

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)	AMENDED NOTICE OF PROPOSED
RULE I, the amendment of ARM)	ADOPTION, AMENDMENT, AND
32.3.104, 32.3.108, 32.3.131,)	REPEAL
32.3.140, 32.3.201, 32.3.207,)	
32.3.216, 32.3.301, 32.3.403,)	NO PUBLIC HEARING
32.3.411, 32.3.416, 32.3.606,)	CONTEMPLATED
32.3.1505, and 32.3.2301, and the)	
repeal of ARM 32.3.132, 32.3.302,)	
32.3.303, 32.3.304, 32.3.305,)	
32.3.307, 32.3.308, 32.3.309,)	
32.3.310, 32.3.311, 32.3.312,)	
32.3.313, 32.3.314, 32.3.315,)	
32.3.402, 32.3.407, 32.3.412,)	
32.3.418, 32.3.440, 32.3.608,)	
32.3.1305, 32.3.1507, 32.3.2006, and)	
32.3.2303 pertaining to animal)	
contagious disease control)	

TO: All Concerned Persons

1. On July 5, 2024, the Department of Livestock published MAR Notice No. 32-24-345 regarding the proposed adoption, amendment, and repeal of the above-stated rules at page 1530 of the 2024 Montana Administrative Register, Issue No. 13. The department is re-publishing this rulemaking notice to adhere to the requirements of 2-4-302(2)(a), MCA.

2. The Department of Livestock (department) proposes to adopt, amend, and repeal the above-stated rules.

3. The department 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 16, 2024, to advise us of the nature of the accommodation that you need. Please contact Executive Officer, Department of Livestock, 301 N. Roberts St., Room 308, Helena, Montana, 59620-2001; telephone (406) 444-9525; fax (406) 444-4316; TDD/Montana Relay Service 1 (800) 253-4091; or e-mail MDOLcomments@mt.gov.

4. The rule proposed to be adopted provides as follows:

NEW RULE I INDEMNITY FOR ANIMALS DESTROYED DUE TO DISEASE

(1) The owner of cattle, domestic bison, sheep, goats, swine, alternative livestock, and poultry destroyed or slaughtered due to disease as specified in 81-2-201, MCA, under the direction of the department or by order of the board may be

paid indemnity for up to 100% of the appraised value of the animal, provided, however, payment for registered animals shall not exceed two times the determined value of commercial or grade animals.

(2) The indemnity shall be paid when the following conditions exist:

(a) at the time of test or condemnation, the animal for which indemnity is claimed did not belong to or was not upon the premises of any person to whom it had been sold for slaughter, shipped for slaughter, or delivered for slaughter;

(b) the animal was purchased or imported into Montana less than 120 days before the date of a test disclosing reactor animals, and the owner is a farmer or rancher buying and selling animals in the ordinary course of their farm and ranch operation. Cattle must have been branded with the owner's brand prior to the date of the test;

(c) if not already tested, the herd of origin of the reactor animal for which indemnity is claimed is made available by the claimant for an official test;

(d) the provisions of this subchapter pertaining to testing, quarantine, movement of animals under quarantine, cleaning and disinfection have been carried out; and

(e) an application claiming indemnity has been submitted.

(3) The amount of indemnity paid by the department shall be decided by the board with consideration given to any indemnity payments already paid on the animals, comparable sales receipts provided by the owner, the U.S. Department of Agriculture (USDA) indemnity calculator, USDA Agriculture Marketing Service market reports, and sales data from Montana livestock markets at the time the animal was taken.

(4) If there is a mortgage or lien recorded with the department on cattle slaughtered and indemnified in accordance with the provisions of this subchapter, the warrant paying the indemnity shall be made payable jointly to the owner of the cattle and the lien holder or mortgagee.

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

IMP: 81-2-201, 81-2-209, 81-2-210, MCA

REASON: This proposed rule implements 2023 amendments to Title 81, chapter 2, part 2, MCA, regarding compensation for animals ordered destroyed due to disease. The proposed rule sets forth the procedure and conditions under which compensation may be paid and replaces disease-specific indemnification rules such as ARM 32.3.418.

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

32.3.104 SUBJECT DISEASES OR CONDITIONS (1) Diseases or conditions affecting multiple species that require reporting, and quarantine when indicated, under department rules are:

(a) and (b) remain the same.

(c) Bluetongue (quarantine);

(d) through (3) remain the same.

(4) Diseases or conditions affecting equines that require reporting, and quarantine when indicated, under department rules are:

(a) through (l) remain the same.

(m) Strangles (quarantine);

(n) through (9) remain the same.

(10) Diseases and conditions affecting canids that require reporting, and quarantine when indicated, under department rules are:

(a) *Brucella canis* (quarantine).

