

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

OK

File No. 1425
DATE RECEIVED 2-26-88
REVIEW DATE 3-7-88
DUE DATE 3-11-88

APPROVED 3.7.88 mjc
DISAPPROVED
WITHDRAWN

Docket No. 05-0009-0986
ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED
REVISOR DISAPPROVED
FIELD W/SEC.STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)
nope Notice to Solicit Outside Information/Opinion
___ Date published in State Register
___ Comments
___ Petition for Adoption of a Rule
N/A Board's Authorizing Resolution
✓ Proposed rule
___ Revisor's Certificate
✓ Notice of Intent to Adopt Rule
3.7371.5 subd 7 Statutory Authority
yep Small Business Statement
___ Expenditure of public money statement
yep Signature
✓ Statement of Need and Reasonableness
yes Small Business Statement
N/A Fees - § 16A.128
✓ Affidavit of Mailing Notice of Intent to Adopt Rule
1.20.88 Date 30/25 days before adoption
✓ Publication in State Register
1.25.88 Date 30/25 days before adoption
___ Resolution Adopting
✓ Findings of Fact, Conclusions & Order Adopting
2.25.88 Date
none Written requests, submissions or comments
✓ Declaration of attorney
Paul Strandberg Name of SAAG representing agency
N/A Notice of Submission to Attorney General
N/A Affidavit of Mailing Notice to Attorney General

Department of Agriculture

Adopted Permanent Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

Rules as Adopted

1506.0010 AUTHORITY.

Parts 1506.0010 to 1506.0040 are prescribed under Minnesota Statutes, section 3.7371, by the commissioner of agriculture to implement procedures to compensate agricultural crop owners for crops that are damaged or destroyed by elk. The procedures in parts 1506.0010 to 1506.0040 are in addition to those in Minnesota Statutes, section 3.7371.

1506.0015 DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part apply to parts 1506.0010 to 1506.0040.

Subp. 2. **Claim form.** "Claim form" means a form provided by the commissioner, to be completed by the crop owner and the county extension agent or federal crop adjuster, containing information upon which payment for a loss must be based.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized agent.

Subp. 4. **Crop owner.** "Crop owner" means an individual, firm, corporation, copartnership, or association with an interest in crops damaged or destroyed by elk.

Subp. 5. **County extension agent.** "County extension agent" means the University of Minnesota agricultural extension service's county extension agent for the county in which the crop owner resides.

Subp. 6. **Federal crop adjuster.** "Federal crop adjuster" means a crop insurance adjuster having a contract with the Federal Crop Insurance Corporation.

Subp. 7. **Market price.** "Market price" means the commodity price published daily by the Minneapolis Grain Exchange in the

daily record of prices and receipts.

Subp. 8. **Target price.** "Target price" means the federal commodity price available from the Agricultural Stabilization and Conservation Service office.

1506.0020 REPORTING.

The crop owner shall notify either the federal crop adjuster or the county extension agent of suspected crop loss or damage within 24 hours of the discovery of a loss. The crop owner shall also complete the appropriate part of the claim form which must be available at the county extension office. The crop owner shall provide all information required to investigate the loss or damage to the federal crop adjuster or the county extension agent. A telephone call or personal contact constitutes notification.

1506.0025 INVESTIGATION AND CROP VALUATION.

Subpart 1. **Whether damaged by elk.** The federal crop adjuster or the county extension agent shall investigate the loss in a timely manner and shall make a finding in writing on the appropriate part of the claim form regarding whether the crop was destroyed or damaged by elk. The finding must be based on physical and circumstantial evidence including:

A. the condition of the crop;

B. elk tracks;

C. the area of the state where the loss occurred;

D. sitings of elk in the area; and

E. any other circumstances considered pertinent by the federal crop adjuster or the county extension agent.

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

Subp. 2. **Extent of damage.** The federal crop adjuster or the county extension agent shall make a written finding on the claim form of the extent of damage or the amount of crop destroyed. The crop owner may choose to have the federal crop adjuster or county extension agent use the method in item A or B to complete the claim form and determine the amount of crop loss.

A. To submit the claim form at the time the suspected elk damage is discovered, the federal crop adjuster or county extension agent must determine the potential yield, per acre, for the field and record this information on the form in the column labeled "normal yield" and the average yield, per acre, expected from the damaged acres and record this information on the form in the column labeled "average yield expected from damaged acres."

B. To submit the claim form at the time the crop is harvested:

(1) the crop owner shall report the loss to the federal crop adjuster or county extension agent within 24 hours of discovery, and the loss must be investigated by the federal crop adjuster or county extension agent in a timely manner;

(2) the crop owner and federal crop adjuster or county extension agent shall complete the claim form at the time of the investigation, entering the percent of crop loss from damage in the column labeled "normal yield" and leaving the column labeled "average yield expected from damaged acres" blank; and

(3) when the crop is harvested the federal crop adjuster or county extension agent shall enter the actual yield of the damaged field in the column labeled "average yield expected from damaged acres," enter the date in the same column, and submit the form to the commissioner.

1506.0030 COMPLETION AND SIGNING OF CLAIM FORM.

A completed claim form must be signed by the owner and county extension agent or the federal crop adjuster and submitted by the crop owner to the commissioner for review and payment. The commissioner shall return an incomplete claim form to the crop owner, indicating the information necessary for proper completion.

1506.0035 INSURANCE COVERAGE.

If insurance coverage exists on the crop, the commissioner shall withhold payment under parts 1506.0010 to 1506.0040 until

the insurance claim has been paid and evidence of payment has been submitted to the commissioner, at which time that insurance payment must be deducted from the determined value. Payment must not be made for claims of less than $100 per claim or more than $20,000 in a calendar year.

1506.0040 PAYMENT.

After procedures in parts 1506.0020 to 1506.0035 are completed, the commissioner shall make payment to the crop owners.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR - 8 1988
Joan Anderson Growe
Secretary of State
11:15 AM

APPROVED AS TO FORM AND LEGALITY
March 7 1988
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Rule
of the Department of Agriculture
Governing Compensation for Crops
Damaged or Destroyed by Elk

Statement of Need
and Reasonableness

Introduction

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture of a rule governing payment of compensation claims for crops damaged or destroyed by elk. Minnesota Statutes, section 3.7371, subd. 7, requires the department to adopt a rule to carry out the provisions of the compensation program. The statute requires the rules to include 1) methods of valuation of crops damaged or destroyed; 2) criteria for determination of the cause of the crop damage or destruction; 3) notice requirements by the owner of the damaged or destroyed crop; and 4) any other matters determined necessary by the commissioner to carry out the provisions of Minnesota Statutes, section 3.7371. In accordance with Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was completed prior to publication of the Rule and Notice of Intent to Adopt Rules Without a Public Hearing in the State Register.

