

**DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION**



**18 AAC 34**

**Seafood Processing and Inspection**

**Effective November 24, 2007**

**IMPORTANT NOTE TO READER**

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

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

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

### **Article**

1. Seafood Processing (18 AAC 34.005 - 18 AAC 34.125)
2. Shellfish Processing (18 AAC 34.200 - 18 AAC 34.215)
3. Smoked or Smoke-flavored Seafood Products Processing (18 AAC 34.300 - 18 AAC 34.320)
4. Thermal Processing (18 AAC 34.400)
5. Direct-Market Fishing Vessels (18 AAC 34.500 - 18 AAC 34.525)
6. Requirements for Fishing Vessels, Tender Vessels, Buying Stations, and Processing Facilities in Response to Oil Contamination (18 AAC 34.600 - 18 AAC 34.625)
7. Direct-Market Land-Based Facilities (18 AAC 34.700 – 18 AAC 34.740)
9. General Provisions and Fees (18 AAC 34.900 - 18 AAC 34.990)

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 Previous regulations in this chapter were repealed simultaneously with the adoption of these regulations.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

**Article 1. Seafood Processing.**

**Section**

- 05. Purpose and applicability
- 10. Requirements adopted by reference
- 15. Derby fish
- 25. Confidentiality of trade secrets
- 30. Prohibited activities
- 35. Permit requirements; application, renewal, and denial
- 45. Hazard analysis critical control point (HACCP) plan
- 50. Sanitation plan
- 55. Facility requirements
- 60. Facility plan approval
- 65. Chemicals and compounds
- 70. Sanitizing
- 75. Plumbing
- 80. Water supply and ice
- 85. Toilets and handwash sink requirements
- 90. Equipment and utensils
- 95. Waste disposal
- 100. Personnel
- 105. Handling
- 110. Labeling requirements
- 112. Labeling requirements for seafood products for export only
- 115. Adulterated seafood products
- 120. Misbranded seafood products
- 122. Seafood product standards
- 125. Product testing

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

(b) The requirements of this chapter apply to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) the activity

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

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

(4) the activity is one of the following:

(A) decapitating shrimp;

(B) gutting or gilling SEAFOOD products;

(C) heading or gutting GROUND FISH. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179)

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

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

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

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

- (1) 21 U.S.C. 348(a), as revised as of July 1993;
- (2) 21 U.S.C. 379e(a), as revised as of July 1993;
- (3) 21 C.F.R. 101.1 - 101.108 (Food Labeling), as revised as of April 1, 2006;
- (4) 21 C.F.R. 102.5 - 102.57 (Common or Usual Name for Nonstandardized Foods), as revised as of April 1, 2006;
- (5) 21 C.F.R. 108.35 (Thermal Processing of Low-acid Foods Packaged in Hermetically Sealed Containers), as revised as of April 1, 2006;
- (6) 21 C.F.R. 110.3 - 110.110 (Current Good Manufacturing Practices in Manufacturing, Packing or Holding Human Food), as revised as of April 1, 2006;
- (7) 21 C.F.R. 113.3 - 113.100 (Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers), as revised as of April 1, 2006;
- (8) 21 C.F.R. 114.3 - 114.100 (Acidified Foods), as revised as of April 1, 2006;
- (9) 21 C.F.R. 123.3 - 123.28 (Fish and Fishery Products), as revised as of April 1, 2006;
- (10) 21 C.F.R. 172.160, (Potassium nitrate), as revised as of April 1, 2006;
- (11) 21 C.F.R. 172.170 (Sodium nitrate), as revised as of April 1, 2006;
- (12) 21 C.F.R. 172.175 (Sodium nitrite), as revised as of April 1, 2006;

(13) 21 C.F.R. 172.385 (Whole fish protein concentrate), as revised as of April 1, 2006;

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

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

(16) the state plumbing code adopted for the state under AS 18.60.705;

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

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

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

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

(21) 29 C.F.R. 1910.141(c)(1)(i) and Table J-1, as amended as of April 1, 1996. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 6/28/2001, Register 158; am 8/6/2006, Register 179; am 11/24/2007, Register 184)

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

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

The documents adopted by reference in 18 AAC 34.010 may be reviewed at the department's Anchorage, Juneau, and Kenai offices. *The Seafood List* is available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328. *The National Shellfish Sanitation Program: Guide for the Control of Molluscan Shellfish* may be obtained from the United States Department of Health and Human Services, Food and Drug Administration, Office of Seafood, 5100 Paint Branch Parkway, College Park, Maryland 20740-3835; Internet address: <http://www.cfsan.fda.gov/~ear/nss2-toc.html>. *The American National Standard Sampling Procedures and Tables for Inspection by Attributes* is available from the American Society for Quality Control, Quality Press, 600 North Plankinton Avenue, Milwaukee, Wisconsin 53203;

telephone: 800-248-1946; Internet address: [www.asq.org](http://www.asq.org). The National Sanitation Foundation (NSF) *NSF International White Book: Listing of Proprietary Substances and Nonfood Compounds* is available for download at: <http://www.nsf.org/USDA/whitebook/whitebook.pdf>

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

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

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

(3) storage CONTAINERS are cleaned between uses;

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

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

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

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

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

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

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

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

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.015, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.025. Confidentiality of trade secrets.** (a) The DEPARTMENT will, in its discretion, require a person subject to this chapter to disclose a trade secret to the DEPARTMENT to assist the DEPARTMENT in evaluating a permit application or in determining compliance with

this chapter. If the person disclosing the required information certifies in writing that public disclosure of the information, including information contained in a photograph taken by a DEPARTMENT employee, would reveal a trade secret as defined in AS 45.50.940, the DEPARTMENT will keep the information confidential while it determines if the public interest that would be served by disclosure is outweighed by the person's privacy interest. The DEPARTMENT will continue to keep the information confidential if it finds the information is entitled to protection. If the DEPARTMENT finds that the information is not entitled to protection, the DEPARTMENT will notify the person disclosing the information in writing that the information will be subject to disclosure after 10 days. Unless ordered by a court to disclose the information, the DEPARTMENT will keep the information confidential through the 10-day period, any administrative appeal of the DEPARTMENT's finding initiated during the 10-day period, and any judicial appeal of the final agency decision.

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

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

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

(3) in pursuit of an enforcement activity.

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

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.025, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

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

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

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

(3) SEAFOOD that has been previously frozen unless it is labeled as required by

AS 17.20.044 and 18 AAC 34.110;

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

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

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

<b>Authority:</b>	AS 17.20.005	AS 17.20.065	AS 17.20.290
	AS 17.20.020	AS 17.20.072	AS 44.46.020
	AS 17.20.040	AS 17.20.180	

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

**18 AAC 34.035. Permit requirements; application, renewal, and denial.** (a) Except as provided in (f) of this section, a person may not conduct an activity described in 18 AAC 34.005(b) without a current annual permit required under this chapter for that activity. An applicant shall apply for a permit to operate a processing FACILITY using a form provided by the DEPARTMENT. For a person who wishes to conduct an activity described in 18 AAC 34.005(b) within a permitted PROCESSOR's FACILITY, that person shall apply for a permit to operate using the current year's annual form provided by the DEPARTMENT. After a complete application is received, to the extent possible, the DEPARTMENT will process the application and issue or deny the permit within 60 days. Except as provided in (e) of this section, the complete application must include

(1) the applicable permit fee required in 18 AAC 34.900; the DEPARTMENT will not review an application until the fee is received;

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

(3) a statement that the PROCESSOR has

(A) conducted a hazard analysis as required by 21 C.F.R. 123.6 (Hazard Analysis and Hazard Analysis Critical Control Point (HACCP) plan), adopted by reference in 18 AAC 34.010, and, if hazards were identified, has a HACCP PLAN as required by 18 AAC 34.045; and

(B) a sanitation plan as required by 18 AAC 34.050 or, if the application is for a DIRECT-MARKET FISHING VESSEL or a DIRECT-MARKET LAND-BASED FACILITY that

is not required to have a HACCP PLAN because no HAZARDS were identified under 18 AAC 34.045, a sanitation schedule as required under 18 AAC 34.525 and 18 AAC 34.740;

(4) for thermally processed product, a copy of

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

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

(5) for a mobile processing FACILITY, a location selected from 18 AAC 34.930(i) for inspection purposes;

(6) a copy of the plans required by 18 AAC 34.060;

(7) unless previously approved by the DEPARTMENT, or the United States Environmental Protection Agency (EPA) if applicable, a plan for

(A) the FACILITY's drinking water supply and treatment under 18 AAC 80;

(B) wastewater disposal for the FACILITY under 18 AAC 72; and

(C) solid waste disposal for the FACILITY under 18 AAC 60; and

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

(b) To ensure compliance with the labeling requirements of 18 AAC 34.110, the applicant may include a printer's proof or an actual label from the product for the DEPARTMENT'S review.

(c) After receiving a complete application, the DEPARTMENT will reserve for the applicant and assign for the PROCESSOR's use a permit number consisting of the state abbreviation "AK" followed by a number or combination of a number and an alphabetical letter.

(d) The permit to operate the FACILITY

(1) must be prominently posted in public view in the FACILITY; a copy of the permit may be used to comply with this paragraph;

(2) is not transferable; and

(3) expires on December 31 of the year in which it is issued.

(e) An applicant shall apply to renew a permit to operate a processing FACILITY, using the current year's annual form supplied by the DEPARTMENT. An applicant for renewal need not resubmit the information provided under (a)(2) – (8) of this section if that information remains unchanged. At least every three years, the DEPARTMENT will, applying its enforcement discretion, require the PROCESSOR to submit the information required under (a)(2) – (8) of this section to assure compliance. A renewal application is not complete and the DEPARTMENT will not review it until the DEPARTMENT receives the renewal fee required in 18 AAC 34.900.

(f) The DEPARTMENT will, in its discretion, grant provisional approval of a permit to operate a FACILITY and will state in writing the reasons for and the terms of the provisional approval.

(g) If the DEPARTMENT denies a permit to operate a FACILITY, it will notify the applicant in writing as soon as practicable but, to the extent possible, no later than 60 days after the DEPARTMENT receives a complete application. The notice of denial will include the reasons for denial. The applicant may, within 30 days after receiving notice of denial, request an adjudicatory hearing as set out in 18 AAC 15.200 - 18 AAC 15.910. Nothing in this subsection affects an applicant's rights under the Administrative Procedure Act (AS 44.62). (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.035, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.035(a)(3)(B) and (d)(1). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20. Information about how to review or obtain a copy of a requirement referred to in 18 AAC 34.035 and adopted by reference in 18 AAC 34.010 is set out in the editor's note to 18 AAC 34.010.

