



December 10, 2015

Marty Zaluski
Department of Livestock
301 N. Roberts Street, Room 308
Helena, MT 59620-2001

Submitted via e-mail to MDOLcomments@mt.gov and mzaluski@mt.gov

Dear Interim Executive Officer Zaluski,

The Grow Montana Food Policy Coalition is a broad-based coalition dedicated to promoting policies that support sustainable Montana-owned food production, processing, and distribution with the goal of improving all community members' access to healthy Montana foods. We are deeply concerned about the department's proposed amendment to ARM 32.2.406.

The amendment negatively impacts the dairy industry in Montana, especially the smaller dairy producers and processors. The proposed inspection fee per 100 pounds for producers almost doubles, and the minimum monthly charge increases from \$50 to \$225. Fees for dairy processors are also included in the proposed amendment, with a minimum monthly charge of \$725 and a maximum of \$2,850. The impact on small dairy businesses could be severe.

These increased fees will be a burden to small producers, and it is likely that it will result in some of these operations having to shut down. If these small operations go out of business due to increased monetary cost, the processors that are able to continue operating may have to purchase milk outside the state, which will have a direct impact on Montana's dairy industry as a whole.

Potentially the most disturbing aspect of the department considering this proposal is that it recognizes the negative impact on small producers and processors. The "Notice of Proposed Amendment" declares that the Department of Livestock has "determined that the fee increase in the proposed amendment may significantly and directly impact some small businesses." Furthermore, Livestock states, "Small businesses in the early growth state will be especially impacted." These statements should have given the department pause and made it take more time to involve impacted stakeholders, while it also examined other potential ways to increase revenue.

The *Bozeman Daily Chronicle* ran an article recently (a copy of which is attached to this letter) quoting only a portion of the 72 people the "Notice" says will be impacted; however, it is clear that the danger to these operations is real. One local producer and processor predicted the increased inspection fees would cost her an additional \$9,000 each year. Small dairy operations are part of the small business

The Grow Montana Food Policy Coalition is a broad-based coalition whose common purpose is to promote community economic development and education policies that support sustainable Montana-owned food production, processing, and distribution which improves all Montanans' access to healthy Montana foods. Housed at and coordinated by the Butte-based National Center for Appropriate Technology, the organizations comprising Grow Montana's steering committee are Alternative Energy Resources Organization (Helena), Community Food and Agriculture Coalition (Missoula), Lake County Community Development Corporation (Ronan), Montana Academy of Nutrition and Dietetics (Bozeman), Montana Farmers Union (Great Falls), Montana Office of Public Instruction (Helena), National Center for Appropriate Technology (Butte), and Northern Plains Resource Council (Billings).

engine that drives Montana's economy. The Department of Livestock should be seeking to help these dairy producers and processors thrive, not implementing fees that could lead to their demise.

We encourage the Department of Livestock to hold a public hearing on this proposed change to ARM 32.2.406 and hear from the producers and processors that will be negatively impacted by the change. We also encourage the department to explore potential policy changes that could make more of the milk inspection budget come from the state's General Fund, since the need for health and safety inspections are a public health issue. Grow Montana would gladly talk with the Department of Livestock in more detail about this approach if it is interested.

In closing, we must repeat our strong opposition to changing ARM 32.2.406, which would potentially put some small dairy operations in the State of Montana out of business. We hope you will hold a public hearing, redraft the proposed amendment based on stakeholder input, and look for other ways to increase the department's inspection and safety budget.

Sincerely,

A handwritten signature in black ink that reads "Travis G. McAdam". The signature is written in a cursive, slightly slanted style.

Travis McAdam
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Cc: Governor Steve Bullock
Agriculture Director Ron de Yong
Economic Affairs Interim Committee
Montana House Agriculture Committee
Montana Senate Agriculture Committee
Board of Milk Control

Livestock department upping dairy inspections cost

Small dairies criticize DOL for ‘unsustainable’ fee increases

By [Lewis Kendall](#) Chronicle Staff Writer / Nov 22, 2015

A proposed inspection fee change is threatening dairy farmers and processors across Montana.

Under current Montana Department of Livestock rules, licensed dairy producers — farms that generate raw milk — are charged each month around 15 cents per 100 pounds of milk to pay for health and safety inspections, with a minimum charge of \$50 and a maximum of \$1,050. Dairy processors, such as cheesemakers and large plants like Darigold, are not charged.

A new amendment would nearly double the per hundredweight charge to more than 27 cents and would raise the minimum fee for producers to \$225 per month. Processors would also be charged a minimum of \$725 a month and a maximum of \$2,850.

