

# **DEPARTMENT OF ENVIRONMENTAL CONSERVATION**



**18 AAC 34**

## **Seafood Processing and Inspection**

**Amended through August 21, 2019**

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Governor

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Commissioner

**IMPORTANT NOTE TO READER**

The regulations in this booklet have been prepared by the Department of Environmental Conservation. They do not constitute an official version of these regulations, nor do they necessarily reflect current law. Any amendments made after the date of this booklet would appear in the published version of the Alaska Administrative Code. If any discrepancy is found between this booklet and the Alaska Administrative Code, the Code should be considered the final authority, unless the discrepancy is the result of a manifest error in the Code.

Defined words and terms are in “SMALL CAPS” within the text of this code to alert the reader that there is a specific meaning assigned to those words or terms and that the meaning of a provision is to be interpreted in the defined context.

## **Chapter 34. Seafood Processing and Inspection.**

### **Article**

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**Editor's note:** The regulations in this chapter, effective December 18, 1997, and distributed in Register 144, constitute a comprehensive reorganization and revision of this material. Previous regulations in this chapter were repealed simultaneously with the adoption of these regulations. The history lines do not necessarily reflect the history of a section before December 18, 1997, nor is the section numbering necessarily related to the numbering before that date. Previous amendments of this chapter are on file in the Office of the Lieutenant Governor, and are found in Register 70, 6/24/79; Register 83, 9/1/82; Register 89, 3/1/84; Register 111, 8/26/89; Register 115, 7/20/90; Register 125, 2/19/93; Register 137, 1/19/96; and Register 140, 10/18/96; in addition, emergency regulations were in effect 5/12/89 - 9/8/89, Register 110.

**Article 1. Seafood Processing.**

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**18 AAC 34.005. Purpose and applicability.** (a) The purpose of this chapter is to provide for consumer protection and to protect public health by ensuring the PROCESSING, sale, and distribution of safe, WHOLESOME, and properly labeled SEAFOOD products.

(b) The requirements of this chapter apply to

(1) persons who process SEAFOOD products to be sold as part of commerce and intended for human consumption;

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

(3) persons who harvest, handle, prepare, shuck, pack, repack, or transport fresh or frozen SHELLFISH for sale as part of commerce and intended for human consumption;

(4) CUSTOM PROCESSORS who smoke or thermally process SEAFOOD intended for human consumption;

(5) persons who donate thermally-processed or SMOKED SEAFOOD PRODUCTS to an INSTITUTION or nonprofit program; and

(6) persons who manufacture ice primarily for use with SEAFOOD products.

(c) A person is not subject to this chapter, but must comply with 18 AAC 31 if that person processes SEAFOOD

(1) for donation to a food service at an INSTITUTION or nonprofit program under 18 AAC 31.205; or

(2) to be used only in a food service or market that is permitted by the DEPARTMENT under 18 AAC 31, the food service or market has a written exemption under 18 AAC 31.200(b)(3), the amount of SEAFOOD product does not exceed 500 pounds per week, and the PROCESSING of the SEAFOOD by the person is limited to BUTCHERING, FREEZING, or cooking only.

(d) A person who is developing a SEAFOOD product is not subject to this chapter if that product is not donated or sold.

(e) A fishing derby association described in 18 AAC 34.015 that limits its activities to heading and gutting the derby fish is subject only to the requirements of 18 AAC 34.015, but is exempt from the other requirements of this chapter.

(f) A person who harvests SHELLFISH for bait to be sold as part of commerce is subject to the requirements of 18 AAC 34.215, but is exempt from the other requirements of this chapter.

(g) The activity described in this subsection involving a SEAFOOD product does not constitute PROCESSING of, and the provisions of this chapter relating to PROCESSING do not apply to, SEAFOOD product harvested by a fishing vessel if

(1) the SEAFOOD product will be processed in a FACILITY with a permit issued under this chapter;

(2) the SEAFOOD product is sold from the fishing vessel docked at a harbor;

(3) the activity

(A) is necessary to maintain product quality or to prevent product loss from DECOMPOSITION; and

(B) occurs on board the fishing vessel while on the fishing grounds but no closer to shore than one-half mile; and

(4) the activity is one of the following:

(A) decapitating shrimp;

(B) gutting or gilling SEAFOOD products;

(C) heading or gutting GROUND FISH.

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

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

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

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

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

- (1) 21 U.S.C. 348(a), as revised as of August 14, 2018;
- (2) 21 U.S.C. 379e(a), as revised as of August 13, 1993;
- (3) 21 C.F.R. 101.1 - 101.108 (Food Labeling), as revised as of April 1, 2018, except 21 C.F.R. 101.69 and 21 C.F.R. 101.108 are not adopted by reference;
- (4) 21 C.F.R. 102.5 - 102.57 (Common or Usual Name for Nonstandardized Foods), as revised as of April 1, 2018, except 21 C.F.R. 102.19 is not adopted by reference;
- (5) 21 C.F.R. 108.35 (Thermal Processing of Low-acid Foods Packaged in Hermetically Sealed Containers), as revised as of April 1, 2018;
- (6) repealed 8/21/2019;
- (7) 21 C.F.R. 113.3 - 113.100 (Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers), as revised as of April 1, 2018; these provisions are adopted by reference as amended from time to time;
- (8) 21 C.F.R. 114.3 - 114.100 (Acidified Foods), as revised as of April 1, 2018; these provisions are adopted by reference as amended from time to time;
- (9) 21 C.F.R. 123.3 - 123.28 (Fish and Fishery Products), as revised as of April 1, 2018; these provisions are adopted by reference as amended from time to time;
- (10) 21 C.F.R. 172.5 – 172.898 (Food Additives Permitted for Direct Addition to Food for Human Consumption), as revised as of April 1, 2018;

(11) repealed 8/21/2019;

(12) repealed 8/21/2019;

(13) repealed 8/21/2019;

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

(15) repealed 8/21/2019;

(16) repealed 8/21/2019;

(17) repealed 8/21/2019;

(18) repealed 8/21/2019;

(19) *National Shellfish Sanitation Program: Guide for the Control of Molluscan Shellfish*, 2017 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, 2018;

(22) 21 U.S.C. 343(w) (Misbranded Food, Major Food Allergen Labeling Requirements), as revised as of March 23, 2010;

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

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

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

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

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

(28) 21 C.F.R. 117.301 – 117.330 (Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventative Controls for Human Food; Requirements Applying to Records That Must be Established and Maintained), as revised as of April 1, 2018; these

provisions are adopted by reference as amended from time to time;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The *National Shellfish Sanitation Program: Guide for the Control of Molluscan Shellfish* may be obtained from the United States Department of Health and Human Services, Food and Drug Administration, Office of Seafood, 5001 Campus Drive, College Park, Maryland 20740; Internet address:

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

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](http://www.asq.org).

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

**18 AAC 34.015. Derby fish.** (a) A fishing derby association permitted by the Department of Fish & Game under AS 16.05.662 to sell derby-caught fish to a PROCESSOR shall ensure that

(1) the fish is visually checked for contamination from bilge water, diesel fuel, and bird droppings as it comes off the fishing boats; contaminated fish may not be sold;

(2) storage CONTAINERS used to hold the fish are made of plastic or another impermeable material that is EASILY CLEANABLE;

(3) storage CONTAINERS are cleaned between uses;

(4) the fish is protected from direct sunlight or other sources of heat;

(5) the fish is iced or chilled to maintain quality;

(6) the fish is cleaned in an area that is covered to protect the SEAFOOD from weather and bird droppings;

(7) fish is not cleaned on recreational fishing boats;

(8) each table used to clean the fish has an EASILY CLEANABLE surface and is regularly cleaned;

(9) the area where the fish is to be cleaned has potable water in amounts sufficient to clean CONTAINERS, fish, and tables; and

(10) disposal of fish waste does not violate AS 46.03.810 or any other provision of law.

(b) In this section, “fishing derby association” has the meaning given in AS 16.05.662. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

**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 34.015, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.025. Confidentiality of trade secrets.** (a) The DEPARTMENT will, in its discretion, require a person subject to this chapter to disclose a trade secret to the DEPARTMENT to assist the DEPARTMENT in evaluating a permit application or in determining compliance with this chapter. If the person disclosing the required information certifies in writing that public disclosure of the information, including information contained in a photograph taken by a DEPARTMENT employee, would reveal a trade secret as defined in AS 45.50.940, the DEPARTMENT will keep the information confidential while it determines if the public interest that would be served by disclosure is outweighed by the person’s privacy interest. The DEPARTMENT will continue to keep the information confidential if it finds the information is entitled to protection. If the DEPARTMENT finds that the information is not entitled to protection, the DEPARTMENT will notify the person disclosing the information in writing that the information will be subject to disclosure after 10 days. Unless ordered by a court to disclose the information, the DEPARTMENT will keep the information confidential through the 10-day period, any administrative appeal of the DEPARTMENT’s finding initiated during the 10-day period, and any judicial appeal of the final agency decision.

(b) The DEPARTMENT will, in its discretion, disclose information that is confidential under this section under a continuing restriction of confidentiality to other departments of the state or United States or to a court

(1) to protect against an imminent threat to public health or safety;

(2) in a proceeding to deny, modify, suspend, or revoke a permit required under this chapter; or

(3) in pursuit of an enforcement activity.

(c) This section does not limit the DEPARTMENT’S authority to release confidential information during an emergency. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

**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 34.025, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.030. Prohibited activities.** In addition to the prohibitions set out in AS 17.20.290, a person may not process, sell, or transport

(1) SEAFOOD that has an odor associated with microbiological or enzymatic DECOMPOSITION or that otherwise shows signs of decay such as fungus on the fish, excluding the fins and tail;

(2) thermally processed SEAFOOD products containing hatchery brood stock that was held to be used, or was used, for roe or milt, unless using a process approved in writing by the DEPARTMENT that renders the SEAFOOD fit for human consumption;

(3) SEAFOOD that has been previously frozen unless it is labeled as required by AS 17.20.044 and 18 AAC 34.110;

(4) adulterated SEAFOOD products described in 18 AAC 34.115;

(5) misbranded SEAFOOD products described in 18 AAC 34.120; or

(6) previously processed SEAFOOD from a person who did not have the current annual permit required under this chapter for that activity at the time the SEAFOOD was processed. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179)

**Authority:** AS 17.20.005 AS 17.20.065 AS 17.20.290  
AS 17.20.020 AS 17.20.072 AS 44.46.020  
AS 17.20.040 AS 17.20.180

**Editor’s note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.030, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.030(3). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

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

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

- (1) an application form provided by the DEPARTMENT;
- (2) each applicable fee required in 18 AAC 34.900;
- (3) a site plan that accurately depicts the location of all PROCESSING and storage buildings, roads, alleys, docks, and other areas that are part of the FACILITY and that will be used to support the PROCESSING, storage, or transportation of SEAFOOD products;
- (4) a FACILITY floor plan that accurately depicts the location or placement of
  - (A) PROCESSING equipment; and
  - (B) storage areas for SEAFOOD, FOOD INGREDIENTS, and FOOD PACKAGING materials;
- (5) a plumbing schematic that shows
  - (A) piping used for potable water, nonpotable water, and wastewater;
  - (B) each plumbing fixture, including each floor drain and floor sink, located in a PROCESSING area; and
  - (C) toilets and handwash sinks;
- (6) a written description of the surface finish of walls, floors, and ceilings in PROCESSING, PACKAGING, and storage areas;
- (7) a written description of how garbage and refuse will be stored, handled, and disposed of;
- (8) documentation showing that required approvals have been granted or permit applications have been submitted to the DEPARTMENT for
  - (A) the FACILITY'S drinking water supply as required by 18 AAC 80;
  - (B) the FACILITY'S wastewater disposal system as required by 18 AAC 72; and
  - (C) the discharge of pollutants into waters of the United States as required by 18 AAC 83;

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

(10) a written HAZARD analysis or HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) PLAN, that meets the requirements of 18 AAC 34.045;

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

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

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

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

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

(14) for a person who wishes to conduct an activity described in 18 AAC 34.005(b) within a permitted PROCESSOR's FACILITY, a written statement of consent from the permitted PROCESSOR authorizing the person to utilize the FACILITY and the agreed upon times or locations that each person will conduct PROCESSING activities;

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

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

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

(1) the current year's application form;

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

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

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

(1) issue a permit;

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

(3) deny a permit.

