

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 32.3.435 pertaining to testing) AMENDMENT
within the DSA)
) 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 the Department of Livestock no later than 5:00 p.m. on August 29, 2022, 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:

32.3.435 TESTING WITHIN THE DSA (1) ~~The following official brucellosis test requirements apply to all test eligible animals and~~ Cattle or domestic bison of any age if intended to be used for breeding purposes that are or have been located within the DSA boundaries of any calendar year must have an official brucellosis test within 30 days prior to leaving the DSA or changing ownership, except:

(a) A test within 30 days prior to movement out of the DSA or change of ownership, unless that movement is to an approved Montana livestock market Steers or spayed heifers.

(b) Sexually intact animals less than 12 months of age for feeding.

(c) Animals moving to an approved Montana livestock market that will be tested at the market prior to sale.

(d) Animals destined for exhibition or veterinary care within the DSA that will not be commingled with other livestock, will remain in confinement for the duration of the event/treatment, and will depart within 10 days of arrival.

(e) Animals utilizing the DSA during the low-risk period (entering the DSA after July 15 and leaving prior to February 15).

(2) A test completed July 16 or after is acceptable for movement out of the DSA or change of ownership through February 15 of the following year. Animals entering the DSA for summer grazing may be tested upon return to their origin location. Testing must be done within 10 days and animals may not be commingled with other livestock until testing is complete.

(3) Other variances or exceptions to requirements will be considered on an individual basis by the administrator based on a brucellosis ~~prevention and surveillance~~ herd management agreement.

AUTH: 81-2-102, 81-2-103, 81-2-104, MCA

IMP: 81-2-101, 81-2-102, 81-2-103, 81-2-104, ~~81-2-105, 81-2-110~~, 81-2-111, MCA

REASON: Since the inception of the Designated Surveillance Area (DSA) in 2010, herd management agreements (MA) have been used to assess risk, collect demographic information, and grant variances. Current Administrative Rules of Montana (ARM) require an MA before any variances or rule exceptions can be granted. Twelve years later, the DSA comprises close to 450 producers, nearly three times more than in 2010. Detailed, individual MAs and documented variances are no longer an effective method of meeting producer or program needs. The department is proposing the most frequently granted variances be included in ARM as standard exemptions to streamline the process for DSA producers and department staff.

Citations to authority were amended to accurately reflect the full statutory authority of the board to promulgate rules.

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) 444-9321; fax (406) 444-1929; or e-mail MDOLcomments@mt.gov, and must be received no later than 5:00 p.m., September 2, 2022.

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 to Executive Officer at the address in 4 above no later than 5:00 p.m., August 29, 2022

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 45 persons based on approximately 450 identified DSA 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 address 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://sosmt.gov/ARM/Register>.

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 rule will not significantly and directly impact small businesses.

/s/ Darcy Alm
Darcy Alm
Rule Reviewer

/s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Board of Livestock
Department of Livestock

Certified to the Secretary of State July 26, 2022.