPrograms/ucm2006754.htm>

[[HTTP://WWW.CFSAN.FDA.GOV/~EAR/NSS2-TOC.HTML](http://WWW.CFSAN.FDA.GOV/~EAR/NSS2-TOC.HTML)]. The *American National Standard Sampling Procedures and Tables for Inspection by Attributes* is 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. [THE NATIONAL SANITATION FOUNDATION (NSF) INTERNATIONAL WHITE BOOK: LISTING OF PROPRIETARY SUBSTANCES AND NONFOOD COMPOUNDS IS AVAILABLE FOR DOWNLOAD AT: [HTTP://WWW.NSF.ORG/USDA/WHITEBOOK/WHITEBOOK.PDF](http://WWW.NSF.ORG/USDA/WHITEBOOK/WHITEBOOK.PDF).]

18 AAC 34.035 (a)(3)(B) is amended to read:

(B) a sanitation plan as required by 18 AAC 34.050 [OR, IF THE APPLICATION IS FOR A DIRECT-MARKET FISHING VESSEL OR A DIRECT-MARKET LAND-BASED FACILITY THAT IS NOT REQUIRED TO HAVE A HACCP PLAN BECAUSE NO HAZARDS WERE IDENTIFIED UNDER 18 AAC 34.045, A SANITATION SCHEDULE AS REQUIRED UNDER 18 AAC 34.525 AND 18 AAC 34.740];

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

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

18 AAC 34.045(d) is amended to read:

(d) In addition to reviewing a HACCP Plan under 18 AAC 34.930 and 18 AAC 34.940, the department **may** [WILL, APPLYING ITS ENFORCEMENT DISCRETION,] require a processor with a critical violation at a point in the seafood production process that has not already been identified in the processor's HACCP plan as a critical control point, to submit the HACCP plan to the department for review and comment.

(Eff. 12/18/97, Register 144; am 12/2/99, Register 152; am __/__/____, Register ____)

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 and maintain, for department review, written procedures sufficient to notify consumers of a product recall.

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

(c) A processor shall implement the procedures in subsection (a) of this section at the direction of the department. (Effective __/__/____, Register ____)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020
AS 17.20.065 AS 17.20.180 AS 17.20.020
AS 17.20.040

18 AAC 34.050(b)(2) is amended to read:

(2) this chapter, including monitoring to ensure compliance with

(A) **18 AAC 34.066** [18 AAC 34.060(7)(A)], as that **section** [SUBPARAGRAPH] deals with pest control [PROCEDURES USED], including a list of rodenticides, insecticides, and herbicides used and procedures followed to assure that use is restricted to knowledgeable persons to prevent misuse; restricted-use pesticides must be used in accordance with 18 AAC 90;

(B) **18 AAC 34.066** [18 AAC 34.065], as that section deals with proper labeling, storage, and use of chemical compounds;

(C) **18 AAC 34.066** [18 AAC 34.070(a)], as that **section** [SUBSECTION] deals with the concentration level of each sanitizer used; monitoring for compliance must include the testing frequency for hand and product dips, processing water, and sanitizing solutions for food-contact surfaces;

(D) 18 AAC 34.080, as that section deals with the condition of water that contacts food or food-contact surfaces;

(E) 18 AAC 34.085, as that section deals with the maintenance of hand sanitizing, hand washing, and toilet facilities;

(F) 18 AAC 34.090, as that section deals with cleanliness of equipment and utensils, including containers, pans, and tubs that are used to store and transport seafood products, and areas around equipment and utensils including the walls, floors, and drains; monitoring for compliance must include

(i) the cleaning frequency for non-food-contact surfaces and areas;

(ii) the cleaning and sanitizing frequency for food-contact surfaces before, during, and after processing; monitoring under this subparagraph must include the length of time between each cleaning and sanitizing during each 24 hour period; if the frequency is longer than 24 hours, the processor shall submit to the department and follow a predetermined schedule based on microbial sampling;

