

3/8/10 &

3/15/10

PROPOSED

REGS:

CHEESE

PRODUC-

TION

ALASKA STATE LEGISLATURE

Interim:

600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone: 373-1842
Fax: (907) 373-4729



Session:

State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-4899
Fax: (907) 465-3818

ADMINISTRATIVE REGULATION REVIEW COMMITTEE

COMMITTEE SCHEDULE

MONDAY MARCH 8, 2010 3-5:00 P.M. ROOM 17

+ **Joint Senate and House Committee Meeting**

+* (18 AAC 32) Proposed Regulations Relating to Cheese Production.
Public Testimony to be Taken.

+* (11 AAC 65.010 – 11 AAC 65.900, particularly 11 AAC 65.010)
Regulations Relating to Personal Use Cabin Permits.
Public Testimony to be Taken.

Executive Session.

+ Teleconference
* First Public Hearing
= Previously Heard Bill

E-Mail: John_Davies@legis.state.ak.us

ALASKA STATE LEGISLATURE

draft

Interim:
600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone: 373-1842
Fax: (907) 373-4729



Session:
State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-4899
Fax: (907) 465-3818

ADMINISTRATIVE REGULATION REVIEW COMMITTEE

AGENDA

Monday, March 8, 2010, Capitol Room 17, 3-5:00 P.M.

- I. Call to Order by Chairman.
- II. Introduction of Members.
- III. Opening remarks by the Chairman.
- IV. (18 AAC 32) Proposed Regulations Relating to Cheese Production, Presentation by DEC Commissioner ~~Larry Hartig~~ or ~~Doctor Jay Fuller~~, State Veterinarian, and thereafter; Public Testimony. The review focuses on the DEC's need to protect the public from harm weighed against the individual's right to choose what he/she wishes to consume.
- V. (11 AAC 65.010 – 11 AAC 65.900, particularly 11 AAC 65.101) Regulations Relating to Personal Use Cabin Permits. Presentation by DNR Commissioner Tom Irwin or Director Dick Mylius, Division of Mining, Land and Water, and thereafter; Public Testimony. *put in agenda* The review focuses on the specific intent language in 11 AAC 65.010 "to phase out the use of unauthorized cabins on state land" and the destruction of such cabins, weighed against the private, public and survival use of the cabin resources.
- VI. Close Public Testimony.
- VII. Deliberation and discussion by Committee.
- VIII. Executive Session in order to discuss non-public review memos from the Committee's attorney.
- IX. Reconvene the meeting and adjournment.

*This hearing will be teleconferenced.

E-Mail: John_Davies@legis.state.ak.us

ALASKA STATE LEGISLATURE

Interim:

600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone: 373-1842
Fax: (907) 373-4729



Session:

State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-4899
Fax: (907) 465-3818

ADMINISTRATIVE REGULATION REVIEW COMMITTEE

AGENDA

Monday, March 8, 2010, Capitol Room 17, 3-5:00 P.M.

- I. Call to Order by Chairman.
- II. Introduction of Members.
- III. Opening remarks by the Chairman.
- IV. (18 AAC 32) Proposed Regulations Relating to Cheese Production. Presentation by DEC Commissioner Larry Hartig or Doctor Jay Fuller, State Veterinarian, and thereafter; Public Testimony.
- V. (11 AAC 65.010 – 11 AAC 65.900, particularly 11 AAC 65.101) Regulations Relating to Personal Use Cabin Permits. Presentation by DNR Commissioner Tom Irwin or Director Dick Mylius, Division of Mining, Land and Water, and thereafter; Public Testimony.
- VI. Close Public Testimony.
- VII. Deliberation and discussion by Committee.
- VIII. Executive Session in order to discuss non-public review memos from the Committee's attorney.
- IX. Reconvene the meeting and adjournment.

*This hearing will be teleconferenced.

E-Mail: John_Davies@legis.state.ak.us

ARRC Meeting Checklist for 3/8 Meeting

✓ 1. **Reserve Meeting Room.** Room 17 is Rep. Wilson's Transportation Meeting Room, Call Becky at 465-3759 to Reserve the Room. *Room reserved with Becky 2/22*

✓ 2. **ARRC Attorney.** The Committee has its Own Attorney, Her Name is Lisa Kirsch, She is at Legal Services 465-3867 in the Terry Miller Office Building, Coordinate with Her to Make Sure She can Attend the Meeting as She Only Works Half-Days. *notice 2/24* *Deb Behr Dept Jan 465 2122*

✓ 3. **Staff Contacts.** Rep. Keller's Contacts are Jim Pound at 465-6265, or John Davies at 465-4899, room 13 or 17a; Rep. Gatto is Bonnie Gruning at 465-3743, room 108; Rep. Guttenberg -- contact is Christopher Birdsall at 465-4457 room 418; Senator Kookesh -- contact is Kimberly Klark at 465-3473, room 11; Senator Meyer -- contact is Josh Applebee at 465-4945, room 101; Senator Olson -- contact is Christina Apathy at 465-3707, room 514. Notice Legislative Staff Members of Upcoming Committee Meetings and Actions (keep them in the loop always).

✓ 4. **Committee Schedule.** Deliver the Committee Schedule for the Next Upcoming Meeting to Both the Senate and House Clerks Because This is a Joint Committee.

✓ 5. **Distribute Committee Schedule** Email and Hand-Deliver the Committee Schedule for the Next Meeting to Each of the Senators and Representatives Personally and to Each Staff Contact. Notice to ARRC attorney -- Lisa Moritz Kirsch 465-3867, third floor, Terry Miller Building. Notice to Department of Law Regulations attorney -- Deborah Behr 465-3600. *copies Alan in printing*

✓ 6. **LIO Teleconference/Gavel to Gavel/Records.** Make Sure That the LIO Teleconference Details as well as TV and Records are Noticed. Juneau LIO 465-4648. New Toll-Free Number for Off Net Calls is 877-763-5073. Do LIO Teleconference Order Form, found on the State Website Intranet on the cover page. Clair Richardson 463-6471 is the Gavel to Gavel contact; House records, Crys, 465-2214, they bring sign up sheets. *Submit form on line*

✓ 7. **Agenda.** Make an Agenda for the Meeting, Make Sure Everyone On the Agenda Who Needs to be there is Notified and Coordinate with them. *do this - call to confirm*

✓ 8. **Interested Parties.** Give notice to interested parties and invite agency commissioners to attend regarding their new proposed regulations. If an agency has a legislative liaison then first talk with the liaison to have him/her set things up. Ask for back-up information to put in the committee member packets.

✓ 9. **Meeting Packets.** Make up information file folder packets for committee members with necessary materials to be discussed. Put the Packet information on Basis.

✓ 10. **Press Release.** Contact Dani Carlson of House Majority Press and do a press release.

2/27 - called Rep Dugan's office - heads up - 465-4998

✓ 11. **Script.** Prepare a script for the Chairman of how the meeting will proceed and language to act as a guide.

12. **Committee Meeting.** Contact the Sgt. At Arms, Maceala 465-3869, to see that there is coffee and water in the committee room. See "Committee Aide Tips".

a) Make 3 copies of LIO sign up list one to Chair and to Records.

b) If a power point is going to be used get Help Desk to set it up.

c) Have sign up sheets on the desk out in the hall.

✓ d) Do Motion to hold Executive Session for Vice Chair. Come back into public session after Executive Session and then adjourn.

e) Before the meeting make sure that all members have paper, pen and supplies; Schedule is posted out on the bulletin board; agenda posted; hand outs copied and on the table for the public; coffee and water set out; and Chair has his script.

ALASKA STATE LEGISLATURE

Interim:

600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone: 373-1842
Fax: (907) 373-4729



Session:

State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-4899
Fax: (907) 465-3818

ADMINISTRATIVE REGULATION REVIEW COMMITTEE

March Meeting Script

- I. Call to Order by Chairman. (Rapping Gavel) Come to Order, Come to Order. I hereby call this meeting of the Joint ARRC to Order. For the record, today is Monday, March 8, 2010, and the time is 3:00 o'clock pm, and we are meeting in the Alaska State Capitol Room 17. I am the Committee Chairman, House Representative Wes Keller. I will now introduce my fellow committee members and perform the roll call.
- II. Introduction and Roll Call. To my right is Senator Donald Olson, the Vice Chairman; then Senator Albert Kookesh; and Senator Kevin Meyer. To my left are Representative David Guttenberg, and Representative Carl Gatto.
Guest: Rep. Tammie Wilson
- III. Opening remarks by the Chairman. Before we get started with today's meeting, I would like to make a few brief comments for the benefit of our audience. The ARRC as we call the committee, was established by the Legislature with the passage of Alaska Statute, AS24.20.400. The Committee's job is to review administrative regulations. You may be interested to know that on average, there are over 1,500 pages of proposed regulations every year! That's a lot of regulation!

E-Mail: John_Davies@legis.state.ak.us

The Committee is composed of six members, three from the Senate and three from the House. As part of its review powers, the Committee may suspend a regulation during the interim, or during Session, recommend passage of a statute overturning a regulation. The Committee's aim is to see that regulations proposed or adopted by the various state agencies are Constitutional, implement legislative intent and/or have statutory authority.

Our purpose today is to review two limited areas of regulation. First, are the proposed regulations dealing with cheese production ; and secondly, regulations concerning personal use cabins.

We will hear presentations by the Dept. of Environmental Conservation and the Dept. of Natural Resources, as well as public comment.

We will then close the public portion of the meeting and go into Executive Session in order to discuss non-public review memos with our legal counsel. During the Executive Session we will not be deliberating about the regulations reviewed today, but discussing with our attorney her regulation review memos sent to us since this Session began. After the Executive Session, the Committee will reconvene, and after any necessary public discussion, we will adjourn. We plan on 45-60 minutes for the cheese production regulation portion of the meeting and 30-45 minutes for the personal use cabins portion. So let's get started.

First up are the proposed Cheese Production Regulations. The main issue for discussion concerns exemptions for small dairies or small producers. Our first presenter is Kristin Ryan, Director, Environmental Health Division, DEC, who is scheduled to testify from Anchorage by telephone conference call. Director Ryan are you present, and can you hear us? (Note: There may be others from DEC on the line such as Dr. Fuller.)

Director Kirstin Ryan... (Testimony limitations per email)
req - only proposed - not final no date
Do any of the Committee Members have any questions for Director Ryan?

Chairman's questions: Director Ryan, the small dairy and/or small cheese producers have commented to the Committee that the regulations as proposed are too complicated and cumbersome, and place a costly burden on them. They have asked for a small producer exemption to the regulations. Is there anything in the statutes that would prohibit granting them an exemption? In your opinion what would the Legislature have to do in order to grant such a small producer exemption? Would such an exemption be good or bad public policy? How does the Federal law, the PMO, "pasteurized milk ordinance", effect all of this?

Now let's hear from the public.....List of testifiers..

4:00PM. It is 4:00pm and time to move on to the next regulation... I would like to close this portion of the meeting.

Next: We have a presentation by the Dept. of Natural Resources, Director Dick Mylius, is with us here in person to talk about personal use cabins. Welcome Director Mylius. Please take a seat at the table here, and give us your presentation. The Committee is interested in hearing about DNR policy and procedures, particularly as they relate to the intent expressed in the regulations to phase out the unauthorized use of state land. (11AAC65.010)

Director Mylius testifies:.....

Do any of the members of the Committee have any questions for Director Mylius?

(I have two questions: 1) What is the statutory authority of DNR to express its intent to phase out the unauthorized use of

E-Mail:John_Davies@legis.state.ak.us

state land? 2) Would it be possible to grant some kind of preference right to lease or buy personal use cabins to the present permittees? Would, in your judgment, that be good or bad public policy? Is there some way to lessen the hardship of forfeiture of the cabin by the present owner? Has the concept of adopting a cabin, much like adopting a portion of highway, been thought about, so perhaps a non-profit group could care for the cabins after the permit runs out?

Public comment.....

4:45pm. It is 4:45pm, and I would like to close this portion of the meeting.

The Committee would like to now go into Executive Session. Motion/Vote. Do I have a motion...(Senator Olson makes the motion.) vote..... Thank You . We will now go into Executive Session and off the public record.

Clear the room for Executive Session.

After Executive Session the Committee reconvenes the public meeting.

Discussion if any.

Adjournment.

END OF SCRIPT....

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 555 Cordova Street, Anchorage, AK 99501, by facsimile at 907-375-8213, 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

18 AAC 32.020(1) is amended to read:

(1) *Grade "A" Pasteurized Milk Ordinance (PMO)*, 2007 [2001] revision, published by the United States Department of Health and Human Services, [PUBLIC HEALTH SERVICE] Food and Drug Administration; this adoption by reference does not include sections 15 (Enforcement), 16 (Penalty), and 17 (Repeal and Date of Effect);

•••

18 AAC 32.020(3) is amended to read:

(3) *Evaluation of Milk Laboratories*, 2005 [1995] Revision, published by FDA;

•••

18 AAC 32.020(5) is amended to read:

(5) 21 C.F.R. 110, as revised as of April 1, 2007 [2003];

(Eff. 5/23/98, Register 146; am 1/14/2001, Register 157; am 9/6/2003, Register 167; am ___/___/___, Register ___)

Authority: AS 03.05.011 AS 03.05.020 AS 44.46.020

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.310. Purpose and Applicability. (a) The purpose of 18 AAC 32.310 – 18 AAC 32.390 is to safeguard public health and safety by requiring cheese and cheese products offered or sold to the public to be safe, unadulterated, wholesome and correctly labeled.

(b) The provisions of 18 AAC 32.310 - 18 AAC 32.390 apply to

(1) cheese producers whose cheese or cheese products are intended to be sold or offered to the public;

(2) milk producers who provide milk used for manufacturing cheese or cheese products. (Eff. __/__/__, Register __)

Authority: AS 03.05.011 AS 03.05.050 AS 17.20.290
 AS 03.05.030 AS 17.20.005 AS 44.46.020
 AS 03.05.040 AS 17.20.010

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.315. Requirements Adopted by Reference. Applicable provisions of the following publications are adopted by reference:

- (1) *Grade "A" Pasteurized Milk Ordinance*, 2007 Revision, the United States Department of Health and Human Services; Public Health Service, Food and Drug Administration; this adoption by reference does not include sections 15 (Enforcement), 16 (Penalty), and 17 (Repeal and Date of Effect);
- (2) *Evaluation of Milk Laboratories*, 2005 Revision, the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration;
- (3) 3-A Sanitary Standards and 3-A Accepted Practices published by the Food and Drug Administration and the International Association of Food Protection;
- (4) Food and Drug Administration/Center for Food Safety and Applied Nutrition Food Compliance Program, Domestic and Imported Cheese and Cheese Products (Inspection and Sampling Guidance Document), November 19, 1998;
- (5) 21 C.F.R. 101.1-101.30 (Food Labeling), revised as of April 1, 2007;

(6) 21 C.F.R. 101.54 – 101.83 (Food Labeling Nutrient and Health Claims), revised as of April 1, 2007;

(7) 21 C.F.R. 101.100-101.105 (Food Labeling Exemptions), revised as of April 1, 2007;

(8) 21 C.F.R. 110 (Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food), revised as of April 1, 2007;

(9) 21 C.F.R. 130.8 - 130.14 (Food Standards), revised as of April 1, 2007;

(10) 21 C.F.R. 133 (Cheeses and Related Cheese Products), revised as of April 1, 2007;

and

(11) 21 C.F.R. 170-189 (Food Additives), revised as of April 1, 2007. (Eff. ___/___/___,

Register _____)

Authority: AS 03.05.011 AS 17.20.010 AS 44.46.020
AS 17.20.005

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.320. Permit Requirements. (a) A person may not produce cheese or cheese products subject to this chapter except as authorized by permit under this section.

(b) A permit issued under this section

- (1) is valid for one year;
- (2) is issued to a particular cheese producer and is not transferable;
- (3) is subject to suspension, revocation, and reinstatement by the department; and
- (4) must be prominently posted for public view in the facility.

(c) At least 30 days before commencing construction of a cheese production facility, initiating cheese or cheese product production, or changing ownership, a cheese producer must apply for a permit for each operation subject to the requirements of this section, using a form provided by the department. The application must:

(1) be accompanied by a permit fee as described in 18 AAC 32.385;

(2) include

(A) a plot plan of the premises showing the location of buildings and property boundaries;

(B) plumbing schematics that depict hot and cold potable water lines, nonpotable water lines, wastewater lines, and floor drains;

(C) building floor plans depicting locations of equipment, plumbing fixtures, toilets, and sinks;

(D) finish material specifications for floors, walls, and ceilings;

(E) types and locations of lighting and ventilation;

(F) a general description of planned volumes and types of cheese products and processing methods; and

(G) other information required by the department to demonstrate compliance with 18 AAC 32.323 – 18 AAC 32.360 or other provisions of this chapter.

(d) In the case of annual renewal of permits for continuing operations, the department may accept, in lieu of the information required by (c)(2), a written statement from a cheese producer that there have been no changes to the facility or its operations and that no changes are intended for the next year.

(e) A cheese producer must notify the department of any changes to aspects of the facility or operations authorized by permit. The department may approve, conditionally approve or deny changes. Applications for permits or annual permit renewals must reflect all prior changes to the facility or operations. (Eff. ___/___/___, Register ___)

Authority: AS 03.05.011 AS 17.20.005 AS 44.46.020
AS 03.05.040

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.323. Water, Wastewater, Solid Waste, and Plumbing. (a) In addition to applicable requirements of 21 C.F.R. 110.37, revised April 1, 2007, and adopted by reference at 18 AAC 32.315, the following requirements apply:

- (1) an adequate supply of potable water must be available from a public water system constructed and operated as required by 18 AAC 80;
- (2) wastewater or whey from the facility must be discharged into a public sewer or a wastewater system constructed and operated as required by 18 AAC 72;
- (3) grease traps must be accessible and cleanable;
- (4) solid waste disposal must comply with 18 AAC 60;
- (5) plumbing must be designed, installed, and maintained as required by applicable municipal and state plumbing codes and be consistent with good public health practices;

(b) Plumbing may not create an unsanitary condition and may not pose a threat of contamination.

(1) hot and cold running water under pressure must be provided to each plumbing fixture with faucets, including handsinks, warewashing sinks, sinks used for preparation or processing, and janitorial sinks; and

(2) drain lines from equipment may not discharge wastewater directly on a floor.

(c) Any non-potable water line must be labeled "DANGER – UNSAFE WATER" and can only be used for

(1) fire protection;

(2) air conditioning;

(3) heating;

(4) flushing toilets; or

(5) other non-potable purpose approved by the department.

(Eff. __/__/__, Register __)

Authority: AS 03.05.011 AS 17.20.005 AS 44.46.020
AS 03.05.040

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.325. Construction Standards. (a) In addition to the requirements of 21 C.F.R. 110.20, revised April 1, 2007 and adopted by reference at 18 AAC 32.315, cheese production facilities must have separate rooms for each of the following operations or equipment:

(1) receiving and weighing of milk, and washing and sterilizing of containers in which milk is received;

(2) pasteurization, processing, cooling, and manufacturing;

- (3) bacteriological and chemical analysis;
- (4) storage or aging of products;
- (5) boiler, compressor, and other machinery;
- (6) storing of cleaning supplies or other potentially hazardous materials;
- (7) toilets, lavatories, and lockers; and
- (8) business offices.

(b) Floors of rooms listed in 18 AAC 32.325 (1), (2), (4), and (7) must be constructed of concrete or other impervious material and must be constructed to be water tight and sloped so that all drainage will flow to one or more floor drains.

(c) Floor drains must include p-traps that comply with applicable plumbing codes and must be connected to a sewer line that conveys refuse milk, water, and sewage at least 100 feet from the facility into an approved wastewater system.

(d) Doors must be self-closing and windows, doors and other openings must effectively exclude flies and other pests.

(e) No activity, material or waste may be located on the premises in a manner that harbors pests or allows foul odors to reach the operation.

(f) Light sources, including natural light, artificial light, or a combination of both, must furnish at least twenty foot-candles (220 lux) of light in all working areas.

(g) Dry storage and cold storage rooms must have at least five foot-candles (55 lux) of light.

(h) Ventilation in all rooms must keep the processing areas reasonably free of odors not normally associated with cheese production and keep equipment, walls, and ceilings free from excessive condensation.

(i) Pressurized ventilation systems, if used, must have a filtered air intake.

(j) Walls and ceilings in rooms where cheese or cheese ingredients are handled, processed, packaged, or stored; or in which containers, utensils, or equipment are washed, must be made of a solid material, sealed to the floor and have a smooth, washable, impervious and light-colored surface.

(k) the storage and transportation of finished products must comply with 21 C.F.R. 110.93, revised April 1, 2007 and adopted by reference at 18 AAC 32.315. (Eff. __/__/__, Register __)

Authority: AS 17.20.005 AS 44.46.020

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.330. Personnel. (a) Personnel must comply with the disease control, cleanliness, education and training requirements of 21 C.F.R. 110.10, revised April 1, 2007 and adopted by reference at 18 AAC 32.315.

(b) Cheese or its ingredients may not be handled with bare hands.

(c) Cheese production may not occur unless there is an individual on the premises who is responsible for identifying sanitation problems and potential food contamination who has the education and experience necessary for the production of unadulterated cheese products.

(d) Food handlers and supervisors must complete the Alaska Food Worker training described in 18 AAC 31.330 or other comparable training acceptable to the department.

(e) In this section, "food handler" means an individual handling cheese ingredients, unpackaged cheese, or food-contact surfaces.

(f) Cheese producers must restrict access to cheese processing areas to authorized personnel. (Eff. __/__/__, Register __)

Authority: AS 17.20.005 AS 17.20.072 AS 44.46.020

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.335. Equipment and Utensils. (a) Equipment and utensils must be sanitary and meet applicable 3-A Sanitary Standards and 3-A Accepted Practices, and 21 C.F.R. 110.40, revised as of April 1, 2007 and adopted by reference in 18 AAC 32.315.

(b) Vats must be stainless steel or equally corrosion-resistant metal and constructed according to the applicable 3-A Sanitary Standards and 3-A Accepted Practices, adopted by reference in 18 AAC 32.315.

(1) Vats must be in good repair, equipped with tight-fitting lids and have adequate temperature controls.

(2) Vats must

(A) have an adequate jacket capacity for uniform heating;

(B) have an inner liner constructed of a minimum 16-gauge stainless steel or other equally corrosion-resistant metal properly pitched from side to center and from

rear to front for adequate drainage and must be smooth, free from excessive dents or creases and extend over the edge of the outer jacket;

(C) have the junction of the liner and outer jackets constructed to prevent milk or cheese from entering the inner jacket;

(D) be equipped with a sanitary outlet valve; and

(E) be provided with effective valves that are properly maintained to control the application of heat to the vat.

(c) Mechanical agitators must meet the following requirements:

(1) carriages and tracks must be constructed to prevent dirt or grease from entering the vat; and

(2) metal blades, forks, or stirrers must be constructed of stainless steel or of material approved in the 3-A Sanitary Standards and 3-A Accepted Practices, adopted by reference in 18 AAC 32.315, and be free from rough or sharp edges which might scratch the equipment or remove metal particles.

(d) Knives, hand rakes, shovels, paddles, strainers, and miscellaneous equipment must be stainless steel or of material approved in the 3-A Sanitary Standards and 3-A Accepted Practices, adopted by reference in 18 AAC 32.315.

(e) Product contact surfaces of curd-mills must be constructed of stainless steel.

(f) Wires in curd knives must be constructed of stainless steel, kept tight and replaced when necessary.