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

(b) Except as described in (c) of this section, a PROCESSOR subject to this chapter shall have and comply with a hazard analysis critical control point (HACCP) plan and otherwise meet the requirements of 21 C.F.R. 123.3 – 21 C.F.R. 123.28, adopted by reference in 18 AAC 34.010.

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

(d) In addition to reviewing a HACCP PLAN under 18 AAC 34.930 and 18 AAC 34.940, the DEPARTMENT will, applying its enforcement discretion, require a PROCESSOR with a CRITICAL VIOLATION at a point in the SEAFOOD production process that has not already been identified in

the PROCESSOR's HACCP PLAN as a CRITICAL CONTROL POINT, to submit the HACCP PLAN to the DEPARTMENT for review and comment. (Eff. 12/18/97, Register 144; am 12/2/99, Register 152)

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

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

**18 AAC 34.050. Sanitation plan.** (a) Except as provided in 18 AAC 34.525 for a DIRECT-MARKET FISHING VESSEL operation and 18 AAC 34.740 for a DIRECT-MARKET LAND-BASED FACILITY, a PROCESSOR shall have and comply with a sanitation plan that describes the sanitation procedures to be followed at the FACILITY. The plan may be structured to apply to each area within the FACILITY or to each type of operation within the FACILITY. The sanitation plan must describe how the PROCESSOR will meet the sanitation requirements of this chapter, including the MONITORING required by (b) of this section.

(b) A PROCESSOR shall monitor the conditions and practices during processing with ADEQUATE frequency to ensure, at a minimum, conformance with

(1) 21 C.F.R. 110.3 - 110.110 and with 21 C.F.R. 123.11, adopted by reference in 18 AAC 34.010; and

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

(A) 18 AAC 34.060(7)(A), as that subparagraph deals with pest control procedures used, including a list of rodenticides, insecticides, and herbicides used and procedures followed to assure that use is restricted to knowledgeable persons to prevent misuse; restricted-use PESTICIDES must be used in accordance with 18 AAC 90;

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

(C) 18 AAC 34.070(a), as that subsection deals with the concentration level of each sanitizer used; MONITORING for compliance must include the testing frequency for hand and product dips, PROCESSING WATER, and sanitizing solutions for FOOD-contact surfaces;

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

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

(F) 18 AAC 34.090, as that section deals with cleanliness of equipment and utensils, including CONTAINERS, pans, and tubs that are used to store and transport SEAFOOD products, and areas around equipment and utensils including the walls, floors,

and drains; MONITORING for compliance must include

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

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

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

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

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

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

(ii) raw product to cooked product; and

(H) 18 AAC 34.100, as that section deals with instructions given to employees to assure that proper personal hygienic practices are followed, and the control of employee health conditions.

(c) A PROCESSOR shall maintain records that document

(1) the MONITORING required by (b) of this section; and

(2) each instance of nonconformance with the PROCESSOR's sanitation plan or a regulation or portion of a regulation cited in (b) of this section, including

(A) a description of the nonconformance;

(B) the action taken by the PROCESSOR to correct the nonconformance;

and

(C) the length of time between the observation of the nonconformance and the initiation of the action taken to correct it.

(d) The DEPARTMENT will, applying its enforcement discretion, require a PROCESSOR with repeated or multiple incidents of nonconformance with the PROCESSOR's sanitation plan or a regulation or portion of a regulation cited in (b) of this section to submit the written sanitation plan to the DEPARTMENT for review and approval. (Eff. 12/18/97, Register 144; readopt 12/2/99,

Register 152; am 8/6/2006, Register 179)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.050, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.050(b)(2)(F). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20. Information about how to review or obtain a copy of a requirement referred to in 18 AAC 34.050 and adopted by reference in 18 AAC 34.010 is set out in the editor's note to 18 AAC 34.010.

**18 AAC 34.055. Facility plan approval.** (a) A person required to have a permit under this chapter shall submit to the DEPARTMENT for approval plans that demonstrate compliance with 18 AAC 34.060 and this section. A PROCESSOR shall submit plans to the DEPARTMENT the first time the PROCESSOR submits an application for a permit for a FACILITY except that, if a PROCESSOR proposes constructing a new FACILITY, the PROCESSOR shall submit plans at least 60 days before beginning construction. If a PROCESSOR proposes to extensively remodel a FACILITY, the PROCESSOR shall submit plans to the DEPARTMENT showing the changes proposed to the FACILITY at least 60 days before remodeling.

(b) Plans submitted under (a) of this section must

(1) include the location of any processing and storage buildings, roads, alleys, docks, and other areas that are part of the FACILITY location and that will be used to support the processing, storage, or transportation of SEAFOOD products;

(2) accurately depict the location or placement of

(A) processing equipment;

(B) storage areas for SEAFOOD, FOOD INGREDIENTS, and FOOD packaging materials;

(3) include plumbing plans that show

(A) piping used for potable water, nonpotable water, and wastewater;

(B) each plumbing fixture that is in a processing area; and

(C) toilets and handwash sinks; and

(4) describe the surface finish of walls, floors, and ceilings in processing, PACKAGING, and storage areas, to demonstrate compliance with 18 AAC 34.060. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.055, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.055(a). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.060. Facility requirements.** A PROCESSOR shall ensure that each FACILITY meets the requirements of 18 AAC 34.075 - 18 AAC 34.085 unless a waiver is approved under 18 AAC 34.915. In addition,

(1) the FACILITY must be ADEQUATE in size, design, and construction to accommodate sanitary processing and storage of SEAFOOD products, and to prevent contamination of SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces, and FOOD packaging materials; in addition,

(A) the outside walls and the roof

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

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

(B) fixtures, ducts, and pipes must be designed, or otherwise covered or protected, to prevent drippage or condensate in an area used for food processing or storage of FOOD, FOOD INGREDIENTS, or FOOD packaging materials;

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

(D) light bulbs, glass fixtures, skylights, or other glass suspended over SEAFOOD processing, PACKAGING, or storage areas must be shielded to protect the SEAFOOD from broken glass; and

(E) odors, noxious fumes, excessive dust or vapors, including steam, must be minimized and controlled to protect product or process operations;

(2) the FACILITY must have lighting of at least

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

(i) SEAFOOD products, FOOD INGREDIENTS, OR ADDITIVES are inspected, sorted, graded, or processed; and

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

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

(3) an accurate thermometer must be provided for each refrigerator, REFRIGERATED brine tank, FREEZER room, or other controlled environmental storage unit;

(4) the inside walls in

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

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

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

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

(5) floors in

(A) processing areas where large amounts of water are used must be durable, smooth, and EASILY CLEANABLE, must be made of concrete, sealed or noncorrosive metal, fiberglass, or another suitable material approved by the DEPARTMENT and must be ADEQUATELY sloped to floor drains;

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

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

(6) floor drains are required in areas where

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

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

(C) wastewater could contaminate a processing area;

(7) the FACILITY and the immediate vicinity outside of the FACILITY must be

(A) free from litter, waste, refuse, and uncut weeds or grass that might attract or harbor pests, including rodents and insects, using pest control procedures required by 21 C.F.R.110.35(c), adopted by reference in 18 AAC 34.010; and

(B) ADEQUATELY drained to

(i) prevent contamination through seepage or footborne filth; or

(ii) avoid creating a breeding place for insects or microorganisms. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.060, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated, from AS 03.05 to AS 17.20, department authority to adopt regulations set out in 18 AAC 34.

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

**18 AAC 34.065. Chemicals and compounds.** (a) In an area of a FACILITY that is used for processing or for storage of FOOD or FOOD packaging materials, a PROCESSOR may not use or store a chemical that is a sanitizer, detergent, lubricant, PESTICIDE, or water treatment compound unless the chemical is included in, and used in accordance with, the requirements of the *NSF International White Book: Listing of Proprietary Substances and Nonfood Compounds*, adopted by reference in 18 AAC 34.010. If a chemical is not listed in that document, and is a sanitizer, detergent, lubricant, PESTICIDE, or water treatment compound, use or storage of the chemical in the area of the FACILITY used for processing or storage of FOOD or FOOD packaging materials may not occur without DEPARTMENT approval, based on the DEPARTMENT finding that use and storage of the chemical does not pose a threat to public health.

(b) A PROCESSOR may use or store in a FACILITY a poisonous chemical or compound only if the chemical or compound is required to maintain sanitary conditions, for use in laboratory testing procedures, for FACILITY equipment and vehicle maintenance and operation, or for use in manufacturing or processing operations.

(c) A PROCESSOR shall ensure that

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

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

(B) the master container is retained onsite; and

(2) poisonous chemicals and compounds and PESTICIDES are not stored with FOOD, FOOD INGREDIENTS, FOOD packaging materials, equipment, or utensils, except that washing, rinsing, or sanitizing compounds may be stored in a washing area. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.065, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated, from AS 03.05 to AS 17.20, department authority to adopt regulations set out in 18 AAC 34.

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

**18 AAC 34.070. Sanitizing.** (a) Except as provided in (b) of this section, the concentration level of each chemical or compound used in sanitizing must comply with the manufacturer's instructions for the sanitizing use indicated in the instructions. The PROCESSOR shall verify the concentration is correct with a test kit, test strip, or other device.

(b) A PROCESSOR may use the following sanitizing and testing methods:

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

(2) immersion for at least 30 seconds in one of the following clean sanitizing solutions at a temperature of 75° Fahrenheit or above:

(A) 50 ppm of available chlorine as hypochlorite;

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

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

(3) sprayed- or wiped-on

(A) chlorine solution containing at least 100 ppm of available chlorine as hypochlorite; or

(B) iodine, quaternary ammonium compound, or another sanitizer solution approved by the DEPARTMENT; the sanitizer solution must be used at a concentration specified by the manufacturer for air drying; or

(4) sprayed or wiped on chlorine solution containing at least 200 ppm available chlorine as hypochlorite, iodine, or quaternary ammonium compound at a concentration specified by the manufacturer for a contact time of at least 20 minutes before a final rinse.

