



Register __, ____ 200__ ENVIRONMENTAL CONSERVATION

(b) A school class, school club, or other school organization that seeks an exemption as described in (a) of this section must apply to the department, using a form provided by the department. The application must identify the

....

(5) [THE] location where the food will be served or sold.

....

(Eff. 6/28/2001, Register 158; am __/__/__, Register __)

Authority:	AS 17.20.005	AS 17.20.072	AS 44.46.020
	AS 17.20.010	AS 17.20.180	AS 44.46.025
	AS 17.20.020	AS 17.20.290	

Article 2. Food Care.

Section

- 200. Food condition and source
- 205. Traditional wild game meat, seafood, plants, and other food donated to an institution or a nonprofit program
- 210. Prohibited food
- 215. Highly susceptible populations
- 220. Food protection
- 230. Temperature and time control
- 240. Display and service
- 250. Parasite control**

18 AAC 31.200(b) is amended to read:

18 AAC 31.200. Food condition and source.

....

(b) **The** [IN ADDITION TO THE REQUIREMENTS OF (A) OF THIS SECTION, THE] operator of a food establishment shall

(1) use or sell only

- (A) clean, whole eggs with shell intact;
- (B) pasteurized liquid, frozen, or dry eggs; or
- (C) egg substitutes,

(2) **obtain only from an approved source**

(A) [ENSURE THAT] hermetically sealed food [IS FROM A FOOD PROCESSING ESTABLISHMENT THAT IS PERMITTED OR CERTIFIED BY THE LOCAL, STATE, OR FEDERAL AGENCY WITH JURISDICITON; **and**

(B) ice;

(3) obtain raw **seafood only**

(A) [FISH] from a seafood processor with a current permit issued under 18 AAC 34 or another approved source, unless

(i) the seafood [(A) FISH] sport-caught by a client of a sportfishing enterprise is prepared and served to that client;

(ii)[(B)] the seafood [FISH] is donated to a food service at an

institution or nonprofit program under 18 AAC 31.205;

(iii) [(C)] salmon from a hatchery permitted by the Alaska Department of Fish and Game is donated to a food bank; **or**

(iv) [(D)] the operator of a food service or market **purchases seafood directly from a local fisher and** obtains a written **variance under 18 AAC 31.936 [EXEMPTION]** from the department after showing that [(i)] the maximum amount of **seafood [FISH]** received in one week does not exceed 500 pounds[;] and **seafood [(ii) FISH]** processing in the food service or market is separated by location or time from other preparation or processing; **and**

(B) intended for consumption in the raw form, other than molluscan shellfish, from a supplier that freezes the seafood as specified under 18 AAC 31.250 if the operator does not freeze the seafood on the premises;

(4) ensure that shellfish is from a facility listed in the FDA Interstate Certified Shellfish Shippers List or a facility with a current permit issued under 18 AAC 34, and that

(A) fresh or frozen shucked shellfish in a single-use container is legibly labeled with the processor's name, address, permit number, and either the sell-by date or the date shucked;

(B) each container of fresh or frozen shellstock is identified by a tag or label that

(i) is securely fastened to the container and bears the shipper's permit number, name, and address, the consignee's name and address, the type and amount of shellstock in the container, and the **location of the** harvest area;

(ii) remains on the container until **the container [IT]** is empty;
and

(iii) is kept on file, **as required by 18 AAC 31.335(b)**, at the food establishment for at least 90 days;

(5) obtain meat, poultry, and game meat from a facility under USDA mandatory or voluntary inspection, except for

(A) traditional wild game meat described in 18 AAC 31.205;

(B) reindeer for retail sale at a market described in 18 AAC 31.820;

(C) meat imported from a foreign country with a program for the inspection of game meat approved by the USDA or the FDA; or

(D) reindeer slaughtered or processed in accordance with 18 AAC 32.600 - 18 AAC 32.695;

(6) ensure that fluid milk and fluid milk products meet the Grade A quality standards set in 18 AAC 32; the operator of a food service may reconstitute the milk with potable water, or Grade A or an equivalent powdered milk; and

(7) ensure that reconstituted powdered milk is used within 24 hours after reconstitution.

....

(Eff. 5/18/97, Register 142; am 5/23/98, Register 146; readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am 9/6/2003, Register 167; am __/__/__, Register __)

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

18 AAC 31.215 is amended to read:

18 AAC 31.215. Highly susceptible populations. (a) In a food establishment that serves a highly susceptible population in a facility that provides health care, assisted living services, or custodial care, the operator may not serve or offer [SHALL ENSURE THAT] the following foods [ARE NOT SERVED OR OFFERED FOR SALE] in a ready-to-eat form unless the foods are prepared in response to a specific adult [CONSUMER'S] request:

(1) raw animal foods, including raw seafood [FISH], raw marinated seafood [FISH], raw molluscan shellfish, and steak tartar;

(2) animal food that is not cooked to the minimum temperatures provided in 18 AAC 31.230, such as lightly-cooked seafood [FISH], rare meat, soft-cooked eggs that are made from raw shell eggs, and meringue;

(3) raw seed sprouts;

(4) unpasteurized juices.

(b) In a food establishment that serves a highly susceptible population in a facility that provides health care, assisted living services, or custodial care, the operator shall ensure that pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs or egg products are substituted for raw shell eggs in the preparation of

(1) foods that typically have raw shell eggs as an ingredient; and

(2) recipes in which more than one egg is broken and the eggs are combined.

except

(A) when the foods are prepared in response to a specific adult

consumer's request; or

(B) the raw eggs are combined as an ingredient and are thoroughly cooked to a ready-to-eat form. (Eff. 6/28/2001, Register 158; am ___/___/___, Register ___)

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

18 AAC 31.220 is repealed and readopted to read:

18 AAC 31.220. Food protection. (a) The operator of a food establishment shall take measures to prevent contamination of food, food ingredients, utensils, equipment, and packaging materials and shall

(1) provide

(A) adequate space for receiving, preparation, processing, packaging, and storage; and

(B) conditions and controls necessary to minimize the potential for growth of pathogenic or spoilage microorganisms, toxin formation, deterioration, or contamination;

(2) inspect raw materials and ingredients to ensure that they are

(A) received at temperatures in accordance with 18 AAC 31.230;

(B) in sound condition; and

(C) free from spoilage, filth, or other contamination;

(3) separate or segregate by partition, location, time, or another effective means

(A) types of operations or other preparation or processing that might be a source of contamination or cross-contamination; and

(B) food, including raw materials and ingredients, that

(i) has not been cooked or held at temperatures or times in accordance with 18 AAC 31.230;

(ii) is not in sound condition;

(iii) is not free from spoilage, filth, or other contamination; or

(iv) is held by the operator for credit, redemption, or return to the

distributor, such as damaged, spoiled, or recalled products;

(4) wash and clean raw ingredients as required to remove soil or other contamination;

(5) ensure that food

(A) meets the temperature and time requirements of 18 AAC 31.230 at all times, including while being prepared, processed, packaged, stored, loaded, transported, displayed, or served;

(B) is covered during storage except during necessary cooling periods for potentially hazardous food; quarters, sides, or large cuts of meat may be hung uncovered on clean hooks if no part of the meat touches walls, floors, boxes, or shelving, and food is not stored under the meat;

(C) that does not require further washing or cooking before display or service is protected from cross-contamination by food that must be washed or cooked;

(D) that is

(i) not in a ready-to-eat form is prepared with the least possible hand contact, by the proper use of utensils; and

(ii) in a ready-to-eat form is prepared with no bare hand contact, by the proper use of utensils;

(E) is prepared on surfaces that have been washed, rinsed, and sanitized;

(6) ensure that food and containers of food are

(A) stored and displayed at least six inches above the floor on storage or display shelving or equipment, except that

(i) food in cases, or large containers of packaged food, such as flour and sugar, may be stored on dollies, skids, or open-ended pallets if that equipment is easily movable by hand or with the use of pallet-moving equipment that is available on the premises at all times; and

(ii) large, impervious, covered containers of food, metal beverage containers, and cased food packaged in cans, glass, or other sealed, waterproof containers need not be elevated if the container is not exposed to floor moisture; and

(B) not stored in a toilet room or under an exposed sewer line, a leaking refrigeration condenser, or a leaking or dripping waterline; and

(7) ensure that

(A) single-use gloves, if used, are used for only one task; the gloves may not be used for any other purpose and must be discarded when damaged or soiled or if an interruption occurs during the task;

(B) cloth and slash-resistant gloves are used in direct contact with food only if that food will be subsequently cooked at the food establishment or by the consumer;

(C) sinks used for warewashing are not used directly for preparation or processing; however, a colander or other container may be used inside the sink if

(i) food preparation that requires washing, trimming, rinsing, or draining is limited;

(ii) the use of the colander or other container does not interfere with normal warewashing; and

(iii) the food does not come in direct contact with the sink, undrained water, or residue;

(D) raw fruits and vegetables are thoroughly cleaned with potable water before preparing, processing, cooking, or serving;

(E) packaged or potentially hazardous food is not stored in water or undrained ice;

(F) raw eggs are not broken and pooled unless the eggs are used immediately or cooked according to 18 AAC 31.230 within 30 minutes after breaking;

(G) egg-breaking procedures keep egg shells separate from eggs; use of an egg breaking machine is prohibited;

(H) whole eggs stored on or adjacent to cooking equipment are used within one hour or discarded; and

(I) ice used to cool food, food containers, or utensils is not served to consumers.

(b) The operator of a food service or market shall ensure that

(1) food with a sulfiting agent is not stored on the premises unless packaged, clearly labeled, and offered for retail sale;

(2) a sulfiting agent is not applied to food in the food service or market;

(3) food, except shellfish subject to 18 AAC 31.200(b)(4), removed from its original container is stored in a clean, covered container and is labeled unless its identity is

unmistakable;

(4) unfinished wood or wicker is not used to hold food unless lined with an impervious single-service liner; dry bread products or chips may be served in unfinished wood or wicker if the container is lined with a single-service liner or a clean and dry napkin or linen; and

(5) containers and covers are nonabsorbent, except a clean and dry napkin or linen may be used to line or cover dry bread products or chip containers. (Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am __/__/__, Register __)

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

Editor's note: Effective 12/19/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 31.220, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 31 from AS 03.05 to AS 17.20.

18 AAC 31.230(a) and (b) are amended and a new subsection is added to read:

18 AAC 31.230. Temperature and time control. (a) The operator of a food establishment shall ensure that

(1) a product thermometer that is calibrated in accordance with manufacturer's instructions to ensure accuracy to $\pm 3^{\circ}$ F is [PROVIDED AND] used to measure the temperature of potentially hazardous food during cooking, reheating, hot-holding, cooling, and cold-holding;

(2) a numerically-scaled, indicating thermometer [THERMOMETERS], calibrated in accordance with the manufacturer's instructions to ensure accuracy to $\pm 3^{\circ}$ F, is [ACCURATE TO WITHIN 3° F, ARE] installed on each piece of cold-holding and hot-holding equipment, unless exempted under (3) of this subsection, so that the thermometer is [THERMOMETERS ARE] easily seen and measures [MEASURE]

(A) the upper one-third of cold-holding equipment; and

(B) the lower one-third of hot-holding equipment;

(3) if, due to the nature of the equipment, it is not practical to install an indicating thermometer on cold-holding or hot-holding equipment, such as an insulated transport container, a salad bar, or steam table, a product thermometer is [MUST BE] used to check food temperatures every four hours;

(4) equipment used to cook, cool, reheat, hot-hold, cold-hold, store, or transport potentially hazardous food is adequate for each menu item, method of preparation, and style of service;

(5) potentially hazardous food is

(A) free of evidence of previous temperature abuse when received at the food establishment; and

(B) received and maintained during cold-holding at 41° F or below, except as specified in 18 AAC 31.410(a)(13) [18 AAC 31.410(k)] or as otherwise provided in this chapter; the requirements of this subparagraph do not apply to synthetic custards and cream fillings, nondairy creaming, whitening, or whipping agents, or similar products if

(i) the product does not require refrigeration and is so labeled by the manufacturer; or

(ii) the operator provides the department with documentation from a qualified laboratory showing that the product will not support the rapid and progressive growth of infectious or toxigenic microorganisms or the slower growth of *Clostridium botulinum*;

[(6) THE INTERNAL TEMPERATURE OF POTENTIALLY HAZARDOUS FOOD DURING HOT-HOLDING IS 140° F OR ABOVE, EXCEPT RARE BEEF, WHICH MUST BE KEPT AT AN INTERNAL TEMPERATURE OF 130° F OR ABOVE;

(7) FROZEN FOOD IS KEPT FROZEN AND STORED AT 0° F OR BELOW;

(8) POTENTIALLY HAZARDOUS FOOD IS]

(C) thawed

(i) [(A)] in a refrigeration unit;

(ii) [(B)] under running potable water at 70° F or below until thawed and then is immediately cooked or refrigerated;

(iii) [(C)] in a microwave oven and then immediately transferred to a conventional cooking unit as part of a continuous cooking process; or

(iv) [(D)] as part of a continuous cooking process;

(D) chilled to 41° F or below before preparation, except as specified in 18 AAC 31.410(a)(13), if [(9) POTENTIALLY HAZARDOUS FOOD] used as an ingredient for food that is in a form to be consumed without further cooking, such as salad, sandwiches, filled pastry, and reconstituted food [, IS CHILLED TO 41° F OR BELOW BEFORE PREPARATION EXCEPT AS SPECIFIED IN 18 AAC 31.410(k)];

(E) cooled from a temperature of 140°F or below to 70°F or below within two hours, and from a temperature of 70°F or below to 41°F or below within

four additional hours as follows, except as specified in 18 AAC 31.410(k), if the food requires cooling or cold-holding after preparation or processing:

(i) place the container in an ice bath or cold running potable water and stir frequently;

(ii) separate the food into smaller or thinner portions and refrigerate;

(iii) place the food in a shallow pan, refrigerate, stirring occasionally if needed;

(iv) use rapid chilling equipment;

(v) modify the recipe by adding ice or cold potable water in final stages of preparation; or

(vi) use another approved method that will result in compliance with this section; and

(F) held at an internal temperature of 140° F or above for hot-holding, except rare beef, which must be kept at an internal temperature of 130° F or above; and

(G) if the food requires cooking, all parts [(10) ALL PARTS OF POTENTIALLY HAZARDOUS FOOD THAT REQUIRE COOKING] are cooked with no interruption in the cooking process to the minimum internal temperature, and held at that temperature for the time shown in Table B of this section;

TABLE B MINIMUM INTERNAL TEMPERATURES AND TIME		
ITEM	TEMPERATURE	TIME
Poultry; stuffed meat, seafood, or poultry; stuffing containing meat, seafood, or poultry; traditional wild game meat; and casseroles containing potentially hazardous food	165° F	15 seconds
Pork; game meat; meat; ground or restructured meat or seafood; and injected	158° F or	one second or

meat; however, ground beef may be cooked to a temperature below 155° F if ordered by an adult consumer	155° F	15 seconds
Other potentially hazardous food requiring cooking; however, eggs may be cooked to a temperature below 145° F if ordered by an adult consumer	145° F	15 seconds
Rare roast beef and rare beef steak; however, beef steak may be cooked to a temperature below 130° F if ordered by an adult consumer	130° F	15 seconds

(6) [(11)] smoking of meat or poultry is done during cooking or, if done after cooking, the meat is kept at a temperature of 140° F or above during the smoking process;

(7) frozen food is kept frozen and stored at 0° F or below;

(8) food containers in which food is being cooled are clearly marked with the date and time the cooling process began. [(12) POTENTIALLY HAZARDOUS FOOD THAT REQUIRES COOLING OR COLD-HOLDING AFTER PREPARATION OR PROCESSING IS COOLED FROM A TEMPERATURE OF 140° F OR BELOW TO 70° F OR BELOW WITHIN TWO HOURS, AND FROM A TEMPERATURE OF 70° F OR BELOW TO 41° F OR BELOW WITHIN FOUR ADDITIONAL HOURS AS FOLLOWS, EXCEPT AS SPECIFIED IN 18 AAC 31.410(k):]

(b) The [IN ADDITION TO (A) OF THIS SECTION, THE] operator of a food establishment shall ensure that

(1) if potentially hazardous food that has been cooked and then refrigerated is reheated for hot-holding, it is reheated

(A) with no interruption in the reheating process;

(B) within two hours [ONE HOUR] or less to the following temperatures;

(i) except for rare beef, for food prepared in a food service: 165° F or above;

(ii) except for rare beef, for food prepared at a food processing establishment: 140° F or above;

(iii) for rare beef: 130° F or above; and

(C) so as to evenly distribute the heat to the entirety of a liquid or semi-solid potentially hazardous food, such as with frequent stirring; and

(2) if a microwave is used to reheat food for hot-holding, the food must be

(A) reheated with no interruption in the reheating process, except that the food must be rotated or stirred at least once midway through the reheating process to compensate for uneven heat distribution;

(B) covered to retain surface moisture;

(C) heated to a temperature of at least 165° F in all parts of the food; and

(D) allowed to stand covered for two minutes after reheating to obtain temperature equilibrium[; AND

(3) HOT-HOLDING EQUIPMENT SUCH AS STEAM TABLES AND FOOD WARMERS ARE NOT USED TO REHEAT FOOD].