(11) and (12) remain the same.

AUTH: 81-2-102, 81-2-103, 81-20-101, MCA

IMP: 81-2-102, 81-20-101, MCA

REASON: The proposed additions to ARM 32.3.104's list of diseases and conditions that require quarantine are necessary to allow the department to track and manage diseases of special interest to Montana's livestock industries. Quarantine authority for bluetongue is necessary in the event that detection in animals is made shortly before they are to enter market channels to avoid spread. Quarantine authority for strangles is necessary due to the existence of equine boarding facilities. Quarantine authority for *Brucella canin* is necessary due to the prevalence of canine breeding facilities.

32.3.108 QUARANTINE AND RELEASE OF QUARANTINE (1) Animals subject to quarantine shall ~~be~~, as soon as it is practicable, be quarantined separate and apart from other susceptible animals. If possible, they shall be quarantined in an inside enclosure.

~~(2) Quarantined animals shall be identified by brand, tattoo, dye mark, eartag, or other identification acceptable to the Montana Department of Livestock.~~

~~(3) (2)~~ (2) The person who issues the quarantine shall designate the number of animals quarantined, their approximate age, breed class, species, sex, a description of the mark or brand identifying the animals, and a clear and distinct identification of the area in which they are to be quarantined. Quarantines may be issued verbally or delivered in writing in person, by email, or through registered mail with return receipt. Quarantines issued for herds associated with a positive disease detection must be delivered in writing in person or through registered mail with return receipt.

~~(4) The person issuing the quarantine shall deliver or forward through the United States mail, by registered mail return receipt requested with instructions to deliver to the addressee only, the notice of quarantine to the owner or agent of the animals quarantined.~~

~~(5) (3)~~ (3) The person issuing the quarantine shall ~~also~~ immediately ~~deliver~~ provide notice ~~personally or by mail~~ to the state veterinarian.

(4) Quarantined livestock shall be identified with a serially numbered U.S. Department of Agriculture (USDA) tag or other form of approved official identification. Additional identification, including brand, tattoo, dye mark, eartag, or other identification acceptable to the Department of Livestock may be required by the state veterinarian to ensure that the identity of the animals will be preserved.

(5) Livestock herds designated as affected with a federal program disease shall be officially identified with USDA 840 series radio frequency identification (RFID) tags or microchips. The 840 official identification number shall be correlated to all existing forms of identification in order to reconcile the completion of all required testing.

(6) The unauthorized removal of any identification provided for under this rule is prohibited.

(7) The owner or their agent-in-charge shall report in writing to the state veterinarian the death of any quarantined animal. All man-made identification shall be salvaged and turned over to the state veterinarian.

(8) A signed affected herd management plan will be required as a condition for quarantine release for all herds and flocks confirmed to be infected with a federal program disease.

(9) Cleaning and disinfection of facilities and or vehicles will be required as a condition for quarantine release when specified in 9 CFR or disease specific uniform methods and rules.

~~(6)~~ (10) Where quarantined animals are shipped for immediate slaughter under permit from the Montana Department of Livestock, the veterinarian issuing the permit will use the approved federal and state form a form approved by the state veterinarian.

~~(7)~~ (11) Quarantine may be removed by or with the approval of the deputy state veterinarian issuing the quarantine or by any authorized quarantine agent of the Department of Livestock when he is they are satisfied that, according to generally accepted veterinary practice, the animals are not affected with or have not been directly exposed to a quarantinable disease.

AUTH: 81-2-102, 81-2-103, 81-20-101, MCA

IMP: 81-2-102, 81-2-103, 81-20-101, MCA

REASON: The proposed amendments creating new (2) and (3) modernize the permissible communication methods and make them consistent with those currently utilized by individuals with quarantine authority under ARM 32.3.106 to both issue a quarantine and report an issued quarantine to the state veterinarian. New (4), (5), (6), and (10) make requirements consistent with current department practices. New (7) replaces ARM 32.3.608 and makes its reporting requirement applicable to all disease quarantines. New (8) replaces ARM 32.3.312 and 32.3.412 and, together with new (9), promotes consistency with the requirements of U.S. Department of Agriculture disease programs. New (11) updates the rule by implementing gender neutral language.