(g) Hoops, forms, and followers must be constructed of stainless steel or heavy tinned steel.

(h) Cheese presses and press cloths must comply with the following requirements:

- (1) presses must be constructed of stainless steel;
- (2) cheese press joints must be welded;
- (3) cheese press surfaces, seams and openings must be readily cleanable;
- (4) cheese press pressure device must be the continuous type;
- (5) press cloths must be maintained in good repair and in a sanitary condition;

and

(6) single-service press cloths can only be used once. (Eff. __/__/__, Register

__)

Authority: AS 17.20.005 AS 44.46.020

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.340. Sanitation. (a) Sanitation practices for a cheese production facility must comply with 21 C.F.R. 110.35, revised as of April 1, 2007 and adopted by reference in 18 AAC 32.315.

(b) Sanitizing of food contact surfaces must comply with 18 AAC 31.424. (Eff. __/__/__, Register __)

Authority: AS 17.20.005 AS 44.46.020

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.345. Ingredients. (a) Cheese and cheese product ingredients must comply with 21 C.F.R. 110.80 and 21 C.F.R. 110.110, revised April 1, 2007 and adopted by reference in

18 AAC 32.315. Food additives must meet the standards described in 21 C.F.R. 170-189, revised April 1, 2007 and adopted by reference in 18 AAC 32.315.

(b) Producers and transporters of milk used for cheese production must meet the standards in 18 AAC 32.010 – 18 AAC 32.060 and the standards of the Food and Drug Administration's Pasteurized Milk Ordinance, adopted by reference in 18 AAC 32.315. All animals producing milk for cheese production must meet the animal health requirements at 18 AAC 36.

(c) Cheese may be made from raw or pasteurized milk.

(1) cheese made from raw milk must be aged and conform to the standards set forth in 21 C.F.R. 133, as adopted by reference in 18 AAC 32.315.

(2) pasteurized milk used in cheese production must conform to the phosphatase standards for pasteurized milk and milk products set forth in the Pasteurized Milk Ordinance, as adopted by reference in 18 AAC 32.315.

(d) Raw milk used to make cheese must meet the following quality standards at the time of receipt or collection:

(1) raw milk may not be adulterated, or have any abnormal odor, appearance or consistency;

(2) standard plate count for bacteria in raw milk may not exceed 300,000/ml from any individual milk producer or comingled milk; and

(3) raw milk may not contain unacceptable drug residue.

(A) raw milk used for cheese production must be tested for drug residues as required by the Pasteurized Milk Ordinance, as adopted by reference in 18 AAC 32.315.

(B) testing must be conducted by a laboratory that conforms to the Evaluation of Milk Laboratories, revised 2005 and adopted by reference in 18 AAC 32.315.

(C) the laboratory and laboratory analyst must be approved by the department to perform drug residue screening or confirmatory testing.

(4) somatic cell count in raw cow milk from a milk producer may not exceed 750,000 cells/ml on any 3 of 5 tests, as per the Pasteurized Milk Ordinance, adopted by reference in 18 AAC 32.315.

(5) somatic cell count in the raw goat milk from a milk producer may not exceed 1,000,000/ml on any 3 of 5 tests, as per the Pasteurized Milk Ordinance, adopted by reference in 18 AAC 32.315.

(6) raw milk must be cooled to 10°C (50°F) or less within four hours of commencement of first milking, and to within 7°C (45°F) or less within two hours after completion of milking. A blend temperature of an initial milking and subsequent milkings may not exceed 10°C (50°F). (Eff. __/__/__, Register __)

Authority:	AS 03.05.011	AS 17.20.010	AS 17.20.030
	AS 03.05.013	AS 17.20.020	AS 44.46.020
	AS 17.20.005		

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.350. Testing. (a) Cheese must be tested in accordance with this section.

(b) When beginning production of a new cheese product or a cheese product that has not been in production within the past year, or after a cheese fails a test prescribed by this section, the department will collect and analyze samples monthly for the next two months of production.

(c) After two months, the department will collect and analyze samples biannually unless the department determines that additional or more frequent testing is required to confirm product safety.

(d) Cheese samples must be analyzed in accordance with 21 CFR 133.5, adopted by reference in 18 AAC 32.315, for milkfat, moisture content, and phosphatase.

(e) Cheese samples must be analyzed using Food and Drug Administration-approved methodologies for the following six foodborne pathogens:

(1) Listeria monocytogenes;

(2) Salmonella;

(3) Escherichia coli;

(4) Enterotoxigenic Escherichia coli if Escherichia coli is present at 10^4 (10,000)

or above per gram;

(5) Enterohemorrhagic Escherichia coli (EHEC) ; and

(6) Staphylococcus aureus.

(f) A cheese producer must immediately report to the department results of any voluntary testing that exceed standards or tolerances in 18 AAC 32.345 or 18 AAC 32.370. (Eff.

___/___/___, Register ___)

Authority: AS 03.05.011 AS 17.20.005 AS 44.46.020.

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.355. Records. (a) A cheese producer must prepare or obtain the following records as applicable and retain them for the specified periods of time:

- (1) milk collection records received from milk haulers for at least two years;
- (2) records of all cheese product ingredients received at the cheese production facility, including the manufacturer and distributor of the ingredients, for at least one year;
- (3) daily records of all finished products produced at the cheese production facility, including name and type of product, volume produced, and date of production, for at least one year;
- (4) records of all milk quality tests conducted on milk shipments received by the cheese production facility for at least two years;
- (5) records of all tests for bacterial counts or adulteration in milk and cheese held or processed by the cheese production facility for at least two years;
- (6) pasteurization records for at least 180 days;
- (7) cleaning and sanitizing records for bulk milk tankers for at least 90 days;
- (8) temperature records for cheese processing and storage for at least 30 days;

(9) inventory control records for vitamin fortification of milk or cheese including vitamins used and quantity produced for at least two years;

(10) vitamin assay test results conducted on fortified cheese for at least two years; and

(11) daily records for cleaning and sanitizing equipment for at least 90 days.

(b) Records under subsection (a) shall be kept at the cheese production facility, and shall be made available to the department upon request. (Eff. __/__/__, Register __)

Authority: AS 03.05.011 AS 17.20.005 AS 44.46.020

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.360. Labeling and general identification. (a) Cheese and cheese products must comply with the standards of identity for cheese as described in 21 C.F.R. 133, revised as of April 1, 2007, and adopted by reference in 18 AAC 32.315.

(b) In addition to meeting labeling requirements in 21 C.F.R. 101.1-101.30, 21 C.F.R. 101.54 – 101.83, 21 C.F.R. 101.100-101.105, and 21 C.F.R. 130.8 - 130.14 revised as of April 1, 2007 and adopted by reference in 18 AAC 32.315, each package of cheese for retail sale must be labeled: "KEEP REFRIGERATED."

(c) Cheese products made from raw milk must be labeled "RAW MILK PRODUCT".

(d) Cheese may be labeled "MADE FROM GRADE A RAW MILK" only if manufactured under Grade A standards as outlined in the Pasteurized Milk Ordinance, adopted by reference in 18 AAC 32.315.

(e) Cheese products made from milk other than cow's milk must be labeled with the species of animal(s) the milk came from.

(f) Labels for cheese products must be approved by the department prior to commercial sale of the product. (Eff. __/__/__, Register __)

Authority: AS 03.05.011 AS 17.20.010 AS 44.46.020
AS 17.20.005 AS 17.20.300

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.365. Inspections. (a) The department may conduct inspections or audits with or without prior notice to determine compliance with this chapter.

(b) Inspections and audits to assess compliance with this chapter may include:

- (1) inspecting the cheese production facility;
- (2) examining labels, plans and records;
- (3) investigating employee illness or absenteeism;
- (4) examining food;
- (5) observing procedures;
- (6) obtaining samples;
- (7) conducting tests;
- (8) interviewing employees; and
- (9) taking photographs. (Eff. __/__/__, Register __)

Authority: AS 03.05.011 AS 17.20.005 AS 17.20.070
AS 03.05.040 AS 17.20.040 AS 44.46.020

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.370. Detention and Destruction. (a) A cheese producer must destroy or detain for further processing or testing cheese that has tested positive for Listeria monocytogenes, Salmonella, or Enterohemorrhagic Escherichia coli.

(b) A cheese producer must destroy or detain cheese for further processing or testing if any of the following tolerances are exceeded:

(1) Escherichia coli – 1×10^4 or greater organisms per gram;

(2) Enterotoxigenic Escherichia coli – 1×10^3 per gram, heat labile enterotoxin or heat stable enterotoxin positive; or

(3) Staphylococcus aureus – positive for Staphylococcal enterotoxin or when viable count (MPN) is 1×10^4 or greater per gram and toxin test is negative.

(c) If sample analysis of pasteurized milk or cheese made from pasteurized milk reflects a positive phosphatase test, then the cheese producer must destroy or detain the milk or cheese derived from that milk for further processing or testing.

(d) The department may require that a cheese producer detain cheese if the department finds, or has cause to believe, that the cheese or an ingredient is adulterated, misbranded, or processed in violation of this chapter. A cheese producer may not take any action with respect to detained cheese without the department's written consent. Detention under this subsection is subject to the following procedures:

(1) the department will

(A) issue a notice of detention and inform the cheese producer of the conditions under which the detention can be terminated;

(B) affix to the cheese or food ingredient a "detained" tag or other appropriate marking that gives notice that the cheese product or food ingredient has been detained;

(2) if, after issuing a notice of detention, the department finds that the cheese product or food ingredient is not adulterated, misbranded, or processed in violation of this chapter, the department will terminate detention and notify the cheese producer; and

(3) if the department finds that the cheese product or food ingredient is adulterated, misbranded, or processed in violation of this chapter, the department will notify the cheese producer of the corrective action necessary, which may include destruction of the cheese product or food ingredient.

(e) The department may require a cheese producer to destroy cheese if it violates standards or tolerances in 18 AAC 32.370 or if the cheese was made under the same conditions as other cheese found to violate those standards or tolerances.

(f) In this section, "destroy" means disposing of cheese or cheese products in a manner that precludes human consumption.

(g) In addition to the measures indicated in (a) – (f) of this section the department, in the event that it finds that failure to comply with this chapter poses an imminent health hazard, may take any other actions authorized by law, including modifying, suspending or revoking a cheese processing permit. (Eff. __/__/__, Register __)

Authority:	AS 03.05.011	AS 17.20.070	AS 17.20.250
	AS 03.05.030	AS 17.20.072	AS 17.20.260
	AS 03.05.050	AS 17.20.180	AS 17.20.270

AS 17.20.005	AS 17.20.190	AS 17.20.280
AS 17.20.020	AS 17.20.220	AS 17.20.305
AS 17.20.050	AS 17.20.230	AS 44.46.020
AS 17.20.060	AS 17.20.240	

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.375. Civil fines (a) The department may, without prior warning, notice, or hearing, assess a civil fine of not more than the following amounts for each violation of this chapter:

- (1) first offense: \$250;
- (2) second offense: \$500; and
- (3) third and subsequent offenses: \$1000.

(b) For the purpose of determining whether civil fines are warranted and their amounts, the department will consider aggravating or mitigating factors, including:

- (1) the history of previous violations by the cheese producer;
- (2) the seriousness of the violation, including actual or potential hazard to the health and safety of the public;
- (3) whether the violation occurred due to negligence or intentional conduct;
- (4) whether the cheese producer has demonstrated good faith efforts to achieve rapid compliance after notification of a violation;
- (5) the cheese producer's current compliance status and the number of continuing violations;

(6) the actual or potential economic gain to the cheese producer by violating a provision of this chapter;

(7) enforcement costs incurred by the department relating to the violation; and

(8) payment of civil fines previously assessed for the same or similar violation.

(Eff. __/__/__, Register __)

Authority:	AS 17.20.005	AS 17.20.190	AS 17.20.365
	AS 17.20.180	AS 17.20.315	AS 44.46.020

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.380. Right to Appeal a Decision (a) A person subject to this chapter may seek an informal review under 18 AAC 15.185 of a department decision.

(b) Nothing in this section affects a person's rights to request an adjudicatory hearing under 18 AAC 15.195. (Eff. __/__/__, Register __)

Authority:	AS 17.20.005	AS 17.20.072	AS 17.20.190
	AS 17.20.065	AS 17.20.180	AS 44.46.020

18 AAC 32 is amended by adding a new section to read:

18 AAC 32.385. Fees The annual permit fee for a cheese production facility is \$100.

(Eff. __/__/__, Register __)

Authority: AS 17.20.005

18 AAC 32.990 is repealed and readopted to read:

18 AAC 32.990. Definitions. Unless the context indicates otherwise, in this chapter

- (1) "adulterated" has the same meaning as "adulterated food" as defined in AS 17.20.020;
- (2) "approved" means approved in writing by the department;
- (3) "adequate" means necessary to accomplish the intended purpose in keeping with good public health practices;
- (4) "bed system" means a cradle used to support the reindeer carcass during the skinning process;
- (5) "brisket" means the anterior lower portion of the chest of the reindeer;
- (6) "bulk milk tanker" is a vehicle, including the truck, tank and those appurtenances necessary for its use, used by a bulk milk hauler/sampler to transport bulk raw milk for pasteurization from a dairy farm to a milk plant, receiving station, or transfer station;
- (7) "bulk transfer container" means a vehicle or container that a milk producer uses to ship bulk milk from a dairy farm to a dairy plant;
- (8) "bung" means the rectum or terminal portion of the intestine of the reindeer;
- (9) "CIP SYSTEM" means equipment that is designed, constructed and installed to be cleaned in place by the internal circulation of cleaning and sanitizing solutions onto product contact surfaces;
- (10) "carcass" means all parts, including viscera, of slaughtered reindeer;
- (11) "cheese" means a dairy product prepared from the pressed curd of milk. A complete listing of styles of soft, semi-soft, soft-ripened, and hard cheeses may be found in the

FDA/CFSAN Food Compliance Program, Domestic and Imported Cheese and Cheese products, November 19, 1998, adopted by reference in 18 AAC 32.215;

(12) "cheese production facility" means a place, premise, or facility where cheese or cheese products are collected, handled, processed, stored, or prepared;

(13) "cheese producer" means a person who owns or operates a cheese production facility and provides, sells, or offers cheese for human consumption;

(14) "cheese product" means a product made from cheese that is intended for human consumption;

(15) "clean" or "cleaned" means, with regard to equipment or utensils, made free of soil, or to make free of soil, by

(A) washing in warm, soapy water and rinsing; or

(B) using another approved method if using water is inappropriate for the equipment or utensil being cleaned;

(16) "commissioner" means the commissioner of environmental conservation;

(17) "composite sample" means a sample of milk which is collected from 2 or more milk shipments from the same milk producer, and which is compiled and preserved;

(18) "critical control point" means a point, step, or procedure in a slaughtering or processing facility at which control can be applied, and a food safety hazard can, as a result, be prevented, eliminated, or reduced to acceptable levels;

(19) "critical violation" means

(A) food unfit for human consumption;

- (B) potentially hazardous food that is not kept at required temperatures during storage, preparation, processing, display, service, and transportation;
 - (C) insufficient facilities and equipment to maintain product temperatures;
 - (D) a person working as a food handler who has a disease communicable by food;
 - (E) employee conduct in violation of 18 AAC 32.650(a) - (b), the results of which might be a disease communicable by food;
 - (F) food-contact surfaces of equipment or utensils that are not washed, rinsed, and sanitized effectively and that might contaminate food;
 - (G) a water supply that
 - (i) is not in compliance with 18 AAC 32.625; or
 - (ii) has a cross-connection with a nonpotable supply or a back siphonage potential;
 - (H) sewage or liquid waste not disposed of in an approved manner;
 - (I) toilets and handsinks not installed or inaccessible;
 - (J) insects, rodents, or other pests that are on the premises;
 - (K) poisonous or toxic material that is improperly labeled, stored, or used;
 - (L) a violation of a critical control point in a HACCP plan described under 18 AAC 32.660;
 - (M) a foodborne illness associated with operation of the facility; or
 - (N) a condition or practice that affects the wholesomeness or safety of food;
- (20) "dairy plant" means any place where dairy product is manufactured or processed for sale or distribution as human food and includes a receiving station or transfer station;

(21) "dairy plant operator" means a person who operates a dairy plant and who is required to be licensed;

22) "dairy product" means all of the following:

(A) Raw or processed milk;

(B) A milk product or by-product, including all dairy and non-dairy ingredients incorporated into that milk product or by-product;

(C) A commodity in which milk or any milk product or by-product is the principle ingredient;

(23) "department" means the Department of Environmental Conservation;

(24) "easily cleanable" means readily accessible and designed so that residue may be effectively removed by normal cleaning methods;

(25) "equipment" means machinery, apparatus, pipeline and appurtenances used in connection with the operation of a facility; "equipment" includes fixtures, containers, vessels, tools, devices, implements, storage areas, and sinks;

(26) "evisceration" means the process of removing viscera from a carcass;

(27) "extensively remodeled" means modified or improved at an expense equal to or exceeding 25 percent of the taxable value of the facility before initiation of the modification or improvement;

(28) "facility" means the premises used to conduct activities described in this chapter;

(29) "FDA" means the United States Food and Drug Administration;

(30) "fermentation" means any of a group of chemical reactions induced by living or non living yeast, bacterium, mold or enzyme that split complex organic compounds into relatively simple substances;

(31) "fluid milk product" means cream, sour cream, acidified sour cream, half-and half, sour half-and-half, whipped cream, concentrated milk, concentrated milk products, reduced fat milk, low fat milk, nonfat milk, flavored milk, buttermilk, cultured buttermilk, cultured milk, yogurt, low fat yogurt, nonfat yogurt, eggnog, nog-flavored milk, vitamin and mineral fortified milk or milk products, and any other fluid milk product made by adding any substance to milk or any such product;

(32) "food" or "food product" means a product made wholly or in part from an animal that is intended for human consumption;

(33) "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;

(34) "food-contact surface" means the surface of equipment and utensils with which food or food ingredients normally comes in contact, or from which drippage, drainage, or splashback onto a surface that contacts food might occur;

(35) "footcandles" means the illumination

(A) on a surface one square foot in area on which a flux of one lumen is uniformly distributed; or

(B) produced on a surface all points of which are at a distance of one foot from a directionally uniform point source of one candela;

(36) "frozen dessert" means ice cream, French ice cream, artificially sweetened ice cream, frozen custard, frozen yogurt, frozen concentrates, ice milk, sherbet, water ice, quiescently frozen confection, quiescently frozen dairy confection, manufactured frozen dessert mix and frozen whipped cream confections. "frozen dessert" includes "frozen dessert mix";

(37) "frozen dessert mix" means a mixture of frozen dessert ingredients that has not yet been processed and frozen to create a frozen dessert. "Frozen dessert mix" includes a mix of previously pasteurized dry dairy ingredients that is combined with potable water to create a liquid mix;

(38) "formula" means each ingredient used, the amount of each ingredient used, and the process used to make the milk or milk products;

(39) "gloves" means items that are

(A) made of natural rubber, vinyl, or synthetic material, including neoprene, polyvinyl chloride, and styrene butadiene; and

(B) worn on the hands to prevent contamination between food and an operator or employee;

(40) "HACCP plan" means a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point Principles and Application Guidelines, by the National Advisory Committee on Microbiological Criteria for Foods; the Hazard Analysis and Critical Control Point Principles and Application Guidelines are adopted by reference in 18 AAC 32.601;

(41) "handsink" means a lavatory

(A) equipped with hot and cold running water under pressure that can be tempered to a temperature between 100ø F - 120ø F by a mixing valve or combination faucet; and

(B) used solely for washing hands, arms, or other portions of the body;

(42) "hazard," with respect to food, food products, and food ingredients, has the meaning given in 18 AAC 31.990;

(43) "hermetically sealed" has the meaning given in 18 AAC 31.990;

(44) "imminent health hazard" means a condition with the potential to affect public health adversely; "imminent health hazard" includes

(A) the extended loss of a potable water supply;

(B) an extended power outage;

(C) a sewage backup into the facility or onto the grounds;

(D) a natural disaster;

(E) an employee sick with a disease communicable by food; and

(F) a major insect or rodent infestation;

(45) "inspected and passed" means determined by the department to be unadulterated, at the time a product was inspected under this chapter;

(46) "lot" means a collection of primary containers of the same size, type, and style produced under conditions as nearly uniform as possible and usually designated by a common code or marking, or a day's production;

(47) "low acid food" has the meaning given in 18 AAC 31.990;

(48) "meat" means the flesh and organs of a reindeer;

(49) "midline" means the median line of the carcass;

(50) "milk" means the normal lacteal secretion, practically free of colostrum, obtained by milking a cow, goat, sheep or other ruminant and includes skim milk and cream;

(51) "milk component testing device" means an automated testing device used to perform MILK component tests;

(52) "milk distributor" means a person who sells or offers to sell milk or milk products for wholesale;

(53) "milk hauler" means a person who transports raw milk or raw milk products to or from a milk processing plant, receiving station, or transfer station;

(54) "milk processing plant" means a place, premise, or facility where milk or milk products are collected, handled, processed, stored, pasteurized, processed, bottled, or prepared for wholesale distribution;

(55) "milk producer" means a person who owns or operates a dairy farm and provides, sells, or offers milk for sale to a milk processing plant, receiving station, or transfer station;

(56) "milk product" means a product made from fluid milk that is intended for human consumption, including cheese, yogurt, sour cream, and ice cream;

(57) "milk quality test" means a bacteria count, somatic cell count, drug residue test, milk component test, or other analytical test which is used to determine compliance with milk quality standards;

(58) "multi-use package" means a returnable bottle or other package that is designated for repeated use;

(59) "on-the-rail system" means an overhead rail from which carcasses are hung during the skinning process;

(60) "operation" means the premises, practices, and procedures associated with a specific type of activity within a facility subject to this chapter;

(61) "operator" means a person who controls, operates, manages, or conducts an activity described in this chapter;

(62) "package" means a container or wrapping, having one or more product contact surfaces, that is designed or used to enclose a dairy product sold or shipped from a dairy plant.

