

State of Alaska
**DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**
DIVISION OF ENVIRONMENTAL HEALTH



18 AAC 36
Animal Health

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Comment Response Summary
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INTRODUCTION

The Department has proposed changes to 18 AAC 36 (Animal Health) to update the animal disease testing regulations, to come into compliance with federal rules relating to animal diseases and importation, and to set minimum care standards for animals.

Animal Health

These revisions allow the state to remain consistent with federal animal disease standards, which will allow continued movement of animals across state lines. Consequences of not adopting the federal standards into state regulations would mean that sheep and goats could not easily leave the State of Alaska without the animals being registered and enrolled in a federal program for a five year period prior to departure.

In addition to remaining consistent with federal law, the changes will ease the burden with moving animals in/out of the state. For example, Alaska is the only state that requires an Equine Infectious Anemia test within 60 days of import/export, when other states allow a less stringent 180 days to one year timeframe. These amendments adopt the 180-day standard.

Other animal health regulations were outdated with respect to several disease of importance, and have been updated. For example, trichomonas, which does not cause illness in bulls, is a major cause of infertility in cattle in the western U.S. and Canada. Infection can result in significant economic loss to cattle producers due to a reduced calf crop of up to 50% and lower overall weaning weights. Prior to these revisions, all western states had testing requirements for importation of bulls except for Alaska.

Most of the regulations that are being updated are related to farms that are involved in commercial markets or moving animals interstate. This is where the public is demanding traceability, so that if there is an outbreak, the source of the disease agent can be identified to prevent further spread to other animals or to people. The revised regulations will not increase paperwork or regulatory requirements for the average livestock or pet owner. If a sheep owner is raising animals for commercial markets (for sale of meat or breeding animals) they would be required to have official ear tags, but these may be obtained for free from the Office of the State Veterinarian, and the State would assume the duty of maintaining records.

Animal Care Standards

The Department also included new sections to provide clear, objective criteria to determine whether a person's conduct meets the "minimum standards of care for animals" as required in A.S. 03.55.100. Providing objective criteria through regulation will assist peace officers, veterinarians, and others dealing with reports of animal cruelty, and will also allow livestock producers in the state to certify or otherwise represent to their customers that their farms meet a minimum accepted standard of care.

From 2011 to 2012, 14 public workshops were held around the state to discuss the animal care standards portion of the regulations. During this time, contacts were made with a number of producers in the agriculture and dairy industries in Alaska, the Alaska Farm Bureau, representatives from the National Farm Bureau, the Kawerak Reindeer Herders Association, animal rescue, adoption and welfare organizations (Alaska SPCA, Alaska Office of HSUS, Alaska Equine Rescue, Alaska Animal Rescue, and others), as well as municipal animal control managers and veterinarians. After careful consideration of all commentary, the original draft standards were significantly streamlined for simplicity to address public input while still maintaining a reasonable set of minimum standards based on scientific research and sound animal husbandry practices. The staff who reviewed the input received on the early “straw” proposal report that the overwhelming majority of the people who commented favored the State initiating a rule-making to establish objective standards.

While the regulations do codify requirements on animal owners in regards to care standards, they are definitely *minimum* care standards and are far below standards set by 4H and national livestock organizations. To most responsible animal owners, the regulations will be common-sense and not burdensome.

Reorganization of 18 AAC 36

Several sections of 18 AAC 36 were reorganized as part of this regulations project, which resulted in significant misperceptions by the public. As evidenced by several of the comments received, many people mistakenly thought that all sections were new requirements, when in reality, many sections were repealed and then readopted under new section numbers. Editor’s Notes below each of those sections linked the old section number to the new number where appropriate.

OPPORTUNITIES FOR PUBLIC PARTICIPATION

The Division distributed notice of the proposed changes to 18 AAC 36 in accordance with AS 44.62.190. Official notice to the public was made on the Alaska Online Public Notice system on August 12, 2016, and downloadable files of the proposed regulations and public notice were made available on the Office of the State Veterinarian’s website. Notice was published in several newspapers around the state including:

- Alaska Dispatch News – August 16, 2016
- Mat-Su Valley Frontiersman – August 19, 2016
- Delta Wind – August 18, 2016
- Peninsula Clarion – August 18, 2016
- Fairbanks Daily News-Miner – August 17, 2016

Additionally, the Division mailed approximately 150 packets containing the public notice, additional regulations notice information, and a cover letter to individuals and organizations. A

good faith effort was made to reach organizations such as the Alaska Farm Bureau, Alaska Diversified Livestock Association, Alaska Veterinary Medical Association, municipal animal control offices, and all livestock producers listed in the Alaska Grown Sourcebook.

