

18 AAC 31.012 is repealed and readopted to read:

18 AAC 31.012. Exempt activities and facilities. (a) The processing, packaging, and sale of nonpotentially hazardous food items, including homemade jam, jelly, syrup, herb vinegar, dried herbs, dried tea leaves, glazed or roasted pre-shelled nuts, confections, and bakery-type items such as fruit or berry pies and cobblers, cakes, cookies, pastries, granola, and breads that do not contain potentially hazardous fillings or toppings, are not subject to this chapter if

(1) the food items are sold directly to the consumer by the individual who prepared the food items;

(2) total gross receipts of sales of the food items sold are less than \$25,000.00 within a calendar year;

(3) the individual who prepares and sells the food items informs consumers by a card, placard, or sign that is conspicuously posted at the primary sales area that includes the statement, "THESE PRODUCTS ARE NOT SUBJECT TO STATE INSPECTION;" and

(4) food that is packaged is labeled with

(A) the name, physical address, and telephone number of the individual who prepared and sold the food item; and

(B) the statement, "THIS PRODUCT IS NOT SUBJECT TO STATE INSPECTION."

(b) Except as otherwise provided in this section, the following activities are not subject to this chapter, but are subject to the prohibitions set out in AS 17.20.290:

- (1) The sale, extraction, or packaging of raw honey;
- (2) custom processing of an individual's sport-caught seafood or game meat, except smoking or thermal processing of seafood is subject to 18 AAC 34.005(b);
- (3) the packaging and sale of raw, whole vegetables, herbs, microgreens, and fruit if the vegetables, herbs, microgreens, and fruit are offered
 - (A) in their natural state; or
 - (B) after rinsing, trimming of unnecessary parts, or separating greens from roots;
- (4) the harvesting and evaporation of tree sap; however, further processing for wholesale distribution of tree sap, including packaging, is subject to this chapter;
- (5) the harvesting or cleaving of glacier ice if the glacier ice is exported from the state without further processing;
- (6) the preparation and serving of
 - (A) food at a foster home or foster group home, if the facility is licensed by the Department of Health and Social Services under AS 47.32 and 7 AAC 50;
 - (B) food at a child care home or child care group home, if the facility is licensed by the Department of Health and Social Services under AS 47.32 and 7 AAC 57;
 - (C) food at an assisted living home, if the assisted living home
 - (i) has five or fewer residents; and
 - (ii) is licensed by the Department of Health and Social Services under AS 47.32, AS 47.33 and 7 AAC 75;

(D) snacks at a child care facility if the child care facility is licensed by the Department of Health and Social Services under AS 47.32 and 7 AAC 57;

(E) food at a camp that is set up for no more than 14 days at a single location to support a group of 24 individuals or less.

(c) Except as otherwise provided in this section, the following facilities and events are not subject to this chapter:

(1) a business, including a gas station, gift shop, video store, student store, or packaged liquor store, that sells only one or more of the following types of food:

(A) prepackaged, nonpotentially hazardous food;

(B) fresh, uncut and unpeeled fruit or vegetables;

(C) popcorn, including seasoned or caramel popcorn;

(D) cotton candy;

(E) prepackaged ice cream novelties;

(F) non-alcoholic, nonpotentially hazardous beverages that are prepackaged and dispensed directly from commercial containers or into single-service containers,

(G) black coffee and tea with single-service items;

(2) a restricted food service transient occupancy establishment;

(3) a vending machine dispensing only nonpotentially hazardous food;

(4) a family-operated business, if the business employs only family members, prepares and serves food only to those family members, and does not serve food to the public;

(5) a private event, if the food is prepared or provided by or for members of one of the following groups and that group's invited guests:

(A) a meeting or an event of a private or charitable organization, association, or club;

(B) an activity of a church or other religious congregation;

(C) a gathering, such as a party, picnic, or potluck held by a neighborhood, family, or office;

(D) a traditional Native potlatch;

(6) a fundraiser, promotional event, or other gathering advertised to the general public where no more than 100 individuals are served during the duration of the event if

(A) a handwashing facility is provided for use as described in 18 AAC 31.600(f)(6); and

(B) potentially hazardous food is held at an internal temperature of

(i) 41° F or below for cold-holding, except that eggs that have not been treated to destroy all viable *Salmonellae* must be stored in refrigerated equipment that maintains an ambient temperature of 45° F or below; and

(ii) 135° F or above for hot-holding, except rare beef, which must be kept at an internal temperature of 130° F or above;

(7) a public open house where ready-to-eat, and commercially processed appetizers are offered to the attendees of the open house for self-service if

(A) a handwashing facility is provided for use as described in

18 AAC 31.600(f)(6); and

(B) an appetizer that contains a potentially hazardous food is held at an internal temperature of

(i) 41° F or below for cold-holding, except that eggs that have not been treated to destroy all viable *Salmonellae* must be stored in refrigerated equipment that maintains an ambient temperature of 45° F or below; and

(ii) 135° F or above for hot-holding, except rare beef, which must be kept at an internal temperature of 130° F or above;

(8) a temporary food service lasting one day or less if

(A) foods are served that

(i) are pre-cooked, packaged, ready-to-eat, or commercially processed; and

(ii) require no more than limited preparation, such as reheating, and minimal handling, such as assembly;