(c) Table 1 of this subsection represents the ratio of water to chlorine that will give 50 ppm of free chlorine residual:

<b>TABLE 1</b> <b>WATER TO CHLORINE RATIO</b> Amounts of chlorine are shown in tablespoons required to give 50 ppm of free chlorine residual. For 100 ppm of free chlorine residual double the amounts below. For 200 ppm of free chlorine residual four times the amounts below.					
<b>WATER VOLUME</b>  <b>(GALLONS)</b>	<b>DRY CHLORINE CONCENTRATION</b>			<b>LIQUID CHLORINE CONCENTRATION</b>	
	<b>70%</b>	<b>25%</b>	<b>15%</b>	<b>15%</b>	<b>5%</b>
20	0.75 tbl.	1.75 tbl.	2.75 tbl.	1.75 tbl.	5 tbl.
40	1.25 tbl.	3.25 tbl.	5.5 tbl.	3.5 tbl.	10 tbl.
60	1.75 tbl.	5 tbl.	8 tbl.	5 tbl.	16 tbl.
80	2.25 tbl.	6.75 tbl.	12 tbl.	6.75 tbl.	20 tbl.
100	3 tbl.	8 tbl.	16 tbl.	8.5 tbl.	26 tbl.
150	4.5 tbl.	12 tbl.	22 tbl.	12.5 tbl.	38 tbl.
200	6 tbl.	16 tbl.	30 tbl.	16.5 tbl.	50 tbl.
DRY MEASURE OR LIQUID MEASURE: 16 tablespoons = 1 cup					

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

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.070, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.070(a) and (b)(2). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

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

(1) must carry ADEQUATE amounts of hot and cold water under pressure throughout the FACILITY to meet the requirements for

- (A) FOOD PROCESSING;
- (B) equipment and utensil cleaning and sanitizing;
- (C) cleanup; and
- (D) employee hygiene;

(2) must carry wastewater from the FACILITY;

(3) may not be a source of contamination to SEAFOOD products, FOOD INGREDIENTS, PACKAGING materials, water supplies, equipment, or utensils, and may not create an insanitary condition; if necessary to prevent contamination, atmospheric breaks or backflow preventers on water lines must be used;

(4) sewer lines, drain lines, and potable and nonpotable water lines must be color coded, tagged, or otherwise identified;

(5) sewer lines, drain lines, and nonpotable water lines may not be cross-connected with drinking and PROCESSING water supplies; and

(6) sewer lines that are directly over PROCESSING areas must be constructed in a manner that will prevent sewage from dripping onto the PROCESSING area; for example, pipe may be double-walled, have a wall thickness equivalent to schedule 80 pipe, which is butt-welded steel pipe that meets the specification for wall thickness of the American Standard Testing Manufacturing A53, Type f, and which specification was in effect on November 17, 1997, or have a gutter or trough underneath the pipe. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.075, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20. The schedule 80 specification referred to in this section is that set out in the *Annual Book of ASTM Standards* published by the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959. The specification may be obtained from ASTM or may be reviewed at the department's Anchorage, Juneau, and Kenai offices.

**18 AAC 34.080. Water supply and ice.** (a) Water provided by a PROCESSING FACILITY for drinking or ice making for human consumption must comply with 18 AAC 80.

(b) In addition to complying with (a) of this section, a mobile PROCESSING FACILITY that is not directly plumbed to a CLASS A PUBLIC WATER SYSTEM must sample water for COLIFORM BACTERIAL contamination before beginning operations and once every 30 days during the operational season, and must resample the water

(1) as required in 18 AAC 80.415, or as scheduled by the DEPARTMENT to serve the interests of public health and consumer protection, after notification of a sample result that exceeds the maximum contaminant level for total COLIFORM BACTERIA set out in 18 AAC 80.300(b)(5); or

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

(c) A PROCESSING WATER supply

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

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

(3) may not exceed the maximum contaminant level for total COLIFORM BACTERIA set out in 18 AAC 80.300(b)(5);

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

(5) if from a water system other than a CLASS A PUBLIC WATER SYSTEM, must be sampled

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

(i) as required in 18 AAC 80.415, or as scheduled by the

DEPARTMENT to serve the interests of public health and consumer protection, after notification of a sample result that exceeds the maximum contaminant level for total COLIFORM BACTERIA set out in 18 AAC 80.300(b)(5); however, resampling requires no more than two water samples; or

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

(B) for a contaminant listed in 18 AAC 80.300(b) at the applicable frequency set out in 18 AAC 80.310 – 18 AAC 80.335, if the DEPARTMENT identifies a potential public health problem for inorganic or organic chemical contamination; as the DEPARTMENT determines necessary to serve the interests of public health and consumer protection, the DEPARTMENT will require more frequent sampling; and

(C) at a point near the end of the system and tested for disinfectant residual at least once each day during the operating season; a daily log of the disinfectant residuals must be kept as required by 18 AAC 34.920; PROCESSING WATER from a CLASS B PUBLIC WATER SYSTEM approved by the DEPARTMENT under 18 AAC 80 is exempt from the requirements of this subparagraph.

(d) Water supplies used to deliver, chill, or hold live or unprocessed SEAFOOD must have a fecal coliform density of no more than 14 COLONY-FORMING UNITS (CFU) per 100 ml. These water supplies are exempt from the disinfection requirement of (c) of this section if

(1) the water is used at a location that will not allow other SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces, or FOOD packaging materials to be contaminated by the water; and

(2) before PROCESSING or PACKAGING, the live or unprocessed SEAFOOD is rinsed with water that meets the requirements of (c) of this section.

(e) Water tests required to be conducted under this chapter must be performed by a laboratory certified under 18 AAC 80.1100 – 18 AAC 80.1110 for drinking water analysis in this state and that complies with reporting requirements for positive sample results described at 18 AAC 80.355, or by a laboratory certified for drinking water analysis in Washington, Oregon, or another state to which samples can be transported and analyzed before they perish. Laboratory results of water analysis, including resampling results or notices indicating that samples were too long in transit, must be maintained at the FACILITY as required by 18 AAC 34.920.

(f) In an area where there is a visible OILY SHEEN on the water, or where OIL can be seen on the beaches adjacent to the water, an operator of a fishing vessel or a TENDER vessel, or a PROCESSOR, may not take on sea water for

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

(2) holding live SEAFOOD products; or

(3) cleanup purposes.

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

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

(2) manufactured by the PROCESSOR in a sanitary manner unless the ice is obtained from an establishment permitted 18 AAC 31 or this chapter to manufacture ice; and

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

(h) This section does not apply to water used for fire protection, boilers, or similar uses.

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

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.080, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department repealed and readopted 18 AAC 34.080(a)-(c), amended (e) and (g)(1). The department also repealed 18 AAC 34.080(i), moving the definition of "CLASS A PUBLIC WATER SYSTEM" to the definitions section at 18 AAC 34.990. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.085. Toilet and handwash sink requirements.** (a) The number of toilets and associated handwash sinks in a land-based FACILITY must comply with the state plumbing code as required by 18 AAC 34.075. The number of toilets on a mobile PROCESSING vessel must comply with the Occupational Safety and Health Administration's general environmental controls in 29 C.F.R. 1910.141(c)(1)(i) and Table J-1, adopted by reference in 18 AAC 34.010. Toilet rooms must be conveniently located for employee use and furnished with toilet tissue. Toilet rooms must have an ADEQUATE number of handwash sinks with hot and cold running water, and must be furnished with sanitary hand towels or another drying device. Each toilet and handwash sink must be kept in a sanitary condition and in good repair.

(b) The door to a toilet room must be self-closing and may not open directly into a PROCESSING, storage, or other area containing SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces, or PACKAGING materials unless means have been taken to prevent airborne contamination, including a double door or installation of an exhaust system that vents air from the toilet room to the outside of the FACILITY.

(c) A sign must be posted in each toilet room directing employees to wash their hands with soap or detergent before returning to work stations. The signs must be printed in English and in other languages or pictures if necessary for employee understanding.

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

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

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

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

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

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

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

(7) handwash signs described in (c) of this section are posted at each toilet or privy and at the entrance to the PROCESSING area.

(e) A FACILITY that is under construction or is being EXTENSIVELY REMODELED on December 18, 1997, or that is built or EXTENSIVELY REMODELED after December 18, 1997, must have handwash sinks in or immediately adjacent to PROCESSING areas. A FACILITY in existence on December 18, 1997, that operates at any time on or after that date is, until EXTENSIVELY REMODELED, not required to install handwash sinks in the PROCESSING areas, but must provide hand sanitizers in the PROCESSING areas. A PROCESSOR may meet the hand sanitizer requirement of this subsection by having in the PROCESSING areas hand sanitizers containing a sanitizing solution that complies with the manufacturer's instructions for hand sanitizers or that meets the concentration levels described in 18 AAC 34.070(b)(2)(A), (b)(2)(B), or (b)(2)(C).

(f) A handwash sink required under this section must have hot and cold water under pressure. Hot water must be supplied at a temperature of 109°-120° Fahrenheit. Self-dispensing or metering faucets must provide a flow of water for at least 20 seconds. Hand-cleaning soap or detergent must be provided at each sink. Towel service or drying devices are not required for sinks in a PROCESSING area. If towels are provided, towel disposal containers must be provided. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.085, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.085(a). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

Information about how to review or copy a requirement referred to in 18 AAC 34.085 and adopted by reference in 18 AAC 34.010 is set out in the editor's note to 18 AAC 34.010.

**18 AAC 34.090. Equipment and utensils.** (a) Equipment and utensils must be ADEQUATE for the intended use and must be designed, installed, and maintained to permit equipment, utensils, and adjacent spaces to be easily cleaned. The design, construction, and use of equipment and utensils must prevent contamination of SEAFOOD products or FOOD INGREDIENTS.

(b) Utensils and FOOD-contact surfaces of equipment must be cleaned, rinsed, and SANITIZED according to the schedule in the sanitation plan required by 18 AAC 34.050 and must be handled to prevent contamination of SEAFOOD products, FOOD INGREDIENTS, or FOOD PACKAGING. In addition,

(1) CONTAINERS, pans, and tubs used to store or transport SEAFOOD products or ingredients must be cleaned, rinsed, and SANITIZED before use and re-use each day and may not be stacked in a way that permits contamination of processed SEAFOOD products or ingredients; and

(2) portable equipment and utensils with surfaces that contact SEAFOOD products, or FOOD INGREDIENTS must be

(A) cleaned and SANITIZED before storage; and

(B) stored in a location and manner to protect surfaces from contamination, including splash and dust, unless the equipment and utensils are cleaned and SANITIZED again before use.

(c) Single-service articles, including utensils, paper cups, and paper towels, must be stored, handled, dispensed, used, and disposed of in a manner that prevents contamination of SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces, and FOOD packaging materials.

(d) Equipment and utensil surfaces and areas around equipment and utensils that do not contact SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces, or FOOD packaging must be free from contaminants, including excessive dust, dirt, FOOD particles, and other debris if proximity to SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces, or FOOD packaging might cause contamination. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.090, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.095. Waste disposal.** (a) PROCESSING waste from SEAFOOD products must be disposed of as required by 18 AAC 60 for solid waste or by 18 AAC 72 for wastewater.

