

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)	NOTICE OF PROPOSED
RULE I feral swine mandatory)	ADOPTION AND AMENDMENT
reporting and the amendment of ARM)	
32.2.401 fees, 32.3.212, additional)	NO PUBLIC HEARING
requirements for cattle, and 32.3.220,)	CONTEMPLATED
semen shipped into Montana)	

TO: All Concerned Persons

1. On January 23, 2016, the Department of Livestock proposes to adopt and amend the above-stated rules.

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., January 15, 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 adopted provides as follows:

NEW RULE I FERAL SWINE MANDATORY REPORTING (1) Any person, including, but not limited to, landowners, tenants, or persons responsible for property oversight in Montana who knows or has reason to believe feral swine as defined in 81-29-101, MCA, are present on private or public property must report such knowledge to the Department of Livestock.

(2) The presence of feral swine must be reported by phone within 24 hours to the Department of Livestock.

(3) The Department of Livestock shall report the presence of feral swine to other state agencies with an expressed interest in the presence of feral swine.

AUTH: 81-2-102, 81-29-103, 81-29-106, MCA
IMP: 81-2-102, 81-29-103, 81-29-106, MCA

REASON: The department proposes to adopt this new rule because the 2015 Legislature granted the department additional authority to control and eradicate feral swine. Feral swine is invasive and destroys agricultural and wild life resources in many states and Canadian provinces, including Saskatchewan and Alberta. Much of the range expansion is caused by aspiring hunters, seeding swine into new areas. Senate Bill 100 (2015) (SB100) established reporting requirements and made it illegal to import, transport, possess, feed, hunt, trap, or kill a feral swine, except as allowed by statute, or to profit from the release, hunting, trapping, or killing of a feral

swine. The department proposes New Rule I based on the enactment of SB100, which establishes a notification requirement for feral swine.

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

<u>32.2.401 DEPARTMENT OF LIVESTOCK ANIMAL HEALTH DIVISION</u>	
<u>FEES</u> (1) through (2)(g) remain the same.	
(h) <u>Pullorum authorized testing agent license</u>	<u>50.00</u>
(3) through (4)(a) remain the same.	
(b) Alternative livestock tags - elk (medium)	42.00 <u>64.50</u>
(c) through (l) remain the same.	

AUTH: 81-2-102, ~~81-2-107~~, MCA
IMP: 81-1-102, 81-2-502, 81-2-704, MCA

REASON: The department proposes to amend this rule to establish a fee for pullorum authorized testing agent license following the establishment of the program in August of 2011 in ARM 32.3.1505(7). The proposed pullorum authorized testing agent license would affect approximately 12 licensees.

The department proposes to amend this rule to increase the fee for alternative livestock tags as the unit price of the tag has risen in price from \$1.47 per tag to \$2.37 per tag. The new shipment costs are \$2.37 per bag x 25 tags per bag, equaling \$59.25 plus \$5.25 postage and handling per bag totalling \$64.50. The proposed fee increase would affect approximately 33 alternative livestock producers with an average of 875 animals.

The citation 81-2-107, MCA, is being deleted as it carries no authority for rulemaking.

32.3.212 ADDITIONAL REQUIREMENTS FOR CATTLE (1) through (4) remain the same.

(5) Sporting bovines originating from a tuberculosis accredited free U.S. state or zone require a negative tuberculosis test within ~~six~~ twelve months prior to importation if they:

- (a) are six months of age and older; or
 - (b) have attended at least a single sporting event; or
 - (c) are being imported for a specific sporting event.
- (6) through (14) remain the same.

AUTH: 81-2-102, 81-2-103, 81-2-707, MCA
IMP: 81-2-102, 81-2-703, 81-2-704, MCA

REASON: The department proposes to amend this rule to provide greater consistency between states for the interstate movement of sporting bovine while still adequately addressing the risk of tuberculosis in this sporting class of livestock.

32.3.220 SEMEN SHIPPED INTO MONTANA (1) ~~All sires shall~~ must not have been be used for natural service while the semen is being collected and certified for artificial insemination.

(2) Bovine semen ~~may not be transported into Montana for the purpose of artificial insemination and bovine semen may not be used for artificial insemination unless it~~ must originates from bulls that at the time of collection whose health status conforms to the requirements that follow:

(a) ~~All bulls must~~ meet all of Montana's import requirements; or

(b) ~~All bulls must be~~ are permanent residents of an approved certified semen services (CSS) facility, having completed all CSS required testing. ~~the bull stud, and a licensed accredited veterinarian must certify that the testing is being done. A permanent resident is a bull that has passed all testing requirements and is qualified to remain in the stud as long as it meets the biannual requirements:~~

(i) ~~All bulls must be interpreted to be free of Tuberculosis by the state disease regulatory officials on the basis of an official Tuberculosis test within 60 days prior to the first collection of semen destined for use in artificial insemination, and annually thereafter.~~

