

STATE OF ALASKA

**DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF ENVIRONMENTAL HEALTH
OFFICE OF THE STATE VETERINARIAN**

SEAN PARNELL, GOVERNOR

5251 Hinkle Road
Anchorage, AK 99507
PHONE: (907) 375-8200
FAX: (907) 929-7335
<http://www.alaska.gov/>
Jay.Fuller@alaska.gov

November 3, 2009

Dear Interested Person:

Enclosed is a public notice announcing the proposed revisions to Title 18 Chapter 32 of the Alaska Administrative Code, dealing with Milk, Milk Products, and Reindeer Slaughtering and processing. The Department of Environmental Conservation (DEC) proposes to adopt a regulation within this chapter dealing with cheese production. Although there are current regulations regarding food safety and food processing, cheese is a unique dairy product that requires specific regulations to ensure safe production. 18 AAC 32 will be amended to include a new section to address the specialized equipment and processes required to produce cheese. The proposed regulation defines how to process cheese safely and includes the following components:

- Sanitary construction standards of the cheese processing and product holding facility;
- Standards for pasteurized and raw milk used for cheese making;
- Sanitation requirements and personnel hygiene standards;
- Laboratory testing requirements for milk used in cheese production, as well as the laboratory testing for the final product;
- Fees for permits;
- Recordkeeping requirements for ingredients, processing steps, and production;
- Labeling requirements for finished products;
- Inspection protocols and regulatory enforcement actions;
- The appeal process for department decisions; and
- Civil fines for non-compliance.

Copies of the proposed regulation are available at the Office of the State Veterinarian and on the Internet at <http://www.dec.state.ak.us/eh/vet/index.htm>. You may also contact Jay Fuller at: jay.fuller@alaska.gov, (907) 375-8213, or by fax at (907) 929-7335, to request that a copy be mailed to you. **If you feel that your interests may be affected by these regulations, it is critical that you get a copy of the proposed regulations and read them to determine whether you want to comment on them.**

The public comment period on the proposed regulations is from November 3, through December 3, 2009. Send your comments to: Jay Fuller, Office of the State Veterinarian, 5251 Hinkle Rd, Anchorage, AK, 99577; by facsimile to: (907) 929-7335; or by e-mail to jay.fuller@alaska.gov. **Comments must be received by 5:00 p.m., December 3, 2009.**

This draft is what we are proposing and is not final. We will carefully consider all comments we receive and may change this draft based on those comments. Once the regulations are final, we will prepare a summary of all comments received and what changes we made to the proposal as a

result. If we do not make a change based on a comment, we'll explain why in a summary that we will mail to each person who provides a comment on the proposal.

You will find enclosed the guide "Commenting on Proposed Government Regulations", which we hope will be of help to you. Thank you for taking the time to review and comment on these regulations.

Sincerely,

for the Office of the State Veterinarian,

Robert Gerlach, VMD
State Veterinarian



Jay Fuller, DVM
Assistant State Veterinarian

Enclosures:

1. Public Notice on 18 AAC 32
2. Additional Regulations Notice Information
3. Guide to Commenting on Regulations

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS
OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The Department of Environmental Conservation proposes to adopt regulation changes in Title 18 Chapter 32 of the Alaska Administrative Code, dealing with Milk, Milk Products, and Reindeer Slaughtering and Processing. The following new sections are proposed:

- 18 AAC 32.310 addressing the purpose and applicability of the cheese production regulations
- 18 AAC 32.315 addressing the adoption by reference of federal requirements
- 18 AAC 32.320 addressing the permit requirements for processing cheese or cheese products
- 18 AAC 32.323 addressing the water, wastewater, solid waste and plumbing requirements for cheese processing facilities
- 18 AAC 32.325 addressing the construction standards for cheese processing facilities
- 18 AAC 32.330 addressing the standards for personnel involved in cheese processing
- 18 AAC 32.335 addressing the standards for equipment and utensils utilized in cheese processing
- 18 AAC 32.340 addressing the sanitation standards for cheese processing
- 18 AAC 32.345 addressing the standards for ingredients used in cheese processing
- 18 AAC 32.350 addressing the testing standards for cheese processing
- 18 AAC 32.355 addressing the record retention requirements for cheese processing
- 18 AAC 32.360 addressing the labeling and identification standards for cheese processing
- 18 AAC 32.365 addressing the inspection standards for cheese processing
- 18 AAC 32.370 addressing the detention and destruction of cheese and cheese products
- 18 AAC 32.375 addressing the civil fines for violation of the cheese processing standards
- 18 AAC 32.380 addressing the right to appeal a decision
- 18 AAC 32.385 addressing fees