(b) For sewage disposal from a mobile PROCESSING vessel, only a TYPE II or TYPE III MARINE SANITATION DEVICE may be used. Marine sanitation devices must be of an ADEQUATE

size for the number of employees and must be operated in accordance with the manufacturer's specifications and United States Coast Guard requirements. Untreated sewage from a marine sanitation device may not be discharged during PROCESSING, FACILITY cleaning, or when within one-half mile of another vessel that can reasonably be expected to be PROCESSING or cleaning.

(c) A record of the date, time, and location of each discharge from a type III marine sanitation device must be kept as required at 18 AAC 34.920. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.095, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.100. Personnel.** (a) A PROCESSOR shall ensure that a person with an infected wound or a disease communicable by FOOD, including an employee with persistent sneezing, coughing, or a runny nose, does not work in any capacity that might contaminate SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces of clean equipment or utensils, or FOOD packaging materials with an infectious or toxigenic micro-organism, or that might transmit disease to others. The PROCESSOR shall instruct employees to report an adverse health condition to their supervisor.

(b) A PROCESSOR shall ensure that any employee who works in direct contact with SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces, or PACKAGING materials

(1) wears clean outer garments, maintains a high degree of personal cleanliness, and uses hygienic practices while on duty to prevent contamination of SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces, or PACKAGING materials;

(2) removes jewelry and other objects that might fall into SEAFOOD products, FOOD INGREDIENTS, equipment, or CONTAINERS, and removes or covers with a disposable or EASILY CLEANABLE glove, hand jewelry that is not SANITIZED;

(3) wears a hair net, including a beard net if applicable, or another effective hair restraint;

(4) washes and SANITIZES that employee's hands thoroughly before starting work, after each absence from the work station, and at other times when the hands are soiled or contaminated;

(5) keeps gloves and outer garments that are worn while handling FOOD in an intact, clean, and sanitary condition; gloves and outer garments worn while handling FOOD must be made of an impermeable material unless inappropriate for the work involved; gloves and outer garments worn while handling FOOD that are not made of an impermeable material must be

changed frequently to prevent contamination of SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces, or PACKAGING materials;

(6) does not store street clothing or other personal belongings, eat FOOD, drink beverages, or use tobacco in a PROCESSING area or an area where SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces, or PACKAGING materials are stored; and

(7) takes other necessary precautions to prevent contamination of SEAFOOD products, FOOD INGREDIENTS, FOOD-contact surfaces, or PACKAGING materials with perspiration, hair, cosmetics, tobacco, chemicals, medication, or other contaminants.

(c) A PROCESSOR shall ensure that, whenever SEAFOOD products are being processed, there is in the PROCESSING FACILITY a person responsible for identifying sanitation problems and potential FOOD contamination who has the education and experience necessary for the production of unadulterated SEAFOOD products.

(d) A PROCESSOR shall ensure that FOOD handlers and supervisors receive training in proper FOOD receiving, handling, preparation, and PROCESSING and are aware of and follow personal hygiene and sanitary practices. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.100, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.105. Handling.** (a) A PROCESSOR shall inspect SEAFOOD products and FOOD INGREDIENTS to assure that they are WHOLESOME, and that they are not misbranded or adulterated. Only WHOLESOME and unadulterated products may be processed. Records of the condition of incoming SEAFOOD products must be retained for the time specified in 18 AAC 34.920(b).

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

(c) A PROCESSOR who handles, stores, or transports SEAFOOD products shall do so under conditions that prevent product contamination and deterioration of the product and the product CONTAINER. The PROCESSOR shall hold SEAFOOD products upon receipt at a temperature of not more than 45° Fahrenheit until PROCESSING of the SEAFOOD product begins.

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

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

(f) The PROCESSOR shall, upon receipt and before additional PROCESSING or PACKAGING, inspect and ADEQUATELY wash SEAFOOD products, including those BUTCHERED or filleted in another permitted FACILITY.

(g) SEAFOOD products that are frozen when received must be kept frozen until used or, if thawed, must be kept REFRIGERATED or must be processed within one hour. Frozen SEAFOOD product must be thawed in a sanitary manner under cold running water, REFRIGERATION, or another means approved by the DEPARTMENT to protect product WHOLESOMENESS.

(h) Except for SHELF-STABLE salted SEAFOOD products subject to 18 AAC 34.122(7), wet brining or dry salting of raw SEAFOOD product must be done under REFRIGERATION unless the brining or salting will be completed within four hours.

(i) After a SMOKED or cooked SEAFOOD PRODUCT cools to an internal temperature of 140° Fahrenheit,

(1) the product must be further cooled to an internal temperature of no more than 70° Fahrenheit within two hours; and

(2) the product must continue to be cooled to an internal temperature of no more than 50° Fahrenheit within four hours after the product was cooled to an internal temperature of no more than 70° Fahrenheit.

(j) A reduced oxygen or MODIFIED ATMOSPHERE PACKAGED SEAFOOD product that is not shelf stable must, within four hours after PACKAGING, be frozen, or REFRIGERATED to an internal temperature of 38° Fahrenheit.

(k) A PROCESSOR shall inspect PACKAGING processes, materials, and CONTAINERS to ensure that they will not contaminate SEAFOOD products or FOOD INGREDIENTS and will protect the products from contamination.

(l) The DEPARTMENT will, in its discretion, allow an adulterated SEAFOOD product to be stored in a FACILITY only if the product is ADEQUATELY identified and segregated from SEAFOOD products that are unadulterated.

(m) Areas and equipment used to process SEAFOOD products for human consumption may not be used to process game, meat, animal feed, or inedible products unless the PROCESSOR ensures that the SEAFOOD products for human consumption will not be contaminated. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.105, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

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

(b) Labels must be in English except as provided in 21 C.F.R. 101.15 (Food; prominence of required statements), adopted by reference in 18 AAC 34.010. This subsection does not preclude the use of multi-lingual labels in addition to English.

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

(1) the permit number reserved for and assigned to the PROCESSOR under 18 AAC 34.035(c); if more than one PROCESSOR is involved in manufacturing a SEAFOOD product, the permit number must be that of the PROCESSOR who last handled the product before sealing; if the DEPARTMENT determines that use of a code serves the interests of public health and consumer protection, the DEPARTMENT will allow a code that is on file with the DEPARTMENT to be used instead of

(A) the date of PACKAGING; or

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

(2) the name and address of the PROCESSOR, packer, or distributor; if the SEAFOOD product was not processed by the person whose name appears on the label, the name on the label must be qualified by a phrase that reveals the connection that the person has with the SEAFOOD product as required by 21 C.F.R. 101.5, adopted by reference in 18 AAC 34.010;

(3) an accurate statement of the amount of the contents in terms of net weight or measure; the DEPARTMENT will allow reasonable variations;

(4) the identity and name of the SEAFOOD product approved by the DEPARTMENT or a market or common name as specified in FDA's *The Seafood List, FDA's Guide to Acceptable Market Names for Seafood Sold in Interstate Commerce 1993*, adopted by reference in 18 AAC 34.010;

(5) the common or usual name of each FOOD INGREDIENT, if the SEAFOOD product is made from two or more ingredients; spices, flavorings, and colorings may be so designated without naming each one, except that each ARTIFICIAL FLAVORING, ARTIFICIAL COLORING, or

CHEMICAL PRESERVATIVE must be specifically identified;

(6) a listing, in order of predominance by weight in the product, of each FOOD INGREDIENT; however, ingredients present in amounts of two percent or less by weight need not be listed in order of predominance by weight, if a listing of those ingredients is placed at the end of the ingredient statement following an appropriate qualifying statement; an appropriate qualifying statement includes “Contains \_\_\_ percent or less of [name of ingredient]” or “Less than \_\_\_ percent of [name of ingredient]”;

(7) the word "IMITATION" if the CONTAINER holds an imitation SEAFOOD product; under the requirement of this paragraph,

(A) the name of each SEAFOOD product imitated must be listed immediately after the word "IMITATION"; and

(B) the word “IMITATION” must appear in letters at least as large as the name of the product as required by 21 C.F.R. 101.3(e), adopted by reference in 18 AAC 34.010;

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

(A) if the SEAFOOD product is not SHELF-STABLE, the label must bear the holding statement “KEEP REFRIGERATED” or “KEEP FROZEN”;

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

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

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

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

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

(i) for a SEAFOOD product that is not thermally processed, or for a

PICKLED SEAFOOD PRODUCT that meets the requirements of 21 C.F.R. 114.3 – 21 C.F.R. 114.100, adopted by reference in 18 AAC 34.010; and

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

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

(d) A CONTAINER of a SEAFOOD product intended for domestic PROCESSING, labeling, or repacking at another FACILITY is exempt from the labeling requirements of (c)(2), (3), (5), (6), and (7) of this section. The PROCESSOR shall ensure that distribution of that SEAFOOD product meets the requirements of 21 C.F.R. 101.100(d)(1) and (2), and (e) (Food; exemptions from labeling), adopted by reference in 18 AAC 34.010.

(e) A CONTAINER of a SEAFOOD product intended for retail sale, in addition to meeting the labeling requirements of (a) of this section, must also meet the requirements of 21 C.F.R. 101.1 – 21 C.F.R. 101.108 and 21 C.F.R. 102.5 – 21 C.F.R. 102.57, adopted by reference in 18 AAC 34.010.

