

Minnesota Attorney General: Administrative Rules Proceedings

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RULES AS PROPOSED FOR ADOPTION IN FINAL FORM

Compensation for Livestock
Destroyed by Endangered Species

Chapter 24

3 MCAR 1.0583 through 3 MCAR 1.0585

3 MCAR 1.0583 General.

A. Purpose and Authority. The rules contained herein are prescribed pursuant to Minn. Stat. 1977 Supp., Sec. 3.737 (Laws of Minnesota, 1977, Chapter 450, Secs. 4 and 5) by the Commissioner of Agriculture to implement procedures to compensate livestock owners for livestock that is destroyed, or is crippled and must be destroyed, by an animal classified as endangered under the federal Endangered Species Act of 1973. The procedures specified in these rules are in addition to those set forth in the act itself.

B. Definitions. For purposes of these rules, the following definitions shall apply:

1. "Claim form" means the form provided by the commissioner to be completed by the County Extension Agent, the conservation officer and the livestock owner, containing information upon which payment for a loss shall be based;

2. "Commissioner" means the Commissioner of Agriculture or his authorized agent;

3. "Conservation officer" means a conservation officer of the Department of Natural Resources or his designee;

4. "County extension agent" means the University of Minnesota Agricultural Extension Service's County Extension Director or his designee for the county in which the loss occurred;

5. "Endangered species" means an animal classified as endangered under the federal Endangered Species Act of 1973 at the time Minn. Stat. 1977 Supp., Sec. 3.737 was enacted;

6. "Livestock" means cattle, sheep, poultry, swine, horses, mules, and goats;

7. "Livestock owner" means any individual, firm, corporation, co-partnership, or association with an interest in livestock destroyed, or crippled so that it must be destroyed, by an endangered species; and,

8. "Loss" means livestock destroyed, or crippled so that it must be destroyed, by an endangered species.

3 MCAR 1.0584 Reporting and Investigation.

A. It shall be the responsibility of the livestock owner to notify either the conservation officer or the county extension agent of a suspected loss within two weeks of the effective date of these rules or 24 hours of the discovery of a loss, whichever is later. The livestock owner shall provide all information required to investigate the loss to the conservation officer or the county extension agent. A telephone call or personal contact shall constitute notification.

B. The conservation officer or the county extension agent contacted by the livestock owner shall be responsible for completing the claim forms.

C. The conservation officer or the county extension agent shall secure from the livestock owner a signed statement setting forth:

1. All persons owning an interest in the livestock involved;

2. The existence and details of any insurance coverage on the livestock;

3. A statement that, in the owner's best judgment, the destroyed livestock was killed by an endangered species, and the facts underlying that judgment; and,

4. A description of the livestock owner's plan to dispose of the carcass, which must be approved by the conservation officer or the county extension agent.

D. The conservation officer or the county extension agent shall investigate the loss in a timely manner and shall make a finding in writing on the claim form

regarding whether the livestock was destroyed or crippled by an endangered species, the type of endangered species that caused the loss, and the owner's eligibility for for compensation under these rules. Such a finding shall be based upon physical and circumstantial evidence, including:

1. The livestock carcass presence and condition;
2. Animal tracks;
3. The number and location of animal bites on the carcass;
4. The area of the state where the loss occurred;
5. Sitings of endangered species in the area; and,
6. Any other circumstances determined to be pertinent by the conservation officer and the county extension agent.

The absence of any affirmative evidence may be grounds for denial of a claim.

3 MCAR 1.0585 Payment.

A. The conservation officer and the county extension agent shall make a written finding on the claim form of the actural fair market value of the destroyed livestock, not to exceed $400 per animal, based upon any of the following criteria deemed to be pertinent by the county extension agent or the conservation officer:

1. The number of livestock determined by the conservation officer or the county extension agent in the loss;
2. The type of livestock;
3. The breed and breeding of the livestock
4. The estimated size and weight of the livestock;
5. The estimated age of the livestock;
6. Registration of the livestock, upon proof of registration;
7. Selling price of livestock at the nearest public stockyard at the time of loss; and,
8. The replacement cost of the livestock.

B. Upon completion and signing of the claim form, the county extension agent or the conservation officer shall submit said claim form to the commissioner for review and payment. The commissioner shall return any incomplete claim form to the initiating authority, indicating the information necessary for proper completion.

C. If insurance coverage exists on the livestock, the commissioner shall withhold payment under these rules until the insurance claim has been paid, and evidence of payment has been submitted to the commissioner; at which time that insurance payment shall be deducted from the determined actual fair market value or $400 per animal, whichever is less. In no case shall the payment exceed $400 per animal.

D. The commissioner shall then make payment and return a copy of the claim form to the livestock owner(s), as their interests may appear, the conservation officers, and the county extension agent.

E. The commissioner shall make only one payment for any single livestock loss.

APPROVED AS TO FORM AND LEGALITY
FEB 17 1978 19

ASSISTANT ATTORNEY GENERAL

BY /s/ Michael B. Miller

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
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Secretary of State
2:30 PM