Amendments are also proposed that update the federal requirements adopted by reference in 18 AAC 32.020 and add new terms to the definitions in 18 AAC 32.990

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Jay Fuller, Assistant State Veterinarian, Division of Environmental Health, Department of Environmental Conservation, at 5251 Hinkle Rd, Anchorage, AK 99507, by facsimile at 907-929-7335, or by e-mail to jay.fuller@alaska.gov. The comments must be received no later than 5:00 p.m. on December 3, 2009.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Deb Pock at the Division of the Department of Environmental Conservation, 907-269-0291, no later November 25, 2009, to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Jay Fuller at the Division of Environmental Health, Department of Environmental Conservation, at 907-375-8213 or go to the DEC's regulations website at <http://www.dec.state.ak.us/regulations/index.htm>

After the public comment period ends, the Department of Environmental Conservation will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action

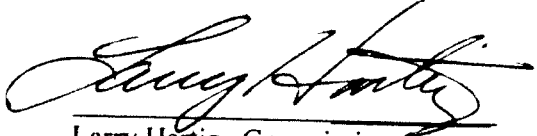
on them. The language of the final regulations may be different from that of the proposed regulations. YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED. Written comments received are public records and are subject to public inspection.

Statutory Authority: AS 03.05.011, AS 03.05.013, AS 03.05.030, AS 03.05.040, AS 03.05.050, AS 03.05.090, AS 17.20.005, AS 17.20.010, AS 17.20.020, AS 17.20.040, AS 17.20.050, AS 17.20.060, AS 17.20.070, AS 17.20.072, AS 17.20.180, AS 17.20.190, AS 17.20.200, AS 17.20.220, AS 17.20.230, AS 17.20.240, AS 17.20.250, AS 17.20.260, AS 17.20.270, AS 17.20.280, AS 17.20.305, AS 17.20.315, AS 17.20.365, AS 44.46.020

Statutes Being Implemented, Interpreted, or Made Specific: AS 03.05.030, AS 03.05.040, AS 03.05.050, AS 17.20.070, AS 17.20.072, AS 17.20.200, AS 17.20.230, AS 17.20.270, AS 17.20.305

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: October 30, 2009


Larry Hartig, Commissioner

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Environmental Conservation
2. General subject of regulation: Milk and Milk Products
3. Citation of regulation (may be grouped): 18 AAC 32
4. Reason for the proposed action:
 - compliance with federal law
 - compliance with new or changed state statute
 - compliance with court order
 - development of program standards
 - other: (please list) _____
5. RDU/component affected: _____

6. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 09	Subsequent Years FY 10
Operating Cost	\$ 0	\$ 0
Capital Cost	\$ 0	\$ 0
Federal receipts	\$ 0	\$ 0
General fund match	\$ 0	\$ 0
General fund	\$ 0	\$ 0
General fund/ program receipts	\$ 0	\$ 0
General fund/ mental health	\$ 0	\$ 0
Other funds (specify)	\$ 0	\$ 0

7. The name of the contact person for the regulations:

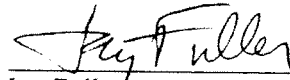
Name: Jay Fuller
Title: Assistant State Veterinarian
Address: 5251 Hinkle Rd.
Anchorage, AK 99507
Telephone: 907 375-8213
E-mail address: jay.fuller@alaska.gov

8. The origin of the proposed action:

- staff of state agency
- federal government
- general public
- petition for regulation change
- other (please list) _____

9. Date: September 25, 2009

Prepared by:

A handwritten signature in black ink, appearing to read "Jay Fuller", written over a horizontal line.

