

BEFORE THE BOARD OF MILK CONTROL  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 32.24.504 pertaining to transfer	)	AMENDMENT
of quota and 32.24.505 pertaining to	)	
reassignment of quota from the	)	NO PUBLIC HEARING
unassigned quota pool and	)	CONTEMPLATED
readjustment of quota into the	)	
statewide quota system	)	

TO: All Concerned Persons

1. The Board of Milk Control (board), which is administratively attached to the Department of Livestock, proposes to amend the above-stated rules.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in 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 the Department of Livestock, 301 N. Roberts, Room 308, P.O. Box 202001, Helena, Montana, 59620-2001; telephone (406) 444-9321; fax (406) 444-1929; TDD number 1 (800) 253-4091; or e-mail MDOLcomments@mt.gov.

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

32.24.504 TRANSFER OF QUOTA (1) Quota is the property of each eligible producer. It may be transferred pursuant to the following terms and conditions:

(a) Quota transfers must be a minimum of 100 pounds a day. If the eligible producer is going out-of-business and has a daily quota balance amount that is less than 100 pounds, then that amount may be transferred.

(b) Any time quota is transferred there is a forfeited 10% reduction.

~~(b)~~ (c) The bureau must be notified in writing by the proposed quota transfer or at least seven days prior to the first day of the month during which the transfer is contemplated. Such notice must include the name of the prospective transferee, the effective date of the proposed transfer, and the amount of quota to be transferred. The producer must also notify the producer's pool plant of the transfer. The bureau will notify the producer committee of any proposed transfers.

~~(c)~~ (d) All quota transfers are effective only upon approval by the producer committee. The proposed quota transfer must be bona fide and not for the purpose of evading any provisions of applicable law.

~~(d)~~ (e) A quota transfer may be made only to an eligible producer.

~~(e)~~ (f) Leasing of quota is prohibited.

AUTH: 81-23-302, MCA  
IMP: 81-23-302, MCA

32.24.505 REASSIGNMENT OF QUOTA FROM THE UNASSIGNED QUOTA POOL AND READJUSTMENT OF QUOTA INTO THE STATEWIDE QUOTA SYSTEM

~~(1) The quota accumulated in the unassigned quota pool will be re-assigned pro-rata to all eligible producers and new eligible producers when the unassigned quota pool is equal to or greater than 500 pounds.~~

~~(a) For application of (1) the bureau determines the total pounds of quota that has been forfeited and accumulated through March 31 of each year.~~

~~(b) The resulting pounds in (1)(a) are prorated to all eligible producers and new eligible producers on the basis of these producers' average daily marketing of milk to all pool plants during the preceding months of September through December and assigned to them as quota effective on May 1.~~

~~(2) (1) Readjustment of quota into the statewide quota system will occur if the Montana market needs exceed the current established total quota.~~

~~(3) (2) Market needs are not met when the following conditions exist:~~

~~(a) when greater than 83.5% of quota milk received is utilized in non-surplus Class I and II usage; and~~

~~(b) when utilization of quota milk for non-surplus Class I and Class II usage has increased from two years prior to the preceding year. When a negative figure results, there will be no readjustment.~~

~~(4) (3) When the statewide quota system needs additional quota added to meet market needs, the bureau must calculate on or before the first day of April each year the additional quota to be assigned to each eligible producer and new eligible producer in accordance with the following computations:~~

~~(a) For application of (3)(a)(2)(a), using the preceding calendar year (January 1 through December 31), the total non-surplus Class I and Class II usage is divided by the total quota pounds to determine the percentage of quota milk utilized in non-surplus Class I and II usage.~~

~~(b) For application of (3)(b)(2)(b), using the preceding calendar year (January 1 through December 31), compute the total pounds of non-surplus Class I and Class II usage from all pool plants and subtract the total pounds of non-surplus Class I and II usage in the calendar year prior to the preceding calendar year.~~

~~(c) If the percentage in (4)(a)(3)(a) exceeds 83.5%, take the positive figure resulting from the computation in (4)(b)(3)(b) and divide it by the total days in the year to determine how many pounds of quota will be issued into the statewide quota system.~~

~~(d) The resulting pounds in (4)(c)(3)(c) must be prorated to all eligible producers and new eligible producers on the basis of their average daily marketing of milk to all pool plants during the preceding months of September through December and assigned to them as quota effective on May 1.~~

AUTH: 81-23-302, MCA  
IMP: 81-23-302, MCA

REASON: The board proposes to amend these two rules as part of the milk industry's collective response to performance audit of milk market regulation which found the current amount of quota in the state is too high. The board, in collaboration with milk producers, agreed to re-establish a 10% reduction on quota transfers and implement the forfeiture of unassigned quota. This change will have no immediate financial impact on current producers and, over time, should increase the value of their quota remaining in the system.

4. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Executive Officer, Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov, to be received no later than 5:00 p.m., September 2, 2022.

5. If persons who are directly affected by the proposed actions 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 the same address as in 4 above. The written request for hearing must be received 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 four persons based on there being 39 current milk pool producers in the state.

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 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 rules will not significantly and directly impact small businesses.

/s/ Darcy Alm  
Darcy Alm  
Rule Reviewer  
Department of Livestock

/s/ Ken Bryan  
Ken Bryan  
Chair  
Board of Milk Control

Certified to the Secretary of State July 26, 2022.