(c) Except for a food establishment that serves a highly susceptible population, time only, rather than time in conjunction with temperature, may be used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption if

(1) the food

(A) is marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control;

(B) within four hours from the point in time when the food is removed from temperature control, is

(i) cooked and served;

(ii) served if ready-to-eat; or

(iii) discarded; and

(C) marked to exceed a four-hour limit, is discarded; and

(2) the operator develops, maintains, and makes available to the department on request, written procedures as required under 18 AAC 31.335(a)(4)(F) in the food establishment that explain how the operator will comply with (c) of this section and cooling requirements set out in this section. (Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am ___/___/___, Register ___)

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

Editor's note: Effective 12/19/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 31.230, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also repealed and readopted 18 AAC 31.230(a)(10) and (b), as well as Table B of that section. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 31 from AS 03.05 to AS 17.20.

18 AAC 31.240(b) is amended to read:

18 AAC 31.240. Display and service.

....

(b) The operator of a food service or market shall ensure that

(1) after food has been served or sold to a consumer, leftover food is not reserved or resold unless it is nonpotentially hazardous food in an unopened package;[.]

(2) potentially hazardous food is displayed and served at the internal temperature required by 18 AAC 31.230;

(3) cream, half-and-half, dairy, and nondairy creaming or whitening agents are served in individual packages or covered pitchers, or are drawn directly from a refrigerated dispenser;

(4) condiments and seasonings for self-service use are served in individual packages or dispensers with lids;

(5) except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food is protected from consumer contamination during display by wrapping, by use of a display case, or by use of a sneeze guard or shield that intercepts the direct line between the consumer's mouth and the food on display;

(6) ice is served to consumers only with a scoop or other utensil dedicated to ice dispensing, or with automatic, self-service equipment;

(7) consumer self-service operations are provided with suitable utensils or effective dispensing methods that protect the food from contamination; in addition, dispensing utensils for self-service of nonpotentially hazardous food are stored between uses in the food, with the handle extended out of the food, or on a clean surface;

(8) dispensing utensils for potentially hazardous food are stored between uses

(A) in the food with the handle extended out of the food;

(B) on a cleaned and sanitized portion of a food-contact surface
[CLEAN AND DRY];

(C) in running potable water of sufficient velocity to flush particulates
to the drain, if used with moist foods; or

(D) in a container of potable water maintained at a temperature of 140°
F or above;

(i) each utensil is cleaned or replaced every four hours, or at a
frequency necessary to preclude accumulation of soil residues; and

(ii) each container is cleaned or replaced every 24 hours, or
when emptied;

(9) liquid heat is not used for hot-holding, except when

(A) displaying food at a banquet or similar event for a limited time; and

(B) the units can effectively hold the food at a temperature of 140° F or
above; [AND]

(10) soiled tableware

(A) is not re-used by a self-service consumer [CONSUMERS] who
returns [RETURN] to the service area for more food or beverage, except that a drinking
cup or container [CUPS AND GLASSES] may be reused if refilling is by an automatic
dispensing device designed to prevent contact between the device and the lip-contact
surface of the cup or container [GLASS] ; and

(B) is removed from consumer eating and drinking areas and
handled so that clean tableware is not contaminated;

(11) if tableware is pre-set,

(A) it is protected from contamination by being wrapped, covered, or
inverted;

(B) exposed, unused settings are removed when a consumer is seated;
or

(C) exposed, unused settings are cleaned and sanitized before further
use if the settings are not removed when a consumer is seated; and

(12) raw, unpackaged meat, poultry, or seafood is not offered for consumer
self-service, except for

(A) consumer self-service of ready-to-eat foods at a buffet or salad bar that serves food such as sushi or raw shellfish;

(B) ready-to-cook individual portions for immediate cooking and consumption on the premises; or

(C) raw, frozen, shell-on shrimp or lobster. (Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am __/__/__, Register __)

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

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

18 AAC 31.250. Parasite destruction. (a) Except as specified in (b) of this section, before service or sale in ready-to-eat form, the operator shall ensure that raw, raw-marinated, partially cooked, or marinated-partially cooked seafood, other than molluscan shellfish, are

- (1) frozen and stored at a temperature of -4° F or below for 7 days in a freezer; or
- (2) frozen at -31° F or below until solid and stored at -31° F for 15 hours.

(b) The following species of seafood may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified under (a) of this section:

- (1) Albacore tuna (*Thunnus alalunga*);
- (2) Yellowfin tuna (*Thunnus albacares*);
- (3) Blackfin tuna (*Thunnus atlanticus*);
- (4) Southern bluefin tuna (*Thunnus maccoyii*);
- (5) Bigeye tuna (*Thunnus obesus*);
- (6) Bluefin tuna (*Thunnus thynnus*).

(c) Except as otherwise specified in this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked seafood are served or sold in ready-to-eat form, the operator shall ensure that the freezing temperature and time to which the seafood are subjected is recorded and shall retain records as required under 18 AAC 31.335 for 90 days beyond the time of service or sale of the seafood. If a supplier freezes the seafood, a written agreement or statement from the supplier stipulating that the supplied seafood are frozen to a temperature and for a time specified under this section may substitute for the records. (Eff. __/__/__, Register __)

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

Article 3. Management and Personnel .

Section

300. Employee health [DISEASE TRANSMISSION]

310. Handwashing [PERSONAL CLEANLINESS]

315. Employee practices [AND TRAINING]

320. Certified food protection manager

325. Person in charge

330. Food worker cards

335. Standard operating procedures and record management

340. Self-assessments

18 AAC 31.300 is amended to read:

18 AAC 31.300. Employee health. [DISEASE TRANSMISSION]. (a) An employee

(1) [A PERSON] with an infected wound or a disease communicable by food may not work in a food establishment in any capacity that might contaminate food or a food-contact surface of clean equipment or utensils with an infectious or toxigenic micro-organism, or that might transmit disease to others; and

(2) experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

(b) The operator shall ensure that each employee or applicant reports the following information in a manner that allows the person in charge to prevent the likelihood of foodborne illness transmission, including the date of onset, if the employee or applicant

(1) is or has been diagnosed with an illness due to

(A) *Salmonella Typhi*, within the previous three months;

(B) *Shigella spp.*, within the previous three months;

(C) Shiga toxin-producing *Escherichia coli*, within the previous three months; or

(D) hepatitis A virus;

(2) has a symptom caused by illness, infection, or other source that is

(A) associated with an acute gastrointestinal illness, such as

(i) diarrhea;

(ii) fever;

(iii) vomiting;

(iv) jaundice; or

(v) sore throat with fever; or

(B) a lesion containing pus, such as a boil or infected wound, that is open or draining and is

(i) on the hands or wrists, unless an impermeable cover protects the lesion, and a single-use glove is worn over the impermeable cover;

(ii) on exposed portions of the arms, unless an impermeable cover protects the lesion; or

(iii) on other parts of the body, unless the lesion is protected by a dry, durable, tight-fitting bandage;

(3) meets one or more of the following high-risk conditions:

(A) is suspected of causing, or being exposed to, a confirmed disease outbreak caused by *S. Typhi*, *Shigella* spp., Shiga toxin-producing *Escherichia coli*, or hepatitis A virus because the employee or applicant

(i) prepared food implicated in the foodborne outbreak;

(ii) consumed food implicated in the foodborne outbreak; or

(iii) consumed food at the event prepared by a person who is infected or ill with the infectious agent that caused the foodborne outbreak, or who is suspected of shedding the infectious agent; or

(B) lives in the same household as, and has knowledge about, a person who

(i) is diagnosed with *S. Typhi*, *Shigella* spp., Shiga toxin-producing *Escherichia coli*, or hepatitis A virus; or

(ii) is exposed to or works in a setting where there is a confirmed disease outbreak caused by *S. Typhi*, *Shigella* spp., Shiga toxin-producing *Escherichia coli*, or hepatitis A virus.

(c) The operator of a food establishment shall ensure that

(1) if an employee is diagnosed with an infectious agent specified under (b)(1) of this section, that employee is excluded from working in the establishment;

(2) if an employee is suffering from a symptom specified under (b)(2) of this section or who is not experiencing a symptom of acute gastroenteritis specified under (b)(2) but has a stool that yields a specimen culture that is positive for *S. Typhi*, *Shigella* spp., or Shiga toxin-producing *Escherichia coli*, that employee is restricted from working with exposed food, clean equipment, utensils, and linens, and unwrapped single-service and single-use articles;

(3) if the population served is a highly susceptible population, an employee experiencing one of the following is excluded from the establishment:

(A) a symptom of acute gastrointestinal illness specified under (b)(2) and meets a high-risk condition specified under (a)(4);

(B) not experiencing a symptom of acute gastroenteritis specified under (b)(1) but has a stool that yields a specimen culture that is positive for *S. Typhi*, *Shigella* spp., or Shiga Toxin-producing *Escherichia coli*;

(C) is or has been diagnosed with *S. Typhi* within the previous three months; or

(D) is or has been diagnosed with *Shigella* spp. or Shiga toxin-producing *Escherichia coli* within the previous month; and

(4) if an employee is jaundiced,

(A) if the onset of jaundice occurred within the last seven calendar days, the employee is excluded from the food establishment; or

(B) if the onset of jaundice occurred more than 7 calendar days before

(i) the employee is excluded from the food establishment if the food establishment serves a highly susceptible population; or

(ii) the employee is restricted from activities specified under (2) of this paragraph, if the food establishment does not serve a highly susceptible population.

(d) [AN EMPLOYEE WITH PERSISTENT SNEEZING, COUGHING, OR A RUNNY NOSE MAY NOT WORK IN ANY CAPACITY THAT MIGHT CONTAMINATE FOOD OR FOOD-CONTACT SURFACES OF CLEAN EQUIPMENT OR UTENSILS. (c)] If the department believes a food establishment or an employee might be the source of a foodborne illness, the department will take action, including actions [AS] recommended by the Department of Health and Social Services to control disease transmission, including

(1) suspend the food establishment's permit until the department determines [FINDS] that the danger of further disease transmission no longer exists;

(2) secure an illness history from each employee suspected of transmitting the illness;

(3) restrict a suspect employee's services to an area of the food establishment where there is no danger of transmitting disease;

(4) require medical or laboratory examination of a suspect employee;

(5) secure records or other information that might assist in the positive identification of persons potentially exposed to the disease; and

(6) obtain samples of food for laboratory analysis.

(e) [(d)]The department may release to the public the name of a food establishment found to be the source of a foodborne illness if the release will assist in the diagnosis, prevention, or treatment of the disease or if otherwise required by law. (Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am 6/28/2001 Register 158; am ___/___/___, Register ___)

Authority:	AS 17.20.005	AS 17.20.072	AS 17.20.290
	AS 17.20.020	AS 17.20.180	AS 44.46.020
	AS 17.20.070	AS 17.20.200	

18 AAC 31.310 is repealed and readopted to read:

18 AAC 31.310. Handwashing. (a) The operator of a food establishment shall ensure that employees thoroughly wash their hands and the exposed portions of their arms with soap and warm water for at least 20 seconds before starting work and during work, as often as needed to keep hands and arms clean using the following cleaning procedure:

(1) vigorous friction on the surfaces of the lathered fingers, finger tips, areas between the fingers, hands, and arms for at least 10 to 15 seconds; employees shall pay particular attention to the areas underneath the fingernails:

(2) thorough rinsing under clean, running warm water; and

(3) thorough drying of cleaned hands and arms using

(A) individual, disposable towels;

(B) a continuous towel system that supplies the user with a clean towel;

or

(C) a heated-air hand drying device.

(b) The owner of a food establishment shall ensure that each employee washes their hands

(1) before preparing ready-to-eat food and when switching between working with raw and ready-to-eat food;

(2) after handling raw meat, raw poultry, raw seafood, soiled utensils, chemicals, or garbage; and

(3) after using tobacco, coughing, sneezing, using a handkerchief or disposable tissue, eating, using the toilet, touching the face, mouth, or hair, caring for or handling animals allowed under 18 AAC 31.575, or doing any other unhygienic act;

(4) during food preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks;

(5) after handling soiled equipment or utensils; and

(6) before donning gloves for working with food.

(c) Bacteriocidal and viricidal hand rinses or hand dips

(1) must be located only adjacent to a handwash sink;

(2) may be used in addition to handwashing but not as a substitute for handwashing; and

(3) must be kept clean and maintained at a strength equivalent to at least 100 mg/L chlorine. (Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am ___/___/___, Register ___)

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

Editor's note: Effective 12/19/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 31.310, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 31 from AS 03.05 to AS 17.20.

18 AAC 31.315 is amended to read:

18 AAC 31.315. Employee practices [AND TRAINING]. (a) The operator of a food establishment shall ensure that employees do not eat in preparation, processing, service, or warewashing areas except to taste food for culinary purposes, using a single-use utensil once. The operator shall ensure that each area designated for employees to eat, drink, or use tobacco are located so that food, equipment, utensils, linens, and single-service and single-use articles are protected from contamination.

(b) Employees may not use or store tobacco in any form in a preparation, processing, display, service, or warewashing area.

(c) The requirements of this section do not bar an employee from eating in the dining area, or smoking in an area of a dining room designated as a smoking area under AS 18.35.320.

(d) Repealed / / [THE OPERATOR OF A FOOD ESTABLISHMENT SHALL TRAIN EMPLOYEES CONCERNING PROPER HYGIENIC PRACTICES TO BE USED WHILE ON DUTY].

(e) The operator of a food establishment shall ensure that

(1) employees keep their fingernails trimmed, filed, and maintained so that the edges and surfaces are cleanable and not rough;

(2) unless wearing intact single-use gloves in good repair, employees do not wear fingernail polish or artificial fingernails when working with exposed food;

(3) while preparing food, employees do not wear jewelry on their arms and hands, except that a band ring may be worn;

(4) employees wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles; and

(5) employees who prepare or serve unwrapped, unpackaged food, or that present a risk of contaminating food or food-contact surfaces, wear hair restraints and clothing that covers body hair that are designed and worn effectively to keep their hair from contacting food or food-contact surfaces. (Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am ___/___/___, Register ___)

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

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

18 AAC 31.320. Certified food protection manager. (a) The operator of a food establishment that serves and prepares unwrapped or unpackaged food, except for a bar or tavern or limited food service, must have at least one certified food protection manager who is involved in the daily operations of the establishment.

(b) A copy of the certified food protection manager certificate shall be kept on file at the food establishment as required under 18 AAC 31.335(b)(3).

(c) If the certified food protection manager terminates employment with a food establishment required to have a certified food protection manager under (a) of this section, the operator of the food establishment shall comply with the requirements of this section within 30 days after that manager's termination.

(d) The department may require that the operator of a food establishment have a certified food protection manager present at all times during operation if there is a

- (1) foodborne outbreak associated with the facility;
- (2) more than one risk factor or intervention violation of this chapter; or
- (3) another factor that the department determines significantly increases the risk to consumers of a foodborne illness. (Eff. __/__/__, Register __)

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

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

18 AAC 31.325. Person in charge. (a) The operator of a food establishment shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation who

(1) implements the standard operating procedures described at 18 AAC 31.335, recognizes hazards that may contribute to foodborne illness, and takes appropriate preventive and corrective actions; and

(2) conducts the self-assessment described at 18 AAC 31.340.

(b) The certified food protection manager described at 18 AAC 31.320 may also be the person in charge when the certified food protection manager is on duty. (Eff. __/__/__, Register __)

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

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

18 AAC 31.330. Food worker cards. (a) The operator of a food establishment shall ensure that each food worker employed in the establishment, within 30 days after the date of hire, holds a valid food worker card issued by the department.

(b) An applicant for a food worker card shall demonstrate knowledge of safe food handling practices by satisfactorily completing an examination conducted by the department.

(c) The examination developed by the department will include questions covering the following subjects:

- (1) food conditions and source;
- (2) food protection;
- (3) temperature control;

- (4) display and service;
- (5) personal cleanliness;
- (6) employee illness;
- (7) employee practices; and
- (8) equipment and utensil cleaning and sanitizing.

(d) The department may approve, in writing, a third-party proctor to administer the examination described in (c) of this section.

(e) A food worker card issued by the department is valid for three years from the date of issue.

(f) An operator of a food establishment shall keep on file a copy of the food worker card issued by the department for each employed food worker and make the copy available to the department upon request.

(g) The department may issue a restricted card to a food worker with special needs who has ceased to make progress toward successfully completing the examination described in (c) of this section. A restricted food worker card will identify the specific duties that may be performed by the food worker. Restrictions may be removed when the food worker successfully completes the examination described in (c) of this section. (Eff. ___/___/___, Register ___)

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

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

18 AAC 31.335. Standard operating procedures and record management. (a) The operator of a food establishment shall develop, implement, maintain, and make available to the department written standard operating procedures that describe methods used to ensure that

- (1) food is obtained from an approved source, as required under 18 AAC 31.200;
- (2) consumers are advised of risks, if food products subject to an advisory are served, as required under 18 AAC 31.060;
- (3) food products are received and stored as required under 18 AAC 31.220;
- (4) potentially hazardous food meets temperature and time requirements specified at 18 AAC 31.230, if any of the following processes are conducted within the establishment:

(A) cooking;

- (B) cooling;
- (C) reheating for hot-holding;
- (D) cold-holding;
- (E) hot-holding;
- (F) time as a public health control;

(5) ill employees do not work in a capacity that might contaminate food, required under 18 AAC 31.300;

(6) employees will utilize the handwashing procedures as required under 18 AAC 31.310;

(7) utensils, equipment, and food-contact surfaces are cleaned and sanitized as required under 18 AAC 31.420;

(8) employees do not use bare hands when handling ready-to-eat food as required under 18 AAC 31.200;

(9) each food worker obtains a card as required under 18 AAC 31.330, and the establishment has at least one certified food protection manager, if required under 18 AAC 31.320;

(10) requirements for highly susceptible populations are met, as required under 18 AAC 31.215; and

(11) if received, donated foods are received, stored, and processed as required under 18 AAC 31.205.