"Package" includes package covers and other package components. "Package" includes all of the following:

(A) a returnable bottle or other multi-use package;

(B) a single-service package;

(C) a bulk or shipping container, other than a bulk milk tanker that has one or more product contact surfaces and is used for the sale or shipment of a dairy product from a dairy plant;

(63) "packaging" means canning, cartoning, or tightly wrapping;

(64) "pasteurize" has the meaning given in the *Grade "A" Pasteurized Milk Ordinance*, adopted by reference in 18 AAC 32.315;

(65) "person" means an individual, corporation, partnership, cooperative, association, or any other business organization or entity. "Person" includes the State of Alaska, and any subunit or agency of the state, to the extent that the state or its subunit or agency is engaged in operating a dairy plant;

(66) "pesticide" has the meaning given in 18 AAC 90.990;

(67) "PMO" means the *Grade "A" Pasteurized Milk Ordinance*, adopted by reference in 18 AAC 32.020 and 18 AAC 32.315;

(68) "potable water" means water that is bacteriologically and chemically safe to drink, and that is free from harmful parasites from a supply properly located, protected and operated by the owner of the dairy plant;

(69) "potentially hazardous food" has the meaning given in 18 AAC 31.990;

(70) "ppm" means parts per million;

(71) "premises" means a place or location used in conjunction with the activities of a facility described in this chapter; "premises" includes all or portions of structures, land, vehicles, equipment, a water supply, a wastewater system, and plumbing;

(72) "processing" means an activity that changes the physical condition of a food or dairy product; "processing" includes butchering, cutting, slicing, grinding, cooking, dehydrating, freezing, packaging, smoking, pasteurizing, blending, manufacturing, or thermal processing;

(73) "processing plant" means a plant at which food products are processed;

(74) "product contact surface" means a surface of equipment or a surface of a utensil or package, with which a dairy or food product normally comes in direct contact, or from which materials may drain, drip or be drawn into a product;

(75) "public water system" has the meaning given in 18 AAC 80.1990;

(76) "putrefaction" means the partial decomposition of organic matter by microorganisms producing foul-smelling rotten matter;

(77) "raw milk" or "raw milk product" means milk or a milk product that has not been pasteurized or processed;

(78) "ready-to-eat," with respect to food, food products, and food ingredients, has the meaning given in 18 AAC 31.990;

(79) "reduced oxygen packaging" has the meaning given in 18 AAC 31.990;

(80) "receiving station" means a place, premise, or facility where raw milk is received, collected, handled, stored, or cooled, and then prepared for further transporting;

(81) "rodding" means positioning the looped end of a metal rod around the esophagus and pushing it through the thoracic cavity up to the diaphragm, to separate the esophagus from the trachea and lungs and permit its removal, through the diaphragm and thoracic cavity, without breaking during evisceration;

(81) "rumping" means the stage in dressing a reindeer carcass on half-hoist

(A) where the hide is removed from the hind legs, rump, and tail, and the bung is cut out and tied; and

(B) that takes place between the skinning and the gutting operation;

(82) "safe," with respect to food, food products, and food ingredients, has the meaning given in 18 AAC 31.990;

(83) "sanitize" means to reduce the number of microorganisms on cleaned surfaces, equipment, and utensils to a safe level by application of an appropriate sanitizing agent that is registered as required under 18 AAC 90;

(84) "shipping container" means a box, carton or similar container in which packaged dairy or food products are shipped in bulk from a plant;

(85) "single-service package" means a package that is designed to be used only once prior to disposal;

(86) "slaughtering or processing facility" means a facility where reindeer intended to be sold as part of commerce and intended for human consumption is slaughtered or processed;

"slaughtering or processing facility" does not include a

(A) food service described in 18 AAC 31.205 that accepts and processes a donation of reindeer in compliance with 18 AAC 31.205(1) - (6);

(B) site described in 18 AAC 31.820(a)(1) where reindeer are slaughtered and dressed for purposes of sales in compliance with 18 AAC 31.820(a)(1) - (a)(4); or

(C) retail meat market that is permitted under 18 AAC 31 and that processes reindeer in accordance with 18 AAC 31.820(b);

(87) "splitting" means to separate, cut, or divide into two or more parts;

(88) "stunned" means rendered unconscious;

(89) "thermally process" means to perform thermal processing as defined in 18 AAC 31.990 of food, food products, or food ingredients;

(90) "transfer station" means a place, premises, or facility where milk or milk products are transferred directly from one milk tank truck to another;

(91) "utensil" means a handheld or other similarly portable implement used to prepare, transport, or store food, food products, or food ingredients;

(92) "water activity" has the meaning given in 18 AAC 31.990;

(93) "wholesome" has the meaning given in 18 AAC 31.990. (Eff. 5/23/98, Register 146; am 1/14/2001, Register 157; am 9/6/2003, Register 167; am ___/___/___, Register ___)

Authority:	AS 03.05.011	AS 17.20.030	AS 17.20.200
	AS 03.05.020	AS 17.20.040	AS 17.20.230

Register ____, _____ 2010

ENVIRONMENTAL CONSERVATION

AS 03.05.040	AS 17.20.070	AS 17.20.250
AS 03.05.050	AS 17.20.072	AS 17.20.270
AS 17.20.010	AS 17.20.075	AS 17.20.290
AS 17.20.020	AS 17.20.190	AS 44.45.020

Subject: FW: Let's change a regulation

Dear Friends and Family;

I'm asking you for a favor, one that won't take much time but could make a difference. A little history is in order about how I came to be asking for help. I have several clients that have home dairies (both goat and cow). They make terrific cheeses but they can't sell those cheeses due to government regulations, which in Alaska are based on USDA guidelines. This sounds OK until you read the guidelines, which are actually the size of a mystery novel. Under current regulations, local cheese producers would have to have an eight room facility including a laboratory to check for antibiotics in the milk. As one of my clients says, "If I didn't give them antibiotics who would have?" The point is, these rules are made for large dairies and pushed by the American Dairy Association to further their interests not ours.

Let me be very clear; we are talking about cheese made from pasteurized milk. This is cheese that these small producers are feeding to their own families and friends. Under these current rules, Alaska does not and will never have a cheese industry. This concerns me. One reason is from an economic development standpoint. My friend is asked weekly to sell cheese or milk (many children can't drink cow's milk). This would not be a huge industry, but it is still dollars that leave Alaska that could be reinvested here. Have you noticed lately what artisanal cheeses are selling for at the supermarket? The ability to sell cheese would provide a good supplementary income for these farm families. Secondly, we Alaskans don't produce much. If our supply chain were ever interrupted due to war, disease, natural disaster or economic meltdown, things here could become dire. We should encourage people in our community to raise dairy animals so that in the event of an emergency, there would be a source of milk for those most in need of it. Thirdly, I'm quite frankly sick of government sticking their collective noses into places where they don't belong. I don't mind being protected from things that are dangerous, but they have taken the definition of dangerous to absurd lengths. As it is, we have very little idea of the regulations that exist for the manufacture of cheese which we import from other countries. Wouldn't you prefer to buy from a farmer you know?

Jennifer Ansley, a local goat owner, (She makes and sells those terrific goat's milk lotions and soaps you buy around town. Far Above Rubies is the name of her product.) and I have spent a lot of time on this. We've met with people from the University, the State Veterinarian, people from the DEC, senators and representatives, officials from the FNSB and others. Everyone is sympathetic but most have the 'can't get there from here attitude'. However, currently there is a proposed cheese regulation out for comment. We have been led to believe that if they get enough response from the public, they might be willing to change the regulations.

So here is what I'm asking you to do.

1. Write a short comment stating you would be in favor of an exemption for home dairies from the proposed regulation 18AAC32 and e-mail it to jay.fuller@alaska.gov. Or you could call him at 907-929-7335. Jay Fuller is with the State Veterinarian office. Note that this is only about cheese. Please don't muddy the waters with any other issues.
2. Forward this to as many Alaskans as you can.

907 375 8217

The deadline for comments is December 3rd at 5pm.

If this works, maybe we could change some other things too. Who knows, maybe we could make the democratic process work after all.

Thank you so much for your help. This is an issue that is important to me. If you find yourself in the same situation, let me know I would be glad to help. You can e-mail me or call me @ 474-4576 weekdays or 488-2666 evenings and weekends with questions or comments.

Paul Robinson

17 member - *Jacobson Elm Dec. Com?*

PBR@RES<PA.com

John Davies

From: Jim Pound
Sent: Wednesday, February 03, 2010 4:23 PM
To: John Davies
Subject: FW: Cheese Regulation Packet

From: Havemeister, Franci A (DNR) [mailto:franci.havemeister@alaska.gov]
Sent: Thursday, December 03, 2009 9:38 AM
To: Ryan, Kristin J (DEC); Peter Fellman; Fuller, Jay D (DEC); Rep. Mark Neuman; Rep. Jay Ramras; Rep. Carl Gatto; Jane Pierson; Jim Pound; Paul Labolle; Rep. Bill Stoltze; Rep. Craig Johnson; Rep. Wes Keller; Rex Shattuck; Sheila Peterson
Cc: Gerlach, Robert F (DEC); Haralson, Lora L (DNR)
Subject: RE: Cheese Regulation Packet

Kristin,

The Division of Agriculture is requesting an extension on the Cheese Regs to give industry more time to review and comment.

Thank you for your consideration.

Franci

Franci Havemeister, Director
Division of Agriculture
State of Alaska
907-761-3867

From: Ryan, Kristin J (DEC)
Sent: Tuesday, December 01, 2009 8:07 AM
To: Fellman, Pete (LAA); Havemeister, Franci A (DNR); Fuller, Jay D (DEC); Neuman, Mark A (LAA); Ramras, Jay B (LAA); Gatto, Carl (LAA); Pierson, Jane (LAA); Pound, Jim (LAA); Labolle, Paul C (LAA); Stoltze, Bill (LAA); Johnson, Craig W (LAA); Keller, Wes (LAA); Shattuck, Rex (LAA); Peterson, Sheila (LAA)
Cc: Gerlach, Robert F (DEC)
Subject: RE: Cheese Regulation Packet

Pete are you requesting an extension of the comment period?

By the way, a legislative attorney has reviewed them already and provided comments to the regulatory review committee. Lisa Kirsch was the reviewer.

Kristin

From: Peter Fellman [mailto:Peter_Fellman@legis.state.ak.us]
Sent: Tuesday, December 01, 2009 6:53 AM
To: Havemeister, Franci A (DNR); Ryan, Kristin J (DEC); Fuller, Jay D (DEC); Neuman, Mark A (LAA); Ramras, Jay B (LAA); Gatto, Carl (LAA); Pierson, Jane (LAA); Pound, Jim (LAA); Labolle, Paul C (LAA); Stoltze, Bill (LAA); Johnson, Craig W (LAA); Keller, Wes (LAA); Shattuck, Rex (LAA); Peterson, Sheila (LAA)
Subject: RE: Cheese Regulation Packet

John Davies

From: Jim Pound
Sent: Wednesday, February 03, 2010 4:23 PM
To: John Davies
Subject: FW: Let's change a regulation

From: Peter Fellman
Sent: Tuesday, December 01, 2009 7:22 AM
To: Jane Pierson; Rep. Jay Ramras; Rep. Mark Neuman; Rep. Carl Gatto; Rex Shattuck; Rep. Mike Kelly; Jim Pound; Paul Labolle; Rep. Bill Stoltze; Rep. Wes Keller; Sen. John Coghill
Subject: FW: Let's change a regulation

From: P&P Fellman [mailto:udder_farm@hotmail.com]
Sent: Tuesday, December 01, 2009 7:12 AM
To: Peter Fellman
Subject: FW: Let's change a regulation

Subject: FW: Let's change a regulation
Date: Fri, 20 Nov 2009 10:59:09 -0900
From: pbr@rescpa.com
To: udder_farm@hotmail.com

From: Paul Robinson
Sent: Thursday, November 19, 2009 3:41 PM
To: 'clay spurling'; 'Jeff Wagner'; 'Janeen Macom'; 'Joanne Trefethen'; 'jenifer@ciint.com'; 'J Wigdahl'; 'John Luther Adams'; 'jspencer'; 'Julie Ament'; 'Juliette Boselli'; 'jstearns@gci.net'; 'JOHN JACKOVICH'; 'Jay Fulk'; 'John Kelly'; 'Janet Wakefield'; 'Joan Johnson'; 'Julie Scott'; 'jclark@alaska.net'; 'Jim Craig'; 'Jenifer Lefebvre'; 'Jimmy Wingerter'; 'Miller, Judy'; 'Amy Borneo'; 'amy johnson'; 'Audrey Ranstead'; 'Aileen D. Munoz'; 'Ann Hopper'; 'Amy Bristor'; 'Lopuhovsky, Angela'; 'Audra McGhee'; 'Hollister, Cole'; 'aknapp@grantstation.com'; 'Heather L Heineken'; 'Gary Baxley'; 'Bill St. Pierre'; 'brat@gci.net'; 'beth Kohnen'; 'bergdahl@ptialaska.net'; 'Bob Sattler'; 'conley jessica'; 'Cynthia Walker'; 'crystalg@rescpa.com'; 'callienne elterman'; 'Cynthia Adams'; 'Carrie McEnteer'; 'Cindy Salmon'; 'cynthia@acsalaska.net'; 'Charlie Dexter'; 'Charlie Dexter'; 'Connie Siegman @ Full Spectrum Painting, Inc.'; 'Cyndie Warbelow-Tack'; 'Don Ives'; 'Doris Miller'; 'diana'; 'Dr. Jonathan Victorino'; 'Dennis Witmer'; 'Karen Dieringer'; 'denalisubway@mac.com'; 'Debbie Shreve'; 'Dunham, Gay O.'; 'Donna Evans'; 'Darcy Harrod'; 'Debbi Miller'; 'Eric'; 'Ed & Pat McClure'; 'Esther Lara'; 'Kristi Higa'; 'Gary Laursen'; 'Amy Bristor'; 'Susan Doren'; 'Gary Brooking'; 'conley jessica'; 'Gary Baxley'; 'Robert Hook'; 'Paula Kunkel'; 'holladay.hardwoods@yahoo.com'; 'Larry Santoni'; 'Harold Woods'; 'Hannah preuss'; 'Image Optical'; 'kirstys@rescpa.com'; 'Kelly Ward'; 'Karma Seaman'; 'kmcafee@gci.net'; 'Kate Hall'; 'karrie@hairbodyandsol.com'; 'ken.jernstrom@alaska.edu'; 'Kate LaSota'; 'Kirsty'; 'Kaarin Tack'; 'Lillian O'Brien'; 'Winters, Linda'; 'Leisa Boswood'; 'Lantz, Teresa'; 'Lovell, Terri'; 'Meghan Geyer'; 'mariya rover'; 'Mike Young'; 'monica dallas'; 'Sharon McConnell'; 'Mark Ricahrds'; 'mbmgt@acsalaska.net'; 'mstevenson@alaska.net'; 'Nedra Buck'; 'Webber, Paula Sue (DOT)'; 'Patty Loud'; 'Patricia Peirsol'; 'Sexton, Roxann G (DOT)'; 'regina white'; 'Tori Clark'; 'Roblyn'; 'radcarlson@msn.com'; 'Sandy Crump'; 'Sarah Woods'; 'sharon@fundingexchange.org'; 'Sarah Lefebvre'; 'Sage Adams'; 'Susan Willis'; 'Ted Tisdale'; 'Tamara L. Spaulding'; 'Tonya L. Hess'; 'Teresa Quakenbush'; 'trudy@acousticadventures.com'; 'villa@santanet.org'; 'Veronica R.

John Harris is asking our legislative attorney that reviews regulations, to look at these proposed regulation changes. Our view is there wasn't enough time given for good public process, 30 days or less depending when people heard about this action. Also we will be asking the legislative committee that reviews regulation changes to take this up during the next session. If there needs to be changes in policy with regards to farm products we should look at every thing DEC is doing with regards to farm and home production. As you know there are volumes of information that is adopted by publication, it takes longer than 30 days review the material and get a complete picture of what DEC is doing to the good people of this state. Everyone who has interest should be asking for a time extension on this one.

From: Havemeister, Franci A (DNR) [mailto:franci.havemeister@alaska.gov]
Sent: Monday, November 30, 2009 1:13 PM
To: Peter Fellman
Subject: FW: Cheese Regulation Packet

Pete,

Have you had a chance to take a look at these regs? The last day to comment is Dec 3rd.

Thanks

Franci

Franci Havemeister, Director
Division of Agriculture
State of Alaska
907-761-3867

From: Havemeister, Franci A (DNR)
Sent: Monday, November 23, 2009 3:53 PM
To: Bert Gore (crosswind@matnet.com)
Subject: FW: Cheese Regulation Packet

Bert,

Thought these might interest you!

Have a happy Thanksgiving!

Franci

Franci Havemeister, Director
Division of Agriculture
State of Alaska
907-761-3867

From: Fuller, Jay D (DEC)
Sent: Wednesday, November 04, 2009 11:07 AM
To: Havemeister, Franci A (DNR); dhepler@gci.net; pete.fellman@legis.gov; ffmps@uaf.edu; Kusko Lady; Editor@alaskafarmandranchnews.com; kbeus@yahoo.com; fairskies@allisawfarm.com; janehamilton99737@yahoo.com
Cc: Ryan, Kristin J (DEC); Gerlach, Robert F (DEC)
Subject: FW: Cheese Regulation Packet

Dear Interested Parties,

Attached is the public notice for draft cheese production regulations. The draft regulation is now posted on the internet for public comment. A raw milk fact sheet is also attached for your information. Please feel free to disseminate this

information to any other people that may be interested. We plan to hold a workshop this month to discuss the regulation. Please let me know if you are interested in participating so we can arrange a schedule.

Thank You,

Jay Fuller, DVM
Assistant State Veterinarian
Alaska Dept of Environmental Conservation

Paul Robinson

From: Jeff Wagner [vagner1971@hotmail.com]
Sent: Monday, November 23, 2009 6:22 AM
To: Paul Robinson
Subject: RE: Dairy products

I read your letter urging people to write their representatives. It looked good and I promptly sent off a message to the e-mail account in the letter. Anything else I can do, let me know.

Jeff

Subject: RE: Dairy products
Date: Fri, 20 Nov 2009 14:38:26 -0900
From: pbr@rescpa.com
To: vagner1971@hotmail.com

What do you think?

From: Jeff Wagner [mailto:vagner1971@hotmail.com]
Sent: Wednesday, November 18, 2009 12:57 PM
To: Paul Robinson
Subject: Dairy products

Hello,

My name is Jeff Wagner, a friend of Clay Spurling. He dropped by today and gave me your e-mail, telling me to get in touch about dairy issues (for lack of a better way to refer to them right now). He told me you were on the front lines trying to get the laws changed? I have no idea how I can help, but I am interested in what you are doing. Contact me if you please.

Jeff

Hotmail: Trusted email with powerful SPAM protection. [Sign up now.](#)

Bing brings you maps, menus, and reviews organized in one place. [Try it now.](#)

Paul Robinson

From: Fuller, Jay D (DEC) [jay.fuller@alaska.gov]
Sent: Tuesday, November 24, 2009 2:02 PM
To: Paul Robinson
Subject: RE: Home Dairy Cheese

Thank you for your comment. All comments will be addressed by DEC after the comment period ends Dec 3rd.

Jay Fuller, DVM
Assistant State Veterinarian

From: Paul Robinson [mailto:pbr@rescpa.com]
Sent: Monday, November 23, 2009 4:39 PM
To: Fuller, Jay D (DEC)
Subject: Home Dairy Cheese

Dr Fuller,

It was a pleasure talking to you the other day. I'm writing as a follow up to that. Several people have told me that we are very fortunate to have you to deal with as your predecessor was less than open to change.

I really want the State to make an exemption from the rules to allow small dairies to flourish in our State (18aac32). We need to diversify our economy. This is something that most politicians use as part of their election platform but at this point it just seems it is a buzz-word. Also, I feel that is healthier buying locally produced cheese products than those that come from thousands of miles away or Kraft Plastic Cheese whose ingredients reads like a chemistry experiment. In addition, I think our State is vulnerable if our supply chain was ever broken (war, economic meltdown, natural disaster....). But mainly I like the cheese that I currently cannot buy.

In our conversation you indicated that public comment would make a difference and we intend on finding out if that is true. I'm sure you have noticed some interest in this already and you can expect some additional responses on this matter before the deadline. Like many Americans and Alaskans I don't trust our governments and I'm hoping this process will show me (and others) that our voice can be heard. If you could get me on your mailing list or e-mailing list for future regulation in this area I would appreciate it.

Respectfully Yours

Paul Robinson, CPA
1300 Washington Dr., Ste 201
Fairbanks, AK 99709

Paul Robinson

From: Ann Hopper [ffadh@uaf.edu]
Sent: Tuesday, November 24, 2009 2:20 PM
To: Paul Robinson
Subject: FW: Favor of an exemption for home dairies

Annie Hopper, LCSW
UAF CRCDC Tech Prep Coordinator
510 2nd Avenue/Room 309A Chena Building
P.O. Box 756510
Fairbanks, Alaska 99775-6510
(907) 455-2034
Fax: (907) 455-2051 Cell: (907) 388-8802
ffadh@uaf.edu

From: Fuller, Jay D (DEC) [mailto:jay.fuller@alaska.gov]
Sent: Tuesday, November 24, 2009 1:58 PM
To: Ann Hopper
Subject: RE: Favor of an exemption for home dairies

Thank you for your comment. All comments will be addressed by DEC after the comment period ends Dec 3rd.

Jay Fuller, DVM
Assistant State Veterinarian

From: Ann Hopper [mailto:ffadh@uaf.edu]
Sent: Tuesday, November 24, 2009 1:34 PM
To: Fuller, Jay D (DEC)
Subject: Favor of an exemption for home dairies

Hello Jay: just wanted to send a comment about the proposed regulation 18AAC32 to say I am in favor of an exemption for home dairies! Please do what you can to support this exemption! Annie Hopper

Annie Hopper, LCSW
Cell: (907) 388-8802

Paul Robinson

From: Dyan Cooper [dyan@completeservicecompany.com]
Sent: Monday, November 30, 2009 12:08 PM
To: jay.fuller@alaska.gov
Subject: Reg. 18AAC32 exemption for Home Dairy Sale of Cheese
Attachments: "AVG certification"

Dear Sir,

This writing is to register that I, Dyan Cooper, 2100 Hanson Rd., Fbks, AK, 99709, Phone # 907-452-0540, am in favor of an exemption for Home Dairies in the proposed regulation 18AAC32.

Respectfully,

Dyan Cooper

Kelly Ward

From: Fuller, Jay D (DEC) [jay.fuller@alaska.gov]
Sent: Tuesday, November 24, 2009 2:00 PM
To: Kelly Ward
Subject: RE: Home Dairy exemption

Thank you for your comment. All comments will be addressed by DEC after the comment period ends Dec 3rd.

Jay Fuller, DVM
Assistant State Veterinarian

From: Kelly Ward [mailto:kelly@rescpa.com]
Sent: Tuesday, November 24, 2009 9:22 AM
To: Fuller, Jay D (DEC)
Subject: Home Dairy exemption

Mr. Fuller,

I am writing regarding the fact that I am in favor of an exemption for home dairies. This issue is covered under proposed regulation 18AAC32. I believe this issue is of significant important in Alaska where so many of our suppliers are separated by such a large distance. By having home dairies, this is one way in which we can support our local economy and the local community through legislation that favors local Alaskans.

Kelly Ward, EA

Paul Robinson

From: Mike Young [myoung007@alaska.net]
Sent: Sunday, November 22, 2009 7:03 PM
To: jay.fuller@alaska.gov
Cc: Paul Robinson; micah@cbsnews13.com; Sam Oxman; Bill St Pierre
Subject: RE: 18AAC32 EXEMPTION

Jay Fuller,

As a former elected Borough Assemblyman we are trying to support small businesses here in the interior.

I am certain you are aware of the difficulties that home dairies have regarding the proposed regulation 18AAC32.

I do hope you would be in favor of an exemption for home dairies regarding this onerous regulation so that they can expand their markets into creating cheese and other products to be consumed by our local market.

Please let me know if you are willing to consider an exemption before Dec. 3rd so that we in the interior can take more drastic action to assist small farms.

Regards,

Michael S. Young
Fairbanks North Star Borough Assemblyman
(Retired)

Kirsty Steele

From: Fuller, Jay D (DEC) [jay.fuller@alaska.gov]
Sent: Tuesday, November 24, 2009 2:00 PM
To: Kirsty Steele
Subject: RE: Regulation 18AAC32

Thank you for your comment. All comments will be addressed by DEC after the comment period ends Dec 3rd.

