



ADMINISTRATIVE RULES OF MONTANA



32.24.507 REQUEST FOR REVIEW AND APPEALS PERTAINING TO QUOTA

- (1) After quota is reassigned or readjusted as provided for in ARM 32.24.505, any eligible producer may request review from the producer committee on the grounds that the eligible producer's production history is not appropriate because of unusual conditions during the production measurement period used to prorate reassigned or readjusted quota, such as loss of buildings, herds, or other facilities as the result of fire, floods, storms, official quarantine, disease, pesticide residue or condemnation of milk.
- (2) A producer may request review from the producer committee to consider whether the producer should be an eligible producer even though, because of hardship, the producer failed or will fail to deliver milk to a pool plant for 90 consecutive days.
- (3) A producer may make a request for review of quota ownership not later than 45 days after the notice of change in quota balance or after the occurrence of the alleged hardship. The request must be filed with the bureau, who will forward the request to the producer committee. The request must set forth:
 - (a) the conditions that caused the alleged inappropriate production history under (1) or hardship under (2);
 - (b) the extent of relief or adjustment requested;
 - (c) the basis upon which the amount of relief or adjustment requested should be computed; and
 - (d) the reasons why relief or adjustment should be granted.
- (4) With respect for a producer's request for review of production history, quota, forfeiture of quota, or other related problems, the producer committee may grant or adjust production history quota on average daily producer milk deliveries for the production measurement period in question, delay forfeiture of quota, or restore forfeited quota.
- (5) Producer committee decisions are subject to appeal to the board.
 - (a) A producer may file a notice of appeal to the board within 15 days after written notification of the decision of the producer committee.
 - (b) In the event that an action by the producer committee is in violation of the administrative rules, the bureau must bring it to the attention of the aggrieved party.
- (6) The board must hear an appeal within 90 days of when the bureau received the appeal.
- (7) An appeal will be heard as follows:

- (a) The aggrieved party will be given the opportunity to make an oral presentation and submit written justification in support of reversal or modification of the producer committee's decision.
 - (b) Members of the producer committee will be given the opportunity to make an oral presentation and submit written material in opposition to reversal or modification of the producer committee's decision.
 - (c) The decision of the board will be based on the record of the producer committee review as supplemented by oral argument and written submissions to the board. However, the appeal to the board will not be a trial de novo. New material that could not reasonably be submitted to the producer committee will be accepted if it relates to the grounds set forth in (8).
- (8) In ruling on the appeal from the producer committee's decision the board will not overrule or modify the decision of the producer committee unless:
- (a) there was collusion affecting the producer committee's decision;
 - (b) the board determines that actual bias or prejudice on the part of one or more producer committee members affected the decision;
 - (c) the producer committee's decision was the result of an incorrect interpretation of a statute or rule applicable to the decision; or
 - (d) the producer committee's decision was clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.
- (9) On review of a producer committee's decision, the board must not substitute its judgment (second guess) for that of the producer committee as to the weight of the evidence on question of fact.
- (10) An appeal that the board overturns (the producer committee's decision) is final and does not have to be approved by the producer committee. The board will instruct the bureau how to make equitable remedy.
- (11) The bureau must maintain records of all requests for review made to the producer committee and the disposition thereof. Such files must be open for inspection by any interested persons during the regular office hours of the bureau.

Authorizing statute(s): 81-23-302, MCA

Implementing statute(s): 81-23-302, MCA

History: NEW, 1997 MAR p. 1662, Eff. 9/23/97; AMD, 2005 MAR p. 2680, Eff. 12/23/05; AMD, 2017 MAR p. 1151, Eff. 8/1/17.