(ii) ~~All bulls must be interpreted to be free of Brucellosis by the state regulatory officials on the basis of official test conducted by a state federal laboratory within 60 days prior to the first collection of semen destined for use in artificial insemination, and be interpreted to be Brucellosis free by the state regulatory officials on the basis of an official test as recognized by the Code of Federal Regulations each six months thereafter. Bulls permanently residing at a bull stud in a class free area may (at the state veterinarian's discretion) be exempt from the Brucellosis testing.~~

(iii) ~~All bulls must pass three negative examinations for three consecutive weeks for Trichomonas fetus following the last natural service performed and within 60 days prior to the first collection of semen destined for artificial insemination, and one negative examination each six months thereafter. The inpouch method (or equivalent method as determined by the state veterinarian) must have been used. If the inpouch or equivalent was not used then six negative tests for six consecutive weeks are required.~~

(iv) ~~All bulls must pass two approved negative blood tests 30 days apart, or the titre shall be shown to be stabilized if present, for Leptospirosis within 60 days prior to the first collection of semen destined for use in artificial insemination, and each six months thereafter.~~

(v) ~~All bulls must be negative to Bovine Virus Diarrhea (BVD) using culture of the blood serum, or semen. If the culture is positive then isolate and reculture in 21 days. If the culture is negative, reculture in 14 days; if still negative the bull may be returned to the bull stud and semen may be collected 30 days later.~~

(vi) ~~Bulls must not be showing evidence of infection with Paratuberculosis, Bluetongue disease, or Bovine Leukosis.~~

(3) Bovine semen destined for use in artificial insemination in Montana must be treated using a recognized procedure and recognized chemotherapeutic agents to prevent transmission of *Campylobacter fetus* and other pathogenic microorganisms. Those recognized at this time are:

~~(a) semen treated to achieve a final concentration of 50 micrograms tylosin, 250 micrograms gentamicin, and 150/300 micrograms linco spectrin per milliliter of frozen semen as described by Lorton and Shin to the National Association of Animal Breeders (NAAB), 1986, (Lorton, 1986; Shin, 1986; 11 NAAB Technical Conference, 1986), or~~

~~(b) semen treated in accordance with the procedures and chemotherapeutic agents recognized as acceptable by the United States Animal Health Association and the National Association of Animal Breeders.~~

~~(4) All tests must be conducted according to specifications adopted by the United States Animal Health Association and approved by the United States Department of Agriculture, Agricultural Research Service and the official order dated the 26th day of September 1990 by the Board of Livestock recognizing certified semen service (CSS) health standards as equal to Montana requirements will be continued.~~

~~(5) All tests must be reported on the uniform certificate recommended by the United States Animal Health Association on page 170, 1962 proceedings of the United States Animal Health Association, or other form subsequently approved by the United States Animal Health Association, in applying for the annual permit to transport bovine semen into Montana to be used in artificial insemination.~~

(6) through (8) remain the same but are renumbered (4) through (6).

AUTH: 81-2-102, ~~81-20-101~~, MCA

IMP: 81-2-102, 81-2-403, 81-2-703, 81-2-704, 81-2-706, ~~81-20-101~~, MCA

REASON: The department proposes to amend this rule to remove language that specifies Certified Semen Services (CSS) testing requirements. This language is unnecessary when animals are permanent residents of a CSS facility. The department also proposes to remove language that specifies chemotherapeutic agents to be used for semen in place of more broad requirements that procedures used be approved by both the United States Animal Health Association (USAHA) and the National Association of Breeders. The department also proposes to remove a reference to an outdated official order and to the 1962 proceedings of the USAHA.

Citation 81-20-101, MCA, is being stricken as it applies to poultry and eggs rather than semen. Citations 81-2-403, 81-2-703, 81-2-704, and 81-2-706, MCA, are being added to further implement this rule regarding documentation, authorization, and notification for shipping semen into the state of Montana.

5. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to Department of Livestock, 301 N. Roberts St., Room 306, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., January 21, 2016.

6. If persons who are directly affected by the proposed action wish to express their data, views, and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written

comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m. January 21, 2016.

7. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons who are 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 public hearing will be held at a later date. Notice of the public hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 26, based upon any person potentially coming in contact with feral swine in the state of Montana, 67 sporting bovine producers, 33 alternative livestock producers, and a combined 142 semen collection facilities and private semen managers, and 12 pullorum authorized testing agent licensees.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this department. 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 5 above or may be made by completing a request form at any rules hearing held by the department.

9. 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.

10. The bill sponsor contact requirements of 2-4-302, MCA, have been fulfilled. The primary bill sponsor of SB100 (NEW RULE I) was contacted by e-mail on November 27, 2015, and by regular USPS.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

DEPARTMENT OF LIVESTOCK

BY: /s/ Martin Zaluski
Martin Zaluski
Interim Executive Officer
Board of Livestock
Department of Livestock

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

Certified to the Secretary of State, December 14, 2015.