

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 32.2.404 department of)	AMENDMENT
livestock brands enforcement division)	
fees and 32.18.109 freeze branding)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. 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 the 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 October 15, 2021, to advise us of the nature of the accommodation that you need. Please contact the Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: (800) 253-4091; fax: (406) 444-1929; e-mail: MDOLcomments@mt.gov.

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

32.2.404 DEPARTMENT OF LIVESTOCK BRANDS ENFORCEMENT
DIVISION FEES (1) New brands and transfers:

- (a) Recording of a new brand or mark:
 - (i) Recording of a new brand or mark during a rerecord year will not incur an additional rerecord charge.
 - (ii) Livestock or ornamental \$200.00
 - (iii) Seasonal brand for going to grass 200.00
 - (iv) Seasonal brand for going to feed lot, market, or location 50.00
 - (v) Cattle freeze brand in addition to hot iron brand 10.00
- (b) through (5) remain the same.

REASON: The department proposes to amend ARM 32.2.404, which is necessary to establish a fee commensurate with costs. There is administrative processing time required to add a freeze brand to a hot iron brand certificate beyond what is included in the original brand application. The proposed fee is based on the administrative costs of a duplicate certificate fee. Out of approximately 56,000 recorded brands, the proposed amendment to ARM 32.2.404 will minimally affect the 200 freeze brands on record.

AUTH: 81-1-102, 81-3-202, MCA

IMP: 81-3-205, 81-3-211, 81-4-602, 81-4-605, 81-5-112, 81-7-504, 81-8-256, 81-8-264, 81-8-271, 81-8-276, 81-8-304, 81-9-113, 81-9-411, MCA

32.18.109 FREEZE BRANDING (1) Freeze branding of cattle ~~may be~~ is allowed under the following conditions:

- (a) all freeze brands must be ~~registered~~ recorded ~~with~~ by the department;
- (b) in order to ~~register~~ record a freeze brand, the owner must have a hot iron brand ~~registered~~ recorded ~~with~~ by the department;
- (c) the freeze brand must be identical in design and location to the owner's hot iron brand;
- (d) the freeze brand will be ~~issued~~ recorded on the same certificate ~~and except on a new recording will not be charged an additional recording fee~~; and
- (e) freeze brands can only be ~~sold or transferred along with the hot iron certificate~~ brand.

AUTH: 81-1-102, MCA

IMP: 81-1-102, MCA

REASON: The department proposes to amend ARM 32.18.109. This rule change is necessary to establish language consistent with statute. Statute utilizes the terms "record" and "recorded." The language in the proposed rule change removes the terms "register" and "registered" and replaces them with "record" and "recorded" to be consistent with statute. The other proposed changes to the rule are necessary to create clear and concise language.

4. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to the 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., October 22, 2021.

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 a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m., October 22, 2021.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the businesses who are 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 public hearing will be held at a later date. If the department receives 25 requests for a public hearing, notice of the public hearing will be published in the Montana Administrative Register. Those directly affected has been determined to be 55,576, based upon the number of recorded brands 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 contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. 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.

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

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State September 14, 2021.