



Montana Board of Livestock Meeting Minutes

(This Meeting was Open to the Public & By ZOOM)

November 3, 2021

MT Department of Livestock Board Room #319
301 N. Roberts, Helena, Montana

Board Members Present

Gene Curry, Chairman (cattle producer)
Alan Redfield (cattle producer)
Jake Feddes (cattle producer)
Sue Brown (dairy & poultry)

Ed Waldner (swine producer)
Greg Wichman (sheep producer)
Nina Baucus (cattle producer)

(All BOL members attended in person)

Staff Present

Mike Honeycutt, EO
Evan Waters, Centralized Services
Buddy Hanrahan, Centralized Services
Dale Haylett, Centralized Services
Tom Shultz, Centralized Services
Darcy Alm, Milk & Egg Bureau
Ethan Wilfore, Brands Administrator
Kim Dallas Brands Enforcement Bureau
Julie Nilges Brands Enforcement Bureau

Donna Wilham, Adm. Assistant to EO
Dr. Marty Zaluski, State Veterinarian
Dr. Tahnee Szymanski, Animal Health
Dr. Gregory Juda, MT VDL Director
Gary Hamel, Meat & Poultry Inspection
Alicia Love, Meat & Poultry Inspection
George Edwards, Livestock Loss Board
Darryl Ford, Milk Control Bureau

Public Present

Rachel Cone, MT Farm Bureau Federation
Jenny Bloomquist, MVMA
Dalín Tidwell, USDA Wildlife Services
Celia Rigler, Governor's Office

Jay Bodner, MSGA
Rachel Prevost, MFU
Governor Greg Gianforte

MEETING CALLED TO ORDER

(0:40) 8:00 AM

Chairman Gene Curry called the meeting to order at 8:15 AM

CALL TO ORDER AND INTRODUCTIONS

(0:40) 8:00 AM

Chairman Gene Curry called for BOL member introductions and comments:

- Nina Baucus, Cattle Representative, reported that all the sheep work was done and that they were in the middle of gathering pairs and giving pre-weaning shots. She added that they had received some moisture, but not a lot
- Sue Brown, Milk & Egg Representative, reported they were trying to get ready for winter with fencing. She said they had gotten some rain, but the mega drought from the summer hurt them a lot and that they had to buy all of their grain and most of their hay
- Ed Waldner, Swine Representative, reported that hog prices were up and that the swine flu was about 600 miles from Florida.
- Jake Feddes, Beef Representative, reported that he had been on the road for 23 days, shipping calves
 - Mr. Feddes said that in his travels people were really pleased with the way things were sitting and are optimistic about the next 2-3 years in the beef industry
 - He said that across the state, it was dry and that there were a lot of cows moving
- Greg Wichman, Sheep Representative, reported that when he got home, he would be splitting up the sheep, turning out the bucks and getting ready to start another year
 - Mr. Wichman said that it was dry and that truckloads of hay were moving up and down the road
- Gene Curry, Cattle Representative, reported that the calves that had enough feed in his country have been weighing like bricks. And, even though he had hauled some cattle off the reservation to Dillon that didn't have enough feed, he hauled a lot of pairs that were weighing 2,000 lbs and some more, even in a year like this
- Alan Redfield, Livestock Representative, said that in his area, south of Livingston, they've had decent moisture and calves were weighing more than they had ever had in their whole time
 - Nina Baucus reported that her husband had seen cornstalks being baled for feed in the Billings area and expressed concern about the nitrate content of that type of feed
 - Gene Curry said that in his country, he had seen more straw being baled than he had ever seen and added that there were hay trucks coming out of the woodwork
 - Mr. Curry reported that he was seeing alfalfa hay coming down from Canada
 - Jake Feddes reported that nationally, there had been a huge problem with trucking, with cattle sitting at sale barns after the sale for 2-4 days, waiting to be moved. And, he had heard of some cattle in Torrington who had waited 14 days before a truck became available to haul them
 - Ed Waldner reported that with no packing plant in Montana you have to go to either Washington or Utah and there was a month wait to ship there
 - Gene Curry said that a trucker had told him that they had deployed flatbeds for \$7/mile
 - Sue Brown reported that they had experienced shipping problems of their products to Denver

- Jake Feddes and Gene Curry both commented on the number of cattle being shipped to Canada. Mr. Feddes said that the prices paid for those cattle was way more than any American feeder was willing to pay. Mr. Feddes added that with Canada's trade agreement with China, a lot of the primals were going there

BOARD APPROVAL OF BOL MEETING MINUTES

(15:25) 8:15 AM

Gene Curry requested that the minutes from the August 25, 2021 BOL meeting be approved:

- Nina Baucus said that although she had gone through those minutes, she did not give the spelling and numerical changes to Donna Wilham yet, but would get those to her

MOTION/VOTE

(15:58) 8:16 AM

Nina Baucus moved to approve the minutes from the BOL August 25, 2021 meeting, with spelling corrections to be given to Donna Wilham at a later date. Sue Brown seconded. The motion passed.

Gene Curry requested that the minutes from the September 20, 2021 BOL meeting be approved:

- Nina Baucus requested that the September 20th minutes be approved with the same caveat at the August 25th minutes

MOTION/VOTE

(16:26) 8:16 AM

Nina Baucus moved to approve the minutes from the BOL September 20, 2021 meeting, with spelling corrections to be given to Donna Wilham at a later date. Jake Feddes seconded. The motion passed.

OLD BUSINESS

(16:53) 8:17 AM

(16:53) 8:17 AM – UPDATE ON GOVERNOR'S OGSM STRATEGIC MANAGEMENT IN RELATIONSHIP TO BOL AND EXECUTIVE OFFICER STRATEGIC GOALS

Mike Honeycutt reported on the October Ops review that had just been given to the Governor, adding that, due to the upcoming holiday, there would probably not be another Ops review scheduled until early December:

- The Brands Enforcement Division was a little behind pace of where they were hoping to be in rerecording brands

- On the budget dashboard, Mr. Honeycutt reported to the Governor that in Operations, expenses were below budget and below revenue, even though the cash balance was drawn back a little bit, something that was expected for this time of year because per capita payments weren't due until next year
- The Meat & Poultry Inspection Bureau was about two short of where they wanted to be and two short of what had been allocated for FTEs
- Mr. Honeycutt reported to the Governor that there had been a holdup in Alex Dachs getting his State Ratings Officer (SRO) certification because, even though he had finished his coursework, the Feds were not back to doing in-person training to get him fully certified
 - The Milk & Egg Bureau was also waiting for public comment on the 12-day rule changes, something that the County Sanitarians would need to deal with
- The Brand Enforcement Division did not have many vacancies, but one vacancy, in Lewistown, had been a challenge due to the increased cattle movement through the markets during the last few weeks and even months
- During the first three weeks of October, cattle moving through markets was up 84% over a normal October, a number typically seen in November and had increased 100% in some of the previous months before that
 - Mr. Honeycutt reiterated that a lot of the DOL's revenue was dependent upon the number of animals that were out on the landscape (brand inspections, lab tests) and over time, that had the ability to have some significant impacts on the DOL, including workload and staffing levels and even the future of communities in the state
- FSIS had given the DOL an "At Least Equal" status based on the recent USDA Audit
 - The CIS application sent out by the Meat & Poultry Bureau had been moving along at a faster pace than originally thought, and even the "At Least Equal" status was acquired, there still needed to be a site review done by a Federal employee
- The FMD tabletop exercise was planned for December 15-16, 2021, and Mr. Honeycutt reminded the BOL that they were invited to attend, along with members of the public
- Mr. Honeycutt reported that the DOL had implemented their first outward-facing customer service, transactional survey and chose the VDL to do that in, because of its high level of transactions
- Mr. Honeycutt explained that the survey currently had only been reaching online customers and that the DOL wanted, in the future to include the survey information in mailers
- Once the survey was refined in the VDL, Mr. Honeycutt said it could be something done Department-wide and for the BOL as well, to get feedback on individual transactions
- Mr. Honeycutt reported that the Governor had requested that the DOL get a baseline on meat processing within the state. Mr. Honeycutt said he had put in a

request to the Federal Government to share information from Ranchland and other Federal processors in the state to give a more complete picture