In response to questions received during the public comment period, a frequently asked questions (FAQ) document was created and posted online. The list of questions and answers was updated periodically as needed throughout the public comment period. The FAQs are provided at the end of this responsiveness summary.

The public comment period ended September 16, 2016. The Division received comments from 15 individuals and organizations. This document summarizes and responds to those comments.

COMMENTS BY CATEGORY

Fiscal Impact

1. COMMENT: Several commenters expressed concern that this would impact them financially, and that the costs for implementing the regulations was not made available.

RESPONSE: Estimated costs to private persons, state agencies, and municipalities were considered and made available to the public along with the public notice in the Additional Regulation Notice Information. The Department does not anticipate significant costs to individuals to comply with the proposed regulations. Required permits, all of which were part of the original animal health regulations and not new to the proposed amendments, are provided free of charge. New requirements with an expected increase to compliance costs include the following for animals being transported into Alaska:

- Sheep will require blue tongue and brucellosis testing, both diseases are becoming a greater issue in Canada and the lower 48 states (this is currently already required for goats);
- Cervids coming into Alaska from regions with brucellosis or tuberculosis will require testing for these diseases;
- Cattle have new trichomoniasis testing requirements for bulls over the age of 18 months (the cost is approximately \$20-\$40 per test); and
- Ferrets coming into Alaska from other states will require a rabies vaccination (the cost is approximately \$7-\$20 per vaccination).

The proposed regulation changes are not expected to require an increased appropriation, since the work is the same as the current duties of Office of the State Veterinarian. No additional staff are proposed to be hired.

No commenters provided specific information of how the regulations would impact them financially, although several alluded to the burdens of compliance. The Department gave special consideration of the fiscal impact to livestock owners due to these regulation

changes, and still believes that the regulations will protect the health of both domestic animals and wildlife, while maintaining the ability to export animals, with only a small increase in compliance costs.

Non-Fiscal Impact

- 2. COMMENT: Several commenters provided non-specific objections to the proposed regulations, such as “I believe this will negatively impact the small commercial and personal livestock [owner]” and “I am opposed to many of these additional rules/regulations”.**

RESPONSE: Without specific information of what the commenters objected to, or a description of impacts, the Department cannot respond directly to these comments. As described in the introduction of this document, the Department is aware of a significant misconception regarding the regulation proposal, in that several commenters believed that many or most sections were new requirements, when in fact they were existing requirements that were renumbered and/or edited for clarity.

- 3. COMMENT: Several commenters expressed opposition regarding inspection and registration of animals.**

RESPONSE: Official ID is only required for animals to enter into commercial markets and to cross state and international borders. In Alaska, there are no livestock markets, and since the slaughter facilities are considered “small” or “very small” by the USDA, they may or may not require the official ear tags, since those facilities will already be recording the owners contact information and premises of origin when the animals are delivered to the plant. Currently, slaughter facilities in Alaska do not require ear tags.

If official animal IDs are required, they would be distributed to an animal owner by the state upon request. The state will also provide the tagging pliers or applicators to the farmer upon request. At this time this is provided at no charge but would require that the premises be entered into a database to keep track of where the ID tags were sent.

- 4. COMMENT: One commenter requested that consideration be given to recognizing and adopting the Commercial Aquaculture Health Program Standards, since fish are included in the definition of “animal”.**

RESPONSE: Adoption of commercial aquaculture health program standards goes beyond the scope of these proposed regulation revisions. The State of Alaska prohibits commercial fin fish aquaculture (farming), therefore regulations regarding such standards would appear to have no or limited benefit. Currently, the Alaska Department of Fish and Game regulates aquatic farming of shellfish, including disease control and inspection requirements, and also regulates non-commercial aquaculture, which includes the reporting and control of fish

diseases at egg-take sites, hatcheries, and rearing facilities. Future consideration of adopting commercial aquaculture health program standards into regulation would require an evaluation by both the Department of Environmental Conservation and the Department of Fish and Game, as well as a public review process.