(iii) the identification of sanitizer type and the concentration to be used; and

(iv) the time allotted for sanitizer-to-surface contact time;

(G) 18 AAC 34.090 and 18 AAC 34.105, as those sections deal with the prevention of cross-contamination from

(i) insanitary objects to food, food packaging material, and other food-contact surfaces, including utensils, gloves, and outer garments; and

(ii) raw product to cooked product; and

(H) 18 AAC 34.100, as that section deals with instructions given to employees to assure that proper personal hygienic practices are followed, and the control of employee health conditions. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am __/ __/ ____, Register ____)

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

18 AAC 34.060 is repealed and readopted to read:

18 AAC 34.060. Facility requirements. (a) A processor shall ensure that each facility meets the requirements of 18 AAC 34.075 - 18 AAC 34.085 unless a waiver is approved under 18 AAC 34.915.

(b) Every facility must meet the requirements of 21 C.F.R. 110.20, adopted by reference in 18 AAC 34.010. In addition,

(1) the outside walls and the roof

(A) may be of a flexible material, such as rubberized nylon, polypropylene, polyester-based vinyl, or nylon-based vinyl, that is at least 20 mils thick, with the seams heat-welded; and

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

(2) sleeping or living quarters must be separated from processing and food or food packaging storage areas by a solid, stationary floor-to-ceiling wall to prevent direct access from these areas to the sleeping or living quarters;

(3) the facility must have lighting of at least

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

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

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

(B) 20 footcandles, evenly distributed to all other areas not described in (A) of this paragraph, including product holding, food packaging, food storage, and container cooling areas;

(4) the inside walls in

(A) 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 solid material is less than the full height of the wall, the top of the solid material must be sealed to the wall;

(B) 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;

(C) 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

(D) 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;

(5) floors in

(A) 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;

(B) refrigerator and freezer areas that are subject to drippage 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

(C) 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;

(6) floor drains are required in areas where

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

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

(C) wastewater could contaminate a processing area. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am __/ __/ ____, Register __)

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

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 __/ __/ ____)

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

18 AAC 34.066. Sanitary operations. (a) Buildings, fixtures, and other physical facilities must be maintained in the manner specified in 21 C.F.R. 110.35(a), adopted by reference in 18 AAC 34.010.

(b) Substances used in cleaning and sanitizing must adhere to the requirements in 21 C.F.R. 110.35(b), adopted by reference in 18 AAC 34.010. In addition, in an area of a facility that is used for processing or for storage of food or food packaging materials, a processor may not use or store a chemical that is a sanitizer, detergent, lubricant, pesticide, or water treatment compound without department approval, based on the department finding that use and storage of the chemical does not pose a threat to public health.

(c) In addition to the pest control provisions in of 21 C.F.R. 110.35(c), adopted by reference in 18 AAC 34.010, a processor shall ensure that

(1) restricted-use pesticides are used in accordance with 18 AAC 90;

(2) commercially filled containers of pesticides that are to be used or stored in or adjacent to the premises of a facility are labeled as required by 18 AAC 90 and other applicable state or federal law, except that a small container filled or taken from a properly-labeled master container may be used if

(A) the smaller container is labeled with the common name of the material and directions for use; and

(B) the master container is retained onsite; and

(3) poisonous chemicals and compounds and pesticides are not stored with food, food ingredients, food packaging materials, equipment, or utensils, except that washing, rinsing, or sanitizing compounds may be stored in a washing area.