Small Business Impact

The farms experiencing elk damage and, therefore, applying for compensation could be considered small business. However, the program is voluntary, and all reporting requirements are minimal and necessary to pay claims. Therefore, special small business considerations are not needed and would make the program unworkable.

Need for and Reasonableness of the Proposed Rule

1506.0010
This part simply states the statutory authority for the rule.

1506.0015
The definitions are necessary to assure that the rule is clearly understood and consistently applied by those who must use it.

1506.0020
The reporting requirement is necessary to assure that the loss is quickly reported while the cause of the loss can still be determined. The 24 hour limit is reasonable because the crop owner is only required to make a phone call to report the loss during that time.

1506.0025
Subp. 1. This subpart is necessary to give an indication of the type of evidence the department will need to determine if the damage was caused by

elk, and it is also broad enough to allow for "any other circumstances considered pertinent." It is reasonable to believe that crops damaged by elk would have at least some signs of the evidence required. It is also reasonable to require a timely investigation of the loss to reduce the chance of error.

Subp. 2. This subpart is necessary to specify the procedures used by the department for adjusting and paying the claim. Since the federal crop adjuster or county extension agent is there to visually inspect the field, it is reasonable for them to determine the extent of loss. It is also reasonable to give the crop owner an option for an immediate, possibly lower payment or to delay payment for a fuller adjustment, since allowing these options serves the differing needs of crop owners without burdening the department.

1506.0030
It is reasonable to have those completing the claim for sign it to attest to its accuracy. This part assures for full completion of the form.

1506.0035
The purpose of the program is to insulate crop owners from loss by fairly compensating them for crops damaged by elk. It is, therefore, reasonable not to pay claims on crops covered by insurance. The $100 minimum and $20,000 maximum are set by statute.

1506.0040
This part is necessary to make it clear that the department will make payment but only after the requirements of the rule have been followed.

SF-00006-05 (4/86)

DEPARTMENT : OF AGRICULTURE

STATE OF MINNESOTA

Office Memorandum

DATE : February 26, 1988

TO : Rita Desmond
Administration - Finance Division
Office of the Attorney General

FROM : Carol Milligan, Management Analyst
Planning Division

PHONE : 296-6906

SUBJECT : Review of Proposed Rule Governing Compensation for Crops Damaged or Destroyed by Elk

The Department of Agriculture adopted the above-mentioned rule pursuant to Minnesota Statutes, sections 14.22-14.28. Enclosed with this memorandum are the documents which are required to be submitted to the Attorney General for review prior to final approval of the rule. A list of the documents is attached for your convenience.

The department did not receive any written comments, requests for a hearing, or requests for notification of submission to the Attorney General.

If you have questions, please contact me.

CM:cb

Attachment

cc: Jim Nichols, Commissioner
Paul Strandberg, Special Assistant Attorney General
Craig Lindeke, Office of Revisor of Statutes
Gerald Heil, Director, Planning Division
Pat Jensen, Counsel to the Commissioner

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ATTACHED DOCUMENTS

A. Rule as Proposed.

B. Notice of Intent to Adopt a Rule Without Public Hearing.

C. Statement of Need and Reasonableness.

D. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing.

E. Certification of Mailing List.

F. State Register Photocopy of Notice of Intent.

G. Rule as Adopted (Original and three copies).

H. Findings of Fact and Conclusions, and Order Adopting.

I. Declaration of Counsel.

Department of Agriculture

Proposed Permanent Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

Rules as Proposed (all new material)

1506.0010 AUTHORITY.

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Approved by Revisor

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by Revisor _____

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Approved
by Revisor _____

the insurance claim has been paid and evidence of payment has been submitted to the commissioner, at which time that insurance payment must be deducted from the determined value. Payment must not be made for claims of less than $100 per claim or more than $20,000 in a calendar year.

1506.0040 PAYMENT.

After procedures in parts 1506.0020 to 1506.0035 are completed, the commissioner shall make payment to the crop owners.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1506

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture
Planning Division

In the Matter of the Proposed Rule
of the Department of Agriculture
Governing Compensation for Crops
Damaged or Destroyed By Elk

NOTICE OF INTENT TO ADOPT A
RULE WITHOUT A PUBLIC
HEARING

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above-entitled rule without a public hearing, following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, Sections 14.22-14.28. The statutory authority to adopt this rule is Minnesota Statutes, Section 3.7371, subd. 7.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to Minnesota Statutes, Sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed rule may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this Notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Ms. Milligan.

The farms experiencing elk damage and, therefore, applying for compensation could be considered small business. However, the program is voluntary and reporting requirements are minimal and necessary to pay claims. Therefore, special small business considerations are not needed and would make the program unworkable.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule must submit a written request to Ms. Milligan.

STATE OF MINNESOTA

Date: 1/5/88

Jim Nichols

Jim Nichols, Commissioner
Department of Agriculture

In the Matter of the Proposed Rule
of the Department of Agriculture
Governing Compensation for Crops
Damaged or Destroyed by Elk

AFFIDAVIT OF MAILING
THE NOTICE OF INTENT
TO ADOPT A RULE

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being sworn, says:

That on the 20th day of January, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing a copy thereof, with postage prepaid, to all persons and associations who have requested, persuant to Minnesota Statutes, sections 14.14, subdivision 1.a. and 14.22 OR 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list.

DIANE M. WINDHAM
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1990

Marie Skerbitz
Mail Room Clerk

Subscribed and sworn to before me
this 20th day of January, 1988.

Diane M. Windham

In the Matter of the Proposed Rule
of the Department of Agriculture
Governing Compensation for Crops
Damaged or Destroyed by Elk

CERTIFICATE OF
MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Milligan, being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Statutes, sections 14.14, subd. 1a, and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list is accurate, complete and current as of this 20th day of January, 1988.

Carol Milligan
Carol Milligan
Management Analyst

DIANE M. WINDHAM
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1990

Subscribed and sworn to before me
this 20th day of January, 1988.

