

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PROPOSED AMENDMENT
of ARM 32.3.212 additional)	
requirements for cattle,)	NO PUBLIC HEARING
32.3.212B importation of cattle)	CONTEMPLATED
from Mexico, 32.4.201)	
identification of alternative)	
livestock with the exclusion of)	
omnivores and carnivores, and)	
32.4.1302 requirements for)	
mandatory surveillance of)	
Montana alternative livestock)	
farm cervidae for chronic wasting)	
disease)	

TO: All Concerned Persons

1. The Department of Livestock proposes to 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. on August 1, 2017, to advise us of the nature of the accommodation that you need. Please contact the Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-1929; e-mail: MDOLcomments@mt.gov.

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

32.3.212 ADDITIONAL REQUIREMENTS FOR CATTLE (1) through (3) remain the same.

(4) Test-eligible cattle originating from a tuberculosis accredited free U.S. state or zone require a negative tuberculosis test within 60 days prior to importation if they:

~~(a) are M-branded; or~~

~~(b) are Mx-branded; or~~

~~(c)~~ (a) have been in contact or exposed to M-branded, Mx-branded, or other cattle originally from Mexico; or

~~(d)~~ (b) are sexually intact dairy cattle, except:

(i) dairy cattle who originate directly from an accredited tuberculosis free herd; or

(ii) dairy cattle less than six months of age accompanied by a tuberculosis test-negative dam.

(5) through (7) remain the same.

(8) Test eligible M-branded or Mx-branded cattle imported into Montana require the following:

(a) a negative tuberculosis test within 60 days prior to importation; and

(b) proof of a whole herd negative tuberculosis test on the birth herd of origin.

(8) through (14) remain the same, but are renumbered (9) through (15).

AUTH: 81-2-102, 81-2-103, 81-2-707, MCA

IMP: 81-2-102, 81-2-703, 81-2-704, MCA

32.3.212B IMPORTATION OF CATTLE FROM MEXICO (1) All M-branded, Mx-branded, and other cattle or bison two months of age and older originating directly from Mexico (imported into the U.S. within 60 days) require ~~two negative TB tests 60-120 days apart. The first negative test can be the U.S. entry test. The second negative TB test must be performed by a USDA-APHIS VS accredited veterinarian and must be within 60 days prior to importation into Montana;~~

(a) a whole herd negative tuberculosis test on the birth herd of origin;

(b) a negative tuberculosis test performed by a USDA – APHIS VS accredited veterinarian within 60 days prior to importation; and

(c) a negative tuberculosis test within 60-120 days prior to importation, unless the negative test on the birth herd of origin falls within this timeframe.

AUTH: 81-2-102, 81-2-103, MCA

IMP: 81-2-102, 81-2-103, 81-2-703, MCA

Reason: The department proposes to add a whole herd negative tuberculosis test on the birth herd of origin on importation of cattle from Mexico because the Chairmen of the Agriculture Committees of the 65th Montana Legislature requested the department increase the testing requirements for M-branded cattle imported into Montana over concerns of potential risk of the introduction of tuberculosis into Montana.

Sections of ARM 32.3.212 and 32.3.212B have been reorganized for clarity. Authorizing and implementing citations are being updated to accurately reflect sources of rulemaking authority and implementation.

32.4.201 IDENTIFICATION OF ALTERNATIVE LIVESTOCK WITH THE EXCLUSION OF OMNIVORES AND CARNIVORES (1) and (2) remain the same.

(3) Under the authority of 87-4-414, MCA, and 9 CFR 55 and 81, each alternative livestock will be marked with two forms of official identification approved by the department. One approved method of identification will be the Montana official eartag.

(a) Montana official eartags must be applied by a department-designated agent. Official ear tags will be issued to and applied by alternative livestock veterinarians or other department-designated agents. Alternative livestock veterinarians may choose to delegate authority to apply tags to an alternative

livestock licensee within the context of a valid veterinarian-client-patient-relationship. In the circumstance that a licensee applies tags to alternative livestock the following conditions must be met:

(i) The alternative livestock licensee may only apply tags to their own animals in herds that have achieved CWD certified status as defined in ARM 32.4.1303.

(ii) The alternative livestock licensee may apply tags to calves born in the same year as the tagging event. All calf tagging must be completed and reported to the Department of Livestock prior to January 1. Tagging information must be reported to the Department of Livestock on an official department form within five days of the tagging event. If the alternative livestock licensee requests an extension to the January 1 tagging deadline a veterinarian must then apply the tags.

(iii) The alternative livestock licensee may apply replacement tags or tags to adult animals. The animal(s) must have one official tag in place prior to application of the replacement tag.

(b) through (5) remain the same.

AUTH: 87-4-422, MCA

IMP: 87-4-422, MCA

32.4.1302 REQUIREMENTS FOR MANDATORY SURVEILLANCE OF MONTANA ALTERNATIVE LIVESTOCK FARM CERVIDAE FOR CHRONIC WASTING DISEASE (1) and (2) remain the same.

(3) Upon the discovery of dead cervids, the licensee must immediately request an inspection of the alternative livestock as required by ARM 32.4.301. At the time of the inspection of the dead animal, the alternative livestock veterinarian shall remove the currently required tissue samples and/or specimens and submit them to a department-approved laboratory for testing for chronic wasting disease (CWD).

(a) An alternative livestock licensee with a valid veterinarian-client-patient-relationship with an alternative livestock veterinarian may collect CWD samples from a dead cervid if the licensee has been trained in sample collection by the alternative livestock veterinarian. Licensees may only collect samples from animals from CWD certified status herds owned by the licensee.

(i) Training for CWD sample collection will involve the veterinarian supervising the licensee through collection of CWD samples from at least two animals prior to the licensee being allowed to collect samples unsupervised.

(ii) If a licensee collects CWD samples they must submit the currently required tissue samples to an alternative livestock veterinarian along with the animal's ear(s) containing official identification tags and tattoo.

(iii) The alternative livestock veterinarian will be responsible for submitting CWD samples to a department-approved laboratory for testing as well as completing an inspection certificate for submission to the department along with the official identification tags removed from the ear(s).

(iv) If a licensee collects a sample that is unsuitable for CWD testing due to poor sample collection technique, the licensee must be re-trained by an alternative livestock veterinarian before being allowed to collect any further CWD samples. If a licensee continues to collect unsuitable samples after re-training the

licensee will no longer be able to collect CWD samples and the CWD certified status of their herd may be reduced.

- (a) through (d) remain the same, but are renumbered (b) through (e).
(4) and (5) remain the same.

AUTH: 81-2-103, 87-4-422, MCA

IMP: 81-2-103, 87-4-422, MCA

REASON: The Animal Health Division received a request from an alternative livestock producer to consider allowing producers to apply tags to alternative livestock and collect samples for CWD submission. Currently only an alternative livestock accredited veterinarian or other department designated agent may perform those tasks. After consulting with other states that have alternative livestock programs it is clear that the majority of those states allow producers to perform these tasks. The department proposes the rule changes necessary to allow Montana alternative livestock producers to apply tags and collect CWD samples from their own animals.

4. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to the Executive Officer, Department of Livestock, 301 N. Roberts St., Room 308, 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., August 4, 2017.

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 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., August 4, 2017.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the businesses 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 directly affected has been determined to be 30 people based on 30-35 potentially certified producers of alternative livestock and approximately 262 people who use sporting cattle in the state of Montana.

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 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 rules will not significantly and directly impact small businesses.

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

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

Certified to the Secretary of State June 26, 2017.