(d) In addition to the sanitation of food contact surfaces required in 21 C.F.R. 110.35(d), adopted by reference in 18 AAC 34.010,

(1) the concentration level of each chemical or compound used in sanitizing must comply with the manufacturer's instructions;

(2) the processor shall verify the concentration of each chemical or compound is correct with a test kit, test strip, or other device;

(3) if the frequency between each cleaning and sanitizing period required in the sanitation plan under 18 AAC 34.050(b)(2)(F)(ii) is longer than 24 hours, the processor shall submit to the department and follow a predetermined schedule based on microbial sampling; and

(4) a processor may sanitize by immersion in clean water at a temperature of 170° Fahrenheit or above for at least 30 seconds if a chemical or compound is not used. (Eff. ___/___/____, Register _____)

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

18 AAC 34.070 is repealed:

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

18 AAC 34.075 is repealed and readopted to read:

18 AAC 34.075. Plumbing. (a) Plumbing must be installed and operated in accordance with the state plumbing code under AS 18.60.705, adopted by reference in 18 AAC 34.010. Except for the toilet and sink requirements specified at 18 AAC 34.085(a), provisions in the plumbing code apply statewide to all facilities subject to this chapter, including mobile processing vessels.

(b) Plumbing must also meet the requirements of 21 C.F.R. 110.37(b), adopted by reference in 18 AAC 34.010. In addition,

(1) if necessary to prevent contamination, atmospheric breaks or backflow preventers on water lines must be used; and

(2) sewer lines, drain lines, and potable and nonpotable water lines must be color coded, tagged, or otherwise identified. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am __/ __/ ____)

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

18 AAC 34.080(a) is amended to read:

18 AAC 34.080. Water supply and ice. (a) In addition to the requirements in 21 C.F.R. 110.37(a), adopted by reference in 18 AAC 34.010, water [WATER] provided by a processing facility for drinking or ice making for human consumption must comply with 18 AAC 80.

18 AAC 34.080(b) is amended to read:

(b) In addition to complying with (a) of this section, a mobile processing facility that is not directly plumbed to a community public water system or a non-transient non-community [CLASS A] public water system must sample water for coliform bacterial contamination before beginning operations and once every 30 days during the operational season, and must resample the water

(1) according to the same sampling schedule [AS] required in 18 AAC 80.415, or as scheduled by the department to serve the interests of public health and consumer protection, after notification of a sample result that exceeds the maximum contaminant level for total coliform bacteria set out in 18 AAC 80.300(b)(4) [18 AAC 80.300(b)(5)]; or

(2) if a sample is invalidated as set out in 18 AAC 80.425.

18 AAC 34.080(c) is amended to read:

(c) A processing water supply

(1) must be approved by the department, on the basis of whether public health and consumers are adequately protected;

(2) must be disinfected to maintain a measurable residual of free chlorine;

(3) may not exceed the maximum contaminant level for total coliform bacteria set out in **18 AAC 80.300(b)(4)** [18 AAC 80.300(b)(5)];

(4) must be tested for compliance with other maximum contaminant levels set out in 18 AAC 80.300, if the department determines that testing serves the interests of public health and consumer protection; and

(5) if from a water system other than a **community public water system or non-transient non-community** [CLASS A] public water system, must be sampled

(A) for coliform bacteria contamination before beginning operations and once every 30 days during the operational season, and must be resampled

(i) **according to the same sampling schedule** [AS] required in 18 AAC 80.415, or as scheduled by the department to serve the interests of public health and consumer protection, after notification of a sample result that exceeds the maximum contaminant level for total coliform bacteria set out in **18 AAC 80.300(b)(4)** [18 AAC 80.300(b)(5)]; however, resampling requires no more than two water samples; or

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

(B) for a contaminant listed in 18 AAC 80.300(b)₂ 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; [AS THE DEPARTMENT DETERMINES NECESSARY TO SERVE THE INTERESTS OF PUBLIC HEALTH AND CONSUMER PROTECTION,] the department will require more frequent sampling **if the department determines it is necessary to serve the interests of public health and consumer protection**; and

(C) at a point near the end of the system and tested 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; processing water from a **transient non-community** [CLASS B] public water system approved by the department under 18 AAC 80 is exempt from the requirements of this subparagraph.