(f) A PROCESSOR shall label each of the following with the words "NOT FOR SALE":

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

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

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

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

(i) The PROCESSOR is not required to but may submit samples of its labels for the DEPARTMENT’s review for compliance with this section. (Eff. 12/18/97, Register 144; am 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/24/2007, Register 184)

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

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

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

(1) the SEAFOOD product

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

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

(2) the PROCESSOR of the SEAFOOD product

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

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

(b) A SEAFOOD product labeled "FOR EXPORT ONLY" may not be sold or offered for sale in domestic commerce and must be labeled on the outside of the CONTAINER in accordance with 18 AAC 34.110(b) and with

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

(2) the identity and name of the SEAFOOD product as described in 18 AAC 34.110(c)(4);

(3) the temperature holding statement described in 18 AAC 34.110(c)(8) if applicable; and

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

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

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

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

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

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

(3) it contains a COLOR ADDITIVE that is unsafe under 21 U.S.C. 379e(a), adopted by reference in 18 AAC 34.010, or that is prohibited by the DEPARTMENT; or

(4) it was accidentally or intentionally subjected to radiation, unless the use of radiation was in conformity with 21 C.F.R. 179.21 - 179.45, adopted by reference in 18 AAC 34.010. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

**Authority:**

AS 17.02.005	AS 17.20.065	AS 17.20.230
AS 17.20.010	AS 17.20.072	AS 17.20.290
AS 17.20.020	AS 17.20.180	AS 44.46.020
AS 17.20.030		

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

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

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

**Authority:**

AS 17.02.005	AS 17.20.045	AS 17.20.180
AS 17.20.010	AS 17.20.065	AS 17.20.230
AS 17.20.040	AS 17.20.066	AS 17.20.290
AS 17.20.044	AS 17.20.072	AS 44.46.020

**18 AAC 34.122. Seafood product standards.** SEAFOOD products that are processed for, or placed into, domestic commerce must meet the following standards:

(1) for SHELLFISH, either in the shell or shucked but not EVISCERATED, the bacteriological standard is a fecal coliform density of not more than 230 MPN per 100 grams, and a 35° Celsius aerobic plate count of not more than 500,000 bacteria per gram; SHELLFISH exceeding either of these levels are unsuitable for human consumption;

(2) for fresh or frozen SEAFOOD products other than SHELLFISH:

(A) organoleptic: no contamination or DECOMPOSITION detected; and

(B) histamine in scombroid fish: less than or equal to 50 ppm;

(3) for refrigerated or frozen READY-TO-EAT SEAFOOD product, except as provided in (4) of this section:

(A) *Listeria monocytogenes*: zero tolerance;

(B) *Salmonella* spp.: zero tolerance;

(C) *Escherichia coli*: less than or equal to 1,000 MPN per gram;

(D) *Staphylococcus aureus*: less than or equal to 10,000 MPN per gram;

(E) organoleptic: no contamination or DECOMPOSITION detected; and

(F) sodium nitrite:

(i) less than or equal to 200 ppm for smoked salmon or sablefish;

or

(ii) less than or equal to 10 ppm for smoked tuna;

(4) for smoked salmon or sablefish, sodium nitrate: less than or equal to 500 ppm;

(5) for cod roe, potassium nitrate: less than or equal to 200 ppm;

(6) shelf-stable SEAFOOD product other than shelf-stable salted SEAFOOD product must meet the standards in (3) of this section, must be capable of being stored at room temperature for extended periods without production of pathogenic or toxigenic microorganisms or product deterioration, and must meet one of the following standards:

(A) the product has been thermally processed;

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

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

(D) the product complies with 21 C.F.R. 172.385, adopted by reference in

18 AAC 34.010, for whole fish protein concentrate;

(E) repealed 8/6/2006;

(7) shelf-stable salted SEAFOOD product must meet the requirements of (6)(B) of this section and must

(A) be produced under conditions where the product has been maintained at a temperature below 60° Fahrenheit during PROCESSING; and

(B) have a maximum ratio of raw product to salt of 2 to 1 for a dry brine process, and a minimum ratio of raw product to rock salt of 3 to 1 for a wet brine process;

(8) for EVISCERATED and shucked fresh or frozen SHELLFISH product, except oysters:

(A) fecal coliform: less than or equal to 100 MPN per 100 grams; and

(B) 35° Celsius aerobic plate count: less than or equal to 100,000 COLONY-FORMING UNITS (CFU) per gram;

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

(A) PSP: less than 80 :g; and

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

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

(A) PSP: less than 70 :g; and

(B) DOMOIC ACID: less than 30 ppm. (Eff. 12/18/97, Register 144; am/readopt 12/2/99, Register 152; am 8/6/2006, Register 179)

<b>Authority:</b>	AS 17.02.005	AS 17.20.030	AS 17.20.180
	AS 17.20.010	AS 17.20.065	AS 17.20.290
	AS 17.20.020	AS 17.20.072	AS 44.46.020

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

Information about how to review or obtain a copy of a requirement referred to in 18 AAC 34.122 and adopted by reference in 18 AAC 34.010 is set out in the editor's note to 18 AAC 34.010.

**18 AAC 34.125. Product testing.** (a) Except as provided in (g) of this section, the DEPARTMENT may at its expense test nonstatistical, nonrepresentative samples of SEAFOOD products for compliance with 18 AAC 34.122, for the presence of other marine toxins, for the presence of heavy metals, or for the presence of other contaminants of public health significance. A PROCESSOR may not charge the DEPARTMENT more than the average wholesale market price for a sample.

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

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

(d) To show compliance with 18 AAC 34.122(3), a PROCESSOR using a process that has not been approved by the DEPARTMENT for a refrigerated or frozen READY-TO-EAT product shall submit samples of the product to a QUALIFIED LABORATORY as follows:

(1) three product samples from every production LOT; each LOT of product must be held by the PROCESSOR until testing and approval by the DEPARTMENT allows release; and

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

(e) Except as provided in (g) of this section, to show compliance with 18 AAC 34.122(6), a PROCESSOR producing a shelf-stable SEAFOOD product, shall submit samples of the product to a QUALIFIED LABORATORY as follows:

(1) three product samples from every production LOT; each LOT of product must be held by the PROCESSOR until testing and approval by the DEPARTMENT allows release; and

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

(f) A PROCESSOR who uses sodium nitrite, sodium nitrate, or potassium nitrate in a SEAFOOD product intended for the domestic market shall submit to a QUALIFIED LABORATORY or other commercial laboratory a sample for testing from the first LOT produced in each calendar year. A SEAFOOD product containing sodium nitrite, sodium nitrate, or potassium nitrate must meet the applicable standards in 18 AAC 34.122 and the applicable requirements of 21 C.F.R. 172.160, 21 C.F.R. 172.170, or 21 C.F. R. 172.175, adopted by reference in 18 AAC 34.010. In addition, if the product is a SMOKED OR SMOKE-FLAVORED PRODUCT, it must meet the requirements of 18 AAC 34.310(d). If a sample is submitted to a commercial laboratory that is not a QUALIFIED LABORATORY, the DEPARTMENT will not accept the sample unless the commercial laboratory tests the sample.

(1) using AOAC official method 935.48, when testing for sodium nitrate or potassium nitrate; and

(2) using AOAC official method 973.31, when testing for sodium nitrite.

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

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

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

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

Information about how to review or obtain a copy of a requirement referred to in 18 AAC 34.125 and adopted by reference in 18 AAC 34.010 is set out in the editor's note to 18 AAC 34.010.

The AOAC official methods referred to in 18 AAC 34.125 may be found in the *Official Methods of Analysis of AOAC International*, available from AOAC International, Suite 500, 481 North Frederick Ave., Gaithersburg, Maryland 20877-2417.

**Article 2. Shellfish Processing.**

**Section**

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

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

(b) A person described in (a) of this section, including a person who is a SHELLFISH HARVESTER, shall comply with the standards for fresh or frozen SHELLFISH relating to sanitation, harvesting, handling, shucking, and transporting contained in the *National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish* and 21 C.F.R. 1240.60, both of which are adopted by reference in 18 AAC 34.010.

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

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

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

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

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

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

(c) A SHELLFISH HARVESTER permit applicant shall submit to the DEPARTMENT

(1) the fee required at 18 AAC 34.900;

(2) a completed form provided by the DEPARTMENT;

(3) an example of the actual SHELLFISH tag to be used by the harvester as required by 21 C.F.R. 123.28, adopted by reference in 18 AAC 34.010;

(4) a map and description of the location of the SHELLFISH GROWING AREA;

(5) a list of potential contaminants, including sewage, industrial waste, PESTICIDE chemicals, and radionuclides, to which the SHELLFISH might reasonably be expected to be exposed; and

(6) the following information, if the harvest activity includes establishment of a SHELLFISH harvesting residential campsite:

(A) a copy of the lease agreement with the owner of the area that will be used as a campsite;

(B) a description of the exact location of the campsite;

(C) the length of time the campsite will be used. (Eff. 12/18/97, Register 144; am 12/2/99, Register 152)

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

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

(1) a person seeking initial site approval of a SHELLFISH GROWING AREA shall request initial site approval and transmit the fee required by 18 AAC 34.900(c)(1); and

(2) a person seeking reapproval of a SHELLFISH GROWING AREA for which initial site approval has been given shall request reapproval and transmit the fee required by 18 AAC 34.900(c)(2)

(b) SHELLFISH GROWING AREA sites that have been previously approved by the DEPARTMENT must be reapproved annually, subject to the reapproval fees required by 18 AAC 34.900.

(c) The DEPARTMENT will follow the *National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish* adopted by reference in 18 AAC 34.010 to approve or reapprove a SHELLFISH GROWING AREA.

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

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.210, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.210(c). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

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

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

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

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

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

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

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.215, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

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

(b) An owner of a geoduck dive vessel shall

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

(2) submit to the DEPARTMENT for approval plans that

(A) demonstrate compliance with this section;

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

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

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

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

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

(3) has at least one toilet room that is

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

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

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

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

(5) has, for geoducks, storage holds that are nonabsorbent, durable, smooth, and EASILY CLEANABLE, and that are made of concrete, sealed or noncorrosive metal, fiberglass, or other suitable material approved by the DEPARTMENT; and

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

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

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

**Section**

- 300. Applicability of smoked or smoke-flavored seafood product processing requirements
- 310. Processing requirements for smoked or smoke-flavored seafood products
- 315. Native-style smoked or smoke-flavored dried salmon
- 320. Finished product handling

**18 AAC 34.300. Applicability of smoked or smoke-flavored seafood product processing requirements.** (a) A person who processes SMOKED OR SMOKE-FLAVORED SEAFOOD PRODUCTS for sale as part of commerce intended for human consumption or who processes SMOKED OR SMOKE-FLAVORED SEAFOOD PRODUCTS as a CUSTOM PROCESSOR shall meet the requirements of 18 AAC 34.030 - 18 AAC 34.210, 18 AAC 34.300 - 18 AAC 34.320, and 18 AAC 34.900 - 18 AAC 34.990.

(b) A person who thermally processes SMOKED OR SMOKE-FLAVORED SEAFOOD PRODUCTS for sale as part of commerce intended for human consumption shall meet the requirements of (a) of this section, except 18 AAC 34.310(h), 18 AAC 34.310(i), 18 AAC 34.320(b), and 18 AAC 34.320(c), and shall meet the requirements of 18 AAC 34.400. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.300, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.300(b). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.310. Processing requirements for smoked or smoke-flavored seafood products.** (a) Except as provided in (b) of this section, the process used to make SMOKED OR SMOKE-FLAVORED SEAFOOD PRODUCTS must be approved by the DEPARTMENT because of potential food safety HAZARDS.