- In 2019 and 2020, Mr. Honeycutt reported that State inspecting and Custom inspecting were about the same, doing just under 40,000 head in those years, with Custom-Exempt being the bigger part of those numbers
 - 30%-40% of the animals slaughtered were swine and a little less than half were cattle, with the remaining percentage being divided between sheep, elk, deer and bison, etc.
- In Fiscal Year 2021, the reporting was by quarters, and was over 50,000 head that went through State-inspected and Custom slaughter, with both inspecting nearly the same
 - Mr. Honeycutt added that the pandemic and the fact that the State invested about \$12 million into State and Local meat processors was why those numbers were higher
 - It was discussed that the pandemic changed people's buying habits, with some items being delivered to homes and some to the curb. And, with that, it was discussed that perhaps the DOL should consider looking at the availability of meat on the grocery store shelves and figure that into the numbers because when it wasn't available, a lot of what was processed was in-state
 - Mr. Honeycutt said there were a lot of ranchers looking at the opportunity of obtaining Meat Depot licenses because of the availability of the CARES Act money, but some ran into problems because they still had to have a State-inspected or Federally-inspected processor process that meat
- Mr. Honeycutt reported that the Governor had put forward a challenge to every State Department to see who could deliver all of their services online first and had requested a monthly update on that about where the Departments were in that process
 - Mr. Honeycutt said that he had spoken with Buddy Hanrahan and the IT team and others about that challenge and had already come up with 43 items to automate and he said the list will grow
 - The focus for the State government automating things was statewide now, according to Mr. Honeycutt, from the tools, platform and software being utilized, but security was number one for that information
- Mr. Honeycutt said that most of the targets for the DOL's December horizon had been hit, but that they needed to begin thinking about the first half of 2022 and what targets they wanted to see accomplished
- He reminded the BOL of the main OGSM strategies the DOL had for serving the industry: supporting value-added processing; monitoring animal health disease prevalence in Montana; maintaining the integrity of livestock identification marketing and movement; protecting livestock producers from predation and reimbursement for losses

- A Cabinet meeting was scheduled for December 7, 2021 where the Governor would be looking at his own OGSM for all State Government and every agency would be part of that conversation and contributing to that

(47:43) 8:47 AM – UPDATE ON USDA NOTICE OF RULEMAKING ON LABELING FOR CELL-CULTURED PRODUCT AND COMMENTS

Mike Honeycutt presented the letter he had drafted to the Administrator of USDA-FSIS, containing the BOL's comments regarding proposed rulemaking by USDA on labeling of meat and poultry products comprised of or containing cultured cells derived from animals subject to the Federal Meat Inspection Act:

- Mr. Honeycutt said that one major point he made in the comments to FSIS was that Montana, like other states, had already passed legislation dealing with labeling of cell-cultured products and if they didn't consider Montana's previous regulations, there would be a lot of confusion with conflicting Federal and State rules
- He said in the letter that the sale or transport of adulterated, misbranded, condemned or uninspected meats was a violation of Montana state law and carried heavy penalties
- He also said in the letter that if cell-cultured edible product was labeled as meat in Montana, it would be considered misbranded
- Mr. Honeycutt wanted it in the Federal Register his comment saying that the DOL wanted to make sure that the product met the same rigor and same oversight as live slaughter of animals
 - One concern raised by the BOL was that the stem cells to make the cultured meat could have been taken from a "downer" animal unless it is stated that the product had to meet the same rigor and oversight as that of live slaughtered animals
- Labeling of the cell-cultured edible product was discussed as to enforcement
 - If a DOL Compliance Officer saw cell-cultured product labeled in a way not consistent with State law, it would be their job to do enforcement
 - The problem, according to Mike Honeycutt, would be if national suppliers of those cell-cultured products said they were compliant under Federal law and we would say, but not State law, and that would be where litigation would come in
 - Mike Honeycutt also pointed out that the State of Montana only had two Compliance Officers to cover the entire state of Montana and that more compliance staff might be needed if there was a bigger burden

(1:04:38) 9:04 AM – UPDATE ON PANDEMIC MARKET VOLATILITY ASSISTANCE PROGRAM FOR DAIRY

Mike Honeycutt gave an update on DOL efforts to address Montana being left out of the Pandemic Market Volatility Assistance Program monies being given by USDA to offset the losses of dairy producers:

- Mr. Honeycutt explained that Montana dairy producers were written out of receiving a portion of the approximately \$350 million to be distributed, because the program covered only those producers who worked with processors in areas of the country covered by a Federal Marketing Order (FMO)
- Mr. Honeycutt said he attended a Board of Milk Control meeting and was able to speak not only to the Board of Milk Control, but to industry folks who were present, including Darigold and DFA representatives, and they said that getting a letter from the Governor to USDA addressing the situation might be helpful
 - The Governor put his signature on a letter to Secretary Vilsack that Mr. Honeycutt had drafted, expressing discontent about Montana producers being left out of the program, and it was sent to Montana's Congressional delegation as well, and included Mike Honeycutt or representatives from DFA or Darigold as points of contact
- Mr. Honeycutt said he highlighted a couple items in the letter
 - Analysis from the Milk Control Bureau staff show that they believe the Class 1 fluid milk losses during the period covered by the program in Montana was estimated at approximately \$3.6 million, an average of \$80,000 per dairy
 - Also pointed out in Mr. Honeycutt's letter to USDA was that if you look at the map of where FMOs are, it was in areas of the country where the dairy industry was heavily consolidated and where the largest producers are and that places like Montana and Wyoming, where there are small dairies and processors, are not getting the benefit of getting their losses covered

(1:13:17) 9:13 AM – RED TAPE RELIEF PROJECT

(1:13:20) 9:13 AM - Review Brands High and Medium Priority Items from 9/20/21 Meeting/Review MCA 81-5, MCA 81-8 and ARM 32.15 (Livestock Marks and Brands)

Mike Honeycutt said that Ethan Wilfore had taken a stab at incorporating changes requested by the BOL discussion at the last BOL Red Tape discussion on brand markings listed in rules and statutes and he would be presenting his interpretation of those changes:

- Mr. Honeycutt explained that there would be no BOL vote taken on those changes today, but he was just looking for general agreement and that once all statutory changes were made they would be brought, potentially, to the 2023 Legislative Session

STATUTES AND RULES

- 81-3-107 - *Fees for Department, Deposit Requirements*
 - Brand history and brand research were done by the Montana Historical Society, and so Mr. Wilfore struck the out the language regarding brand histories and the fee associated with that
- 81-3-203 – *Duties of State Stock Inspectors and Deputy State Stock Inspectors*

- Mr. Wilfore said he struck language stating that the requirement for inspection permits be made in triplicate, because that would allow for the possibility of electronic copies of inspections and permits. He said that he did leave the requirement of three copies, but that those copies could be electronic or physical
- Gene Curry requested that Ethan Wilfore do a little more research on enforcement of the matching up of numbers on the inspection and the numbers at the consignment barns
- Nina Baucus requested that somewhere in the Brand Inspection code there be a clear definition of the difference between a Stock Inspector and a Deputy Stock Inspector
- Mike Honeycutt reminded the BOL that these items being dealt with were statutes, not rules, and he wanted the BOL to make sure that there was not any change the BOL made that would limit what the DOL may want to do in the future
- 81-3-204 – *Seizure of Livestock, Retention of Livestock, Sale, Disposal of Proceeds*
 - Mr. Wilfore said to clarify that livestock is not in the individual Inspector's possession, it's the Department's possession, just to strike out "Inspector in Department"
- 81-3-205 – *Fees for Inspection and Livestock Transportation Permits*
 - Clarification was made in #4, regarding language saying that State Stock Inspectors be paid for their services and receive their expenses as fixed by the DOL. Mike Honeycutt said that State Stock Inspectors are DOL employees and so they are already paid for their services
- 81-3-211 – *Inspection of Livestock Before Change of Ownership or Removal from County, Transportation Permits*
 - Mr. Wilfore said he had to do some research on Nina Baucus' request to possibly add mules to 6 (a). Ms. Baucus said her reasoning for it was because of the number of mules used during hunting season for hauling animals out
 - In regard to language about rough stock, Jake Feddes reported that Stockgrowers was in the process of doing some new policy regarding sport cattle or timed event cattle and would be discussing it further during their upcoming annual convention and so, changes in that portion of the statute were pre-empted until the next BOL meeting
 - Nina Baucus requested a rough estimate of the hours and the expense that Animal Health staff had put in on the two Tuberculosis issues
 - Mr. Wilfore said he struck the language out of the statute regarding the lip tattoo option on horses because now, the brand was the only primary force of evidence in the state
 - For the time being, the BOL stayed with Ethan Wilfore's language changes regarding grazing permits that he hoped would clarify issues regarding BLM or Forest Service lands deeded to livestock owners
- 81-3-215 – *Inspection of Dead Animals in Feedlots*