Diane M. Windham

.8700; .8710 (proposed repealer) 1541

Public Safety Department

7515.1100; .1110 (adopted) 1456
7515.1100 s.1 (repealed) 1456

Public Utilities Commission (see also 4220.0100)

7815.0100; .0700; .0800; .0900; .1000; .1050; .1100; .1200; .1400; .1500; .1600 (proposed) 1534

Secretary of State

8210.3000; .3005; .3010; .3015 (proposed) 1446

Veterinary Medicine Board

9100.0400 (proposed) 1450

Waste Management Board

9220.0200-.0680 (proposed) 1541
9200.6000; .6001; .6002; .6003; .6004; .6007; .6008; .6010 (adopted) 1564

Human Services Department

9515.1000; .1200; .1300; .1400; .1500; .2200; .2300; .2400; .2500; .2600 (proposed) 1389
9515.1100 (proposed repealer) 1389
9530.4100; .4120; .4130; .4200; .4210; .4220; .4230; .4250; .4260; .4270; .4280; .4300; .4310; .4320; .4330; .4340; .4350; .4370; .4380; .4390; .4400; .4410; .4450 (adopted) 1451
9530.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900; .1000; .1100; .1200; .1300; .1400; .1500; .1600; .1700; .2500; .2600; .2700; .2800; .2900; .3000; .3100; .3200; .3300; .3400; .3500; .3600; .3700; .3800; .3900; .4000 (repealed) 1451
9553.0041; .0050; .0060 (proposed) 1429

Proposed Rules

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Agriculture

Proposed Permanent Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

Notice of Intent to Adopt a Rule Without a Public Hearing

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All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. any persons requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to *Minnesota Statutes*, Sections 14.131 to 14.20.

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Dated: 8 January 1988

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B. To submit the claim form at the time the crop is harvested:

(1) the crop owner shall report the loss to the federal crop adjuster or county extension agent within 24 hours of discovery, and the loss must be investigated by the federal crop adjuster or county extension agent in a timely manner;

(2) the crop owner and federal crop adjuster or county extension agent shall complete the claim form at the time of the investigation, entering the percent of crop loss from damage in the column labeled "normal yield" and leaving the column labeled "average yield expected from damaged acres" blank; and

(3) when the crop is harvested the federal crop adjuster or county extension agent shall enter the actual yield of the damaged field in the column labeled "average yield expected from damaged acres," enter the date in the same column, and submit the form to the commissioner.

1506.0030 COMPLETION AND SIGNING OF CLAIM FORM.

A completed claim form must be signed by the owner and county extension agent or the federal crop adjuster and submitted by the crop owner to the commissioner for review and payment. The commissioner shall return an incomplete claim form to the crop owner, indicating the information necessary for proper completion.

1506.0035 INSURANCE COVERAGE.

If insurance coverage exists on the crop, the commissioner shall withhold payment under parts 1506.0010 to 1506.0040 until the insurance claim has been paid and evidence of payment has been submitted to the commissioner, at which time that insurance payment must be deducted from the determined value. Payment must not be made for claims of less than $100 per claim or more than $20,000 in a calendar year.

1506.0040 PAYMENT.

After procedures in parts 1506.0020 to 1506.0035 are completed, the commissioner shall make payment to the crop owners.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA DEPARTMENT OF AGRICULTURE GOVERNING COMPENSATION FOR CROPS DAMAGED OR DESTROYED BY ELK

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on January 25, 1988, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, section 14.14, subd. 1a and 14.22 on January 20, 1988. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the department.

No submissions or comments on the rule were received by the department. No requests for submission to the attorney general were received by the department.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as the Rule Governing Compensation for Crops Damaged or Destroyed by Elk is adopted this 25th day of February 1988, pursuant to authority vested in me by Minnesota Statutes, section 3.7371, subdivision 7.

STATE OF MINNESOTA

Jim Nichols

JIM NICHOLS
COMMISSIONER OF AGRICULTURE

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA DEPARTMENT OF AGRICULTURE GOVERNING COMPENSATION FOR CROPS DAMAGED OR DESTROYED BY ELK

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

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No submissions or comments on the rule were received by the department. No requests for submission to the attorney general were received by the department.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as the Rule Governing Compensation for Crops Damaged or Destroyed by Elk is adopted this 25th day of February 1988, pursuant to authority vested in me by Minnesota Statutes, section 3.7371, subdivision 7.

STATE OF MINNESOTA

Jim Nichols

JIM NICHOLS
COMMISSIONER OF AGRICULTURE

In the Matter of the Adoption of the
Rule of the Minnesota Department
of Agriculture Governing Compensation
for Crops Damaged or Destroyed by Elk

DECLARATION
OF COUNSEL

I, Paul Strandberg, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, Chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0986.

Paul Strandberg
Special Assistant Attorney General

Date: 7/25/88

RULE REVIEW CHECKLIST

File No. 1425
DATE RECEIVED 12/18/87
REVIEW DATE -
DUE DATE 1/4/88 ok 5
APPROVED
DISAPPROVED 1-5-88 mjc
WITHDRAWN

Docket No. 05.0009.0986
ADOPTED W/O HEARING
EMERGENCY RULE X
REVISOR APPROVED 12.28
REVISOR DISAPPROVED
FIELD W/SEC.STATE
RETURNED TO AGENCY

✓ ~~(4 copies)~~ Rule as adopted (4 copies)

~~Notice to Solicit Outside Information/Opinion~~
~~Date published in State Register~~
~~Comments~~

~~Petition for Adoption of a Rule~~

~~Board's Authorizing Resolution~~

✓ Proposed rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

3.7371 Statutory Authority

no Small Business Statement

no Expenditure of public money statement

yes Signature

~~Statement of Need and Reasonableness~~
~~Small Business Statement~~
~~Fees - § 16A.128~~

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

9/16/87 Date 30/(25) days before adoption

✓ Publication in State Register

9/21/87 Date 30/(25) days before adoption

~~Resolution Adopting~~

✓ Findings of Fact, Conclusions & Order Adopting

12/10/87 Date

~~Written requests, submissions or comments~~

✓ Declaration of attorney

Kevin Staunton Name of SAAG representing agency

~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

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January 6, 1988

JIM NICHOLS
Commissioner of Agriculture
ATTN: KEVIN STAUNTON
Special Assistant Attorney General

MARTHA J. CASSERLY
Special Assistant
Attorney General

296-6839

Emergency Rule Relating to Compensation for Crops Damaged or Destroyed by Elk

The above-captioned emergency rule has not been approved by the Attorney General because the rule was not adopted within 180 days after the effective date of the statutory authority for emergency rulemaking.

Minn. Stat. § 14.29, subd. 2 (1986) provides that:

> [N]o agency may adopt an emergency rule later than 180 days after the effective date of the statutory authority, except as provided in subdivision 3.[1/] If emergency rules are not adopted within the time allowed, the authority for the rules expires. The time limit of this section does not include any days used for review by the attorney general.

The authorizing statute for the emergency rule providing for compensation for crops damaged by elk is Minn. Stat. § 3.7371, subd. 7, which became effective June 3, 1987 (Laws of 1987, Chapter 373, sections 2 and 16). Thus, the 180 days for emergency rulemaking authority for this rule expired December 1, 1987.

However, the Commissioner of Agriculture did not sign the Findings of Fact, Conclusions, and Order Adopting the rule until December 10, 1987 and the rule was not submitted to the Attorney General until December 18, 1987, providing the proposed effective date of January 12, 1988.[2/]

1/ The exemption provided in this subdivision is not applicable to the present rule.