Jay Fuller, DVM
Assistant State Veterinarian

From: Kirsty Steele [mailto:KirstyS@rescpa.com]
Sent: Tuesday, November 24, 2009 9:31 AM
To: Fuller, Jay D (DEC)
Subject: Regulation 18AAC32

Mr Fuller

I am writing to state that I am in favor of an exemption for home dairies from the proposed regulation 18AAC32 I have recently become aware of the difficulties facing small dairy farms in our state and how difficult, if not impossible, it is to sell dairy products. I would love to be able to purchase local cheeses and milk .To have this ability would not only benefit my family but would be of great benefit to our State and our local economy.

Kirsty Steele
240 Thoreau Drive
Fairbanks, AK 99712

12/1/2009

Paul Robinson

From: Eric [Eric.DeltaP@alaska.net]
Sent: Saturday, November 21, 2009 6:25 AM
To: Paul Robinson
Subject: FW: Cheese

Delta P Pump & Equipment, LLC.

P.O. Box 771452
Eagle River, AK 99577-1452
Phone: (907) 694-7583 Fax: (907) 694-7584
www.deltappump.com

Eric Grabber
Technical Consultant, Sales
Delta P Pump & Equipment, LLC
6881 Altair Lane
Fairbanks, AK 99712
Office Phone: 907-490-7325
FAX: 907-490-7325
Mobile Phone: 907-699-9904
e-mail: Eric.DeltaP@alaska.net

From: Fuller, Jay D (DEC) [mailto:jay.fuller@alaska.gov]
Sent: Friday, November 20, 2009 2:46 PM
To: Eric
Subject: RE: Cheese

Thank you for your comment. All comments will be addressed by DEC after the comment period ends Dec 3rd.

Jay Fuller, DVM
Assistant State Veterinarian

From: Eric [mailto:Eric.DeltaP@alaska.net]
Sent: Friday, November 20, 2009 1:46 AM
To: Fuller, Jay D (DEC)
Subject: Cheese

Delta P Pump & Equipment, LLC.

P.O. Box 771452
Eagle River, AK 99577-1452
Phone: (907) 694-7583 Fax: (907) 694-7584
www.deltappump.com

Mr. Fuller,

I want to state that I am in favor of an exemption for home daries from the proposed regulation: 18AAC32. Please assist the local farmers in their effort to develop a local production base for cheese. I would gladly support this effort economically through the purchase of product. We need to support our local industry and facilitate their reasonable efforts.

Thank you for your support,

Eric Grabber
Technical Consultant, Sales
Delta P Pump & Equipment, LLC
6881 Altair Lane
Fairbanks, AK 99712
Office Phone: 907-490-7325
FAX: 907-490-7325
Mobile Phone: 907-699-9904
e-mail: Eric.DeltaP@alaska.net

Paul Robinson

From: Brenda Holladay [baholladay@alaska.edu]
Sent: Friday, November 20, 2009 2:13 PM
To: Paul Robinson
Cc: Scott Holladay
Subject: {Fwd: re: regulation 18AAC32}

Hi Paul,

I sent your letter to several of my friends & family, and I particularly liked Brad's brief response so I'm sharing with you. Your letter is making the rounds, and I've felt A LOT of support for the exemption.

:)

Brenda

----- Original Message -----
Subject: re: regulation 18AAC32
Date: Fri, 20 Nov 2009 11:58:52 -0900
From: Brad Marden <bmmarden@alaska.edu>
To: jay.fuller@alaska.gov

Dear Jay,

I would like to encourage you to consider exempting small, home dairies from regulations which would make the viability of their businesses more difficult. Improving safety and public health is an important goal, but it is also important to recognize when rules and regulations will have the effects- intended or unintended- on people's livelihoods, and on the availability of locally-produced, healthy dairy products. I feel strongly that small cheese farms do a good job at policing their own quality, because niche markets such as this thrive or die from their reputation and quality standards. Please consider the possible negative impact of proposed regulation 18AAC32 on small cheeseries.

Sincerely,
Brad Marden

--
><(((e>
Brenda Holladay
Research Scientist
Fisheries Oceanography Laboratory
Institute of Marine Science
University of Alaska Fairbanks
P.O. Box 757220
Fairbanks, AK 99775-7220

Room 134 O'Neill Bldg.
voice 907-474-7938
fax 907-474-1943
><(((e>

Paul Robinson

From: Gareth O'Neil [gareth@reconfilms.com]
Sent: Monday, November 23, 2009 2:11 PM
To: jay.fuller@alaska.gov
Subject: Artisnal Cheese

Mr. Fuller,

Much like others in alaska, I am disturbed by the lack of locally produced food. We are limited in many areas by geographic complication, but one product we could, buy and share locally is cheese. Good old cow or goat milk- with all little value added culture, from small home dairies, and a minimal oversight on the part of your office, or any other government agency for that matter.

Simple; reduce regulation on producers below a certain size.

Done. Done and Done.

That will allow Alaskan businesses to grow, and perhaps develop into major cheese biz- prepared for all the regulation and obfuscation therewith.

Many thanks, I know my voice is one of many, and trust that we can get this issue off the shelf, and local cheese on the table.

Gareth O'Neil



Agency 49, LLC
4523 Old Airport Way
Fairbanks, Alaska 99709
907.451.1500 stage

Paul Robinson

From: Kirsty Steele
Sent: Friday, November 20, 2009 3:54 PM
To: Paul Robinson
Subject: FW: Exemption in 18AAC32

Kirsty Steele

Robinson & Associates, PC
1300 Washington Dr, Ste 201
Fairbanks, AK 99709
Phone 907-474-4576
Fax 907-474-1045
www.robinsonandassociatespc.com

IRS CIRCULAR 230 NOTICE: Any US tax advice included in this written or electronic communication was not intended or written to be used, nor can it be used by the tax payer, for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law.

This email and any attachments are for the sole use of the intended recipient(s) and contains information that may be confidential and or legally privileged. If you have received this email in error, please notify the sender by reply email and delete the message immediately. Any disclosure, copying, distribution or use of this communication by someone other than the intended recipient is prohibited.

From: chip S [mailto:thesteeles01@yahoo.com]
Sent: Friday, November 20, 2009 3:52 PM
To: jay.fuller@alaska.gov
Cc: Kirsty Steele
Subject: Exemption in 18AAC32

Mr. Fuller,

I recently found out about the regulations concerning small dairy farms and how difficult, if not impossible, it is to sell dairy products unless you are a huge conglomerate facility. These regulations put a huge strain on the "ma and pa" dairy businesses and gives only a few businesses the ability to distribute their goods. I propose the state of Alaska make the necessary changes in favor of an exemption for home dairies from the proposed regulation 18AAC32. These changes will lead to a better trade system and of course, lower prices on dairy products for the state of Alaska. I will also be contacting my Federal Senators Begich and Murkowski on this subject. Please keep me informed of any future developments on this issue.

Very Respectfully,
Chief Warrant Officer William Steele
240 Thoreau Drive

Fairbanks, Alaska
99712

Paul Robinson

From: Roblyn [roblyn@ak.net]
Sent: Sunday, November 22, 2009 1:46 PM
To: Paul Robinson
Subject: Home dairies...

Thank you for all that wonderful information.

Yes I agree, it is important to support local small industries, ie. the families involved, their talent and interest that they add to the community.

I sent off an email to Jay Fuller. It is important to remember that we are the ones that should be able to affect and add to the democratic process....

Roblyn

Roblyn L. Wiebe, EA, ATA
P.O. Box 83809
Fairbanks, AK 99708
(907) 479-7311 Fax (907) 479-6041
Email: roblyn@ak.net

The foregoing email may contain U.S. federal tax advice. If so, please read the following carefully:

Pursuant to Title 31 of the Code of Federal Regulations, Part 10 requires us to notify you that any tax advice included in this electronic communication is not intended or written to be used, and that it cannot be used by the taxpayer, for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions.

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by e-mail and destroy all copies of the original message.

Paul Robinson

From: Far Above Rubies [gkahoe@gci.net]
Sent: Monday, November 23, 2009 9:27 AM
To: Paul Robinson
Subject: Re: Cheese

Dear Paul,

It seems as though you have gotten a lot of responses from people. That is very encouraging. At the goat meeting on Saturday, one of our members volunteered to put the letter on an Alaska goat owners list serve which apparently has many members in the Mat-Su valley and the Kenai area. Hopefully that will get people down there involved as well. The letter has also gone out on the 4H list serve, and I discussed it at North Pole 4H meeting yesterday.

Funny that your friend from Delta Pump got an answer from Jay Fuller. Dr. Fuller didn't send me any acknowledgement at all!

Jennifer

State orders Elkhorn farm to stop raw milk sales through cow-share program

By ASSOCIATED PRESS Saturday, Sept. 19, 2009

ELKHORN — State agriculture officials have ordered an Elkhorn farm to stop selling raw milk through a cow-share program after more than two dozen people fell ill.

The order against Zinniker Farm Inc., says 35 people from Walworth, Waukesha and Racine counties have been diagnosed with campylobacter jejuni since Aug. 13. That's a bacterial infection that causes diarrhea, cramping and vomiting.

All the victims said they had consumed raw milk. Thirty of them said they got it from the Zinniker farm. Tests matched campylobacter jejuni found in 29 victims' feces to campylobacter jejuni found in cow feces on the farm.

"Laws requiring pasteurization of milk have been on the books for more than half a century, and there are good public health reasons for that," said Steve Ingham, head of the Food Safety Division in the Department of Agriculture, Trade and Consumer Protection.

"We have very compelling evidence linking these illnesses to drinking raw milk. This is the third major outbreak in Wisconsin since 2001 that has been tied to raw milk consumption. That's not to mention a number of smaller ones in which the link was strongly suspected, but patients were unwilling to identify farms that provided the milk. So far we've been fortunate that the infections have not been life-threatening, but raw milk is an inherently risky food and it can lead to other, more dangerous illnesses, including E. coli 0157:H7 infection."

An epidemiologic investigation conducted by DATCP and the Wisconsin Department of Health Services has found 35 confirmed cases of Campylobacter jejuni infection, including 21 patients under age 18. One person was hospitalized. All the patients had consumed unpasteurized milk. Thirty of the patients identified Zinniker Family Farm, Elkhorn, as the source of the raw milk. The farm sells raw milk through a "cow-share" program. Twenty-seven of the confirmed cases were in Walworth and Waukesha counties; the rest were in Racine and Kenosha counties.

Additional testing showed that the Campylobacter jejuni isolated from 25 of the patients -- all linked to Zinniker Family Farm -- had the same DNA fingerprint. Manure samples obtained directly from milking cows on that farm also tested positive for Campylobacter jejuni with the same DNA fingerprint. Manure on the cows' udders or in the milking barn environment can contaminate milk. Pasteurization kills Campylobacter jejuni and other disease-causing bacteria in milk.

Campylobacter jejuni are bacteria that cause symptoms including diarrhea, abdominal cramping, fever, nausea and vomiting. Rarely, an infection may lead to paralysis, which may require hospitalization and artificial respiration. This generally occurs after the initial symptoms have

disappeared. *Campylobacter* can be transmitted by consuming food contaminated by animal feces or handled by someone with the infection who has not adequately washed his/her hands after using the bathroom.

Milk samples from the farm taken after the initial outbreak did not test positive, which is not unusual, Ingham said. Cattle shed the bacteria intermittently, so the bacteria may not have been present when the samples were taken. Changes in sanitation procedures could also explain the absence of bacteria in later milk samples, he said.

Because Zinniker Family Farm sells milk to a defined customer list, there is little risk to the general public in this case. However, the outbreak should discourage consumers from joining "cow-share," membership, or other similar arrangements to buy raw milk, and should discourage dairy producers from adopting such an arrangement for their farms, Ingham said.

"Selling raw milk to consumers is illegal in Wisconsin. Some farmers believe that such arrangements exempt them from the law. They are mistaken. The law says that owners may consume raw milk from their farms, but those owners have to be true owners with a real financial stake in the farm. And the law clearly says that unpasteurized milk can be sold only to a licensed dairy plant or to other licensed businesses that sell to dairy plants," he said.

Other outbreaks in Wisconsin that have been tied to raw milk include:

In December 2001, at least 30 laboratory-confirmed cases of *Campylobacter jejuni* were identified in northwestern Wisconsin, all tied to a cow-share program.

In June 2006, 19 laboratory-confirmed and 39 probable cases of *Campylobacter jejuni* infection were traced to cheese curds made from unpasteurized milk in an unlicensed facility by an unlicensed cheese maker in Ashland. The cases occurred in many Wisconsin counties and six other states.

Nationwide, the Centers for Disease Control and Prevention report that 45 outbreaks tied to unpasteurized milk or cheese consumption occurred from 1998 to 2005. These outbreaks occurred in 22 states, two were multi-state outbreaks, and they resulted in 1,000 illnesses, 104 hospitalizations and two deaths.

In an article published in the Wisconsin Medical Journal in August 2000, the Wisconsin Division of Public Health reported that from 1992 to 1999, consumption of raw milk and raw milk products was one of the top three risks for *E. coli* 0157:H7 infection in Wisconsin. *E. coli* 0157:H7 infections can be fatal.

Charles Knight
4913 Princeton Drive
Fairbanks, AK 99709

Phone 907-479-5808

December 3, 2009

Jay Fuller
Assistant State Veterinarian
Dept. of Environmental Conservation
555 Cordova Street,
Anchorage, AK 99501

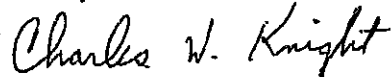
RE: Proposal to Adopt Changes in the Regulations dealing with Milk, Milk Products, and Reindeer Slaughtering and Processing.

Dear Mr. Fuller:

I have concerns about the proposed changes to regulations concerning cheese manufacturing in Alaska. These regulations appear to be written specifically to exclude cheese making as a cottage industry in Alaska. I know several people who make cheese from either goat or cow milk and sell their products to neighbors. Most of these people have hopes of expanding their operations so they can sell at Farmers Markets and possibly to tourists. Is there any possibility of an exception in these regulations to exclude individuals who sell directly to consumers so they would not be required to have a million dollar facility as described in the regulations?

It is my opinion that Alaska should be encouraging small businesses in Alaska, not regulating them out of existence. Since we are a long distance from the source of most of our food, I believe that anything that we can do to be self sufficient should be encouraged.

Thank you for this consideration,



Charles Knight

Larry "Papa" Meunier
P.O. Box 56604
North Pole, AK 99705

Phone 488-7326

December 3, 2009

Jay Fuller
Assistant State Veterinarian
Dept. of Environmental Conservation
555 Cordova Street,
Anchorage, AK 99501

RE: Proposal to Adopt Changes in the Regulations dealing with Milk, Milk Products, and Reindeer Slaughtering and Processing.

Dear Mr. Fuller:

I just recently learned of the proposed changes to regulations concerning cheese manufacturing in Alaska. I have not had adequate time to study the proposed regulations and when I called your office last week, I got a recording that you would be out of the office until today (the last day to comment on the proposed changes). I have many concerns about the proposed changes and do not have access to several of the standards that are adopted by reference. I request additional time to review these proposed standards and at this time have specific questions about the following items:

The permit is valid for one year. Is this permit required for the manufacturing of cheese or to sell cheese, or both? Various cheeses would take longer than one year to cure. If the permit were not renewed, would the cheese have to be destroyed?

A cheese producer must apply for a permit for each operation What is an operation? Is it a cheese manufacturing facility, or are seven different permits required (with fees) for plans A-G as indicated under Permit Requirements?


Potable water must come from a public water supply. What is a public water supply? Does this mean that cheese production must take place within the city limits where zoning doesn't allow it? How can I get public water on my farm?

The wastewater must be discharged into a public sewer or into a system as required by 18AAC72. Could you please send me information on these wastewater requirements? Would a holding tank that could be emptied and the contents spread on agricultural land meet these requirements?

I see that eight different rooms are required and that four of these rooms must have concrete floors with water tight floors and p-traps that are accessible and cleanable. Could you please provide me additional information about how I can I access and clean a p-trap under a water tight concrete floor?

Sewage must be dispensed into an approved wastewater system at least 100 feet from the facility. If I use a holding tank, does it have to be 100 feet away from the facility?

I have several other questions that require a lot more study of these proposed regulations. I request that you do not accept these proposed regulations at this time, that you extend the comment period for at least 60 days, and that public information meetings be held in Palmer, Delta Junction and Fairbanks. These are the three largest agricultural regions in the State.

Thank you,


Papa Meunier

2/22/10

call Dr. Zulla - Alaska has very liberal
req, no state has exemption for
small dairy -

- working on req to minimize size -

Palmer operator 7 goats - qualified

60-70 goats needed

form a coop - bring milk to one processor

our reqs are patterned after Oregon

need facility to insure milk purity

- reqs at -

4 places authorized to make cheese

DEC - Jeff Green
State Vet

safety of public v economy of state

②

465 6578 - Pete - Reg Harris - Green reg

Pete Jefferson - Harris's Office

- Regs too complicated -
- small operator can't get into it - too much regulation

right to choose - what to put in your

body is up to you
personal choice - buy direct from farmer
choice - you look at farmer + decide

4573890 - Comments

John Davies

From: Far Above Rubies [gkahoe@gci.net]
Sent: Friday, February 26, 2010 8:54 AM
To: John Davies
Cc: Meredith_Cameron@legis.state.ak.us; Paul Robinson
Subject: Re: ARRC meeting Schedule and Agenda
Attachments: State orders Elkhorn farm to stop raw milk sales through cow.docx

Dear Mr. Davies,

Paul Robinson forwarded your email to me, and I appreciate the opportunity to ensure that Alaskans can sell and purchase locally produced milk and milk products. I sell goat milk soap and goat milk skin cream at the Tanana Valley Farmers' Market, at stores around Fairbanks, and online. Every single Farmers' Market day, I have customers asking me if they can buy milk or cheese. Unfortunately, I have to tell them that such sales are illegal in Alaska. It is clear that there is a great demand for locally produced milk and cheese.

When Paul Robinson and I spoke to Jay Fuller in November about the proposed cheese making regulations, he told us that "cow-shares" were a legal way to sell milk products in Alaska and that the DEC would not take steps to regulate any "cow-share" programs. He also stated that any other type of sales were dangerous to the Public health and would not be allowed.

I pointed out to Dr. Fuller that "cow-shares" in which people "own" parts of an animal and are therefore entitled to a portion of the products from that animal, are well known to cause outbreaks of disease. I have appended to this email an Associated Press article from September 19, 2009 in which the entire "cow-share" program in Wisconsin was shut down due to bacterial infections caused by the consumption of raw milk distributed by "cow-shares."

I propose the following for the State's consideration:

- **Home farms, defined as a farm producing less than 10 gallons of milk per day, shall be exempt from the current cheese regulations proposed by the DEC. These farms would be allowed to sell their milk or milk products directly to the consumer. Such farms would be required to register with the DEC.**

I understand that the DEC is justly concerned with the public health and safety. An alternative to the above blanket exemption would be as follows:

- **All home farms, defined as farms producing less than 10 gallons of milk per day, shall be allowed to sell milk and milk products directly to the consumer after registering their farm with the DEC. Additionally, all milk shall be heat-treated (pasteurized) by raising the temperature of the milk to 165°F for 15 seconds.**

The benefits of the above alternatives are as follows:

- They cost the State no money.
- The DEC would have records of the farms providing milk and milk products to consumers. Right now, the DEC is willing to allow "cow-share" programs over which they have no control whatsoever. Should consumers become ill, it would be much more difficult to trace the problem to a specific farm since the DEC has no records of "cow-share" providers. In Wisconsin, many people who became ill refused to disclose the farm which had provided the milk to them in order to protect the farmers.

As a third alternative, the State should consider the following proposal:

- **Home farms, defined as farms producing less than 10 gallons of milk per day, shall be allowed to sell milk and milk products directly to the consumer as long as the farm is registered with the DEC. The milk shall be heat-treated (pasteurized) by raising the temperature of the milk to 165°F for 15 seconds. A**

representative from each farm shall attend an annual milk hygiene class sponsored by the Cooperative Extension.

This third alternative would, of course, cost the State money to provide these classes to the farmers.

With the growing public demand for locally produced food, as well as the need to protect Alaska's food supply system, it is important that we have reasonable laws in place that will allow for the safe sale of milk and milk products by local farmers. I think the proposals which I have made address public safety issues without imposing an untenable burden of expense and labor on home farms. Please note that I am talking about small home farms selling directly to consumers. The cheese regulations as proposed by the DEC are fine for large dairies the purpose of which is the commercial sale of products to restaurants and grocery stores. It should be obvious, however, that there is a big difference between such commercial farms and home farms. The regulations should reflect this difference.

Thank you again for the opportunity to assist you with this issue. I look forward to attending the meeting from Fairbanks on March 8.

Sincerely,

Jennifer Ansley
Far Above Rubies
907-457-3890
www.alaskagoatmilk.com

----- Original Message -----

From: Paul Robinson
To: Far Above Rubies ; Kathryn Dodge
Sent: Wednesday, February 24, 2010 1:41 PM
Subject: FW: ARRC meeting Schedule and Agenda

From: John Davies [mailto:John_Davies@legis.state.ak.us]
Sent: Wednesday, February 24, 2010 1:30 PM
To: Paul Robinson
Cc: Rep. Wes Keller; Jim Pound
Subject: ARRC meeting Schedule and Agenda

February 24, 2010

Dear Paul Robinson:

This email is a follow up to our recent telephone conversation about the ARRC review of the proposed cheese regulations. Attached to this email you will find the meeting Schedule and Agenda. You and the individuals that you noticed in your earlier email are invited to attend the meeting and testify. If you are not able to attend in person here in Juneau, then telephone participation will be fine. You may participate through your local LIO. There is limited call in capacity for someone not able to get to the LIO.

If you have any printed information that you would like the committee members to see, please send it to me for posting on BASIS and for distribution to the committee. The information will be public, and I will have copies for the public here in the meeting room for review as well.

If you have any questions, feel free to call me at 907 465-4899.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide

John Davies

From: John Davies
Sent: Wednesday, February 24, 2010 1:16 PM
To: 'Larry.Hartig@alaska.gov'; 'jay.fuller@alaska.gov'
Cc: Rep. Wes Keller; Jim Pound
Subject: Invitation to ARRC meeting

February 24, 2010

Dear Commissioner Hartig and Doctor Jay Fuller:

Representative Keller asked me to invite you to the upcoming Administrative Regulation Review Committee "ARRC" meeting scheduled for March 8th at 3:00 pm in room 17 of the State Capitol Building, Juneau, Alaska.

If you are not able to attend in person, telephone participation would be fine as well.

The ARRC has received public comments inquiring about ways to structure a form of exemption to the proposed cheese production regulations for either small producers or for direct sales without third party involvement.

The focus of the committee review will be to discuss the DEC's need to protect the public from harm weighed against the individual's right to choose what he/she wishes to consume, as related to the proposed regulations fulfilling statutory authorization and/or legislative intent.

If you have any questions please feel free to call me at 907 465-4899. Please note that any printed information you wish to present, I will need copies so I may post them on BASIS and distribute them to the committee members.

We look forward to hearing from you and having your participation at the meeting.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide

John Davies

From: Ryan, Kristin J (DEC) [kristin.ryan@alaska.gov]
Sent: Tuesday, March 02, 2010 11:39 AM
To: John Davies
Cc: DEC Legislative Contacts; Fuller, Jay D (DEC)
Subject: RE: ARRC meeting Schedule and Agenda

Thanks John. I will be the lead for the department during this ARRC meeting. Dr. Fuller or Dr. Gerlach will be attending as well. We will most likely only be participating via teleconference rather than traveling to Juneau just for this hearing. Commissioner Hartig may be joining us if his schedule allows.