- Mr. Wilfore said he changed the language of the statute to say that the owner of the dead animal found in feedlots be notified and not the BOL
 - It was discussed to possibly do away with the entire statute
- 81-3-222 – *Compensation for Animals Killed*
 - The BOL was in agreement that the compensation for animals killed should be figured by utilizing the market value of the animal like LLB does for their predation claims
- 81-3-223 – *Action by Dissatisfied Owner, Costs*
 - Ethan Wilfore said that with the change in 81-3-222, this statute was affected, but, he didn't have any suggested changes there
- 81-3-231 – *Penalties*
 - Section C was discussed at length regarding market consignment permits and not delivering the livestock transported under the permit to the destination. Several changes were discussed, including the use of electronic media and a simple language change, changing the words designated destination to just destination
 - Although the BOL discussed escalation of penalties for repeat offenders, it was decided to discuss further the amount and type of penalties charged for infraction of the statute at a later time
- 81-3-232 – *Penalty for Non-Inspection of Dead Animal in Feedlot*
 - The BOL hoped to have this particular statute repealed, and so, there was no discussion on it
- 81-3-232 – *Penalty for Removal of Livestock from State Without Inspection*
 - It was decided to do some clarification on the animals included in this statute because it was noted that sheep and swine were not on the list, even though they were considered livestock. Also questioned was the word "stag"
- 32.18.105 – *Brand Ownership and Transfer*
 - Mr. Wilfore said that the language to clarify this wordy and semi-confusing rule would be to simply specify tenants in common as a type of ownership or joint tenancy with rights of survivorship. And, those were legally defined as being separated by ownership
- 32.18.106 – *Sale of Branded Livestock*
 - The language change in 32.18.105 was transferred to this statute
- 32.18.108 – *Equine Breed Registry Mark*
 - Mr. Wilfore suggested to take out the specification of equine in terms of just registry marks, which did not change the title. He suggested that this rule could possibly be combined into another rule at a later time
- 32.18.112 – *Special Identification Marks*
 - To keep from having so many rules that say the same thing, Mr. Wilfore suggested that 32.18.108's information could be added to this rule
- 32.18.110 – *Recording and Transferring of Brands*
 - Mr. Wilfore said that this was the longest rule for the Brands Enforcement Division

- The 1(a) part of this rule did not occur any longer, as all brands were issued from the Helena office, and so, Mr. Wilfore struck that line out of the rule
- Joint tenancy language from 32.18.105 was inserted into this rule
- Language in 4(a) was changed because all brands were issued from the Helena office
- In 5(a), the new name of the form, Assignment of Brand, was inserted
- Based on BOL discussion, Mr. Wilfore added language from 32.18.112, the special identification marks into the rule and said that language from 32.18.108, Equine Breed Registry Marks could also be added

(2:31:00) 10:31 AM RECESS

(2:31:43) 10:48 AM RECONVENE

NEW BUSINESS

(2:31:49) 10:49 AM

(2:31:50) 10:49 AM – DISCUSS AND DETERMINE RED TAPE RELIEF PRIORITIZATION OF NEEDED ACTION FOR MCA 81 CHAPTER 5, UNLAWFUL DRIVING AND TRANSPORTING OF LIVESTOCK AND MCA CHAPTER 8, MARKETING

Ethan Wilfore presented more review of rules and statutes to determine Red Tape Relief prioritization:

STATUTES

- **81-8-213 – *Livestock Markets and Dealers - Definitions***
 - Mr. Wilfore said that his Market Auditor found in the Dealer definition that there was a slight mention of selling that's wasn't specific, only mentioning the immediate resale of livestock
 - Mike Honeycutt explained that a Livestock Market could take animals on consignment and hold sales and must also have a yard and a veterinary lot and also allow an Inspector there to do inspections in and inspections out. A Livestock Dealer could move cattle on a market consignment permit and did not have the higher obligation for animal health testing as a Market does
 - A change of ownership inspection would make sure that the seller has the legal right to sell an animal, according to Mr. Honeycutt, and, the intent of changing any of the rules and statutes would be to make sure the producer was protected
 - Mr. Wilfore said he would bring to the next BOL meeting a clean up of the language for definition to be discussed
- **81-8-234 – *Financial Responsibility***
 - Mr. Honeycutt explained that the DOL had taken an open approach when looking at ownership of markets and change of ownership, and instead of a strict law that says, assets greater than liabilities, check the box and

you're done. But, the DOL had gotten questions at times about whether certain assets should be counted

- 81-8-252 – *Hearing on Application for Certificate - Decision*
 - Ethan Wilfore said that this statute was just outdated and needed to be cleaned up
 - Mike Honeycutt expressed his uncomfortableness with having to enforce the terms public convenience and necessity, because it just felt like the DOL was saying, we're allowing people to block out other people from starting a business
 - Sue Brown expressed that at a new market hearing she had attended as a BOL members, she felt there was a lack of free enterprise happening during the hearing
 - Nina Baucus said, that maybe the BOL's only job would be to assure that those wanting to start a new market were financially solvent
 - Jake Feddes added that you should be able to start a market and if there was not a market for it, it would go out of business. The BOL's obligation was to protect the producers, not the markets
 - Gene Curry said, another consideration would be to make sure that a Brand Inspector could be at the market
- 81-8-256 – *Fee to Operate Livestock Market*
 - Ethan Wilfore said that dealer and market licensing operate on the date of May 1st or April 30th
 - Gene Curry suggested to forward it to until May 1st of the following year
- 81-8-259 – *Occasional Off-Premises Sales*
 - Mike Honeycutt explained to the BOL that 4-H sales were exempt from the need of a video satellite auction license, something that was experienced during the pandemic. He said that off-premise sales like that were being done under one of the livestock markets, but not at their physical location
- 81-8-260 – *Dispersal Sales*
- The BOL puzzled on what a "Dispersal Sale" meant and Mike Honeycutt said they would do some digging on that one
- 81-8-264 – *Satellite Video Livestock Auction Market*
 - Mr. Wilfore pointed out that the history of the statute was not necessarily referring to internet video sales, just video sales, and so, that statute was on his list to completely look at
 - Superior Livestock Auction, according to Jake Feddes, were selling Montana cattle, but, holding their sale out of state.
 - Mike Honeycutt said that Superior Livestock Auction had obtained a satellite video auction license and had maintained a custodial account in a Montana-domiciled bank and had always accommodated what the DOL asked them to do
 - Mike Honeycutt said that producers who had bull sales with animals that were totally under their control and not consigned stock, were exempted from having to get a license to do an internet sale
 - Mike Honeycutt said that there was a lot of redundancy between Montana State law and Packers and Stockyards law at the Federal level, but Packers

