

Recording of Livestock Brand Ownership

The livestock industry depends on the Department of Livestock for the regulation of livestock brands; the department can strengthen this process by establishing formalized policies and procedures, improving management information capabilities, and re-evaluating its methods for rerecording brand ownership.

Audit Findings

In response to a request from the Joint Appropriations Subcommittee for Natural Resources and Transportation, the Legislative Auditor prioritized a performance audit of the Department of Livestock's (department) Brands Enforcement Division (division) and its processes for recording livestock brand ownership. Section 81-3-101, MCA, enacted in 1895, designates the department as the recorder of marks and brands. In this role, the department accepts applications for assignment of brand ownership, processes requests for the transfer of ownership, and rerecords, or renews, brand ownership every ten years. The next brand rerecord will occur in 2011. Our audit assessed the department's management of brands-related activities and the efficiency and effectiveness of the processes associated with recording brand ownership.

Our first objective examined the registration of security interests, or mortgages, against branded livestock by both the department and Secretary of State's Office. We focused on determining if duplication of effort was occurring and whether consolidation of the duties was appropriate. We found information regarding security interests is principally used to ensure the interests of secured parties are considered during livestock sales. Federal law denotes circumstances under which buyers of agricultural products are subject to existing security interests in the products

(§7 USC 1631). Audit work found Montana's dual system of recording security interest filings is not duplicative and ensures a higher level of compliance with federal law. It allows for a more thorough method of identifying existing security interests.

We examined the department's overall management of brands-related activities as our second objective. There are limited management controls in place to guide the department's brands-related activities and improvements should be made. Audit work indicated the division has minimal formal policy guiding operations. In addition, incomplete file documentation, outdated form design, and limited management information about program activities were noted. Department management has recognized that the division's use of its current information system for recording brand ownership is inefficient and is seeking to replace the system. In the interim, other methods for tracking key management information should be developed.

Our third objective focused on assessing department financial controls to ensure brands-related fees are commensurate with operational costs. While we were unable to determine if fees associated with brands-related processes are commensurate with costs, we noted other department funds supplement fees charged by the division in maintaining operations. We also examined cash management controls in

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place for division-related business. While we found no cases of misuse during audit work, we noted weaknesses in the department's cash management controls and improvements should be made to mitigate these weaknesses.

Our final objective was to determine if department processes for assigning and recording brand ownership are conducted in a manner that efficiently and effectively serves the livestock industry. Audit work indicated processes associated with new brand applications and transfers of brand ownership could be improved. Overall, we found processing of these documents is not timely. In addition, department staff has limited guidance regarding the priority in which applications should be processed and when applications can be denied. These issues directly impact the livestock industry by delaying use of a recorded brand for denoting livestock ownership. We also reviewed processes associated with rerecording brand ownership. We found the allowance of a grace period beyond the statutorily designated rerecord year is not supported by law. In addition, we examined the ten-year cycle of rerecord for efficiency and effectiveness. We reviewed brand rerecording processes in seven other states and one Canadian province and found

no other agency rerecords brand ownership in a manner similar to Montana. Montana's rerecord cycle was established in 1921 and should be re-evaluated by the department and the Board of Livestock to ensure it meets the needs of today's livestock industry.

Audit Recommendations

Audit recommendations address improvements needed to more effectively manage recording of brand ownership. Recommendations address the following issues:

- ◆ Develop detailed policies and procedures for brands-related activities.
- ◆ Establish file documentation requirements; regularly evaluate department information needs; and update agency forms to reflect those needs.
- ◆ Track the number of brands recorded, brand owners with recorded brands, security interests recorded, and the status of files requiring further action.
- ◆ Strengthen cash management controls.
- ◆ Ensure division fees are commensurate with costs and maintain records sufficient to support fees charged.
- ◆ Rerecord all brands within the designated rerecord year.
- ◆ Re-examine the brand rerecord cycle to determine if it meets the needs of the livestock industry.

For a complete copy of the report (09P-12) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to lad@mt.gov; or check the web site at <http://leg.mt.gov/audit>

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