18 AAC 34.080(g) is amended to read:

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

(1) made from water that meets the requirements of (c) of this section;

(2) manufactured by the processor in a sanitary manner **or** [UNLESS THE ICE IS] obtained from an establishment permitted **under** 18 AAC 31 or this chapter to manufacture ice; and

(3) stored, transported, and handled in a sanitary manner.

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

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 34.080, to affirm the 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 “CLASS A PUBLIC 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 and readopted to read:

18 AAC 34.085. Toilet and handwash sink requirements. (a) The number of toilets and associated handwash sinks in a land-based facility must comply with the state plumbing code as required

by 18 AAC 34.075. 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.

(b) Toilet rooms must comply with the requirements of 21 C.F.R. 110.37(d), adopted by reference in 18 AAC 34.010. In addition, toilet rooms must be conveniently located for employee use and furnished with toilet tissue. Toilet rooms must have an adequate number of handwash sinks with hot and cold running water, and must be furnished with sanitary hand towels or another drying device.

(c) In addition to the requirements of 21 C.F.R. 110.37(e) for hand-washing facilities, adopted by reference in 18 AAC 34.010, a sign must be posted in each toilet room directing employees to wash their hands with soap before returning to work stations. The signs must be printed in English and in other languages or pictures if necessary for employee understanding.

(d) 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 toilet and privy meets the applicable requirements of 18 AAC 72;

(4) each toilet and privy is conveniently located for employee use;

(5) each 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 described in (c) of this section are posted at each toilet or privy and at the entrance to the processing area.

(e) A facility that is under construction or is being extensively remodeled on December 18, 1997, or that is built or extensively remodeled after December 18, 1997, must have handwash sinks in or immediately adjacent to processing areas. A facility in existence on December 18, 1997, that operates at any time on or after that date is, until extensively remodeled, not required to install handwash sinks in the

processing areas, but must provide hand sanitizers in the processing areas. A processor may meet the hand sanitizer requirement of this subsection by having in the processing areas hand sanitizers containing a sanitizing solution that complies with the manufacturer's instructions for hand sanitizers.

(f) A handwash sink required under this section must have hot and cold running water and be equipped with a mixing valve. Self-dispensing or metering faucets must provide a flow of water for at least 20 seconds. Hand-cleaning soap must be provided at each sink. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am __/ __/ ____, Register ____)

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

18 AAC 34.090 is repealed and readopted to read:

18 AAC 34.090. Equipment and utensils. (a) Equipment and utensils must meet the requirements of 21 C.F.R. 110.40, adopted by reference in 18 AAC 34.010.

(b) Utensils and food-contact surfaces of equipment must be cleaned, rinsed, and sanitized according to the schedule in the sanitation plan required by 18 AAC 34.050.

(c) Processes and controls as described in 21 C.F.R. 110.80, adopted by reference in 18 AAC 34.010, must be followed for all equipment and utensils. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am __/ __/ ____, Register ____)

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

18 AAC 34.100 repealed and readopted to read:

18 AAC 34.100. Personnel. (a) In addition to the requirements of 21 C.F.R. 110.10, adopted by reference in 18 AAC 34.010, a processor shall take all reasonable precautions to ensure that a person with an infected wound or a disease communicable by food, including an employee with persistent

sneezing, coughing, or a runny nose, does not work in any capacity that might contaminate seafood products, food ingredients, food-contact surfaces, or food packaging materials with an infectious or toxigenic micro-organism, or that might transmit disease to others. The processor shall instruct employees to report an adverse health condition to their supervisor.