32.3.131 VEHICLES USED IN TRANSPORTING DISEASED LIVESTOCK TO BE CLEANED AND DISINFECTED (1) Any railway, transportation company, or individual must properly clean and disinfect, any car, truck, or conveyance which has held an animal known to be infected with an infectious, contagious disease. The required cleaning will be based upon the specific pathogen of concern and existing federal rules or regulations regarding disinfection and will be conducted under the supervision of an approved agent of the Department of Livestock or an official from

~~the U.S. Department of Agriculture authorized state livestock sanitary official or an official approved by the U.S. Department of Agriculture, any car, truck, or conveyance which has held an animal or poultry infected with an infectious, contagious disease before using such car, truck, or conveyance for the transportation or conveyance of animals into or within the state of Montana.~~

AUTH: 81-2-102, 81-20-101, MCA

IMP: 81-2-102, 81-20-101, MCA

REASON: The proposed amendment incorporates federal standards and protocols for specific diseases and clarifies that vehicle cleaning is required when the animal is known or suspected to be infected at the time of transportation.

32.3.140 DUTIES OF DEPUTY STATE VETERINARIAN (1) A deputy state veterinarian shall:

(a) and (b) remain the same.

(c) quarantine in writing all animals exposed to a quarantinable disease upon suspicion of diagnosis in the absence of, or on the order of, the state veterinarian. Immediate notification of quarantine must be made to the ~~Montana~~ state veterinarian's office by phone, ~~fax, or mail~~;

(d) report immediately all cases of quarantinable diseases (ARM 32.3.104 and 32.3.105) to the state veterinarian in ~~Helena~~, by telephone ~~or fax~~;

(e) through (g) remain the same.

(h) ~~file a monthly form regarding report~~ other reportable diseases (ARM 32.3.104) to the state veterinarian within 30 days of confirmed or suspected diagnosis; and

(i) mail or email weekly, all required inspection forms, test charts, certificates of veterinary inspection, and vaccination certificates made during the week.

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

IMP: 81-2-102, 81-2-103, ~~81-2-108~~, MCA

REASON: The proposed amendment modernizes the permissible communication methods currently utilized and makes this rule consistent with the proposed new ARM 32.3.108(3).

32.3.201 DEFINITIONS (1) In this subchapter:

(a) through (d) remain the same.

(e) "Health certificate" a certificate of veterinary inspection issued on an official health certificate form of the state of origin, an electronic certificate of veterinary inspection approved by the state of origin, or an equivalent U.S. Department of Agriculture form of the U.S. Department of Agriculture attesting that the animals described thereon have been visually inspected and found to meet the entry requirements of the state of Montana. In addition, the health certificate shall conform to the requirements of ARM 32.3.206.

(f) through (p) remain the same.

AUTH: 81-2-102, 81-2-103, 81-2-104, 81-2-707, 81-20-101, MCA
IMP: 81-2-102, 81-2-103, 81-2-104, 81-2-703, 81-20-101, MCA

REASON: The majority of health certificates that are currently issued are electronic certificates of veterinary inspection, and this proposed amendment modernizes the rule language to specifically allow for electronic certificates consistent with current industry practice.

32.3.207 PERMITS (1) Permits are issued by the ~~Montana~~ Department of Livestock. Persons applying for permits shall provide the following information: names and addresses of the consignor and consignee, number and kind of animals, origin of shipment, ~~final~~ destination, purpose of shipment, ~~method of transportation~~, and such other information as the state veterinarian may require.

(2) Permits are valid for ~~no longer than ten days from the date of issuance~~ 30 days from the date of veterinary inspection specified on the health certificate unless otherwise specified as follows:

(a) and (b) remain the same.

~~(c) entry extended, 30 days;~~

~~(d) equine annual, yearly;~~

~~(e) NPIP poultry, yearly;~~

~~(f) re-entry, up to 30 days;~~

(g) remains the same, but is renumbered (c).

~~(h) six month horse passport, six months.~~

(i) and (j) remain the same, but are renumbered (d) and (e).

(3) Permits will be issued provided the animals shown thereon are in compliance with these rules. However, ~~in order~~ to cope with changing disease conditions, the state veterinarian may refuse to issue a permit or make such conditions not specifically set forth in these rules for its issuance as is necessary to protect livestock health in Montana.

(4) Permits will be provided to persons requesting them immediately upon issue. To facilitate the movement of animals or items required to enter Montana by permit, if the prerequisites have been met, a permit number may be issued ~~by telephone~~ electronically or verbally. The permit number ~~so issued~~ must be affixed to the health certificate if required, waybill, brand inspection certificate, and any other official documents in this fashion: "Montana Permit No." followed by the number.

~~(5) When these rules require entry by permit, at the time the permit is issued, the department may require that an official health certificate or other approved documentation be obtained either at the point of origin, the point of destination, or some other location within Montana designated by the department.~~

AUTH: 81-2-102, 81-2-103, 81-2-104, 81-2-707, 81-20-101, MCA
IMP: 81-2-102, 81-2-103, 81-2-104, 81-2-703, 81-20-101, MCA

REASON: The types of permits proposed to be deleted from (2) are no longer used by the department. Import permits currently are valid for a shorter period of time than health certificates, and the department seeks to ensure that import permits are valid for as long as health certificates are valid. Section (5) is proposed to be

deleted because (4) includes the requirement that a health certificate accompany a perm. The remainder of the proposed amendments make the requirements consistent with current department practice.