5. **COMMENT: Some commenters were opposed to the regulations regarding the manufacture, transport, and import of veterinary biologics, stating that it would limit access to these products, result in greater incidences of disease, and prohibit animal owners from treating their own animals.**

RESPONSE: As stated in the proposed regulations, the new section (18 AAC 36.410) was addressed in the previous version of the regulations at 18 AAC 36.200 and 18 AAC 36.210. Those sections, which have been in place since at least 1982, require a permit for the manufacture, transport, introduction, and use of veterinary biologics. The proposed regulation maintains the permit requirement for manufacture, transport, and import, and also provides clarity for what information the permit application has to have, the conditions by which the State Veterinarian will approve the application, and a clause that the State Veterinarian could revoke an issued permit if it serves the interest of animal or public health.

These regulations currently apply, and will continue to apply, to manufacturers of veterinary biologics, not the individual end user. Nothing in these regulations prohibits an animal owner from providing medical care to their own animals.

6. **COMMENT: One commenter was concerned that import of semen would not be permitted, because it was a ‘veterinary biologic’.**

RESPONSE: The definition of veterinary biologic does not include semen.

7. **COMMENT: Some commenters mentioned that there is a lack of large animal veterinarians in Alaska, and these regulations will make it more difficult or impossible to have their animals properly checked out. Lack of veterinarians in Alaska would result in increased slaughter of animals.**

RESPONSE: These regulations do not change or impact the access to veterinary treatment. The regulations do not require an animal owner to have a veterinarian treat their animal, and in fact explicitly allow an owner to care for and provide medical treatment to their own animals.

8. **COMMENT: Two commenters requested additional time for public comment.**

RESPONSE: The Division provided a comment period greater than the minimum 30 days required, and a number of methods were also used to timely inform the public and interested parties of the opportunity to comment on the proposal. As described above, the

Division has spent considerable time over the past several years speaking to agricultural groups throughout the state regarding animal health and animal care standards, including livestock organizations, veterinarians, cooperative extension agents, and outreach at agricultural fairs, in addition to the standard public notice requirements. The request for additional time for public comment is denied.

9. COMMENT: Several commenters were opposed to reporting requirements, premise registration requirements, and allowing Department staff onto their property.

RESPONSE: Article 3 of the regulations deals with reportable diseases. The list of reportable diseases has been part of the state's veterinary handbook and only addresses a situation where one of the specific diseases listed is identified and confirmed to be on the farm. In that case, when the laboratory or veterinarian that runs the test identifies a positive case they are to report the disease. If the owner submits the sample and receives the positive test results they would be responsible to report the disease as well.

It is only when there is such a report that state animal health officials would contact the animal owner to start the disease investigation, since these diseases present a significant risk to domestic animal and wildlife health or public health. DEC would not initiate an inspection of the animals or the property for this purpose unless there was confirmation of a reportable disease outbreak.

The other situation where a state animal health official or state trooper initiates investigation on a farm occurs when there is a credible report of animal cruelty received from a member of the public. This has been in regulation prior to this proposed regulation package.

10. COMMENT: Several commenters mentioned the Alaska Board of Game's Proposition 90 and the Wild Sheep Foundation, and said that the restrictions in the proposed regulations would be similarly detrimental to livestock management in Alaska.

RESPONSE: The proposed regulations are entirely separate from Proposition 90 which would have required any sheep or goat owner to register their herd or pet animal, adhere to specific fencing requirements, and prohibit raising sheep or goats in certain areas of the state where wild sheep or goats reside. The regulations proposed by the Division only apply to sheep and goat owners who are selling sexually mature animals in a commercial market in compliance with the Federal Scrapie rule.

11. COMMENT: Several commenters brought up the issue of food security, expressing concerns that the proposed regulations would limit the amount of food production in Alaska.

RESPONSE: There are no regulations that prohibit or restrict the production of livestock for food production. The regulations were developed to decrease the risk of disease spread to

domestic animals and wildlife, decrease the risk of zoonotic disease threat to the public, ensure adequate care and husbandry, and if animal products go into commerce, allow the public to determine who produced the product.