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

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

(2) must be maintained at the FACILITY;

(3) is not transferable; and

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

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

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

(h) If the DEPARTMENT denies a permit or issues a provisional permit, it will notify the applicant in writing of the reasons for denial or provisional permit. Not later than 30 days after issuance of the notice of denial or provisional permit, the applicant may request an adjudicatory hearing under AS 44.62 (Administrative Procedure Act) by submitting a request to the commissioner. Upon receipt of a timely request for an adjudicatory hearing, the commissioner will refer the matter to the office of administrative hearings (AS 44.64.010) for a hearing and recommended decision under 2 AAC 64.100 – 2 AAC 64.990 to the commissioner or to the commissioner's designee if the designee is a person other than the person who issued the contested decision. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/7/2017, Register 224; am 8/21/2019, Register 231)

**Authority:** AS 17.20.005 AS 17.20.072 AS 44.46.020

AS 17.20.065 AS 17.20.180

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

**18 AAC 34.045. Hazard Analysis Critical Control Point (HACCP) plan.** (a) A PROCESSOR subject to this chapter shall conduct a HAZARD analysis as required by 21 C.F.R. 123.6, adopted by reference in 18 AAC 34.010. The HAZARD analysis must be in writing.

(b) Except as described in (c) of this section, a PROCESSOR subject to this chapter shall have and comply with a HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) PLAN and otherwise meet the requirements of 21 C.F.R. 123.3 – 21 C.F.R. 123.28, adopted by reference in 18 AAC 34.010.

(c) If a PROCESSOR does not have a HACCP PLAN because the PROCESSOR determines that HAZARDS are not reasonable likely to occur, the HAZARD analysis required by (a) of this section must be provided to the DEPARTMENT for review upon request.

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

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

**Editor's note:** Information about how to review or obtain a copy of a requirement referred to in 18 AAC 34.045 and adopted by reference in 18 AAC 34.010 is set out in the editor's note to 18 AAC 34.010.

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

- (1) notify each direct consignee of the recalled SEAFOOD, including how to return or dispose of the affected SEAFOOD;
- (2) notify the public about the HAZARD presented by the recalled SEAFOOD;
- (3) appropriately dispose of the recalled seafood by reprocessing, reworking, diverting to a use that does not present a safety concern, or destroying the SEAFOOD; and
- (4) verify, by means such as personal visits, telephone calls, written communications, or a combination of those means, that each consignee received notification of the recall and has taken the appropriate action.

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

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

(d) A PROCESSOR shall maintain records relating to implementation of recall procedures, including notifications to the DEPARTMENT, consignees, and the public, and records of the

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

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

**18 AAC 34.050. Sanitation standard operating procedures.** (a) A PROCESSOR subject to this chapter shall have and implement written sanitation standard operating procedures that meet the requirements of this chapter and 21 C.F.R. 123.3 – 21 C.F.R. 123.28, adopted by reference in 18 AAC 34.010. The sanitation standard operating procedures must also describe how the PROCESSOR will meet any MONITORING requirements in this chapter.

(b) Repealed 8/21/2019.

(c) Repealed 8/21/2019.

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

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

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

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

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

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

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

**18 AAC 34.075. Plumbing.** Repealed. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; repealed 8/21/2019, Register 231)

**18 AAC 34.080. Water supply and ice.** Repealed. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/24/2007, Register 184; am 5/13/2019, Register 230; repealed 8/21/2019, Register 231)

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

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

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

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

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

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

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

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

(1) at the time of PACKAGING, the date of PACKAGING using a mark that is not removable, erasable, or able to be washed away;

(2) before distribution, the permit number assigned to the PROCESSOR under 18 AAC 34.035(e); if more than one PROCESSOR is involved in manufacturing of a SEAFOOD product, the permit number must be that of the PROCESSOR who last handled the product before sealing; or if participating in the SALMON CONTROL PLAN, the Seafood Products Association number;

(3) except when the DEPARTMENT has approved other language, if a SEAFOOD product is not SHELF-STABLE, the holding statement “KEEP REFRIGERATED” or “KEEP FROZEN”; if the product is a SMOKED SEAFOOD PRODUCT that is also packaged in a reduced oxygen package or a MODIFIED ATMOSPHERE PACKAGE, each CONTAINER must include the holding statement

(A) “KEEP REFRIGERATED BELOW 38° F” or “KEEP FROZEN”, if the product

(i) contains at least 3.5 percent WATER PHASE SALT;

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

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

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

(B) “KEEP FROZEN, THAW UNDER REFRIGERATION IMMEDIATELY BEFORE USE” if the product does not meet the requirements of (A) of this paragraph;

(4) the words “PREVIOUSLY FROZEN” if a CONTAINER holds a SEAFOOD product that

(A) has been previously frozen and thawed; and

(B) will be sold without further PROCESSING;

(5) the words “NOT FOR SALE” if that CONTAINER holds a SEAFOOD product that

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

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

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

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

(B) genetically modified fish or fish product, the words “MADE WITH GENETICALLY MODIFIED {MARKET NAME OF FISH OR FISH PRODUCT}”. (Eff. 12/18/97, Register 144; am 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/24/2007, Register 184; am 8/21/2019, Register 231)

**Authority:** AS 17.20.005 AS 17.20.045 AS 17.20.180  
AS 17.20.010 AS 17.20.065 AS 17.20.290

AS 17.20.040 AS 17.20.072 AS 44.46.020

AS 17.20.044

**Editor's note:** Information about how to review or obtain a copy of a requirement referred to in 18 AAC 34.110 and adopted by reference in 18 AAC 34.010 is set out in the editor's note to 18 AAC 34.010. The Seafood Products Association may be contacted at 1600 S. Jackson Street, Seattle, WA 98144; telephone: (206) 323-3540; facsimile: (206) 323-3543; e-mail: inquiry@spa-food.org.

**18 AAC 34.112. Labeling requirements for seafood products for export only.** (a) The DEPARTMENT will not treat a SEAFOOD product intended for export as an adulterated or misbranded SEAFOOD product if

(1) the SEAFOOD product

(A) was processed using a FOOD ADDITIVE in violation of 18 AAC 34.115(2) or a COLOR ADDITIVE in violation of 18 AAC 34.115(3); or

(B) violates a standard set out in 18 AAC 34.122 that is appropriate to the processed SEAFOOD product; and

(2) the PROCESSOR of the SEAFOOD product

(A) labels the CONTAINER that holds the SEAFOOD product as required by (b) of this section; and

(B) has on file at the FACILITY at which the SEAFOOD was processed a letter from the foreign purchaser of the SEAFOOD product, stating that the product meets the specifications of the SEAFOOD product set by the government of the country into which the product will be sold and exported.

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

(1) the PROCESSING FACILITY's name and address, or its permit number;

(2) the identity and name of the SEAFOOD product as described in 18 AAC 34.110(a);

(3) the temperature holding statement described in 18 AAC 34.110(b)(3) if applicable; and

(4) the words "FOR EXPORT ONLY" in boldfaced letters at least one-quarter inch high. (Eff. 12/2/99, Register 152; am 8/6/2006, Register 179; am 8/21/2019, Register 231)

**Authority:** AS 17.20.005 AS 17.20.045 AS 17.20.230

AS 17.20.010	AS 17.20.065	AS 17.20.290
AS 17.20.040	AS 17.20.072	AS 44.46.020
AS 17.20.044	AS 17.20.180	

**18 AAC 34.115. Adulterated seafood products.** The term “adulterated SEAFOOD product” has the meaning given “adulterated food” in AS 17.20.020 and 17.20.030. In addition, a SEAFOOD product is adulterated if

- (1) it is contaminated with OIL or another hazardous substance;
- (2) it contains a FOOD ADDITIVE that is unsafe under 21 U.S.C. 348(a), adopted by reference in 18 AAC 34.010, or that is prohibited by the DEPARTMENT;
- (3) it contains a COLOR ADDITIVE that is unsafe under 21 U.S.C. 379e(a), adopted by reference in 18 AAC 34.010, or that is prohibited by the DEPARTMENT;
- (4) it was accidentally or intentionally subjected to radiation, unless the use of radiation was in conformity with 21 C.F.R. 179.21 - 179.45, adopted by reference in 18 AAC 34.010;
- (5) for a FOOD that is exported, it is not in compliance with 21 U.S.C. 381(1) and (2), adopted by reference in 18 AAC 34.010; or
- (6) it does not meet the requirements of this chapter. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/21/2019, Register 231)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.115, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

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

**18 AAC 34.120. Misbranded seafood products.** The term “misbranded SEAFOOD product” has the meaning given “misbranded food” in AS 17.20.040 and 17.20.045. In addition, a SEAFOOD product is misbranded if it is not labeled as required by 18 AAC 34.110 or 18 AAC 34.112. (Eff. 12/18 /97, Register 144; am 12/2/99, Register 152; am 8/21/2019,

Register 231)

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

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

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

- (1) for fresh or frozen SEAFOOD products other than SHELLFISH for
  - (A) organoleptic: no contamination or DECOMPOSITION detected; and
  - (B) histamine in scombroid fish: less than or equal to 50 ppm;
- (2) for refrigerated or frozen READY-TO-EAT SEAFOOD product for
  - (A) *Listeria monocytogenes*: none detected;
  - (B) *Salmonella* species: none detected;
  - (C) *Escherichia coli*: less than or equal to 1,000 MPN per gram, or the equivalent;
  - (D) *Staphylococcus aureus*: less than or equal to 10,000 MPN per gram, or the equivalent;
  - (E) organoleptic: no contamination or DECOMPOSITION detected;
- (3) for smoked salmon or sablefish for
  - (A) sodium nitrite: less than or equal to 200 ppm; and
  - (B) sodium nitrate: less than or equal to 500 ppm;
- (4) for smoke tuna, sodium nitrite: less than or equal to 10 ppm
- (5) for cod roe, potassium nitrate: less than or equal to 200 ppm;

(6) for SHELF-STABLE SEAFOOD product

(A) the product must be capable of being stored at room temperature for extended periods without production of pathogenic or toxigenic microorganisms or product deterioration, and

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

(i) the product has been thermally processed;

(ii) the product has a WATER ACTIVITY below 0.85 or a WATER PHASE SALT of 20 percent or greater;

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

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

(7) for SHELLFISH

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

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

(ii) an aerobic or standard plate count of less than or equal to 500,000 COLONY-FORMING UNITS (CFU) per gram; or

(B) shucked and EVISCERATED, fresh or frozen:

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

(ii) an aerobic or standard plate count of less than or equal to 100,000 COLONY-FORMING UNITS (CFU) per gram;

(8) for live, fresh, or frozen snails and SHELLFISH, including uneviscerated SHELLSTOCK;

(A) PSP: less than 80  $\mu\text{g}$  per 100 grams tissue; and

(B) DOMOIC ACID: less than 20 ppm; and

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

(A) PSP: less than 80  $\mu\text{g}$  per 100 grams tissue; and

(B) DOMOIC ACID: less than 30 ppm.

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

- (1) 21 C.F.R. 73.1 – 73.615;
- (2) 21 C.F.R. 74.101 – 74.706;
- (3) 21 C.F.R. 170.3 – 170.285;
- (4) 21 C.F.R. 172.5 – 172.898;
- (5) 21 C.F.R. 173.5 – 173.405;
- (6) 21 C.F.R. 175.105 – 175.390;
- (7) 21 C.F.R. 176.110 – 176.350;
- (8) 21 C.F.R. 177.1010 – 177.2910;
- (9) 21 C.F.R. 178.1005 - 178.3950;
- (10) 21 C.F.R. 180.1 – 180.37;
- (11) 21 C.F.R. 181.22 – 181.34;
- (12) 21 C.F.R. 182.1 – 182.8997;
- (13) 21 C.F.R. 184.1 – 184.1985;
- (14) 21 C.F.R. 186.1 – 186.1839; and
- (15) 21 C.F.R. 189.1 – 189.300. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 8/21/2019, Register 231)

**Authority:** AS 17.02.005 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 44.46.020

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

**18 AAC 34.125. Product testing.** (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.

(b) The DEPARTMENT will test live or SHUCKED SHELLFISH and snails for compliance with 18 AAC 34.122(9). SHELLFISH and snails must be held by the PROCESSOR until notified by the DEPARTMENT that the SEAFOOD meets the standards of 18 AAC 34.122(9)

(c) The DEPARTMENT will, if requested by the PROCESSOR and in the DEPARTMENT'S discretion, conduct tests on SEAFOOD products, including SEAFOOD products to be exported, or new SEAFOOD products being developed, subject to the fee required by 18 AAC 34.905.