(b) A person who processes sport-caught SEAFOOD products using a smoking process that is requested by a customer but that is not approved by the DEPARTMENT shall identify the sport-caught products as required by 18 AAC 34.110(f) and segregate those products from other SEAFOOD products.

(c) A person who processes SMOKED OR SMOKE-FLAVORED SEAFOOD PRODUCTS shall ice, REFRIGERATE, or freeze SEAFOOD products upon receipt and keep them iced, REFRIGERATED, or frozen until processed, unless the product will be processed within one hour after receipt.

(d) SMOKED OR SMOKE-FLAVORED SEAFOOD PRODUCTS may not contain more than

(1) 200 ppm of sodium nitrite and must meet the requirements of 21 C.F.R. 172.175, adopted by reference in 18 AAC 34.010;

(2) 200 ppm of potassium nitrate and must meet the requirements of 21 C.F.R. 172.160, adopted by reference in 18 AAC 34.010; or

(3) 500 ppm of sodium nitrate and must meet the requirements of 21 C.F.R. 172.170, adopted by reference in 18 AAC 34.010.

(e) If a curing mixture contains sodium nitrite, the curing mixture must be a clearly labeled commercial premix of low concentration, and must be under the control of an employee designated by the PROCESSOR.

(f) Liquid brines must be changed after three batches to prevent an increase in bacterial populations. Brines may not be reused after four hours unless they are filtered to remove bacteria.

(g) For cold-SMOKED SEAFOOD PRODUCTS, the PROCESSOR must monitor the temperatures within the smoking chamber to assure the following temperatures and times are not exceeded:

(1) when the temperature for drying or smoking does not exceed 50° Fahrenheit in the chamber, SEAFOOD products may be processed for up to 24 hours; or

(2) when the temperature for drying or smoking does not exceed 90° Fahrenheit, SEAFOOD products may be processed for up to 20 hours;

(h) A PROCESSOR shall ensure that SMOKED OR SMOKE-FLAVORED SEAFOOD PRODUCTS are

(1) heated to an internal temperature of at least 145° Fahrenheit for at least 30 minutes during the smoking process and that this temperature is reached within 24 hours of starting the heating process; or

(2) frozen before distribution of the finished product, either before or after the smoking process, as follows:

(A) blast frozen to an internal temperature of -31° Fahrenheit or below for at least 15 hours;

(B) frozen to an internal temperature of -10° Fahrenheit or below for at least 168 hours (seven days); or

(C) frozen to an internal temperature of 5° Fahrenheit or below for at least 288 hours (12 days).

(i) If a SEAFOOD product was sport-caught and was processed by a CUSTOM PROCESSOR and the CUSTOM PROCESSOR has not processed the SEAFOOD product to kill parasites as required in (h) of this section, the CUSTOM PROCESSOR shall label the SEAFOOD product with the following

statement: “WARNING! This product has not been treated to kill naturally occurring parasites. FREEZING to an internal temperature of 5° Fahrenheit for at least 12 days will kill these parasites.”

(j) A person who processes a SEAFOOD product into a SMOKED OR SMOKE-FLAVORED SEAFOOD PRODUCT shall keep records of brine formulation, cook times and temperatures, drying times, FREEZING times, distribution, and results of tests conducted by a laboratory or by the PROCESSOR. Records must be kept for the time specified at 18 AAC 34.920(b). (Eff. 12/18/97, Register 144; am 12/2/99, Register 152)

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

**Editor's note:** Information about how to review or obtain a copy of a requirement referred to in 18 AAC 34.310 and adopted by reference in 18 AAC 34.010 is set out in the editor's note to 18 AAC 34.010.

**18 AAC 34.315. Native-style smoked or smoke-flavored dried salmon.** (a) The DEPARTMENT approves the process described in this section, for salmon only, as an alternative to meeting the time and temperature requirements of 18 AAC 34.310(h). Salmon processed under this section is not SHELF-STABLE and must be labeled as required by 18 AAC 34.110(c)(8).

(b) A PROCESSOR shall EVISCERATE raw salmon as soon as possible to minimize the migration of parasite worms into the edible portion.

(c) After EVISCERATION, the PROCESSOR shall thoroughly wash the exterior of the raw salmon with a continuous flow of potable water that is chlorinated in the range of 30-40 ppm. The salmon must be washed from head to tail in the same direction as the scales to avoid pushing bacteria under the scales.

(d) BUTCHERED strips of raw salmon must be of consistent thickness. For a cold smoked salmon as described in 18 AAC 34.310(g), strips must be one-half inch or less. For all other smoked salmon, strips must be three-quarter inch or less.

(e) Wet brining or dry salting of salmon must be done under refrigeration unless the brining or salting will be completed within four hours. Starches, sugars, or other ingredients may be used with DEPARTMENT approval. In addition,

(1) sodium lactate or potassium lactate may be used to increase the rate of drying and to enhance the control of bacterial growth if the concentration is 20 percent solution or greater and if applied to the salmon as a spray or dip for at least one minute; or

(2) natural or artificial liquid smoke may be used if, before dilution, the concentrate consists of 10 percent titratable acidity, nine milligrams of phenol per gram, and 12 grams carbonyls per 100 milliliters.

(f) Liquid brines must be changed after three batches to prevent an increase in bacterial

populations. Brines may not be reused after four hours without filtering to remove bacteria. Finished product must be brined to contain

- (1) a minimum of 10 percent WATER PHASE SALT for cold-smoked salmon; and
- (2) a minimum of 5 percent WATER PHASE SALT for hot-smoked salmon.

(g) For smoking and drying, a PROCESSOR shall use the following methods:

(1) the PROCESSOR shall

(A) dry the salmon in a manner that does not form a PELLICLE or dry-skin on the surface of the salmon too rapidly; wood smoke must be applied before a PELLICLE is formed and continuously for at least 72 hours; or

(B) apply to the salmon sodium lactate or potassium lactate and liquid smoke as described in (e) of this section and before PELLICLE formation; wood smoke must be applied before a PELLICLE is formed and continuously for at least 72 hours; and

(2) hot or cold smoked and dried salmon must be arranged in the smokehouse in a manner to prevent product-to-product contact through touching or OIL drippage and to allow for uniform smoke absorption, dehydration, and heating.

(h) Salmon that has not been heated to an internal temperature of at least 145° Fahrenheit for at least 30 minutes during the smoking process is subject to the FREEZING requirements of 18 AAC 34.310(h)(2). (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/24/2007, Register 184)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.315, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.315(a), (d), (g), and (h). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.320. Finished product handling.** (a) A finished SMOKED OR SMOKE-FLAVORED SEAFOOD PRODUCT that does not meet SHELF-STABLE requirements and that is not further processed immediately after smoking must be

- (1) cooled as provided in 18 AAC 34.105(i); or
- (2) frozen immediately after removal from the smoker.

(b) Except as provided in 18 AAC 34.315, a finished SMOKED OR SMOKE-FLAVORED PRODUCT that has not met the heating requirements of 18 AAC 34.310(h)(1) may not be distributed until the product is frozen as required by 18 AAC 34.310(h)(2) or, if sport-caught and

not frozen to kill parasites, labeled as required by 18 AAC 34.310(i).

(c) A SHELF-STABLE SMOKED OR SMOKE-FLAVORED SEAFOOD PRODUCT may be held without refrigeration after removal from the smoker at the end of the smoking process, but must be protected from moisture reabsorption.

(d) A PROCESSOR shall package the finished SMOKED OR SMOKE-FLAVORED PRODUCT at different times than, or physically separated from, the PROCESSING operation. If the same equipment is used in the PROCESSING and PACKAGING operations, the PROCESSOR shall clean, rinse, and SANITIZE the equipment before each use. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.420, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.320(b). Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**Article 4. Thermal Processing.****Section**

## 400. Thermal processing

**18 AAC 34.400. Thermal processing.** (a) A person who thermally processes SEAFOOD products intended for human consumption must meet the requirements of this section and the requirements of 21 C.F.R. 108.35 and 21 C.F.R. 113.3 - 113.100, adopted by reference in 18 AAC 34.010, in addition to the requirements of 18 AAC 34.030 - 18 AAC 34.125, 18 AAC 34.200 - 18 AAC 34.215, 18 AAC 34.300 - 18 AAC 34.320, and 18 AAC 34.900 - 18 AAC 34.990.

(b) Water used to cool CONTAINERS and water in a cooling canal must be potable and must have a measurable disinfectant residual before entering the retort. Water used in a cooling canal or system must have a measurable disinfectant residual at the discharge point.

(c) The PROCESSOR shall measure daily the cooling water disinfectant residuals described in (b) of this section and keep a daily log of those measurements. A PROCESSOR shall keep records of disinfectant residuals, cook times and temperatures, CONTAINER examinations, temperature recording charts, product distribution, and all test results conducted by a laboratory or by the PROCESSOR for the time specified at 18 AAC 34.920(b). (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

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

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

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

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

**Section**

- 500. Applicable standards
- 510. Vessel requirements
- 520. Water supply and ice
- 525. Cleaning and sanitizing

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

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

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

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

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

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

The International Pacific Halibut Commission may have other restrictions on PROCESSING halibut. Information on those restrictions may be obtained by contacting the International Pacific Halibut Commission, P.O. Box 95009, Seattle, Washington 98145-2009.

**18 AAC 34.510. Vessel requirements.** (a) A DIRECT-MARKET FISHING VESSEL must be

equipped with either a wash-down hose or another means to supply ADEQUATE amounts of water to the PROCESSING area and deck for cleaning and sanitizing.

(b) A DIRECT-MARKET FISHING VESSEL must be equipped with a marine sanitation device approved by the United States Coast Guard or a portable toilet. The vessel must also be equipped with a handwash sink, soap, and hand towels.

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

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.510, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

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

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

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

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

(2) disinfected to maintain a measurable residual of free chlorine or another disinfectant approved by the DEPARTMENT; PROCESSING WATER must be tested for the residual at least once each day during the operating season; a daily log of the disinfectant residuals must be kept as required by 18 AAC 34.920(b)(5).

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

(e) Ice used on a DIRECT-MARKET FISHING VESSEL must comply with 18 AAC 34.080(g).