12. COMMENT: One commenter suggested that the importation requirements be the same as the exportation requirements.

RESPONSE: Each state has their own set of import regulations, and there are many other states that are far more restrictive. The State of Alaska does not have the authority to control import regulations for other states and countries. For example, to bring an animal into or transit through Canada requires adherence to Canada's importation laws, which are more burdensome, require permits for entry that do have a fee, and each province of Canada may require a separate permit for entry or transit.

13. COMMENT: One commenter suggested that the State consult with farm and animal groups prior to proposing new regulations.

RESPONSE: The Division has conducted extensive public outreach since 2011 with affected stakeholders, such as the Alaska Farm Bureau, livestock owners, and animal care advocates, and staff looks forward to continuing to reach out to all stakeholders with additional guidance after the regulations are made effective.

Frequently Asked Questions

The Department answered all questions received through September 6, 2016 and posted the answers in a Frequently Asked Questions document posted on the State Vet's website. Questions and answers were as follows.

1. Are the importation permits new?

No. Importation permits for horses, cattle, bison, yak, goats, sheep, pigs, dogs and cats from a quarantine area, and poultry and hatching eggs have been required since at least 1982 when the first version of 18 AAC 36 (Animal Health) was adopted.

Only the importation permits for cervids (reindeer) and camelids (llamas) have been codified in the proposed regulations.

Many of the sections have been re-numbered in an effort to clarify which animals are subject to importation permits. For example, for Poultry and Hatching Eggs, the old section (18 AAC 36.065) was repealed, and the same requirements were added in a new section at 18 AAC 36.165. This is the case for many of the "new sections". A crosswalk spreadsheet showing the changes, and areas where one section was repealed and then added under a different number

is found here [<http://dec.alaska.gov/eh/docs/vet/Crosswalk%20-%20OSV%20Animal%20Health%20Regs%2018%20AAC%2036.pdf>].

2. How does an animal importer obtain an importation permit?

Import permits must be obtained by the veterinarian who issues the health certificate (this is not a change from current procedure). It can now be done via our online system, or by phone during regular office hours.

3. How much are importation permits? Permits for importing medical biologics? Intrastate cervid movement permits?

There is no charge for these permits.

4. Why are the importation regulations being amended?

DEC proposes to revise these regulations to include federal standards for diseases that are not already addressed, such as scrapie and chronic wasting disease. These standards need to be adopted so that animals in Alaska can continue to cross interstate and international borders for import, sales, shows, etc.

If the State of Alaska does not adopt these requirements, it will lose its status as a consistent state with the USDA. If this were to occur, other states would not allow import of animals from Alaska.

5. If federal rules already exist, why is there a need to duplicate them on the state level?

The federal regulations apply to interstate movement of animals. State regulations may be more lenient or restrictive for animals residing in the boundaries or the state. But to move animals in commerce as food products or to move animals interstate within the United States you have to meet these federal standards.

Some states may have additional regulations over the federal requirements prior to allowing animals to reside that state.

6. Why was the length of time for testing for Equine Infectious Anemia lengthened from 60 days to 180 days?

In the rest of the United States, an equine must test negative for EIA within 180 days of import, unlike the current regulation of 60 days in Alaska. This change will make Alaska consistent with other states, as well as the USDA and international regulations. This change will also lessen the financial burden for people importing horses into Alaska, and will not result in any increased disease risk to horses in the state.

7. Does this require that I take my pet goat in for testing?

No.

8. What is the purpose of the animal care standards in Article 6?

Peace officers, veterinarians, and others dealing with reports of animal cruelty need clear objective criteria to determine whether a person's conduct meets the "minimum standards of care for animals" as required in A.S. 03.55.100. DEC proposes to address this in regulation by providing general minimum care standards for all animals, and specific criteria for horses, livestock (cattle and other ruminants), pigs, and dogs. Providing objective criteria through regulation will also allow animal producers in the state to certify or otherwise represent to their customers that their farms meet a minimum accepted standard of care. This will not only help in marketing their animals and animal products, but also help inform the public that the state has criteria for proper care of animals.

9. Can a village, city, or borough create more stringent animal care standards?

Yes. Nothing in the proposed regulations would prevent a local government from developing more stringent animal care standards for their community.

