



Office Memorandum

Date: December 22, 2010

To: Carol Milligan, Rules Coordinator
Minnesota Department of Agriculture

From: Alisha Cowell, Executive Budget Officer

Subject: M.S. 14.131 Review of Proposed Rules 1515 Governing Wolf Predation of Livestock

BACKGROUND

The Minnesota Department of Agriculture (MDA) proposes to revise Minnesota Rules 1515 governing the process of compensating livestock producers for losses due to gray wolf predation. The proposed amendments expand the personnel trained to conduct investigations of livestock depredation and clarify the investigation and claims processes. Pursuant to M.S. 14.131, the Department has asked the Commissioner of Minnesota Management & Budget (MMB) to help evaluate the fiscal impact and fiscal benefit of the proposed rule on local units of government.

EVALUATION

On behalf of the Commissioner of MMB, I reviewed the proposed rules and related Statement of Need and Reasonableness (SONAR). My evaluation is summarized below:

1. The proposal will affect veterinarians and sheriffs that, if they choose to receive training provided by the Department of Agriculture, could conduct investigations of gray wolf predation. The Department will offer such training to expand the pool of available investigators. This expanded pool will benefit livestock producers by providing more investigatory options, thereby expediting the claims process.
2. According to MDA, the rule change will not significantly affect revenue. The agency estimates the annual cost for conducting investigator training will be \$1,000. MDA will provide the training at no cost to sheriffs and veterinarians.
3. Local units of government would not incur significant costs from complying with the proposed amendments. If the sheriffs elect to conduct investigations, it would not be more than four per year and would not significantly increase their workload.
4. Sheriffs that may become investigators have indicated that they already patrol the affected counties; thus, conducting an hour-long livestock depredation incident would fit into their routine patrol activities.

Based on this information, I believe that the Minnesota Department of Agriculture's proposed rule revisions will have no fiscal impact on local units of government.

Cc: Britta Reitan, Budget Division Team Leader

email sonar

Office Memorandum

DATE: 11/22/10

TO: David Schmidtke
Legislative Reference Library

FROM: Carol Milligan
Commissioner's Office

PHONE: 651-201-6606

SUBJECT: **Submittal of Statement of Need and Reasonableness**

As required by Minnesota Statutes, sections 14.23, enclosed is the Statement of Need and Reasonableness for amendments to rules governing compensation for wolf damage. The Notice of Intent to Adopt Rules and the rules will be published in the *State Register* on 1/31/11.

Please feel free to call me if you have any questions.

**MINNESOTA DEPARTMENT OF AGRICULTURE
Plant Protection Division**

STATEMENT OF NEED AND REASONABLENESS

Proposed Amendments to Rules Governing Compensation for Wolf Damage; Minnesota Rules 1515.3000 to 1515.3800.

I. INTRODUCTION:

The subject of this rulemaking is the proposed adoption of amendments to the rules governing the process of compensating livestock producers for losses due to wolf predation. The purpose of the amendment is to expand the personnel trained to conduct investigations of livestock depredation and clarify the investigation and claims processes. The statutory authority to adopt this rule is M.S. 3.737, Subd. 3. This statement was made available for public review on January 12, 2011.

II. DESCRIPTION OF CLASSES OF PEOPLE AFFECTED BY THE RULES.

The classes of people affected by the proposed rules are veterinarians and sheriffs currently not eligible to conduct investigations of wolf predation but whom, if trained, could do so. The classes of people who will benefit from the proposed rules are livestock producers who will have more investigatory options available thereby expediting the claim process.

III. PROBABLE COST TO THE AGENCY AND EFFECT ON REVENUE.

The probable costs to the agency could be minimal. The probable annual cost for investigator training provided by the department will be less than \$1000. The rule will not affect revenue.

IV. DETERMINATION OF A LESS COSTLY OR LESS INTRUSIVE METHOD.

It has been determined that there is no less costly or intrusive method of achieving the purpose of the proposed rules.

V. DESCRIPTION OF ALTERNATIVE METHODS.

The department considered no alternative methods.

VI. PROBABLE COST OF COMPLYING.

There are no anticipated costs for complying with the proposed amendments for local government. With the expanded group of investigators the number of depredation events a sheriff's office is requested to investigate will not add significantly to their current workload. Based on historic data and conversations with sheriffs in affected counties, Minnesota Department of Natural Resources Conservation Officers and the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) Wildlife Services (WS) trappers that are currently involved in investigations, it is anticipated that sheriffs in most counties will not be requested to do any investigations. Those that do investigations will probably do about three or four per year, they generally take about an hour to complete and should fit into routine patrol activities. Conservation Officers and the USDA-APHIS-WS trappers will continue to do most investigations. The sheriff's office may refuse to do the investigation if they are unable.

The proposed rules were submitted to the Department of Management and Budget for consultation on the fiscal impact and benefit of the proposed rule on local units of government. Comments from the Department of Management and Budget are attached.

In accordance with M.S., sec. 14.127 the agency has determined that the cost of complying with the rule will not exceed \$25,000 for a business with less than 50 people or a city with less than 10 full time employees.