(d) A PROCESSOR producing a refrigerated or frozen READY-TO-EAT product shall submit to a QUALIFIED LABORATORY 12 random product samples from the first LOT produced each calendar year. In addition,

(1) the PROCESSOR shall hold the LOT and may release the LOT only when results show the product samples meet the standards of 18 AAC 34.122(a)(2)(A) and (B); and

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

(e) Repealed 8/21/2019.

(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 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.

(g) Products that are thermally processed by a PROCESSOR covered under the SALMON CONTROL PLAN are exempt from the requirements of (a) and (e) of this section. The PROCESSOR shall, upon request from the DEPARTMENT, provide copies of the results of laboratory tests conducted under the SALMON CONTROL PLAN to show compliance with 18 AAC 34.122(a)(6).

(h) If the DEPARTMENT takes a compliance action under 18 AAC 34.940, the PROCESSOR shall, at the DEPARTMENT'S request, submit to the DEPARTMENT samples of SEAFOOD product, FOOD INGREDIENT, or PACKAGING material for further testing subject to the applicable fees required by 18 AAC 34.905. The sample size must be a representative sample of the SEAFOOD product, FOOD INGREDIENT, or PACKAGING material as determined using the *American National Standard Sampling Procedures and Tables for Inspection by Attributes* (1993), adopted by reference in 18 AAC 34.010. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 8/21/2019, Register 231)

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

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

**Article 2. Shellfish Processing.**

**Section**

- 200. Applicability of shellfish processing requirements
- 205. Permit requirements
- 210. Shellfish growing area
- 215. Harvesting and handling of bait shellfish
- 220. Geoduck dive vessel requirements

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

(b) A person described in (a) of this section, including a person who is a SHELLFISH HARVESTER, shall comply with the standards for fresh or frozen SHELLFISH relating to sanitation, harvesting, handling, shucking, and transporting contained in the *National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish*, adopted by reference in 18 AAC 34.010.

(c) A person who harvests SHELLFISH for bait to be sold as part of commerce shall meet the requirements of 18 AAC 34.215. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/21/2019, Register 231)

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

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

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

**18 AAC 34.205. Permit requirements.** (a) SHELLFISH may be processed only in a land-based or dockside FACILITY and only by a person who has a current annual permit issued by the DEPARTMENT.

(b) Except for a SHELLFISH HARVESTER, a SHELLFISH permit applicant shall meet the requirements of 18 AAC 34.035 and pay the permit fee required by 18 AAC 34.900.

- (c) A SHELLFISH HARVESTER permit applicant shall submit to the DEPARTMENT
  - (1) the fee required at 18 AAC 34.900;
  - (2) a completed form provided by the DEPARTMENT;
  - (3) an example of the actual SHELLFISH tag to be used by the harvester as required by 21 C.F.R. 123.28, adopted by reference in 18 AAC 34.010;
  - (4) a map and description of the location of the SHELLFISH GROWING AREA;
  - (5) a list of potential contaminants, including sewage, industrial waste, PESTICIDE chemicals, and radionuclides, to which the SHELLFISH might reasonably be expected to be exposed; and
  - (6) the following information, if the harvest activity includes establishment of a SHELLFISH harvesting residential campsite:
    - (A) a copy of the lease agreement with the owner of the area that will be used as a campsite;
    - (B) a description of the exact location of the campsite;
    - (C) the length of time the campsite will be used. (Eff. 12/18/97, Register 144; am 12/2/99, Register 152; am 8/21/2019, Register 231)

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

**18 AAC 34.210. Shellfish growing areas.** (a) A person may not harvest SHELLFISH for sale for human consumption from a SHELLFISH GROWING AREA unless the DEPARTMENT first approves the SHELLFISH GROWING AREA. In order to obtain approval of a SHELLFISH GROWING AREA, a person shall send a letter to the DEPARTMENT describing the SHELLFISH GROWING AREA for which approval is requested, and pay the appropriate fee required by 18 AAC 34.900(c). For purposes of this section,

- (1) a person seeking initial site approval of a SHELLFISH GROWING AREA shall request initial site approval and transmit the fee required by 18 AAC 34.900(c)(1); and
  - (2) a person seeking reapproval of a SHELLFISH GROWING AREA for which initial site approval has been given shall request reapproval and transmit the fee required by 18 AAC 34.900(c)(2)
- (b) SHELLFISH GROWING AREA sites that have been previously approved by the DEPARTMENT must be reapproved annually, subject to the reapproval fees required by 18 AAC 34.900.

(c) The DEPARTMENT will follow the *National Shellfish Sanitation Program Guide for*

*the Control of Molluscan Shellfish* adopted by reference in 18 AAC 34.010 to approve or reapprove a SHELLFISH GROWING AREA.

(d) Unless approved by the DEPARTMENT, a SHELLFISH GROWING AREA is closed to SHELLFISH harvesting for sale for human consumption. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

**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 34.210, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.210(c). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

Information about how to review or obtain a copy of a requirement referred to in 18 AAC 34.210 and adopted by reference in 18 AAC 34.010 is set out in the editor's note to 18 AAC 34.010.

**18 AAC 34.215. Harvesting and handling of bait shellfish.** (a) A person who harvests SHELLFISH for bait to be sold as part of commerce must have an annual harvesting permit from the DEPARTMENT, pay the applicable fee required in 18 AAC 34.900, and comply with this section.

(b) Bait SHELLFISH must be dyed no later than the end of each day's operation with FD and C # 1 Blue dye by completely immersing the SHELLFISH in the dye to impart a visible color to the SHELLFISH.

(c) A harvester shall dye bait SHELLFISH from an unapproved growing area before the SHELLFISH is moved from the growing area. Bait SHELLFISH from an approved growing area may be dyed while in a PROCESSING FACILITY.

(d) Bait SHELLFISH from an unapproved growing area may not be transported or stored with SHELLFISH intended for sale for human consumption.

(e) Bait SHELLFISH harvested from an approved growing area may be transported with SHELLFISH intended for human consumption if the bait SHELLFISH is identified as bait SHELLFISH, stored in separate CONTAINERS labeled to indicate they contain bait SHELLFISH, and does not cross-contaminate SHELLFISH intended for human consumption while in transport or storage. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

**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 34.215, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.220. Geoduck dive vessel requirements.** (a) Geoducks may only be harvested from a vessel that has a current annual permit issued by the DEPARTMENT.

(b) An owner of a geoduck dive vessel shall

(1) apply for an annual permit under 18 AAC 34.035(a)(1), (c), (d), (e), (f), and (g); and

(2) submit to the DEPARTMENT for approval plans that

(A) demonstrate compliance with this section;

(B) accurately depict the location or placement of storage areas for geoducks and CONTAINERS used to transport geoducks; and

(C) describe the surface finish of storage holds for geoducks.

(c) A geoduck dive vessel owner shall ensure that a geoduck dive vessel

(1) is ADEQUATE in size, design, and construction to accommodate sanitary harvesting, storage, and transport of geoducks, and to prevent contamination of geoducks and CONTAINERS used to transport geoducks;

(2) is equipped with a marine sanitation device approved by the United States Coast Guard or a portable toilet; in this subparagraph, “portable toilet” means a holding tank, chemical treatment unit, or other contained toilet facility that has an attached cover and that does not allow the discharge of untreated sewage; sewage may not be discharged during harvesting or within one-half mile of another vessel that can reasonably be expected to be PROCESSING SEAFOOD or harvesting SHELLFISH;

(3) has at least one toilet room that is

(A) kept in a sanitary condition and in good repair;

(B) equipped with a toilet and toilet tissue; and

(C) equipped with a sign directing employees to wash their hands with soap before returning to work stations; the sign must be printed in English and, if necessary for employee understanding, either in another language or with pictures;

(4) has a handwash sink with hot and cold running water that can be tempered to a temperature between 109° F and 120° F, soap, and disposable towels;

(5) has, for geoducks, storage holds that are nonabsorbent, durable, smooth, and

EASILY CLEANABLE, and that are made of concrete, sealed or noncorrosive metal, fiberglass, or other suitable material approved by the DEPARTMENT; and

(6) except for harvested geoducks, is free of live animals, including pets, insects, rodents, or other pests. (Eff. 8/6/2006, Register 179)

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

**Article 3. Smoked or Smoke-Flavored Seafood Products Processing.**

**Section**

300. (Repealed)

310. (Repealed)

315. (Repealed)

320. (Repealed)

**18 AAC 34.300. Applicability of smoked or smoke-flavored seafood product processing requirements.** Repealed. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; repealed 8/21/2019, Register 231)

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

**18 AAC 34.315. Native-style smoked or smoke-flavored dried salmon.** Repealed. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/24/2007, Register 184; repealed 8/21/2019, Register 231)

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

**Article 4. Thermal and Acidified Food Processing.**

**Section**

400. Thermal and acidified food processing

**18 AAC 34.400. Thermal and acidified food processing.** (a) A person who processes SEAFOOD products intended for human consumption,

(1) if the SEAFOOD product is thermally processed, must meet the requirements of 21 C.F.R. 108.35 and 21 C.F.R. 113.3 - 113.100, adopted by reference in 18 AAC 34.010, in addition to the requirements of 18 AAC 34.030 - 18 AAC 34.125, 18 AAC 34.803 – 18 AAC 34.855, and 18 AAC 34.900 - 18 AAC 34.990;

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

(b) Repealed 8/21/2019.

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

**Authority:** AS 17.20.005 AS 17.20.072 AS 44.46.020  
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 34.400, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**Article 5. Direct-Market Fishing Vessels.**

**Section**

- 500. Applicable standards
- 510. Vessel requirements
- 520. Water supply and ice
- 525. (Repealed)

**18 AAC 34.500. Applicable standards.** (a) A person who operates a direct market fishing vessel to process SEAFOOD products for sale as part of commerce intended for human consumption shall meet the requirements of 18 AAC 34.500 - 18 AAC 34.525. In addition, the operator must meet the requirements of 18 AAC 34.030 - 18 AAC 34.122, 18 AAC 34.125(a), (c), and (h), 18 AAC 34.803 – 18 AAC 34.810, 18 AAC 34.820(a) – (c), (g), (h), (i), and (l), 18 AAC 34.825 – 18 AAC 34.855, and 18 AAC 34.900 - 18 AAC 34.990.

(b) A DIRECT-MARKET FISHING VESSEL operator shall limit PROCESSING to BUTCHERING, FREEZING, and PACKAGING the operator’s own catch of SEAFOOD products on board the vessel.

(c) The operator of a DIRECT-MARKET FISHING VESSEL may BUTCHER SEAFOOD products only while on the fishing grounds but no closer than one-half nautical mile to shore. BUTCHERING, PACKAGING, and FREEZING must be done under sanitary conditions.

(d) A DIRECT-MARKET FISHING VESSEL operator who uses chemicals or ADDITIVES shall ensure there is ADEQUATE room aboard the vessel for the sanitary storage, mixing, and use of the chemicals or ADDITIVES. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/21/2019, Register 231)

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

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

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

**18 AAC 34.510. Vessel requirements.** (a) A DIRECT-MARKET FISHING VESSEL must be equipped with either a wash-down hose or another means to supply ADEQUATE amounts of water to the PROCESSING area and deck for cleaning and sanitizing.

(b) A DIRECT-MARKET FISHING VESSEL must be equipped with a marine sanitation device

approved by the United States Coast Guard or a portable toilet. The vessel must also be equipped with a handwash sink, soap, and hand towels.

(c) In this section, "portable toilet" means a contained toilet facility with an attached cover, such as a holding tank or a chemical treatment unit, that does not allow direct discharge of untreated sewage. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

**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 34.510, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.520. Water supply and ice.** (a) Sources of fresh and salt water supplies for a DIRECT-MARKET FISHING VESSEL must be approved by the DEPARTMENT.