- and Stockyards did not have a lot of staff to enforce their laws, having just one person to cover all of Montana and Wyoming
- He said that the DOL had been in situations where, for “bad actors,” Packers and Stockyards requested that the DOL pull their license, but the DOL could not pull their license because State law said that they could not do it if Packers and Stockyards didn’t pull their bond first
 - Mike Honeycutt spoke about John Uecker, the local Packers and Stockyards representative, and his hard work, but said that he had not been funded and staffed to really regulate all the cross-border activity taking place
 - Jake Feddes reported that there was an online sale last week from a place in Bozeman who were selling cattle that were in Nebraska and that they sold a 10-month-old heifer calf for \$117,000. He said there were a whole bunch of internet companies doing consignment sales that might have heifers in 15 different states and that he felt a group of people should look at these situations, but said to bring the discussion of it back to the next meeting
 - 81-8-301 – *Notices of Security Agreements – Renewals – Assignments*
 - Mr. Wilfore explained that statute says that the DOL was not liable for any of the liens that were paid incorrectly and said that the market personnel had the responsibility to inform the commission company about brand liens
 - Mr. Honeycutt said that some liens were never satisfied, and that was why there was a 5-year time frame on it
 - In private treaty sales, Mr. Wilfore said, if someone had cattle with a brand that had a lien on it and sold it to somebody without telling them about the lien, the bank was essentially cut out of the check, and that was one of the issues that happened most often
 - Mike Honeycutt said that in talking to banking partners regarding the DOL’s lien system, they still will say, they think it’s a very effective tool
 - Jake Feddes said, if the bankers still want this system and the DOL doesn’t see any regulatory issues with it, other than people complaining, just leave it alone
 - 81-8-401 – *Certain Dealing in Baby Animals – Unlawful*
 - It was decided by the BOL to delete this statute
 - 81-8-901 – *Beef Promotion and Marketing – Powers and Duties of Department - Contract*
 - Mike Honeycutt reported to the BOL that the DOL does have a contract with the Montana Beef Council that was renewed each year, because by statute, the DOL was required to enter into that contract
 - Although the DOL did receive payment from the Montana Beef Council for mail costs, with one of their employees working in this building, it negated a lot of what the DOL would have to do to get the money to them
 - Mr. Honeycutt did say that when the Montana Beef Council was required, in the midst of a lawsuit, to have forms signed to keep the 50 cents, there had been a disagreement on how much DOL should be involved in asking

people to fill out that form. But, that requirement on them had been lifted and business was back as normal

RULES

- 32.15.103 – *Certificates*
 - Ethan Wilfore said that he did not feel that #1 was necessary to put in a rule and for #2, the license was theirs and could not be transferred
 - It was decided to bring this rule back for further discussion
- 32.15.104 – *Changes in Operation of Market*
 - Mr. Wilfore questioned whether or not the BOL should be approving changes in sale days, and if they do, define what a regular sale date was
 - Whether or not DOL personnel would be available to staff the sale was questioned, and so it was suggested to say that they would have to get prior approval in order for the DOL to have personnel available
 - Mr. Wilfore said it does need some clarification, but he would work on that
- 32.15.105 – *Procedures for Obtaining Departmental Approval of Market Changes*
 - Along with the redundancy of this rule, there were some State Departments listed that were not in existence, such as the Montana Department of Health and Environmental Sciences
- 32.15.106 – *Financial Reports*
 - Mr. Wilfore said that this rule lists the market requirements for financial statements for annual reports and since he had been at the DOL, they had not had that requirement
- 32.15.107 – *Review of Bond Requirements*
 - Mr. Wilfore said that the DOL does not have a methodology to carry this out and were not set up for that, but that Packers and Stockyards had a methodology for how they assess that and he didn't feel it needed to be here
- 32.15.110 – *Livestock Market Yard Regulations*
 - Mr. Wilfore said that Ty Thomas had reviewed this rule as well. The only change that Mr. Wilfore suggested was the triplicate line and going away from paper, like already discussed in a previous statute
- 32.15.111 – *Construction*
 - Mr. Wilfore said that in Googling what this rule meant, the DOL's power was not limited by any of the rules.
 - Mike Honeycutt said, so, there's no legal reason that this rule would need to stay
- 32.15.202 – *Proper Construction Requirements – Areas to Be Concreted: Drainage*
 - Mr. Honeycutt said that this issue did not have to do with the markets, but possibly something like the Stephen's Creek facility, to make sure that if infection existed in one pen, that there was no ability for it to be spreading throughout the facility
- 32.15.204 – 32.15.211
 - Mr. Wilfore said that in speaking with Dr. Zaluski, all of these rules reference the Animal Health Division, which technically doesn't exist

anymore. It should say, Animal Health Bureau or Animal Health Food and Safety Division

- 32.15.602 – *Renewal Requirements*
 - Mr. Wilfore said that this rule was completely redundant to code to which Mike Honeycutt added that you don't need a rule that states exactly what the statute says
- 32.15.702 – *Permit Required to Conduct Association Test Station Sale Exceptions*
 - Mr. Wilfore requested that language in #1 be changed, stating that approval needed to come from the DOL not the BOL, because that was what they had been doing already

STATUTE

- 81-5-112 – *Permit system for Transportation of Sheep – Penalty*
 - Mr. Wilfore said that this chapter on unlawful transport of animals said in #1 that the DOL shall adopt rules imposing a permit system for the transportation of sheep, adding, if it finds it necessary. He felt that last line was a contradiction and should be looked at
 - Some of the BOL members said that transportation in general and the permit system had already been covered in previous sections
 - Nina Baucus said that this particular statute was put into place quite a few years ago when trailer loads of sheep were disappearing in Eastern Montana
 - Gene Curry said there was a time when people didn't want to steal sheep because it cost more to feed them than sell them
 - The statute should be changed, including the amount of the fine, according to some of the BOL members

Gene Curry spoke to the BOL about responsibility of BOL members:

- He said he wanted the BOL members to spend as much time as they felt they had to and participate as much as they could
- Nina Baucus said that through the BOL discussions and sharing of their experiences, she has been able to look at things from different points of view and had learned a lot
- Mike Honeycutt said to the stakeholders who were in the room or listening that he wanted to hear from them if they had any input to bring forward on the items that had been covered that day

(4:26:03) 12:43 AM – UPDATE ON INTERACTION WITH LEGISLATIVE INTERIM COMMITTEE

(4:26:03) 10:52 AM – Milk Control Performance Audit

Mike Honeycutt reported that the DOL did have a performance audit that was completed and titled, "Performance Audit of Montana's Milk Industry, An Analysis of the State Regulated Market:

- The auditors made a statement that they didn't feel that the quota system was regulating the milk market the way it was intended to, according to Mike Honeycutt and their recommendations were –
 - That the DOL and the Board of Milk Control pursue changes to administrative rules to allow for decreases in the amount of quota owned by dairy producers
 - Mr. Honeycutt said that the Chairman of the Board of Milk Control had already started a conversation on rulemaking and Mr. Honeycutt said the DOL was willing to work with them with whatever they need to do to get that done, but told the Chairman that there was no guarantee of success in rulemaking
 - There were mechanisms to increase quota, but no mechanisms in place to decrease quota and that had been a controversial topic within the industry, because people had already paid for that quota
 - Questions arose about whether or not quota that was given up should be redistributed through the pool
 - If there were rule changes, then, you decrease the amount of quota to reflect the current milk production that the Montana dairy industry needs
- Mr. Honeycutt explained that he had gotten a strongly worded message from the Legislature that the Executive Officer of the DOL would be there and give the agency response to the audit, but said that Milk Control Board Chairman Ken Bryan and Milk Control Board member Brian Beerman were with him
- The Milk Control Board held a meeting the week after the audit report and started discussing rulemaking and sought industry input regarding putting in a mechanism to reduce quota
- Ed Waldner said that there was too much quota and that nobody would buy it, it's worthless. He added that if quota is cut, however, DFA was not going to have enough milk and that he felt the best way to fix the problem was to have multiple pools
- Sue Brown said that there were two sides to every story and that another opinion, especially from Darigold people, was that the dairy industry was doing just fine
- Mr. Honeycutt said that the Board of Milk Control was doing their own Red Tape Review and when they were presenting it, they received a question asking, we don't understand why there was a pool. Mr. Honeycutt said, he left that meeting with an impression that several Legislators might be looking at targeting the pool system and moving away from it, not thinking this type of regulation was needed on the market