2/ Although Minn. Stat. § 14,29, subd 2, refers to the act of the agency "adopting" the rule, it further states that the time

(Footnote Continued)

Unless the 1988 Minnesota Legislature adopts statutory language providing new emergency rulemaking authority, the authority to adopt the above-captioned rule has expired and the rule may not become effective. However, the authority to adopt permanent rules has not expired, and your department might consider proceeding with the adoption of the permanent rules for this program.

If you have questions, do not hesitate to contact me.

MJC:sc

cc: Duane Harves
Maryann Hruby
Paul Marinac

(Footnote Continued)

limit of the section does not include any days used for review by the attorney general. Under the procedure detailed in the Attorney General rule, the agency "adopts" the rule before it is submitted to the Attorney General. Thus, the term "adopt" as used in section 14.29 is not the same as the agency's act of adopting the rule pursuant to the Attorney General rule subpart 2010.0400, I or J.

Department of Agriculture

Adopted Emergency Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

Rules as Adopted

1506.0010 [Emergency] AUTHORITY.

Parts 1506.0010 to 1506.0040 [Emergency] are prescribed under Minnesota Statutes, section 3.7371, by the commissioner of agriculture to implement procedures to compensate agricultural crop owners for crops that are damaged or destroyed by elk. The procedures in parts 1506.0010 to 1506.0040 [Emergency] are in addition to those in Minnesota Statutes, section 3.7371.

1506.0015 [Emergency] DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part apply to parts 1506.0010 to 1506.0040 [Emergency].

Subp. 2. **Claim form.** "Claim form" means a form provided by the commissioner, to be completed by the crop owner and the county extension agent or federal crop adjuster, containing information upon which payment for a loss must be based.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized agent.

Subp. 4. **Crop owner.** "Crop owner" means an individual, firm, corporation, copartnership, or association with an interest in crops damaged or destroyed by elk.

Subp. 5. **County extension agent.** "County extension agent" means the University of Minnesota agricultural extension service's county extension agent for the county in which the crop owner resides.

Subp. 6. **Federal crop adjuster.** "Federal crop adjuster" means a crop insurance adjuster having a contract with the Federal Crop Insurance Corporation.

Subp. 7. **Market price.** "Market price" means the commodity price published daily by the Minneapolis Grain Exchange in the

Approved by Revisor

daily record of prices and receipts.

Subp. 8. **Target price.** "Target price" means the federal commodity price available from the Agricultural Stabilization and Conservation Service office.

1506.0020 [Emergency] REPORTING.

The crop owner shall notify either the federal crop adjuster or the county extension agent of suspected crop loss or damage within 24 hours of the discovery of a loss. The crop owner shall also complete the appropriate part of the claim form which must be available at the county extension office. The crop owner shall provide all information required to investigate the loss or damage to the federal crop adjuster or the county extension agent. A telephone call or personal contact constitutes notification.

1506.0025 [Emergency] INVESTIGATION AND CROP VALUATION.

Subpart 1. **Whether damaged by elk.** The federal crop adjuster or the county extension agent shall investigate the loss in a timely manner and shall make a finding in writing on the appropriate part of the claim form regarding whether the crop was destroyed or damaged by elk. The finding must be based on physical and circumstantial evidence including:

A. the condition of the crop;

B. elk tracks;

C. the area of the state where the loss occurred;

D. sitings of elk in the area; and

E. any other circumstances considered pertinent by the federal crop adjuster or the county extension agent.

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

Subp. 2. **Extent of damage.** The federal crop adjuster or the county extension agent shall make a written finding on the claim form of the extent of damage or the amount of crop destroyed. ~~For purposes of completing the claim form, "normal yield" means the payment yield established for commodities covered by programs of the Agricultural Stabilization and~~

Approved by Revisor _____

~~Conservation-Service.--For-commodities-not-covered-by-programs of-the-Agricultural-Stabilization-and-Conservation-Service, "normal-yield"-means-the-proven-yield-established-by-the-Federal Crop-Insurance-Corporation~~ The crop owner may choose to have the federal crop adjuster or county extension agent use the method in item A or B to complete the claim form and determine the amount of crop loss.

A. To submit the claim form at the time the suspected elk damage is discovered, the federal crop adjuster or county extension agent must determine the potential yield, per acre, for the field and record this information on the form in the column labeled "normal yield" and the average yield, per acre, expected from the damaged acres and record this information on the form in the column labeled "average yield expected from damaged acres."

B. To submit the claim form at the time the crop is harvested:

(1) the crop owner shall report the loss to the federal crop adjuster or county extension agent within 24 hours of discovery, and the loss must be investigated by the federal crop adjuster or county extension agent in a timely manner;

(2) the crop owner and federal crop adjuster or county extension agent shall complete the claim form at the time of the investigation, entering the percent of crop loss from damage in the column labeled "normal yield" and leaving the column labeled "average yield expected from damaged acres" blank; and

(3) when the crop is harvested the federal crop adjuster or county extension agent shall enter the actual yield of the damaged field in the column labeled "average yield expected from damaged acres," enter the date in the same column, and submit the form to the commissioner.

1506.0030 [Emergency] COMPLETION AND SIGNING OF CLAIM FORM.

A completed claim form must be signed by the owner and county extension agent or the federal crop adjuster and submitted by the crop owner to the commissioner for review and

Approved by Revisor _____

payment. The commissioner shall return an incomplete claim form to the crop owner, indicating the information necessary for proper completion.

1506.0035 [Emergency] INSURANCE COVERAGE.

If insurance coverage exists on the crop, the commissioner shall withhold payment under parts 1506.0010 to 1506.0040 [Emergency] until the insurance claim has been paid and evidence of payment has been submitted to the commissioner, at which time that insurance payment must be deducted from the determined value. Payment must not be made for claims of less than $100 per claim or more than $20,000 in a calendar year.

1506.0040 [Emergency] PAYMENT.

After procedures in parts 1506.0020 to 1506.0035 [Emergency] are completed, the commissioner shall make payment to the crop owners.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Emergency Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1506

The attached rules are approved for filing with the Secretary of State

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture

Adopted Emergency Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

Rules as Adopted

1506.0010 [Emergency] AUTHORITY.

Parts 1506.0010 to 1506.0040 [Emergency] are prescribed under Minnesota Statutes, section 3.7371, by the commissioner of agriculture to implement procedures to compensate agricultural crop owners for crops that are damaged or destroyed by elk. The procedures in parts 1506.0010 to 1506.0040 [Emergency] are in addition to those in Minnesota Statutes, section 3.7371.

1506.0015 [Emergency] DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part apply to parts 1506.0010 to 1506.0040 [Emergency].

Subp. 2. **Claim form.** "Claim form" means a form provided by the commissioner, to be completed by the crop owner and the county extension agent or federal crop adjuster, containing information upon which payment for a loss must be based.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized agent.