(b) A processor shall ensure that

(1) each applicant to whom a conditional offer of employment is made and any employee who works in direct contact with seafood products, food ingredients, food-contact surfaces, or packaging materials reports each of the following conditions to the processor, including the date of onset as it relates to diseases that are transmissible through food, if the employee or applicant has, or is diagnosed with, that condition:

- (A) vomiting;
- (B) diarrhea;
- (C) jaundice;
- (D) sore throat with fever;
- (E) a lesion containing pus, such as a boil or infected wound, that is open and

draining and is

- (i) on the hands or wrists, unless an impermeable cover such as a finger cot or stall, protects the lesion and a single-use glove is worn over the impermeable cover; or
- (ii) on other exposed portions of the body, unless the lesion is protected by an impermeable cover;

(F) *Salmonella Typhi*, within the previous three months, without the individual having received antibiotic therapy;

(G) *Shigella* spp.;

(H) Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*;

(I) hepatitis A virus;

(J) Norovirus

(2) an employee or applicant who is experiencing a symptom of a disease transmissible by food as described in (1)(A) – (1)(E) of this subsection is either excluded or restricted as listed in Table A of this section;

TABLE A EXCLUSION OR RESTRICTION REQUIREMENTS FOR SYMPTOMATIC EMPLOYEES OR APPLICANTS				
Symptom	Exclusion or Restriction		Removing Exclusion or Restriction*	Department of Environmental Conservation Approval Needed to Work?
	Establishments Serving Highly Susceptible Population	All Other Establishments		
Vomiting	Exclude	Exclude	When the excluded employee has been asymptomatic for at least 24 hours.	No
Diarrhea	Exclude	Exclude	When the excluded employee has been asymptomatic for at least 24 hours.	No
Jaundice	Exclude if the onset occurred within the last seven days	Exclude if the onset occurred within the last seven days	When approval is obtained from the Department of Health and Social Services.	Yes, unless medical documentation is provided to the operator.

Sore Throat with Fever	Exclude	Restrict	When the employee provides written medical documentation to the operator.	No
Lesion Containing Pus	Restrict	Restrict	When the infected wound or boil is properly covered.	No
* An exclusion or restriction may be removed for any symptom if the excluded or restricted employee provides medical documentation to the processor that the condition is from a non-infectious condition and that the risk of transmitting a pathogenic microorganism is minimal.				

(3) in addition to the requirements of (a) of this section, the processor contacts the department, verbally or electronically, within 24 hours after being notified that an employee or applicant has been diagnosed by a health practitioner as having a disease as described in (1)(F) – (J) of this subsection or is jaundiced; each notification must provide the date, name of the diagnosed disease, and the name and contact information of the food establishment reporting the diagnosed disease.

(c) In this section, “restrict” or “restriction” means to limit the activities of an employee so that there is no risk of transmitting a disease that is transmissible through food and the employee does not work with exposed food, clean food-contact surfaces, linens, or unwrapped single-service or single-use articles.

(d) A processor shall ensure that, whenever seafood products are being processed, there is in the processing facility a person responsible for identifying sanitation problems and potential food contamination who has the education and experience necessary for the production of unadulterated seafood products.

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

18 AAC 34.105(b) is amended to read:

(b) **In addition to the requirements of 21 CFR 110.80, adopted by reference in 18 AAC 34.010, a** [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.

18 AAC 34.105(f) is amended to read:

(f) The processor shall, upon receipt and before additional processing or packaging, inspect and adequately **rinse** [WASH] seafood products, including those butchered or filleted in another permitted facility.

(Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am __/ __/ ____, Register ____)

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

18 AAC 34.110 is repealed and readopted to read:

18 AAC 34.110. Labeling requirements. (a) Unless a seafood product is for export only, a processor shall label seafood products as required under this section.

