

## **18 AAC 31.012. Exempt activities and facilities.**

(a) Except for meat, poultry, or a food product containing meat or poultry, the processing, preparation, packaging, and sale of food that is designated a nonpotentially hazardous food under 18 AAC 31.985(c) is not subject to this chapter if the individual who is processing, preparing, packaging, and selling the food product

(1) has, and can provide to the department and consumers, detailed knowledge about the ingredients of the food product, and about how the food product was processed, prepared, and packaged;

(2) has, and can provide to the department, for each food product being processed, prepared, and packaged under this subsection, documentation of the food product's

(A) formulation or recipe;

(B) pH value; and

(C) water activity value;

(3) processes, prepares, and packages the food product in this state;

(4) labels a food product that is packaged with the individual's

(A) Alaska business license number issued under 12 AAC 12; or

(B) name, physical address, and telephone number;

(5) restricts the total gross receipts of sales of all food products sold under this subsection to less than \$25,000 within a calendar year;

(6) sells the food product in this state, directly to consumers; a food product sold under this subsection may not be distributed wholesale or by mail order or consignment; and

(7) displays conspicuously to consumers the statement "THESE PRODUCTS ARE NOT SUBJECT TO STATE INSPECTION," if the food is not processed, prepared, or packaged in a permitted, approved, or inspected facility; to comply with this paragraph, the statement must be

(A) set out on a card, placard, or sign that is conspicuously posted at the point of sale; or

(B) conspicuously displayed on the label of each food product that is packaged.

(b) Except as otherwise provided in this subsection, the following activities and facilities are not subject to this chapter:

(1) the sale, extraction, or packaging of raw honey;

(2) custom processing of an individual's sport-caught seafood or game meat, except as provided under 18 AAC 34 for smoking or thermal processing of seafood;

(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 required to have a license from 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 required to have a license from 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 required to have a license from 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 required to have a license from the Department of Health and Social Services under AS 47.32 and 7 AAC 57: and

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

(G) coffee and tea with creamers and 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) any of the following social events, 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 an 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, community, family or office;

(D) a traditional Native potlatch;

(6) an event advertised to the general public, if the primary purpose is to raise money in support of a political campaign or one individual's medical or other personal needs, and if

(A) the food is cooked and immediately served;

(B) the event does not exceed one day in length; and

(C) the number of events does not exceed three during a 90-day period;

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

(A) a handwashing facility is provided for use by employees 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 event 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 per day is subject to 18 AAC 31.900, 18 AAC 31.905, and 18 AAC 31.915, 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 each day is subject to 18 AAC 31.050, 18 AAC 31.320 – 18 AAC 31.330, 18 AAC 31.900, 18 AAC 31.905, and 18 AAC 31.915, 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.

(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, 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, 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. (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 06/24/2012, Register 202)

**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

### **18 AAC 31.985. Potentially hazardous food.**

(c) Potentially hazardous food does not include

- (1) a hard-boiled egg with shell intact that has been air-cooled, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable *Salmonellae*;

- (2) food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;
- (3) food that, because of its pH or water activity value, or interaction of water activity and pH values, is designated as a non-potentially hazardous food in Table L or M of this section; or
- (4) food that is designated as PA in Table L or M of this section, if the department has granted a variance under 18 AAC 31.930.