Subp. 4. **Crop owner.** "Crop owner" means an individual, firm, corporation, copartnership, or association with an interest in crops damaged or destroyed by elk.

Subp. 5. **County extension agent.** "County extension agent" means the University of Minnesota agricultural extension service's county extension agent for the county in which the crop owner resides.

Subp. 6. **Federal crop adjuster.** "Federal crop adjuster" means a crop insurance adjuster having a contract with the Federal Crop Insurance Corporation.

Subp. 7. **Market price.** "Market price" means the commodity price published daily by the Minneapolis Grain Exchange in the

Approved by Revisor

daily record of prices and receipts.

Subp. 8. **Target price.** "Target price" means the federal commodity price available from the Agricultural Stabilization and Conservation Service office.

1506.0020 [Emergency] REPORTING.

The crop owner shall notify either the federal crop adjuster or the county extension agent of suspected crop loss or damage within 24 hours of the discovery of a loss. The crop owner shall also complete the appropriate part of the claim form which must be available at the county extension office. The crop owner shall provide all information required to investigate the loss or damage to the federal crop adjuster or the county extension agent. A telephone call or personal contact constitutes notification.

1506.0025 [Emergency] INVESTIGATION AND CROP VALUATION.

Subpart 1. **Whether damaged by elk.** The federal crop adjuster or the county extension agent shall investigate the loss in a timely manner and shall make a finding in writing on the appropriate part of the claim form regarding whether the crop was destroyed or damaged by elk. The finding must be based on physical and circumstantial evidence including:

A. the condition of the crop;

B. elk tracks;

C. the area of the state where the loss occurred;

D. sitings of elk in the area; and

E. any other circumstances considered pertinent by the federal crop adjuster or the county extension agent.

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

Subp. 2. **Extent of damage.** The federal crop adjuster or the county extension agent shall make a written finding on the claim form of the extent of damage or the amount of crop destroyed. ~~For purposes of completing the claim form, "normal yield" means the payment yield established for commodities covered by programs of the Agricultural Stabilization and~~

Approved by Revisor _____

~~Conservation-Service.--For-commodities-not-covered-by-programs of-the-Agricultural-Stabilization-and-Conservation-Service, "normal-yield"-means-the-proven-yield-established-by-the-Federal Crop-Insurance-Corporation~~ The crop owner may choose to have the federal crop adjuster or county extension agent use the method in item A or B to complete the claim form and determine the amount of crop loss.

A. To submit the claim form at the time the suspected elk damage is discovered, the federal crop adjuster or county extension agent must determine the potential yield, per acre, for the field and record this information on the form in the column labeled "normal yield" and the average yield, per acre, expected from the damaged acres and record this information on the form in the column labeled "average yield expected from damaged acres."

B. To submit the claim form at the time the crop is harvested:

(1) the crop owner shall report the loss to the federal crop adjuster or county extension agent within 24 hours of discovery, and the loss must be investigated by the federal crop adjuster or county extension agent in a timely manner;

(2) the crop owner and federal crop adjuster or county extension agent shall complete the claim form at the time of the investigation, entering the percent of crop loss from damage in the column labeled "normal yield" and leaving the column labeled "average yield expected from damaged acres" blank; and

(3) when the crop is harvested the federal crop adjuster or county extension agent shall enter the actual yield of the damaged field in the column labeled "average yield expected from damaged acres," enter the date in the same column, and submit the form to the commissioner.

1506.0030 [Emergency] COMPLETION AND SIGNING OF CLAIM FORM.

A completed claim form must be signed by the owner and county extension agent or the federal crop adjuster and submitted by the crop owner to the commissioner for review and

Approved by Revisor _____

payment. The commissioner shall return an incomplete claim form to the crop owner, indicating the information necessary for proper completion.

1506.0035 [Emergency] INSURANCE COVERAGE.

If insurance coverage exists on the crop, the commissioner shall withhold payment under parts 1506.0010 to 1506.0040 [Emergency] until the insurance claim has been paid and evidence of payment has been submitted to the commissioner, at which time that insurance payment must be deducted from the determined value. Payment must not be made for claims of less than $100 per claim or more than $20,000 in a calendar year.

1506.0040 [Emergency] PAYMENT.

After procedures in parts 1506.0020 to 1506.0035 [Emergency] are completed, the commissioner shall make payment to the crop owners.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Emergency Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1506

The attached rules are approved for filing with the Secretary of State

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture

Adopted Emergency Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

Rules as Adopted

1506.0010 [Emergency] AUTHORITY.

Parts 1506.0010 to 1506.0040 [Emergency] are prescribed under Minnesota Statutes, section 3.7371, by the commissioner of agriculture to implement procedures to compensate agricultural crop owners for crops that are damaged or destroyed by elk. The procedures in parts 1506.0010 to 1506.0040 [Emergency] are in addition to those in Minnesota Statutes, section 3.7371.

1506.0015 [Emergency] DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part apply to parts 1506.0010 to 1506.0040 [Emergency].

Subp. 2. **Claim form.** "Claim form" means a form provided by the commissioner, to be completed by the crop owner and the county extension agent or federal crop adjuster, containing information upon which payment for a loss must be based.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized agent.

Subp. 4. **Crop owner.** "Crop owner" means an individual, firm, corporation, copartnership, or association with an interest in crops damaged or destroyed by elk.

Subp. 5. **County extension agent.** "County extension agent" means the University of Minnesota agricultural extension service's county extension agent for the county in which the crop owner resides.

Subp. 6. **Federal crop adjuster.** "Federal crop adjuster" means a crop insurance adjuster having a contract with the Federal Crop Insurance Corporation.

Subp. 7. **Market price.** "Market price" means the commodity price published daily by the Minneapolis Grain Exchange in the

Approved by Revisor

daily record of prices and receipts.

Subp. 8. **Target price.** "Target price" means the federal commodity price available from the Agricultural Stabilization and Conservation Service office.

1506.0020 [Emergency] REPORTING.

The crop owner shall notify either the federal crop adjuster or the county extension agent of suspected crop loss or damage within 24 hours of the discovery of a loss. The crop owner shall also complete the appropriate part of the claim form which must be available at the county extension office. The crop owner shall provide all information required to investigate the loss or damage to the federal crop adjuster or the county extension agent. A telephone call or personal contact constitutes notification.

1506.0025 [Emergency] INVESTIGATION AND CROP VALUATION.

