

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)	NOTICE OF PROPOSED
RULE I deeded land grazing permits)	ADOPTION AND AMENDMENT
and amendment of ARM 32.2.404)	
department of livestock brands)	NO PUBLIC HEARING
enforcement division fees, 32.18.109)	CONTEMPLATED
freeze branding, and 32.18.202)	
county line grazing permits)	

TO: All Concerned Persons

1. The Department of Livestock (department) proposes to adopt and 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 March 2, 2018 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: 1 (800) 253-4091; fax: (406) 444-1929; e-mail: MDOLcomments@mt.gov.

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

NEW RULE I DEEDED LAND GRAZING PERMITS (1) The deeded land grazing permit allows movement of cattle for grazing purposes from a Montana ranch of origin across multiple county lines to a Montana destination premises if the entire destination premises is the private deeded property of the livestock owner.

(2) An application must be submitted to and approved by the department prior to movement.

(3) For purposes of obtaining a permit, virgin breeding females and nursing calves are not required to be branded.

(4) The provisions of ARM 32.18.202(2) through (4) apply, except ARM 32.18.202(2)(d).

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

IMP: 81-3-203, 81-3-211, MCA

REASON: The department is proposing to adopt this rule because new rulemaking is reasonably necessary to implement HB338 (2017). That legislation allows cattle to move on a grazing permit across multiple county lines. Rules must be established to outline the procedure for execution. Individuals impacted by this rule would be cattle producers who own grazing land in separate counties, separated by more than one county line, and whose entire grazing location is private deeded property.

Approximately 250 producers shipped cattle for grazing purposes within the State of Montana from April through July of 2017. A large portion of these movements would have been to property that does not meet the criteria for this permit type, but it would require extensive research for each individual producer to determine the number of eligible applicants. The department estimates that fewer than one dozen producers will be eligible to obtain a deeded land grazing permit.

4. 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) through (3) remain the same.

(4) Permits:

- (a) Adjacent state transportation permit \$10.00
- (b) Adjoining county ~~transportation or~~ grazing permit ~~10.00 per 100 head~~

<u>Number of Animals</u>	<u>Fee</u>
<u>1-100</u>	<u>\$ 30.00</u>
<u>101-200</u>	<u>\$ 40.00</u>
<u>201-300</u>	<u>\$ 50.00</u>
<u>301-400</u>	<u>\$ 60.00</u>
<u>401-500</u>	<u>\$ 70.00</u>
<u>501-600</u>	<u>\$ 80.00</u>
<u>601-700</u>	<u>\$ 90.00</u>
<u>701-800</u>	<u>\$ 100.00</u>
<u>801-900</u>	<u>\$ 110.00</u>
<u>901-1000</u>	<u>\$ 120.00</u>

(c) through (k) remain the same.

(l) Deeded land grazing permit:

(i) First-time application

<u>Number of Animals</u>	<u>Fee</u>
<u>1-50</u>	<u>\$ 100.00</u>
<u>51-100</u>	<u>\$ 125.00</u>
<u>101-200</u>	<u>\$ 150.00</u>
<u>201-300</u>	<u>\$ 175.00</u>
<u>301-400</u>	<u>\$ 200.00</u>
<u>401-500</u>	<u>\$ 225.00</u>
<u>501-600</u>	<u>\$ 250.00</u>
<u>601-700</u>	<u>\$ 275.00</u>
<u>701-800</u>	<u>\$ 300.00</u>
<u>801-900</u>	<u>\$ 325.00</u>
<u>901-1000</u>	<u>\$ 350.00</u>

(ii) Renewal

<u>Number of Animals</u>	<u>Fee</u>
<u>1-100</u>	<u>\$ 40.00</u>
<u>101-200</u>	<u>\$ 50.00</u>
<u>201-300</u>	<u>\$ 60.00</u>
<u>301-400</u>	<u>\$ 70.00</u>
<u>401-500</u>	<u>\$ 80.00</u>
<u>501-600</u>	<u>\$ 90.00</u>
<u>601-700</u>	<u>\$ 100.00</u>
<u>701-800</u>	<u>\$ 110.00</u>
<u>801-900</u>	<u>\$ 120.00</u>
<u>901-1000</u>	<u>\$ 130.00</u>

(5) remains the same.