(4:42:38) 11:59 AM LUNCH

(4:43:24) 1:22 PM RECONVENE

(4:43:35) 1:22 PM – PREDATOR CONTROL

(4:43:35) 1:22 PM – Update on Status of Helicopter Purchase from USDA

Dalin Tidwell gave an update on the status of the DOL's purchase of a helicopter from USDA:

- Mr. Tidwell congratulated the DOL on being the new owner of a 2001 Bell Jet Ranger helicopter, as the payment had been received, the transaction had gone through
- Evan Waters said that the DOL was currently working on the insurance for the helicopter so that a USDA Wildlife Services pilot could be sent down to pick it up and bring it to Helena. He thought that should be completed in the next day or two
- Mr. Honeycutt explained to Mr. Tidwell that the DOL was in the process of getting approval from the Legislative Finance Committee to pull some of the money that had been approved as a biennial appropriation, split over two years, so that modifications could be done to the helicopter. Mr. Honeycutt said that there was enough cash available, but the permission to use that needed to be approved

(4:52:58) 1:32 PM – Update on Activities of USDA Wildlife Services

Dalin Tidwell updated the BOL on validated Fiscal Year 2021 predation numbers they had received at Wildlife Services for Montana:

- Wolves
 - 98 complaints
 - 56 calves/11 cattle confirmed; 10 calves/2 cattle probable
 - 11 lambs/18 sheep confirmed; 0 lambs/6 sheep probable
 - In 2018 complaints were 93; in 2019 complaints were 104; in 2020 complaints were 105
- Grizzly Bears
 - 181 complaints
 - 101 calves/30 cattle confirmed; 7 calves/29 cattle probable
 - In 2018 complaints were 138; in 2019 complaints were 157; in 2020, complaints were 148
- Black Bear
 - 26 complaints
 - 54 bees confirmed/55 bees probable
 - 3 calves, 2 goats; 4 lambs; 17 sheep
 - In 2018 complaints were 19; in 2019 complaints were 41; in 2020 complaints were 16
- Mountain Lions
 - 53 complaints
 - 2 calves
 - 57 lambs/41 sheep confirmed
 - In 2018 complaints were 65; in 2019 complaints were 76; in 2020 complaints were 63

- Dalin Tidwell explained that USDA Wildlife Services captured bears, but did not relocate livestock killers. Whenever that decision was made, the custody of that animal was transferred to either FWP or US Fish and Wildlife
 - Custody was transferred for 12 bears that USDA Wildlife Services had captured, one cub was freed and six of the bears they handled were killed, according to Mr. Tidwell
- Mr. Tidwell reported that USDA Wildlife Services could take a heavy hit personnel-wise, with the vaccine mandate (November 9th deadline) and that roughly 25% of their Specialists could be affected by the decision, and that would affect the service they could provide
- Nina Baucus requested that Mr. Tidwell pass on a thank you to their staff for the excellent job they had done

BRANDS ENFORCEMENT DIVISION

(5:08:55) 1:48 PM

(5:10:52) 1:50 PM – RERECORD PROGRESS UPDATE

Ethan Wilfore updated the BOL on the rerecord process taking place in the Helena office:

- Of the 55,000 brands currently recorded in the state of Montana, just under 38,000 had been rerecorded
- New brands had been issued at a pretty good pace, and brand transfers were up significantly, Mr. Wilfore reported. There were over 2,000 brands transfers during this rerecord period so far
- Mr. Wilfore reported that just under 25,000 reminder postcards had been sent to those who had not yet rerecorded their brands
- Around 3,700 of those postcards had been returned and staff was attempting to contact those people, although a good percentage of those were not able to be contacted

(5:14:20) 1:53 PM – DROP-IN VISIT FROM GOVERNOR GIANFORTE

Governor Gianforte dropped by the BOL meeting with Celia Rigler, Staff Assistant in the Governor's Office:

- Governor Gianforte thanked the BOL for their service and announced that there was a race between all State agencies to see who could be 100% digital first
- The Governor also shared with the group that the state owned a license to a cloud platform which would allow information to be input at the corral and when the person gets back into cell phone coverage, all of it is uploaded
- Governor Gianforte explained that the Federal vaccine mandate was really just an edict and that he had put his "legal beagles" onto the situation in Montana, because what he had just signed into law after the 2021 Legislative Session said that you cannot discriminate against individuals in Montana based on your job or services, based on vaccine status. But, he wasn't sure if it provided a safe harbor for USDA Wildlife Services personnel

- There was a 2-page letter and a 4-page legal document his office just published and put online to provide guidance on the Biden administration's mandate

(5:21:36) 2:00 PM – RERECORD PROGRESS UPDATE (Continued)

Ethan Wilfore continued his rerecord update:

- Mr. Wilfore said that a ballpark figure from the last rerecord period was that 10,000 brands fell off

(5:23:11) 2:02 PM – REQUEST TO HIRE POSITION

Ethan Wilfore continued his rerecord update:

- Mr. Wilfore said that a ballpark figure from the last rerecord period was that 10,000 brands fell off

(5:23:11) 2:02 PM – Request to Hire for District 4 Investigator (Transfer)

Ethan Wilfore requested that the BOL approve of the hire for a District 4 Investigator:

- The District 4 Investigator was based out of Columbus and covers, Carbon, Stillwater and Sweetgrass Counties
- The previous Investigator applied for, qualified for and was selected as the District Investigator to fill District 17 out of Baker

MOTION/VOTE

(5:23:43) 2:02 PM

Alan Redfield moved to approve the hire of a District 4 Investigator by transfer. Jake Feddes seconded. The motion passed.

(5:24:23) 2:03 PM – ADOPT CHANGES TO ARM 32.2.404 AND ARM 32.18.109

(5:24:23) 2:03 PM – Review Public Comment/Approve Adoption of ARM 32.2.404-DOL Brands Enforcement Division Fees and ARM 32.18.109-Freeze Branding

Ethan Wilfore requested that the BOL approve the adoption of ARM 32.18.109-Freeze Branding and the accompanying ARM 32.2.404-DOL Brands Enforcement Division Fees:

- The proposed rules that had been previously approved to publish for public comment by the BOL, would establish a cattle freeze brand and also the fee for the freeze brand, listed in a separate rule
- Mr. Wilfore reported that there had been no public comment on the rule

MOTION/VOTE

(5:25:10) 2:04 PM

Greg Wichman moved to adopt amended rules, ARM 32.2.404 – Department of Livestock Brands Enforcement Division Fees and ARM 32.18.109 – Freeze Branding. Ed Waldner seconded. The motion passed.

(5:25:26) 2:04 PM – BRAND POLICY REVIEW

(5:25:33) 2:04 PM – Review First Draft of New Brand Policy/Review Regional Conflict Updates/Changes for Policy for Review/Approval at Next BOL Meeting

Ethan Wilfore reported that he had completed the first draft of the new Brand Policy, and was requesting input from the BOL:

- The draft, according to Mr. Wilfore had been built around input from the Brands Advisory Committee that had met in early October and from staff and was based a lot on what was already set in rule
- Layout of the policy was changed, according to Mr. Wilfore and the biggest changes were in acceptable characters, adding G, Q, the spade, mill iron and rafter, along with the associated conflicts with those
 - It was requested by the staff that the G and the 6 be a statewide conflict
 - Nearly half of the regional character conflicts were eliminated
- Mr. Wilfore said that the Brands Advisory Committee decided to allow characters that were recorded in brands to be added to the data currently recorded active in the state of Montana to be applied for, to be used for new brands
 - Those characters would now be called images and would be conflict checked, with everything classified as a club would become conflict checked with all other clubs
- Mr. Wilfore also said to note that there was no longer a list of acceptable formats, but instead, some general guideline to effectively regulate like the formats did
- Characters must be horizontal, vertical or diagonal and spacing has to be such that it looks like a single brand
- Mr. Wilfore explained that in the application for a new brand process, if you don't get the brand you like, you can reapply for different brands for a six-month period and if you don't want that brand, you can receive half of your money back
- There was concern raised that the makeup of the Brands Advisory Committee with some of it being comprised as a Legislator from both Chambers, but that 10 years down the road, would there be any Legislators that would have knowledge or interest in brands
 - The old Brands Advisory was made up of staff only, with no Legislators, BOL members or industry people as part of it
- Ethan Wilfore said that in discussions with staff, there was concern raised about the subjectivity that would come into the new Brand policy and also concerns were raised about the formats
 - He added that when the group of Inspectors got together to discuss the changes, he was pleasantly surprised that decisions were pretty much consensus and they were confident and very, very helpful
- The old Brand Policy saying that employees could not have more than three brands, was removed, according to Mr. Wilfore, because all other citizens were allowed to have five brands recorded in their names. Mr. Wilfore added, however, that employees were not to take advantage of the system for profit

ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS

(5:45:10) 2:24 PM

(5:46:20) 2:25 PM - ANIMAL HEALTH BUREAU

(5:46:36) 2:25 PM – Bovine Tuberculosis (TB) Update

Dr. Tahnee Szymanski updated the BOL on the two Tuberculosis investigations currently being conducted by the Animal Health Bureau:

- Blaine County Investigation
 - An initial slaughter trace of an infected animal was traced back to a herd in Blaine County where additional affected animals were found within that herd
 - The Animal Health Bureau was working with USDA on a conversation of how to proceed with that herd, whether it would be whole herd depopulation where USDA paid indemnity for those animals taken to slaughter, or a partial herd depopulation, based upon risk groups or whether the herd stay under quarantine for a period of time and be subject to repetitive testing and then remove any reactors found in the herd, which could take five years
 - Indemnity paid by USDA, according to Dr. Szymanski, were between \$900-\$1,300 per animal, depending on where the animal was in their production cycle
 - Dr. Szymanski said that Tuberculosis did not survive in the environment for an extended period of time and so, after some level of cleaning and disinfection, after as little as 30 days, or even less, the area could be repopulated
 - Because the Blaine County herd was categorized as an affected herd, a full investigation
 - A full investigation would involve looking at where the disease might have come from or gone to
 - Wildlife Surveillance was also a part of a full investigation, making sure the disease doesn't spread to wildlife or that the wildlife didn't spread it to the cattle
 - Dr. Szymanski said that FWP had been doing a lot of lymph node collection at hunter check stations all around the state for CWD and for Bovine Tuberculosis and was looking at doing some potential deer removal in and around the affected premises to check lymph nodes
 - The investigation also included looking at all the herds that sold animals into the affected herd over the last five years, all of the herds that sold animals from the affected herd over the last five years and anyone that may have run adjacent to that herd over the last five years – the list of producers that fall into one of those categories was about 56-57
 - Two of the herds had completed all testing requirements and another 13 herds were currently working through the process.

There were about 1,400 cattle in those 13 herds and approximately 5,500 would have to be tested as part of the investigation, with that number possibly increasing, depending on results. Around 12-13 herds had been quarantined

- The affected property was located adjacent to the Fort Belknap Indian Reservation, and so, the Animal Health Bureau has been having conversations with their tribal officials to identify tribal producers who may need to have their animals tested as well
- Dr. Szymanski said the tests were being conducted on animals two years of age and older, the breeding population especially
- RFID tags had been put into all the animals tested, according to Dr. Szymanski, which she said had made it really smooth for testing and sorting the animals
- On the Blaine County investigation, approximately 1000 hours had been committed to the investigation from DOL staff, Veterinarians, District Investigators, Meat Inspection staff and VDL Pathologists
- Extra help was coming from an individual traveling from Texas and bringing a portable chute and an Animal Health Technician was coming from North Dakota to help in the investigation
- Madison County
 - In the Madison County herd, Dr. Szymanski said that they had completed the entire testing and identified 61 responders on the caudal fold test
 - Protocol that USDA writes as part of the investigation was that those animals had to be taken to slaughter
 - A second test was done on the 61 responders and all of those 61 animals were gamma negative on the secondary test. However, those 61 animals still had to go to slaughter to collect tissues and look at lymph nodes.
 - USDA and the producer were currently working on the indemnity for those animals, and once that was resolved, then an on-farm sampling of 61 of those animals will be done, with the balance of them going to slaughter
 - Dr. Szymanski said that currently, the investigation was in a holding pattern because the producer was disputing the indemnity amount
 - Because the Animal Health Bureau did not know what the disease incidence was in the Madison County herd, they must go under an expanded inspection where all lymph nodes will need to be viewed not just the normal set of lymph nodes that happen at a regular slaughter plant
 - The slaughter plant used in this expanded investigation would probably be a Federal, out-of-state plant with possibly a USDA of 2VMO from that region present to help the in-plant inspectors
 - Mr. Honeycutt said that in the budget presented from the DOL for 2023, perhaps an emergency indemnity fund to supplement USDA

funding, could be established for situations such as the Madison County herd one

- Dr. Szymanski reported that the whole genome sequencing of the isolate on the index cow in the Madison County herd had been traced back to an odd species of deer that was killed in Texas in 2004 and that strain was pulled out of a dairy in south-central Mexico
- In a report regarding Tuberculosis in the Michigan deer population, Dr. Szymanski said that the exposure came from Mexican feeder and sporting cattle that had come into the United States
- Dr. Szymanski said the USDA code of Federal regulations, specifically the Uniform Veterinary Methods and Rules portion of it, provided a lot of guidance for the Animal Health staff of how to handle the Tuberculosis investigations, but, depending on the situation, Dr. Zaluski, USDA counterparts and herself discussed where to diverge from the USDA guidance
- USDA determined whether or not to depopulate a herd by looking at finances associated with it, along with input from the State, input from the local USDA and from the producer
- 500 hours had been invested so far in the Madison County herd
 - Mike Honeycutt said a guesstimation of staff time for the investigations had probably run between \$45,000 - \$50,000 plus mileage and vehicles
 - The BOL discussed that the cost to the producer was not just the price of the animals, but that the producer would never get paid for what was invested in that herd for their lifetime
- Dr. Szymanski said that they were going to borrow some of the short-term Brand FTEs for the Tuberculosis investigation on the Hi-Line

(6:29:03) 3:10 PM – Request to Purchase a Hydraulic Chute

Dr. Tahnee Szymanski requested that the BOL approve the purchase of another hydraulic chute:

- Dr. Szymanski explained that currently, the DOL had two hydraulic chutes, one, used for bison that was extremely heavy and a newer one just purchased a few years ago
- The bison chute, being so heavy, was hard to haul, wearing out tires and not allowing the vehicle pulling it to go over 45 miles per hour. Dr. Szymanski was hoping to retire the bison chute and replace it with a newer hydraulic chute and a tub and alley, utilizing cooperative agreement funds that are available and approved by USDA to do so
 - To rent a tub and alley, Dr. Szymanski said was around \$200/day, and with the Tuberculosis testing they had been doing, those costs would rack up pretty fast

MOTION/VOTE

(6:37:40) 3:16 PM

Alan Redfield moved to allow the Animal Health Bureau to purchase a hydraulic chute and portable tub and alley at a 35K cap. Sue Brown seconded. The motion passed.

Dr. Tahnee Szymanski updated the BOL on the slaughter trace from Kuna, Idaho:

- Dr. Szymanski said she believed the animal was a longhorn that had been shipped from Utah to a location in Idaho, a location that regularly sold roping steer-type animals into Montana
- The animal was purchased, ending up at a location adjacent to the Montana DSA and used as a roping animal for multiple years. It was one of two or three on the property
- The animal had no contact with the beef herd across the road within the DSA and was isolated on the property as a roping animal. And, after a test results and an epi investigation done by Dr. Liska, Dr. Szymanski said no further test results would be required
- Dr. Zaluski said that through all of the interstate movements of the animal, there was concern that the CVIs following that animal were lacking. Dr. Szymanski said there would be some followup to make sure that animals moving from Idaho into Montana for roping purposes met all of the health requirements

(6:44:38) 3:23 PM RECESS

(6:44:45) 3:34 PM RECONVENE

ANIMAL HEALTH & FOOD SAFETY DIVISION REPORTS (Continued)

(6:44:52) 3:34 PM

(6:44:52) 3:34 PM – MILK & EGG BUREAU

(6:44:52) 3:34 PM – Request to Contract Out-of-State SRO to Complete BTU Rating

Dr. Marty Zaluski requested from the BOL permission to bring in from out of state, a State Ratings Officer (SRO) to complete BTU ratings:

- Dr. Zaluski explained that there had been delays, due to lack of availability of Federal staff, to provide training to get Alex Dachs, one of the State Sanitarians completely SRO-certified and so, an out-of-state SRO would need to do Rosemary's BTU ratings, because she cannot grade her own

MOTION/VOTE

(6:46:20) 3:36 PM

Nina Baucus moved to allow the Milk & Egg Bureau to contract out an out-of-state

SRO to complete the rating of the Northwest Montana BTU, as presented by Dr. Marty Zaluski. Sue Brown seconded. The motion passed.