(b) Labels must adhere to the requirements in 21 C.F.R. 101.1 - 101.108 and 21 C.F.R. 102.5 - 102.57, adopted by reference in 18 AAC 34.010. In addition,

(c) The master carton and, if packaged for retail sale, each retail container of a seafood product must be indelibly marked at the time of sealing with the date of packaging. Before distribution, at least one area of the master carton and retail container must be labeled with

(1) the permit number reserved for and assigned to the processor under 18 AAC 34.035(c); if more than one processor is involved in manufacturing a seafood product, the permit number must be that of the processor who last handled the product before sealing; if the department

determines that use of a code serves the interests of public health and consumer protection, the department will allow a code that is on file with the department to be used instead of

(A) the date of packaging; or

(B) the processor's permit number, if the seafood product has been thermally processed; if, under this subparagraph, the department allows use of a code rather than the processor's permit number, the code that is allowed for use must be the establishment number issued by the Seafood Products Association or a letter code issued by the department;

(2) the identity and name of the seafood product, as approved by the department, or a market or common name;

(3) a holding statement, as appropriate considering the type of seafood product, and in compliance with the following requirements:

(A) if the seafood product is not shelf-stable, the label must bear the holding statement "KEEP REFRIGERATED" or "KEEP FROZEN";

(B) if the smoked finfish seafood product is not commercially sterile and is packaged in a reduced oxygen package or a modified atmosphere package, and if each package

(i) contains 3.5 percent water phase salt, contains, if allowed by 21 C.F.R. 172.175, adopted by reference in 18 AAC 34.010, both 3.0 percent water phase salt and not less than 100 ppm nitrite, contains other suitable barriers to control *Clostridium botulinum*, or is equipped with a time temperature indicator, the label must bear the holding statement "KEEP REFRIGERATED BELOW 38° F" or "KEEP FROZEN"; or

(ii) does not contain 3.5 percent water phase salt, does not contain both 3.0 percent water phase salt and not less than 100 ppm nitrite, does not contain other suitable barriers to control *Clostridium botulinum*, or is not equipped with a time temperature indicator, the label must bear the holding statement "KEEP FROZEN, THAW UNDER REFRIGERATION IMMEDIATELY BEFORE USE";

(C) the holding statement must be in letters at least one-eighth inch high and comparable in size and style to other label lettering;

(D) upon application by the processor, the department will approve the removal of a holding statement as required under this paragraph

(i) for a seafood product that is not thermally processed, or for a pickled seafood product that meets the requirements of 21 C.F.R. 114.3 – 21 C.F.R. 114.100, adopted by reference in 18 AAC 34.010; and

(ii) if the testing conducted under 18 AAC 34.125 demonstrates that the seafood product meets the requirements of that section and 18 AAC 34.122 for shelf-stable seafood products; and

(4) the words “PREVIOUSLY FROZEN” if the container holds a seafood product that has been previously frozen and thawed and that will be sold without further processing; the words “PREVIOUSLY FROZEN” must appear in letters of sufficient size and prominence to be easily read under normal conditions of sale.

(d) A container of a seafood product intended for domestic processing, labeling, or repacking at another facility is exempt from the labeling requirements as specified in 21 C.F.R. 101.100, adopted by reference in 18 AAC 34.010. The processor shall ensure that distribution of that seafood product meets the requirements of 21 C.F.R. 101.100(d)(1) and (2), and (e), adopted by reference in 18 AAC 34.010.

(e) In addition to segregating food according to 18 AAC 34.105(b), a processor shall label each of the following with the words "NOT FOR SALE":

(1) a container of a seafood product that is being held or processed at a facility subject to this chapter and that is from seafood caught while sport fishing, subsistence fishing, or personal use fishing;

(2) a container of a processed seafood product that was not processed in compliance with this chapter.

(f) A processor who uses farmed salmon from other states or countries to manufacture salmon products in this state must label the product “Made with farmed salmon from [state or country].”

(g) In addition to complying with the labeling requirements of this section, a custom processor shall label smoked, custom-processed seafood as required by 18 AAC 34.310(i).

(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 __/ __/ ____, Register ____)

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

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 must meet the standards below; products that do not meet the standards are unsuitable for human consumption.

(1) For fresh or frozen seafood products other than shellfish,

(A) organoleptic: no 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,

(A) *Listeria monocytogenes*: none;

(B) *Salmonella spp.*: none;

(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 decomposition detected.