10. What is "humanely euthanized"? Will farmers still be able to put down animals by gun?

Humanely euthanized means to end the life of the animal without causing undue pain and suffering. The proposed regulations allow owners to euthanize an animal, and a gunshot to the head with an appropriate caliber gun is acceptable. Other acceptable methods are listed in the AVMA publication linked here [<https://www.avma.org/KB/Policies/Documents/euthanasia.pdf>].

11. What is the reportable disease list in Article 3? I think I've seen this list somewhere before - is it a federal list?

This list is currently on the website of the Office of the State Veterinarian, and was originally issued as an order of the State Veterinarian many years ago, but not codified in regulations. The list has been published for years in the State of Alaska veterinary handbook. The main requirement is for veterinarians and laboratories to report the disease to the State. This allows the state to take action if needed to control an outbreak.

12. Why do I need a permit to have chickens?

The proposed regulations do not require you to have a permit to own chickens.

Importation of poultry and hatching eggs is currently regulated by the current version of the regulations (dated 1982) at 18 AAC 36.065, and requires an importation permit and health

certificate before shipping poultry and hatching eggs in from out of state. The health certificate must include a certification that the flock from which the poultry or eggs originate have been tested negative for Pullorum and Typhoid disease and that they were produced in compliance with the National Poultry Improvement Plan.

When re-organizing the current regulations into the proposed regulations, this section (and many others) were re-numbered, and the requirements pertaining to poultry are now found at 18 AAC 36.165 (the old number - 18 AAC 36.065 was repealed).

When you order chicks for import to Alaska, the hatcheries obtain the (free) permit.

13. How much will this cost the State? How many people will the State have to hire?

From the public notice:

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

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

	Initial Year FY 17	Subsequent Years
Operating Cost	\$ 0	\$ 0
Capital Cost	\$ 0	\$ 0
1002 Federal receipts	\$ 0	\$ 0
1003 General fund match	\$ 0	\$ 0
1004 General fund	\$ 0	\$ 0
1005 General fund/program	\$ 0	\$ 0
Other (identify)	\$ 0	\$ 0

No additional staff are proposed to be hired.

14. What is a veterinary biologic? Does this include semen?

The proposed definition of veterinary biologic is found at 18 AAC 36.990(49) which states:

(49) "veterinary biologic" or "veterinary biological" or "veterinary biological product" mean all viruses, serums, toxins and analogous products of natural or synthetic origin, or products prepared from any type of genetic engineering, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms, and the antigenic or immunizing components of microorganisms intended for use in the diagnosis, treatment, or prevention of diseases in animals.

This definition updates the existing definition from 1982 which states:

"biological products," sometimes referred to as a biologicals, biologics, viruses, or vaccines, means those products used in the treatment or immunization of animals which have as their components live, modified live, or attenuated virus, bacteria, or pathogens capable of transmission and spread of transmissible diseases of animals;

Semen is not considered a veterinary biological.

15. Is the permit for importation of veterinary biologics new?

No. The existing regulations at 18 AAC 36.200 and 18 AAC 36.210 currently state:

*18 AAC 36.200. Manufacture and importation restrictions. A person may not manufacture in the state, or transport or introduce into the state biological products without first obtaining a permit from the state veterinarian. (Eff. 9/1/82, Register 83)
Authority: AS 03.05.010*

*18 AAC 36.210. Use Restrictions. A person who is not a licensed veterinarian may not use biological products for veterinary purposes without a permit from the state veterinarian. (Eff. 9/1/82, Register 83)
Authority: AS 03.05.010*

The proposed regulations repeal both 18 AAC 36.200 and 18 AAC 36.210, and moves the permit requirement to a newly numbered section at 18 AAC 36.410, which also specifies the type of information that the permit application has to have, the conditions by which the State Vet will approve the application, and a clause that the State Vet could revoke an issued permit if it serves the interest of animal or public health.

16. Can I vaccinate my own animals?

Yes. Providing medical care to your own animals, including administering vaccines, is allowed and no changes to this are proposed. While certain vaccines have always been restricted for use by veterinarians only, there is no change proposed for the vaccines that animal owners currently administer to their animals. As stated in Question 15, the same restrictions and procedures regarding importation of veterinary biologics, including vaccines, remains the same as it is now.