Subpart 1. **Whether damaged by elk.** The federal crop adjuster or the county extension agent shall investigate the loss in a timely manner and shall make a finding in writing on the appropriate part of the claim form regarding whether the crop was destroyed or damaged by elk. The finding must be based on physical and circumstantial evidence including:

A. the condition of the crop;

B. elk tracks;

C. the area of the state where the loss occurred;

D. sitings of elk in the area; and

E. any other circumstances considered pertinent by the federal crop adjuster or the county extension agent.

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

Subp. 2. **Extent of damage.** The federal crop adjuster or the county extension agent shall make a written finding on the claim form of the extent of damage or the amount of crop destroyed. ~~For purposes of completing the claim form, "normal yield" means the payment yield established for commodities covered by programs of the Agricultural Stabilization and~~

Approved by Revisor _____

~~Conservation-Service.--For-commodities-not-covered-by-programs of-the-Agricultural-Stabilization-and-Conservation-Service, "normal-yield"-means-the-proven-yield-established-by-the-Federal Crop-Insurance-Corporation~~ The crop owner may choose to have the federal crop adjuster or county extension agent use the method in item A or B to complete the claim form and determine the amount of crop loss.

A. To submit the claim form at the time the suspected elk damage is discovered, the federal crop adjuster or county extension agent must determine the potential yield, per acre, for the field and record this information on the form in the column labeled "normal yield" and the average yield, per acre, expected from the damaged acres and record this information on the form in the column labeled "average yield expected from damaged acres."

B. To submit the claim form at the time the crop is harvested:

(1) the crop owner shall report the loss to the federal crop adjuster or county extension agent within 24 hours of discovery, and the loss must be investigated by the federal crop adjuster or county extension agent in a timely manner;

(2) the crop owner and federal crop adjuster or county extension agent shall complete the claim form at the time of the investigation, entering the percent of crop loss from damage in the column labeled "normal yield" and leaving the column labeled "average yield expected from damaged acres" blank; and

(3) when the crop is harvested the federal crop adjuster or county extension agent shall enter the actual yield of the damaged field in the column labeled "average yield expected from damaged acres," enter the date in the same column, and submit the form to the commissioner.

1506.0030 [Emergency] COMPLETION AND SIGNING OF CLAIM FORM.

A completed claim form must be signed by the owner and county extension agent or the federal crop adjuster and submitted by the crop owner to the commissioner for review and

Approved by Revisor _____

payment. The commissioner shall return an incomplete claim form to the crop owner, indicating the information necessary for proper completion.

1506.0035 [Emergency] INSURANCE COVERAGE.

If insurance coverage exists on the crop, the commissioner shall withhold payment under parts 1506.0010 to 1506.0040 [Emergency] until the insurance claim has been paid and evidence of payment has been submitted to the commissioner, at which time that insurance payment must be deducted from the determined value. Payment must not be made for claims of less than $100 per claim or more than $20,000 in a calendar year.

1506.0040 [Emergency] PAYMENT.

After procedures in parts 1506.0020 to 1506.0035 [Emergency] are completed, the commissioner shall make payment to the crop owners.

Approved
by Revisor _____

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Department of Agriculture

Adopted Emergency Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

Rules as Adopted

1506.0010 [Emergency] AUTHORITY.

Parts 1506.0010 to 1506.0040 [Emergency] are prescribed under Minnesota Statutes, section 3.7371, by the commissioner of agriculture to implement procedures to compensate agricultural crop owners for crops that are damaged or destroyed by elk. The procedures in parts 1506.0010 to 1506.0040 [Emergency] are in addition to those in Minnesota Statutes, section 3.7371.

1506.0015 [Emergency] DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part apply to parts 1506.0010 to 1506.0040 [Emergency].

Subp. 2. **Claim form.** "Claim form" means a form provided by the commissioner, to be completed by the crop owner and the county extension agent or federal crop adjuster, containing information upon which payment for a loss must be based.

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Subp. 5. **County extension agent.** "County extension agent" means the University of Minnesota agricultural extension service's county extension agent for the county in which the crop owner resides.

Subp. 6. **Federal crop adjuster.** "Federal crop adjuster" means a crop insurance adjuster having a contract with the Federal Crop Insurance Corporation.

Subp. 7. **Market price.** "Market price" means the commodity price published daily by the Minneapolis Grain Exchange in the

Approved by Revisor

daily record of prices and receipts.

Subp. 8. **Target price.** "Target price" means the federal commodity price available from the Agricultural Stabilization and Conservation Service office.

1506.0020 [Emergency] REPORTING.

The crop owner shall notify either the federal crop adjuster or the county extension agent of suspected crop loss or damage within 24 hours of the discovery of a loss. The crop owner shall also complete the appropriate part of the claim form which must be available at the county extension office. The crop owner shall provide all information required to investigate the loss or damage to the federal crop adjuster or the county extension agent. A telephone call or personal contact constitutes notification.

1506.0025 [Emergency] INVESTIGATION AND CROP VALUATION.

Subpart 1. **Whether damaged by elk.** The federal crop adjuster or the county extension agent shall investigate the loss in a timely manner and shall make a finding in writing on the appropriate part of the claim form regarding whether the crop was destroyed or damaged by elk. The finding must be based on physical and circumstantial evidence including:

A. the condition of the crop;

B. elk tracks;

C. the area of the state where the loss occurred;

D. sitings of elk in the area; and

E. any other circumstances considered pertinent by the federal crop adjuster or the county extension agent.

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

Subp. 2. **Extent of damage.** The federal crop adjuster or the county extension agent shall make a written finding on the claim form of the extent of damage or the amount of crop destroyed. ~~For purposes of completing the claim form, "normal yield" means the payment yield established for commodities covered by programs of the Agricultural Stabilization and~~

Approved by Revisor _____

~~Conservation-Service.--For-commodities-not-covered-by-programs of-the-Agricultural-Stabilization-and-Conservation-Service, "normal-yield"-means-the-proven-yield-established-by-the-Federal Crop-Insurance-Corporation~~ The crop owner may choose to have the federal crop adjuster or county extension agent use the method in item A or B to complete the claim form and determine the amount of crop loss.

A. To submit the claim form at the time the suspected elk damage is discovered, the federal crop adjuster or county extension agent must determine the potential yield, per acre, for the field and record this information on the form in the column labeled "normal yield" and the average yield, per acre, expected from the damaged acres and record this information on the form in the column labeled "average yield expected from damaged acres."

B. To submit the claim form at the time the crop is harvested:

(1) the crop owner shall report the loss to the federal crop adjuster or county extension agent within 24 hours of discovery, and the loss must be investigated by the federal crop adjuster or county extension agent in a timely manner;

(2) the crop owner and federal crop adjuster or county extension agent shall complete the claim form at the time of the investigation, entering the percent of crop loss from damage in the column labeled "normal yield" and leaving the column labeled "average yield expected from damaged acres" blank; and

(3) when the crop is harvested the federal crop adjuster or county extension agent shall enter the actual yield of the damaged field in the column labeled "average yield expected from damaged acres," enter the date in the same column, and submit the form to the commissioner.