I also want to be clear about what we can say during the hearing since the administrative procedures act defines the rule making process. We won't be submitting anything in writing since we are still discussing what changes we will be making to the draft regulations and they are not final. This hearing will provide an opportunity for legislators to hear constituent concerns. The proposed regulations for cheese processing had two comment periods which is when the department received feedback from the public. Those comment periods have closed so testimony made during this hearing will not be part of our regulatory drafting record although it will be part of the legislative record. That said, I expect that everything brought up during the committee hearing was submitted to the department during the comment period so this most likely won't be a problem. We can answer questions asked by the committee on the draft regulations but we will be unable to make any commitments on the final regulatory package since we are still deliberating. We will be as accommodating as possible but we are still restricted by administration rules even if this is a legislative process.

If you have additional questions, please let me know.

Kristin Ryan

Director
Environmental Health Division
Alaska Department of Environmental Conservation
907.269.7644 ph / 907.269.7654
Kristin.ryan@alaska.gov

From: John Davies [mailto:John_Davies@legis.state.ak.us]
Sent: Friday, February 26, 2010 12:41 PM
To: Ryan, Kristin J (DEC)
Subject: FW: ARRC meeting Schedule and Agenda

Here is the schedule and agenda. JD

From: John Davies
Sent: Wednesday, February 24, 2010 1:20 PM
To: 'Larry.Hartig@alaska.gov'; 'jay.fuller@alaska.gov'
Cc: Rep. Wes Keller; Jim Pound
Subject: ARRC meeting Schedule and Agenda

February 24, 2010

Dear Gentlemen:

FYI, please find attached a copy of the March 8th meeting Schedule and Agenda.

If you have any questions, feel free to call me at 907 465-4899.

Thank You,

John Davies
ARRC Acting Committee Aide

Alaska Farm & Ranch News

March 04, 2010

Phone: 907-895-5551 OR Email:
 Editor@alaskafarmandranchnews.com

Subscribe Today!

[Home](#)

[News](#)

[Classifieds](#)

[Photo Gallery](#)

[Report on News](#)

[Calendar](#)

[Search](#)

[Archives](#)

[GO!](#)

[Search tips](#) | [Advanced](#)

[Search Google](#)

[Go](#)

Proposed cheese regulations to be heard in legislature

03/02/10

STAFF REPORT

Email this story to a friend

The Joint Administrative Regulation Review Committee of the Alaska Legislature is scheduled to hold a hearing on the cheese regulations proposed by the Department of Environmental Conservation (DEC). The regulations, which are to become part of the Alaska Administrative Code, (18 AAC 32) place controls on the production of cheese products.

DEC proposed the regulations last year to regulate the growing number of cheese producers in the state. The growing locavore movement has resulted in an increase in the number of individuals desiring to sell raw milk and produce cheese and other products in small facilities.

One individual, who requested they not be identified, stated they have goats and sell goat milk and cheese to friends and neighbors.

"It's only a few gallons of milk and a little cheese," they said. "The regulations will mean I can't sell my next door neighbor cheese I make at home."

The committee has scheduled a period for public testimony on Monday, March 8 at 3 p.m. The committee hearings are scheduled for teleconference.

To provide public testimony, contact your local Legislative Information Office and request to participate in the Joint Administrative Regulation Review Committee public testimony on 18 AAC 32 - Proposed Regulations Relating to Cheese Production.

Copyright 1998-2007 [MyWebPal.com](#). All rights reserved.
 Contact us at webmaster@mywebpal.com
 All other trademarks and Registered trademarks are property
 of their respective owners.

John Davies

From: Rep. Wes Keller
Sent: Tuesday, March 02, 2010 9:04 PM
To: John Davies
Subject: RE: ARRC meeting Schedule and Agenda

Great, Please make sure this email is in the packet so I can explain a bit about limitations of testimony.

Wes

From: John Davies
Sent: Tuesday, March 02, 2010 12:05 PM
To: Ryan, Kristin J (DEC)
Cc: Rep. Wes Keller
Subject: RE: ARRC meeting Schedule and Agenda

Dear Director Ryan,

Thank you for your email, and for giving me the scope of your input. I will copy your email to the Chairman, Representative Keller, so he will understand the nature of the restriction on your comments.

If you need assistance in facilitating your call in to the meeting, just let me know.

Would you like copies of the input I have received from the public?

Regards,
John Davies
ARRC Acting Committee Aide

From: Ryan, Kristin J (DEC) [mailto:kristin.ryan@alaska.gov]
Sent: Tuesday, March 02, 2010 11:39 AM
To: John Davies
Cc: DEC Legislative Contacts; Fuller, Jay D (DEC)
Subject: RE: ARRC meeting Schedule and Agenda

Thanks John. I will be the lead for the department during this ARRC meeting. Dr. Fuller or Dr. Gerlach will be attending as well. We will most likely only be participating via teleconference rather than traveling to Juneau just for this hearing. Commissioner Hartig may be joining us if his schedule allows.

I also want to be clear about what we can say during the hearing since the administrative procedures act defines the rule making process. We won't be submitting anything in writing since we are still discussing what changes we will be making to the draft regulations and they are not final. This hearing will provide an opportunity for legislators to hear constituent concerns. The proposed regulations for cheese processing had two comment periods which is when the department received feedback from the public. Those comment periods have closed so testimony made during this hearing will not be part of our regulatory drafting record although it will be part of the legislative record. That said, I expect that everything brought up during the committee hearing was submitted to the department during the comment period so this most likely won't be a problem. We can answer questions asked by the committee on the draft regulations but we will be unable to make any commitments on the final regulatory package since we are still deliberating. We will be as accommodating as possible but we are still restricted by administration rules even if this is a legislative process.

If you have additional questions, please let me know.

Kristin Ryan

Director
Environmental Health Division
Alaska Department of Environmental Conservation
907.269.7644 ph / 907.269.7654
Kristin.ryan@alaska.gov

From: John Davies [mailto:John_Davies@legis.state.ak.us]
Sent: Friday, February 26, 2010 12:41 PM
To: Ryan, Kristin J (DEC)
Subject: FW: ARRC meeting Schedule and Agenda

Here is the schedule and agenda. JD

From: John Davies
Sent: Wednesday, February 24, 2010 1:20 PM
To: 'Larry.Hartig@alaska.gov'; 'jay.fuller@alaska.gov'
Cc: Rep. Wes Keller; Jim Pound
Subject: ARRC meeting Schedule and Agenda

February 24, 2010

Dear Gentlemen:

FYI, please find attached a copy of the March 8th meeting Schedule and Agenda.

If you have any questions, feel free to call me at 907 465-4899.

Thank You,

John Davies
ARRC Acting Committee Aide

John Davies

From: John Davies
Sent: Wednesday, March 03, 2010 9:55 AM
To: 'Far Above Rubies'
Subject: RE: ARRC meeting Schedule and Agenda

OK, sounds good. If you have any problems or concerns feel free to call me. 465-4899 or 465-2186. JD

From: Far Above Rubies [mailto:gkahoe@gci.net]
Sent: Wednesday, March 03, 2010 8:52 AM
To: John Davies
Subject: Re: ARRC meeting Schedule and Agenda

Dear Mr. Davies,

Paul Robinson and I will participate in the meeting through teleconference at the Fairbanks LIO. Thank you very much for your help.

Sincerely,

Jennifer Ansley

----- Original Message -----

From: John Davies
To: Far Above Rubies
Cc: Rep. Wes Keller
Sent: Tuesday, March 02, 2010 1:02 PM
Subject: RE: ARRC meeting Schedule and Agenda

Dear Ms Ansley,

I am in receipt of your email, and will include a copy of your recommendations in the Legislator packets. Mr. Robinson has emailed me to let me know that he and you will participate in the meeting. I am assuming that he means by way of teleconference from your Fairbanks LIO. Please let me know if you need assistance in coordinating your testimony. It should be pretty simple if you go to the LIO and sign up to testify. If you run into problems feel free to call me at 465-4899 or at Representative Keller's main line, 465-2186.

Regards,
John Davies
ARRC Acting Committee Aide

From: Far Above Rubies [mailto:gkahoe@gci.net]
Sent: Saturday, February 27, 2010 8:07 AM
To: John Davies
Subject: Re: ARRC meeting Schedule and Agenda

Dear Mr. Davies,

Thank you for your email. You have my permission to print my email and make my input public. I think it would be very helpful for Committee members to be able to look at alternatives beforehand. It would probably be a good idea to give everyone a copy of the Associated Press article about the Wisconsin cow shares so that the Committee members understand the problems associated with cow shares. I would be very happy to testify to the Committee and plan to attend the meeting on March 8 at the Fairbanks LIO.

Sent: Wednesday, February 24, 2010 1:41 PM
Subject: FW: ARRC meeting Schedule and Agenda

From: John Davies [mailto:John_Davies@legis.state.ak.us]
Sent: Wednesday, February 24, 2010 1:30 PM
To: Paul Robinson
Cc: Rep. Wes Keller; Jim Pound
Subject: ARRC meeting Schedule and Agenda

February 24, 2010

Dear Paul Robinson:

This email is a follow up to our recent telephone conversation about the ARRC review of the proposed cheese regulations. Attached to this email you will find the meeting Schedule and Agenda. You and the individuals that you noticed in your earlier email are invited to attend the meeting and testify. If you are not able to attend in person here in Juneau, then telephone participation will be fine. You may participate through your local LIO. There is limited call in capacity for someone not able to get to the LIO.

If you have any printed information that you would like the committee members to see, please send it to me for posting on BASIS and for distribution to the committee. The information will be public, and I will have copies for the public here in the meeting room for review as well.

If you have any questions, feel free to call me at 907 465-4899.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide

John Davies

From: Far Above Rubies [gkahoe@gci.net]
Sent: Friday, February 26, 2010 8:54 AM
To: John Davies
Cc: Meridith_Cameron@legis.state.ak.us; Paul Robinson
Subject: Re: ARRC meeting Schedule and Agenda
Attachments: State orders Elkhorn farm to stop raw milk sales through cow.docx

Dear Mr. Davies,

Paul Robinson forwarded your email to me, and I appreciate the opportunity to ensure that Alaskans can sell and purchase locally produced milk and milk products. I sell goat milk soap and goat milk skin cream at the Tanana Valley Farmers' Market, at stores around Fairbanks, and online. Every single Farmers' Market day, I have customers asking me if they can buy milk or cheese. Unfortunately, I have to tell them that such sales are illegal in Alaska. It is clear that there is a great demand for locally produced milk and cheese.

When Paul Robinson and I spoke to Jay Fuller in November about the proposed cheese making regulations, he told us that "cow-shares" were a legal way to sell milk products in Alaska and that the DEC would not take steps to regulate any "cow-share" programs. He also stated that any other type of sales were dangerous to the Public health and would not be allowed.

I pointed out to Dr. Fuller that "cow-shares" in which people "own" parts of an animal and are therefore entitled to a portion of the products from that animal, are well known to cause outbreaks of disease. I have appended to this email an Associated Press article from September 19, 2009 in which the entire "cow-share" program in Wisconsin was shut down due to bacterial infections caused by the consumption of raw milk distributed by "cow-shares."

I propose the following for the State's consideration:

- **Home farms, defined as a farm producing less than 10 gallons of milk per day, shall be exempt from the current cheese regulations proposed by the DEC. These farms would be allowed to sell their milk or milk products directly to the consumer. Such farms would be required to register with the DEC.**

I understand that the DEC is justly concerned with the public health and safety. An alternative to the above blanket exemption would be as follows:

- **All home farms, defined as farms producing less than 10 gallons of milk per day, shall be allowed to sell milk and milk products directly to the consumer after registering their farm with the DEC. Additionally, all milk shall be heat-treated (pasteurized) by raising the temperature of the milk to 165°F for 15 seconds.**

The benefits of the above alternatives are as follows:

- They cost the State no money.
- The DEC would have records of the farms providing milk and milk products to consumers. Right now, the DEC is willing to allow "cow-share" programs over which they have no control whatsoever. Should consumers become ill, it would be much more difficult to trace the problem to a specific farm since the DEC has no records of "cow-share" providers. In Wisconsin, many people who became ill refused to disclose the farm which had provided the milk to them in order to protect the farmers.

As a third alternative, the State should consider the following proposal:

- **Home farms, defined as farms producing less than 10 gallons of milk per day, shall be allowed to sell milk and milk products directly to the consumer as long as the farm is registered with the DEC. The milk shall be heat-treated (pasteurized) by raising the temperature of the milk to 165°F for 15 seconds. A**

representative from each farm shall attend an annual milk hygiene class sponsored by the Cooperative Extension.

This third alternative would, of course, cost the State money to provide these classes to the farmers.

With the growing public demand for locally produced food, as well as the need to protect Alaska's food supply system, it is important that we have reasonable laws in place that will allow for the safe sale of milk and milk products by local farmers. I think the proposals which I have made address public safety issues without imposing an untenable burden of expense and labor on home farms. Please note that I am talking about small home farms selling directly to consumers. The cheese regulations as proposed by the DEC are fine for large dairies the purpose of which is the commercial sale of products to restaurants and grocery stores. It should be obvious, however, that there is a big difference between such commercial farms and home farms. The regulations should reflect this difference.

Thank you again for the opportunity to assist you with this issue. I look forward to attending the meeting from Fairbanks on March 8.

Sincerely,

Jennifer Ansley
Far Above Rubies
907-457-3890
www.alaskagoatmilk.com

----- Original Message -----

From: Paul Robinson
To: Far Above Rubies ; Kathryn Dodge
Sent: Wednesday, February 24, 2010 1:41 PM
Subject: FW: ARRC meeting Schedule and Agenda

From: John Davies [mailto:John_Davies@legis.state.ak.us]
Sent: Wednesday, February 24, 2010 1:30 PM
To: Paul Robinson
Cc: Rep. Wes Keller; Jim Pound
Subject: ARRC meeting Schedule and Agenda

February 24, 2010

Dear Paul Robinson:

This email is a follow up to our recent telephone conversation about the ARRC review of the proposed cheese regulations. Attached to this email you will find the meeting Schedule and Agenda. You and the individuals that you noticed in your earlier email are invited to attend the meeting and testify. If you are not able to attend in person here in Juneau, then telephone participation will be fine. You may participate through your local LIO. There is limited call in capacity for someone not able to get to the LIO.

If you have any printed information that you would like the committee members to see, please send it to me for posting on BASIS and for distribution to the committee. The information will be public, and I will have copies for the public here in the meeting room for review as well.

If you have any questions, feel free to call me at 907 465-4899.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide

John Davies

From: John Davies
Sent: Tuesday, March 02, 2010 1:02 PM
To: 'Far Above Rubies'
Cc: Rep. Wes Keller
Subject: RE: ARRC meeting Schedule and Agenda

Dear Ms Ansley,

I am in receipt of your email, and will include a copy of your recommendations in the Legislator packets. Mr. Robinson has emailed me to let me know that he and you will participate in the meeting. I am assuming that he means by way of teleconference from your Fairbanks LIO. Please let me know if you need assistance in coordinating your testimony. It should be pretty simple if you go to the LIO and sign up to testify. If you run into problems feel free to call me at 465-4899 or at Representative Keller's main line, 465-2186.

Regards,
John Davies
ARRC Acting Committee Aide

From: Far Above Rubies [mailto:gkahoe@gci.net]
Sent: Saturday, February 27, 2010 8:07 AM
To: John Davies
Subject: Re: ARRC meeting Schedule and Agenda

Dear Mr. Davies,

Thank you for your email. You have my permission to print my email and make my input public. I think it would be very helpful for Committee members to be able to look at alternatives beforehand. It would probably be a good idea to give everyone a copy of the Associated Press article about the Wisconsin cow shares so that the Committee members understand the problems associated with cow shares. I would be very happy to testify to the Committee and plan to attend the meeting on March 8 at the Fairbanks LIO.

Thank you very much for this opportunity.

Sincerely,

Jennifer Ansley
Far Above Rubies

----- Original Message -----

From: John Davies
To: Far Above Rubies
Cc: Rep. Wes Keller ; Jim Pound
Sent: Friday, February 26, 2010 12:56 PM
Subject: RE: ARRC meeting Schedule and Agenda

Dear Jennifer Ansley,

Thank You for your well reasoned input on the cheese regulation meeting. Do I have your permission to print your email and make your input public for the Committee and the public as well as DEC? If so, I will put a copy in each member's packet and post it on BASIS as well as provide copies to the public at the meeting. Also, you would be an excellent person to tell the Committee about your work and your policies expressed herein. Would you be available to

testify? You can do so by telephone or at your Local LIO or come here to Juneau and be in the committee room with the Legislators. I will be happy to facilitate your testimony.

I look forward to hearing from you.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide

From: Far Above Rubies [mailto:gkahoe@gci.net]
Sent: Friday, February 26, 2010 8:54 AM
To: John Davies
Cc: Meredith_Cameron@legis.state.ak.us; Paul Robinson
Subject: Re: ARRC meeting Schedule and Agenda

Dear Mr. Davies,

Paul Robinson forwarded your email to me, and I appreciate the opportunity to ensure that Alaskans can sell and purchase locally produced milk and milk products. I sell goat milk soap and goat milk skin cream at the Tanana Valley Farmers' Market, at stores around Fairbanks, and online. Every single Farmers' Market day, I have customers asking me if they can buy milk or cheese. Unfortunately, I have to tell them that such sales are illegal in Alaska. It is clear that there is a great demand for locally produced milk and cheese.

When Paul Robinson and I spoke to Jay Fuller in November about the proposed cheese making regulations, he told us that "cow-shares" were a legal way to sell milk products in Alaska and that the DEC would not take steps to regulate any "cow-share" programs. He also stated that any other type of sales were dangerous to the Public health and would not be allowed.

I pointed out to Dr. Fuller that "cow-shares" in which people "own" parts of an animal and are therefore entitled to a portion of the products from that animal, are well known to cause outbreaks of disease. I have appended to this email an Associated Press article from September 19, 2009 in which the entire "cow-share" program in Wisconsin was shut down due to bacterial infections caused by the consumption of raw milk distributed by "cow-shares."

I propose the following for the State's consideration:

- **Home farms, defined as a farm producing less than 10 gallons of milk per day, shall be exempt from the current cheese regulations proposed by the DEC. These farms would be allowed to sell their milk or milk products directly to the consumer. Such farms would be required to register with the DEC.**

I understand that the DEC is justly concerned with the public health and safety. An alternative to the above blanket exemption would be as follows:

- **All home farms, defined as farms producing less than 10 gallons of milk per day, shall be allowed to sell milk and milk products directly to the consumer after registering their farm with the DEC. Additionally, all milk shall be heat-treated (pasteurized) by raising the temperature of the milk to 165°F for 15 seconds.**

The benefits of the above alternatives are as follows:

- They cost the State no money.
- The DEC would have records of the farms providing milk and milk products to consumers. Right now, the DEC is willing to allow "cow-share" programs over which they have no control whatsoever. Should consumers become ill, it would be much more difficult to trace the problem to a specific farm since the DEC has no records of "cow-

share" providers. In Wisconsin, many people who became ill refused to disclose the farm which had provided the milk to them in order to protect the farmers.

As a third alternative, the State should consider the following proposal:

- **Home farms, defined as farms producing less than 10 gallons of milk per day, shall be allowed to sell milk and milk products directly to the consumer as long as the farm is registered with the DEC. The milk shall be heat-treated (pasteurized) by raising the temperature of the milk to 165°F for 15 seconds. A representative from each farm shall attend an annual milk hygiene class sponsored by the Cooperative Extension.**

This third alternative would, of course, cost the State money to provide these classes to the farmers.

With the growing public demand for locally produced food, as well as the need to protect Alaska's food supply system, it is important that we have reasonable laws in place that will allow for the safe sale of milk and milk products by local farmers. I think the proposals which I have made address public safety issues without imposing an untenable burden of expense and labor on home farms. Please note that I am talking about small home farms selling directly to consumers. The cheese regulations as proposed by the DEC are fine for large dairies the purpose of which is the commercial sale of products to restaurants and grocery stores. It should be obvious, however, that there is a big difference between such commercial farms and home farms. The regulations should reflect this difference.

Thank you again for the opportunity to assist you with this issue. I look forward to attending the meeting from Fairbanks on March 8:

Sincerely,

Jennifer Ansley
Far Above Rubies
907-457-3890
www.alaskagoatmilk.com

----- Original Message -----

From: Paul Robinson
To: Far Above Rubies ; Kathryn Dodge
Sent: Wednesday, February 24, 2010 1:41 PM
Subject: FW: ARRC meeting Schedule and Agenda

From: John Davies [mailto:John_Davies@legis.state.ak.us]
Sent: Wednesday, February 24, 2010 1:30 PM
To: Paul Robinson
Cc: Rep. Wes Keller; Jim Pound
Subject: ARRC meeting Schedule and Agenda

February 24, 2010

Dear Paul Robinson:

This email is a follow up to our recent telephone conversation about the ARRC review of the proposed cheese regulations. Attached to this email you will find the meeting Schedule and Agenda. You and the individuals that you noticed in your earlier email are invited to attend the meeting and testify. If you are not able to attend in person here

in Juneau, then telephone participation will be fine. You may participate through your local LIO. There is limited call in capacity for someone not able to get to the LIO.

If you have any printed information that you would like the committee members to see, please send it to me for posting on BASIS and for distribution to the committee. The information will be public, and I will have copies for the public here in the meeting room for review as well.

If you have any questions, feel free to call me at 907 465-4899.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide

Thank you very much for this opportunity.

Sincerely,

Jennifer Ansley
Far Above Rubies

----- Original Message -----

From: John Davies
To: Far Above Rubies
Cc: Rep. Wes Keller ; Jim Pound
Sent: Friday, February 26, 2010 12:56 PM
Subject: RE: ARRC meeting Schedule and Agenda

Dear Jennifer Ansley,

Thank You for your well reasoned input on the cheese regulation meeting. Do I have your permission to print your email and make your input public for the Committee and the public as well as DEC? If so, I will put a copy in each member's packet and post it on BASIS as well as provide copies to the public at the meeting. Also, you would be an excellent person to tell the Committee about your work and your policies expressed herein. Would you be available to testify? You can do so by telephone or at your Local LIO or come here to Juneau and be in the committee room with the Legislators. I will be happy to facilitate your testimony.

I look forward to hearing from you.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide

From: Far Above Rubies [mailto:gkahoe@gci.net]
Sent: Friday, February 26, 2010 8:54 AM
To: John Davies
Cc: Meridith_Cameron@legis.state.ak.us; Paul Robinson
Subject: Re: ARRC meeting Schedule and Agenda

Dear Mr. Davies,

Paul Robinson forwarded your email to me, and I appreciate the opportunity to ensure that Alaskans can sell and purchase locally produced milk and milk products. I sell goat milk soap and goat milk skin cream at the Tanana Valley Farmers' Market, at stores around Fairbanks, and online. Every single Farmers' Market day, I have customers asking me if they can buy milk or cheese. Unfortunately, I have to tell them that such sales are illegal in Alaska. It is clear that there is a great demand for locally produced milk and cheese.

When Paul Robinson and I spoke to Jay Fuller in November about the proposed cheese making regulations, he told us that "cow-shares" were a legal way to sell milk products in Alaska and that the DEC would not take steps to regulate any "cow-share" programs. He also stated that any other type of sales were dangerous to the Public health and would not be allowed.