(B) a handwashing facility is provided for use by employees as described in 18 AAC 31.600(f)(6); and

(C) potentially hazardous food is held at an internal temperature of

(i) 41° F or below for cold-holding, except that eggs that have not been treated to destroy all viable *Salmonellae* must be stored in refrigerated equipment that maintains an ambient temperature of 45° F or below; and

(ii) 135° F or above for hot-holding, except rare beef, which must

be kept at an internal temperature of 130° F or above;

(9) a bake sale; for purposes of this paragraph, “bake sale” means the occasional sale to the public by an organization at a fundraising or a seasonal event, including a fair or bazaar, of bakery-type items, including fruit or berry pies and cobblers, cakes, cookies, pastries, and breads; an individual who sells at a bake sale bakery-type items, including pies, cakes, and pastries, that contain potentially hazardous fillings or toppings, including custard, whipped cream, or meringue, must keep those foods refrigerated at 41° F or below after preparation and during the bake sale; potentially hazardous foods, including sandwiches, stuffed breads, meat pies, and pizza may not be sold at a bake sale;

(10) a food establishment located within a national park, federal military installation, public health service hospital, or other federal facility where inspections and regulatory oversight are provided by the federal government.

(d) A food service that has a maximum capacity of 12 and that serves 12 individuals or less a day is subject to 18 AAC 31.900, 18 AAC 31.905, 18 AAC 31.915, and the prohibitions set out in AS 17.20.290, but is not subject to the remaining provisions of this chapter if

(1) food is from an approved source;

(2) food will be served immediately after preparation;

(3) equipment supports the type of food and method of transportation, preparation, display, and service;

(4) fixtures or other approved means are provided for handwashing, cleaning, and sanitizing food-contact surfaces, and cleaning the establishment;

(5) water is potable, or from an approved public water system; and

(6) wastewater is disposed of in an approved manner under 18 AAC 72.

(e) A food service that serves at a camp 24 individuals or less a day is subject to 18 AAC 31.050, 18 AAC 31.320 - 18 AAC 31.330, 18 AAC 31.900, 18 AAC 31.905, 18 AAC 31.915, and the prohibitions set out in AS 17.20.290, but is not subject to the remaining provisions of this chapter if

(1) food is from an approved source;

(2) food will be served immediately after preparation;

(3) equipment supports the type of food and method of transportation, preparation, display, and service;

(4) fixtures or other approved means are provided for handwashing, washing, rinsing, and sanitizing food-contact surfaces, and cleaning the establishment;

(5) water is potable or from an approved public water system; and

(6) wastewater is disposed of in an approved manner under 18 AAC 72.

(f) A business that manufactures ice for onsite retail sale and that is not a food establishment is subject to 18 AAC 31.900, 18 AAC 31.905, 18 AAC 31.915, and the prohibitions set out in AS 17.20.290, but is not subject to the remaining provisions of this chapter if

(1) ice manufacturing is separated by partition, location, time, or another effective means from types of operations that might be a source of contamination or cross-contamination;

(2) ice is protected from contamination by employees handling the ice by the

proper use of utensils, as specified in 18 AAC 31.220;

(3) employees handling ice wash their hands and exposed portions of their arms, as specified in 18 AAC 31.310;

(4) food-contact surfaces are washed, rinsed, and sanitized, as specified in 18 AAC 31.422 – 18 AAC 31.424, in a sink with at least three compartments at least once each day;

(5) ice bins are plumbed as specified in 18 AAC 31.515(d);

(6) at least one toilet facility, as specified in 18 AAC 31.520(e), and one handwashing facility, as specified in 18 AAC 31.525(a), is provided;

(7) water is potable or from an approved public water system;

(8) wastewater is disposed of in a manner approved under 18 AAC 72; and

(9) each single-service ice bag is labeled with the name and address of the facility and the net weight of the ice.

(g) An exemption under this section does not relieve the operator from complying with other applicable statutes and regulations, including AS 17.20 (Food, Drug, and Cosmetic Act), AS 18.60.705 (State Plumbing Code), 18 AAC 30, 18 AAC 32, 18 AAC 34, 18 AAC 50, 18 AAC 60, 18 AAC 72, and 18 AAC 80; or provisions of afore mentioned statutes and regulations that protect public health. (Eff. 12/19/99, Register 152; am 6/28/2001, Register 158; am 6/23/2006, Register 178; am 12/28/2006, Register 180; am __/__/2011, Register ____)

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

Editor's note: Before 12/19/99, Register 152, the substance of 18 AAC 31.012 was located in 18 AAC 31.010. The history note for 18 AAC 31.012 does not reflect the history of that section's provisions before 12/19/99.

18 AAC 31.990(130) is amended to read:

(130) "snack" means food served between meals consisting of prepackaged nonpotentially hazardous food **and pasteurized cheese or milk** that requires minimal handling or fruits and vegetables that require only washing, **cutting**, or peeling;

18 AAC 31.990 is amended by adding a new subsection to read:

(151) "microgreens" means edible stems and leaves of very young plants grown in a soil substrate.

(Eff. 5/18/97, Register 142; am 5/23/98, Register 146; am/readopt 12/19/99, Register 152; am 6/28/2001, Register 158; am 12/28/2006, Register 180; am __/__/2011; Register ____)

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