32.3.216 HORSES, MULES, AND ASSES (1) Horses, mules, and asses, and other equidae may enter the state of Montana provided they are transported or moved in conformity with ARM 32.3.201 through 32.3.211. All animals must be tested negative for Equine Infectious Anemia (EIA) within the previous 12 months as ~~a condition for obtaining the permit required by ARM 32.3.207.~~

(2) Unless otherwise specifically provided in this rule, all horses, mules, asses, and other equidae that are moved into the state of Montana shall be accompanied by an official certificate of veterinary inspection ~~or equine passport certificate~~ from the state of origin stating that the equidae are free from evidence of any communicable disease and have completed EIA test and identification requirements as defined in ARM 32.3.1401 using procedures outlined in ARM 32.3.1402.

(3) Entry of equidae into Montana shall not be allowed until the EIA test has been completed and reported negative. Equidae with tests pending are not acceptable. Equidae that test positive to EIA test shall not be permitted entry into Montana except by special written permission from the state veterinarian and must be branded and moved in conformity with the USDA U.S. Department of Agriculture EIA movement regulations.

(4) through (7) remain the same.

(8) Provided there is ~~a written~~ agreement between the Department of Livestock and the chief livestock sanitary official of the state of destination, Montana origin equids may be moved from Montana to other states or from other states to Montana for shows, rides, or other equine events and return on an extended duration health certificate ~~equine passport certification under a state system of equine certification~~ acceptable to the cooperating states.

(a) ~~Equine passport~~ Certificates cannot be used when equids are moved for the purposes of sale or change of ownership ~~of the equid, or for animal breeding activities, or movements that involve stays of longer than 90 days.~~ Equids moved for these purposes must be accompanied by a certificate of veterinary inspection.

~~(b) Equine passport movement must involve short term travel to or from the state of Montana for participation in equine activities including but not limited to participation in equine events, shows, rodeos, roping, trail rides, and search and rescue activities.~~

~~(c) (b)~~ Equine passport Certificates shall be valid for only one animal and shall contain the following information:

(i) remains the same.

(ii) the ~~location at which~~ address where the animal is stabled, housed, pastured, or kept, if different from that of the owner;

(iii) through (vi) remain the same.

~~(d) No certificate or veterinary inspection or equine passport certificate shall be issued for equine to enter Montana unless it is complete in all respects with requirements of the state of Montana.~~

~~(e) Equine passport certificates must be properly completed with the required tests and certifications recorded on the certificate and a copy of the completed certificate must be submitted to and approved by the Department of Livestock.~~

~~(f) (c) Equine passport Certificates shall be valid for no longer than six months from the date the EIA sample is collected if an EIA test is required, or six months from the date of inspection if no EIA test is required.~~

~~(g) (d) The recipients of equine passport certificates shall be required to submit a travel itinerary to the state veterinarian's office within ten working days following the date of expiration of the certificate obtain a transport permit prior to each animal movement. The travel itinerary transport permit shall include a listing of all travel that the equid made into and out of the state of Montana during the validity of the certificate the full physical origin and destination of the upcoming animal movement.~~

~~(h) (e) The Department of Livestock may cancel any equine passport extended duration health certificate in the event of serious or emergency disease situations or for certificate holder's failure to comply with the rules that apply to such certificates. Cancellation of the certificate may be accomplished by written or verbal notice to the certificate holder. Verbal notice shall be confirmed by written notice. The canceled certificate will become invalid on the date and at the time of notification.~~

AUTH: 81-2-102, 81-2-103, 81-2-707, MCA

IMP: 81-2-102, 81-2-103, 81-2-703, MCA

REASON: The current rule expresses the department's participation in an equine passport program that has since been permitted to sunset due to the fact that more states are instead participating in an equine extended duration health certificate program. The proposed amendments will confirm the state of Montana's participation in the extended duration health certificate program.

32.3.301 DEFINITIONS DISEASE CONTROL (1) "~~Pseudorabies~~" is an acute, sometimes fatal disease, caused by a specific herpes virus and characterized by a variety of clinical signs, involving mainly the nervous and respiratory systems. ~~Most species of domestic and wild animals are susceptible to infection by this viral agent, but only swine are known to become chronic carriers. Man and higher primates are resistant~~ The department adopts and incorporates by reference the federal pseudorabies disease control standards contained in Title 9 of the Code of Federal Regulations and the U.S. Department of Agriculture's *Pseudorabies Eradication State-Federal-Industry Program Standards*. The Code of Federal Regulations is available for review online at www.ecfr.gov. The *Pseudorabies Eradication State-Federal-Industry Program Standards* is available for review online at https://www.aphis.usda.gov/sites/default/files/prv_program_standards_3.pdf. A copy of both documents may be obtained from the Department of Livestock, 301 North Roberts Street, P.O. Box 202001, Helena, Montana 59620-2001.