I pointed out to Dr. Fuller that "cow-shares" in which people "own" parts of an animal and are therefore entitled to a portion of the products from that animal, are well known to cause outbreaks of disease. I have appended to this email an Associated Press article from September 19, 2009 in which the entire "cow-share" program in Wisconsin was shut down due to bacterial infections caused by the consumption of raw milk distributed by "cow-shares."

I propose the following for the State's consideration:

- Home farms, defined as a farm producing less than 10 gallons of milk per day, shall be exempt from the current cheese regulations proposed by the DEC. These farms would be allowed to sell their milk or milk products directly to the consumer. Such farms would be required to register with the DEC.

I understand that the DEC is justly concerned with the public health and safety. An alternative to the above blanket exemption would be as follows:

- All home farms, defined as farms producing less than 10 gallons of milk per day, shall be allowed to sell milk and milk products directly to the consumer after registering their farm with the DEC. Additionally, all milk shall be heat-treated (pasteurized) by raising the temperature of the milk to 165°F for 15 seconds.

The benefits of the above alternatives are as follows:

- They cost the State no money.
- The DEC would have records of the farms providing milk and milk products to consumers. Right now, the DEC is willing to allow "cow-share" programs over which they have no control whatsoever. Should consumers become ill, it would be much more difficult to trace the problem to a specific farm since the DEC has no records of "cow-share" providers. In Wisconsin, many people who became ill refused to disclose the farm which had provided the milk to them in order to protect the farmers.

As a third alternative, the State should consider the following proposal:

- Home farms, defined as farms producing less than 10 gallons of milk per day, shall be allowed to sell milk and milk products directly to the consumer as long as the farm is registered with the DEC. The milk shall be heat-treated (pasteurized) by raising the temperature of the milk to 165°F for 15 seconds. A representative from each farm shall attend an annual milk hygiene class sponsored by the Cooperative Extension.

This third alternative would, of course, cost the State money to provide these classes to the farmers.

With the growing public demand for locally produced food, as well as the need to protect Alaska's food supply system, it is important that we have reasonable laws in place that will allow for the safe sale of milk and milk products by local farmers. I think the proposals which I have made address public safety issues without imposing an untenable burden of expense and labor on home farms. Please note that I am talking about small home farms selling directly to consumers. The cheese regulations as proposed by the DEC are fine for large dairies the purpose of which is the commercial sale of products to restaurants and grocery stores. It should be obvious, however, that there is a big difference between such commercial farms and home farms. The regulations should reflect this difference.

Thank you again for the opportunity to assist you with this issue. I look forward to attending the meeting from Fairbanks on March 8.

Sincerely,

Jennifer Ansley
Far Above Rubies
907-457-3890
www.alaskagoatmilk.com

----- Original Message -----

From: Paul Robinson
To: Far Above Rubies ; Kathryn Dodge

John Davies

From: Paul Robinson [pbr@rescpa.com]
Sent: Monday, March 01, 2010 11:45 AM
To: John Davies
Subject: RE: March 8th Meeting of ARRC

John

I've been in Valdez and had the staff forward your e-mail to Jenifer Ansley. I talked to her this morning and she and I will be there on the 8th along with other support. Sorry it took me so long to get back to you. It is a crazy time of year for me.
Paul

From: John Davies [mailto:John_Davies@legis.state.ak.us]
Sent: Friday, February 26, 2010 12:44 PM
To: Paul Robinson
Subject: March 8th Meeting of ARRC

Dear Mr. Robinson,

A few days ago I sent you a schedule and agenda for the March 8th ARRC meeting in which the committee will be reviewing the cheese production regulations. Did you receive them? Are you able to arrange testimony? Please let me know so I may properly coordinate the meeting. Thank You.

John Davies
ARRC Acting Committee Aide

John Davies

From: Peter Fellman
Sent: Monday, March 01, 2010 2:36 PM
To: John Davies
Subject: FW: Let's change a regulation

From: Paul Robinson

Sent: Thursday, November 19, 2009 3:41 PM

To: 'clay spurling'; 'Jeff Wagner'; 'Janeen Macom'; 'Joanne Trefethen'; 'jenifer@ciint.com'; 'J Wigdahl'; 'John Luther Adams'; 'jspencer'; 'Julie Ament'; 'Juliette Boselli'; 'jstearns@gci.net'; 'JOHN JACKOVICH'; 'Jay Fulk'; 'John Kelly'; 'Janet Wakefield'; 'Joan Johnson'; 'Julie Scott'; 'jclark@alaska.net'; 'Jim Craig'; 'Jenifer Lefebvre'; 'Jimmy Wingerter'; 'Miller, Judy'; 'Amy Borneo'; 'amy johnson'; 'Audrey Ranstead'; 'Aileen D. Munoz'; 'Ann Hopper'; 'Amy Bristor'; 'Lopuhovsky, Angela'; 'Audra McGhee'; 'Hollister, Cole'; 'aknapp@grantstation.com'; 'Heather L Heineken'; 'Gary Baxley'; 'Bill St. Pierre'; 'brat@gci.net'; 'beth Kohnen'; 'bergdahl@ptialaska.net'; 'Bob Sattler'; 'conley jessica'; 'Cynthia Walker'; 'crystalg@rescpa.com'; 'callienne elterman'; 'Cynthia Adams'; 'Carrie McEnteer'; 'Cindy Salmon'; 'cynthia@acsalaska.net'; 'Charlie Dexter'; 'Charlie Dexter'; 'Connie Siegman @ Full Spectrum Painting, Inc.'; 'Cyndie Warbelow-Tack'; 'Don Ives'; 'Doris Miller'; 'diana'; 'Dr. Jonathan Victorino'; 'Dennis Witmer'; 'Karen Dieringer'; 'denalisubway@mac.com'; 'Debbie Shreve'; 'Dunham, Gay O.'; 'Donna Evans'; 'Darcy Harrod'; 'Debbi Miller'; 'Eric'; 'Ed & Pat McClure'; 'Esther Lara'; 'Kristi Higa'; 'Gary Laursen'; 'Amy Bristor'; 'Susan Doren'; 'Gary Brooking'; 'conley jessica'; 'Gary Baxley'; 'Robert Hook'; 'Paula Kunkel'; 'holladay.hardwoods@yahoo.com'; 'Larry Santoni'; 'Harold Woods'; 'Hannah preuss'; 'Image Optical'; 'kirstys@rescpa.com'; 'Kelly Ward'; 'Karma Seaman'; 'kmcafee@gci.net'; 'Kate Hall'; 'karrie@hairbodyandsol.com'; 'ken.jernstrom@alaska.edu'; 'Kate LaSota'; 'Kirsty'; 'Kaarin Tack'; 'Lillian O'Brien'; 'Winters, Linda'; 'Leisa Boswood'; 'Lantz, Teresa'; 'Lovell, Terri'; 'Meghan Geyer'; 'mariya rover'; 'Mike Young'; 'monica dallas'; 'Sharon McConnell'; 'Mark Ricahrds'; 'mbmgt@acsalaska.net'; 'mstevenson@alaska.net'; 'Nedra Buck'; 'Webber, Paula Sue (DOT)'; 'Patty Loud'; 'Patricia Peirsol'; 'Sexton, Roxann G (DOT)'; 'regina white'; 'Tori Clark'; 'Roblyn'; 'radcarlson@msn.com'; 'Sandy Crump'; 'Sarah Woods'; 'sharon@fundingexchange.org'; 'Sarah Lefebvre'; 'Sage Adams'; 'Susan Willis'; 'Ted Tisdale'; 'Tamara L. Spaulding'; 'Tonya L. Hess'; 'Teresa Quakenbush'; 'trudy@acousticadventures.com'; 'villa@santanet.org'; 'Veronica R. Hall-Critchfield'; 'wfcoulter@firstcommand.com'; 'yvette@alaska.net'

Subject: FW: Let's change a regulation

Dear Friends and Family;

I'm asking you for a favor, one that won't take much time but could make a difference. A little history is in order about how I came to be asking for help. I have several clients that have home dairies (both goat and cow). They make terrific cheeses but they can't sell those cheeses due to government regulations, which in Alaska are based on USDA guidelines. This sounds OK until you read the guidelines, which are actually the size of a mystery novel. Under current regulations, local cheese producers would have to have an eight room facility including a laboratory to check for antibiotics in the milk. As one of my clients says, "If I didn't give them antibiotics who would have?" The point is, these rules are made for large dairies and pushed by the American Dairy Association to further their interests not ours.

Let me be very clear; we are talking about cheese made from pasteurized milk. This is cheese that these small producers are feeding to their own families and friends. Under these current rules, Alaska does not and will never have a cheese industry. This concerns me. One reason is from an economic development standpoint. My friend is asked weekly to sell cheese or milk (many children can't drink cow's milk). This would not be a huge industry, but it is still dollars that leave Alaska that could be reinvested here. Have you noticed lately what artisanal cheeses are selling for at the supermarket? The ability to sell cheese would provide a good supplementary income for these farm families. Secondly, we Alaskans don't produce much. If our supply chain were ever interrupted due to war, disease, natural disaster or

economic meltdown, things here could become dire. We should encourage people in our community to raise dairy animals so that in the event of an emergency, there would be a source of milk for those most in need of it. Thirdly, I'm quite frankly sick of government sticking their collective noses into places where they don't belong. I don't mind being protected from things that are dangerous, but they have taken the definition of dangerous to absurd lengths. As it is, we have very little idea of the regulations that exist for the manufacture of cheese which we import from other countries. Wouldn't you prefer to buy from a farmer you know?

Jennifer Ansley, a local goat owner, (She makes and sells those terrific goat's milk lotions and soaps you buy around town. Far Above Rubies is the name of her product.) and I have spent a lot of time on this. We've met with people from the University, the State Veterinarian, people from the DEC, senators and representatives, officials from the FNSB and others. Everyone is sympathetic but most have the 'can't get there from here attitude'. However, currently there is a proposed cheese regulation out for comment. We have been led to believe that if they get enough response from the public, they might be willing to change the regulations.

So here is what I'm asking you to do.

1. Write a short comment stating you would be in favor of an exemption for home dairies from the proposed regulation 18AAC32 and e-mail it to jay.fuller@alaska.gov. Or you could call him at 907-929-7335. Jay Fuller is with the State Veterinarian office. Note that this is only about cheese. Please don't muddy the waters with any other issues.
2. Forward this to as many Alaskans as you can.

The deadline for comments is December 3rd at 5pm.

If this works, maybe we could change some other things too. Who knows, maybe we could make the democratic process work after all.

Thank you so much for your help. This is an issue that is important to me. If you find yourself in the same situation, let me know I would be glad to help. You can e-mail me or call me @ 474-4576 weekdays or 488-2666 evenings and weekends with questions or comments.

Paul

Bing brings you maps, menus, and reviews organized in one place. [Try it now.](#)

FAIRBANKS DAILY NEWS MINER

New state dairy regulations irk small producers

by Staff and Wire Report

1 day 9 hrs ago | 1279 views | 12  | 4  |  | 

JUNEAU — The state's plan to change regulations on milk and homemade cheese production has sparked howls from the Interior. The regulation change, proposed last year by the state Department of Environmental Conservation, drew residents and business owners Monday to call for exemptions for smaller operations.

The regulations focus on health implications of the production and sale of milk and milk products.

But families, small-business owners and others sounded a common theme Monday, urging that small operators be exempt from the rules. Some in particular said registered "home farms" — households producing 10 gallons of milk or less per day — should be able to sell pasteurized milk and milk products outside the new regulations.

Rep. Mark Neuman, R-Big Lake, told colleagues that many state residents obviously place great weight on the ability to sell their milk for cheese production, given the level of comments on various plans.

Kristin Ryan, head of the state Department of Environmental Conservation's division covering sanitary food, defended the new regulations as accessible. She said three operations — of which two are "mom-and-pop" farmers — have already been permitted under the proposed regulations, albeit with compromises.

Committee chairman Rep. Wes Keller, R-Wasilla, said the regulations ought to be more direct and specifically address such compromises.

Ryan said the regulations are a work in progress that will be revised to address many of the comments without compromising food safety.

Paul Robinson, a member of Fairbanks' Economic Development Commission, said an exemption for small operations would help diversify the community and its economy.

Jennifer Ansley of Ester, who owns Far Above Rubies and sells goat milk soap and skin cream at the Tanana Valley Farmers Market, said customers regularly ask if they can buy locally produced milk and cheese and are disappointed at learning the products are generally not available.

Rep. David Guttenberg, D-Fairbanks, questioned why exemptions for small dairy farmers are undesirable given an existing exemption program. Alaska bans raw milk for human consumption, except by the owners of milk-producing livestock for personal use. As an extension of that exception, multiple people can buy shares of an animal, typically cows or goats, exempting each shareholder.

The state's public hearing window on the proposed regulations ended in December but lawmakers held Monday's informational hearing to collect input from constituents.

comments (12)

« blue5011 wrote on Tuesday, Mar 09 at 11:45 AM »

Guess I am lucky to be alive, since I grew-up on a dairy farm and drank raw milk for eighteen years. To this day I still cannot drink 2 percent milk or that 1 percent milky water that is claimed to be "milk".

« average-joe wrote on Tuesday, Mar 09 at 11:41 AM »

Yes. I would like two bottles of sudafed---And throw in a gallon of raw milk>wink wink>

« wayuphere wrote on Tuesday, Mar 09 at 11:20 AM »

This is another pretty typical beaurocratic move to be sure only Anchorage sees any money from any home-grown industry.

I for one will continue to "buy local" before I buy anything coming from South Central or the Anchorage area.

« 88888 wrote on Tuesday, Mar 09 at 11:04 AM »

Don't blame the elected officials for this. This involves regulations made at the departmental level. These are the most onerous, since they are often created "out of sight" of the general public and lack legislative oversight.

Why does the Department of Environmental Conservation have a division covering sanitary food??? Don't the FDA and the State Dept. of Health cover those things? What does sanitary food have to do with environmental conservation?

I'm surprised they haven't tried to pass regulations banning sushi. Raw fish can be dangerous. Maybe that's next on their list.

« Audrey25 wrote on Tuesday, Mar 09 at 10:50 AM »

we do not need more regulations on locally produced food...! The US is so crazy when it comes to food regulations. We aren't allowed raw milk, but corn that is genetically modified to produce it's own pesticides, hey that's totally normal and healthy, right?

« say_what64 wrote on Tuesday, Mar 09 at 09:59 AM »

I grew up on raw milk. We made our own cheese, cottage cheese, butter and of course, butter milk. I still like home made products because they have far more flavor. Pasteurized milk can be used with the addition of a good rennet but is never makes product as good as with raw milk. Raw milk has been illegal to sell in most areas of the US, for a long time now.

I was not aware that we could buy shares in a milk cow and then get the milk legally. It would be worth it to buy a cow for a dairy and just pick up a couple of gallons when I need to make a batch of something, since it's legal to use raw milk if you own the cow. Corporations, ya gotta love 'em!!!!

« Isanova wrote on Tuesday, Mar 09 at 08:50 AM »

Fresh milk has been illegal in most all of the country for some time. Pressures of the dairy industry. I've a friend with cows, the taste is a huge difference. This is why cheeses in Europe are so superior, they don't have to use pasteurized milk

This legislation seems aimed at the Northern Lights Dairy. Now they want to take away my good-tasting milk!

« Mundus_Vult_Decipi wrote on Tuesday, Mar 09 at 08:26 AM »

Just another control of the people being put in place. Only the government can come up with regulations for things that there are no problems with, and then, amazingly, it becomes a problem laced event that can no longer exist without some govt control. Typical of all elected officials. People lived on farms for centuries without poisoning themselves or others without Big Brother telling them how to do it.

« AggressiveProgressive wrote on Tuesday, Mar 09 at 08:19 AM »

swanny1970 - That was my first question. Has anyone become sick from bad milk products in Alaska? If it ain't broke, why fix it?

I think the limit should be raised to fifty or a hundred gallons of milk a day to be exempted from the law. Turning local farmers into criminals with unwarranted legislation is just what the corporate police state ordered.

Raw milk is illegal? Can you just see the other prisoners asking you, "Whatta are ya in for?" "Drinking my generous neighbor's raw milk." We are legislating ourselves further away from earth-logic every single day..

« polarmark wrote on Tuesday, Mar 09 at 07:09 AM »

the state needs to keep their nose out of it.

« swanny1790 wrote on Tuesday, Mar 09 at 07:02 AM »

Has anyone actually become ill from home-produced milk or dairy products in Alaska, or is this just another excuse for bureaucrats to exert their power over the people?

Who stands to benefit? I'm guessing the big-money dairy producers would have no problem with regulations that make it difficult or impossible for small time operators to compete.

If it isn't a problem then we don't need the government to "fix" it.

« spaceman wrote on Tuesday, Mar 09 at 06:59 AM »

Why do our legislators continue to pass laws, then promptly grant exemptions. Stop wasting time.

Dairy program



Activities that require a dairy license

Activities that are exempt

Prohibited activities

Dairy license information

Small Dairy Exemption

Activities that require a dairy license

A license is required for the following activities:

1. To produce milk on a Grade A dairy farm
2. To market milk as a milk marketing agent or handler for producers
3. To transport milk in a milk tanker or transfer milk to a transfer or receiving station
4. To process milk to manufacture any fluid milk or dairy products, including the wholesale manufacture of frozen dairy desserts (as defined in 21CFR Part 135)

Dairy operator licenses are required for:

1. Individuals who collect raw milk samples which will be used for regulatory purposes
2. Individuals responsible for the pasteurization of milk or dairy products

The Pasteurized Milk Ordinance (PMO) is developed by the National Conference of Interstate Milk Shippers (NCIMS) and covers construction and operation standards for all dairy operations including farms, transportation, processing and pasteurizing. Compliance with the PMO is required for plants or farms to ship Grade A milk interstate. The Interstate Milk Shippers List (IMS List) is a list of dairy operations that are approved for interstate milk shipment.

Link to [milk safety references](#)

Link to [Pasteurized Milk Ordinance](#)

Link to [Interstate Milk Shippers List](#)

Link to [Oregon State University Extension Service's Dairy Program](#)

Activities that are exempt

The dairy law exempts from licensing a person owning not more than three dairy cows that have calved at least once, nine sheep that have lactated at least once or nine goats that have lactated at least once. The fluid milk from these animals may be sold for human or other consumption only if:

1. The person does not advertise the milk for sale
2. The milk is sold directly to the consumer at the premises where produced; and
3. No more than two producing dairy cows, nine producing sheep or nine producing goats are located on the premises where the milk is produced.

Prohibited activities

Prohibition against retail sale of unpasteurized milk from cows (unless meeting the limits of the above exemption).

A person may not sell or distribute for sale unpasteurized milk or fluid milk from cows, or dairy products from unpasteurized milk or fluid milk from cows, other than to a distributor, producer-distributor, dairy products plant licensee or nonprocessing cooperative. This does not apply to the sale or distribution of cheese otherwise exempt from pasteurization requirements or to sales or distributions by a person described under ORS 621.012.

Distributor or producer-distributor may sell only milk that is pasteurized or from disease-free goats or sheep.

A distributor, producer-distributor or dairy products plant licensee shall not sell or offer or expose for sale any dairy product or fluid milk for human consumption unless the milk used in the dairy product or fluid milk has been pasteurized or is goat or sheep's milk that was produced by a disease-free herd, except that if not more than one reactor animal appears when the goat or sheep herd is tested for brucellosis, the milk, dairy products or fluid milk may still be sold if the animal is slaughtered and no additional reactor animals appear when the herd is retested. If one or more reactor animals appear when the herd is retested, no milk, dairy products or fluid milk from the herd may be sold until the herd regains a brucellosis-free status.

Dairy license information

State licenses web site describes license type, references statute and rule, lists responsible agency and links to licensing prerequisites.

Link to state licenses web site:

Dairy license type 02 - [dairy-fluid milk producer](#)
Dairy license type 03 - [dairy producer-distributor grade A](#)
Dairy license type 04 - [dairy producer-distributor grade B](#)
Dairy license type 05 - [dairy-fluid milk distributor](#)
Dairy license type 06 - [dairy non-processing distributor grade A](#)
Dairy license type 07 - [dairy non-processing distributor grade B](#)
Dairy license type 17 - [dairy wholesale frozen dessert manufacturer](#)
Dairy license type 18 - [dairy operator-HTST pasteurizer](#)
Dairy license type 18 - [dairy operator-milk sampler/grader](#)
Dairy license type 18 - [dairy operator-vat pasteurizer](#)
Dairy license type 19 - [dairy products - plant](#)
Dairy license type 19 - [dairy-milk marketing association](#)
Dairy license type 20 - [dairy-contract milk hauler](#)

Licensing information on issuing a food license, preliminary inspections, multiple activities covered by one statute, transferring licenses and interagency agreements in Oregon. Inspection information on regular or routine inspections, initial inspections and other types of inspections.

[Licensing and inspections](#)

John Davies

From: Jim Pound
Sent: Monday, March 08, 2010 10:04 AM
To: John Davies

John,

This is in today's Fairbanks Daily News Miner.

Jim

Alaska cheese makers seek exemptions to regulations

by Jeremy Hsieh / The Associated Press

03.08.10 - 11:50 am

JUNEAU, Alaska - Proposed regulations geared for the industrial-scale dairies are burdensome to small producers, and they will seek exemptions when state lawmakers hold a hearing Monday.

The regulations are in place to minimize food safety risks, but small dairies say they are too cumbersome for micro-farmers to meet. For example, one rule for cheese making requires eight separate rooms with specifications for drainage, lighting, ventilation and construction materials.

One goat farmer from Ester wrote the administration suggesting an exemption allowing farms producing less than 10 gallons of milk a day to sell milk and milk products directly to consumers. The milk would have to be pasteurized and the farms registered.

ARRC

3/8/10 DEC

17.20.005 - regulate prod statutory authority
17.20.020 - to regulate cheese

have permitted small operations

Beet Gore - former state Vet - comments on
regs

907-982-7662

public testimony - all of it heard already

cow shares are allowed - for milk

Ryan says shares for cheese could be done

~~206~~ send Anskip's Email to Ryan

check regs can fit small operations

Telly to Director Ryan
exemption or suspension

→ negotiated rule making

3/8/10 call from

Rob Wells - Matanuska Creamery

Dr. Brent Gore - former State Vet

↓

will fax info - some info

submitted to DEC - concerns

with testing protocol & complexity

of reg. - problems with reg.

Valley Dairy, Inc.
dba Matanuska Creamery
7805 East Palmer-Wasilla Highway/Palmer, Alaska 99645
907/745-6455 Fax 907/745-6995

Fax Cover Sheet

To: John w/ Rep. Keller

@ Fax Number: ~~457~~ 907 465-3818

Date: March 8 2010

From: Rob / Matanuska Creamery

Number pages including cover: 9

Regarding:

Cheese Regs

Additional Notes:

**Valley Dairy, Inc.
dba Matanuska Creamery**

7805 East Palmer-Wasilla Highway/Palmer, Alaska 99645
907/745-6455 Fax 907/745-6995

December 3, 2009

**Jay Fuller
Assistant Veterinarian
Division of Environmental Health
Department of Environmental Conservation
555 Cordova St.
Anchorage, Alaska 99501**

Re: Regulations Regarding Cheese Production

Dear Dr. Fuller:

It is our position that the comment period for the major new regulations being proposed for cheese should be extended at least another 90 days. Further, hearings or fact-gathering meetings should be held so that both the industry and the public may have a realistic chance to contribute.

The extensive cross-referencing cited in other letters is a major reason for delay.

The regulations seem to be venturing into the purview of other divisions of DEC, as well. For example, we have been working for over a year on handling of milk processing industrial waste with others in the Department, and have been at considerable pains and expense to comply. Further layers of regulation concerning by-product disposal would not seem to be needed.