(b) The operator of a food establishment shall keep records for the following:

- (1) if served, shellfish source at 18 AAC 31.200;
- (2) employee health at 18 AAC 31.300;
- (3) certified food protection manager certificates if obtained under 18 AAC 31.320;
- (4) food worker cards obtained under 18 AAC 31.330;
- (5) self-assessments required under 18 AAC 31.340; and
- (6) parasite destruction if required under 18 AAC 31.250.

(c) The operator of a food establishment shall keep records required under (b) of this

section at the facility for one year, except records for shellfish and raw seafood intended for consumption in the raw form which must be kept for 90 days. If, during the required retention time, a food establishment is closed for a prolonged period, or if record storage capacity is limited, the records required in (c) of this section may be transferred to some other reasonably accessible location. If requested by the department, the operator shall return the records to the establishment or another agreed-upon location for department review within 24 hours after receiving the request unless the department agrees to a longer period.

(d) The operator of a food establishment shall provide a copy of this chapter and the standard operating procedures described in this section at the food establishment in an area freely and easily accessible to employees for review. In addition, the operator of a food establishment shall ensure that each certified food protection manager or person in charge is designated as responsible for implementing the standard operating procedure. (Eff. __/__/__, Register __)

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

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

18 AAC 31.340. Self-assessments. The operator of a food establishment shall conduct a self-assessment using a form developed by the department, or an approved form, at least once every three months that evaluates compliance with the following:

- (1) certified food protection manager and food worker card records are on file;
- (2) employee health records are on file and current;
- (3) handwash sinks are properly equipped, are accessible, used for no other purpose, and water temperature and pressure are adequate;
- (4) employees are properly washing hands;
- (5) no-bare hand contact with ready-to-eat foods;
- (6) food is from approved source;
- (7) shellfish and raw seafood records are on file;
- (8) product is received at required temperature and in sound condition;
- (9) stored food is protected from contamination;
- (10) food-contact surfaces are cleaned and sanitized at required frequency;
- (11) warewashing equipment is properly operated and maintained;
- (12) food is cooked, cooled, reheated for hot-holding, hot-held, cold-held, and thawed at required temperatures and times, and under required conditions;

- (13) consumer advisory labels, placards, and statements are provided;
- (14) where time is used as a public health control, food is appropriately marked and discarded as required;
- (15) if donated food is received, food is appropriately received, stored, and processed;
- (16) if highly susceptible population is served, restricted foods are not used or served;
- (17) ready-to-eat foods are protected from contamination during preparation, display, and service;
- (18) employees observe personal cleanliness requirements;
- (19) toilet facilities are clean, properly equipped, and well-maintained;
- (20) insects, rodents, and other pests are controlled and outer openings are protected from pest entry;
- (21) pesticides and other toxic chemicals are properly used and stored;
- (22) garbage is properly stored;
- (23) walls, floors, and ceilings are maintained and clean; and
- (24) lighting and ventilation is adequate and maintained (Eff. ___/___/___,

Register ___)

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

18 AAC 31.400(a) is amended to read:

18 AAC 31.400. Materials. (a) The operator of a food establishment shall ensure that

- (1) materials used in the construction of utensils and food-contact surfaces of equipment are **designed and maintained to be**
 - (A) safe, durable, corrosion resistant, and nonabsorbent;
 - (B) sufficient in weight and thickness to withstand repeated washing;
 - (C) finished to have a smooth and easily cleanable surface; **a surface that is subject to scratching and scoring, such as a cutting block or board, must be resurfaced if the surface can no longer be cleaned and sanitized effectively, or**

discarded if the surface is not capable of being resurfaced; and

(D) **except as provided in (C) of this paragraph,** resistant to pitting, chipping, scratching, scoring, distortion, and decomposition;

(2) solder is safe and corrosion resistant; **solder and flux containing lead in excess of 0.2% may not used as a food-contact surface:**

- (3) only a safe lubricant is used on equipment or food-contact surfaces;
- (4) plastic liners or containers used for food storage are made of safe materials;
- (5) cast iron is used only

(A) as a cooking surface; or

(B) in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service;

(6) ceramic, china, crystal, and decorative utensils, including hand-painted ceramic and china that contact food, are lead-free or contain levels of lead that do not exceed the limits set in Table C of this subsection; the operator shall purchase utensils specified as lead-free, or use a commercial lead test kit to test the food-contact surfaces of utensils;

TABLE C MAXIMUM LEAD CONTENT	
UTENSIL CATEGORY	MAXIMUM LEAD (milligrams per liter - mg/l)
Coffee or other hot beverage mugs	0.5
Bowls larger than 1.1 liter (1.16 quart)	1.0
Bowls smaller than 1.1 liter	2.0
Plates, saucers, and other flat utensils	3.0

(7) copper and copper alloys, such as brass,

(A) do not contact food with a pH below six, such as vinegar, fruit juice, or wine, except that copper or copper alloys may, in the pre-fermentation or fermentation stage of beer brewing, contact beer brewing ingredients that have a pH below six; and

(B) are not used for fittings or tubing between a backflow prevention device, such as a double check valve, and a carbonator; [AND]

(8) enamelware is not used as a food-contact surface;

(9) multi-use utensils, that have a perfluorcarbon resin coating are used only with non-scoring or non-scratching utensils and cleaning aids;

(10) galvanized metal is not used for utensils or food-contact surfaces of equipment that are used in contact with food having a pH below six, such as vinegar, fruit juice, or wine,; and

(11) materials used to make single-service and single-use articles

(A) do not allow the migration of deleterious substances, or impart colors, odors, or tastes to food; and

(B) are safe and clean.

....

(Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am ___/___/___, Register ___)

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

18 AAC 31.410 is repealed and readopted to read:

18 AAC 31.410. Design and construction. (a) The operator shall ensure that

(1) multi-use food-contact surfaces are

(A) smooth and easily cleanable;

(B) free of breaks, open seams, and hard-to-clean internal corners and crevices;

(C) finished to have smooth welds and joints;

(D) easily accessible for cleaning; and

(E) maintained in good repair;

(2) nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling, or that require frequent cleaning are

(A) constructed of a corrosion resistant, nonabsorbent, and smooth material, except that unfinished wood may be used for nonfood-contact surfaces in a dry food storage room, walk-in freezer, or utility room;

(B) free of unnecessary ledges, projections, or crevices; and

(C) easily accessible for cleaning;

(3) equipment

(A) intended for in-place cleaning is constructed so that

(i) washing, rinsing, and sanitizing solutions can be circulated throughout the closed system and contact all interior food-contact surfaces; and

(ii) the system is self-draining or capable of complete evacuation by mechanical means;

(B) that is designed for use with a cover or lid

(i) has an opening located within the top of the unit that is flanged upward at least two-tenths of an inch; and

(ii) has a cover or lid that overlaps the opening and is sloped to drain;

(C) is designed so that fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment are provided with a watertight joint at the point where the item enters the equipment, except that if a watertight joint cannot be provided, the equipment

(i) is designed so that the piping, temperature measuring devices, rotary shafts, and other parts extending through the openings are equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and

(ii) has an opening located within the top of the unit that is flanged upward at least two-tenths of an inch; and

(D) compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice are sloped to an outlet that allows complete draining;

(4) tubing carrying beverage ingredients to dispensing heads does not contact ice that is to be consumed unless the tubing is grommeted at entry and exit points of the ice bin to prevent condensation from entering the ice bin;

(5) hood filters are easily cleanable and readily removable for cleaning;

(6) at least one utility sink, or curbed cleaning unit with a floor drain, for cleaning mops, filling mop buckets, and disposing of mop water and similar liquid waste is provided; in addition, a utility sink or curbed cleaning unit with a floor drain is not used in a preparation, processing, or warewashing area, or any other location that could cause it to be a source of contamination to food, clean utensils, single-service items, or equipment;

(7) if the establishment is extensively remodeled or began construction after May 27, 1983, at least one three-compartment sink is installed in the warewashing area; the operator of a bar or tavern that is extensively remodeled or that began operation after May 27, 1983 shall ensure that a fourth sink compartment that may be used for dumping drinks and handwashing is installed in addition to those used for washing, rinsing, and sanitizing; the department will allow the installation of a two-compartment sink at a limited food service as provided in 18 AAC 31.610(b)(4);

(8) each warewashing sink compartment is adequate for the complete immersion of most equipment and utensils, with each compartment supplied with hot and cold potable running water under pressure;

(9) each handwash sink is equipped with

(A) hot and cold running water under pressure that can be tempered to a temperature between 100 - 120° F by a mixing valve or combination faucet;

(B) if installed, self-dispensing, slow-closing, or metering faucets that provide a flow of water for at least 15 seconds without the need to reactivate the faucet; and

(C) installed in conjunction with each sink, either sanitary towels in a dispenser or a hand-drying device that provides heated air;

(10) if the establishment is extensively remodeled, has a significant change in its method of preparation or processing, or began operation after May 18, 1997, a separate preparation sink is installed if the menu or method of preparation or processing requires frequent soaking, rinsing, culling, or cleaning of raw ingredients or produce;

(11) each sink is self-draining;

(12) each warewashing machine is equipped with

(A) a properly installed device that automatically washes, rinses, and sanitizes equipment and utensils that is maintained in good repair, and operated in accordance with the machine's data plate and other manufacturer's instructions;

(B) a one-quarter inch iron pipe size valve installed immediately upstream from the fresh hot water sanitizing rinse control valve of a warewashing machine to ensure that the pressure is between 15 and 25 pounds per square inch during the sanitizing rinse;

(C) machine-mounted or waterline-mounted, numerically-scaled, indicating thermometers that

(i) are calibrated in accordance with manufacturer's instructions to ensure accuracy to $\pm 3^{\circ}$ F;

(ii) continuously measure the water temperature in each tank; and

(iii) are installed immediately upstream of the final rinse water entering the manifold;

(D) self-draining drainboards on both sides of the warewashing machine, adequate in size for stacking soiled utensils and air drying cleaned utensils after sanitization; this requirement does not preclude the use of additional easily cleanable dishtables for the storage of soiled utensils or for the storage of cleaned utensils after sanitization and air-drying;

(E) if installed after *{the effective date of these regulations}*, an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating instructions, including the

(i) temperatures required for washing, rinsing, and sanitizing;

(ii) pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and

(iii) conveyor speed for conveyor machines or cycle time for stationary rack machines; and

(F) if installed after *{the effective date of these regulations}*, a visual means to verify that detergents and sanitizers are delivered, or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles;

(13) if existing refrigeration equipment is in place and in use on June 28, 2001, and is not capable of maintaining food at 41° F or less, the equipment maintains potentially hazardous food at 41° F - 45° F until June 28, 2006, at which time all food establishment operators shall ensure that potentially hazardous food is maintained at 41° F or less; and

(14) shelving used in a refrigeration or freezer unit is slotted or perforated to enhance air circulation; the use of unfinished wood shelving in a reach-in refrigeration or freezer unit is prohibited except that unfinished wood may be used as shelving in a walk-in freezer.

(b) The operator of a food establishment that has a system for holding live shellstock or crustaceans shall ensure that

(1) systems for holding live shellstock and crustaceans

(A) have tanks that

(i) have smooth, cleanable surfaces;

(ii) are durable and accessible for washing, rinsing, and sanitizing;

(iii) have plumbing and spray nozzles that are cleanable and made from safe materials; and

(iv) hold at least 100 gallons of water per 75 pounds of shellfish;

(B) have plumbing that

(i) will not be a source of contamination;

(ii) does not have dead-end pipes or hoses that can fill with stagnant water; and

(iii) has a backflow prevention device to protect the potable water supply;

(C) have a recirculation system that includes

(i) filtration to remove particulate matter and ammonia;

(ii) a disinfection system to remove coliform bacteria from the water; if a UV light system is used, the UV lights are cleaned at least every 6-8 weeks and the bulbs are replaced at least yearly; and

(iii) a refrigeration unit to maintain water at 40 - 60° F; and

(2) employees who work in an establishment where a system for holding live shellstock or crustaceans is used

(A) do not mix shellstock with crustaceans;

(B) do not co-mingle different lots of shellstock in the tank;

(C) use vertical dividers or mesh bags for separating lots;

(D) wash shellstock free of mud or other debris and cull dead, broken, or weak shellstock before placing shellstock in the tank;

(E) cull shellstock at least daily to remove dead or weak shellstock;

(F) wash, rinse, and sanitize the tank and recirculation system at least once each week;

(G) ensure that tanks and recirculation systems that have been used for other species are washed, rinsed, and sanitized before use for mollusks;

(H) ensure that defoamers, if used, are of food-grade quality; and

(I) follow the manufacturer's guidelines for maintaining the water's salinity in the tanks; and

(c) The operator of a food service shall ensure that

(1) except for a specific food service operation listed in 18 AAC 31.525(b), at least one handwash sink is provided

(A) in the preparation area, except as provided in (2) of this subsection;

(B) in the warewashing area if the same employee who handles soiled utensils also handles cleaned utensils; the department will allow the installation of a single handwash sink to satisfy the requirements of this paragraph and (1) of this subsection if the operator demonstrates to the department's satisfaction that the single sink is convenient to the food preparation and the warewashing area; and

(C) in or next to the exit of each toilet room;

(2) at least one three-compartment sink is installed in the warewashing area; the operator of a bar or tavern shall ensure that a fourth sink compartment is installed in addition to those used for washing, rinsing, and sanitizing; the fourth sink may be used for dumping drinks and handwashing.

(d) The operator of a market or food processing establishment

(1) constructed or extensively remodeled after May 18, 1997 shall provide at least one handwash sink

(A) in the processing area; and

(B) in or next to the exit of each toilet room.

(2) that uses multi-use utensils, or equipment that must be disassembled for cleaning, and that was extensively remodeled or began operation after May 18, 1997 shall ensure that at least one three-compartment sink is installed in the warewashing area. (Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am ___/___/___, Register ___)

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

Editor's note: Effective 12/19/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 31.410, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 31.410(h). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 31 from AS 03.05 to AS 17.20.

18 AAC 31.415(b) is amended to read:

18 AAC 31.415. Equipment installation and location.

....

(b) The operator of a bar or tavern who serves food as described in **18 AAC 31.020(d)(1)(F)** [18 AAC 31.020(d)(6)] shall ensure that the areas and equipment used to prepare and serve food and beverages and used for warewashing are adequate to support the types and volume of food and beverages and methods of preparation and service.

....

(Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am 12/31/2000, Register 156; am 6/28/2001, Register 158; am __/__/__, Register __)

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

18 AAC 31.420 is repealed and readopted to read:

18 AAC 31.420. Cleaning and sanitizing. (a) The operator of a food establishment shall ensure that cleaning and sanitizing is performed as follows:

(1) except as otherwise specified in this section, multi-use utensils, including tableware, and food-contact surfaces of equipment are washed, rinsed, and sanitized after each use; fixed equipment or equipment too large to be cleaned in sinks must be washed, rinsed, and sanitized by hand or by pressure spraying;

(2) food-contact surfaces of equipment and multi-use utensils

(A) are washed, rinsed, and sanitized or replaced with clean and sanitized equipment and utensils

(i) before each use with a different type of raw animal food;

(ii) each time there is a change from working with raw foods to working with ready-to-eat foods;

(iii) between uses with raw fruits and vegetables and with potentially hazardous food; and

(iv) at any time during the operation when contamination may have occurred;

(B) used in portioning or baking nonpotentially hazardous foods are washed, rinsed, and sanitized at least every 24 hours;

(C) used to prepare or serve potentially hazardous food on a continuous

or production-line basis

(i) are washed, rinsed, and sanitized at least every four hours during production or replaced with clean and sanitized equipment and utensils; or

(ii) in a refrigerated room maintained at 50° F or below must be washed, rinsed, and sanitized at least every 24 hours;

(3) nonfood-contact surfaces of equipment are kept free of dust, dirt, food particles, grease, and other debris;

(4) if used, a reservoir that is used to supply water to a device such as a produce fogger is maintained in accordance with manufacturer's instructions and cleaned at least once per week in accordance with manufacturer's instructions or as follows:

(A) drain and complete disassemble of the water and aerosol contact parts;

(B) brush-clean the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;

(C) flush the complete system with water to remove the detergent solution and particulate accumulation;

(D) rinse by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/L hypochlorite solution;

(5) each warewashing machine, the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths, and drainboards or other equipment used to substitute for drainboards are cleaned:

(A) before use;

(B) throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

(C) if used, at least every 24 hours;

(6) temperature probes or thermometers used in a food product are cleaned and sanitized

(A) before the internal food temperature is taken;

(B) after use, and before storage; and

(C) between use with raw and with ready-to-eat foods;

(7) food-contact surfaces of grills and griddles are cleaned at least once each day;
and

(8) the cavities and door seals of microwave ovens are cleaned at least once each day by using the manufacturer's recommended cleaning procedure.