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

REASON:

32.2.404 (4)(b)

Based on fiscal analysis, the department is proposing to raise fees as the existing adjoining grazing permit fees are not commensurate with cost. Currently about 800 grazing permits are issued annually. This fee change would affect these 800 permittees.

32.2.404 (4)(l)(i)

The department has created a new type of permit for which a fee is proposed. The fee for first time application of deeded land grazing permits is based on fiscal analysis of department staff time required to process, ensure compliance, and issue the permit. It is estimated that this would affect no more than a dozen producers in Montana.

32.2.404 (4)(l)(ii)

Based on fiscal analysis, the process of renewing a deeded land grazing permit will cost less than processing a first-time application. Therefore, the department is proposing a separate fee for renewals that is commensurate with cost. The fee to renew a deeded land grazing permit is estimated to affect no more than a dozen producers in Montana.

32.18.109 FREEZE BRANDING (1) through (1)(c) remain the same.

(d) the freeze brand will be issued 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; ₂

~~(f) a grazing permit will not be issued to freeze brand cattle.~~

AUTH: 81-1-102, MCA

IMP: 81-1-102, MCA

REASON: Cattle moving on a grazing permit are required to be branded with a Montana recorded brand. The department is proposing to amend this rule to remove language restricting grazing permit movements for freeze-brand cattle because the department began recognizing freeze brands on cattle in 2014.

32.18.202 ADJOINING COUNTY LINE GRAZING PERMITS (1) The adjoining county grazing permit allows livestock to move for grazing purposes from the ranch of origin in Montana to a premises in an adjoining Montana county.

(2) The permit must be issued by a department employee, not a deputy stock inspector.

(a) The ranch of origin and destination premises must be owned or controlled by the livestock owner or the owner's agent. The owner or owner's agent must be authorized to grant department employees access to the destination premises to inspect any livestock that are present while the permit is in effect.

(b) Permits are valid for eight months after the issue date.

(c) Only one permit may be issued for an animal or group of animals in any 12-month period.

(d) ~~(4)~~ For the purpose of obtaining an adjoining county grazing permit, livestock must be moved under a county line grazing permit must be hot iron branded with a Montana brand recorded to the owner of the livestock.

(e) Requests for permits may be denied if previous permits have been suspended.

(2) remains the same but is renumbered (f).

(3) Grazing permits may be suspended if the livestock owner:

(a) provides false information on the permit;

(b) transports animals not authorized to move on a grazing permit;

(c) allows animals to leave or be removed from the destination premises and not return to the ranch of origin; and

(d) violates state or federal livestock containment, livestock inspection, or animal health regulations.

(4) If the permit is expired or suspended, or if animals are not returning to the origin premises, animals must move in accordance with 81-3-211(1) through (6)(e) and (7), MCA.

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

IMP: 81-3-203, 81-3-211, MCA

REASON: The department is proposing to amend this rule to provide a more thorough explanation of the process for issuance of an adjoining county grazing

permit. These changes reflect current practices and, thus, should have no effect on individuals using this permit.

5. 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., March 9, 2018.

6. 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 public 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., March 9, 2018.

7. 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 81 persons based on based on the approximately 811 seasonal grazer permittees.

8. 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 5 above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA apply. Rep. Casey Knudsen was notified of this proposed action October 2, 2017 by telephone and email.

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

/s/ Michael S. Honeycutt
Michael S. Honeycutt
Board of Livestock
Department of Livestock

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

Certified to the Secretary of State January 30, 2018