(b) PROCESSING WATER supplies may not come in contact with or become exposed to sewage or other contamination.

(c) PROCESSING WATER used for final rinsing of a SEAFOOD product must be

(1) changed as often as necessary to prevent buildup of blood, slime, or other contamination that might result in an adulterated SEAFOOD product; and

(2) disinfected to maintain a measurable residual of free chlorine or another disinfectant approved by the DEPARTMENT; PROCESSING WATER must be tested for the 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(b)(5).

(d) PROCESSING WATER lines on a DIRECT-MARKET FISHING VESSEL may not be cross connected with bilge pump systems or other nonpotable water lines.

(e) Ice used on a DIRECT-MARKET FISHING VESSEL must comply with 18 AAC 34.830(b).

(f) Roe is not required to have a chlorinated final rinse if

(1) each food-contact surface is cleaned and SANITIZED as specified in 18 AAC 34.815; and

(2) each whole, round fish receives a chlorinated rinse as specified in (c) of this section before the roe is extracted. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 8/21/2019, Register 231)

**Authority:** AS 17.20.005 AS 17.20.072 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 34.520, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

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

**Article 6. Requirements for Fishing Vessels, Tender Vessels, Buying Stations, and Processing Facilities in Response to Oil Contamination.**

**Section**

- 600. Applicability
- 602. Prohibition on taking on water with visible oily sheen
- 605. Fishing vessel and tender vessel inspection
- 615. Requirements for operators of fishing vessels
- 620. Requirements for operators of tender vessels or buying stations
- 625. Requirements for processors

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

(b) The requirements of 18 AAC 34.602 apply

(1) where there is a visible OILY SHEEN on the water; and

(2) to

- (A) fishing vessels;
- (B) TENDER vessels;
- (C) buying stations; and
- (D) PROCESSING facilities.

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

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

(2) to

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

(B) fishing vessels, TENDER vessels, buying stations, PROCESSING facilities, and PROCESSORS who handle, transport, prepare, store, or process SEAFOOD caught in the water affected by the threatened OIL spill contamination; and

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

**Authority:** AS 17.20.005 AS 17.20.065 AS 17.20.180

AS 17.20.020 AS 17.20.072 AS 44.46.020

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.600, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.602. Prohibitions on taking on water with visible oily sheen.** In an area where there is a visible OILY SHEEN on the water, an operator of a fishing vessel or a TENDER vessel, a buying station or a PROCESSOR, may not take on sea water for

- (1) fluming, pumping, unloading, or chilling SEAFOOD;
- (2) holding live SEAFOOD products; or
- (3) cleanup purposes. (Eff. 8/21/2019, Register 231)

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

**18 AAC 34.605. Fishing vessel and tender vessel inspection.** (a) After the DEPARTMENT finds that an OIL spill threatens to contaminate a body of water where SEAFOOD that is intended to be sold as part of commerce and intended for human consumption is caught, the vessels described in 18 AAC 34.600 must be inspected by the DEPARTMENT or its designated agent before conducting fishing activities or receiving SEAFOOD products.

(b) An operator of a fishing vessel or TENDER vessel subject to (a) of this section may not catch, store, handle, or transport SEAFOOD products unless

(1) OIL CONTAMINATION is removed from any surface that might contact SEAFOOD, using only chemicals described in 18 AAC 34.815; and

(2) the vessel has passed a DEPARTMENT inspection and received a notice from the DEPARTMENT confirming the inspection; the DEPARTMENT will, in its discretion, waive the requirement for an inspection under this paragraph; if the DEPARTMENT waives inspection, it will provide the PROCESSOR with a notice that the DEPARTMENT has issued a waiver of inspection.

(c) The operator of a fishing vessel or TENDER vessel shall present the notice received under (b)(2) of this section to a SEAFOOD buyer each time the operator makes a DELIVERY of a SEAFOOD product.

(d) The DEPARTMENT will, in its discretion, provide a list of all vessels involved in OIL spill cleanup operations to TENDER vessels, buying stations, and PROCESSING facilities. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 8/21/2019, Register 231)

**Authority:** AS 17.20.005 AS 17.20.070 AS 17.20.200

AS 17.20.020 AS 17.20.072 AS 44.46.020

AS 17.20.065 AS 17.20.180

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.605, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.615. Requirements for operators of fishing vessels.** (a) After the DEPARTMENT finds that an OIL spill threatens to contaminate a body of water where SEAFOOD that is intended to be sold as part of commerce and intended for human consumption is caught, the operator of a fishing vessel described in 18 AAC 34.600 shall inspect for signs of OIL CONTAMINATION before, during, and after fishing. The operator shall inspect

(1) the fishing gear, hull, deck, fish hold, work clothes, and any other equipment that might have been in contact with SEAFOOD or fishing gear; and

(2) the SEAFOOD products as they are brought on board the vessel.

(b) If OIL-contaminated SEAFOOD product or fishing gear is found, the operator of a fishing vessel shall

(1) immediately segregate the entire LOT or LOAD containing OIL-contaminated SEAFOOD product or fishing gear from uncontaminated product or gear;

(2) upon arrival at a TENDER vessel, buying station, or PROCESSING FACILITY or vessel, notify the DEPARTMENT that OIL has been found; and

(3) request the DEPARTMENT to inspect the vessel as required by 18 AAC 34.605. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179)

**Authority:** AS 17.20.005 AS 17.20.070 AS 17.20.200

AS 17.20.020 AS 17.20.072 AS 44.46.020

AS 17.20.065 AS 17.20.180

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.615, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.620. Requirements for operators of tender vessels or buying stations.** (a) An operator of a TENDER vessel or buying station may not accept SEAFOOD from a fishing vessel described in 18 AAC 34.600(c)(2) to which the provisions of 18 AAC 34.600 - 18 AAC 34.625 apply unless the fishing vessel has received an inspection or waiver notice under 18 AAC 34.605(b)(2).

(b) Before accepting DELIVERY from a fishing vessel described in 18 AAC 34.600(c)(2) to which the provisions of 18 AAC 34.600 - 18 AAC 34.625 apply, the operator of a TENDER vessel or buying station shall inspect each fishing vessel, including the fishing gear, hull, deck, fish hold, work clothes, and equipment that might have been in contact with SEAFOOD or fishing gear, for signs of OIL CONTAMINATION.

(c) During each DELIVERY from a fishing vessel described in 18 AAC 34.600(c)(2) to which the provisions of 18 AAC 34.600 - 18 AAC 34.625 apply, the operator of a TENDER vessel or buying station shall inspect the SEAFOOD products for signs of OIL CONTAMINATION as the product is offloaded. If the product is offloaded

(1) from the fishing vessel, the operator shall inspect it by

(A) examining all of the SEAFOOD product in one pump cycle before offloading any SEAFOOD product into the tank or hold; and

(B) randomly examining the SEAFOOD product after each pump cycle;

(2) at a buying station, the operator shall inspect it by

(A) examining all of the SEAFOOD product in one CONTAINER before offloading the product from the fishing vessel or TENDER; and

(B) randomly examining the SEAFOOD product within each remaining CONTAINER.

(d) If OIL-contaminated SEAFOOD product is found, the TENDER vessel or buying station operator shall immediately

(1) notify the DEPARTMENT that OIL was found, and request an inspection of the product and vessel; and

(2) segregate the entire LOT or LOAD containing OIL-contaminated SEAFOOD product from uncontaminated SEAFOOD product.

(e) The operator of a TENDER vessel or buying station shall keep a record of each DELIVERY for the time specified at 18 AAC 34.920. Records must include

(1) the name of the fishing vessel that delivered the SEAFOOD product, or the name of the person delivering the SEAFOOD product from a set net site;

(2) the fishing area in which the SEAFOOD product was caught;

(3) the date of DELIVERY;

(4) the number of pounds, or the number of UNITS, of SEAFOOD product

(A) inspected for OIL CONTAMINATION; and

(B) contaminated with OIL, if any; and

(5) action taken by the operator of the TENDER vessel or buying station if OIL-contaminated SEAFOOD product was found.

(f) The operator of a TENDER vessel or buying station shall give a copy of the records required in (e) of this section to the operator of a PROCESSING FACILITY when the SEAFOOD product is delivered to the FACILITY.

(g) The operator of a TENDER vessel that takes on sea water for use as refrigerated sea water shall immediately notify the DEPARTMENT if OIL-contaminated sea water is taken in, and shall request an inspection before resuming fisheries activity.

(h) The records required in (e) of this section are subject to the confidentiality provisions of AS 16.05.815, except that, if OIL-contaminated SEAFOOD product is found, information in the records relating to the date of DELIVERY and the area where the contaminated SEAFOOD products was caught is not confidential. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/21/2019, Register 231)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.620, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.625. Requirements for processors.** (a) A PROCESSOR may not receive SEAFOOD products from a TENDER vessel or a fishing vessel subject to the requirements of 18 AAC 34.600 unless the TENDER vessel or fishing vessel has received the inspection notice or waiver under 18 AAC 34.605(b)(2).

(b) Before accepting DELIVERY from a TENDER vessel or fishing vessel subject to 18 AAC 34.600, the PROCESSOR shall examine the delivering vessel, including the fishing gear, hull, deck, fish hold, work clothes, and equipment for signs of OIL CONTAMINATION.

(c) During each DELIVERY of SEAFOOD products, the PROCESSOR shall inspect for signs of OIL CONTAMINATION

(1) all SEAFOOD product from each LOT or LOAD that consists of less than 200 UNITS; or

(2) at least 200 UNITS from each LOT or LOAD that consists of 200 or more UNITS.

(d) During PROCESSING, the PROCESSOR shall continuously inspect for signs of OIL

CONTAMINATION

- (1) SEAFOOD product as it is processed; and
- (2) FOOD-contact surfaces of equipment and work clothes.

(e) If OIL CONTAMINATION is found on one or more UNITS of SEAFOOD product during DELIVERY or during PROCESSING, on unloading or holding equipment, on FOOD-contact surfaces of equipment, or on work clothes, the PROCESSOR shall immediately

- (1) cease PROCESSING;
- (2) notify the DEPARTMENT that OIL CONTAMINATION has been found and request an inspection;
- (3) segregate the entire LOT or LOAD containing OIL-contaminated SEAFOOD product from uncontaminated SEAFOOD product; and
- (4) clean contaminated equipment, using only chemicals described in 18 AAC 34.065.

(f) A PROCESSOR at a PROCESSING FACILITY in which OIL CONTAMINATION is found may not use the contaminated equipment or work clothes until the DEPARTMENT or its designated agent inspects the contaminated equipment and work clothes and finds that cleanup of the contaminated equipment and work clothes is ADEQUATE.

(g) In addition to keeping a copy of the records required in 18 AAC 34.620(e), the PROCESSOR shall keep the following records for each DELIVERY of SEAFOOD products:

- (1) the name of the fishing vessel, TENDER vessel, or buying station; and
- (2) any action taken by the PROCESSING FACILITY if OIL-contaminated SEAFOOD product is found.

(h) Records required in (g) of this section are confidential to the same extent as confidentiality is provided by 18 AAC 34.620(h) for a record required by 18 AAC 34.620(e).

(i) A PROCESSOR at a PROCESSING FACILITY that takes in sea water shall

- (1) before, during, and after taking in sea water, inspect the water, adjacent beaches, and equipment for signs of OIL CONTAMINATION; and
- (2) immediately notify the DEPARTMENT if OIL-contaminated sea water is taken in, and request an inspection before resuming PROCESSING.