(b) The operator of a food establishment shall ensure that food-contact surfaces of equipment and utensils that are manually washed are sanitized only

(1) by using one of the following methods:

(A) immersion for at least 30 seconds in clean water at a temperature of 170° F or above;

(B) immersion for at least 30 seconds in a clean sanitizing solution at a temperature of 75° F or above when using one of the following sanitizing solutions:

(i) 50 ppm of available chlorine as hypochlorite;

(ii) 12.5 - 25 ppm of available iodine with a pH no higher than 5.0;

(iii) quaternary ammonium compound at a concentration specified by the manufacturer on the label, with a pH no less than 6.0, water hardness no greater than 500 ppm, and following the manufacturer's recommendations regarding use of a final rinse after sanitization; or

(iv) any other approved sanitizing agent that will provide the same bactericidal effect as the solutions described in (A) - (C) of this paragraph;

(C) treatment for at least 30 seconds with steam that is free from harmful substances;

(D) rinsing, spraying, or swabbing with a clean sanitizing solution described in (B) of this subsection if the equipment is too large for immersion; and

(2) if chemicals are used for sanitizing, a test kit, test strips, or another device, such as a product thermometer, is provided and used often to ensure compliance with the concentration and temperature requirements of (3) of this section; and

(3) if hot water is used for sanitizing,

(A) an integral heating device is installed that will maintain the water at a temperature of 170° F or above;

(B) a numerically-scaled, indicating thermometer calibrated in accordance with manufacturer's instructions to ensure accuracy to $\pm 3^{\circ}$ F is installed; and

(C) dish baskets are used that allow complete immersion of tableware, kitchenware, and equipment in the hot water.

(c) The operator of a food establishment shall ensure that food-contact surfaces of equipment and utensils that are machine-washed are sanitized only

(1) if chemicals are used for sanitizing,

(A) the temperature of the wash water is 120° F or above;

(B) the wash water is clean;

(C) the sanitizer is automatically dispensed;

(D) utensils and equipment are exposed to the sanitizing solution according to the manufacturer's instructions;

(E) the sanitizing solution temperature is at least the temperature specified by the manufacturer; and

(F) a test kit, test strip, or another device to accurately measure the concentration of the sanitizing solution accurately is provided and used often to ensure compliance with the concentration requirements of this section;

(2) if hot water is used for sanitizing,

(A) wash water and rinse water are clean;

(B) the temperature on the utensil surface is raised to 160° F or above at the end of the sanitizing cycle as measured by an irreversible registering temperature indicator; and

(C) the temperatures of the wash and rinse waters are maintained as required by Table D of this section;

TABLE D TEMPERATURE REQUIREMENTS FOR MACHINES USING HOT WATER FOR SANITIZING	
Single-tank, stationary-rack, dual-temperature machine: Wash temperature Final rinse temperature	150° F 180° F
Single-tank, stationary-rack, single-temperature machine: Wash temperature Final rinse temperature	165° F 165° F
Single-tank, conveyor machine: Wash temperature Final rinse temperature	160° F 180° F
Multi-tank, conveyor machine: Wash temperature Pumped rinse temperature Final rinse temperature	150° F 160° F 180° F
Single-tank, pot, pan, and utensil washer: Wash temperature Final rinse temperature	140° F 180° F

(d) The operator of a food establishment shall ensure that the following procedures are used to wash, rinse, and sanitize utensils and equipment:

(1) for manual washing, rinsing, and sanitizing

(A) clean each sink compartment;

(B) pre-rinse, scrape, or soak each utensil and equipment as necessary to remove large food particles;

(C) wash thoroughly in the first compartment of the sink with a detergent solution maintained at a temperature not less than 110° F, or the temperature specified on the cleaning agent manufacturer's label instructions; the detergent solution must be changed frequently to maintain cleanliness;

(D) rinse thoroughly in the second compartment in warm water that is changed frequently to maintain cleanliness;

(E) sanitize in the third compartment as described in (c) of this section;

and

(F) air-dry, except that utensils that have been air-dried may be polished with a cloth that is kept clean and dry;

(2) for mechanical washing, rinsing, and sanitizing,

(A) pre-rinse, scrape, or soak each utensil and equipment as necessary to remove large food particles before utensils or equipment are washed, unless a prewash cycle is used;

(B) place soiled items to be cleaned in racks, trays, or baskets, or onto conveyors in a manner that exposes the items to the unobstructed spray from all cycles and allows the items to drain; and

(C) air-dry, except that utensils that have been air-dried may be polished with a cloth that is kept clean and dry.

(e) The operator of a food establishment shall ensure that

(1) cloths used to wipe food spills on tableware are clean, dry, and used for no other purpose;

(2) moist cloths are

(A) cleaned and rinsed frequently or stored in a clean sanitizing solution that is 100 ppm of available chlorine as hypochlorite or if another sanitizing solution is used, in a concentration as specified by manufacturer's instructions;

(B) used for no other purpose;

(C) laundered daily; if air-dried, the cloths must be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the cloths; and

(D) if used with raw animal foods, kept separate from cloths used for other purposes, and kept in a separate sanitizing solution;

(3) sponges are not used in contact with cleaned and sanitized or in-use food-contact surfaces; and

(4) if dry cleaning methods, including brushing, scraping, and vacuuming, are used,

(A) the dry cleaning method is only used on surfaces that are soiled with dry food residues that are not potentially hazardous; and

(B) cleaning equipment used in dry cleaning food-contact surfaces is not used for any other purpose. (Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am ___/___/___, Register ___)

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

Editor's note: Effective 12/19/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 31.420, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 31.420(a). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 31 from AS 03.05 to AS 17.20.

18 AAC 31.500 is amended to read:

18 AAC 31.500. Water supply. (a) Except for a food establishment described in (e) of this section, the operator of a food establishment shall

(1) provide an adequate supply of potable water from a source constructed and operated [AS] if required by 18 AAC 80;

(2) ensure that potable water that is not piped to the food establishment is transported, delivered, and stored as required by 18 AAC 80; and

(3) ensure that steam used in contact with food or food-contact surfaces is free from harmful substances and is from a potable water source.

(b) The operator of a mobile food unit or kiosk shall ensure that potable water tanks, plumbing, and hoses that come in contact with potable water on the unit or kiosk

(1) consist of materials approved for that use by the National Sanitation Foundation [(NSF)], FDA, or an organization recognized as equivalent by the department;

(2) are used for no purpose except to hold, carry, or dispense potable water; and

(3) are protected from contamination during storage.

(c) The operator of a mobile food unit or kiosk shall ensure that

(1) the potable water inlet of the mobile food unit or kiosk is

(A) capped and cannot be contaminated by waste discharge, road dust, oil, or grease; and

(B) three-fourths inch in inner diameter or less; and

(2) potable water tanks supply a sufficient amount of water between refilling and hold at least one day's supply.

(d) The operator of a mobile food unit or kiosk, except a pushcart, shall

(1) take the following actions at least annually and before seasonal startup:

(A) superchlorinate each potable water tank for at least two hours with 50 ppm chlorine solution; and

(B) drain, thoroughly rinse, and refill the tank[; AND

(C) SUBMIT WATER SAMPLES TO A CERTIFIED LABORATORY FOR COLIFORM ANALYSIS

(I) BEFORE INITIAL STARTUP AND BEFORE SEASONAL STARTUP; AND

(II) EVERY THREE MONTHS DURING OPERATION; AND

(2) TAKE THE FOLLOWING ACTIONS IF NOTIFIED THAT A WATER SAMPLE EXCEEDS THE MAXIMUM CONTAMINANT LEVEL FOR COLIFORM BACTERIA AS SET OUT IN 18 AAC 80.300(b)(5):

(A) IMMEDIATELY SUPERCHLORINATE THE TANK AS DESCRIBED IN (1)(A) AND (B) OF THIS SUBSECTION; AND

(B) SUBMIT ANOTHER WATER SAMPLE TO A CERTIFIED LABORATORY FOR COLIFORM ANALYSIS WITHIN 24 HOURS AFTER SUPERCHLORINATION].

(e) The operator of a food establishment placed under a boil water notice under 18 AAC 80[, OTHER THAN A MOBILE FOOD UNIT OR KIOSK SUBJECT TO (C) OR (D) OF THIS SECTION.] shall take the applicable actions listed in Table E of this subsection as directed by the department.

TABLE E REQUIREMENTS FOR OPERATING UNDER A BOIL WATER NOTICE		
	Total Coliform Exceedance	Fecal Coliform Exceedance
Water supply	Use boiled water or an alternate potable water supply	Use boiled water or an alternate potable water supply
Food, drink, ice	Use food, drink, and ice prepared prior to notice	Destroy food, drink, and ice prepared prior to notice. Limit menu and type of food preparation depending on volume available from alternate potable water supply
Water use equipment	Disconnect equipment. Clean and sanitize before reuse	Disconnect equipment. Clean and sanitize before reuse
Wiping cloths	Rinse in 100 ppm chlorine solution	Rinse in 100 ppm chlorine solution
Tableware	Continue to use	Use single-service
Other utensil washing	Use automatic warewasher or add sanitizer to all sinks	Use automatic warewasher or add sanitizer to all sinks
Handwashing stations	Use existing handwash sinks	Set up temporary handwash sinks using alternate water source

- (f) The requirements of this section do not apply to a
- (1) temporary food service subject to 18 AAC 31.600;
 - (2) limited food service that dispenses only prepackaged food and that meets the requirements of 18 AAC 31.610(c);
 - (3) mobile food unit that dispenses only prepackaged food and that meets the requirements of 18 AAC 31.620(g);
 - (4) mobile retail food vendor that sells only prepackaged food and that meets the requirements of 18 AAC 31.625(1); or
 - (5) kiosk that sells only prepackaged food and that meets the requirements of 18 AAC 31.615(c).

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(g) An exemption in (f) of this section does not relieve an operator from complying with requirements of the Department of Labor and Workforce Development. (Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am __/__/__, Register __)

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

18 AAC 31.510 (a) is amended to read:

18 AAC 31.510. Wastewater. (a) Except for a food establishment described in (c) of this section, the operator of a food establishment shall ensure that wastewater from the establishment is discharged into a public sewer or a wastewater disposal system built and operated if [AS] required by 18 AAC 72.

....

(Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am __/__/__, Register __)

Authority: AS 17.20.005 AS 17.20.180 AS 44.46.020
AS 17.20.072

18 AAC 31.515(c)(7) is amended to read:

18 AAC 31.515. Plumbing.

(c) The operator of a food establishment shall ensure that

....

(7) sinks and machines used for warewashing are [WAREWASHING MACHINES ARE NOT] directly connected to the sewage system; a floor drain must be provided adjacent to the fixture, and the fixture must be connected on the sewer side of the floor drain trap, provided that no other drainage line is connected between the floor drain waste connection and the fixture drain; in addition, the fixture and floor drain must be trapped and vented as required by applicable state and local plumbing codes [IF A WAREWASHING MACHINE IS LOCATED NEXT TO A FLOOR DRAIN WITH A TRAP, THE WAREWASHER'S WASTE OUTLET MAY BE CONNECTED DIRECTLY ON THE INLET SIDE OF THE FLOOR DRAIN TRAP];

(8) drain lines from equipment do not discharge wastewater directly on a floor;
and

....

(Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am __/__/__, Register __)

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

18 AAC 31.520(e)(4) is amended to read:

18 AAC 31.520. Toilet facilities.

....

(c) The operator of a food establishment shall ensure that

....

(4) easily cleanable waste containers are provided and emptied at least once each day; in a toilet room used by females, the operator provides a covered waste container for sanitary napkins.

....

(Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am __/__/__, Register __)

Authority:	AS 17.20.005	AS 17.20.180	AS 18.35.120
	AS 17.20.072	AS 18.35.100	AS 44.46.020

18 AAC 31.525(a)(1) is amended to read:

18 AAC 31.525. Handwash facilities. (a) Except for a food establishment described in (b) of this section, the operator of a food establishment shall ensure that

(1) handwash sinks are provided as required by 18 AAC 31.410(a)(9) [18 AAC 31.410(b)] and are

....

(Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am __/__/__, Register __)

Authority:	AS 17.20.005	AS 17.20.180	AS 18.35.120
	AS 17.20.072	AS 18.35.100	AS 44.46.020

18 AAC 31.535 is repealed and readopted to read:

18 AAC 31.535. Insect and rodent control. (a) The operator of a food establishment shall ensure that the presence of insects, rodents, and other pests is controlled to minimize their presence on the premises by:

- (1) routinely inspecting incoming shipments of food and supplies;
- (2) routinely inspecting the premises for evidence of pests;
- (3) using methods, if pests are found, such as trapping devices or other means of pest control allowed under this chapter and in accordance with 18 AAC 90; and

(4) eliminating conditions that contribute to the harboring of pests.

(b) The department may require the operator to hire a commercial pest control applicator certified under 18 AAC 90 to handle an insect, rodent, or other pest problem if the operator does not demonstrate to the department's satisfaction that the operator has adequately controlled the problem with pesticides and traps, or if an imminent health hazard exists. If the department requires a certified commercial pest control applicator under this section, the operator shall provide documentation to the department detailing the actions taken by the applicator.

(c) The operator of a food establishment shall ensure that insect light traps and flypaper, if used in the establishment, are

(1) located so that dead insects cannot fall on food, food-contact surfaces, or clean equipment or utensils; and

(2) changed often enough to prevent a heavy accumulation of insects in the traps or on the flypaper.

(d) The operator of a food establishment shall ensure that

(1) food, utensils, and food-contact surfaces are completely protected while pesticides are used;

(2) pesticides and pesticide use comply with 18 AAC 90;

(3) pesticides are not stored

(A) next to or above food; or

(B) over a working surface, a food-contact surface, utensils, an ice maker, or other food equipment;

(4) automatic dispensing aerosol units, if used, are

(A) prohibited in areas where food is prepared or served;

(B) installed and used only in areas beyond the influence of a ventilation system; and

(C) at least 20 feet from any processing, preparation, food or utensil storage, or warewashing area;

(5) dead or trapped birds, insects, rodents, and other pests are removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of other pests;

(6) rodent bait is contained in a covered, tamper-resistant bait station; and

(7) a tracking powder pesticide is not used in a food establishment; a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, or single-service and single-use articles.

(e) The operator of a food establishment shall ensure that openings to the outside are effectively protected against the entrance of rodents, insects, and other pests by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screening material must be tight-fitting, free from breaks, and not less than 16 mesh to the inch.

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

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

Editor's note: Effective 12/19/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 31.535, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 31.535(a). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 31 from AS 03.05 to AS 17.20.

18 AAC 31.540(6) is amended to read:

18 AAC 31.540. Floors. Except for a temporary food service subject to 18 AAC 31.600, the operator of a food establishment shall ensure that

....

(6) mats, duckboards and nonslip floor coverings are made of nonabsorbent and grease-resistant materials and are designed to be removable and easily cleanable;

....

(Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am ___/___/___, Register ___)

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

18 AAC 31.545 is amended by adding new paragraphs to read:

18 AAC 31.545. Walls and ceilings. The operator of a food establishment shall ensure that

....

(4) studs, joists, and rafters are not exposed in preparation or processing areas; if studs, joists, or rafters are exposed in other areas, they must be clean and in good repair; [AND]

(5) exposed utility service lines and pipes do not obstruct the cleaning of walls and ceilings;

(6) perimeter walls and roofs of a food establishment effectively protect the establishment from the weather and the entry of insects, rodents, and other animals; and

(7) servicing areas are provided with overhead protections, except for areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses. (Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am __/__/__, Register __)

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

18 AAC 31.550 is amended to read:

18 AAC 31.550. Cleaning. The operator of a food establishment shall ensure that

(1) cleaning required by 18 AAC 31.540 - 18 AAC 31.545 is conducted when the least amount of food is exposed, except for emergency cleaning of floors;

(2) cleaning is performed by a dustless method; and

(3) wastewater from cleaning required by 18 AAC 31.540 - 18 AAC 31.545 is not disposed of in a preparation sink, handwash sink, or a sink used to wash utensils or equipment. (Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am __/__/__, Register __)

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

18 AAC 31.560(1) and (3) are amended to read:

18 AAC 31.560. Ventilation. The operator of a food establishment shall ensure

(1) that equipment that produces excessive heat, steam, condensation, vapors, noxious odor, smoke, or fumes is adequately vented to outside air through a hood and filter system that complies with 18 AAC 31.400 - 18 AAC 31.420, and that prevents grease, condensation, or other filth from collecting on walls and ceilings or from draining or dripping onto food, equipment, utensils, linens, single-service, single-use articles, or food-contact surfaces;

....
(3) that commercial cooking equipment that produces grease-laden vapors is vented through a hood and grease collection system designed and installed in accordance with the *International Mechanical Code, 2003 edition* [2000 EDITION], chapter 5, sections 506-509, adopted by reference in 18 AAC 31.011;

....