~~(2) "Department" is the Montana department of livestock, animal health division.~~

(3) (2) An "animal" in this subchapter means is any quadruped of a species which can become infected with pseudorabies.

(4) An "official test" is any department-approved pseudorabies test conducted by a person authorized by the department and the USDA, as specifically qualified to conduct such test on animals or animal tissues. Official tests are designed to indicate the presence of pseudorabies infection, utilizing one or more of the following procedures: latex agglutination (LA), serum neutralization (SN), florescent antibody (FA), enzyme-labeled immunosorbant assay (ELISA), or any other virus isolation test or serological procedure recognized for use in the diagnosis of pseudorabies. To be considered official, the test must be conducted in an approved facility. Interpretation of test results are to be made by an individual qualified to make such scientific judgments and who is in the employ of the department or the USDA. Interpretation and test results are to be reported on official forms of the department.

(5) An "approved reagent" is a standardized biologic product approved by USDA for use in pseudorabies testing. Use of approved reagents, which includes antigens and test serums, are restricted to official tests only.

(6) "Official vaccination" is the administration of an approved pseudorabies immunization biologic licensed by USDA. The administration will be by a deputy state veterinarian or other person approved by the state veterinarian. The vaccination will be administered only with the express permission of the state veterinarian, and all such vaccinations will be reported on forms provided by the department. Only official vaccination is permitted in Montana.

(7) An "official vaccinate" is an animal receiving an official vaccination and which is given proper permanent identification.

(8) "Proper permanent identification" means use of the official nine-character alpha-numeric eartag as provided by the department, or individual identification as otherwise prescribed by the department. Proper permanent identification is required with blood samples used for official tests.

(9) An "infected or positive animal" is any animal that discloses sufficient reaction to an official test which indicates the presence of field-strain pseudorabies virus or which is found to be infected with field-strain pseudorabies virus by other recognized diagnostic procedures.

(10) A "suspect animal" is an animal disclosing an equivocal result to an official test or diagnostic procedure in which there is sufficient reaction, indicating the possible presence of pseudorabies infection but is in itself insufficient to justify classification of the animal as infected. This classification ordinarily requires the use of additional laboratory testing procedures to allow classification as infected or noninfected.

(11) A "noninfected or negative animal" is an animal free of clinical signs of pseudorabies and giving a negative result to an official test designed to detect pseudorabies infection with field-strain virus.

(12) An "exposed animal" is any animal that is part of a herd or the herd premises infected with pseudorabies, or an animal that has had sufficient contact anywhere with pseudorabies infection or test reactors for the transmission of pseudorabies virus to have occurred. Animals other than swine that have not had

significant contact with infected pseudorabies animals within the previous 10 days are not considered exposed.

~~(13) A "herd" is one or more animals of the same species owned or supervised by one or more persons and that permits intermingling of animals unhindered or in which interchange of animals without regard to health status is allowed.~~

~~(14) A "contact herd" is a herd of animals of the same species that, through epidemiological investigation, is shown to come proximal to infected or test positive animals sufficiently for the transmission of pseudorabies virus to occur. Also, a herd containing exposed animals.~~

~~(15) A "herd test" is a test of all animals six months of age and older contained as a herd. Blood samples taken at the herd test will be identified to the donor animal using proper permanent identification applied to that animal.~~

~~(16) A "random herd test" is a herd test at recognized random rates that yield significant confidence that any infection would have been detected. Recognized random rates are shown in the UM&R for pseudorabies eradication.~~

~~(17) "Offspring segregation plan" means a procedure whereby offspring of pseudorabies infected sows are segregated from those infected sows at an age where they are passively immune to pseudorabies and by applying test and separation principles can be developed into pseudorabies-free breeding swine that serve as the foundation for a pseudorabies-free breeding herd (Reference: UM&R for pseudorabies eradication herd plan manual).~~

~~(18) "Emergency circumstances" means events or situations which, in the opinion of the board of livestock, pose an immediate or impending economic or livestock health danger to the livestock industry.~~

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

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

REASON: The U.S. Department of Agriculture administers a Cooperative State-Federal Pseudorabies Eradication Program to control the interstate spread and dissemination of pseudorabies and has promulgated disease control regulations accordingly in 9 CFR Part 85. The proposed amendment promotes simplicity by adopting and incorporating the federal standards and, along with the proposed repeal of ARM 32.3.302, 32.3.303, 32.3.304, 32.3.305, 32.3.307, 32.3.308, 32.3.309, 32.3.310, 32.3.311, 32.3.312, 32.3.313, 32.3.314, and 32.3.315, will advance the Governor's Red Tape Relief Initiative.