Name: Jay Fuller

Title: Assistant State Veterinarian

Telephone: 907 375-8213

Department of Environmental Conservation

Division of Environmental Health

State of Alaska > DEC > EH

How to comment on regulations

Commenting on Proposed Government Regulations

Regulations affect nearly everyone. This guide is designed to outline the process and ensure YOUR voice is heard when new regulations are being written.



Programs

- ▶ Drinking Water
- ▶ Food Safety & Sanitation
- ▶ Laboratory Services
- ▶ Pesticides
- ▶ Solid Waste
- ▶ State Veterinarian



What are they?

Regulations are rules adopted by state agencies. Any government rule that affects the public or its rights must be adopted as a regulation. Regulations are different than statutes: statutes are laws passed by the legislature; regulations are laws adopted by a state agency to implement statutes.

How does a regulation become law?

Before a regulations can become law, it must follow a careful process that is outlined in statute.

The agency has to have the legal authority to adopt the regulation and it must decide if a regulation is "reasonably necessary" to carry out the purposes of a statute. The process then includes drafting the proposal, sending it out for public comment, redrafting the proposal based on those comments, Department of Law (DOL) review and approval, and finally filing by the Lt. Governor. The process is laid out in the Administrative Procedure Act statutes.



How does the public comment work?



After drafting proposed regulations, the agency issues a public notice. In addition to printing the notice in local papers, the agency seeks out persons it believes will be interested in the proposal and notifies them directly by mail. The public notice begins the public comment period, which usually lasts at least 30 days. The agency may make changes to the proposal based on comments it receives.

How can I tell the difference between current regulations and the proposed changes?

- If the proposal says the regulations are being amended, the new language will be underlined and the language that is proposed for deletion will be in [ALL CAPITAL LETTERS AND BRACKETED].
- If the proposal says the regulations are being "repealed and re-adopted", the entire section is being rewritten and the specific changes are not indicated.

Make sure you're heard...

Why should I comment?

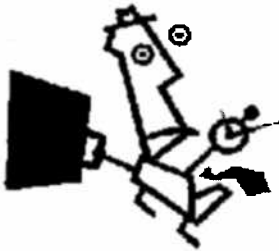
Public comment is always very important but especially when you don't like what's being proposed. Although the agency may not have a choice about adopting regulations (such as when the legislature passes a new law directing the agency to do so), your input can make the regulations better.



How to comment effectively.

There is no required format for you to follow. Your comments, however, do need to be in writing, addressed to the person listed in the Public Notice as the contact. You don't need to type them, as long as they are legible. Comments may be mailed, faxed, e-mailed, or hand delivered -- but they must arrive before the comment period ends. You can find this date in the Public Notice.

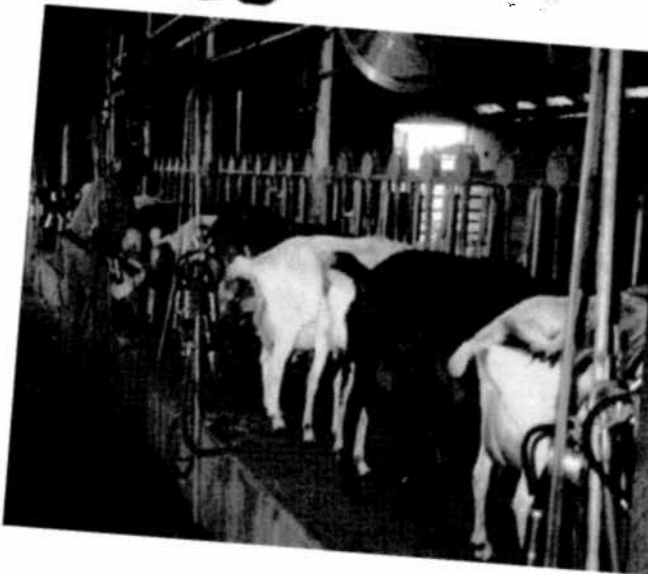
1. **Be Brief.** You don't want the reviewer to miss the point of your concern. Brevity assures that it won't be lost.
2. **Be Specific.** Make it clear what you want. It is more effective to say "I am concerned about how this will affect small seafood processors because...", than "Don't do this."
3. **Know your subject.** If you are commenting on a document, make sure you have read it so that your comments make sense and are accurate. Refer to the section numbers in the proposal, preferably in the order they appear.
4. **Be Honest and Realistic.** Distortions of facts or misstatements may cause the reviewer to question the accuracy of your other statements. Requests that are not legal or feasible also reduce the credibility of your comments.
5. **Be Polite.** Reviewers are human, too. Even though you may be upset about a proposal, try to state your opinion objectively. Remember that agencies write regulations to help people comply with statutes. Communication is increased by extending the courtesies to agencies that you expect from them.