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

Authority: AS 17.20.005 AS 17.20.180 AS 44.46.020
 AS 17.20.072

18 AAC 31.575(7) is amended to read:

18 AAC 31.575. Premises. The operator of a food establishment shall ensure that

...

(7) maintenance tools, including brooms, mops, vacuum cleaners, and similar items, are

(A) stored so the tools do not contaminate food, equipment, utensils, linens, and single-service and single-use articles;

(B) stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools; and

(C) placed in a position that allows tools and items, if wet, to air-dry without soiling walls, equipment, or supplies[STORAGE OF MAINTENANCE TOOLS AND CLEANING EQUIPMENT CANNOT CONTAMINATE FOOD, UTENSILS, EQUIPMENT, OR LINEN AND WILL NOT OBSTRUCT CLEANING];

...

(Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am __/__/__, Register __)

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

18 AAC 31.600 is amended to read:

18 AAC 31.600. Temporary food service. (a) In addition to the other applicable requirements of this chapter, the operator of a temporary food service shall comply with this section.

(b) Food must be prepared at the temporary food service unless the department approves prior preparation at a permitted food establishment or another facility under (c)(5) of this section.

(c) For a temporary food service, depending on the adequacy of facilities, equipment, and utensils for the types and volume of food and methods of preparation and service, and based on information provided by the operator on an application form provided by the department, the

department will, as the department determines necessary to serve the interests of public health and consumer protection,

- (1) limit the food items to be prepared and sold;
- (2) limit preparation steps;
- (3) prohibit the sale of potentially hazardous food;
- (4) except for the fee required by 18 AAC 31.050, grant a variance from [WAIVE] a requirement of this chapter under 18 AAC 31.930 if the variance [WAIVER] will not threaten public health and consumer protection;
- (5) authorize prior preparation of food at a permitted food establishment or another approved facility if
 - (A) that establishment or facility has adequate equipment for the type and volume of food and methods of preparation;
 - (B) a letter of agreement signed by the operator of the establishment or facility
 - (i) is attached to the temporary food service application;
 - (ii) specifies the food, and the dates and times the food will be prepared; and
 - (iii) confirms that the establishment or facility has adequate equipment and utensils for the type and volume of food and methods of preparation; and
 - (C) food is maintained at temperatures required by 18 AAC 31.230 and protected from contamination during transportation to the temporary food service; and
- (6) deny a temporary permit required under 18 AAC 31.020 if the applicant, within the two years before the application date, received
 - (A) two or more temporary food service inspections noting risk factor and intervention violations that the department determines, based on the nature or number of violations, threaten food safety [TWO OR MORE CRITICAL VIOLATIONS]; or
 - (B) a temporary food service permit suspension or establishment closure.
- (d) The operator of a temporary food service at an event that lasts four or more days shall,
 - (1) within three calendar years before the event, have attended [ATTEND] the

National Restaurant Association's ServSafe course for employees or a training course that provides equivalent information about food condition and source, food protection, temperature control, display and service, **handwashing** [PERSONAL CLEANLINESS], employee practices, and equipment and utensil cleaning and sanitizing; [TRAINING may be presented as a class with an instructor, a video training course, a home study training course, or a class provided by the department [VIDEO TRAINING COURSES ARE AVAILABLE FOR REVIEW AT THE DEPARTMENT'S ANCHORAGE, FAIRBANKS, AND JUNEAU OFFICES]; or

(2) be a certified food protection manager or hold a food worker card issued by the department under 18 AAC 31.330.

(e) If the department issues an operator the temporary food service permit under 18 AAC 31.020 – 18 AAC 31.030 for an event that lasts four or more days, and that permit is the first that the operator has received for an event of that length, the operator's failure to obtain training timely as required under (d) of this section does not affect the validity of that permit. However, the operator of a temporary food service at an event that lasts four or more days who does not attend the training required under (d) of this section may not obtain an extension of that permit under 18 AAC 31.020(g), and may not obtain a subsequent temporary food service permit for an event of any length, until the operator obtains the training required under (d) of this section and presents a certificate of successful completion to the department.

(f) In addition to the other requirements of this chapter, including the temperature and time requirements in 18 AAC 31.230, the operator of a temporary food service shall ensure that

(1) potentially hazardous food is not reused after being cooked or hot-held;

(2) mechanical refrigeration units are provided to keep potentially hazardous food at 41° F or below, except as specified in 18 AAC 31.410(a)(13) [18 AAC 31.410(k)], and except that

(A) ice cream may be stored on dry ice; and

(B) if approved by the department, at events of one to three days' duration, hamburger patties, precooked meat, raw seafood, and ready-to-eat packaged, potentially hazardous food, such as milk and sandwiches, may be stored in an insulated container using a coolant, such as blue ice or drained ice, to keep the temperature at 41° F or below;

(3) cured food products, such as hot dogs, sausage, or pepperoni, that will not support the rapid or progressive growth of infectious or toxigenic microorganisms or slower growth of *Clostridium botulinum* may be stored in properly insulated containers using a coolant, such as blue ice or drained ice, to keep the temperature at 41° F or below;

(4) packaged food is not stored in undrained ice or iced water except for pressurized containers of nonpotentially hazardous beverages if the water or ice

(A) contains at least 10 ppm of available chlorine; and

(B) is changed frequently to keep the water and container clean;

(5) only single-service articles are provided for use by consumers;

(6) a handwashing facility is provided for employees, including

(A) a container with a minimum capacity of two gallons, equipped with a faucet-type spigot, and filled with warm water; if a container is uninsulated, a means to heat water must also be provided;

(B) a container to catch wastewater from handwashing; and

(C) soap and single-service towels;

(7) at least three basins, deep enough for immersion of utensils and equipment, and a means to heat water are provided to wash, rinse, and sanitize utensils and equipment that will be reused or used on a production-line basis; the requirements of this paragraph do not apply for an event of one-day duration if adequate extra utensils are provided;

(8) a supply is provided of potable drinking water that is

(A) from a public water system approved under 18 AAC 80, if required; and

(B) adequate to meet preparation, handwashing, warewashing, and cleaning needs;

(9) if water is from a [(A) CLASS B] public water system, coliform samples are in compliance with 18 AAC 80; and [(B) CLASS C PUBLIC WATER SYSTEM, A WATER SAMPLE FOR COLIFORM ANALYSIS IS SUBMITTED TO A CERTIFIED LABORATORY AT LEAST 30 DAYS BEFORE THE EVENT, AND THAT, IF A COLIFORM SAMPLE IS POSITIVE,

(i) DISINFECTION TREATMENT IS PROVIDED AS THE DEPARTMENT DETERMINES NECESSARY TO SERVE THE INTERESTS OF PUBLIC HEALTH AND CONSUMER PROTECTION; AND

(ii) AFTER DISINFECTION AS REQUIRED IN (i) OF THIS SUBPARAGRAPH, THE SYSTEM IS RESAMPLED AT LEAST ONCE; AND

(10) a container used to haul potable drinking water is made of materials approved for that use by the National Sanitation Foundation (NSF), the FDA, or an organization recognized as equivalent by the department, is used for no other purpose, and is protected from contamination during storage.

(g) The operator of a temporary food service shall ensure that wastewater is disposed of

into a wastewater disposal system approved under 18 AAC 72, if required to be approved, and that holding tanks and direct connections to disposal systems are constructed, maintained, and operated as required in 18 AAC 72. The department will approve a manual hauling system if limited amounts of wastewater are generated and an approved wastewater disposal system is in the vicinity and used by the operator. The operator shall keep wastewater containers covered and label them "For Wastewater Only."

(h) For an event of

(1) one to three days' duration, a temporary food service may have a floor consisting of grass, gravel graded to drain, sawdust, or a similar material if dust and mud are controlled; and

(2) [. FOR AN EVENT OF] four to 28 days' duration, a temporary food service must have a floor consisting of concrete, asphalt, tight-fitting wood, or another cleanable material [MUST BE USED].

(i) The operator of a temporary food service shall ensure that walls and ceilings are constructed to protect the interior of the temporary structure from the elements and to restrict access, are cleanable, and are kept clean.

(j) The operator of a temporary food service shall ensure that public toilets and handwashing facilities are provided at events open to the public for two hours or longer and ensure that

(1) the number of toilets furnished is adequate based on the peak crowd anticipated;

(2) if running potable water is not practically available,

(A) privies or portable toilets are provided instead of flush toilets; to determine the number of portable toilets that are required, the operator shall use the *Sanitarian & Health Official Guide, Portable Restroom Requirements at Special Events & Crowd Gatherings, Determination of Portable Sanitation Requirements at Large Public Events*, published by The Center for Business and Industrial Studies, University of Missouri-St. Louis, adopted by reference in 18 AAC 31.011; and

(B) lavatories are supplied for washing hands from an approved storage tank, or from an insulated container with a minimum capacity of two gallons each, equipped with a faucet-type spigot and filled with warm water;

(C) bacteriocidal hand rinses are installed

(i) at each privy or portable toilet; or

(ii) in locations that are conveniently accessible to the public after using the privy or portable toilet and the number is adequate based on the peak crowd anticipated;

(3) privies, if used, are designed and constructed as required in 18 AAC 72 and are located so there is no danger in contaminating groundwater; and

(4) privies and portable toilets, if used,

(A) have cleanable interior surfaces, screened openings for ventilation, self-closing doors, and otherwise prohibit the entrance of insects and rodents; and

(B) are serviced as often as necessary to remove accumulated wastes, are kept clean, and are supplied with toilet paper. (Eff. 5/18/97, Register 142; am 12/19/99, Register 152; am 6/28/2001, Register 158; am ___/___/___, Register ___)

Authority:	AS 17.20.005	AS 17.20.180	AS 18.35.220
	AS 17.20.020	AS 17.20.290	AS 44.46.020
	AS 17.20.072	AS 18.35.200	

Editor's note: The National Restaurant Associations' ServSafe Course may be obtained from the National Restaurant Association **Education Foundation, 175 West Jackson Blvd., Suite 1500** [250 SOUTH WACKER DRIVE, SUITE 1400], Chicago IL **60604-2814** [60606-5834]; phone: (800)765-2122.

Information about how to review or obtain a copy of [A] the requirements referred to in 18 AAC 31.600 and adopted by reference in 18 AAC 31.011 is set out in the editor's note to 18 AAC 31.011.

Video training courses are available for review at the department's Anchorage, Fairbanks, and Juneau offices.

18 AAC 31.610(b) is amended to read:

18 AAC 31.610. Limited food service.

....

(b) At a limited food service, depending on the adequacy of facilities, equipment, and utensils for the types and volume of food and methods of preparation and service, and based on information provided by the operator on the application form by the department, the department **may** [WILL, AS THE DEPARTMENT DETERMINES NECESSARY TO SERVE THE INTERESTS OF PUBLIC HEALTH AND CONSUMER PROTECTION],

(1) **restrict** [LIMIT THE NUMBER AND TYPE OF] food items **and preparation steps** to [BE PREPARED AND SOLD];

(A) service of ready-to-eat packaged food prepared at another permitted establishment under the same ownership;

(B) service of commercially-prepared, ready-to-eat foods, requiring no more than limited preparation, including reheating and minimal handling, such as assembly; or

(C) espresso drinks and other non-potentially hazardous beverages, except for alcoholic drink ;

(2) require the exclusive use of single-service tableware [LIMIT PREPARATION STEPS];

(3) allow the use of an approved commissary or other approved facility located in the same structure or within a reasonable distance to resupply food and single-service items; and

(4) allow the installation of a sink with at least two compartments and one drainboard for air drying clean utensils, in place of the sinks and drainboards required by 18 AAC 31.410(a)(7) and (a)(12), if very few utensils are used to prepare or serve food, and the utensils may be properly washed, rinsed, sanitized, and air-dried [18 AAC 31.410(e) AND (j), IF

(A) ONLY SINGLE-SERVICE ITEMS ARE PROVIDED FOR USE BY CONSUMERS;

(B) ALL OR MOST MENU ITEMS ARE PREPACKAGED OR NONPOTENTIALLY HAZARDOUS FOOD; AND

(C) VERY FEW UTENSILS ARE USED TO STORE, PREPARE, OR DISPENSE FOOD].

....

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

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

18 AAC 31.625(a)(2) is amended to read:

18 AAC 31.625. Mobile retail vendors. (a) In addition to the other applicable requirements of this chapter, a mobile retail vendor selling

....

(2) whole, gutted, or gilled seafood [FISH] that has not been further processed

(A) shall wash raw seafood [FISH] at

(i) a seafood processing facility permitted under 18 AAC 34; or

(ii) a commissary approved by the department under 18 AAC 31.620(b)(3);

(B) shall provide adequate refrigerator, freezer, or ice chests of adequate capacity to store all seafood products and maintain refrigeration temperatures of 41° F or below or freezer temperatures of 0° F or below, except as specified in 18 AAC 31.410(a)(13) [18 AAC 31.410(k)];

....

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

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

18 AAC 31.630(b)(8) is amended to read:

18 AAC 31.630. Machines vending potentially hazardous food.

....

(b) The operator of an establishment providing machines vending potentially hazardous foods shall ensure that

....

(8) the temperature of potentially hazardous food is kept at 41° F or below for cold-held food or 140° F or above for hot-held food except during the time required to load or service the machine and no more than 30 minutes after loading or servicing, except as specified in 18 AAC 31.410(a)(13) [18 AAC 31.410(k)]; and

....

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

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

18 AAC 31.700(e)(2) is amended to read:

18 AAC 31.700. Food processing establishment design and control.

....

(e) In addition to the labeling requirements listed under 18 AAC 31.060, the operator of

a food processing establishment shall ensure that food products made by the processor after January 1, 2001, unless the date is extended by the department as provided under 18 AAC 31.060, are labeled

....

(2) so that the known allergens, including seafood [FISH], tree nuts, mollusks, wheat, milk, crustacea, eggs, and legumes, particularly peanuts and soybeans, used in food product formulations are declared on the label, even if a processing or incidental additive; the name of the ingredient may be accompanied by a parenthetical statement such as "processing aid" for clarity.

....

(Eff. 5/18/97, Register 142; am/readopt 12/19/99, Register 152; am __/__/____, Register __)

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

18 AAC 31.720(a)(3) is amended to read:

18 AAC 31.720. Thermal processing and acidified food. (a) An operator of a food establishment who thermally processes low-acid foods packaged in hermetically-sealed containers shall

....

(3) ensure that water used to cool a product thermally processed in a retort is chlorinated or otherwise sanitized, using a sanitizing solution listed in 18 AAC 31.420(b) [18 AAC 31.420(c)(2)] to provide a measurable residual of free available chlorine or its equivalent at the discharge of the cooling system.

....

(Eff. 5/18/97, Register 142; readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am __/__/____, Register __)

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

18 AAC 31.740(b), (c)(1), (i), and (k) are amended and the editor's note is changed to read:

18 AAC 31.740. Bottled drinking water.

....

(b) If the food processing establishment is also the operator of the [CLASS A] public

water system used as the source of the bottled water, a copy of one of the following must be on file at the processing establishment:

- (1) a valid interim approval to operate, issued under 18 AAC 80.210(i);
- (2) a valid final approval to operate, issued under 18 AAC 80.210(k).

(c) In addition to the requirements of this section, an operator of a food processing establishment who bottles drinking water in this state shall ensure that

(1) water to be bottled is obtained only from a source that meets the requirements for a [CLASS A] public water system in compliance with 18 AAC 80;

....

(i) If the presence of fecal coliform or *E. coli* is verified, the [OWNER OR] operator shall immediately recall the contaminated lot.

....

(k) If test results under (j) of this section indicate the presence of coliform bacteria, the [OWNER OR] operator shall review the transportation, storage, and bottling procedures to find the source of contamination and immediately correct any deficiencies found. Records of any review conducted under this subsection must be kept as required under (n)(2) of this section.

....

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

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

Editor's Note: An [OWNER OR] operator who bottles drinking water for interstate commerce may also be subject to 21 C.F.R. 129 and should contact the FDA.

18 AAC 31.760(b)(5)(B) and (f)(4) are amended to read:

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

....

(b) The operator of a food service or market may reduce oxygen package the following without developing a HACCP plan under 18 AAC 31.710:

....

(5) food that is rapidly frozen prior to or as part of a reduced oxygen packaging process and stored frozen until reheated or thawed for immediate use; food described in this paragraph and (4) of this subsection must meet the following continuous cooling and freezing requirements:

....

(B) the food must be cooled from 70° to 41° F or below within four hours, except as specified in 18 AAC 31.410(a)(13) [18 AAC 31.410(k)]; and

....

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

....

(4) potentially hazardous food approved for reduced oxygen packaging is refrigerated at a temperature of 41° F or below or frozen at a temperature of 0° F or below, as appropriate, at all times except as specified in 18 AAC 31.410(a)(13) [18 AAC 31.410(k)] or during short periods of processing not to exceed 30 minutes;

....

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

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

18 AAC 31.810(d)(3) is repealed:

18 AAC 31.810. Retail seafood products.

....