32.3.403 USE OF BRUCELLA ABORTUS VACCINE (1) remains the same.

~~(2) The state veterinarian, upon discovery that the owner of imported livestock eligible for official vaccination cannot or will not otherwise have those cattle or domestic bison officially vaccinated, shall arrange for the official vaccination of such eligible cattle or domestic bison at a reasonable cost to the owner.~~

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

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

REASON: The U.S. Department of Agriculture administers a Cooperative State-Federal Brucellosis Eradication Program to control the interstate spread and dissemination of brucellosis in livestock and has promulgated disease control regulations accordingly in 9 CFR Part 78. The federal program no longer imposes a brucellosis vaccine import requirement.

32.3.411 PROCEDURE UPON DETECTION OF BRUCELLOSIS

~~(1) Immediately upon quarantine of a herd for brucellosis the state veterinarian shall conduct an epidemiological investigation of the infected herd and premises involved to determine the specific methods and actions necessary to eradicate the disease from the herd and to determine contact herds and animals~~ The department adopts and incorporates by reference the federal brucellosis disease control standards contained in Title 9 of the Code of Federal Regulations and the U.S. Department of Agriculture's *Brucellosis Eradication: Uniform Methods and Rules*. The Code of Federal Regulations is available for review online at www.ecfr.gov. The *Brucellosis Eradication: Uniform Methods and Rules* is available for review online at https://www.aphis.usda.gov/sites/default/files/umr_bovine_bruc_0.pdf. A copy of both documents may be obtained from the Department of Livestock, 301 North Roberts Street, P.O. Box 202001, Helena, Montana 59620-2001.

~~(2) Upon request of the owner of the an infected herd, the investigation disease control activities provided for in (1) may be conducted with the assistance and participation of a deputy state veterinarian selected and paid for by the owner.~~

~~(3) An official epidemiological report must be prepared that specifies the methods necessary to eradicate the disease and includes a time table for the accomplishment of the various tasks.~~

~~(4) A person who is aggrieved by determination made pursuant to this section may appeal in writing to the state veterinarian within five days after notice of such determination. The state veterinarian may affirm, reverse or modify such determination after he has reviewed the epidemiological report and the issues involved.~~

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

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

REASON: The U.S. Department of Agriculture administers a Cooperative State-Federal Brucellosis Eradication Program to control the interstate spread and dissemination of brucellosis in livestock and has promulgated disease control regulations accordingly in 9 CFR Part 78. The proposed amendment promotes simplicity by adopting and incorporating the federal standards and, along with the proposed repeal of ARM 32.3.402, 32.3.407, 32.3.412, will advance the goals of the Governor's Red Tape Relief Initiative.

32.3.416 IDENTIFICATION OF TESTED, REACTOR, AND OTHER

ANIMALS (1) Reactor animals must be tagged ~~in the left ear~~ with a serially numbered ~~United States~~ U.S. Department of Agriculture (USDA) or department brucellosis reactor tag. If in the judgment of the state veterinarian, there is concern

about compliance with the provisions of quarantine or if the reactor animal is found outside of the Designated Surveillance Area, the animal may, and must be permanently branded on the left jaw with the letter "B" not less than two inches high. Tagging and branding of reactors must be accomplished within 15 days after the date of test on blood collected from the animal. The time allowed to tag and brand reactor animals, as specified herein, may be enlarged or extended by the state veterinarian for good cause shown.

(2) Animals which have been subjected to an official test for brucellosis must be identified with serially numbered USDA identification ear tags of the ~~United States Department of Agriculture or of the department, registration tattoos, numbered earmarks, or other definite individual animal identification mark, approved by the department, and applied under the supervision of the department.~~

(3) The ~~United States Department of Agriculture~~ USDA backtag is adopted by the Department of Livestock as an official animal identification tag for market cattle identification (MCI).

(4) remains the same.

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

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

REASON: The U.S. Department of Agriculture administers a Cooperative State-Federal Brucellosis Eradication Program to control the interstate spread and dissemination of brucellosis in livestock and has promulgated disease control regulations accordingly in 9 CFR Part 78, which the department proposes to explicitly adopt and incorporate in this notice. This proposed amendment gives the state veterinarian discretion over whether to permanently brand a reactor animal in addition to the federal program's identification requirements.