- (3) For smoked salmon or sablefish,
 - (A) sodium nitrite: less than or equal to 200 ppm;
 - (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, other than shelf-stable salted seafood product,
 - (A) the product must meet the standards in subsection (2) of this section;
 - (B) 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
 - (C) 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 shelf-stable salted seafood product,
 - (A) the product must meet the standard in (6)(C)(ii) of this section;
 - (B) the product must be produced under conditions where the product has been maintained at a temperature below 60° Fahrenheit during processing; and
 - (C) the product must have a maximum ratio of raw product to salt of 2:1 for a dry brine process, or a minimum ratio of raw product to rock salt of 3:1 for a wet brine process.
- (8) 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, or the equivalent; and

(ii) an aerobic or standard plate count of less than or equal to 500,000 bacteria per gram, or the equivalent;

(B) shucked and eviscerated, fresh or frozen, except oysters:

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

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

(9) For live, fresh, or frozen snails and shellfish, including uneviscerated shellstock,

(A) PSP: less than 80 µg; and

(B) Domoic acid: less than 20 ppm.

(10) For live, fresh, cooked, or frozen whole crab product:

(A) PSP: less than 80 µg; and

(B) Domoic acid: less than 30 ppm. (Eff. 12/18/97, Register 144; am/readopt

12/2/99, Register 152; am 8/6/2006, Register 179; am __/ __/ ____, Register ____)

Authority:	AS 17.02.005	AS 17.20.030	AS 17.20.180
	AS 17.20.010	AS 17.20.065	AS 17.20.290
	AS 17.20.020	AS 17.20.072	AS 44.46.02

18 AAC 34.125(a) is amended to read:

(a) Except as provided in (g) of this section, the department may [AT ITS EXPENSE] test nonstatistical, nonrepresentative samples of seafood products for compliance with 18 AAC 34.122, for the presence of other marine toxins, for the presence of heavy metals, or for the presence of other

contaminants of public health significance. [A PROCESSOR MAY NOT CHARGE THE DEPARTMENT MORE THAN THE AVERAGE WHOLESALE MARKET PRICE FOR A SAMPLE.]

18 AAC 34.125(d) is amended to read:

(d) To show compliance with **18 AAC 34.122(2)** [18 AAC 34.122(3)], a processor using a process that has not been approved by the department for a refrigerated or frozen ready-to-eat product shall submit samples of the product to a qualified laboratory as follows:

(1) three product samples from every production lot; each lot of product must be held by the processor until testing and approval by the department allows release; and

(2) after six consecutively acceptable lot samples under (1) of this subsection are obtained, one product sample from the first lot produced each month; the processor may release a lot of product after submitting a product sample from that lot.

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 OR POTASSIUM NITRATE; AND

(2) USING AOAC OFFICIAL METHOD 973.31, WHEN TESTING FOR SODIUM NITRITE.]

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

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 34.990(58) is amended to read:

(58) “seafood” means any species of aquatic organism, including salt water fish, freshwater fish, amphibians, crustaceans, **and** mollusks[, AND AQUATIC PLANTS]: “seafood” includes any part or byproduct of any species of aquatic organism;

18 AAC 34.990(79) is repealed:

(79) repealed __/ __/ ____ ;

18 AAC 34.990(80) is repealed:

(80) repealed __/ __/ ____ ;

18 AAC 34.990 is amended by adding a new subsection to read:

(87) “community public water system” has the meaning given in 18 AAC 80;

18 AAC 34.990 is amended by adding a new subsection to read:

(88) “non-transient non-community public water system” has the meaning given in 18 AAC 80;

18 AAC 34.990 is amended by adding a new subsection to read:

(89) “transient public water system” has the meaning given in 18 AAC 80. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/24/2007, Register 184; am __/ __/ ____, Register ____)

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