(j) A person shall notify the DEPARTMENT before a shipment of whole, round fish or live SEAFOOD product caught in an area the DEPARTMENT has found to be threatened by an OIL spill is transported for PROCESSING at a FACILITY located in an area not affected by the OIL spill. The person shall contact the DEPARTMENT in the most expedient manner possible with the following

information:

- (1) the anticipated transport date;
- (2) the method of transportation, including TENDER name, shipping van company and van number, or airplane company;
- (3) the name and location of the FACILITY to which the SEAFOOD products will be transported; and
- (4) the anticipated date and time of arrival at the FACILITY. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.625, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**Article 7. Direct-Market Land-Based Facilities.**

**Section**

- 700. Applicable standards
- 710. Facility design and construction
- 720. Water supply and ice
- 730. Toilet and handwash sink requirements
- 740. (Repealed)

**18 AAC 34.700. Applicable standards.** (a) A person who operates a DIRECT-MARKET LAND-BASED FACILITY to process SEAFOOD products for sale as part of commerce intended for human consumption

(1) shall meet the requirements of 18 AAC 34.700 – 18 AAC 34.730; and

(2) except as specified in 18 AAC 34.700 – 18 AAC 34.730, shall meet the requirements of 18 AAC 34.005, 18 AAC 34.010, 18 AAC 34.030 – 18 AAC 34.122, 18 AAC 34.125(a), (c), and (h), 18 AAC 34.803 – 18 AAC 34.805, 18 AAC 34.820(a) – (c), (e) – (g), (i), and (l), 18 AAC 34.825 – 18 AAC 34.835, and 18 AAC 34.900 – 18 AAC 34.990.

(b) The operator of a DIRECT-MARKET LAND-BASED FACILITY shall limit PROCESSING to BUTCHERING, roe extraction, FREEZING, and PACKAGING only the operator's own catch of SEAFOOD products in the approved FACILITY.

(c) Repealed 8/21/2019. (Eff. 8/6/2006, Register 179; am 8/21/2019, Register 231)

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

**18 AAC 34.710. Facility design and construction.** (a) The DIRECT-MARKET LAND-BASED FACILITY may be a temporary FACILITY.

(b) Inside walls, floor and ceiling of the FACILITY may be made of wood if the

- (1) wood is painted or sealed with a visible sealant;
- (2) walls are sealed at the floor juncture; and
- (3) walls are EASILY CLEANABLE and maintained in good repair;

(c) Inside walls and the ceiling of the FACILITY may be made of a flexible material if the

- (1) flexible material is
  - (A) at least 20 mils thick or 18-ounce weight;

(B) made of rubberized nylon, polypropylene, polyester-based vinyl, or nylon-based vinyl;

(C) sealed at wall and floor junctures; and

(D) free of breaks, open seams, and crevices; or

(2) DEPARTMENT determines that the flexible material and the manner in which it is installed will result in a sanitary surface suitable, and sufficiently durable and cleanable, for a PROCESSING FACILITY.

(d) If the FACILITY has windows, each window must be screened if opened and must be able to be closed.

(e) If the DEPARTMENT determines that the lighting is sufficient to provide for ADEQUATE inspection and handling of product, lighting may be provided by

(1) ambient light during daylight hours;

(2) battery-powered fixtures; or

(3) other means approved by the DEPARTMENT. (Eff. 8/6/2006, Register 179)

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

**18 AAC 34.720. Water supply and ice.** (a) Each source of fresh and salt water supply for use in a DIRECT-MARKET LAND-BASED FACILITY must be approved by the DEPARTMENT, on the basis of whether public health and consumers are ADEQUATELY protected.

(b) A water supply used for PROCESSING may not come in contact with or become exposed to sewage or other contamination.

(c) PROCESSING WATER used for final rinsing of a SEAFOOD product must be

(1) changed as often as necessary to prevent buildup of blood, slime, or other contamination that might result in an adulterated SEAFOOD product; and

(2) disinfected to maintain a measurable residual of free chlorine or another disinfectant approved by the DEPARTMENT; PROCESSING WATER must be tested for the 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(b)(5).

(d) Roe is not required to have a chlorinated final rinse if

(1) each food-contact surface is cleaned and SANITIZED as specified in 18 AAC 34.815; and

(2) each whole, round fish receives a chlorinated rinse as specified in (c) of this section before the roe is extracted.

(e) PROCESSING WATER lines in a DIRECT-MARKET LAND-BASED FACILITY may not be cross-connected with nonpotable water lines.

(f) Ice used in a DIRECT-MARKET LAND-BASED FACILITY must comply with 18 AAC 34.830(b). (Eff. 8/6/2006, Register 179; am 8/21/2019, Register 231)

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

**18 AAC 34.730. Toilet and handwash sink requirements.** If a DIRECT-MARKET LAND-BASED FACILITY operator installs a portable toilet or privy in accordance with 18 AAC 34.820(g), the operator shall monitor the use of the handwash sink located at the entrance to the PROCESSING area to ensure that employees are washing hands after exiting the toilet facility. (Eff. 8/6/2006, Register 179; am 8/21/2019, Register 231)

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

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

**Article 8. Good Manufacturing Practice.**

**Section**

- 803. Qualifications and training
- 805. Personnel; disease control and hygienic practices
- 810. Plant and grounds
- 815. Sanitary operations
- 820. Sanitary facilities and controls; plumbing, water supply, toilets and handwash sink requirements, and waste disposal
- 825. Equipment and utensils
- 830. Processes and controls; handling; and ice supply
- 835. Storage and transportation
- 840. Holding and distribution of human food by-products for use as animal food
- 855. Defect action levels

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

**Authority.** AS 17.20.005 AS 17.20.072 AS 44.46.020  
AS 17.20.065 AS 17.20.180

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

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

**Authority.** AS 17.20.005 AS 17.20.072 AS 44.46.020  
AS 17.20.065 AS 17.20.180

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

**18 AAC 34.810. Plant and grounds.** (a) A PROCESSOR shall ensure that each FACILITY and the grounds about the FACILITY under the control of the PROCESSOR are designed and constructed in a manner that facilitates sanitary operations and protects FOOD from contamination

as required at 21 C.F.R. 117.20, adopted by reference in 18 AAC 34.010, and other requirements of this section.

(b) The outside walls and the roof

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

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

(c) The FACILITY must have lighting of at least

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

(A) SEAFOOD products, FOOD INGREDIENTS, or additives are inspected, sorted, graded, or processed; and

(B) PROCESSING equipment control panels and FOOD PACKAGING materials, including tin stock, jars, and retort pouches, are tested or examined; and

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

(d) The inside walls in

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

(2) FOOD PROCESSING areas, built-in refrigerators, and FREEZERS used in the PROCESSING of SEAFOOD products must be made of tile, sealed or noncorrosive metal, fiberglass, glass panels, or another nonabsorbent, durable, smooth and EASILY CLEANABLE materials designed for its intended use.

(3) storage FREEZERS and ingredient storage areas must be EASILY CLEANABLE and may be made of wood if the wood is sealed with a visible seal and; and

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

(e) Floors in

(1) PROCESSING areas where large amounts of water are used must be durable, smooth, and EASILY CLEANABLE, must be made of concreted, sealed or noncorrosive metal,

fiberglass, or another suitable material approved by the DEPARTMENT, and must be ADEQUATELY sloped to floor drains;

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

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

(f) Floor drains are required in areas where

(1) REFRIGERATION or FREEZER pipes produce condensation that accumulates

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

(3) wastewater could contaminate a PROCESSING area. (Eff. 8/21/2019, Register 231)

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

**Editor’s note:** The subject matter addressed in 18 AAC 34.801 was formerly addressed in 18 AAC 34.060. The history for 18 AAC 34.801 does not include the history of the earlier section.

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

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

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

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

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

**18 AAC 34.820. Sanitary facilities and controls; plumbing, water supply, toilets and handwash sink requirements, and waste disposal.** (a) A PROCESSOR shall ensure that each FACILITY is equipped with sanitary facilities and accommodations as required in 21 C.F.R.

117.37, adopted by reference in 18 AAC 34.010, and other requirements of this section.

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

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

(d) A PROCESSING WATER supply must be approved by the DEPARTMENT, on the basis of whether public health and consumers are ADEQUATELY protected. In addition to complying with (c) of this section, for a PROCESSING WATER supply that is not directly plumbed to a community public water system or a non-transient non-community water system, a PROCESSOR

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

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

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

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

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

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

(5) shall sample at a point at the end of the system and test for disinfectant residual at least once each day during the operating season; a daily log of the disinfectant residuals must be kept as required by 18 AAC 34.920.

(e) Water supplies used to deliver, chill, or hold live or unprocessed SEAFOOD may not contribute to contamination or adulteration of the SEAFOOD products and may not have a fecal coliform density of more than 14 colony forming units (CFU) per 100 ml. These water supplies are exempt from the disinfection requirements of (d) of this section if the water used at a location that will not allow other SEAFOOD products, FOOD INGREDIENTS, FOOD contact surfaces, or FOOD

PACKAGING materials to come into contact with the water.

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

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

(1) due to lack of soil, the existence of permanently frozen ground, or other geological conditions, the land-based FACILITY is unable to install a septic system;

(2) the DEPARTMENT finds that public health is protected;

(3) each portable toilet and privy meets the applicable requirements of 18 AAC 72;

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

(5) each portable toilet and privy is maintained in a sanitary manner and toilet tissue is provided;

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

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

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

(i) Handwash sinks must be provided and

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

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

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

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

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

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

(j) For sewage disposal from a mobile PROCESSING vessel, only a TYPE II or TYPE III MARINE SANITATION DEVICE may be used. If used, marine sanitation devices must be of an ADEQUATE size for number of employees and must be operated in accordance with the manufacturer's specifications and United States Coast Guard requirements.

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

(l) PROCESSING waste from SEAFOOD products must be disposed of as required by 18 AAC 60 for solid waste, 18 AAC 72 for domestic wastewater, or 18 AAC 83 for wastewater. (Eff. 8/31/2019, Register 231)

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

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

**18 AAC 34.825. Equipment and utensils.** A PROCESSOR shall ensure that all equipment and utensils are ADEQUATE for the intended use and designed, installed, and maintained to facilitate cleaning and preclude adulteration of the SEAFOOD products or ingredients as required in 21 C.F.R. 117.40, adopted by reference in 18 AAC 34.010. (Eff. 8/31/2019, Register 231)

**Authority.** AS 17.20.005 AS 17.20.072 AS 44.46.020  
AS 17.20.065 AS 17.20.180

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

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

(b) Ice that comes in contact with SEAFOOD products must be

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

(2) handled in a sanitary manner.

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

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

(e) The PROCESSOR shall record the condition, including quality, of incoming SEAFOOD products.

(f) Except for a DIRECT-MARKET FISHING VESSEL or DIRECT-MARKET LAND-BASED FACILITY, a PROCESSOR shall, upon receipt and before additional PROCESSING or PACKAGING, inspect and ADEQUATELY rinse SEAFOOD products with a water supply that meets the requirements of 18 AAC 34.820(c) or (d), including those products BUTCHERED or filleted in another permitted FACILITY.

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

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

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

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

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

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

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

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

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

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

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

**Section**

- 900. Permit, certification, waiver, and compliance fees
- 901. (Repealed)
- 905. Laboratory fees
- 910. Fee review
- 915. Waiver of requirements
- 920. Records availability and retention
- 930. Inspections
- 935. (Repealed)
- 940. Enforcement and compliance
- 950. Right to appeal noncompliance decision
- 960. (Repealed)
- 985. Alaska Seafood Processors Advisory Council
- 990. Definitions

**18 AAC 34.900. Permit, certification, waiver, and compliance fees.** (a) Subject to (b) of this section, at the time of application for a new permit under this chapter, or within 30 days after receiving notice that a permit renewal fee is due under this section, the applicant shall pay to the DEPARTMENT an annual permit fee as follows:

- (1) for a SHELLFISH HARVESTER: \$162;
- (2) for a SHELLFISH SHIPPER: \$162;
- (3) for a shellfish re-shipper: \$162
- (4) for a SHELLFISH RE-PACKER: \$325;
- (5) for a SHELLFISH SHUCKER-PACKER: \$649;
- (6) for a DIRECT-MARKET FISHING VESSEL: \$325;
- (7) for a PROCESSING vessel that processes less than 5,000 pounds per day: \$795;
- (8) for a PROCESSING vessel that processes 5,000 or more pounds per day: \$2,094;
- (9) for a land-based PROCESSING operation that processes less than 5,000 pounds per day: \$795;
- (10) for a land-based PROCESSING operation that processes 5,000 or more pounds per day: \$2,094;
- (11) for a THERMAL PROCESSING operation that processes less than 5,000 pounds per day: \$1,120;
- (12) for a THERMAL PROCESSING operation that processes 5,000 or more pounds

per day: \$2,094;

(13) for a direct-market land-based operation: \$200;

(14) for an ice manufacturer: \$325;

(15) for a geoduck dive vessel: \$162.