Relev { **While we are the largest cheese processor in Alaska, we are really a tiny plant compared to those in other states. Some of the references to equipment types in the proposal are not appropriate to any kind of small, artisanal cheesemaker. If it is not appropriate for us, it is surely not appropriate for someone with a few goats.**

* **We have had a very bad experience trying to follow the only rules available to us in 2008 for cheese, as you are aware. The lack of coherent DEC regulations, or even rules, cost us and the Southcentral dairy farmers several hundred thousand dollars, and could have cost us the industry itself.**

We do, therefore, applaud your attempt to develop regulations after the fact of our start-up. However, we must all be sure that the regulations are reasonable, address Alaska's small-scale enterprises, are easily understood and interpreted, and mean the same things to both industry and the Division.

At this point, there is no need to hurry.

Sincerely,



Karen Olson,
Chief Executive Officer/Chief Financial Officer
Matanuska Creamery

cc:

Senator Linda Menard
Representative Bill Stoltze

Valley Dairy, Inc.
dba Matanuska Creamery
7805 East Palmer-Wasilla Highway/Palmer, Alaska 99645
907/745-6455 Fax 907/745-6995

December 2, 2009

Jay Fuller
Assistant Veterinarian
Division of Environmental Health
Department of Environmental Conservation
555 Cordova St.
Anchorage, Alaska 99501

Re: Regulations Regarding Cheese Production

Dear Dr. Fuller:

I have attempted to thoroughly review the regulation package released by your Division regarding cheese production. I am requesting you extend the comment period another ninety days, and would hope during that period DEC could hold a work-session with interested parties to address serious concerns I have with the draft.

It has been difficult to understand the meaning and impacts of the draft because of the extensive cross referencing used in the document. You cite the Federal PMO, Alaska Statute, Alaska Administrative Code, and the Federal Register. It will require many hours of work to reveal the real effect of these regulations to our business, and potential expenses associated with them.

Specifically, your requirements in 18 AAC 32.323 is of concern. We are currently working with another division in your department to address wastewater issues. Number 1 and 2 in that section needs further explanation. Number 2 says that whey (must be discharged into sewer or wastewater. Whey has nutritional value and is an ingredient in other cheese products like ricotta. It is used for animal feed and crop fertilizer and is dried in large operations. It would be wrong to preclude its use and treat it as waste. Consultation on this item is requested, as it potentially has significant financial impacts. Additionally, b 2 in that section seems to be not practical in terms of cleaning equipment.

In 18 AAC 32.325 your requirement that the vats have tight fitting lids is totally contrary to our production methods, and may require us to go out of business. We are not a large, automated cheese production facility handling hundreds of thousands of pounds of milk a day using the latest and most expensive technology. Rather we produce artisan cheese in small quantities

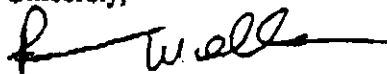
using time tested production methods. A quick Internet search will show these techniques (open vat) used successfully across the country in other states (Washington, Oregon, California, Wisconsin, Missouri). This requirement causes concern about other intended or unintended consequences not yet revealed through a thorough review of all the cross-references.

18 AAC 32.350 concerning testing is unclear as to frequency and who is considered capable of testing. We have cheese stored in detention because of conflicting laboratory tests with your lab. This has been at our expense. We need to have clear understanding of how product can be detained when certified private lab results are discounted.

To preserve future appeals to this regulation package, please consider this letter as a blanket objection to adoption of these regulations until a work session can be scheduled in the next 90 days to address our concerns.

As you know we are a new private sector business employing directly 15- 20 employees with many indirect positive economic and social benefits. Unnecessary regulation threatens our continued existence. We are committed to producing quality safe Alaskan food products, and look forward to working with you toward that end.

Sincerely,



Robert Wells
Cheese maker/ Part-Owner Matanuska Creamery

cc:

Senator Linda Menard
Representative Bill Stoltze

Proposed Cheese Regulations Comments by Matanuska Creamery

18AAC 32.020	OK
32.310	OK
32.315	OK

32.320 (a) This needs to be rewritten to say:

A person may not produce cheese or cheese products ADD(for sale in commerce).

re: Persons should be allowed to make cheese at ^hoe for their own personal use.

32.320 (c)(2)(F) delete the word "planned"

re: Milk demand is variable so cheese production will vary inversely with fluid sales. One cannot plan these market swings.

18AAC 32.323 (a)(1) change wording: delete "from a public water" system; substitute "A water system in compliance with 18AAC72.

re: Both Matanuska Creamery and Northern Lights Dairy are on private wells operated in accordance with 18AAC 80. There is no option for either milk processor to hook up to a public water system.

18AAC 32.323 (a)(2) delete "whey"

re: Whey can be used for cheese manufacture, livestock feed and in the food industry as gelling/whipping agents, emulsifiers, stabilizers and sports nutritionbars. Whey can be a valuable byproduct of cheese manufacturing, so should definitely not be consigned in Alaska to the waste barrel. After milk is turned into cheese, 85-90 per cent of the remaining is whey, which still contains 50 per cent of the original milk's nutritional value.

(a)(2) delete "public sewer"; change to "a wastewater system constructed and operated as required by 18AAC 72.

re: Matanuska Creamery and Northern Lights Dairy cannot hook up to a public wastewater system as there isn't one available.

(b)(2) change the wording here:
Remove "equipment" and replace it with "hand sinks".

re: Rinse water from vats goes on the floor and into the drains. To require vats and all equipment to drain into sewer and wastewater lines is not feasible.

18AAC 32.325 (a) This should be rewritten to insert the word "allowing". It should read:
In addition to the requirements of 21 CFR,110.22 revised April 1, 2007 & adopted by reference at 18AAC 32.315, cheese production facilities must have separate rooms "allowing" for each of the following operations or equipment.

(c) Delete "at least 100 feet" from the proposed regulation.

re: No additional rules are needed if the wastewater system is already approved by DEC and designed and operated in accordance with 18AAC72.

18AAC 32.330(b) "Cheese or its ingredients may not be handles with bare hands." We need clarification on when the regulators consider milk has become cheese.

re: Prior to becoming cheese, the milk is heated, a curd is set, the curd is cut and then cooked. Most of the whey is drained and the cooked curds form a mat. The mat is put into molds and finally the cheese block is packaged and aged. So when are gloves required?

18AAC32.330(c) In the last line substitute the word "or" for "and".

re: CFR 110.10 says personnel shall have a background of education or experience or a combination thereof, to provide a level of competency necessary for production of clean and safe foods.

18AAC 32.340. OK

18AAC 32.345. OK

18AAC 32.350 Testing. (This section contains many problems and potential for inequal treatment and unfair dealing.)

32.350 (b) Testing cheese: Remove the dependent clause at the beginning of the sentence, "When beginning the production of a new cheese product or a cheese product that has not been in production within the past year,"

re: Before a new cheese product is made and offered for sale, DEH reviews the label. They then recommend changes or approve the label. The cheese product is manufactured in accordance with 21 CFR Volume 2 part 133. Therefore, no detention or testing is required.

DEH stated at a meeting December 30, 2009that the cheese product would be detained until microbiological testing was complete. This attitude assumes Matanuska Creamery has made an unwholesome or adulterated product This is wrong.

Further, are the seafood and food industries subjected to this same level of testing? Are jam, jelly, chocolate, honey, ice cream or pastry manufacturers on a 'test and hold' program as is being proposed for cheese? Does DEC maintain a 'test and hold' program for seafood plants when they begin production of canned, smoked, kippered, cured salmon after being closed for the winter? If this done for public health reasons, everyone should be subject to this regulation.

32.350(c) The biennial testing of cheese is not by itself objectionable.

re: The biennial testing of cheese for adulteration and pathogens is acceptable if and only if all cheese manufacturers are included. If the goal is to protect public health, then all cheese products offered for sale in Alaska need to be tested. Matanuska Creamery sells less than one per cent of the cheese consumed in Alaska at this time. Surely the other 99 per cent offers a greater public health risk by sheer volume of sales and probability of supply-chain contamination

It is only fair and equitable to test all cheeses offered for sale to the public if required in this regulation. To do otherwise is a discriminatory practice imposed solely on Alaska industry.

The Pasteurized Milk Ordinance sets minimum standards for Grade A fluid milk products and procedures. All states must meet these federal regulations before Grade A milk products can be sold to military installations, schools, or move in interstate commerce. The federal system has no mandatory testing

requirements for cheese that moves in interstate commerce. It is for this reason that cheese manufactured in other states must meet all Alaska cheese regulations which may be imposed.

18AAC 32.350 Add a new section "g", to read: (g) "Cheese samples determined positive for pathogenic bacteria at the Alaska Laboratory will be referred to a second laboratory, approved by FDA, for a second opinion or confirmation, prior to any final disposition of the product in question."

18AAC 32.350 (f) We at Matanuska Creamery question this requirement. Forcing industry to report voluntary testing results that exceed 345 or 32.370 promotes a "why bother to do quality control" mindset. You would need to report every violation, be it low butterfat, added water or adulteration. The state needs to define what is reportable.

During the cheese testing and detention at Matanuska Creamery in 2008, the State Vet in conjunction with DEC/DEH refused to accept negative test results for Listerian monocytogenes from private laboratories. These negative results were confirmed by three different certified laboratories. DEC/DEH refused to accept the results. Why does the state suddenly want violative results from laboratories from which they will not accept negative results?

18AAC 32.355. Records. OK

18AAC 32.360 Labeling and General identification. (c) Revise the wording to say "Raw or Unpasteurized Milk Product."

re: Raw milk is a scare phrase. Cheddar cheese manufactured from raw or unpasteurized milk in accordance with 21 CFR Volume 2 Part 133 allows a 60-day or greater aging process to provide a substitute or equivalent procedure for pasteurization.

Secondly, go to a cheese case in grocery stores and read the labels. The label may say in the front panel "made from pasteurized milk", "made from unpasteurized milk", or it might just say "milk". No labels say "Raw milk".

Each state establishes labeling and testing regulations providing they comply with standards of identification described in 21CFR. We wish to reiterate there are no biennial or routine cheddar cheese microbiological testing requirements in the PMO or 21 CFR. Each state establishes its frequency of regulatory bacterial testing. Therefore, ALL cheese offered for sale in Alaska must meet the requirements of 18AAC 32.350 either in the state of manufacture or when offered for sale in Alaska. Everyone must meet or exceed Alaska's cheese regulations.

18AAC 32.350 (d) "Made from Grade A Raw Milk" should be amended to read "made from Grade A (Raw or Unpasteurized) Milk. Either terminology is acceptable.

18AAC 32.365 Inspection. (b)(8) Delete or amend to say employees may only be interviewed with management's approval and/or management's presence.

re: On any given day, one may have disgruntled employees. Additionally, individuals may not have the whole picture. Either deliberately or through ignorance, an unaccompanied employee could give an entirely erroneous picture to an interviewer.

Inspection. (b)(9) Amend to read, "The taking of photographs in the creamery may be allowed or disapproved by management. Prior permission from management is needed before photographs may be taken by the regulatory agency, DEC/DEH.

18AAC 32.370 (a) We support this wording. A cheese producer must destroy or detain for further processing or testing cheese that tested positive for *Listeria monocytogenes*, *Salmonella* or *E. coli*.

re: We agree that the cheese plant should be given options for alleged violative cheeses.

18AAC 32.370 (d)(3) This section should delete the words "cheese product" and retain "food ingredient".

re: Cheese is covered in section 18AAC32.370 (a). Contamination of food ingredients should only be in this paragraph.

18AAC 32.370 (e). Delete (e).

re: In 18AAC 32.370(a) the cheese producer is given a choice to destroy, detain for further processing or testing. This section (e) is contradictory and should be deleted.

18AAC 32.370(f) Question: Define or elaborate on what is meant by "destroy" in a manner that precludes human consumption.

re: What alternatives exist for a product that is precluded for human consumption? Can it be used as livestock feed, fish food or crab bait?

18AAC 32.370 (g) Delete this section.

re: The cheese plant is given the choice in section (a) to destroy or detain for further processing or testing. This section is unnecessary.

18AAC 32.375. Civil Fines. (a) Civil fines will only be acceptable if all businesses regulated by DEC/DEH are included.

18AAC 32.380. Right to Appeal a Decision.

This section is meaningless. To be valid it must spell out what decisions are appealable, what evidence may be included in an administrative hearing, to whom decisions may be appealed, and so on.

There must also be an authority or an impartial third party which DEC/DEH acknowledges as an expert, especially in the case of pathogens and the public health.

For example, when Matanuska Creamery had difficulty with cheese testing in 2008, the detained notice outlined a right to appeal. When this right was exercised, DEC/DEH refused to hold a hearing on the grounds that the DEC lab was the only laboratory whose results would be acknowledged. Thus, DEH said, truthfully, that a hearing would be a waste of time, as they would not consider any other evidence than its own results.

This kind of circular logic is why both this section and the section on testing need to be carefully written and, when written, applied.

If there is no meaningful right to appeal, the regulations should so state. If that is the case, this section should be deleted, and processors should be warned that no administrative remedies exist or can exist.

Stating this is probably not proper form for the administrative code. If not, procedures for a real remedy within administrative confines should be found and promulgated.

General comment: DEH needs to create a new inspection form, which includes the regulatory citation for every deficiency noted.

John Davies

From: John Davies
Sent: Friday, March 12, 2010 3:45 PM
To: 'Ryan, Kristin J (DEC)'
Cc: Rep. Wes Keller
Subject: RE: ARRC Continued meeting Schedule and Agenda
Attachments: ARRC 3-15 Agenda.doc; ARRC Schedule 3-15.docx

Dear Director Ryan:

FYI, here is a copy of next Monday's continued meeting Schedule and Agenda. Since the Agency and public testimony is closed, you don't need to be in attendance, but I just wanted you to be kept in the loop as long as the issues are active. You may of course attend in person or by phone if you wish, as your input is always welcome.

Regards,
John Davies
ARRC Acting Committee Aide

From: Ryan, Kristin J (DEC) [mailto:kristin.ryan@alaska.gov]
Sent: Friday, March 05, 2010 1:24 PM
To: John Davies; Fuller, Jay D (DEC)
Cc: Rep. Wes Keller
Subject: RE: ARRC meeting Schedule and Agenda

Okay. Thanks John.

The one we are aware of is Margie Buckwalter. She will be using the 1-877 number. If we learn about others we'll let you know.

Thanks, Kristin

From: John Davies [mailto:John_Davies@legis.state.ak.us]
Sent: Friday, March 05, 2010 11:58 AM
To: Ryan, Kristin J (DEC)
Cc: Keller, Wes (LAA)
Subject: RE: ARRC meeting Schedule and Agenda

Dear Director Ryan:

The call in number is 877-763-5073. If you have any problems with that number please call me directly at 465-4899 or Rep. Keller's main line 465-2186. We value your input and want to make sure that there are no technical problems with the call in presentation.

As for the small cheese processors that want to testify, that would be excellent to have such input. They may either go to their local LIO and sign up to testify or call in the number I gave you above. The problem is that there are a limited number of call in lines so the LIO has asked me to try and have the individuals go to the LIO if at all possible. I know that some of the callers live in remote areas where an LIO is not accessible so in that case it would be ok.

I don't need the names, but the testifiers will have to sign up at the LIO to testify. If they are going to call in, then give me a heads up so I can alert the LIO here in Juneau.

Thank You.

Regards,
John Davies
ARRC Acting Committee Aide

From: Ryan, Kristin J (DEC) [mailto:kristin.ryan@alaska.gov]
Sent: Friday, March 05, 2010 9:05 AM
To: John Davies
Cc: Fuller, Jay D (DEC)
Subject: RE: ARRC meeting Schedule and Agenda

John – what teleconference number would you like us to use Monday?

Also, there is a currently permitted small cheese processors that want to testify as well. If you need their information in advance, we can have them contact you.

Thanks, Kristin

From: John Davies [mailto:John_Davies@legis.state.ak.us]
Sent: Friday, February 26, 2010 12:41 PM
To: Ryan, Kristin J (DEC)
Subject: FW: ARRC meeting Schedule and Agenda

Here is the schedule and agenda. JD

From: John Davies
Sent: Wednesday, February 24, 2010 1:20 PM
To: 'Larry.Hartig@alaska.gov'; 'jay.fuller@alaska.gov'
Cc: Rep. Wes Keller; Jim Pound
Subject: ARRC meeting Schedule and Agenda

February 24, 2010

Dear Gentlemen:

FYI, please find attached a copy of the March 8th meeting Schedule and Agenda.

If you have any questions, feel free to call me at 907 465-4899.

Thank You,

John Davies
ARRC Acting Committee Aide

John Davies

From: John Davies
Sent: Friday, March 12, 2010 2:01 PM
To: Dani Carlson
Cc: Rep. Wes Keller; Jim Pound
Subject: Press Release for Monday's ARRC meeting
Attachments: ARRC 3-15 Agenda.doc

Dear Dani

Attached to this email is the agenda for the ARRC's Monday continued meeting regarding Cheese Production and Personal Use Cabin regulations. This may help you draft your press release.

Press Release suggestions:

ARRC to consider an Exemption for small dairies.

The Chairman of the Joint Administrative Regulation Review Committee, Representative Wes Keller, continued last Monday's hearing until Monday, March 15, 2010, in order to allow for additional time to consider the subject of an exemption for small dairies from the new Cheese Production Regulations being proposed by DEC. The Committee will deliberate on this issue as well as take up issues pertaining to Personal Use Cabins. The Agency and public testimony has closed on the Cheese Production issues, but DNR will continue with its presentation on the personal use cabin issues and the public is welcome to weigh in with testimony on the cabin issues.

Thanks,

John Davies
ARRC Acting Committee Aide

ALASKA STATE LEGISLATURE

Interim:

600 E. Railroad Avenue

Wasilla, Alaska 99654

Phone: 373-1842

Fax: (907) 373-4729



Session:

State Capitol Building

Juneau, Alaska 99801-1182

Phone: (907) 465-4899

Fax: (907) 465-3818

ADMINISTRATIVE REGULATION REVIEW COMMITTEE

March 15, 2010

Kristin Ryan, Director
Environmental Health Division
Alaska Department of Environmental Conservation
555 Cordova Street
Anchorage, Alaska 99601

Dear Ms Ryan:

We would like to thank you for your testimony at the March 8 ARRC meeting regarding 18 AAC 32. Based on the testimony and that, other states such as Oregon have enacted an exemption for small dairies, we believe a similar exemption can be adopted for Alaskans. Therefore, the Committee recommends that your agency enter into negotiated rule making with the appropriate parties pursuant to AS44.62.710 et.seq to work out an acceptable exemption.

The Committee is hopeful that a workable solution can be achieved that balances the protection of the public with the individual's freedom to choose what he/she eats, thereby reducing regulatory involvement at the smaller direct sales level. If an appropriate exemption is not worked out, please be advised that the Committee has the authority during interim to suspend a regulation and during the Session to introduce legislation to overrule a regulation. If you have any questions, please feel free to give the ARRC office a call.

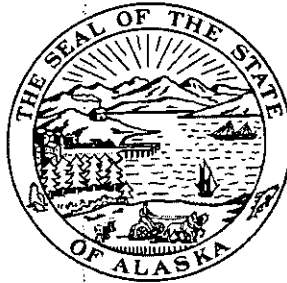
Very Truly Yours,

Rep Wes Keller
Ronald Olson
Ken Meyer

Albert Koohech
Zach [unclear]
Jammie Wilson
[unclear]

ALASKA STATE LEGISLATURE

Interim:
600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone: 373-1842
Fax: (907) 373-4729



Session:
State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-4899
Fax: (907) 465-3818

ADMINISTRATIVE REGULATION REVIEW COMMITTEE

REPRESENTATIVE WES KELLER, R-WASILLA- CHAIR

FOR IMMEDIATE RELEASE

PRESS RELEASE

Cheese Regulations need more work and some exemptions

The Administrative Regulation Review Committee (ARRC) met again on Monday, March 15th to continue work on previously discussed issues including Department of Environmental Conservation proposed regulations on cheese. Of concern to the committee and the stakeholders is the effects the regulations will have on small dairies.

Committee Chair, Wes Keller proposed that prior to any more action, the Department enter into negotiated rulemaking discussions with the stakeholders. Negotiated Rule making is a process in which both sides sit down at the table and discuss their concerns and attempt to reach a compromise. The statutory process has been used several times since being created by the Legislature and has been successful in reaching agreements on regulations.

A number of small producers attended the March 8th meeting of ARRC and asked for an exemption from the regulations similar to the one adopted by the State of Oregon. At the meeting on the 15th the Committee decided to request a small producer exemption be placed in the new regulations. Representative Keller said, "The Committee believes that small dairies should not be burdened with expensive or complicated regulations, and that individuals should be free to buy fresh milk and cheese from these small farms if they wish. It is good public policy for both the small dairyman and the consumer, and where they deal directly with one another the State doesn't need to be involved." By using negotiated rule making the details of that exemption can be worked out prior to the regulations taking effect.

In its letter to DEC, the Committee made it clear that if an acceptable exemption is not adopted, that it had the power to suspend a regulation or introduce legislation to overrule the regulations. Certainly, the committee prefers that the Department and the Stakeholders reach an agreed solution without the need for legislative involvement.

###

John Davies

From: John Davies
Sent: Wednesday, March 17, 2010 1:28 PM
To: Rep. Wes Keller
Subject: Cheese Exemption

Dear RWK:

One problem that could come up in the Cheese Exemption regards the PMO federal law. Oregon views the PMO as only effecting milk shipped interstate. But Alaska has adopted the PMO in AS17.20.005 as part of our state standards of sanitation for dairies offering to the public or selling milk or milk products.

Perhaps that means that, as Jennifer Ansley proposed, the milk and/or cheese would have to be pasteurized before sales could take place? Our ARRC attorney thinks that the way Alaska law presently reads in the referenced statute that an exemption can't be granted.

Maybe we will have to put an exemption in statute? Such as in AS17.20.005 (4) add a (4a) to read "Small Dairy Exemption.....then add language like Oregon or whatever the negotiated rule making comes up with".

Just a thought for now, as we don't know yet whether the Director will enter into negotiated rulemaking with the stakeholders. Perhaps next session, working with Rep. Neuman we put in a bill for exemption so as to override the PMO.

JD

John Davies

From: Rep. Wes Keller
Sent: Sunday, March 21, 2010 8:00 PM
To: Frederick Pennington
Cc: John Davies
Subject: RE: Cheese Production

Frederick, I have copied John Davies, chief of staff so he can respond if he has an answer to your question. I think it would be good to get in touch with some of the testifiers for small producers to ask them.

Rep Keller

From: Frederick Pennington [fr3der1ckiv@yahoo.com]
Sent: Friday, March 19, 2010 12:12 PM
To: Rep. Wes Keller
Subject: Re: Cheese Production

Thanks Rep. Keller, for the fast response and your support. Is there anyone else I can write or call to protect Alaskan Cheese producers?

Frederick Pennington

From: Rep. Wes Keller <Representative_Wes_Keller@legis.state.ak.us>
To: Frederick Pennington <fr3der1ckiv@yahoo.com>
Sent: Fri, March 19, 2010 9:51:22 AM
Subject: RE: Cheese Production

Thanks for the encouragement Frederick . The onerous regulations were a product of the Division of Environmental Health in DEC. The Legislature is doing everything we can to allow small cheese producers to operate without undue restriction.