32.3.606 IDENTIFYING INFECTED ANIMALS (1) Tuberculosis reactors must be identified with a serially numbered U.S. Department of Agriculture tag. If, in the judgment of the state veterinarian, there is concern about compliance with the provisions of quarantine, the animal may be ~~All animals infected with tuberculosis, as determined by physical examination or tuberculin test, or otherwise, must be immediately segregated, eartagged with an official tuberculosis reactor eartag, and branded with the letter "T" on either the right or left jaw.~~

(2) remains the same.

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

IMP: 81-2-102, 81-2-103, MCA

REASON: Montana is a U.S. Department of Agriculture (USDA) accredited tuberculosis-free state. (9 CFR § 77.7(a)). To qualify as a USDA accredited tuberculosis-free state, Montana must have the authority to enforce and to comply with the provisions of USDA's "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and must enforce regulations that impose restrictions that are substantially the same as those in place under 9 CFR Part 77. (9 CFR § 77.1, 3, .5). The proposed amendment is consistent with the federal program's requirements and

gives the state veterinarian discretion over whether to permanently brand a reactor animal in addition to the federal program's requirements.

32.3.1505 BLOOD TESTING WITH SALMONELLA ANTIGENS (1) The official pullorum-typhoid blood test is the standard tube agglutination test, the rapid serum test, or the stained-antigen, rapid, whole-blood test. The antigen used for official whole-blood tests shall be supplied by the ~~Montana~~ Department of Livestock, Animal Health Division (department).

(2) remains the same.

(3) All chickens to be used as breeders must be tested when more than five four months of age.

(4) and (5) remain the same.

(6) Reactors may be submitted to the ~~Montana~~ department of Livestock, ~~Animal Health Division~~ laboratory for autopsy and bacteriological examination. The number of reactors to be submitted must be designated by a representative of the ~~Montana~~ department of Livestock, ~~Animal Health Division~~. In case such bacteriological examination fails to demonstrate pullorum or typhoid infections, the flock may be classified as free from pullorum or typhoid. If other members of the Salmonella group are isolated, the ~~Montana~~ department of Livestock, ~~Animal Health Division~~ may disqualify the flock for the production of hatching eggs, or require such action as is deemed necessary with respect to the infection.

(7) The ~~Montana~~ department of Livestock, ~~Animal Health Division~~ may designate or license authorized testing agents who have demonstrated the ability to perform the duties of pullorum-typhoid testing to the satisfaction of the department.

(a) through (c) remain the same.

AUTH: 81-20-101, MCA

IMP: 81-20-101, MCA

REASON: The U.S. Department of Agriculture administers a National Poultry Improvement Plan (NPIP) through which new or existing diagnostic technology can be effectively applied to improve poultry and poultry products by controlling or eliminating specific poultry diseases. The proposed amendment makes the department's rules consistent with the NPIP standards.

32.3.2301 CONTROL OF BIOLOGICS (1) remains the same.

(2) No biologic may be brought into the state without a permit from the Department of Livestock (department) as required by 81-2-703, MCA. A long term permit may be granted upon request.

(3) No person may manufacture for sale, or sell, or offer for sale for use in the state of Montana, any biological product intended for diagnostic, immunizing or therapeutic purposes in animals unless such product is approved by and manufactured under a license issued by the U.S. Department of Agriculture, or unless upon specific permission in writing by the ~~Montana~~ department's of Livestock, animal health division.

(4) and (5) remain the same.

(6) All serums, viruses, and vaccines sold or offered for sale in the state of Montana for use in domestic animals shall be stored according to the manufacturer's label conditions ~~kept in a dark place at a temperature of not more than 45°F, and not less than 35°F, until such time as they are sold, and shall not be sold after their expiration date.~~ They must be sold in their original container.

AUTH: 81-2-102, 81-2-707, 81-20-101, MCA
IMP: 81-2-102, 81-2-707, 81-20-101, MCA

REASON: The amendment will defer to the manufacturer's recommended storage and handling requirements for each specific biologic rather than impose a blanket storage and handling requirement for all biologics. This will promote safety and efficacy as manufacturer's labels are vetted through their regulatory authorities and are particularized to the specific biologic in question.

6. The department proposes to repeal the following rules:

32.3.132 CLEANED AND DISINFECTED VEHICLES TO BE PLACARDED

AUTH: 81-2-102, 81-20-101, MCA
IMP: 81-2-102, 81-20-101, MCA

REASON: This rule does not reflect the department's current practice, and thus repeal will advance the goals of the Governor's Red Tape Relief Initiative. Placarding for diseases and conditions requiring quarantine may still be addressed in the management plan provided for in the proposed new ARM 32.3.108(8) set forth in this notice.