(b) An operation listed in (a)(2) – (15) of this section and that

(1) consists of two or more of those operations occurring at the same location is subject only to the highest applicable fee rather than a separate fee for each operation;

(2) only freezes and packages SEAFOOD or uses a separate FACILITY to only freeze and package SEAFOOD shall pay to the DEPARTMENT an annual permit fee that is equal to one-half the fee required under (a)(7) – (13) of this section.

(c) A person applying for approval or reapproval of a SHELLFISH GROWING AREA under this chapter shall pay the following fees to the DEPARTMENT for a SHELLFISH GROWING AREA approval or reapproval:

(1) for an initial approval: \$500; if two or more contiguous SHELLFISH GROWING AREA sites can be approved at the same time, the DEPARTMENT will pro-rate the fee among the growers proposing to use those sites;

(2) for reapproval: \$150 for each day the DEPARTMENT conducts activities related to its decision to reapprove, including field work and sampling; if two or more contiguous SHELLFISH GROWING AREA sites can be reapproved at the same time, the DEPARTMENT will pro-rate the fee among the growers proposing to use those sites.

(d) Repealed 8/21/2019.

(e) In addition to the annual permit fee required under (a) of this section, the DEPARTMENT will charge a fee based on the hourly rates set out in Table 2 of this section, except for the fees described in (3)(E) and (F) of this subsection, as follows:

(1) for reinspection time necessary to verify that the following violations have been corrected:

(A) CRITICAL VIOLATIONS;

(B) numerous violations that indicate a general disregard for sanitation, product safety, or WHOLESOMENESS;

(2) to verify the adequacy of product reconditioning;

(3) if a PROCESSOR requests the DEPARTMENT to

(A) conduct an inspection of a mobile PROCESSING FACILITY or a DIRECT-

MARKET FISHING VESSEL at a location that is not designated in 18 AAC 34.930(i);

(B) conduct an activity outside of normal DEPARTMENT working hours;

(C) conduct an activity that is not specifically required for a permit or approval under this chapter, such as an onsite FACILITY construction review;

(D) provide a PRODUCT CERTIFICATION;

(E) provide a state CERTIFICATE OF ORIGIN; the DEPARTMENT will assess a fee of \$25 for each certificate requested; or

(F) grant a waiver under 18 AAC 34.915; the DEPARTMENT will assess a fee of \$150 to review an application for a waiver.

(f) Payment for an inspection conducted under (e)(1), (2), or (3)(A) - (D) of this section is due within 30 days after receiving an invoice from the DEPARTMENT. If a PROCESSOR requests an inspection or activity under (e)(1), (2), or (3)(A) - (D) of this section, the DEPARTMENT will estimate the fee based on the hourly rates in Table 2 of this section. The DEPARTMENT will conduct an activity under (e)(2) or (3)(A) - (D) of this section after the PROCESSOR pays the estimated costs as an advance payment to the DEPARTMENT, if staff is available, and if there is no cost to the state for travel. If the advance payment exceeds the DEPARTMENT's actual cost, the DEPARTMENT will refund the excess after the inspection. If the actual cost exceeds the advance payment, the PROCESSOR shall pay the additional amount due within 30 days after receiving an invoice from the DEPARTMENT. For purposes of this subsection, "travel" means transportation, lodging, and meal expenses incurred by the DEPARTMENT for activities within the state, but does not include reasonable transportation or lodging provided by a PROCESSOR to conduct an activity under (e)(2) or (3)(A) - (D) of this section at the PROCESSOR's request.

**Table 2 - Hourly Rates**

<b>Time of Inspection</b>	<b>Aleutian Chain, Bristol Bay, Dillingham</b>	<b>Southeast and Southcentral Alaska (Anchorage, Juneau, Kenai, Ketchikan)</b>	<b>Remainder of Alaska, Including Kodiak, Western Alaska and Northern Alaska</b>
Regular time	\$ 86.00	\$ 68.00	\$ 80.00
Overtime	\$128.49	\$102.16	\$120.26
Sundays, Holidays	\$171.32	\$136.21	\$160.34

(g) If the applicant for a permit or an approval under this chapter withdraws the application before the permit or approval is issued, or if the DEPARTMENT denies the application, the DEPARTMENT will return any unused balance of the fees paid to the applicant. The DEPARTMENT will compute that portion of the fee used to review and process the application before the application was withdrawn or denied. The computation will be based on a charge of \$71 per hour for staff time, plus any costs incurred by the DEPARTMENT, not including travel costs. A copy of the computation will be provided to the applicant.

(h) Except for good cause beyond the control of the applicant, the DEPARTMENT will assess a late fee of five percent of the applicable fee if payment is more than 30 days past due. In addition, a payment that is more than 60 days past due accrues interest monthly at the rate prescribed in AS 45.45.010. (Eff. 12/18/97, Register 144; am 12/2/99, Register 152; am 6/28/2001, Register 158; am 12/23/2005, Register 176; am 8/6/2006, Register 179; am 11/24/2007, Register 184; am 8/21/2019, Register 231)

**Authority:** AS 17.20.005 AS 17.20.072 AS 44.46.020  
 AS 17.20.065 AS 17.20.180 AS 44.46.025  
 AS 17.20.070 AS 17.20.200

**18 AAC 34.901. Refund of direct-market fishing vessel permit fees for calendar year 1999.** Repealed. (Eff. 12/2/99, Register 152, repealed 12/23/2005, Register 176)

**18 AAC 34.905. Laboratory fees.** (a) The following fees apply to requests to the DEPARTMENT’s food safety laboratory for laboratory analysis and testing conducted under 18 AAC 34.125(c) - (f) and (h):

- (1) paralytic shellfish poisoning (PSP) for
  - (A) marine snails or other animals: \$125 for each sample;
  - (B) geoducks: \$125 for each sample; and
  - (C) live crab for export: \$125;
- (2) DOMOIC ACID: \$100 for each sample;
- (3) other marine toxins: \$54 per hour of laboratory time;
- (4) microbiology:
  - (A) aerobic plate count (APC): \$30 for each sample;
  - (B) presumptive coliform: \$17 for each sample;
  - (C) confirmed coliform, total or fecal: \$17 for each sample;
  - (D) *Escherichia coli*

(i) (non 0157:H7): \$17 for each sample;

(ii) (0157:H7): \$17 for each sample;

(E) *Staphylococcus aureus*: \$50 for each sample;

(F) *Salmonella* spp.: \$70 for each sample with a minimum of four samples or \$80 for each sample with no minimum;

(G) *Listeria* spp.: \$35 for a negative or presumptive-positive test, and an additional \$15 for each additional procedure to confirm positive identification;

(H) *Vibrio* spp.: \$75 for a negative or presumptive-positive test, and an additional \$75 to confirm positive identification;

(5) chemistry:

(A) WATER ACTIVITY: \$10;

(B) WATER PHASE SALT: \$30;

(C) salt: \$20;

(D) moisture: \$10;

(E) nitrate: \$120;

(F) nitrite: \$30;

(G) sulfite: \$120;

(H) heavy metals and elements: \$50, plus \$10 for each sample of each metal or element;

(I) mercury, total: \$75 for each sample;

(J) histamine: \$100 for each sample;

(K) indole: \$75 for each sample;

(L) ethanol: \$75 for each sample; and

(M) pH in FOOD products: \$20 for each sample;

(6) miscellaneous:

(A) organoleptic: \$50 per hour; and

(B) adulteration: \$50 per hour.

(b) The DEPARTMENT may conduct analyses after normal state working hours as follows:

(1) after normal working hours, except as provided in (2) of this subsection, the charge will be one and one-half times the standard sample charge set out in this section; and

(2) on a Sunday or holiday, the charge will be twice the standard sample charge set out in this section. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 12/23/2005, Register 176)

**Authority:** AS 17.20.005 AS 17.20.072 AS 44.46.020  
AS 17.20.065 AS 17.20.180 AS 44.46.025

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.905, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.905(a)(4) and (5). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.910. Fee review.** (a) A person who disputes an invoice issued under this chapter because it incorrectly identifies the type of operation for which a fee is required or who disputes a computation of charges provided under this chapter may request a fee review under 18 AAC 15.190.

(b) Repealed 7/11/2002. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 7/11/2002, Register 163)

**Authority:** AS 17.20.005 AS 17.20.072 AS 44.46.020  
AS 17.20.065 AS 17.20.180 AS 44.46.025

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.910, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.915. Waiver of requirements.** (a) Except for a fee required under 18 AAC 34.900 or 18 AAC 34.905, the DEPARTMENT will, in its discretion, waive a requirement of this chapter if the DEPARTMENT finds that public health is protected and the purpose of the requirement is otherwise satisfied.

(b) An application for a waiver must be submitted to the DEPARTMENT in writing and must

- (1) specify the requirement for which the waiver is sought;
- (2) state the reason why the requirement cannot be met;

(3) describe the alternative method proposed to meet the purpose of the requirement, and how that method will be equally protective of public health; the applicant shall include any scientific data, academic research, or other information that will assist the DEPARTMENT in making its decision; and

(4) include the waiver fee required in 18 AAC 34.900(e)(3)(F).

(c) The DEPARTMENT will grant or deny a waiver application in writing with or without conditions within 30 WORKING DAYS after the DEPARTMENT receives the application. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179)

**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 34.915, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.920. Records availability and retention.** (a) Records required to be retained by a PROCESSOR under this chapter must be available for DEPARTMENT review and copying. Unless otherwise specified, a PROCESSOR must keep the following records for the time specified in (b) of this section:

- (1) HACCP records required by 18 AAC 34.045;
- (2) sanitation records required by 18 AAC 34.050;
- (3) incoming SEAFOOD product records as required by 18 AAC 34.830;
- (4) drinking and PROCESSING WATER disinfectant records and laboratory results required by 18 AAC 34.820;
- (5) laboratory results required by 18 AAC 34.125(d) and (f);
- (6) repealed 8/21/2019;
- (7) THERMAL PROCESSING records required by 18 AAC 34.400;
- (8) direct-market vessel water disinfectant records as specified in 18 AAC 34.520;
- (9) records required by 18 AAC 34.820(k) regarding the discharges from a TYPE III MARINE SANITATION DEVICE;
- (10) TENDER and fishing vessel SEAFOOD DELIVERY reports required by 18 AAC 34.620;

(11) raw SEAFOOD receiving reports required by 18 AAC 34.625;

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

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

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

(b) Records described in (a) of this section must be retained at the PROCESSING FACILITY as follows:

(1) for a refrigerated product, at least one year after the date it was processed;

(2) for a frozen, preserved, or SHELF-STABLE product, at least two years after the date it was processed;

(3) for a thermally-processed product, at least three years after the date it was processed;

(4) for drinking and PROCESSING WATER laboratory results and disinfectant residual logs, at least two years after the date the water was tested;

(5) for direct-market vessel and DIRECT-MARKET LAND-BASED FACILITY disinfectant records and sanitation records, at least one year after the product was processed; and

(6) for OIL-spill records in 18 AAC 34.620 and 18 AAC 34.625, at least one year after the product is delivered to a PROCESSOR or otherwise sold.

(c) If, during the required retention time, the FACILITY is closed for a prolonged period during the operational season, or if record storage capacity is limited on a mobile PROCESSING FACILITY or at a remote PROCESSING FACILITY, the records may be transferred to some other reasonably accessible location at the end of the operational season. If requested by the DEPARTMENT, the PROCESSOR shall return the records to the FACILITY or another agreed-upon location for DEPARTMENT review within 24 hours after receiving the request unless the DEPARTMENT agrees to a longer period. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 8/21/2019, Register 231)

**Authority:** AS 17.20.005 AS 17.20.072 AS 17.20.200

AS 17.20.065 AS 17.20.180 AS 44.46.020

AS 17.20.070

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.920, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.930. Inspections.** (a) The DEPARTMENT will, applying its enforcement discretion, conduct inspections to determine compliance with this chapter or federal contract inspections during USUAL BUSINESS HOURS.