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

(1) each product contact surface is cleaned and SANITIZED as specified in 18 AAC 34.070; and

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

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.520, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.525. Cleaning and sanitizing.** Instead of the sanitation plan required by 18 AAC 34.050, a DIRECT-MARKET FISHING VESSEL operator who is not required to develop a HACCP PLAN under 18 AAC 34.045 shall develop a written cleaning and sanitizing schedule sufficient to comply with this chapter. The owner or operator shall keep records of cleaning and sanitizing as required by 18 AAC 34.920(b)(5). (Eff. 12/18/97, Register 144; am 12/2/99, Register 152)

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

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

**Section**

- 600. Applicability
- 605. Fishing vessel and tender vessel inspection
- 615. Requirements for operators of fishing vessels
- 620. Requirements for operators of tender vessels or buying stations
- 625. Requirements for processors

**18 AAC 34.600. Applicability.** The requirements of 18 AAC 34.600 - 18 AAC 34.625 are in addition to all other applicable requirements of this chapter, and apply

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

(2) to

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

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

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

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

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

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

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

(1) OIL CONTAMINATION is removed from any surface that might contact SEAFOOD, using only chemicals described in 18 AAC 34.065; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**18 AAC 34.620. Requirements for operators of tender vessels or buying stations.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) the date of DELIVERY;

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

(A) inspected for OIL CONTAMINATION; and

(B) contaminated with OIL, if any; and

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

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

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

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

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

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

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

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

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

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

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

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

(1) SEAFOOD product as it is processed; and

(2) FOOD-contact surfaces of equipment and work clothes.

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

(1) cease PROCESSING;

(2) notify the DEPARTMENT that OIL CONTAMINATION has been found and request an inspection;

(3) segregate the entire LOT or LOAD containing OIL-contaminated SEAFOOD product from uncontaminated SEAFOOD product; and

(4) clean contaminated equipment, using only chemicals described in 18 AAC 34.065.

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

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

(1) the name of the fishing vessel, TENDER vessel, or buying station; and

(2) any action taken by the PROCESSING FACILITY if OIL-contaminated SEAFOOD product is found.

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

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

(1) before, during, and after taking in sea water, inspect the water, adjacent beaches, and equipment for signs of OIL CONTAMINATION; and

(2) immediately notify the DEPARTMENT if OIL-contaminated sea water is taken in, and request an inspection before resuming PROCESSING.

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

(1) the anticipated transport date;

(2) the method of transportation, including TENDER name, shipping van company and van number, or airplane company;

(3) the name and location of the FACILITY to which the SEAFOOD products will be transported; and

(4) the anticipated date and time of arrival at the FACILITY. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152)

<b>Authority:</b>	AS 17.20.005	AS 17.20.070	AS 17.20.200
	AS 17.20.020	AS 17.20.072	AS 44.46.020
	AS 17.20.065	AS 17.20.180	

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

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

**Section**

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

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

(1) shall meet the requirements of 18 AAC 34.700 – 18 AAC 34.740; and

(2) except as specified in 18 AAC 34.700 – 18 AAC 34.740, shall meet the requirements of 18 AAC 34.005, 18 AAC 34.010, 18 AAC 34.030, 18 AAC 34.035(a)(1), (3)(A) and (B), and (6) - (8), 18 AAC 34.035(c) - (g), 18 AAC 34.045, 18 AAC 34.050, 18 AAC 34.055, 18 AAC 34.060(1)(A) - (E), 18 AAC 34.060(2) - (3), 18 AAC 34.060(4)(A)-(D), 18 AAC 34.060(5) – (7), 18 AAC 34.065 – 18 AAC 34.075, 18 AAC 34.080, 18 AAC 34.085, 18 AAC 34.090 – 18 AAC 34.122, 18 AAC 34.125(a), (c), and (h), and 18 AAC 34.900 – 18 AAC 34.990.

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

(c) The operator of a DIRECT-MARKET LAND-BASED FACILITY shall ensure that all activities are conducted at the approved FACILITY under sanitary conditions in accordance with 18 AAC 34.700 - 18 AAC 34.740. (Eff. 8/6/2006, Register 179)

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

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

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

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

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

(1) flexible material is

- (A) at least 20 mils thick or 18-ounce weight;
- (B) made of rubberized nylon, polypropylene, polyester-based vinyl, or nylon-based vinyl;
- (C) sealed at wall and floor junctures; and
- (D) free of breaks, open seams, and crevices; or

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

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

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

- (1) ambient light during daylight hours;
- (2) battery-powered fixtures; or
- (3) other means approved by the DEPARTMENT. (Eff. 8/6/2006, Register 179)

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

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

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

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

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

(2) disinfected to maintain a measurable residual of free chlorine or another disinfectant approved by the DEPARTMENT; PROCESSING WATER must be tested for the residual at least once each day during the operating season; a daily log of the disinfectant residuals must be kept as required by 18 AAC 34.920(b)(5).

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

(1) each product contact surface is cleaned and SANITIZED as specified in 18 AAC 34.070; and

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

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

(f) Ice used in a DIRECT-MARKET LAND-BASED FACILITY must comply with 18 AAC 34.080(g). (Eff. 8/6/2006, Register 179)

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

**18 AAC 34.730. Toilet and handwash sink requirements.** If a DIRECT-MARKET LAND-BASED FACILITY operator installs a portable toilet or privy in accordance with 18 AAC 34.085(d), the operator shall monitor the use of the handwash sink located at the entrance to the PROCESSING area to ensure that employees are washing hands after exiting the toilet facility. (Eff. 8/6/2006, Register 179)

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

**18 AAC 34.740. Cleaning and sanitizing.** A DIRECT-MARKET LAND-BASED FACILITY operator who is not required to develop a HACCP PLAN under 18 AAC 34.045 shall develop a written cleaning and sanitizing schedule sufficient to comply with this chapter. The owner or operator shall keep records of cleaning and sanitizing as required by 18 AAC 34.920(b)(5). (Eff. 8/6/2006, Register 179)

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

**Article 9. General Provisions and Fees.**

**Section**

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

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

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

(11) for a THERMAL PROCESSING operation that processes less than 5,000 pounds per day: \$1,120;

(12) for a THERMAL PROCESSING operation that processes 5,000 or more pounds per day: \$2,094;

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

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

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

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

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

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

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

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

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

(d) An application fee for the recognition program at 18 AAC 34.960 is \$70.

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

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

(A) CRITICAL VIOLATIONS;

(B) numerous violations indicated by a low inspection score;

(2) to verify the adequacy of product reconditioning;

(3) if a PROCESSOR requests the DEPARTMENT to

(A) conduct an inspection of a mobile PROCESSING FACILITY or a DIRECT-MARKET FISHING VESSEL at a location that is not designated in 18 AAC 34.930(i);

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

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

(D) provide a PRODUCT CERTIFICATION;

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

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

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

**Table 2 - Hourly Rates**

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

(g) If the applicant for a permit or an approval under this chapter withdraws the application before the permit or approval is issued, or if the DEPARTMENT denies the application,

the DEPARTMENT will return any unused balance of the fees paid to the applicant. The DEPARTMENT will compute that portion of the fee used to review and process the application before the application was withdrawn or denied. The computation will be based on a charge of \$71 per hour for staff time, plus any costs incurred by the DEPARTMENT, not including travel costs. A copy of the computation will be provided to the applicant.

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

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

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

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

- (1) paralytic shellfish poisoning (PSP) for
  - (A) marine snails or other animals: \$125 for each sample;
  - (B) geoducks: \$125 for each sample; and
  - (C) live crab for export: \$125;
- (2) DOMOIC ACID: \$100 for each sample;
- (3) other marine toxins: \$54 per hour of laboratory time;
- (4) microbiology:
  - (A) aerobic plate count (APC): \$30 for each sample;
  - (B) presumptive coliform: \$17 for each sample;
  - (C) confirmed coliform, total or fecal: \$17 for each sample;
  - (D) *Escherichia coli*
    - (i) (non 0157:H7): \$17 for each sample;

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

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

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

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

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

(5) chemistry:

(A) WATER ACTIVITY: \$10;

(B) WATER PHASE SALT: \$30;

(C) salt: \$20;

(D) moisture: \$10;

(E) nitrate: \$120;

(F) nitrite: \$30;

(G) sulfite: \$120;

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

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

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

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

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

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

(6) miscellaneous:

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

(B) adulteration: \$50 per hour.

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

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

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

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

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

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

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

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

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

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

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

(1) specify the requirement for which the waiver is sought;

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

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

DEPARTMENT in making its decision; and

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

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

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.915, without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

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

- (1) HACCP records required by 18 AAC 34.045;
- (2) sanitation records required by 18 AAC 34.050;
- (3) incoming SEAFOOD product records as required by 18 AAC 34.105(a);
- (4) drinking and PROCESSING WATER disinfectant records and laboratory results required by 18 AAC 34.080;
- (5) laboratory results required by 18 AAC 34.125(d)-(f);
- (6) smoke production and parasite control records and nitrate and nitrite laboratory results required by 18 AAC 34.310;
- (7) THERMAL PROCESSING records required by 18 AAC 34.400;
- (8) direct-market vessel water disinfectant records as specified in 18 AAC 34.520 and cleaning and sanitizing records required by 18 AAC 34.525;
- (9) records required by 18 AAC 34.095 regarding the discharges from a type III marine sanitation device;
- (10) TENDER and fishing vessel SEAFOOD DELIVERY reports required by 18 AAC 34.620;
- (11) raw SEAFOOD receiving reports required by 18 AAC 34.625; and
- (12) records developed under a plan of operation that was in effect before

December 18, 1997.

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

- (1) for a refrigerated product, at least one year after the date it was processed;
- (2) for a frozen, preserved, or SHELF-STABLE product, at least two years after the date it was processed;
- (3) for a thermally-processed product, at least three years after the date it was processed;
- (4) for drinking and PROCESSING WATER laboratory results and disinfectant residual logs, at least two years after the date the water was tested;
- (5) for direct-market vessel and DIRECT-MARKET LAND-BASED FACILITY disinfectant records and sanitation records, at least one year after the product was processed; and
- (6) for OIL-spill records in 18 AAC 34.620 and 18 AAC 34.625, at least one year after the product is delivered to a PROCESSOR or otherwise sold.

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

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

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

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

(b) A PROCESSOR shall allow a DEPARTMENT employee or the DEPARTMENT's agent to inspect all portions of the FACILITY, SEAFOOD products, FOOD INGREDIENTS, processing equipment, labels, plans and records relating to critical control points and sanitation, and all other records needed to determine compliance with this chapter.

- (c) A person may not obstruct an inspector during an inspection.
- (d) The PROCESSOR may accompany the inspector during the inspection.
- (e) The PROCESSOR shall allow the taking of photographs.
- (f) The inspector will leave a copy of the inspection report at the FACILITY.

