



**From:** [Pete Kennedy, Esq.](#)  
**To:** [Smith, Stefanie](#)  
**Subject:** [External] for PDA - Comment on Proposed Amendments to 7 Pa. Code Chapter 59  
**Date:** Saturday, July 13, 2024 10:56:04 AM  
**Attachments:** [PA-Comments-Chp59-WAPF-PKennedy-0713-raw-dairy-amendments.pdf](#)  
[2-194 Preamble 05-06-24 CLEAN aa PDA response.pdf](#)

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July 13, 2024

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**Re: Comment on Proposed Amendments to 7 Pa. Code Chapter 59**

*Attached is a PDF of the following content -*

*see File [PA-Comments-Chp59-WAPF-PKennedy-0713-raw-dairy-amendments.pdf](#)*

My name is Pete Kennedy; I'm an attorney with the Weston A Price Foundation (WAPF), a 501(c)(3) nonprofit with many members in Pennsylvania. WAPF's mission is to restore nutrient-dense foods to the American diet through research, education and activism. I am writing to recommend that the Pennsylvania Department of Agriculture (PDA) amend its proposed regulations for Chapter 59 (Milk Sanitation) of the Pennsylvania Administrative Code as follows:

**A. Recommendation #1** - Keep the current definition of "sell" in 59a.402 as it currently is.

PDA's current policy is to allow "cow herd share agreements" to operate without a permit. Those obtaining milk through a cow herd share agreement have an ownership in the dairy herd and the legal right to obtain milk produced by that herd without regard to permitting. Most, if not all, the cow herd share dairies have a small number of cows and would not be able to afford the cost of compliance with the permitting requirements. As far as is known, no foodborne illness outbreaks have been attributed to cow herd share operations in Pennsylvania. PDA should maintain its current policy of allowing cow herd share agreements.

The term "buyer's club" should also be omitted. The Communities Alliance for Responsible Eco-agriculture (CARE) is a buyer's club that has been in operation for nearly twenty years and recognized by PDA. PDA's policy has been not to require CARE farmers to hold any permits.

If PDA has evidence that a producer for CARE or any other buyer's club is producing adulterated milk, it has the authority to swiftly take action against the dairy.

**B. Recommendation #2** - Allow raw milk permit holders to sell the following raw dairy products: skim milk, cream, sour milk, sour cream, buttermilk, and all other fluid derivatives of milk. These unpasteurized products already fall under the statutory definition of "milk".

31 P.S. 645 (Definitions) includes the following:

*"Milk" means milk, skim milk, cream, sour milk, sour cream, buttermilk, and all other fluid derivatives of milk.*

*"Milk products" means, ice cream, ice cream mix, custard ice cream, french ice cream, frozen custard, and other similar frozen products, and all dairy products used in the manufacture thereof.*

*"Manufactured dairy products" means butter, cheese (natural or processed), dry whole milk, nonfat dry milk, any buttermilk, dry whey, evaporated milk (whole or skim), condensed whole and condensed skim milk (plain or sweetened), and such other products for human consumption, as may be designated by the secretary.*

31 P.S. 660a (Milk products), the statute governing production of milk products provides:

*"Milk products" shall be prepared from milk produced and handled in the following manner:*

*(a) "Milk for Pasteurization" shall be used in the preparation of "milk products."*

*(b) The "Milk for Pasteurization" used in the preparation of "milk products" shall be pasteurized or otherwise treated as indicated by the "secretary" during the preparation of "milk products." [underline added]*

31 P.S. 656.1 (Manufactured dairy products), the statute governing the production of manufactured dairy products provides:

*"Manufactured dairy products" shall be prepared from milk produced and handled in the following manner:*

*(a) "Milk for manufacturing purposes" or "milk for pasteurization" shall be used in the preparation of "manufactured dairy products."*

*(b) The "milk for manufacturing purposes" or "milk for pasteurization" used in the preparation of "manufactured dairy products" shall be pasteurized or otherwise treated as indicated by the "secretary" during the preparation of "manufactured of dairy products."*

By contrast there is no requirement that products falling under the definition of "milk" be "pasteurized or treated as otherwise indicated by the secretary."

The statutory definition of "milk" allows permitted dairies to produce and sell any raw products falling under that definition. Given the definition of "milk" in 31 P.S. 645 and the fact that there is

no pasteurization requirement for "milk", it's beyond the authority of PDA to limit the raw dairy products falling under the definition of "milk" to raw milk itself.

PDA should issue regulations governing the production, testing and documentation of raw dairy products falling under the definition of "milk" as it has for raw milk itself, raw cheese aged 60 days and now raw butter.

Respectfully submitted on behalf of the

**Weston A. Price Foundation**

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Citation Sources:

Summary of Proposed Rulemaking, e.g., 59a.402 (see page 25)

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31 P.S. 645 - Definitions

<https://codes.findlaw.com/pa/title-31-ps-food/pa-st-sect-31-645/>

31 P.S. 660a - Milk Products

<https://codes.findlaw.com/pa/title-31-ps-food/pa-st-sect-31-660a/>

31 P.S. 656.1 - Manufactured Dairy Products <https://codes.findlaw.com/pa/title-31-ps-food/pa-st-sect-31-656-1/>