

# STATE OF ALASKA

## DEPT. OF ENVIRONMENTAL CONSERVATION

### DIVISION OF ENVIRONMENTAL HEALTH OFFICE OF THE STATE VETERINARIAN

**SARAH PALIN, GOVERNOR**

5251 Hinkle Road  
Anchorage, AK 99507  
PHONE: (907) 375-8200  
FAX: (907) 929-7335  
<http://www.state.ak.us/dec/>  
Bob.Gerlach@alaska.gov

February 13, 2009

Heather Fair  
645 G Street  
Suite #100-579  
Anchorage, AK 99501

Dear Ms. Fair:

This correspondence is to clarify the intent of regulations related to the sale and distribution of raw milk in the State of Alaska found at 18 AAC 32.010 and 18 AAC 32.060. I have attached these sections to this letter for your convenience.

Raw milk may contain food borne pathogens and present a threat to public health. 18AAC 32.010 and 18AAC 32.060 were written in 1998 to safeguard public health and protect consumers from these risks by ensuring that milk products sold for human consumption were safe and wholesome. These regulations further this goal by prohibiting the sale and distribution of raw milk and raw milk products to the public.

18AAC 32.010 allows for the consumption of raw milk and raw milk products by the person who owns the cow, goat, or sheep. 18 AAC 32.060 forbids removal of the raw milk from a premise unless it is to be pasteurized by a permitted processor or denatured. The question was posed as to whether the group ownership or partial ownership of a cow or goat by means of "cow shares" or "goat shares" permitted the individuals holding these shares to remove raw milk from the farm for personal use. Since the existing regulation predated current Department of Environmental Conservation (DEC), Division of Environmental Health personnel, it was unknown if the regulation had any specific intent regarding "cow shares". In 2008, our office requested a legal interpretation of the regulation by the state Attorney General's office. At that time, it was determined that "cow shares" were not legal under the existing regulation.

After a detailed review of archived files relating to the development, writing and implementation of the regulations in 1998, it was determined that the original intent of the regulation was specifically to prohibit the sale of raw milk and raw milk products in commerce but not to restrict the consumption of these products by an owner or multiple owners of a cow, sheep or goat. This interpretation was clearly stated in the "Response to Comments" that was written generated as a result of the public notice process when this regulation was drafted in 1998. Therefore, the Division of Environmental Health is obligated to be consistent with the original interpretation and consider it legal for individuals to remove raw cow, sheep or goat milk from a premise for personal consumption if they own the animal or a part of the animal. A legal contract should be established clarifying this relationship and ownership. This contract would allow an individual to remove raw milk from the premise for their personal use (to drink raw milk or

further process to make other products for their personal consumption). This exemption does not permit the public sale or distribution of raw milk or any products made from the raw milk at a physical location or via the mail or internet.

While the regulations allow this activity, they do not provide a mechanism for oversight, permitting or reviewing any cow share programs. The animal owner is responsible for protecting themselves and their family from any hazards associated with consuming raw milk. There is a risk to individual and public health and a significant safety hazard associated with the consumption of raw milk because there is no guarantee that pathogens have been eliminated as there would be if the milk was pasteurized. There have been multiple outbreaks of food borne illness in the U.S. where unpasteurized milk or cheeses were implicated. With the emergence of antimicrobial resistant pathogens such as *Salmonella* and *Escherichia coli* in recent years, the risk is even greater. To reduce the potential for a pathogen to be introduced, we recommend good veterinary care for the animals and standard hygiene practices when milking the cow or goat: wash the teats with a sanitizing solution, use a strip cup to examine the milk for abnormalities, and dip the teats in an approved germicidal teat dip before and after milking. Since milk is a nutrient rich product that encourages bacterial growth, take care with the handling and storage of the milk to prevent the growth of food borne pathogens. In addition, the milk from animals being treated with antibiotics or other pharmaceuticals should not be consumed.

The Department of Environmental Conservation, Division of Environmental Health will enforce regulation **18 AAC 32.010 - 18 AAC 32.060** consistent with the original intent in which they were written until such time as the regulations are revised. We hope that this clarification will eliminate any further confusion. If you have any questions concerning these regulations please contact me, Dr. Jay Fuller, Assistant State Veterinarian, or Cherie Lowry, Dairy Sanitarian.

Sincerely,



Robert F. Gerlach, VMD  
State Veterinarian

## **Attachment:**

### **18 AAC 32.010. Purpose and applicability of 18 AAC 32.010 - 18 AAC 32.060**

☞ (a) The purpose of 18 AAC 32.010 - 18 AAC 32.060 is to safeguard public health and safety by ensuring that milk and milk products from a cow, goat, or sheep, that are to be sold as part of commerce and intended for human consumption, are manufactured, sold, and delivered in a safe and wholesome condition.

(b) The provisions of 18 AAC 32.010 - 18 AAC 32.060 apply to

(1) each milk producer, each wholesale milk distributor, and each owner or operator of a milk processing plant, receiving station, or transfer station whose milk or milk products are to be sold as part of commerce and are intended for human consumption;

(2) each milk hauler who

(A) collects, for the milk producer, milk processing plant, or the department, samples the raw milk for pasteurization or for bacterial, chemical, temperature standards, or compliance testing; or

(B) hauls milk from a milk producer or other milk distributor to a milk processing plant, receiving station, or transfer station; and

(3) a processor of a milk product.

(c) The provisions of 18 AAC 32.010 - 18 AAC 32.060 do not apply to a person who owns a cow, goat, or sheep and uses the milk from the animal for that person's personal use.

### **18 AAC 32.060. Raw milk and raw milk products**

☞ Except as provided in 18 AAC 32.010(c) , a milk producer may not allow raw milk or a raw milk product, including cream from raw milk, to be removed from the dairy farm unless

(1) the product is being transported directly to a milk processing plant with a permit issued under 18 AAC 32.030 or by another state; or

(2) the product has been decharacterized with an approved denaturant and labeled "FOR ANIMAL FOOD NOT FOR HUMAN CONSUMPTION" in letters at least three inches high on each container; for purposes of this paragraph, "approved denaturant" means

(A) finely powdered charcoal;

(B) FD & C Blue No. 1, FD, & C Blue No. 2, Ultramarine Blue; or

(C) FD & C Green No. 3, FD & C Red. No. 3, or FD & C Red No. 40.