VII. PROBABLE COSTS OR CONSEQUENCES OF NOT ADOPTING THE RULE.

The probable costs of not adopting the proposed rule for affected regulated industry, governmental units or individuals are minimal. The consequences for not adopting the proposed amendments are twofold: the statutes as revised in 2009 will not be supported accurately by rule; and livestock producers will not have an expanded pool of investigators upon which to call for a livestock depredation investigation.

VIII. DIFFERENCES BETWEEN FEDERAL AND STATE REGULATIONS.

There are no applicable federal rules.

IX. PERFORMANCE BASED REGULATORY SYSTEMS.

In developing the rules, the department considered and implemented the legislative policy supporting performance-based regulatory systems by working with those impacted by the current rules to streamline and simplify the claim process for livestock killed or injured by gray wolves.

X. EFFORTS TO PROVIDE NOTICE TO PERSONS TO BE AFFECTED BY THE RULE.

The rules and notice of intent to adopt these rules without a public hearing will be sent to Minnesota Cattlemen's Association, Minnesota Lamb and Wool Producers and the Minnesota Sheriff's Association.

XI. EFFECT ON LOCAL GOVERNMENT ORDINANCES

In accordance with M.S., sec. 14.128 the department has determined that the rules will not require any local government to adopt or amend an ordinance or regulation to comply with the proposed rule because these rules govern any action taken by local sheriff's offices if they agree to do investigations.

XII. NEED FOR AND REASONABLENESS FOR THE PROPOSED RULE:

1515.3000, 1515.3100 Subparts 8 and 9: The term "gray" is added so that rule is consistent with statutory language. This change is reasonable because the addition enhances consistency across state and federal agencies that deal with wolf issues.

1515.3100, Subpart 1: This is a technical change necessary to include an additional part in the rule.

Subpart 2: This change is necessary for the rule to be consistent with 2009 changes to Minnesota Statute 3.737 which determines who is eligible to conduct an investigation of animal damage due to wolf depredation.

Subpart 5a: “Fair market value” is added as a definition because the term was included in the 2010 statutory revision but not defined. The definition is reasonable because it establishes an industry-recognized and accepted point of reference to establish the compensation level for livestock loss due to wolf depredation.

Subpart 5b: It is necessary to add this definition of the term “Investigator” to ensure that the term in the rule is used consistently with the term in statute.

Subpart 7: The term “Donkey” is added because donkeys are not uncommon in Minnesota agriculture and have been preyed upon by gray wolves. This addition enables producers who lose donkeys to wolf depredation to be eligible for compensation under MS 3.737.

1515.3200: Allowing livestock owners to use electronic media to contact investigators is reasonable because it expands the options available to the producer to comply with the 48 hour reporting requirement in this subpart, and if email is used it allows for accurate time-stamping of the request.

1515.3300: This amendment is necessary because the 2010 statute change expands entities eligible to conduct an animal damage loss investigation and these entities do not have investigation report forms. This addition is reasonable because it ensures a standard form will be used by investigators that will document the investigation and record the livestock producer’s claim.

1515.3400: “All persons owning an interest in the livestock involved” was struck because by statute all claims and subsequent payments are made directly to the livestock producer. If multiple owners are involved, it is the producer’s responsibility to make appropriate reimbursement.

1515.3500: Language requiring the investigator to contact the USDA-APHIS WS within 48 hours, or as soon as practicable, that an investigation of livestock loss has been initiated was added by request of that federal agency. The change is reasonable to allow the USDA, APHIS, WS timely opportunity to initiate animal control procedures at or surrounding the depredation site.

The investigator shall submit the signed claim form to the commissioner at the earliest opportunity was added to clarify that the claim process is time sensitive. Earliest opportunity was used so that there was no confusion about the urgency of the claim process. This is reasonable so that eligible livestock producers may be reimbursed as rapidly as possible for their losses.

1515.3600: The change from county extension agent to “university extension educator” is a technical amendment which merely reflects the current University of Minnesota designation.

The reference to selling price at nearest stockyard at time of loss was deleted as redundant because “Fair market value” was added in 1515.3100 Subd. 5a and existing language in 1515.3600 describes how livestock value is estimated.

Pursuant to 1515.3500 the investigator submits the claim form with details of the investigation to the commissioner at the earliest opportunity. Upon review the commissioner in turn submits the claim form to the appropriate university extension educator to determine fair market value. The language: "The university extension educator shall return the completed claim form to the commissioner for review and payment. The commissioner may return any incomplete form to the investigator or university extension educator indicating the information necessary for proper completion." is necessary to clarify that when the university extension educator determines fair market value of the lost livestock the form is returned to the commissioner for review. If the commissioner finds the form complete, the claim is processed.

1515.3100, Subps. 4 and 5: The repeal is a technical amendment. "Conservation officer" and "County extension agent" were repealed because the revised rule uses the term investigator.

ALTERNATIVE FORMAT: Upon request, this Statement can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Carol Milligan at Minnesota Department of Agriculture, 625 Robert St. N., St. Paul, MN 55155-2538, 651-201-6606, and fax: 651-201-6118. TDD users may call the Department of Agriculture at 800-627-3529.