(b) A PROCESSOR shall allow a DEPARTMENT employee or the DEPARTMENT's agent to inspect all portions of the FACILITY, SEAFOOD products, FOOD INGREDIENTS, PROCESSING equipment, labels, plans, and records required to be retained and available under this chapter. The DEPARTMENT employee or DEPARTMENT'S agent may collect samples for analytical testing of FOOD products, of PACKAGING, and from food-contact surfaces. A PROCESSOR may not charge the DEPARTMENT more than the average wholesale market price for a sample.

(c) A person may not obstruct an inspector during an inspection.

(d) The PROCESSOR may accompany the inspector during the inspection.

(e) The PROCESSOR shall allow the taking of photographs.

(f) Repealed 8/21/2019.

(g) The DEPARTMENT will, applying its enforcement discretion, suspend or revoke a permit if access for purposes of inspection described in (b) of this section is denied.

(h) A PROCESSOR who operates a mobile PROCESSING FACILITY or a DIRECT-MARKET FISHING VESSEL shall be available for at least one onsite inspection in the state during each calendar year at the location designated in the PROCESSOR'S permit application, or another location agreed to by the DEPARTMENT. An inspection at a location other than one listed in (i) of this section is subject to the applicable fee required by 18 AAC 34.900(e). The PROCESSOR shall give at least 48 hours notice to the DEPARTMENT's office at a location listed in (i) of this section to allow for scheduling an inspection. The DEPARTMENT may notify any PROCESSOR who has not received an annual inspection that an inspection will be required before the permit will be renewed.

(i) Designated locations or ports for onsite inspections under (h) of this section are Anchorage, Dutch Harbor, Juneau, Kenai, Ketchikan, Kodiak, Sitka, and Valdez. The DEPARTMENT may approve other locations or ports for onsite inspections.

(j) The provisions of this section also apply to a compliance reinspection conducted under 18 AAC 34.940. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 8/21/2019, Register 231)

<b>Authority:</b>	AS 17.20.005	AS 17.20.070	AS 17.20.200
	AS 17.20.065	AS 17.20.072	AS 44.46.020
	AS 17.20.066	AS 17.20.180	

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.930, to affirm the validity of that section following statutory

amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.930. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.935. Inspection seal.** Repealed. (Eff. 12/18/97, Register 144; am 12/2/99, Register 152; repealed 8/21/2019, Register 231)

**18 AAC 34.940. Enforcement and compliance.** (a) If the DEPARTMENT finds or has cause to believe that a person is violating or about to violate a statute, regulation, lawful order, or a permit or approval, the DEPARTMENT will, applying its enforcement discretion, take compliance action based on the nature and severity of the violation and the person's history of noncompliance.

(b) As part of a compliance action, the DEPARTMENT will provide notice of the violation in person or by certified mail unless immediate DEPARTMENT action is warranted by a CRITICAL VIOLATION.

(c) The DEPARTMENT may

(1) require that the PROCESSOR provide the DEPARTMENT with product for testing under 18 AAC 34.125, subject to the fees required by 18 AAC 34.905;

(2) require that the PROCESSOR provide the DEPARTMENT with copies of

(A) the HACCP PLAN under 18 AAC 34.045;

(B) the sanitation standard operating procedures under 18 AAC 34.050;

(C) the recall plan under 18 AAC 34.047; and

(D) any other records the DEPARTMENT considers necessary in evaluating compliance with this chapter;

(3) detain, as described in (e) of this section, any potentially violative SEAFOOD product, FOOD INGREDIENT, or PACKAGING material;

(4) require a stoppage of PROCESSING and immediate correction of a CRITICAL VIOLATION; or

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

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

(1) a PROCESSOR shall correct violations as follows:

(A) for a CRITICAL VIOLATION, at the time of the inspection;

(B) for all other violations, 30 days from the date of inspection or the date that the PROCESSOR is provided notice of the violation, whichever is later; and

(2) the PROCESSOR'S FACILITY is subject to a compliance reinspection; the DEPARTMENT may conduct the compliance reinspection to verify the PROCESSOR'S correction of a CRITICAL VIOLATION; a compliance reinspection is subject to the PROCESSOR'S payment of a fee under 18 AAC 34.900(e).

(e) The DEPARTMENT will, applying its enforcement discretion, detain a product if it finds, or has cause to believe, a SEAFOOD product or FOOD INGREDIENT used to process a SEAFOOD product is adulterated, misbranded, or processed or harvested in violation of this chapter. Detention under this subsection is subject to the following procedures:

(1) the DEPARTMENT will

(A) order affixed to the SEAFOOD product or FOOD INGREDIENT a "detained" tag or other appropriate marking that gives notice that the SEAFOOD product or FOOD INGREDIENT has been detained, and warn against the removal or disposal of the SEAFOOD product or FOOD INGREDIENT without permission from the DEPARTMENT or a court; a person may not move, reprocess, relabel, destroy, or otherwise terminate detention of the SEAFOOD product or FOOD INGREDIENT without the DEPARTMENT'S written consent;

(B) issue a notice of detention and inform the immediate custodian or owner of conditions under which the detention can be terminated; and

(C) notify the immediate custodian or owner of the results of any laboratory analysis conducted by the DEPARTMENT;

(2) the immediate custodian or owner may request an expedited hearing in writing not later than 30 days after receipt of the notice of detention by submitting an expedited hearing request to the commissioner and the office of administrative hearings (AS 44.64.010); if a timely request for an expedited hearing is received, the office of administrative hearings will hold an expedited hearing and make a recommended decision to the commissioner or to the commissioner's designee if the designee is a person other than the person who issued the notice of detention; the office of administrative hearings will hold an expedited hearing under AS 44.62 (Administrative Procedure Act) and 2 AAC 64.100 – 2 AAC 64.990 not later than five WORKING DAYS after receipt of a request and will issue a recommended decision to the commissioner or the commissioner's designee; the commissioner or the commissioner's designee will issue a final decision not later than five WORKING DAYS after the hearing, or not later than 35 days after the date of the notice of detention, whichever is later; for fresh SEAFOOD product, the office of administrative hearings will conduct an expedited hearing and the commissioner or the commissioner's designee will issue an expedited decision;

(3) if, after issuing a notice of detention, the DEPARTMENT finds that the SEAFOOD product or FOOD INGREDIENT is not adulterated, misbranded, or processed or harvested in violation of this chapter, the DEPARTMENT will notify the immediate custodian or owner and order the detention terminated; and

(4) if the DEPARTMENT finds that the SEAFOOD product or FOOD INGREDIENT is adulterated, misbranded, or processed or harvested in violation of this chapter, the DEPARTMENT will notify the immediate custodian or owner by personal service or certified mail of the corrective action necessary, which may include destruction of the SEAFOOD product or FOOD INGREDIENT.

(f) The DEPARTMENT will attempt to work with a PROCESSOR to resolve noncompliance. If, after an attempt to resolve noncompliance, the DEPARTMENT believes further attempts would not be in the public interest, or that the noncompliance represents an imminent health HAZARD, the DEPARTMENT will, applying its enforcement discretion, modify, suspend, or revoke a SEAFOOD PROCESSING permit. The DEPARTMENT will afford an opportunity for a hearing before suspending or revoking the permit, unless an inspection or investigation reveals an imminent health HAZARD. Except in the case of an imminent health HAZARD, a compliance action under this subsection is subject to the following:

(1) if the DEPARTMENT modifies, suspends, or revokes a permit under this subsection, it will send a notice to the permittee stating that, based on the DEPARTMENT's written findings,

(A) the permit will be modified, suspended, or revoked, effective 30 days after the date of the notice;

(B) the permittee may not continue to operate after the effective date of a suspension or revocation;

(C) the permittee may request an expedited hearing under this section not later than 10 days after receiving the notice by serving the expedited hearing request on the commissioner and the office of administrative hearings (AS 44.64.010); and

(D) upon receipt of a timely request for an expedited hearing, the office of administrative hearings will hold an expedited hearing;

(2) the office of administrative hearing will hold an adjudicatory hearing under AS 44.62 (Administrative Procedure Act) and 2 AAC 64.100 – 2 AAC 64.990 not later than 10 WORKING DAYS after the office of administrative hearings receives the request for expedited hearing; the burden of proof and of going forward with the evidence is upon the division assigned to environmental health with the DEPARTMENT;

(3) after an expedited hearing under this subsection, the office of administrative hearings will make a recommended decision to the commissioner or the commissioner's designee if the designee is a person other than the person who issued the contested decision; the commissioner or the commissioner's designee will affirm, modify, or set aside the modification, suspension, or revocation.

(g) Repealed. 11/7/2017.

(h) A person whose permit has been suspended or revoked may at any time request that the permit be reinstated. The request will be granted if the DEPARTMENT finds that the person has

taken ADEQUATE corrective action and has taken action necessary to avoid a reoccurrence of the violation. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/7/2017, Register 224; am 8/21/2019, Register 231)

<b>Authority:</b>	AS 17.20.005	AS 17.20.180	AS 17.20.260
	AS 17.20.065	AS 17.20.200	AS 17.20.270
	AS 17.20.070	AS 17.20.230	AS 17.20.280
	AS 17.20.072	AS 17.20.240	AS 17.20.305
	AS 17.20.172	AS 17.20.250	AS 44.46.020

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

**18 AAC 34.950. Right to appeal noncompliance decision.** (a) A person subject to this chapter may seek an informal review under 18 AAC 15.185 of a DEPARTMENT decision regarding that person's noncompliance with this chapter.

(b) If the matter being reviewed involves a fee under this chapter, the applicant need not pay the fee until the DIRECTOR issues a final decision under (c) of this section, and the DEPARTMENT will not charge interest while the DIRECTOR considers the matter.

(c) The DIRECTOR's decision is a final agency decision for purposes of judicial review. Any fee that may then be due must be paid within 30 days after issuance of the decision.

(d) Nothing in this section affects a PROCESSOR's rights to request an adjudicatory hearing under AS 44.62 (Administrative Procedure Act). (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 7/11/2002, Register 163)

<b>Authority:</b>	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 34.950 without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

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

**18 AAC 34.985. Alaska Seafood Processors Advisory Council.** The DEPARTMENT, in cooperation with industry, establishes the Alaska Seafood Processors Advisory Council. The council's mission is to provide a forum for communication, advice, and sharing of information between the state's SEAFOOD PROCESSING industry, the DEPARTMENT, and the scientific community. Meetings of the council are open to the public. The DIRECTOR of the Division of Environmental Health serves as chair of the council, and an industry representative serves as vice-chair of the council. Meetings of the council will be held at the call of the chair as money available for the work of the council allows. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

**Authority:** AS 17.20.005 AS 44.46.020

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopt 18 AAC 34.985, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.990. Definitions.** Unless the context indicates otherwise, in this chapter

- (1) "ADEQUATE" has the meaning given in 21 C.F.R. 117.3, adopted by reference in 18 AAC 34.010;
- (2) "ARTIFICIAL COLORING" means a coloring containing a dye or pigment manufactured by a process of synthesis or other similar means, or by extracting a natural dye or pigment from a plant or other material in which that dye or pigment was naturally processed;
- (3) "ARTIFICIAL FLAVORING" means a flavoring containing a sapid or aromatic component manufactured by a process of synthesis or other similar means;
- (4) "BULK" means 100 pounds or more of SHELLSTOCK, not prepackaged, sold by a harvester, SHELLSTOCK shipper, or shucker-packer;
- (5) "BUTCHER" means to gut, gill, head, cut, fillet, or otherwise expose the flesh of a SEAFOOD product including
  - (A) exposing the scallop adductor muscle; and
  - (B) the recovery of roe when it will be processed or sold to be processed as a FOOD product;
- (6) "CERTIFICATE OF ORIGIN" means a document issued by the DEPARTMENT upon request by a PROCESSOR, that attests that the product originated in the state, based on information submitted to the DEPARTMENT by the PROCESSOR;
- (7) "CHEMICAL PRESERVATIVE" means a chemical that, when added to a SEAFOOD product, tends to prevent or retard deterioration; "CHEMICAL PRESERVATIVE" does not include salt, sugar, vinegar, spices, oil extracted from spices, or substances added to a SEAFOOD product through exposure to wood smoke;

(8) "COLIFORM BACTERIA" means bacteria associated with the intestinal waste of humans or other warm-blooded animals and is an indicator of the possible presence of a disease-producing organism;

(9) "COLONY-FORMING UNIT" or "CFU" means a colony grown from one microorganism; for purposes of analysis, one CFU represents one organism;