Sincerely,
Rep Keller

From: Frederick Pennington [mailto:fr3der1ckiv@yahoo.com]
Sent: Thursday, March 18, 2010 2:13 PM
To: Wes_Keller@legis.state.ak.us
Subject: Cheese Production

Dear Rep. Keller,

I frequently monitor local news and happened upon an article today about regulations on cheese production and was shocked at the ridiculousness of requiring city water and sewer. As horrid as that idea is, I am really upset to have not heard this was even being considered and have missed the public comment period. For the record I am not against government regulation, but these regulations would further restrict Alaskans the chance to buy local and support our fellow Alaskans. I strongly request that you vote against such regulations that would require cheese manufacturers to move to a city to make cheese.

Frederick C Pennington IV

745 E Susitna Dr.
Wasilla , AK 99654

John Davies

From: John Davies
Sent: Thursday, March 25, 2010 11:03 AM
To: 'fr3der1ckiv@yahoo.com'
Cc: Rep. Wes Keller
Subject: ARRC Cheese Production Regulations

Dear Mr. Pennington:

Representative Keller has forwarded a copy of your email to me for response.

After reading your email, it is my opinion that you would most likely find it educational to correspond with two of the individuals that advocated for a small producer exemption. You may find that working with them promotes your best interests as well.

Their contact information is: Jennifer Ansley at Far Above Rubies 907 457-3890 www.alaskagoatmilk.com email gkahoe@gci.net and Paul Robinson at pbr@rescpa.com

Thank you for taking the time to be involved in the process.

Regards,
John Davies
ARRC Acting Committee Aide

STATE OF ALASKA

Sean Parnell, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION DIVISION OF ENVIRONMENTAL HEALTH

555 Cordova Street
Anchorage, Alaska 99501
PHONE: (907) 269-7644
FAX: (907) 269-7654
<http://www.dec.state.ak.us/>

April 8th, 2010

The Honorable Wes Keller
Administrative Regulation Review Committee Chairman
State Capitol, Room 13
Juneau, Alaska 99801

Dear Representative Keller,

This is in response to the letter from the Administrative Regulation Review Committee dated March 15, 2010. The Department of Environmental Conservation (DEC), Division of Environmental Health attended two committee hearings related to the regulation of cheese for commercial sale.

Since 2008, the Division of Environmental Health has been drafting changes to 18 AAC 32 to address commercial cheese production. Several years ago, one company made cheese in Alaska. Since we were lacking regulations for safe cheese production at that time, we utilized the federal rules but found them too restrictive for Alaskan producers. We are excited to see more entrepreneurs venturing into cheese making and our only goal is to ensure they make a product that is safe to eat.

I want to reiterate the most important aspects of making cheese that is safe to eat and protective of human health. First, it requires healthy animals. Sometimes it is impossible to know when an animal is shedding dangerous pathogens into the milk such as tuberculosis, brucellosis, listeria, campylobacter, E. coli, salmonella, and Coxiella burnetti (Q-Fever). The proper care and humane treatment of animals will require a conscientious owner to occasionally use antibiotics to save the life of an animal. The second tenet to safe cheese making is a clean and sanitary processing facility. Given the environment in which dairy animals live, it is impossible to eliminate all fecal matter from a dairy operation but the risks can be reduced with effective sanitation. Third, adequate processing is necessary to kill bacteria and pathogens that may contaminate the milk. And fourth, testing of the final product is required to make sure the protective measures were successful and the commercial product is wholesome and safe to eat. The regulations proposed by the Division of Environmental Health were intended to establish the minimum standards necessary to make safe cheese.

We have thoroughly reviewed many other states' regulations related to cheese production and primarily used the State of Oregon as our model. No other state exempts any cheese producer, no matter what their size, from food safety requirements. The exemption example provided to the committee from Oregon does not relate to cheese production and only exempts raw milk sales. It is similar to the current raw milk allowance in Alaska.

One testifier felt the proposed testing regime was much stricter than what imported cheese goes through. Commercial cheese is regulated by the state or country that it is produced in. Any international imports must have a regulatory program acceptable to the U.S. Food and Drug Administration. Every state except Alaska has rules in place very similar to the ones proposed by the Division of Environmental Health. Not every state is identical on all regulatory aspects but they are relatively equivalent. For example, Alaska's proposed regulations are actually more lenient than many states because we allow the use of Grade "B" milk for cheese production.

There are many misunderstandings about the proposed drinking water and wastewater requirements. The three cheese producers that have received permits are on private wells. In situations like these, DEC requires the well to be tested quarterly for total coliforms and nitrates. That puts the well in compliance with 18 AAC 80, the regulations for public water systems and technically makes the well a public water system. In the case of Healing Acres Goat Farm, their septic system was a few feet closer to their well than drinking water regulations allow which is why the drinking water program granted them a waiver. The commercial cheese production regulations do not include waivers. It is a similar circumstance for wastewater treatment. The three cheese producers that have received permits are on private septic systems. The proposed regulations just require that wastewater systems comply with 18 AAC 70 the regulations for wastewater systems. Private septic systems can comply with those regulations.

The proposed regulations stated separate rooms were necessary for eight different types of activities. We are developing new provisions that will allow for some latitude in room usage without compromising food safety. The existing permitted facilities have combined several compatible activities in rooms or utilized closets for certain things like bacteriological and chemical analysis without jeopardizing the safety or wholesomeness of the cheese product.

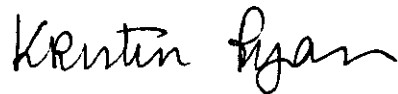
Because many small Alaskan commercial producers feel the proposed regulations are unattainable, yet small cheese makers in other states are able to comply with similar regulations, we have researched the differences carefully. The most common method used by small artisan cheese makers in other states is the formation of cooperatives where multiple cheese producers band together and build one facility for commercial cheese production. We are working with the U.S. Department of Agriculture (USDA) to bring cheese guild

representatives in from other states so they can explain how this model has worked in their communities. Grants and loans appear to be available to support this approach. The Division of Environmental Health will create a group of stakeholders to encourage discussion about this option over the next year. Co-op kitchens are used for the preparation and processing for many commercial food products. Therefore, it may be a successful model for several small, Alaskan food processors.

Since there are considerable misunderstandings with the proposed regulations, the Division of Environmental Health will release another version for public comment and continue the dialogue. This will allow us to make amendments and hold workshops to further delve into concerns and possible solutions. Hopefully a revised version of the regulations will clarify and address many of the concerns raised. In addition, we need more discussion about the areas of concern. The Division of Environmental Health wants to assist small commercial cheese producers make a safe product.

Thank you for your input. We will be releasing a new version of the regulations and will announce the workshops soon.

Sincerely,



Kristin Ryan
Director
Division of Environmental Health

Cc:

Honorable Senator Olson
Honorable Representative Gatto
Honorable Representative Guttenberg
Honorable Senator Kookesh
Honorable Senator Meyer
Honorable Tammie Wilson

John Davies

cheese regs

From: Far Above Rubies [gkahoe@gci.net]
Sent: Friday, April 09, 2010 6:09 PM
To: Rep. Wes Keller; Rep. Tammie Wilson; Rep. David Guttenberg
Cc: John Davies; Paul Robinson
Subject: cheese regulations

Dear Rep. Keller, Rep. Wilson, and Rep. Guttenberg,

The article below is on the Fairbanks Daily News-Miner website for Friday, April 9th. I am concerned with the attitude of the DEC. It seems unlikely that they intend to engage in any meaningful negotiated rulemaking with the stakeholders. To date, I have not been contacted by the DEC nor am I aware of any other stakeholders who have been contacted to begin discussions. I am also very offended by Kristin Ryan's flip comment that home dairy owners make "cheese in their bathtubs."

I appreciate the interest that you have shown and the time that you have taken to encourage the DEC to make an exemption for home dairies. I wanted to be sure that you were aware of this article and of the DEC's uncooperative attitude.

Thank you very much for your time.

Sincerely,

Jennifer Ansley
Far Above Rubies

Goat farms spur growth in Alaskan cheese making
by Jeremy Hsieh / The Associated Press
7 hrs ago | 708 views | 5 | 8 | |

JUNEAU, Alaska - When Jennifer Ansley saw goats for the first time at a state fair, her heart nearly skipped a bleat.

"Oh, that's what I want," she told her husband. "I'm going to learn to make cheese. And I did."

A decade later, Ansley is among a growing number of Alaska farmers who have found a niche with goats, hardy animals they say adjust well to the state's climate. Ansley has 10 goats on her 15-acre farm in Ester and makes cheese for her family - something that concerns state officials who have drafted the state's first rules for commercial cheese making.

"We don't want people making cheese in their bathtubs," said Kristin Ryan, director of the state Division of Environmental Health. "We want it done in a sanitary environment."

Ansley doesn't sell her cheese, instead making a living selling soaps and skin creams made with goat milk. But state officials are hearing from more farmers who want to sell cheese - and suspect some may already be doing it out their back doors - as the number of dairy goat farms grows.

It more than doubled from 12 in 1997 to 27 in 2007, the latest year for which numbers are available. But Ryan said Alaska remained the only state without commercial cheese making regulations until this winter.

The rules issued then have alarmed the state's budding cheese-makers, who say they will raise costs and squelch entrepreneurs. One particularly vilified rule requires eight separate rooms for production with specifications for plumbing, lighting and ventilation. Ryan said that wasn't the intent, and it will be relaxed.

One goat dairy has already closed up shop. Matt Shaul and his wife ran the 10-acre Cranberry Ridge Farm in Wasilla for a year and a half. They received a permit for sales to the public from Ryan's office while the new rules were still being drafted and opened in 2007.

Area retailers bought every block of cheese the farm could make and sold it for about \$30 a pound, Shaul said, adding: "We could not keep up."

But in late 2008, they sold their farm and moved to New York. Dairy farming is already difficult with Alaska's short grazing season, small consumer base and high shipping costs, Shaul said. His permit came with rules that added to the burden, such as a requirement that he test for antibiotics part way through the cheese making process, adding to his equipment and other costs. New York tests for antibiotics too, but the cheese-maker doesn't have to have a lab to do it, he said.

"Any one of those things wouldn't have shut me down," Shaul said, "but piling it all together. ... Agriculture is so fragile in Alaska."

The state has issued permits for public sales to only one other mom-and-pop operation. Margie Buchwalter said she found the process reasonable and the state accommodating, but she closed her business shortly after receiving its permit because her husband developed unrelated health problems.

The only other permit holder thus far has been the state's biggest dairy processor, Matanuska Creamery in Palmer. Unlike the other two, it buys cow milk from farmers and has 17 workers, including two part-time cheese-makers. But general manager Karen Olson said her company also has concerns about the rules, particularly when it must compete with cheaper cheese imported from states where regulations might be more lenient.

Alaska lawmakers met last month on the cheese regulations and asked Ryan to work with the dairies to rewrite the rules with exemptions for small farms. As a model, dairy farmers and lawmakers pointed to Oregon, which allows direct-to-consumer milk sales at the farm.

But Ryan said milk has lower health risks than cheese, which involves more production steps, handling and ingredients, thus more ways to become tainted.

The U.S. sees about 2,500 cases each year of listeriosis, the most common food-borne illness caused by dairy products, with about 500 fatalities, according to the Centers for Disease Control and Prevention. It can be dangerous to the elderly, newborns, pregnant women and people with chronic medical conditions.

Dr. Jay Fuller, an assistant state veterinarian who helped draft Alaska's rules, said they are already the most liberal among the states and food safety shouldn't take a back seat to business.

"This is not stricter regulation, it's the first regulation we ever had," said Fuller, who suggested farmers pool their resources and establish cooperatively owned processing facilities that meet state safety codes instead of seeking a small dairy exemption.

John Davies

From: John Davies
Sent: Monday, April 12, 2010 10:25 AM
To: 'Far Above Rubies'
Cc: Rep. Wes Keller; Jim Pound
Subject: RE: cheese regulations

Dear Jennifer Ansley,

Thank you for your email. I am disappointed that DEC is not working with you and the other stakeholders as the Committee suggested. I will meet with Chairman Keller to explore options.

In closing, I read the article that you forwarded. It was well done and accurate from what I know about the situation. Good reporting is rare these days, so the article was refreshing.

Please feel free to contact me in a few weeks if you haven't heard from me by then. We are right at the end of the Legislative Session and things will be in transition at the end of this week as the Sessions ends and we move the office back to District 14 (Wasilla). I'll be back in the Wasilla office after April 26th.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide

From: Far Above Rubies [mailto:gkahoe@gci.net]
Sent: Friday, April 09, 2010 6:09 PM
To: Rep. Wes Keller; Rep. Tammie Wilson; Rep. David Guttenberg
Cc: John Davies; Paul Robinson
Subject: cheese regulations

Dear Rep. Keller, Rep. Wilson, and Rep. Guttenberg,

The article below is on the Fairbanks Daily News-Miner website for Friday, April 9th. I am concerned with the attitude of the DEC. It seems unlikely that they intend to engage in any meaningful negotiated rulemaking with the stakeholders. To date, I have not been contacted by the DEC nor am I aware of any other stakeholders who have been contacted to begin discussions. I am also very offended by Kristin Ryan's flip comment that home dairy owners make "cheese in their bathtubs."

I appreciate the interest that you have shown and the time that you have taken to encourage the DEC to make an exemption for home dairies. I wanted to be sure that you were aware of this article and of the DEC's uncooperative attitude.

Thank you very much for your time.

Sincerely,

Jennifer Ansley
Far Above Rubies

Goat farms spur growth in Alaskan cheese making

by Jeremy Hsieh / The Associated Press
7 hrs ago | 708 views | 5 | 8 | |

JUNEAU, Alaska - When Jennifer Ansley saw goats for the first time at a state fair, her heart nearly skipped a beat.

"Oh, that's what I want," she told her husband. "I'm going to learn to make cheese. And I did."

A decade later, Ansley is among a growing number of Alaska farmers who have found a niche with goats, hardy animals they say adjust well to the state's climate. Ansley has 10 goats on her 15-acre farm in Ester and makes cheese for her family - something that concerns state officials who have drafted the state's first rules for commercial cheese making.

"We don't want people making cheese in their bathtubs," said Kristin Ryan, director of the state Division of Environmental Health. "We want it done in a sanitary environment."

Ansley doesn't sell her cheese, instead making a living selling soaps and skin creams made with goat milk. But state officials are hearing from more farmers who want to sell cheese - and suspect some may already be doing it out their back doors - as the number of dairy goat farms grows.

It more than doubled from 12 in 1997 to 27 in 2007, the latest year for which numbers are available. But Ryan said Alaska remained the only state without commercial cheese making regulations until this winter.

The rules issued then have alarmed the state's budding cheese-makers, who say they will raise costs and squelch entrepreneurs. One particularly vilified rule requires eight separate rooms for production with specifications for plumbing, lighting and ventilation. Ryan said that wasn't the intent, and it will be relaxed.

One goat dairy has already closed up shop. Matt Shaul and his wife ran the 10-acre Cranberry Ridge Farm in Wasilla for a year and a half. They received a permit for sales to the public from Ryan's office while the new rules were still being drafted and opened in 2007.

Area retailers bought every block of cheese the farm could make and sold it for about \$30 a pound, Shaul said, adding: "We could not keep up."

But in late 2008, they sold their farm and moved to New York. Dairy farming is already difficult with Alaska's short grazing season, small consumer base and high shipping costs, Shaul said. His permit came with rules that added to the burden, such as a requirement that he test for antibiotics part way through the cheese-making process, adding to his equipment and other costs. New York tests for antibiotics too, but the cheese-maker doesn't have to have a lab to do it, he said.

"Any one of those things wouldn't have shut me down," Shaul said, "but piling it all together. ... Agriculture is so fragile in Alaska."

The state has issued permits for public sales to only one other mom-and-pop operation. Margie Buchwalter said she found the process reasonable and the state accommodating, but she closed her business shortly after receiving its permit because her husband developed unrelated health problems.

The only other permit holder thus far has been the state's biggest dairy processor, Matanuska Creamery in Palmer. Unlike the other two, it buys cow milk from farmers and has 17 workers, including two part-time cheese-makers. But general manager Karen Olson said her company also has concerns about the rules, particularly when it must compete with cheaper cheese imported from states where regulations might be more lenient.

Alaska lawmakers met last month on the cheese regulations and asked Ryan to work with the dairies to rewrite the rules with exemptions for small farms. As a model, dairy farmers and lawmakers pointed to Oregon, which allows direct-to-consumer milk sales at the farm.

But Ryan said milk has lower health risks than cheese, which involves more production steps, handling and ingredients, thus more ways to become tainted.

The U.S. sees about 2,500 cases each year of listeriosis, the most common food-borne illness caused by dairy products, with about 500 fatalities, according to the Centers for Disease Control and Prevention. It can be

dangerous to the elderly, newborns, pregnant women and people with chronic medical conditions.

Dr. Jay Fuller, an assistant state veterinarian who helped draft Alaska's rules, said they are already the most liberal among the states and food safety shouldn't take a back seat to business.

"This is not stricter regulation, it's the first regulation we ever had," said Fuller, who suggested farmers pool their resources and establish cooperatively owned processing facilities that meet state safety codes instead of seeking a small dairy exemption.

John Davies

From: John Davies
Sent: Tuesday, April 13, 2010 11:03 AM
To: 'janet_ogan@legis.state.ak.us'; Bonnie Gruening; Kimberly Clark; Christina Apathy; Josh Applebee; Christopher Birdsall
Cc: Rep. Wes Keller; Jim Pound
Subject: FW: Cheese Regulations

Dear Fellow Staffers,

Here is a forwarded email that thanks Director Ryan for her letter of April 8th, (all members were cc'd) which notifies the ARRC that DEC will be proposing new regulations with changes to deal with the objections to the formerly proposed regulations. It appears that the ARRC has helped the small producers be heard, and hopefully after the workshops, a suitable resolution will be hashed out. Thank your bosses for their positive input.

Have a good closing to this Session. It has been a pleasure working with all of you.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide

From: John Davies
Sent: Tuesday, April 13, 2010 10:56 AM
To: 'Ryan, Kristin J (DEC)'
Cc: Rep. Wes Keller; Jim Pound
Subject: Cheese Regulations

Dear Director Ryan:

Representative Keller on behalf of the Administrative Regulation Review Committee thanks you for your letter dated April 8, 2010, and your reasoned approach to working out a Cheese Regulation solution that will work for all parties.

The Committee wishes you success in these proceedings. If you need the assistance of the Committee please do not hesitate to call upon us.

Very Truly Yours,

For Representative Wes Keller
By
John Davies
ARRC Acting Committee Aide

John Davies

From: John Davies
Sent: Tuesday, April 13, 2010 10:51 AM
To: 'Far Above Rubies'
Cc: 'Ryan, Kristin J (DEC)'; Rep. Wes Keller; Jim Pound
Subject: Cheese Regulations

Dear Jennifer Ansley,

Today our office received a letter from Director Ryan, Division of Environmental Health, DEC, which I believe is responsive to your questions.

In her letter Director Ryan says, "Since there are considerable misunderstandings with the proposed regulations, the Division of Environmental Health will release another version for public comment and continue the dialogue. This will allow us to make amendments and hold workshops to further delve into concerns and possible solutions. Hopefully a revised version of the regulations will clarify and address many of the concerns raised. In addition, we need more discussion about the areas of concern. The Division of Environmental Health wants to assist small commercial cheese producers make a safe product.

Thank you for your input. We will be releasing a new version of the regulations and will announce the workshops soon."

I suggest that you keep in touch with Director Ryan so that you are in a position to receive notice of the new regulations and be able to comment so as to be a part of the dialogue. Please feel free to contact our office if you have any questions or concerns.

I am happy to know that matters are moving in a positive direction for all concerned.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide

John Davies

From: John Davies
Sent: Tuesday, April 13, 2010 10:56 AM
To: 'Ryan, Kristin J (DEC)'
Cc: Rep. Wes Keller; Jim Pound
Subject: Cheese Regulations

Dear Director Ryan:

Representative Keller on behalf of the Administrative Regulation Review Committee thanks you for your letter dated April 8, 2010, and your reasoned approach to working out a Cheese Regulation solution that will work for all parties.

The Committee wishes you success in these proceedings. If you need the assistance of the Committee please do not hesitate to call upon us.

Very Truly Yours,

For Representative Wes Keller
By
John Davies
ARRC Acting Committee Aide

John Davies

From: Far Above Rubies [gkahoe@gci.net]
Sent: Tuesday, April 13, 2010 2:08 PM
To: John Davies
Subject: Re: Cheese Regulations

Dear Mr. Davies,

Unfortunately, Ms. Ryan still seems confused as to what we are asking for. We are not small commercial cheese producers. We are people with less than 10 milking goats or 3 milking cows who would like to be able to legally sell our excess milk (less than 10 gallons/day) or cheese that we have made with our excess milk, directly to our friends and neighbors. We are not interested in making a business of cheesemaking. If Ms. Ryan could be made to understand that this is not a "small commercial cheese" production issue, I think that it would be easy to reach a satisfactory agreement.

I also am very unhappy with Ms. Ryan's public comments suggesting that we are "making cheese in (our) bathtubs." This, to me, does not indicate a sincere desire to understand or meet our needs.

Thank you for your assistance.

Sincerely,

Jennifer Ansley
Far Above Rubies

----- Original Message -----

From: John Davies
To: Far Above Rubies
Cc: Ryan, Kristin J (DEC) ; Rep. Wes Keller ; Jim Pound
Sent: Tuesday, April 13, 2010 10:50 AM
Subject: Cheese Regulations

Dear Jennifer Ansley,

Today our office received a letter from Director Ryan, Division of Environmental Health, DEC, which I believe is responsive to your questions.

In her letter Director Ryan says, "Since there are considerable misunderstandings with the proposed regulations, the Division of Environmental Health will release another version for public comment and continue the dialogue. This will allow us to make amendments and hold workshops to further delve into concerns and possible solutions. Hopefully a revised version of the regulations will clarify and address many of the concerns raised. In addition, we need more discussion about the areas of concern. The Division of Environmental Health wants to assist small commercial cheese producers make a safe product.

Thank you for your input. We will be releasing a new version of the regulations and will announce the workshops soon."

I suggest that you keep in touch with Director Ryan so that you are in a position to receive notice of the new regulations and be able to comment so as to be a part of the dialogue. Please feel free to contact our office if you have any questions or concerns.

I am happy to know that matters are moving in a positive direction for all concerned.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide

John Davies

Cheese Regs

From: John Davies
Sent: Wednesday, April 14, 2010 9:51 AM
To: 'Ryan, Kristin J (DEC)'
Cc: Rep. Wes Keller; Jim Pound; 'Far Above Rubies'
Subject: Small Dairy Exemption

Dear Director Ryan,

As we pack up the Juneau office and finish out the 26th Legislative Session, I wanted to convey to you the recently received sentiments of the small dairy group. They wanted to make the distinction that they are not small commercial cheese producers, but instead people with less than 10 milking goats or 3 milking cows who would like to be able to legally sell their excess milk (less than 10 gallons/day) or cheese that they have made with their excess milk, directly to their friends and neighbors. They are not interested in making a business of cheese making. They don't see this as an issue of small commercial cheese production, but simply a way to use their excess milk to offset the costs of their small family dairy. Finding a way to exempt these small operations from the burden and expense of cumbersome regulation is what is hoped for. Thank you for this consideration. We trust that the new proposed regulations and the workshops will prove fruitful in this regard.

Very Truly Yours,

John Davies
ARRC Acting Committee Aide