

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of)
ARM [32.23.301](#) pertaining to licensee)
assessments)
)
) NO PUBLIC HEARING
) CONTEMPLATED

To: All Concerned Persons

1. On March 16, 2015, 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. on March 4, 2015, to advise us of the nature of the accommodation that you need. Please contact Christian Mackay, 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: cmackay@mt.gov.

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

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32.23.301 LICENSEE ASSESSMENTS (1) Pursuant to [81-23-202](#), MCA, the following assessments for the purpose of deriving funds to administer and enforce the Milk Control Act ~~during the current fiscal year beginning July 1 and ending June 30~~, are hereby levied upon the Milk Control Act licensees of this department.

(a) A fee of ~~\$0.06~~ \$0.08 per hundredweight, with no assessment for fees less than \$5.00 per month, on the total volume of all milk subject to the Milk Control Act produced and sold by a producer-distributor.

(b) A fee of ~~\$0.06~~ \$0.08 per hundredweight, with no assessment for fees less than \$5.00 per month, on the total volume of all milk subject to the Milk Control Act sold in this state by a distributor home based in another state. Said fee is to be paid either by the foreign distributor or his jobber who imports such milk for sale within this state.

(c) A fee of ~~\$0.025~~ \$0.04 per hundredweight, with no assessment for fees less than \$5.00 per month, on the total volume of all milk subject to the Milk Control Act sold by a producer.

(d) A fee of ~~\$0.025~~ \$0.04 per hundredweight, with no assessment for fees less than \$5.00 per month, on the total volume of milk subject to the Milk Control Act sold by a distributor, excepting that which is sold to another distributor.

(e) A fee of \$0.155 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 department, to be

used for the administration of the milk inspection and milk diagnostic laboratory functions of the department.

(i) This fee, pursuant to [81-23-202\(4\)\(a\)](#), MCA, must be paid quarterly before January 15, April 15, July 15, and October 15 for the prior quarter of each year.

AUTH: [81-1-102](#), [81-23-104](#), [81-23-202](#), MCA
IMP: [81-1-102](#), [81-23-103](#), [81-23-202](#), MCA

REASON: The department proposes to amend the above-stated rule:

- to raise sufficient revenue to provide for the administration of Title 81, chapter 23, MCA, as proposed for Fiscal Year 2016 and Fiscal Year 2017;
- to equalize the combined rates assessed on producers and in-state distributors with the rates assessed on producer-distributors and foreign distributors.
- to increase the cash balance of the related special revenue fund to ensure solvency;
- to ensure assessments are commensurate with the costs as required by [81-1-102\(2\)](#), MCA; and
- to identify [81-1-102](#), MCA, in the authorizing and implementing statutes.

The increased fees charged by the Milk Control Bureau potentially will affect approximately 140 businesses that may be subject to assessments. The cumulative amount of the assessment rate increase will be \$107,000 based on applying the proposed rates to estimates of production and distribution by the different classes of licensed businesses.

4. This amendment shall be applied effective July 1, 2015.

5. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to Christian Mackay, 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., March 12, 2015.

6. 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., March 12, 2015.

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 14, based upon there being approximately 140 businesses licensed by the Milk Control Bureau.

8. 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 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, do not apply.

11. With regard to the requirements of [2-4-111](#), MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

DEPARTMENT OF LIVESTOCK

BY: /s/ Sherry Rust
Sherry Rust
Rule Reviewer

BY: /s/ Christian Mackay
Christian Mackay
Executive Officer
Board of Livestock
Department of Livestock

Certified to the Secretary of State February 2, 2015