(d) In addition to the requirements of (a) - (c) of this section, the operator of a market shall ensure that

(1) refrigerated display cases or ice-cooled display cases or bins

(A) are durable and able to withstand the weight of seafood products and display ice;

(B) have a drain system adequate to remove fluids from condensation, melting ice, and the product;

(C) if permanently installed, are indirectly plumbed to the sewer;

(D) with condenser coils or cooling fins located at the top of the case, have catchment covers that remove any possible condensation or drippage above the product; and

(E) are cleaned of ice, and washed, rinsed, and sanitized at least three times each week, or more often if needed to control odor; and

(2) storage pans are perforated[;]

(3) repealed / / [SYSTEMS FOR HOLDING LIVE SHELLFISH

(A) HAVE TANKS THAT

(I) HAVE SMOOTH, CLEANABLE SURFACES;

(II) ARE DURABLE AND ACCESSIBLE FOR WASHING, RINSING, AND SANITIZING;

(III) HAVE PLUMBING AND SPRAY NOZZLES THAT ARE CLEANABLE AND MADE FROM SAFE MATERIALS; AND

(IV) HOLD AT LEAST 100 GALLONS OF WATER PER 75 POUNDS OF SHELLFISH;

(B) HAVE PLUMBING THAT

(I) WILL NOT BE A SOURCE OF CONTAMINATION;

(II) DOES NOT HAVE DEAD-END PIPES OR HOSES THAT CAN FILL WITH STAGNANT WATER; AND

(III) HAS A BACKFLOW PREVENTION DEVICE TO PROTECT THE POTABLE WATER SUPPLY;

(C) HAVE A RECIRCULATION SYSTEM THAT INCLUDES

(I) FILTRATION TO REMOVE PARTICULATE MATTER AND AMMONIA;

(II) A DISINFECTION SYSTEM TO REMOVE COLIFORM BACTERIA FROM THE WATER; AND

(III) A REFRIGERATION UNIT TO MAINTAIN WATER AT 40 - 60° F; AND

(D) HAVE UV LIGHTS FOR DISINFECTION

(I) THAT ARE CLEANED AT LEAST EVERY 6-8 WEEKS;
AND

(II) THE BULBS FOR WHICH ARE REPLACED AT LEAST
YEARLY; AND

(4) EMPLOYEES

(A) DO NOT MIX MOLLUSCAN SHELLFISH WITH CRUSTACEAN
SHELLFISH;

(B) DO NOT CO-MINGLE DIFFERENT LOTS OF SHELLFISH IN
THE TANK;

(C) USE VERTICAL DIVIDERS OR MESH BAGS FOR
SEPARATING LOTS;

(D) WASH SHELLFISH FREE OF MUD OR OTHER DEBRIS AND
CULL DEAD, BROKEN, OR WEAK SHELLFISH BEFORE PLACING SHELLFISH
IN THE TANK;

(E) CULL SHELLFISH AT LEAST DAILY TO REMOVE DEAD OR
WEAK SHELLFISH;

(F) WASH, RINSE, AND SANITIZE THE TANK AND
RECIRCULATION SYSTEM AT LEAST ONCE EACH WEEK;

(G) ENSURE THAT TANKS AND RECIRCULATION SYSTEMS
THAT HAVE BEEN USED FOR OTHER SPECIES ARE WASHED, RINSED, AND
SANITIZED BEFORE USE FOR MOLLUSKS;

(H) ENSURE THAT DEFOAMERS, IF USED, ARE OF FOOD-GRADE
QUALITY; AND

(I) FOLLOW THE MANUFACTURER'S GUIDELINES FOR
MAINTAINING THE WATER'S SALINITY IN THE TANKS]. (Eff. 5/18/97, Register
142; readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am ___/___/___,
Register ___)

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

Article 9. Compliance Procedures and General Provisions.

Section

- 900. Inspections **and audits**
- 905. Permit suspension, revocation, or establishment closure
- 910. Examination, detention, and destruction of food
- 915. Civil fines**
- 920. **(Repealed)** [FOOD PROTECTION MANAGERS]
- 925. **(Repealed)** [FOOD SERVICE ESTABLISHMENT RECOGNITION PROGRAM]
- 930. **Variance from** [WAIVER OF] requirements
- 940. Right to appeal noncompliance decision
- 945. **(Repealed)** [DELEGATION OF AUTHORITY]
- 990. Definitions

18 AAC 31.900 is repealed and readopted to read

18 AAC 31.900. Inspections and audits. (a) The department may conduct inspections or audits to determine compliance with this chapter and will record the findings.

(b) The operator of a food establishment shall allow an employee or agent of the department, after proper identification, to enter and have free access to the establishment during reasonable hours to

- (1) inspect all or any portion of the establishment, including each type of operation required to have a permit under 18 AAC 31.020;
- (2) inspect all or any portion of any commissary, servicing area, or other facility supporting or operating in conjunction with the food establishment, including areas supporting vending machines;
- (3) examine records relating to the establishment's standard operating procedures, food manager certification, food worker cards, and food and supplies purchased, received, or used;
- (4) examine self-assessments conducted by the establishment;
- (5) investigate any employee illness or absenteeism; and
- (6) examine food, observe procedures, obtain samples, or conduct tests to assure compliance with this chapter.

(c) After an inspection, the operator of a food establishment shall correct violations as follows:

- (1) a risk factor or intervention violation must be corrected immediately; if the department agrees that immediate correction is not possible and that interim measures can be

initiated to satisfy the purpose of the requirement and protection of public health, the department may designate a correction period of up to 15 days on the form; and

(2) a good retail practice violation must be corrected immediately; if the department agrees that immediate correction is not possible and that interim measures can be initiated to satisfy the purpose of the requirement and protection of public health, the department may designate a correction period of up to 30 days on the form.

(d) The operator of a food establishment shall notify the department in writing when the operator has corrected a violation. The department may conduct an inspection to confirm correction.

(e) The department will review inspection findings under 18 AAC 31.940 if the operator of a food establishment submits a written request within 10 days after receiving the finding.

(f) The operator of a food establishment shall

(1) post a copy of the most recent inspection report and a sign provided by the department posted in conspicuous location in public view measuring at least 8 inches by 10 inches with lettering of at least two inches high that reads "If you have a complaint regarding the sanitation of this establishment, contact the Department of Environmental Conservation, Food Safety & Sanitation Program at 1 (877) 835-5332 (1 (877) TELL DEC)"; and

(2) provide a copy of this chapter for review by employees.

(g) The completed inspection report is a public record. The department will, if it determines that publication serves the interests of public health and consumer protection, publish reports or ratings in a newspaper or on the department's internet website.

(h) If an operator of a food establishment requests that the department conduct a consultative inspection to determine compliance with this chapter, the operator shall pay to the department \$200 before the inspection. A violation noted during a consultative inspection is not subject to enforcement action under 18 AAC 31.905 but the department may conduct an inspection to verify correction of a violation. (Eff. 5/18/97, Register 142; am 12/19/99, Register 152; am 6/28/2001, Register 158; am __/__/__, Register __)

Authority:	AS 03.05.011	AS 17.20.020	AS 17.20.200
	AS 03.05.040	AS 17.20.070	AS 17.20.220
	AS 17.20.005	AS 17.20.072	AS 17.20.290
	AS 17.20.010	AS 17.20.180	AS 44.46.020

18 AAC 31.905 is repealed and readopted to read:

18 AAC 31.905. Permit suspension and establishment closure. (a) The department may, without prior warning, notice, or hearing, suspend a permit and require that the food establishment immediately stop operating if

(1) an imminent health hazard exists where no alternative for immediate

correction or containment that is acceptable to the department is available;

(2) during an inspection conducted under 18 AAC 31.900, risk factor or intervention violation is found that the department determines, based on the nature or number of violations, threaten food safety;

(3) the operator or an employee interferes with a department employee or agent in the performance of official duties;

(4) a food establishment is placed under a boil water notice under 18 AAC 80.635 because of a violation of the maximum contaminant level for coliform bacteria, and the operator fails to take the actions required by 18 AAC 31.500(e);

(5) the department advises the operator under 18 AAC 80 that one or more samples of the food establishment's public water system are positive for fecal coliforms,

(6) the operator fails to comply with the terms of a conditional permit issued under 18 AAC 31.020(h);

(7) multiple or repeated violations of a requirement of this chapter occur; or

(8) a risk factor or intervention violation is not corrected within the time frame designated during an inspection conducted under 18 AAC 31.900.

(b) The department may, without prior warning, notice, or hearing, issue a notice of closure to a food establishment and require that the food establishment immediately stop operating if a person is operating a food establishment without a valid permit issued under 18 AAC 31.020.

(c) After the department suspends a permit or issues a notice of closure, the operator may request an informal review under 18 AAC 15.185 or an adjudicatory hearing under 18 AAC 15.200. This subsection does not affect a person's right to a hearing under AS 44.62 (Administrative Procedures Act).

(d) The department may suspend a conditional permit issued under 18 AAC 31.020 if

(1) the department determines that a suspension would serve the interests of public health or consumer protection;

(2) each violation specified under 18 AAC 31.020(j) is not corrected by the date indicated on the conditional permit;

(3) the operator does not make fee payments in compliance with a fee schedule established under 18 AAC 31.020(i)(4) and (j)(2); or

(4) drinking water plans or wastewater plans submitted as required by 18 AAC 31.030 are not approved.

(e) If the department requires a food establishment to stop operating, the operator may not resume operating until a reinspection shows that the conditions that caused the stoppage no longer exist. The department may, if public health is protected and the purpose of this chapter is otherwise satisfied, accept a written agreement with the operator that establishes a schedule for correcting deficiencies that cannot reasonably be corrected before the scheduled reinspection. (Eff. 5/18/97, Register 142; am 12/19/99, Register 152; am 12/30/2000, Register 156, am 6/28/2001, Register 158; am 7/11/2002, Register 163; am ___/___/___, Register ___)

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

18 AAC 31.910 is amended to read:

18 AAC 31.910. Examination, detention, and destruction of food. (a) The department may examine and obtain samples of food offered or displayed for sale to the public.

(b) The department may detain a food product or food ingredient if the department determines, or has cause to believe, that the food product or food ingredient 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 in a conspicuous place to the food product or food ingredient a "detained" tag or other appropriate marking that gives notice that the food product or food ingredient has been detained, and that warns against the removal or disposal of the food 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 food product or food ingredient without the department's written consent;

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

(C) notify the immediate custodian or operator [OWNER] of the results of any laboratory analysis conducted by the department;

(2) the immediate custodian or operator [OWNER] may request a hearing in writing within 30 days after receipt of the notice of detention; the department will hold a hearing within seven days after receipt of a request and will issue its final decision within seven days after the hearing, or within 35 days after the date of the notice of detention, whichever is later;

(3) if, after issuing a notice of detention, the department determines that the food 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 operator [OWNER] and order the detention terminated; and

(4) if the department determines that the food product or food ingredient is adulterated, misbranded, processed, or harvested in violation of this chapter, the department will

notify the immediate custodian or operator [OWNER] by personal service or certified mail of the corrective action necessary, which may include destruction of the food product or food ingredient. (Eff. 5/18/97, Register 142; am 12/19/99, Register 152; am 6/28/2001, Register 158; am __/__/__, Register __)

Authority:	AS 03.05.011	AS 17.20.070	AS 17.20.240
	AS 17.20.005	AS 17.20.072	AS 17.20.250
	AS 17.20.010	AS 17.20.180	AS 17.20.270
	AS 17.20.020	AS 17.20.200	AS 17.20.290
	AS 17.20.040	AS 17.20.230	AS 44.46.020

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

18 AAC 31.915. Civil fines. (a) The department may, without prior warning, notice, or hearing, assess a civil fine of not more than \$1000 per violation for a violation of this chapter.

(b) For the purpose of determining the amount of a civil fine assessed under this section, the department will consider the following:

- (1) the history of previous violations by the operator or establishment;
- (2) the seriousness of the violation, including actual or potential hazard to the health and safety of the public;
- (3) whether the violation occurred due to negligence or intentional conduct;
- (4) whether the operator has demonstrated good faith efforts to achieve rapid compliance after notification of violation, including the operator's current status of compliance and the number of continuing violations;
- (5) the actual or potential economic gain to the operator by violating a provision of this chapter;
- (6) enforcement costs incurred by the department relating to the violation;
- (7) payment of civil fines previously assessed for same violation.

(c) After the department assesses a civil fine under this section, the operator may request an informal review under 18 AAC 15.185 or an adjudicatory hearing under 18 AAC 15.200. This subsection does not affect a person's right to a hearing under AS 44.62 (Administrative Procedures Act). (Eff. __/__/__, Register __)

Authority:	AS 17.20.005	AS 17.20.190	AS 17.20.365
	AS 17.20.072	AS 17.20.315	AS 44.46.020
	AS 17.20.180		

18 AAC 31.920 is repealed:

18 AAC 31.920. Food protection managers. Repealed. [(a) THE DEPARTMENT WILL REQUIRE THAT THE OPERATOR OF A FOOD ESTABLISHMENT HAVE A QUALIFIED FOOD PROTECTION MANAGER PRESENT AT ALL TIMES IF THERE IS DOCUMENTED INABILITY TO MAINTAIN SAFE AND SANITARY FOOD HANDLING PRACTICES, AS DEMONSTRATED BY

- (1) **FOODBORNE ILLNESS OUTBREAKS ASSOCIATED WITH THE FACILITY;**
- (2) **MORE THAN ONE CRITICAL VIOLATION OF THIS CHAPTER; OR**
- (3) **OTHER FACTORS THAT THE DEPARTMENT DETERMINES SIGNIFICANTLY INCREASES THE RISK TO CONSUMERS OF A FOODBORNE ILLNESS.**

(B) IF UNDER (a) OF THIS SECTION THE DEPARTMENT REQUIRES THE OPERATOR TO PROVIDE A QUALIFIED FOOD MANAGER, THE OPERATOR SHALL

(1) DEMONSTRATE TO THE DEPARTMENT'S SATISFACTION THAT THE QUALIFIED FOOD PROTECTION MANAGER

(A) HAS A VALID CERTIFICATE OR OTHER DOCUMENTATION OF SUCCESSFUL COMPLETION OF A FOOD SAFETY EXAMINATION FOR FOOD PROTECTION MANAGERS FROM ONE OF THE FOLLOWING ORGANIZATIONS:

- (i) THE NATIONAL RESTAURANT ASSOCIATION;**
- (ii) EXPERIOR ASSESSMENTS;**
- (iii) THE DIETARY MANAGER'S ASSOCIATION;**
- (iv) PROFESSIONAL TESTING, INC.; OR**

(B) HAS KNOWLEDGE OF SAFE AND SANITARY FOOD HANDLING PRACTICES SUFFICIENT TO SERVE THE INTERESTS OF PUBLIC HEALTH AND CONSUMER PROTECTION; AND

(2) RETAIN A COPY OF A CERTIFICATE OR OTHER DOCUMENTATION REQUIRED UNDER THIS SUBSECTION ON FILE AT THE FOOD ESTABLISHMENT.]
(Eff. 5/18/97, Register 142; am 12/19/99, Register 152; repealed ___/___/___, Register ___)

18 AAC 31.925 is repealed:

18 AAC 31.925. Food service establishment recognition program. Repealed. [(a) UNDER THE DEPARTMENT'S FOOD SERVICE ESTABLISHMENT RECOGNITION PROGRAM, AN OPERATOR MAY APPLY FOR A CERTIFICATE OF RECOGNITION FROM THE DEPARTMENT FOR A FOOD SERVICE ESTABLISHMENT. THE

DEPARTMENT WILL ISSUE A CERTIFICATE OF RECOGNITION TO A FOOD SERVICE ESTABLISHMENT IF

(1) THE OPERATOR SUBMITS TO THE DEPARTMENT

(A) AN APPLICATION FOR RECOGNITION ON A FORM PROVIDED BY THE DEPARTMENT;

(B) A LIST OF INDIVIDUALS WORKING AT OR EMPLOYED BY THE ESTABLISHMENT WHO ARE QUALIFIED FOOD PROTECTION MANAGERS UNDER 18 AAC 31.920;

(C) DETAILS OF THE EMPLOYEE TRAINING COURSE PROVIDED UNDER (3)(B) OF THIS SUBSECTION;

(D) A COPY OF EACH MONTHLY-SELF INSPECTION FORM THAT THE OPERATOR HAS COMPLETED WHEN PERFORMING MONTHLY SELF-INSPECTIONS UNDER (3)(C) OF THIS SUBSECTION; AND

(E) THE FEE, IF ANY, REQUIRED UNDER 18 AAC 31.050;

(2) DURING THE 12 MONTHS BEFORE THE DATE THAT THE DEPARTMENT RECEIVES THE OPERATOR'S SUBMISSION UNDER (1) OF THIS SUBSECTION,

(A) FOR EACH INSPECTION IN WHICH A SCORED FORM IS USED, THE OPERATOR MAINTAINS A MINIMUM SCORE OF 92 AT THE ESTABLISHMENT WITH IMMEDIATE CORRECTION OF CRITICAL VIOLATIONS;