DOL documents say the increase is to cover the costs of inspections. The department did not respond to request for comment.

“The assessment rate was calculated based on the department’s fiscal projections of costs (and) the estimated average cost for administration of the milk inspection and milk diagnostic laboratory functions,” the department wrote.

The new fee rule was approved at the Board of Livestock’s October meeting and is open for public comment until Dec. 10. If unchanged, the it’ll go into effect Jan. 1.

For many small dairies, the new charges would be a large financial blow.

Amaltheia Organic Dairy, a Belgrade-based goat farm and processing plant, is among more than 70 Montana operations that would be affected.

Owner Susan Brown said her farm is used to paying an assessment fee but nothing close to what the new charges would cost her.

In an average month, Brown and her 280 goats produce 4,000 to 6,000 pounds of cheese, which she said would translate to around \$9,000 in extra inspection fees each year.

“We really thought it was a joke at first,” she said. “It’s certainly not sustainable for us. It’s absurd to think that we have an extra \$750 a month.”

Wendi Arnold, the owner of Flathead Lake Cheese, said the changes would be especially harmful to new dairies.

“We’re small cheesemakers in our fourth year, and this is going to really hit us hard,” she said. “This is concerning. Trying to budget lots more money than we’re having to get out on a monthly basis is really scary for a small business.”

In its analysis, the DOL admitted that the proposed change would be disproportionately harmful to small dairies. Several such businesses would experience “significant economic impact” according to the the DOL’s Small Business Impact Statement.

“The department has determined that the fee increase in the proposed amendment may significantly and directly impact some small businesses. Small businesses in the early growth stage will be especially impacted,” it reads.

Larger producers and processors would also be affected, with many saving money under the new rules. The 10 largest dairies in the state would see their monthly assessment fees reduced, according to department documents.

David Lewis's Big Creek Dairy, which produces around 8 million pounds of milk for Darigold each year, would be among the beneficiaries. But Lewis said that while he understands the department's position, leaning on small dairies is not necessarily the answer.

"I think that there is just more work for (the department) to do and less funds to do it. But I don't think charging everyone in business more money is the answer," he said.

Many owners said that the money for inspections, which happen either monthly or several times per year, depending on the dairy, should come out of the state's general fund, not from private businesses.

"It is public safety and public health to make sure the product is good and that people producing the product are properly inspected," said Tim Huls, president of Huls Dairy, another Darigold producer.

"(Assessment costs) should come out of the fund for public health. I don't know many people who pay \$12,000 a year to get their farms inspected," added Lewis.

Others were openly critical of the DOL.

"They haven't been very prudent with the funds they have had. They're just looking for the easiest way out," said Jennifer Holmes, co-owner of Victor-based Lifeline Farm.

Holmes said that the proposed change would add charges equivalent to a third of her yearly salary.

"It's a pretty big chunk of money; I don't think that is sustainable for us," she said.

The amendment would generate \$130,000 per year for the ailing department, funds that could only be used to cover the cost of inspections. The DOL could reduce the fee again after 2016.

Several owners cited the department's financial woes as reason to be suspicious of the new charge.

A recent fiscal audit found that the DOL had used several illegal and unconstitutional practices to balance its books in 2012 and 2013, including making an improperly recorded withdrawal from the state treasury of nearly \$200,000.

The department has been chronically over budget and ended the last fiscal year with a \$300,000 deficit. Lawsuits have also plagued the DOL. Earlier this year, a meat processor claimed livestock agents illegally searched his property. In January, a national milk producer sued the department over its sell-by date law.

In September, Christian Mackay, the Board of Livestock's executive officer, resigned after eight years. Soon after, Brands Enforcement Division Administrator John Grainger also resigned.

Currently, the board, whose seven members are appointed by the governor, has no dairy representative. The last was Jeffrey Lewis, whose term ran until 2017, but he stepped down this year after selling his dairy cows. Montana law dictates that the board include one "dairy producer representing the dairy and poultry industry."

"There's no proper representation," said Jared Tuck, owner of Kalispell Creamery. "That's the thing that really irks us, it makes it seem like a sneaky, shady thing."

The board has allocated almost an hour for comments on the proposal at its monthly meeting on Monday. Several owners said they planned to attend, if only to learn more about the change.

And while there remains the possibility of a public hearing to block the amendment, many owners said they feared the potential effects of such a large fee increase.

"It's really a shame. Dairies in Montana are already struggling," said Brown. "What are they trying to do to us?"

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