(10) "COLOR ADDITIVE" means a material capable, alone or through reaction with another substance, of imparting color when added or applied to a SEAFOOD product;

(11) "CONTAINER" means a can, box, bag, pouch, or other receptacle in which a SEAFOOD product is enclosed;

(12) "CRITICAL CONTROL POINT" has the meaning given in AS 17.20.025(b);

(13) "CRITICAL VIOLATION" means a violation of a CRITICAL CONTROL POINT or another violation of this chapter that threatens the safety of a SEAFOOD product;

(14) "CUSTOM PROCESSOR" means a person who sells or offers for sale the service of SEAFOOD PROCESSING but who does not own the seafood being processed;

(15) "DECOMPOSITION" means a distinct and persistent odor, flavor, color, texture, or substance associated with SEAFOOD product spoilage or rancidity;

(16) "DELIVERY" means to transfer SEAFOOD product to a TENDER vessel, buying station, or PROCESSOR;

(17) "DEPARTMENT" means the Department of Environmental Conservation;

(18) "DIRECT-MARKET FISHING VESSEL" means a fishing vessel that

(A) processes the vessel operator's own catch of SEAFOOD products on board the vessel for sale as part of commerce and intended for human consumption; and

(B) has an overall length of less than 65 feet, except that a "DIRECT-MARKET FISHING VESSEL" means a vessel of any length if the SEAFOOD product that is harvested by the vessel operator and processed aboard the vessel is tuna;

(19) "DIRECTOR" means the director of the DEPARTMENT's division of environmental health;

(20) "DOMOIC ACID" means the poison found in SHELLFISH due to the filtering and concentrating of the diatom, *Nitzschia* or *Pseudonitzschia* species;

(21) "EASILY CLEANABLE," when referring to

(A) materials and finish, means materials and finish that allow complete removal of residue by normal cleaning methods;

(B) equipment and other items that must be cleaned, also means that the equipment and other items must be readily accessible;

(22) "EVISCERATE," "EVISCERATED," or "EVISCERATION" means, as the term is used in reference to

(A) SHELLFISH, that the internal organs of the SHELLFISH are removed from the shell; and

(B) salmon, that the salmon is gutted by removing its guts, blood, and bloodline;

(23) "EXTENSIVELY REMODELED" means a major equipment change or installation or a structural modification or improvement that revises the product flow or that adds a new PROCESSING area to an existing establishment;

(24) "FACILITY" means the physical infrastructure, its contents, and the contiguous land or property, including all or portions of the land, docks, structures, vessels, storage plants, water supply, wastewater system, plumbing, and equipment, whether mobile or land-based, used to prepare or process SEAFOOD products for human consumption;

(25) "FDA" means the United States Food and Drug Administration;

(26) "FOOD" has the meaning given in AS 17.20.370, including water or another beverage, a confection, condiment, FOOD INGREDIENT, FOOD ADDITIVE, ice, or a substance that enters into the composition of these things, whether simple, blended, mixed, or compounded;

(27) "FOOD ADDITIVE" or "FOOD INGREDIENT" means a substance, the intended use of which results or might result, directly or indirectly, in its becoming a part of or otherwise affecting the characteristics of a FOOD product;

(28) "FREEZER" means a room, plate freezer, blast freezer, or individual freezer that freezes SEAFOOD products at 5° Fahrenheit or below, or a brine freezer that freezes SEAFOOD products at 15° Fahrenheit or below;

(29) "FREEZING" means to congeal or solidify the flesh of a SEAFOOD product by the removal of heat to an internal temperature of 5° Fahrenheit or below in a room, plate freezer, blast freezer, or individual freezer, or to an internal temperature of 15° Fahrenheit or below in a brine freezer;

(30) "GROUND FISH" means any marine finfish except halibut, osmerids, herring, and salmonids;

(31) "HAZARD" has the meaning given "food safety hazard" in 21 C.F.R. 123.3, adopted by reference in 18 AAC 34.010;

(32) "INSTITUTION" means a place of confinement such as a correctional facility;

(33) "LOAD" means the amount of SEAFOOD product delivered at one time, or the amount that can be physically separated from other product;

(34) "LOT" means the amount of a specific SEAFOOD product type and form produced and handled under similar conditions, within a limited period normally identified by means of a day, shift, or batch code;

(35) repealed 8/6/2006;

(36) "MODIFIED ATMOSPHERE PACKAGED" means an alteration of the gaseous environment surrounding the product in a sealed package;

(37) "MONITORING" means a planned sequence of observations of measurements of critical limits designed to produce an accurate record and intended to ensure that the critical limit maintains product safety and WHOLESOMENESS;

(38) "MPN" means most probable number, which is an index of the number of bacteria that more probably than any other number would give the results shown by laboratory examination, the results of which are not an actual enumeration but are taken from standardized probability tables;

(39) "OIL" has the meaning given in AS 46.04.900;

(40) "OIL CONTAMINATION" means any sign of OIL, as determined by visual, organoleptic, or analytical evaluation;

(41) "OILY SHEEN" means an OIL-based iridescence on the water;

(42) "OPENING" means a period of time during which the Alaska Department of Fish and Game allows commercial fishing;

(43) "PSP" means paralytic shellfish poison, a marine biotoxin due to the filtering and concentrating of the dinoflagellate *Alexandrium species*;

(44) "PACKAGING" means to wrap, seal, enclose, or place a SEAFOOD product into a CONTAINER;

(45) "PELLICLE" means a thin skin or film;

(46) "PESTICIDE" has the meaning given in 18 AAC 90.990;

(47) "PICKLED SEAFOOD PRODUCT" means a SEAFOOD product to which acid or acid FOODS have been added;

(48) "ppm" means parts per million;

(49) "PROCESSING" means an activity that changes the physical condition of a

SEAFOOD product, including BUTCHERING, THERMAL PROCESSING, cooking, dehydrating, FREEZING, pickling, salting, shucking, or smoking;

(50) "PROCESSING WATER" means fresh or salt water used in a FACILITY for FOOD PROCESSING, equipment or utensil cleaning or sanitizing;

(51) "PROCESSOR" means the owner, operator, or agent in charge of a SEAFOOD PROCESSING FACILITY who is responsible for PROCESSING SEAFOOD intended for human consumption;

(52) "PRODUCT CERTIFICATION" means a document issued by the DEPARTMENT upon request by a PROCESSOR verifying product specifications based on

(A) information submitted to the DEPARTMENT by the PROCESSOR; and

(B) an inspection conducted in the DEPARTMENT's discretion, to determine SEAFOOD product WHOLESOMENESS, process evaluation, LOT specifications, export certifications, or other things requested by the PROCESSOR;

(53) "QUALIFIED LABORATORY" means a state, federal, or commercial laboratory that adheres to and operates under a documented quality management system that includes proficiency testing and has an accreditation or certification from a third party attesting to the technical competence within the laboratory to perform requested test, method, technology, matrix, or analyte combinations;

(54) "READY-TO-EAT" has the meaning given in 21 C.F.R. 117.3, adopted by reference in 18 AAC 34.010;

(55) "REFRIGERATE" or "REFRIGERATION" means to maintain SEAFOOD products or an enclosed area at a temperature that is above FREEZING and at or below 45 Fahrenheit;

(56) "SALMON CONTROL PLAN" means the voluntary cooperative agreement between participating salmon packers, the National Food Processors Association, and the FDA;

(57) "SANITIZE" has the meaning given in 21 C.F.R. 117.3, adopted by reference in 18 AAC 34.010;

(58) "SEAFOOD" means any species of aquatic organism, including salt water fish, freshwater fish, amphibians, crustaceans, and mollusks; "SEAFOOD" includes any part or by-product of any species of aquatic organism;

(59) "SHELF-STABLE" means a SEAFOOD product that meets the standards of 18 AAC 34.122(a)(6);

(60) "SHELLFISH" means all edible species of oyster, clam, mussel, and scallop, whether shucked, in the shell, fresh, or frozen, in whole or in part; "SHELLFISH" does not include the shucked scallop adductor muscle;

(61) "SHELLFISH GROWING AREA" means an aquatic farm for SHELLFISH as defined in AS 16.40.199 or a natural SHELLFISH GROWING AREA;

(62) "SHELLFISH HARVESTER" means a person who takes SHELLFISH by any means from a SHELLFISH GROWING AREA;

(63) "SHELLFISH REPACKER" means a person other than the original shucker-packer who repacks previously SHUCKED SHELLFISH into other CONTAINERS;

(64) "SHELLFISH SHIPPER" means a person who buys and repacks and then sells SHELLSTOCK; "SHELLFISH SHIPPER" also means a person who ships previously SHUCKED SHELLFISH;

(65) "SHELLFISH SHUCKER-PACKER" means a person who shucks and packs SHELLFISH;

(66) "SHELLSTOCK" means SHELLFISH that remain in the shells;

(67) "SHUCKED SHELLFISH" means SHELLFISH, whole or in part, from which one or both shells have been removed;

(68) "SMOKED SEAFOOD PRODUCT" means a SEAFOOD product that has been exposed to wood smoke to impart a smoked flavor;

(69) "SMOKE-FLAVORED SEAFOOD PRODUCT" means a SEAFOOD product to which liquid smoke has been added, either directly or as part of a brining process, to impart a smoked flavor;

(70) "TENDER" means a vessel that is an attendant to other vessels especially for ferrying product between ships and shore;

(71) "THERMAL PROCESSING" means the application of heat to render SEAFOOD free of microorganisms that are capable of reproducing in the FOOD under normal nonrefrigerated conditions of storage or distribution;

(72) "TYPE II MARINE SANITATION DEVICE" means a device that produces an effluent with a fecal COLIFORM BACTERIA count not greater than 200 per 100 ml. and suspended solids not greater than 150 mg/liter;

(73) "TYPE III MARINE SANITATION DEVICE" means a device designed to prevent the overboard discharge of treated or untreated sewage or any waste derived from sewage;

(74) "UNIT" means an individual fish, SHELLFISH, or SEAFOOD product;

(75) "USUAL BUSINESS HOURS" means Monday through Friday, 8:00 a.m. to 5:00 p.m., and any time that catching, cleaning, harvesting, PROCESSING, maintenance, or other related activities occur at a FACILITY;

(76) "WATER ACTIVITY" has the meaning given in 21 C.F.R. 117.3, adopted by reference in 18 AAC 34.010;

(77) "WATER PHASE SALT" means the percent salt in the finished product multiplied by 100, divided by the percent salt in the finished product plus the percent moisture in the finished product, as follows:

$$\% \text{ WATER PHASE SALT} = \frac{\% \text{ salt} \times 100}{\% \text{ salt} + \% \text{ moisture}}$$

(78) "WHOLESOME" means SEAFOOD in sound condition and free from DECOMPOSITION, filth, or microbial or chemical contamination.

(79) repealed 5/3/2019;

(80) repealed 5/3/2019;

(81) "HACCP PLAN" means a hazard analysis critical control point plan required under AS 17.20.005, AS 17.20.065, and 18 AAC 34.045;

(82) "spp." means species;

(83) "DIRECT-MARKET LAND-BASED FACILITY" means a FACILITY that processes the operator's own catch of SEAFOOD products at the FACILITY for sale as part of commerce and intended for human consumption;

(84) "WORKING DAY" means a day other than Saturday, Sunday, or a state holiday.

(85) "SHELLFISH RESHIPPER" means a person who purchases SHUCKED SHELLFISH or SHELLSTOCK from a DEALER and sells the product without repacking or relabeling to another DEALER, wholesaler, or retailer;

(86) "DEALER" has the meaning given in the *National Shellfish Sanitation Program: Guide for the Control of Molluscan Shellfish*, adopted by reference in 18 AAC 34.010.

(87) repealed 8/21/2019;

(88) repealed 8/21/2019;

(89) repealed 8/21/2019.

(90) "COMMUNITY PUBLIC WATER SYSTEM" has the meaning given "community water system in 18 AAC 80.1990;

(91) "FOOD-CONTACT SURFACE" has the meaning given in 21 C.F.R. 117.3, adopted by reference in 18 AAC 34.010;

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

<b>Authority:</b>	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 17.20.370
	AS 44.46.020		

**Editor’s note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.990, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.990. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.