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

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

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

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

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

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

**18 AAC 34.935. Inspection seal.** A PROCESSOR may apply in writing to the DEPARTMENT for authorization to use the inspection seal designed under AS 17.20.066(a). The DEPARTMENT will, in its discretion, withhold authorization to use the seal if the PROCESSOR has only provisional permit approval under 18 AAC 34.035(f). (Eff. 12/18/97, Register 144; am 12/2/99, Register 152)

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

AS 17.20.066

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

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

(c) In its discretion, the DEPARTMENT will

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

(2) require that the PROCESSOR provide the DEPARTMENT with copies of the HACCP PLAN, the sanitation plan, and any other records the DEPARTMENT considers necessary in evaluating compliance with this chapter;

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

(4) require a stoppage of processing and immediate correction of a CRITICAL VIOLATION.

(d) A PROCESSOR shall correct violations as follows:

(1) if the score

(A) is between 76 and 85, violations must be corrected within

(i) 14 days for thermal, smoked, or READY-TO-EAT processed FOOD; or

(ii) 60 days for fresh, frozen, salted, or SHELLFISH products; or

(B) is 75 or below, or if a FACILITY has repeated violations that indicate a general disregard for sanitation, product safety, or WHOLESOMENESS, violations must be corrected within

(i) two days for thermal, smoked, or READY-TO-EAT processed FOOD; or

(ii) 30 days for fresh, frozen, salted, or SHELLFISH products; and

(2) the PROCESSOR's FACILITY is subject to a compliance reinspection; the

DEPARTMENT may conduct the compliance reinspection to verify the PROCESSOR's correction of a CRITICAL VIOLATION or of other violations that are reflected in the FACILITY's score; a compliance reinspection is subject to the PROCESSOR's payment of a fee under 18 AAC 34.900(e).

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

(1) the DEPARTMENT will

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

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

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

(2) the immediate custodian or owner may request a hearing within 30 days after receipt of the notice of detention; the DEPARTMENT will hold a hearing within five WORKING DAYS after receipt of a request and will issue its final decision within five WORKING DAYS after the hearing, or within 35 days after the date of the notice of detention, whichever is later; for fresh SEAFOOD product, the DEPARTMENT will conduct an expedited hearing and issue an expedited decision;

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

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

(f) The DEPARTMENT will attempt to work with a PROCESSOR to resolve noncompliance. If, after an attempt to resolve noncompliance, the DEPARTMENT believes further attempts would not be in the public interest, or that the noncompliance represents an imminent health hazard, the DEPARTMENT will, applying its enforcement discretion, modify, suspend, or revoke a SEAFOOD

processing permit. The DEPARTMENT will afford an opportunity for a hearing before suspending or revoking the permit, unless an inspection or investigation reveals an imminent health hazard. Except in the case of an imminent health hazard, a compliance action under this subsection is subject to the following:

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

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

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

(C) the permittee may request a hearing under this section within 10 days after receiving the notice; and

(D) a hearing, if requested, will be held within 10 WORKING DAYS after the DEPARTMENT receives a request for hearing;

(2) a hearing under this subsection will

(A) be before the commissioner or a person designated by the commissioner to hear the matter and prepare a recommended decision for the commissioner's review; and

(B) follow the procedures for an adjudicatory hearing in 18 AAC 15; the burden of proof and of going forward with the evidence is upon the DEPARTMENT; and

(3) after a hearing under this subsection, the commissioner or designee will affirm, modify, or set aside the modification, suspension, or revocation.

(g) Nothing in this section affects a person's right to a hearing under the Administrative Procedure Act (AS 44.62).

(h) A person whose permit has been suspended or revoked may at any time request that the permit be reinstated. The request will be granted if the DEPARTMENT finds that the person has taken ADEQUATE corrective action and has taken action necessary to avoid a reoccurrence of the violation. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179)

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

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

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

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

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

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

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.950 without change, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.

**18 AAC 34.960. Seafood processing facility recognition program.** (a) Under the DEPARTMENT's seafood processing facility recognition program, a PROCESSOR may apply for a certificate of recognition from the DEPARTMENT for a seafood processing FACILITY. The DEPARTMENT will issue a certificate of recognition to a seafood processing FACILITY if

(1) the PROCESSOR submits to the DEPARTMENT

(A) an application for recognition on a form provided by the DEPARTMENT;

(B) details of the employee training course provided under (3)(A) and (B) of this subsection; and

(C) the fee required under 18 AAC 34.900(d);

(2) during the 12 months before the date that the DEPARTMENT receives the PROCESSOR's submission under (1) of this subsection,

(A) the PROCESSOR maintains a minimum score of 92 at the FACILITY with immediate correction of violations;

(B) a known foodborne illness outbreak was not associated with the FACILITY; and

(C) the DEPARTMENT did not pursue or undertake a compliance action against the FACILITY; for purposes of this subparagraph, a compliance action includes a modification, suspension, or revocation of the SEAFOOD processing permit; a notice of violation under 18 AAC 34.940, a negotiated order, a uniform summons and complaint, or a compliance order under AS 46.03;

(3) currently and on a continual basis, the PROCESSOR

(A) participates in training offered by the

(i) Marine Advisory Program at the University of Alaska; or

(ii) the Alaska Seafood Marketing Institute;

(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 HACCP PLANS under 18 AAC 34.045, sanitation, food protection, temperature control, personal cleanliness, employee illness, employee practices, and equipment and utensil cleaning and sanitizing; and

(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; 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 seafood processing FACILITY a certificate of recognition and logos for posting at the FACILITY and for use in advertising; and

(2) list the seafood processing FACILITY

(A) in a monthly DEPARTMENT press release of facilities recognized during that month; and

(B) on the internet website of the DEPARTMENT.

(c) If a seafood processing FACILITY with a certificate of recognition under this section fails to maintain standards as required in this section, the DEPARTMENT will notify the PROCESSOR in writing of the actions required to maintain recognition, and will provide the FACILITY with a

schedule to meet the standards. If the PROCESSOR fails to complete the actions required to maintain recognition within the scheduled time frame, the DEPARTMENT will immediately withdraw the PROCESSOR's certificate of recognition.

(d) A certificate of recognition under this section is valid for one year. A PROCESSOR whose seafood processing FACILITY 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 FACILITY has a certificate of recognition under this section. (Eff. 12/2/99, Register 152)

**Authority:** AS 17.20.005 AS 17.20.220 AS 44.46.020

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

**Authority:** AS 17.20.005 AS 44.46.020

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

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

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

(2) "ARTIFICIAL COLORING" means a coloring containing a dye or pigment manufactured by a process of synthesis or other similar means, or by extracting a natural dye or pigment from a plant or other material in which that dye or pigment was naturally processed;

(3) "ARTIFICIAL FLAVORING" means a flavoring containing a sapid or aromatic component manufactured by a process of synthesis or other similar means;

(4) "BULK" means 100 pounds or more of SHELLSTOCK, not prepackaged, sold by a harvester, SHELLSTOCK shipper, or shucker-packer;

(5) "BUTCHER" means to gut, gill, head, cut, fillet, or otherwise expose the flesh of a SEAFOOD product including

(A) exposing the scallop adductor muscle; and

(B) the recovery of roe when it will be processed or sold to be processed as a food product;

(6) "CERTIFICATE OF ORIGIN" means a document issued by the DEPARTMENT upon request by a PROCESSOR, that attests that the product originated in the state, based on information submitted to the DEPARTMENT by the PROCESSOR;

(7) "CHEMICAL PRESERVATIVE" means a chemical that, when added to a SEAFOOD product, tends to prevent or retard deterioration; "CHEMICAL PRESERVATIVE" does not include salt, sugar, vinegar, spices, oil extracted from spices, or substances added to a SEAFOOD product through exposure to wood smoke;

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

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

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

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

(12) "critical control point" has the meaning given in AS 17.20.025(b);

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

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

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

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

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

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

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

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

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

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

(21) "EASILY CLEANABLE," when referring to

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

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

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

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

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

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

(24) "FACILITY" means the premises, including all or portions of land, docks, structures, vessels, storage plants, and equipment, whether mobile or land-based, used to prepare or process SEAFOOD products for human consumption;

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

(26) "FOOD" 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;

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

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

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

blast freezer, or individual freezer, or to an internal temperature of 15° Fahrenheit or below in a brine freezer;

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

(31) "HAZARD" means a biological, chemical, or physical property that might make FOOD unsafe for human consumption;

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

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

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

(35) repealed 8/6/2006;

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

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

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

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

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

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

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

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

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

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

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

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

(48) "ppm" means parts per million;

(49) "processing" means an activity that changes the physical condition of a SEAFOOD product, including BUTCHERING, THERMAL PROCESSING, cooking, dehydrating, FREEZING, pickling, salting, shucking, or smoking;

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

(51) "PROCESSOR" means a person who processes or is responsible for processing SEAFOOD intended for human consumption; "PROCESSOR" includes that person's representative;

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

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

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

(53) "QUALIFIED LABORATORY" means the state Food Safety Laboratory or an FDA laboratory, and, in addition, if the SEAFOOD product being tested is thermally processed, a laboratory operated by the National Food Processors Association;

(54) "READY-TO-EAT" means a FOOD that is in a form that is edible without cooking or additional preparation and that is reasonably expected to be consumed in that form;

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

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

(57) "SANITIZE" means a process that is effective in reducing the number of microorganisms present, does not adversely affect a SEAFOOD product, and is safe for the consumer;

(58) "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;

(59) "SHELF-STABLE" means a SEAFOOD product that meets the standards of

18 AAC 34.122(6) and 18 AAC 34.125(e);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(76) "WATER ACTIVITY" means the measure of the amount of water in FOOD that is available for the growth of microorganisms, including pathogens, as determined by a ratio of the vapor pressure of the FOOD, divided by the vapor pressure of pure water;

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

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

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

(79) "CLASS A PUBLIC WATER SYSTEM" has the meaning given in 18 AAC 80.1990;

(80) "CLASS B PUBLIC WATER SYSTEM" has the meaning given in 18 AAC 80.1990;

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

(82) "spp." means species;

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

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

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

(86) "DEALER" has the meaning given in the *National Shellfish Sanitation Program: Guide for the Control of Molluscan Shellfish*, adopted by reference in 18 AAC 34.010. (Eff. 12/18/97, Register 144; readopt 12/2/99, Register 152; am 8/6/2006, Register 179; am 11/24/2007, Register 184)

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

**Editor's note:** Effective 12/2/99, Register 152, the Department of Environmental Conservation readopted 18 AAC 34.990, to affirm the validity of that section following statutory amendments made in ch. 72, SLA 1998. The department also amended 18 AAC 34.990(12), (13) and (18)(A), and added new paragraphs. Chapter 72, SLA 1998 relocated department authority to adopt regulations in 18 AAC 34 from AS 03.05 to AS 17.20.