

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 32.8.101 pertaining to fluid milk) AMENDMENT
and Grade A milk products)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. 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 this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Livestock no later than 5:00 p.m. on October 15, 2021, to advise us of the nature of the accommodation that you need. Please contact Executive Officer, Department of Livestock, 301 N. Roberts St., Room 304, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9525; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: MDOLcomments@mt.gov.

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

32.8.101 DEFINITIONS AND ADOPTION OF GRADE A PASTEURIZED MILK ORDINANCE AND ASSOCIATED DOCUMENTS (1) remains the same.

(2) The Department of Livestock adopts and incorporates by reference as rules of the department the following ~~as they are now described and as they may from time to time be amended:~~

(a) "Grade A Pasteurized Milk Ordinance, ~~2017~~ 2019 Recommendations of the United States Public Health Service/Food and Drug Administration" (PMO) together with attached recommended administrative procedures, appendices, and index, except sections 16 and 17.

(b) "Methods of Making Sanitation Ratings of Milk Supplies," ~~2017~~ 2019 edition issued by the U.S. Public Health Service/Food and Drug Administration (MMSR).

(c) "Evaluation of Milk Laboratories," ~~2017~~ 2019 edition (EML).

(d) "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers," ~~2017~~ 2019 edition.

(3) and (4) remain the same.

(5) The rules of this chapter do not apply to "small dairies" as defined in 81-21-101, MCA.

AUTH: 81-2-102, MCA
IMP: 2-4-307, 81-2-102, MCA

REASON: The department is proposing to amend the above-stated rule for clarity purposes after the passage of SB199, also known as The Montana Local Food Choice Act, during the 2021 Legislative session. The bill amended 81-21-101 MCA, to add a definition of "small dairies" and exempts them from the department's regulations and rules. As such, the department felt it prudent to note that exemption in its rules.

In addition, the department is taking this opportunity to update the documents adopted and incorporated by reference to the most up-to-date versions dated 2019.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Department of Livestock, P.O. Box 202001, Helena, Montana, 59620-2001; telephone (406) 444-9761; fax (406) 444-1929; or e-mail MDOLcomments@mt.gov, and must be received no later than 5:00 p.m., October 22, 2021.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments the same address as above no later than 5:00 p.m., October 22, 2021.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 6 persons based on 7 operating Grade A licensed plants and 48 operating Grade A licensed producers.

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. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor, Senator Greg Hertz, was contacted by email on June 14, 2021.

9. 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.

/s/ Michael S. Honeycutt

Michael S. Honeycutt

Executive Officer

Board of Livestock

Department of Livestock

BY: /s/ Cinda Young-Eichenfels

Cinda Young-Eichenfels

Rule Reviewer

Certified to the Secretary of State September 14, 2021.