

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 32.2.406 pertaining to licensee)	AMENDMENT
assessments to administer the milk)	
inspection and milk diagnostic lab)	
functions of the department)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On July 3, 2016, the Department of Livestock proposes to amend the above-stated rule.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m., June 30, 2016, to advise us of the nature of the accommodation that you need. Please contact Executive Officer, Department of Livestock, 301 N. Roberts St., Room 304, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9525; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: MDOLcomments@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

32.2.406 LICENSEE ASSESSMENTS (1) Pursuant to 81-23-202, MCA, the following assessment is levied: a fee of ~~\$0.155~~ \$0.14 per hundredweight per month, with a minimum of \$50.00 per month, whichever is greater, or a maximum of \$1,050.00 per month, on the volume of all classes of milk produced and sold by a person licensed by the Milk and Egg Bureau of the department, to be used for the administration of the milk inspection and milk diagnostic laboratory functions of the department. For a person licensed both as a dairy and as another licensee, only one assessment will be levied, whichever assessment is higher.

(2) The fee assessed in (1) must be paid before the 25th day of each month for milk sold in the preceding month.

(3) The fee assessed in (1) must be paid to the department in accordance with ARM 32.23.102(1).

AUTH: 81-1-102, 81-23-202, MCA

IMP: 81-1-102, 81-23-202, MCA

REASON: The department proposes the above-stated amendment to assess the milk inspection and milk diagnostic laboratory administration fee consistent with 81-23-202(4)(a), MCA, and to establish assessments that are commensurate with costs consistent with 81-1-102(2), MCA. Commensurate with costs does not

necessarily mean equal to costs and it is appropriate to consider general fund and other appropriations in setting the fee amount. The department has determined that the assessment, currently collected from dairies, should be collected from all persons that are licensed by the Milk and Egg Bureau of the department, including licensees other than dairies. This is consistent with the language provided in MCA.

The assessment rate was calculated on the department's fiscal projections of costs, actual historical costs of administration of the milk inspection and milk diagnostic laboratory functions for all persons licensed by the department and not just those licensed as a dairy. A portion of general fund that was appropriated by the 2015 Legislature in the amount of \$186,100 was subtracted from the amount of funds necessary to fund the administration of the milk inspection and the milk diagnostic laboratory functions. The amount of the shortage between general fund appropriation and the cost to administer the two programs is supplemented by the fee structure.

The assessment collected under the proposed amendment potentially will affect 72 persons in the state who are licensed by the department through the Milk and Egg Bureau for the production and sale of milk. The proposed amendment, in combination with the general fund in the amount of \$186,100 by the 2015 legislature, will fund the two programs.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Executive Officer, Department of Livestock, 301 N. Roberts St., Room 304, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9525; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: MDOLcomments@mt.gov, and must be received no later than 5:00 p.m., July 1, 2016.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Mike Honeycutt, Executive Officer at the above address no later than 5:00 p.m., July 1, 2016.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 7 persons based on the number of affected licensees in the state.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-

mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 4 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will significantly and directly impact small businesses.

BY: /s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State, May 23, 2016.