(6:44:52) 3:34 PM – Request to Adopt Amended Rules: ARM 32.8.101 and ARM 32.8.202

Dr. Marty Zaluski said that the BOL had approved two rules previously for publication to receive public comment and was now requesting the BOL to grant permission to adopt those rules:

ARM 32.8.101

- The proposed amendments in ARM 32.8.101 would provide clarification that small dairies were not subject to rules of this chapter, according to SB199. The proposed amendments also update the references to the Pasteurized Milk Ordinance (PMO) to the most current version, just referencing the most recent version
- Dr. Zaluski explained that the DOL had received a few reports about some dairies milking more than the allowable number of animals that were considered a “small dairy.” When those reports come in, Dr. Zaluski said those situations were looked into because, if they were producing milk for public consumption and those numbers exceed the allowable amount, they would be in violation of licensing requirements
- Mike Honeycutt reported that he was contacted by a representative of the Raw Milk Institute, an out-of-state entity requesting that the BOL reconsider its decision on the VDL doing raw milk testing
- Mike Honeycutt explained to the BOL that according to the newly passed statute, raw milk could be sold at a place agreed to by the buyer and seller and was not limited to selling it from their home only
- Dr. Zaluski said that no public comment was received regarding the proposed rule change

MOTION/VOTE

(6:49:18) 3:39 PM

Ed Waldner moved to adopt amended rules, ARM 32.8.101 – Definitions and Adoption of Grade A Pasteurized Milk Ordinance and Associated Documents as presented by Dr. Marty Zaluski. Sue Brown seconded. The motion passed.

ARM 32.8.202

- The proposed amendment in ARM 32.8.202 specifically dealt with the 12-day restrictions and attempted to clarify the rule to allow for use of milk that had passed the 12-days-after-pasteurization and allowed for use of that milk in schools, food banks or donation for food banks or all restaurants
- Dr. Zaluski explained that basically, the proposed amendment added that the 12-day rule applied to bulk units of milk that were sold as packaged, which

addressed the restaurant use, the catering use and struck the words, or otherwise offered for public consumption, which would allow the donations to food banks

- Mike Honeycutt added that the school “pure packs,” sold by container, would still be subject to the 12-day rule, but that milk sold by the glass, multi-serve, that’s used by function, would not
- Dr. Zaluski said that one comment from the Montana Milk Producers Association was received in support of this proposed rule change

MOTION/VOTE

(6:56:15) 3:46 PM

Sue Brown moved to adopt amended rule, ARM 32.8.202 – Time From Processing that Fluid Milk May be Sold for Public Consumption as presented by Dr. Marty Zaluski. Greg Wichman seconded. The motion passed.

(6:56:33) 3:46 PM – MEAT & POULTRY INSPECTION BUREAU

(6:56:33) 3:46 PM – Hiring Update

Gary Hamel updated the BOL on filling vacancies in the Meat & Poultry Inspection Bureau, stating that three of the five positions were still vacant:

- Mr. Hamel reported that two new Inspectors had been hired for the Northwest District that would be operating out of the Kalispell area
 - Training for those two new Inspectors started on day one and would take approximately three months to be proficient enough to be in-plant on their own
- An offer was also extended to an individual to fill a third position in the Kalispell area, but he turned the job down. An offer was also extended to an individual to fill a fourth position, but they had not returned the offer letter or answered phone calls
- One applicant for the Bozeman position, according to Mr. Hamel did not submit all of the required application materials, and so that applicant was not interviewed
- Mr. Hamel reported that even with a skeleton crew, they had not missed any slaughter inspections, but sometimes had to forego a processing inspection on a given day, which was allowable by FSIS when there was no inspector available

(7:02:28) 3:52 PM – Cooperative Interstate Shipment Program (CIS)

Gary Hamel updated the BOL on the Bureau’s progress regarding the Cooperative Interstate Shipment Program:

- Mr. Hamel said that the “Same As” designation received by the Meat and Poultry Inspection Bureau was a preliminary designation and they would still have to contract with a laboratory with proper accreditation to do that
- Staff was working on trying to find and develop a relationship with either South Dakota or another state to utilize their lab, because the Montana VDL did not have the accreditation required for the CIS program

- Dr. Zaluski explained that the “Same As” requirement to have a CIS program required a lab that could do food testing. The Montana VDL does not have the capacity and Montana’s Public Health Lab was not sufficient enough to meet the accreditation standard required for the “Same As” program for the CIS program

There was BOL discussion regarding missed stuns and intimidation issues at some meat establishments:

- Mr. Hamel reported that there were two establishments that had missed stuns
 - A Noncompliance Record (NR) was issued to one of the establishments after they missed the first shot, that just outlined that there was an issue, but not having any harm against the plant or the program
 - The other plant was issued a deferral and suspended because the humane handling event on the first shot was egregious when they weren’t able to take a second shot for a significant period of time
 - The establishment had now been allowed to operate, but, under controlled conditions
- Mike Honeycutt said that captive bolt training had been offered by the State, but, not all establishments use the captive bolt mechanism. Mr. Hamel said that USDA also offered trainings and training materials
- Mr. Hamel explained that within 20 animals, you are allowed to miss once, and if there was another missed stun, that’s when the egregious nature of the missed stun was allowed. Under a verification plan, the minimum amount of time an establishment can’t miss a stun was 90 days
- Mike Honeycutt shared a story about an establishment complaining about the arbitrary 2 to 20 standard the DOL used. Mr. Honeycutt explained to the person that the spirit of the Federal regulation was that you never missed a stun, but, that the DOL felt that bar was too high, and so they utilize the 2 to 20 standard because it still meets or exceeds Federal criteria
- Regarding the employee harassment issue, harsh words were exchanged and late-night text messages sent, one sounding threatening, to an Inspector, after a scheduled Food Safety Assessment at a facility
- Mr. Hamel said, that Inspectors were pulled immediately out of the plant and a Corrective Action Plan put into place, part of which stated that for a 90-day minimum, the people that had been harsh and intimidating would no longer be in the room when inspection was being conducted and the plant owner would be the one spoken with regarding inspection results
- Mr. Hamel said he had directed the EIAO to develop a conflict resolution course to help educate the Inspectors to let them know when a person was being animated versus being abusive
- Mr. Honeycutt said that plant owners needed to report DOL employees they had issues with, and put into writing their concerns about those employees, so that the DOL could deal with it because you cannot have disciplinary conversations with just heresay; you’ve got to have facts, evidence and documentation

(7:26:26) 4:16 PM – VETERINARY DIAGNOSTIC LABORATORY

Greg Juda, Director of the Montana Veterinary Diagnostic Lab in Bozeman, introduced himself

(7:27:06) 4:17 PM – Adoption of Amended Rule for ARM 32.2.403 – Pertaining to Diagnostic Laboratory Fees

Greg Juda requested that the BOL adopt the amended rule, ARM 32.2.403, Pertaining to Diagnostic Laboratory Fees:

- Dr. Juda explained that the proposed amendments to ARM 32.2.403 were to add a small animal pregnancy test and also a parainfluenza virus Type 3 serum neutralization test to replace the current key mode assay
- The proposed amended rule was put out for comment and up to this date, had not received any comments. The due date for comments was in two days, on November 5, 2021

MOTION/VOTE

(7:28:12) 4:18 PM

Alan Redfield moved to adopt amended rule, ARM 32.2.403 – Diagnostic Laboratory Fees, as presented by Dr. Greg Juda, barring any negative comments by November 9, 2021. Nina Baucus seconded. The motion passed.