1506.0030 [Emergency] COMPLETION AND SIGNING OF CLAIM FORM.

A completed claim form must be signed by the owner and county extension agent or the federal crop adjuster and submitted by the crop owner to the commissioner for review and

Approved by Revisor _____

payment. The commissioner shall return an incomplete claim form to the crop owner, indicating the information necessary for proper completion.

1506.0035 [Emergency] INSURANCE COVERAGE.

If insurance coverage exists on the crop, the commissioner shall withhold payment under parts 1506.0010 to 1506.0040 [Emergency] until the insurance claim has been paid and evidence of payment has been submitted to the commissioner, at which time that insurance payment must be deducted from the determined value. Payment must not be made for claims of less than $100 per claim or more than $20,000 in a calendar year.

1506.0040 [Emergency] PAYMENT.

After procedures in parts 1506.0020 to 1506.0035 [Emergency] are completed, the commissioner shall make payment to the crop owners.

Approved
by Revisor _____

Department of Agriculture

Proposed Emergency Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

Rules as Proposed (all new material)

1506.0010 [Emergency] AUTHORITY.

Parts 1506.0010 to 1506.0040 [Emergency] are prescribed under Minnesota Statutes, section 3.7371, by the commissioner of agriculture to implement procedures to compensate agricultural crop owners for crops that are damaged or destroyed by elk. The procedures in parts 1506.0010 to 1506.0040 [Emergency] are in addition to those in Minnesota Statutes, section 3.7371.

1506.0015 [Emergency] DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part apply to parts 1506.0010 to 1506.0040 [Emergency].

Subp. 2. **Claim form.** "Claim form" means a form provided by the commissioner, to be completed by the crop owner and the county extension agent or federal crop adjuster, containing information upon which payment for a loss must be based.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized agent.

Subp. 4. **Crop owner.** "Crop owner" means an individual, firm, corporation, copartnership, or association with an interest in crops damaged or destroyed by elk.

Subp. 5. **County extension agent.** "County extension agent" means the University of Minnesota agricultural extension service's county extension agent for the county in which the crop owner resides.

Subp. 6. **Federal crop adjuster.** "Federal crop adjuster" means a crop insurance adjuster having a contract with the Federal Crop Insurance Corporation.

Subp. 7. **Market price.** "Market price" means the commodity price published daily by the Minneapolis Grain Exchange in the

Approved by Revisor

daily record of prices and receipts.

Subp. 8. **Target price.** "Target price" means the federal commodity price available from the Agricultural Stabilization and Conservation Service office.

1506.0020 [Emergency] REPORTING.

The crop owner shall notify either the federal crop adjuster or the county extension agent of suspected crop loss or damage within 24 hours of the discovery of a loss. The crop owner shall also complete the appropriate part of the claim form which must be available at the county extension office. The crop owner shall provide all information required to investigate the loss or damage to the federal crop adjuster or the county extension agent. A telephone call or personal contact constitutes notification.

1506.0025 [Emergency] INVESTIGATION AND CROP VALUATION.

The federal crop adjuster or the county extension agent shall investigate the loss in a timely manner and shall make a finding in writing on the appropriate part of the claim form regarding whether the crop was destroyed or damaged by elk. The finding must be based on physical and circumstantial evidence including:

A. the condition of the crop;

B. elk tracks;

C. the area of the state where the loss occurred;

D. sitings of elk in the area; and

E. any other circumstances considered pertinent by the federal crop adjuster or the county extension agent.

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

The federal crop adjuster or the county extension agent shall make a written finding on the claim form of the extent of damage or the amount of crop destroyed. For purposes of completing the claim form, "normal yield" means the payment yield established for commodities covered by programs of the Agricultural Stabilization and Conservation Service. For

Approved
by Revisor _____

commodities not covered by programs of the Agricultural Stabilization and Conservation Service, "normal yield" means the proven yield established by the Federal Crop Insurance Corporation.

1506.0030 [Emergency] COMPLETION AND SIGNING OF CLAIM FORM.

A completed claim form must be signed by the owner and county extension agent or the federal crop adjuster and submitted by the crop owner to the commissioner for review and payment. The commissioner shall return an incomplete claim form to the crop owner, indicating the information necessary for proper completion.

1506.0035 [Emergency] INSURANCE COVERAGE.

If insurance coverage exists on the crop, the commissioner shall withhold payment under parts 1506.0010 to 1506.0040 [Emergency] until the insurance claim has been paid and evidence of payment has been submitted to the commissioner, at which time that insurance payment must be deducted from the determined value. Payment must not be made for claims of less than $100 per claim or more than $20,000 in a calendar year.

1506.0040 [Emergency] PAYMENT.

After procedures in parts 1506.0020 to 1506.0035 [Emergency] are completed, the commissioner shall make payment to the crop owners.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Emergency Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1506

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture

In the Matter of the Proposed Adoption of Emergency Rules of the Department of Agriculture Governing Compensation for Crops Damaged or Destroyed by Elk

NOTICE OF INTENT TO ADOPT EMERGENCY RULES

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 3.7371. The department, in adopting the rule, is following the procedures set forth in the Administrative Procedures Act for adopting emergency rules in Minnesota Statutes, sections 14.29-14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rules or any part or subpart of the rule in writing. Any comments must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-6906.

A copy of the proposed rule is attached to this notice. A free copy of the proposed emergency rule is available by contacting Ms. Milligan.

The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed emergency rule as noticed.

Upon adoption of the emergency rule by the department, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any persons may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rules, must submit a written request to Ms. Milligan.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the department gives notice of continuation in accordance with Minnesota Statutes, section 14.35.

STATE OF MINNESOTA

Date: Aug 25, 1987

Jim Nichols
Commissioner of Agriculture

In the Matter of the Proposed
Adoption of Rules of the Department
of Agriculture Governing
Compensation for Crops
Damaged or Destroyed by Elk

AFFIDAVIT OF MAILING
THE NOTICE OF INTENT
TO ADOPT AN EMERGENCY
RULE AND CERTIFICATE
OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Milligan, being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. State § 14.14, subd. 1a, and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list is accurate, complete and current as of this 16th day of September, 1987.

That on the 16th day of September, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Carol Milligan
Carol Milligan
Management Analyst

DIANE M. WINDHAM
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1990

Subscribed and sworn to before me
this 16th day of September, 1987.

Diane M. Windham

B. Step No. 2: All other applications and those unawarded portions of applications in item A will be prorated in an amount equal to their recommended budget, multiplied by the ratio of total available funds minus funds awarded under item A to total amount of the recommended budgets minus funds awarded under item A.

Subp. 3. [See Repealer.]