(B) FOR EACH INSPECTION IN WHICH A NON-SCORED FORM IS USED, THE OPERATOR DRAWS NO MORE THAN

(i) TWO CRITICAL VIOLATIONS AT THE ESTABLISHMENT WITH IMMEDIATE CORRECTION OF THE CRITICAL VIOLATIONS; OR

(ii) ONE CRITICAL VIOLATION AT THE ESTABLISHMENT WITH IMMEDIATE CORRECTION OF THE CRITICAL VIOLATION, AND NO MORE THAN TWO NON-CRITICAL ITEMS; FOR PURPOSES OF THIS SUB-SUBPARAGRAPH, A "NON-CRITICAL ITEM" IS THE NEED TO PROPERLY THAW POTENTIALLY HAZARDOUS FOODS, THE NEED TO PROVIDE ACCURATE THERMOMETERS TO MEASURE FOOD TEMPERATURES DURING COOKING, COOLING, HOLDING AND REHEATING, THE NEED TO PROVIDE ACCURATE TEST STRIPS TO MEASURE LEVELS OF SANITIZING SOLUTIONS, OR THE NEED TO PROTECT FOOD FROM CONTAMINATION DURING STORAGE, PREPARATION, AND SERVICE;

(C) A KNOWN FOODBORNE ILLNESS OUTBREAK WAS NOT ASSOCIATED WITH THE ESTABLISHMENT; AND

(D) THE DEPARTMENT DID NOT PURSUE OR UNDERTAKE A COMPLIANCE ACTION AGAINST THE ESTABLISHMENT; FOR PURPOSES OF THIS SUBPARAGRAPH, A COMPLIANCE ACTION INCLUDES A MODIFICATION OR SUSPENSION OF THE FOOD ESTABLISHMENT PERMIT, A NOTICE OF VIOLATION UNDER 18 AAC 31.900 – 18 AAC 31.905, A NEGOTIATED ORDER, A UNIFORM SUMMONS AND COMPLAINT, OR A COMPLIANCE ORDER UNDER AS 46.03;

(3) CURRENTLY AND ON A CONTINUAL BASIS, THE OPERATOR

(A) HAS AT LEAST ONE EMPLOYEE ON EACH SHIFT WHO IS THE PERSON-IN-CHARGE AT THE ESTABLISHMENT AND WHO IS A QUALIFIED FOOD PROTECTION MANAGER UNDER 18 AAC 31.920; A NEW MANAGER HAS 120 DAYS FROM THE DATE THAT THE MANAGER BEGINS EMPLOYMENT IN THAT CAPACITY TO OBTAIN CERTIFICATION;

(B) PROVIDES ONSITE, OR THROUGH A COURSE OFFERING, AND WITHIN 30 DAYS OF HIRE, FOOD SAFETY TRAINING TO EACH EMPLOYEE; TRAINING MUST INCLUDE, AT A MINIMUM, INFORMATION ABOUT FOOD CONDITIONS AND SOURCE, FOOD PROTECTION, TEMPERATURE CONTROL, DISPLAY AND SERVICE, PERSONAL CLEANLINESS, EMPLOYEE ILLNESS, EMPLOYEE PRACTICES, AND EQUIPMENT AND UTENSIL CLEANING AND SANITIZING;

(C) CONDUCTS ROUTINE SELF-INSPECTIONS AT LEAST ONCE A MONTH ON A FORM PROVIDED BY THE DEPARTMENT; THE COMPLETED SELF-INSPECTION FORMS MUST BE AVAILABLE FOR DEPARTMENT REVIEW UPON REQUEST;

(D) USES WATER FROM A PUBLIC WATER SYSTEM APPROVED BY THE DEPARTMENT UNDER 18 AAC 80; AND

(E) DISPOSES OF WASTEWATER IN A SYSTEM APPROVED BY THE DEPARTMENT UNDER 18 AAC 72; AND

(4) THE DEPARTMENT DETERMINES THAT RECOGNITION SERVES THE INTERESTS OF PUBLIC HEALTH AND CONSUMER PROTECTION.

(b) IF THE DEPARTMENT DETERMINES THAT THE REQUIREMENTS OF (a) OF THIS SECTION ARE MET, THE DEPARTMENT WILL

(1) ISSUE TO THE FOOD SERVICE ESTABLISHMENT A CERTIFICATE OF RECOGNITION AND LOGOS FOR POSTING AT THE ESTABLISHMENT AND FOR USE IN ADVERTISING OR ON THE MENU; AND

(2) LIST THE FOOD SERVICE ESTABLISHMENT

(A) IN A MONTHLY DEPARTMENT PRESS RELEASE OF ESTABLISHMENTS RECOGNIZED DURING THAT MONTH; AND

(B) ON THE INTERNET WEBSITE OF THE DEPARTMENT.

(c) IF A FOOD SERVICE ESTABLISHMENT WITH A CERTIFICATE OF RECOGNITION UNDER THIS SECTION FAILS TO MAINTAIN STANDARDS AS REQUIRED IN THIS SECTION, THE DEPARTMENT WILL NOTIFY THE OPERATOR IN WRITING OF THE ACTIONS REQUIRED TO MAINTAIN RECOGNITION, AND WILL PROVIDE THE ESTABLISHMENT WITH A SCHEDULE TO MEET THE STANDARDS. IF THE ESTABLISHMENT FAILS TO COMPLETE THE ACTIONS REQUIRED TO MAINTAIN RECOGNITION WITHIN THE SCHEDULED TIME FRAME, THE DEPARTMENT WILL IMMEDIATELY WITHDRAW THE ESTABLISHMENT'S CERTIFICATE OF RECOGNITION.

(d) A CERTIFICATE OF RECOGNITION UNDER THIS SECTION IS VALID FOR ONE YEAR. AN OPERATOR WHOSE FOOD SERVICE ESTABLISHMENT HAS NOT BEEN RECOGNIZED UNDER THIS SECTION OR WHOSE RECOGNITION HAS EXPIRED OR BEEN WITHDRAWN BY THE DEPARTMENT MAY NOT USE THE LOGO ISSUED UNDER THIS SECTION OR ASSERT OR IMPLY THAT THE ESTABLISHMENT HAS A CERTIFICATE OF RECOGNITION UNDER THIS SECTION]. (Eff 12/19/99, Register 152; am 6/28/2001, Register 158; repealed __/__/__, Register __)

18 AAC 31.930 is amended to read:

18 AAC 31.930. Variance from [WAIVER OF] requirements. (a) Except for a fee required by 18 AAC 31.050, the department will grant a variance from [WAIVE] a requirement of this chapter if the department [IT] finds that public health is protected and the purpose of the requirement is otherwise satisfied.

(b) An application for a variance [WAIVER] must be submitted in writing to the department, on a form supplied by the department, and must

(1) specify the requirement for which the variance [WAIVER] is sought;

(2) state the reason why the requirement cannot be met; and

(3) describe the alternative method proposed to meet the purpose of the requirement.

(c) Repealed __/__/__ [THE DEPARTMENT WILL GRANT OR DENY A WAIVER APPLICATION, WITH OR WITHOUT CONDITION, IN WRITING WITHIN 30 DAYS AFTER IT IS RECEIVED.

(d) A variance granted under this section is valid only when the operator is complying with the terms agreed upon in the variance. A variance may not be transferred.

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

Authority: AS 17.20.005 AS 17.20.020 AS 17.20. 80
AS 17.20.010 AS 17.20.072 AS 44.46.020

18 AAC 31.945 is repealed and readopted to read:

18 AAC 31.945. Delegation of authority. (a) Except as provided in (h) of this section, the department may delegate to a local government the authority to implement the requirements of this chapter that apply to a food service or to a market, upon approval of an application for delegation.

(b) A local government seeking delegation must provide documentation to the department that demonstrates that the local government's proposed program has

(1) funding, staff, and equipment necessary to accomplish compliance with the terms and conditions of the delegation;

(2) an inspection and enforcement program that determines and documents compliance;

(3) insurance to cover any personal injury or property damage that adequately protects the state;

(4) a quality assurance program that ensures uniformity among regulatory staff in the interpretation and application of laws; and

(5) regulatory requirements that include provisions at least as protective of public health as those contained in this chapter.

(c) The department may request information in addition to (b) that the director considers necessary to determine whether the department will delegate authority to the local government.

(d) For a delegation that the department has approved under this section to be valid, the department and the individual with administrative management authority for the local government must sign the delegation. The delegation must include, at a minimum, terms and conditions that set out the following:

(1) the right of the department periodically to audit the local government to ensure compliance with the terms and conditions of the delegation;

(2) the right of the department to require an annual report summarizing the establishments that the local government permitted or otherwise approved or inspected, including information on the findings of the inspections to allow the department to report on food safety statewide;

(3) the requirement that the local government enforce regulatory requirements that are at least as protective of public health as those contained in this chapter;

(4) indemnification of the state against any liability, losses, or damages arising out of or in any manner connected with the department's delegation under this section; and

(5) the right of the department to terminate the delegation if the department determines

(A) a threat to public health or consumer protection exists; or

(B) that the delegation is not in the public interest.

(e) If the department determines, based on an audit conducted under (d) of this section or other information, that the local government is not in compliance with the terms and conditions of the delegation or with this chapter, the department will

(1) notify the local government in writing of

(A) the areas in which the department has determined that the local government is failing to comply; and

(B) the reasons for the department's determination; and

(2) provide the local government 30 days after receiving the notification under (1) of this subsection to

(A) explain why the local government disagrees with the department's determination; or

(B) outline the steps that the local government is taking or proposes to take to correct the areas of noncompliance.

(f) After reviewing the information received under (e) of this section, the department may, as necessary to serve the interests of public health and consumer protection,

(1) revoke the delegation if the department finds that the local government is not in compliance with the terms and conditions of the delegation, or with this chapter, and that the local government is not likely to come into compliance;

(2) periodically review the actions of the local government until compliance is achieved if the department finds that the local government is not in compliance with the terms and conditions of the delegation but that the local government is taking sufficient steps to come into compliance; or

(3) modify the delegation.

(g) If the department modifies or revokes a delegation under this section, the department will send a notice to the local government stating that, based on the department's written findings under (f) of this section, that the delegation will be revoked or modified, effective immediately, unless the notice gives a specific date on which the revocation or modification becomes effective.

(h) A delegation under this section does not apply to food that is processed and intended for interstate commerce.

(i) A local government may not further delegate a delegation under this section. (Eff. 12/19/99, Register 152; am 6/28/2001, Register 158; am ___/___/___, Register ___)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020

18 AAC 31.990 is repealed and readopted to read:

18 AAC 31.990. Definitions. Unless the context indicates otherwise, in this chapter

(1) "acid food" means a food that has a natural pH of 4.6 or below;

(2) "acidified food"

(A) means a low-acid food to which acid or acid food is added; low-acid foods that are frequently acidified include beans, cucumbers, cabbage, artichokes, cauliflower, peppers, tropical fruits, and puddings, singly or in combination; some of these foods may be called "pickles" or "pickled ___ [*insert name of food*]"; and

(B) does not include

(i) carbonated beverages;

(ii) jams, jellies, or preserves;

(iii) acid food such as food dressings and condiment sauces that contain small amounts of a low-acid food and have a resultant finished equilibrium pH that does not differ from the predominant acid or acid food; and

(iv) foods that are stored, distributed, and displayed under refrigeration;

(3) "adequate" means that which is necessary to accomplish the intended purpose, in keeping with good public health practices, while complying with this chapter;

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

(5) "approved" means acceptable to the department or its authorized agent, based upon conformance with applicable local, state, and federal standards and good public health practices;

(6) "approved facility" means a place other than a commissary or residence that is acceptable to the department for a specific activity in support of a temporary food service, a limited food service, or a mobile food unit;

(7) "approved source" means a food establishment or facility that is permitted or certified by the local, state, or federal agency with jurisdiction;

(8) "bottled water" means water that is sealed in bottles or other containers and intended for human consumption;

(9) "bulk food" means processed or unprocessed nonpotentially hazardous food displayed in containers from which consumers withdraw desired amounts;

(10) "caterer" means

(A) a person who uses a specified and permitted food service to prepare food for service and consumption at another public or private event; or

(B) a permitted food service that, in addition to preparing food for service and consumption at the food service, also prepares food for service and consumption at another public or private event;

(11) "certified food protection manager" means a person who has passed a food safety certification examination and received a certificate or other documentation from an certification program accredited by the Conference for Food Protection;

(12) "certified laboratory" means a laboratory certified under 18 AAC 80.1100-18 AAC 80.1110;

(13) "cold-hold" and "cold-holding" means to maintain the temperature of a potentially hazardous food at 41°F or below while that food is being held during transportation, storage, preparation, processing, display, and service, except as specified in 18 AAC 31.410(a)(13);

(14) "commercially prepared" means prepared at an approved food processing establishment;

(15) "commissary" means a food establishment where support services are provided to one or more vending machines, mobile food units, limited food services, or temporary food services; these support services may include

(A) food preparation, handling, packaging, or storage;

(B) storage of utensils, including single-service items, or supplies;

(C) washing, rinsing, and sanitizing of equipment and utensils;

(D) storage of a mobile food unit when the unit is not in use; and

(E) cleaning of a mobile food unit;

(16) "complex" means food is cooked, cooled, and reheated;

(17) "contamination" means contact with dust, insects, rodents, or other pests, unsanitary equipment or utensils, coughing, sneezing, spitting, unnecessary handling, flooding, draining, leakage from overhead, condensation, poisonous or toxic materials, or any substance, organism, or entity that might threaten public health;

(18) "continental breakfast" means a morning meal consisting of ready-to-eat packaged products from an approved source such as pastries, cold cereals, dairy products, juices, coffees and teas, and cut fruit;

(19) "convenience store" means a small market selling predominantly prepackaged ready-to-eat food in individual portions; "convenience store" may include self-service beverage dispensers such as coffee, hot chocolate, or carbonated beverages;

(20) "corrosion resistant" means that quality of a material that allows the material to keep its original surface characteristic under prolonged contact with food, normal use of cleaning compounds and sanitizing solutions, and other conditions of use;

(21) "critical control point" means a point, step, or procedure in a food processing establishment at which control can be applied, and a food safety hazard can, as a result, be prevented, eliminated, or reduced to acceptable levels;

(22) "cross-contamination" means the process by which a disease-causing organism or other contaminant is transferred from raw or other food to equipment or ready-to-eat food;

(23) "cure" or "cured" means to preserve by means of salting, smoking, or aging;

(24) "custom processing" means the processing of a customer's sport-caught seafood or game meat for the consumption of that customer, and which will not be subsequently sold or distributed in commerce for human consumption;

(25) "department" means the Alaska Department of Environmental Conservation;

(26) "disease communicable by food" means a physical condition that can be transmitted from one individual to another, including amebiasis, cholera, colds, diarrhea, hepatitis A, hepatitis type unspecified, influenza, salmonellosis, shigellosis, Shiga toxin-producing *Escherichia coli*, staphylococcal skin infections, streptococcal infections, and vomiting;

(27) "distressed food commodities" means food that has been subjected to possible damage from an accident, fire, flood, adverse weather, or similar cause;

(28) "dormitory" means a room with more than two beds;

(29) "durable" means capable of withstanding expected use and remaining easily cleanable;

(30) "dwelling" means a building or portion of a building that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation;

(31) "easily cleanable" means readily accessible, with materials and finish fabricated to allow complete removal of residue by normal cleaning methods;

(32) "embargo" means an order issued by the department that restricts service, use, or movement of food until laboratory tests or further examination confirms the food is free from spoilage, filth, or other contamination;

(33) "employee" means a person working in a food establishment, including the operator, the manager, and the owner;

(34) "equipment" means stoves, ovens, hoods, slicers, grinders, mixers, meat-blocks, tables, counters, shelving, ice machines, refrigerators, microwave ovens, sinks, warewashing machines, steam tables, and other items, used in a food establishment, but does not include utensils;

(35) "event" means an organized occurrence that is promoted for a special purpose, has a definite time limit, and generally includes activities other than food sales;

(36) "extensively remodeled" means a modification or improvement that entails an expense equal to or exceeding 25 percent of the taxable value of the food establishment before the modification or improvement;

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

(38) "farmers' market" means a seasonal market operated under the sponsorship of a community organization, the main purpose of which is to provide an opportunity for producers to sell agricultural products directly to consumers;

(39) "fixture" means a plumbing fixture such as a lavatory;

(40) "food" means a liquid or solid substance consumed by humans, including water or another beverage, a confection, condiment, food ingredient, food additive, or ice, or a substance that enters into the composition of these things, whether simple, blended, mixed, or compounded;

(41) "food bank" has the meaning given in AS 17.20.347;

(42) "foodborne illness" means an illness associated with consuming food;

(43) "foodborne outbreak" means an incident in which

(A) two or more individuals experience a similar illness after consuming a common food or food served at a common food establishment or event;

(B) one or more individuals experience illness from botulism or chemical

poisoning; or

(C) an epidemiological analysis indicates that a food or an employee is the source of an illness;

(44) "food-contact surface" means the surface of equipment and utensils with which food normally comes in contact, or from which drippage, drainage, or splashback onto a surface that contacts food might occur;

(45) "food demonstration" means to serve without charge samples of food to publicize, advertise, or promote the sale of that food or associated food preparation equipment;

(46) "food establishment" means the premises where any activity occurs that is related to the preparation, processing, packaging, storage, transportation, display, sale, service, or salvaging of food for human consumption; "food establishment" includes various types of operations, singly or in combination, within the categories of food service, food processing establishment, and market; "food establishment" does not include a private dwelling, including a vessel used solely as a private dwelling, where food is prepared for consumption by family members or nonpaying guests;

(47) "food processing establishment" means a food establishment

(A) where food intended for human consumption is processed for distribution to a food service, market, or another consumer outlet; "food processing establishment" includes the following types of operations:

(i) acidifying, curing, or dehydrating of food, thermal processing of low-acid food, and reduced oxygen packaging;

(ii) bakeries, except retail bakeries;

(iii) bottling water or other beverages;

(iv) ice manufacturing;

(v) jam, jelly, syrup, or confection manufacturing; and

(vi) other food processing; and

(B) where acidifying, curing, dehydrating, or reduced oxygen packaging of food, or thermal processing of low-acid food occurs for sale or use in that establishment;

(48) "food salvager" means a type of market where distressed food commodities are reconditioned so they comply with this chapter; "food salvager" includes repackaging, relabeling, inspecting food and packaging for wholesomeness, cleaning, or restoring the integrity of the packaging if food contents have not been altered or adulterated;

(49) "food service" means a food establishment where food intended for service to individuals for consumption is prepared and provided, or simply provided ready-to-eat, whether consumption is on or off the premises, with or without charge as described in 18 AAC 31.010;

(50) "food worker" means an individual working with unpackaged food, potentially hazardous food, food equipment or utensils, or food-contact surfaces; "food worker" does not include cashiers, checkers, courtesy clerks, delivery drivers, residents in residential or institutional care, nurse's aides who assist patients with eating, volunteers, shelf-stockers, warehouse workers, and children under the age of 18 who are assisting in the school kitchen;

(51) "game meat" means the flesh and organs of animals that are not classified as "meat" in 9 C.F.R. 301.2, as adopted by reference in 18 AAC 31.011, or "poultry" in 9 C.F.R. 381.1(b), as adopted by reference in 18 AAC 31.011; "game meat" includes

(A) warm-blooded animals, including seals, whales, caribou, moose, bears, squirrels, musk oxen, and rabbits;

(B) cold-blooded animals, including snakes, lizards, turtles, crocodiles, and alligators;

(C) exotic animals, including reindeer, elk, deer, antelope, water buffalo, and bison; and

(D) game birds, including pheasant, grouse, quail, squab, migratory water fowl, emu, rhea, and ostrich;

(52) "glacier" means a large body of ice moving slowly down a slope or valley or spreading outward on a land surface; "glacier" does not include a snow field or a frozen or ice-covered stream, river, lake, spring, or other water body;

(53) "good retail practices" means preventive measures to control the addition of pathogens, chemicals, and physical objects into foods;

(54) "grocery" means a type of market where a variety of food commodities, including dry, refrigerated, and frozen items, are offered for retail sale to consumers and intended for off-premises consumption; a limited amount of processing may occur at a grocery including produce trimming, processed meat slicing, cheese slicing, and providing retail customer self-service to change the form of a food such as juice squeezing or peanut grinding;

(55) "guestroom" means a room used or intended to be used by a guest for sleeping purposes; every 100 square feet of floor area in a dormitory is considered a guestroom;

(56) "HACCP plan" means a written document that delineates the formal procedures for following the *Hazard Analysis and Critical Control Point Principles and Application Guidelines*, by the National Advisory Committee on Microbiological Criteria for Foods; the *Hazard Analysis and Critical Control Point Principles and Application Guidelines*, as adopted by reference in 18 AAC 31.011;

(57) "hazard" means a biological, chemical, or physical property that might make food unsafe for human consumption;

(58) "herb vinegar" means commercial vinegar to which a small amount of one or more herbs has been added, with a resultant pH not significantly different from the vinegar to which the herb was added;

(59) "hermetically sealed" means a container that is secure against the entry of microorganisms to maintain the commercial sterility of its contents after thermal processing;

(60) "highly susceptible population" means a group of persons who are more likely than other populations to experience foodborne illness because they are immunocompromised, preschool aged children, or older adults obtaining food at a facility that provides services such as custodial care, health care, or assisted living;

(61) "hot-hold" or "hot-holding" means to maintain the temperature of potentially hazardous food at 140°F or above while the food is being held, whether during transportation, storage, preparation, processing, display, or service, except that for rare beef, "hot-hold" or "hot-holding" means to maintain the temperature at 130°F or above;

(62) "ice" means the product that results from freezing water by natural, chemical, or mechanical means;

(63) "imminent health hazard" means any condition with the potential to affect public health adversely, including the extended loss of a potable water supply, an extended power outage, a sewage backup into a food establishment or onto the grounds of a food establishment, a natural disaster, one or more employees sick with a disease communicable by food, a major insect or rodent problem, or a foodborne outbreak;

(64) "injected" means to tenderize meat through deep penetration, including needling, pinning, stitch pumping, or otherwise injecting the meat with juice or some other substance;

(65) "institution" means a place of confinement such as a correctional facility;

(66) "intermittent food establishment" means a permitted food establishment that serves no more than 24 persons and operates on an annual basis no more than 720 person days per calendar year;

(67) "intervention" means control measures to prevent foodborne illness or injury;

(68) "juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, a puree of the edible portions of one or more fruits or vegetables, or a concentrate of that liquid or puree;

(69) "kiosk" means a semi-permanent structure that is constructed on a

nonpermanent foundation;

(70) "kitchenware" means multi-use utensils, other than tableware, used to prepare, serve, transport, or store food;

(71) "limited food service" means a type of food service operation restricted to service of specific food because of the food establishment's size, equipment size and type, or type of sanitary facilities and controls provided; "limited food service" includes most concession stands, permanently installed espresso carts, kiosks, limited food service operations at bars, machines vending potentially hazardous food;

(72) "liquid heat" means a product used to maintain potentially hazardous food at required hot-holding temperatures during display or service and includes commercial products;

(73) "lot" means a collection of primary containers of the same size, type, and style produced under conditions as nearly uniform as possible and usually designated by a common code or marking, or a day's production;

(74) "low-acid food" means food, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6 and a water activity greater than 0.85;

(75) "market" means a food establishment where food commodities are offered for retail sale to consumers and intended for off-premises consumption, distributed to the needy by nonprofit organizations, or stored prior to sale or distribution as described in 18 AAC 31.010

(76) "meat" has the meaning set out in 9 C.F.R. 301.2, as adopted by reference in 18 AAC 31.011;

(77) "ml" means milliliters;

(78) "mobile food unit" means a type of food service located in a vehicle, trailer, or cart that may have one ice chest and one barbecue grill placed immediately adjacent to the mobile food unit and

(A) is capable of easily moving daily for servicing of water and wastewater holding tanks;

(B) operates out of an approved commissary (unless it is a self-contained mobile food unit);

(C) has a menu that is usually restricted to service of specific food;

(D) other than a pushcart, is capable of being registered by the state as a motor vehicle;

(E) is capable of moving without special conditions, such as a pilot car, flagging, or restricted hours of movement; and

- (iv) cut melons;
- (v) shell eggs; and
- (vi) garlic-in-oil mixtures; and

(B) does not include

- (i) food with a pH level of 4.6 or below when measured at 75° F, or a water activity value of 0.85 or less;
- (ii) food that is thermally processed under 18 AAC 31.720 and that remains in an unopened hermetically sealed container;
- (iii) food for which evidence from a qualified laboratory demonstrates that rapid and progressive growth of infectious or toxigenic microorganisms or the slower growth of *Clostridium botulinum* cannot occur; or
- (iv) hard-boiled eggs with shell intact that have been air-cooled;

(90) "poultry" has the meaning set out in 9 C.F.R. 381.1(b), adopted by reference in 18 AAC 31.011;

(92) "ppm" means parts per million;

(93) "premises" means a place or location used in conjunction with the activities of a food establishment, including all or portions of land, docks, structures, vessels, vehicles, mobile food units, equipment, utensils, food, supplies, water supply, wastewater system, and plumbing;

(94) "prepackaged" means packaged by a food salvager permitted by the department or a manufacturer or food processor permitted or certified by the national, federal, state, or local government or agency with jurisdiction, whether in the United States or another country;

(95) "preparation" means to thaw, marinate, cook, heat, reheat, smoke as part of the cooking process, cool, freeze, construct, assemble, combine, cut, slice, divide, mix, portion, or package food for consumption as ready-to-eat food;

(96) "processing" means to

(A) thaw, butcher, cut, slice, portion, grind, extract, cook, bake, cool, freeze, or package

- (i) raw food for retail sale to consumers; or
- (ii) raw or ready-to-eat food for distribution to a food service,

market, or another consumer outlet; and

(B) acidify, cure, dehydrate, thermally process low-acid food, or reduce oxygen package;

(97) "product thermometer" means a quick-registering, metal-stem, numerically-scaled thermometer, digital thermometer, thermocouple, thermistor, or other device that, when the sensor is inserted into food or other substances, indicates the temperature accurate to $\pm 2^\circ \text{F}$;

(98) "public open house" means a business or organization that invites the general public to that business or organization as part of a special event at which food is served;

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

(100) "pushcart" means a wheeled, nonmotorized mobile food unit, manually movable by one or two persons, capable of easily moving daily, operating out of an approved commissary, and containing on or within the cart sufficient food, utensils, paper products, cleaning supplies, potable water supply, and wastewater holding capacity necessary for operating daily, except that a pushcart may use one additional ice chest and one additional barbecue grill placed immediately adjacent to the pushcart;

(101) "qualified laboratory" means a laboratory that uses the procedures in the *Standard Methods for the Examination of Water and Wastewater* to analyze physical, chemical, or microbial constituents of food; the *Standard Methods for the Examination of Water and Wastewater* is adopted by reference in 18 AAC 31.011;

(102) "ready-to-eat" means food that is in a form that is edible without further cooking or additional processing or preparation, and that is reasonably expected to be consumed in that form; "ready-to-eat" includes

- parasites:
- (A) animal foods that have been properly cooked or frozen to destroy parasites;
 - (B) raw fruits and vegetables that are washed;
 - (C) fruits and vegetables that are cooked for hot holding;
 - (D) plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells if naturally present, are removed;
 - (E) substances derived from plants such as spices, seasonings, and sugar;
 - (F) a bakery item such as bread, cake, pie, filling, or icing for which further cooking is not required for food safety;
 - (G) dry, fermented sausages;

(H) salt-cured meat and poultry products; and

(I) dried meat and poultry products and low acid foods that have been thermally processed and packaged in hermetically sealed containers;

(103) "recognized processing authority" means a qualified person with expert knowledge acquired through appropriate training and experience in the specific process that person is evaluating, including acidification, thermal processing, or atmosphere packaging;

(104) "reconstituted" means dehydrated food combined with potable water or another liquid;

(105) "reduced oxygen packaging" means the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen, displacing the oxygen with another gas or combination of gases, or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21 percent; "reduced oxygen packaging" includes methods that might be referred to as altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging, including *sous vide*; for purposes of this paragraph, "*sous vide*" means a specialized process of reduced oxygen packaging for partially-cooked ingredients that require refrigeration or frozen storage until the package is thoroughly heated immediately before service;

(106) "refrigeration" means a mechanical means to maintain product temperatures at 41° F or below, except as specified in 18 AAC 31.410(a)(13);

(107) "restricted food service transient occupancy establishment" means a business establishment with 12 guestrooms or less that

(A) provides, for compensation, overnight transient occupancy accommodations for no more than 24 individuals; and

(B) serves to the guests only a continental breakfast or a breakfast that is cooked and immediately served, the cost of which is included in the charge for the accommodations;

(108) "restructured" means potentially hazardous food that is processed and formed in a manner that might cause surface contaminants to become incorporated inside the final product;

(109) "retail bakery" means a type of market where baked food items, such as breads, cookies, rolls, muffins, pies, and cakes, are processed for onsite retail sale to consumers;

(110) "retail meat market" means a type of market where limited processing of meat for onsite retail sale to consumers occurs, including cutting and trimming carcasses, halves, quarters, or wholesale cuts into retail cuts, such as steaks, chops, and roasts; grinding; thawing; freezing; portioning; and packaging;

(111) "retail seafood market" means a type of market where raw or ready-to-eat

seafood products are displayed for onsite retail sale to consumers; "retail seafood market" includes limited processing, such as cutting whole fish into retail cuts; preparing retail products from raw or precooked ingredients; and breaking bulk shipments and repackaging seafood products, except for repackaging shellfish subject to 18 AAC 34;

(112) "risk factor" or "risk factors" means improper practices or procedures identified as the most prevalent contributing factors of foodborne illness or injury; "risk factors" are the following categories: unsafe sources, inadequate cooking, improper holding, contaminated equipment, and poor personal hygiene;

(113) "risk factor or intervention violation" or "risk factor and intervention" means

(A) food from an unapproved source as required by 18 AAC 31.200;

(B) food that is unwholesome, adulterated, or not safe for human consumption as required by AS 17.20.020, AS 17.20.030, and 18 AAC 31.200;

(C) potentially hazardous food that is not cooked, cooled, or held at required temperatures and times during receiving, storage, preparation, processing, display, service, and transportation as required by 18 AAC 31.230 and 18 AAC 31.240;

(D) potentially hazardous food not discarded after four hours where time is used as a public health control as required by 18 AAC 31.230;

(E) ready-to-eat food that is not protected from contamination from raw food requiring further cooking as required by 18 AAC 31.220;

(F) consumer advisories not provided when required under 18 AAC 31.060;

(G) food and food preparation not modified where required for a highly susceptible population as required by 18 AAC 31.215;

(H) handwashing facilities not installed, maintained, or accessible as required by 18 AAC 31.410 and 18 AAC 31.525;

(I) insufficient facilities and equipment to maintain product temperatures as required by 18 AAC 31.230, 18 AAC 31.240, and 18 AAC 31.410;

(J) re-service of potentially hazardous food or unwrapped food that has previously been served or sold to a consumer as required by 18 AAC 31.240;

(K) food establishment that serves and prepares unwrapped or unpackaged food that is not exempt and does not have a certified food manager as required by 18 AAC 31.320;

(L) handling ready-to-eat food with bare hands as required by 18 AAC

31.220;

(M) an employee who handles food who has a disease communicable by food as described in 18 AAC 31.300;

(N) a person working in a food establishment who is not practicing strict standards of cleanliness and personal hygiene, including handwashing, the results of which might be a disease communicable by food as required by 18 AAC 31.310 and 18 AAC 31.315;

(O) food-contact surfaces of equipment or utensils that are not washed, rinsed, and sanitized effectively and that might contaminate food as required by 18 AAC 31.420;

(P) water from a public water system that is not approved, if required to be approved as required by 18 AAC 31.500;

(Q) a water system that does not provide hot and cold running water under pressure as required by this chapter, or that has a cross-connection with a nonpotable supply or a back siphonage potential;

(R) sewage or liquid waste not disposed of in an approved manner as required by 18 AAC 31.510;

(S) insects, rodents, or other animals that are on the premises as required by 18 AAC 31.535 and 18 AAC 31.575, except as allowed by 18 AAC 31.575(8);

(T) poisonous or toxic material that is improperly labeled, stored, or used as required by 18 AAC 31.570;

(U) HACCP plan described under 18 AAC 31.710 not provided;

(V) a foodborne illness associated with operation of the food establishment;

(W) required records or self-assessment not maintained as required by 18 AAC 31.335 and 18 AAC 31.340;

(X) standard operating procedures not provided or available as required by 18 AAC 31.335;

(114) "spp." means species;

(115) "safe" means nontoxic and free of substances that might make food injurious to health or adversely affect the flavor, color, or microbial quality of food;

(116) "sanitization" or "sanitized" means the application of heat or a chemical to yield a reduction of five logs, which is equal to a 99.999% reduction, of representative disease

microorganisms of public health importance;

(117) "scheduled process" means the process selected by the operator of a food processing establishment as adequate under the conditions of manufacture for a given product to achieve commercial sterility, and which is at least equal to the process established by a recognized processing authority to achieve commercial sterility;

(118) "seafood" means any species of aquatic organism, including salt water fish, freshwater fish, amphibians, crustaceans, mollusks, and aquatic plants; "seafood" includes any part or byproduct of any species of aquatic organism;

(119) "sealed" means free from cracks or other openings that might allow entry or passage of moisture, grease, or other liquid;

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

(121) "shellstock" means shellfish that remain in the shell;

(122) "Shiga toxin-producing *Escherichia coli*" means *E. coli* capable of producing Shiga toxins, also called verocytotoxins or "Shiga-like" toxins; "Shiga toxin-producing *Escherichia coli*" includes *E. coli* reported as serotype O157:H7, O157:NM, and O157:H-;

(122) "single-service" means items that are provided to the consumer and designed to be used by one person and then discarded, such as disposable cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, placements, and toothpicks;

(123) "single-use" means utensils and food containers that are used by employees in a food establishment and that are designed and constructed to be used once and then discarded; "single-use" utensils and containers include wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, milk bottles, and juice containers;

(124) "snack" or "snacks" means food served between meals consisting of prepackaged nonpotentially hazardous food that requires minimal handling or fruits and vegetables that require only washing or peeling;

(125) "standard operating procedure" means a written document that specifies practices to address measure to prevent food from becoming contaminated due to various aspects of food environment at an establishment;

(126) "sulfiting agent" means a chemical that contains sulfur and that is used to treat food to increase shelf life and enhance appearance; "sulfiting agent" includes sulfur dioxide, sodium sulfite, sodium bisulfite, potassium bisulfite, sodium metabisulfite, and potassium metabisulfite;