



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 05-005

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

2. Form, Style and Placement in Administrative Code

a. In the first sentence of s. NR 12.51, it would be more accurate to state that the subchapter applies to “claims for damage caused by E/T species and gray wolves.” Likewise, in the second sentence, “damage caused by” should be inserted before “gray wolves.” Also, should “when the department authorizes” be changed to “during a time that the department has authorized”?

b. Section NR 12.52 (8) refers to “the carcass.” The rule should indicate to what “carcass” it refers.

c. Section NR 12.52 (9) states that “unconfirmed depredation” includes “animals killed by wolves but unconfirmed because of lack of evidence.” If there is a “lack of evidence”, how is it to be determined that an animal was killed by wolves?

d. It appears that the definitions should be revised to encompass injury to animals. For example, in s. NR 12.52 (2), “or injured” should be inserted after “killed.”

e. Section NR 12.53 (1) should indicate who is referred to by the term “The complainant.” For example, that subsection could be rewritten to begin as follows: “Any person who believes that livestock owned by the person has been injured or killed by an E/T species or a gray wolf and wishes to seek compensation under this subchapter shall contact the department within 24 hours....”

f. Should s. NR 12.53 (1) be modified to specify that a complainant must contact the department with 24 hours of becoming aware of the depredation? Also, should “or missing” be inserted after “killed” in the second sentence of that subsection?

g. Sections NR 12.53 (1), 12.54 (1) (a) and (4) should be reviewed for proper use of the term “shall.” In these sections of the rule, the term “will” is used when “shall” should be used to indicate a mandatory action of the department. [See s. 1.01(2), Manual.]

h. In s. NR 12.53 (2) (intro.), “the complaint” should be changed to “each complaint received under this section.”

i. In s. NR 12.54 (1), the defined terms “confirmed depredation” and “probable depredation” should be used instead of “confirmed or probable.”

j. In s. NR 12.54 (2) (a), “which is” or a similar term should replace “i.e.”

k. Section NR 12.54 (4) should specify whether the deductible applies to each animal killed or injured or to each incident in which animals are injured or killed.

l. The information specifying how the fair market value of killed or injured animals is to be determined, which is contained in a Note following s. NR 12.54 (2) (a), is substantive and should be placed in the text of the rule.

m. Section 12.54 (2) (b) should specify that veterinary expenses are subject to the \$15,000 annual cap set forth in s. NR 12.54 (5).

n. Section NR 12.54 (2) (c) states that the department “may” reimburse for unconfirmed gray wolf depredations to calves when certain criteria are met. Should “may” be changed to “shall”? If not, the rule should specify the standards the department will use to determine when it will pay claims for this type of depredation. In addition, the material in subd. 6. of that paragraph should be moved to a different provision of the rule because it does not comprise “criteria”, as the introductory language in paragraph (c) indicates.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. NR 12.54 (2) (b), “during” should be changed to “in.”