Need more time to comment?

Do you feel the comment period is too short? Immediately contact the person named in the public notice in writing and request an extension. In some cases, the agency may be able to extend the public comment period.

RAW MILK – COW, GOAT, SHEEP “SHARES”



- Raw milk may contain food borne pathogens. These pathogens may be shed into the milk directly from the animal or enter the milk from the environment. These pathogens present a health threat to consumers of raw milk.
- The current regulations, **18 AAC 32.010** and **18 AAC 32.060**, were written to safeguard public health and protect consumers. **18AAC32.010** allows for consumption of raw milk and raw milk products by the person who owns the cow, goat or sheep.
- **18AAC32.060** forbids removal of raw milk from a premise unless it is to be pasteurized by a processor or denatured and labeled **“FOR ANIMAL FOOD NOT FOR HUMAN CONSUMPTION”**.
- **The original intent was specifically to prohibit the sale of raw milk and raw milk products in commerce. Not to limit consumption of these products by the owner or owners of a cow, sheep or goat.**
- It is legal to remove raw cow, sheep or goat milk from a premise for personal consumption IF the person owns the animal.
- **A legal contract needs to be established clarifying ownership of the animal.** (Examples may be found on internet sites promoting raw milk, such as, The Weston A. Price Foundation *Real Milk* website. It is your responsibility to decide what is appropriate.)
- The current regulations (**18 AAC 32.010** and **18 AAC 32.060**) **do not permit** the public sale or distribution of raw milk or any products made from raw milk at a physical location (home, farm, etc.) or on the internet.

RAW MILK – COW, GOAT, SHEEP “SHARES”

- The animal owner is responsible for protecting themselves and their family from any hazards associated with consuming raw milk or products made using raw milk.
- Certain portions of the population (the very young, seniors, and any person who is immune-compromised) are at greater risk for severe health problems or sequelae from infections that may be acquired from consuming raw milk. This risk is now even greater with the emergence of antimicrobial resistant pathogens like *Salmonella* and *Escherichia coli*.

There are significant health hazards associated with the consumption of raw milk and dairy products made from raw milk because the raw milk may contain food borne pathogens. Multiple outbreaks of food borne illness in the U.S. have been reported where unpasteurized milk or cheeses are implicated. Additional information is available from the Alaska Department of Health and Social Services Epidemiology Bulletin “Unpasteurized or Raw Milk ” (http://www.epi.alaska.gov/bulletins/docs/b2009_29.pdf), the FDA (<http://www.fda.gov/Food/ResourcesForYou/Consumers/ucm079516.htm>), and the CDC (http://www.cdc.gov/healthypets/cheesepotlight/cheese_spotlight.htm).

To reduce the potential for pathogens to be introduced we recommend:

1. Good veterinary care for the animals.
2. Standard hygienic practices when milking the cow, goat or sheep:
 - a. Wash the teats with a sanitizing solution, dip teats in an approved germicidal teat dip before milking
 - b. Use a strip cup to examine the milk for abnormalities
 - c. Dip the teats in an approved germicidal teat dip after milking
 - d. Use clean and sanitized equipment to collect the milk.
3. Proper storage and handling of the milk after it is collected. Milk is a nutrient rich product and encourages bacterial growth. Refrigeration at below 41 degrees Fahrenheit will minimize growth of pathogens and spoilage bacteria.
4. Milk from animals being treated with antibiotics or other pharmaceuticals should not be consumed.