(7:29:29) 4:19 PM – Walk-In Necropsy Cooler Repair

Dr. Greg Juda requested that the BOL approve the repair of the walk-in Necropsy cooler at the MVDL:

- Dr. Juda explained that the cooler, over the past year, had received spot repairs due to a failure in the evaporator coil being caused by micro holes from erosion of the formaldehyde associated with some of the tissues stored in the cooler and went on to explain that the refrigeration foreman at MSU sent an email to the MVDL on October 15, 2021 stating that due to EPA regulations on the percent of freon leakage, they would have to decommission the cooler and the most recent repair they made would be the last one
- To keep from having to potentially shut down the Pathology section of the MVDL, Dr. Juda said he did authorize MSU to start the repairs and requested they speed it up, because the cooler had officially been decommissioned
- Estimated cost of repair that Dr. Juda reported was \$16,000 to \$20,000
- Mike Honeycutt reminded the BOL that Lila Taylor had brought a motion forth last year that approved \$16,000 to be used within the fiscal year, if any other cooler repairs were needed. With that fiscal year past, Mr. Honeycutt said the BOL would need to vote again on the repairs needed
- Dr. Juda did explain that the new MVDL would have a new cooler and that the cooler at the current MVDL was a totally different size and that was a reason to just repair it rather than replace it

MOTION/VOTE

(7:38:57) 4:29 PM

Jake Feddes moved to repair the evaporator unit for the MVDL's walk-in necropsy cooler. Nina Baucus seconded. The motion passed.

- Dr. Juda said that there was a potential to seek reimbursement for the repair if it can be justified and if it fell within the scope of NAHLN work

(7:40:30) 4:30 PM – Request to Hire Replacement Clinical Pathology Lab Technician

Dr. Greg Juda reported that the Clinical Pathology Lab Lead Technologist had just put in her notice and he was requesting permission from the BOL to fill that position:

- December 3, 2021 would be her last day, according to Dr. Juda, leaving that lab section with just one half-time employee
- Dr. Juda said that they had tapped into a temporary employee who previously worked for the MVDL in that section to help out in the short term
- Dr. Juda explained that the salary being offered for the position would be different than the current Technologist, as historically, they had sought out someone with a Med Tech License or a Clinical Laboratory Specialist degree, but the new position would make that a preferred requirement for the job and then they would have more oversight from the Pathologists within the lab section

MOTION/VOTE

(7:44:18) 4:34 PM

Sue Brown moved to hire a Clinical Pathology Laboratory Technician, as presented by Dr. Greg Juda. Greg Wichman seconded. The motion passed.

Dr. Greg Juda updated the BOL on the seasonal testing at the MVDL:

- Dr. Juda said that things had ramped up with a significant number of owner-submitted samples through FWP to the MVDL to test for CWD and that for the next 3-4 weeks it would be hot and heavy for the Virology section of the Lab
- Brucella testing's peak season extends into the middle to end of December and they had already started receiving a significant amount of DSA testing samples

CENTRALIZED SERVICES DIVISION REPORTS

(7:46:30) 4:36 PM

(7:46:30) 4:36 PM– FISCAL BUREAU

Evan Waters, Finance and Accounting Bureau Chief said he would be doing the Fiscal Bureau Report, as Brian Simonson was out today

(7:47:02) 4:36 PM – September 30, 2021 State Special Revenue Report

Evan Waters updated the BOL on the September 30, 2021 State Special Revenue numbers:

- New Brands and Transfers were higher due to the amortization 10-year cycle, and a brand-new cycle would begin next year
- There was a \$72,000 decrease in Field Inspections from the prior year, and Mr. Waters said that was probably because more had been going through the markets, with the Market Inspections numbers going up considerably. Mike Honeycutt said that people may have been using Deputy Stock Inspectors rather than staff who have been busy in the markets
- Overall, Brands revenues were running around \$170,000 ahead of last year, although Per Capita Fees were down around \$30,000 from last year, because, Mr. Waters thought it was due to timing of when they paid
 - Evan Waters thought the per capita fees were down due to people paying faster and Mike Honeycutt added that it could have also been that certain Federal programs people had applied for required payment of per capita before receiving funds, such as the CFAP payments
- Investment earning for the DOL were showing about a 60% rate of return from last year, but added that there was hardly any risk to that investment
- Timing of when bills were paid was why Mr. Waters thought that Milk Inspection fees were \$17,000 ahead of last year. A late payment in Egg Grading received in July changed those numbers, but Mr. Waters said that those numbers were right on where they should be. Mike Honeycutt felt that the Lab Fees being down a little bit were also a timing issue with the timing of Brucella and CWD testing
- The Voluntary Wolf Donation Fund, collected by FWP, was down compared to last year

(7:51:59) 4:42 PM – October 2021 Through June 2022 Expenditure Projections

Evan Waters explained that the expenditure projections were currently sitting about the same as last month:

- Although the General Fund looked to be behind, Mr. Waters said there are mechanisms that can be used to get it down to zero, such as using per capita fee to pay some Lab expenses
- Personal Services projections look to be about \$100,000 over, a lot of that due to having a 5% vacancy savings
- Mike Honeycutt said that in the VDL Lab Fees, which were proprietary funds, the projected numbers were \$159,000 negative, but that would be disappearing when more fees are collected than what was budgeted, which, he said hopefully, the VDL would hit that point if there was as much business done in the VDL as the year before
- Mr. Waters said that even though there were a lot of late filers, the reporting period for per capita was March 31st, and they would have projections numbers reported at that time
- Mike Honeycutt said, when you see revenue this time of year in per capita, it was either people paying late or people getting money coming in from people who didn't pay last year, but "real" per capita numbers all hit between February and May
- Mike Honeycutt informed the BOL that the Meat & Poultry Inspection Bureau may be able to catch up their general fund numbers because there was no Union

negotiation this year and at some point during this fiscal year, the collective bargaining agreement might be redone and get the Bureau out of the off-cycle Union negotiation schedule they had been in

- Mr. Waters pointed out that the CIS fund in the Meat & Poultry Inspection Bureau, the 60-40 share, was not listed, as Gary had been moving that “Meets or Exceeds” program forward
- In the Milk Control Bureau, Mr. Waters explained that they were hiring a temporary employee, contracted through an agency, and that would mean Personal Services would take a jump because of that

(8:03:39) 4:53 PM – September 30, 2021 Budget Status Report

- Mike Honeycutt said that part of the \$81,000 higher than last year numbers in Personal Services, can be attributed to overtime rather than an across-the-board employee raise in pay. He said that there was a 50-cent raise in January 2021, but that no raise would be given in January of 2022
- Evan Waters pointed out that permanent salaries did go up \$22,000 and benefits went up \$38,000
- Although the DOL spent \$57,000 less through September 30th than the year before, Evan Waters explained that there had not been any equipment purchases this year, but, that there were several pieces of equipment coming in, with a lot of it paid for with Federal money

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS/COMMENTS FROM PRODUCER ORGANIZATIONS

(8:10:20) 5:00 PM

Mike Honeycutt said that Rachel Cone had sat through the entire meeting in-person and that Rachel Prevost was also present, but online, if they wanted to make some comments:

- Rachel Cone, Montana Farm Bureau Federation (MFBF) said she appreciated all the work the DOL did
 - She added that their convention was the following week and that they had been busy getting ready for that and were expecting new policy
- Rachel Prevost, Montana Farmers Union said she had no comments, but thanked the BOL for the meeting

SET DATE FOR THE NEXT BOARD MEETING

(8:12:46) 5:02 PM

Gene Curry requested that BOL members look at their calendars to decide what date to have the next BOL meeting:

- Mike Honeycutt said that there was a Foreign Animal Disease tabletop on FMD, scheduled for December 15-16, if any of the BOL members would like to schedule the meeting around those dates so they could attend that event
- The next BOL meeting was scheduled for Tuesday, December 14, 2021

MEETING ADJOURNED

(8:16:12) 5:06 PM



Gene Curry, Chairman