32.3.302 REPORTING OF PSEUDORABIES

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

32.3.303 QUARANTINE OF SWINE HERDS - USE OF QUARANTINE

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

32.3.304 QUARANTINE OF EXPOSED HERDS AND ANIMALS

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

32.3.305 RELEASE OF QUARANTINE

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

32.3.307 DEPARTMENT ORDERED PSEUDORABIES TESTING

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

32.3.308 CHANGE OF PREMISES TESTING

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

32.3.309 TEST EXPENSES AND DUTIES

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

32.3.310 DISPOSAL OF DEAD ANIMALS

AUTH: 81-2-102, 81-2-103, MCA
IMP: 81-2-101, 81-2-102, 81-2-108, MCA

32.3.311 PROCEDURE UPON DETECTION OF PSEUDORABIES

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

32.3.312 MEMORANDUM OF UNDERSTANDING

AUTH: 81-1-102, MCA
IMP: 81-2-102, MCA

32.3.313 EXTENSION OF TIME LIMITS

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

32.3.314 MOVEMENT OF SWINE THROUGH LICENSED LIVESTOCK
MARKETS AND OTHER CONCENTRATION POINTS

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

32.3.315 HERD STATUS ESTABLISHMENT

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

REASON: The amendments to ARM 32.3.301 proposed in this notice will adopt and incorporate the federal disease program standards. The amendments to ARM 32.3.108 proposed in this notice will also centralize all department quarantine procedures. Together, these amendments will render the above-listed rules unnecessary. Repeal will advance the Governor's Red Tape Relief Initiative.

32.3.402 EXTENSION OF TIME LIMITS

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

32.3.407 DEPARTMENT ORDERED BRUCELLOSIS TESTING OF ANIMALS

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

32.3.412 MEMORANDUM OF UNDERSTANDING

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

32.3.418 INDEMNITY PAID FOR REACTORS

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

32.3.440 CERTIFIED BRUCELLOSIS FREE BOVINE HERDS

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

REASON: The U.S. Department of Agriculture determines certified brucellosis-free herd status as set forth in 9 CFR § 78.1. The amendments to ARM 32.3.411 and the adoption of NEW RULE I proposed in this notice will adopt and incorporate the federal disease program standards and render the above-listed rules unnecessary. The proposed amendments to ARM 32.3.108 will also centralize all department quarantine procedures. Repeal will advance the Governor's Red Tape Relief Initiative.

32.3.608 REPORTING DEATH OF ANIMALS FROM A TUBERCULOSIS QUARANTINED HERD

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

REASON: This requirement is transferred to new ARM 32.3.108(7) as proposed to be amended in this notice. Repeal will advance the Governor's Red Tape Relief Initiative.

32.3.1305 DISCLOSURE OF INFORMATION

AUTH: 81-2-102, MCA

IMP: 81-2-103, MCA

REASON: This rule simply states what is already true and correct and does not impose any requirements. Repeal will advance the Governor's Red Tape Relief Initiative.

32.3.1507 EXHIBITIONS OF POULTRY

AUTH: 81-20-101, MCA

IMP: 81-20-101, MCA

REASON: This rule has not been updated since 1972, and it is no longer consistent with current department practice. The department does not have a presence at all at poultry exhibitions in the state to ensure enforcement. Repeal will advance the Governor's Red Tape Relief Initiative.

32.3.2006 INTRASTATE MOVEMENT OF CATTLE: IDENTIFICATION

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

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

REASON: This rule is no longer consistent with current department practice regarding backtags, and its repeal will not increase the risk of disease or change how cattle moves within intrastate marketing channels. Repeal will advance the Governor's Red Tape Relief Initiative.

32.3.2303 DIAGNOSTIC TESTS

AUTH: 81-2-102, MCA

IMP: 81-2-102, MCA

REASON: This rule is no longer consistent with current department practice and requirements. The department is retaining administrative rules regarding the reporting of test results for specific diseases that are of concern to the department.

7. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Lindsey Simon, 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., August 23, 2024.

8. 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 Lindsey Simon at the address listed in paragraph 7 no later than 5:00 p.m., August 23, 2024.

9. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons 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 1,400.

10. 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 paragraph 7 above or may be made by completing a request form at any rules hearing held by the department.

11. An electronic copy of this proposal notice is available through the Secretary of State's web site at rules.mt.gov.

12. The bill sponsor contact requirements of 2-4-302, MCA, apply only to proposed NEW RULE I. The primary bill sponsor, Representative Joe Read, was contacted by email on June 6 and 10, 2024, at joe.read@legmt.gov, and by U.S. mail on June 10, 2024.

13. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption, amendment, and repeal of the above-stated rules will not significantly and directly impact small businesses.

/s/ Lindsey R. Simon
Lindsey R. Simon
Rule Reviewer

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

Certified to the Secretary of State July 16, 2024.