4700.2500 USE OF STATE FUNDS AVAILABLE FOR FAMILY PLANNING SPECIAL PROJECT GRANTS.

~~Family planning special project grant funds awarded to applicant may be used to supplant community health services subsidy funds planned and budgeted for family planning services in the 1978 and 1979 community health services plan.~~ Family planning special project grant funds may not be used to supplant any existing federal, state, or local funds for family planning information or services. Applicants are not required to match funds available under family planning special project grants.

4700.2550 ALLOCATION SCHEME.

If the commissioner allocates available funds based on an allocation scheme which limits the amount an applicant can apply for, the scheme must be set out in the notice of availability.

REPEALER. Minnesota Rules, parts 4700.2200; and 4700.2400, subpart 3, are repealed.

Emergency Rules

Proposed Emergency Rules

According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

1) that a free copy of the proposed emergency rule is available upon request from the agency;
2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Department of Agriculture

Proposed Emergency Rules Relating to Compensation for Crops Damaged or Destroyed by Elk

Notice of Intent to Adopt Emergency Rules

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above entitled emergency rule. The statutory authority to adopt the emergency rule is contained in *Minnesota Statutes*, section 3.7371. The department, in adopting the rule, is following the procedures set forth in the Administrative Procedures Act for adopting emergency rules in *Minnesota Statutes*, sections 14.29-14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rules or any part or subpart of the rule in writing. Any comments must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-6906.

A copy of the proposed rule is attached to this notice. A free copy of the proposed emergency rule is available by contacting Ms. Milligan.

The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed emergency rule as noticed.

Upon adoption of the emergency rule by the department, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any persons may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rules, must submit a written request to Ms. Milligan.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the department gives notice of continuation in accordance with *Minnesota Statutes*, section 14.35.

Dated: 25 August 1987

Jim Nichols
Commissioner of Agriculture

Rules as Proposed (all new material)

1506.0010 [Emergency] AUTHORITY.

Parts 1506.0010 to 1506.0040 [Emergency] are prescribed under Minnesota Statutes, section 3.7371, by the commissioner of agriculture to implement procedures to compensate agricultural crop owners for crops that are damaged or destroyed by elk. The procedures in parts 1506.0010 to 1506.0040 [Emergency] are in addition to those in Minnesota Statutes, section 3.7371.

1506.0015 [Emergency] DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part apply to parts 1506.0010 to 1506.0040 [Emergency].

Subp. 2. **Claim form.** "Claim form" means a form provided by the commissioner, to be completed by the crop owner and the county extension agent or federal crop adjuster, containing information upon which payment for a loss must be based.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized agent.

Subp. 4. **Crop owner.** "Crop owner" means an individual, firm, corporation, copartnership, or association with an interest in crops damaged or destroyed by elk.

Subp. 5. **County extension agent.** "County extension agent" means the University of Minnesota agricultural extension service's county extension agent for the county in which the crop owner resides.

Subp. 6. **Federal crop adjuster.** "Federal crop adjuster" means a crop insurance adjuster having a contract with the Federal Crop Insurance Corporation.

Subp. 7. **Market price.** "Market price" means the commodity price published daily by the Minneapolis Grain Exchange in the daily record of prices and receipts.

Subp. 8. **Target price.** "Target price" means the federal commodity price available from the Agricultural Stabilization and Conservation Service office.

1506.0020 [Emergency] REPORTING.

The crop owner shall notify either the federal crop adjuster or the county extension agent of suspected crop loss or damage within 24 hours of the discovery of a loss. The crop owner shall also complete the appropriate part of the claim form which must be available at the county extension office. The crop owner shall provide all information required to investigate the loss or damage to the federal crop adjuster or the county extension agent. A telephone call or personal contact constitutes notification.

1506.0025 [Emergency] INVESTIGATION AND CROP VALUATION.

The federal crop adjuster or the county extension agent shall investigate the loss in a timely manner and shall make a finding in writing on the appropriate part of the claim form regarding whether the crop was destroyed or damaged by elk. The finding must be based on physical and circumstantial evidence including:

A. the condition of the crop;

B. elk tracks;

C. the area of the state where the loss occurred;

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

D. sitings of elk in the area; and

E. any other circumstances considered pertinent by the federal crop adjuster or the county extension agent. The absence of affirmative evidence may be grounds for denial of a claim.

The federal crop adjuster or the county extension agent shall make a written finding on the claim form of the extent of damage or the amount of crop destroyed. For purposes of completing the claim form, "normal yield" means the payment yield established for commodities covered by programs of the Agricultural Stabilization and Conservation Service. For commodities not covered by programs of the Agricultural Stabilization and Conservation Service, "normal yield" means the proven yield established by the Federal Crop Insurance Corporation.

1506.0030 [Emergency] COMPLETION AND SIGNING OF CLAIM FORM.

A completed claim form must be signed by the owner and county extension agent or the federal crop adjuster and submitted by the crop owner to the commissioner for review and payment. The commissioner shall return an incomplete claim form to the crop owner, indicating the information necessary for proper completion.

1506.0035 [Emergency] INSURANCE COVERAGE.

If insurance coverage exists on the crop, the commissioner shall withhold payment under parts 1506.0010 to 1506.0040 [Emergency] until the insurance claim has been paid and evidence of payment has been submitted to the commissioner, at which time that insurance payment must be deducted from the determined value. Payment must not be made for claims of less than $100 per claim or more than $20,000 in a calendar year.

1506.0040 [Emergency] PAYMENT.

After procedures in parts 1506.0020 to 1506.0035 [Emergency] are completed, the commissioner shall make payment to the crop owners.

Department of Agriculture

Proposed Emergency Rules Relating to Farmer-Lender Mediation

Notice of Intent to Adopt Emergency Rules

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above entitled emergency rules. The statutory authority to adopt the emergency rule is contained in *Minnesota Statutes*, section 583.285. The department, in adopting the rule, is following the procedures set forth in the Administrative Procedures Act for adopting emergency rules in *Minnesota Statutes*, sections 14.29-14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rules or any part or subpart of the rule in writing. Any comments must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-6906.

A copy of the proposed rule is attached to this notice. A free copy of the proposed emergency rule is available by contacting Ms. Milligan.

The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed emergency rule as noticed.

Upon adoption of the emergency rule by the department, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any persons may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rules, must submit a written request to Ms. Milligan.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the department gives notice of continuation in accordance with *Minnesota Statutes*, section 14.35.

Dated: 17 August 1987

Jim Nichols
Commissioner of Agriculture

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the Minnesota Department of Agriculture Governing Compensation for Crops Damaged or Destroyed by Elk

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING EMERGENCY RULES

Notice of the Commissioner's intent to adopt the above-entitled emergency rule was published in the State Register on September 21, 1987, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, section 14.30 on September 16, 1987.

All persons were given the oportunity to submit written comment on the rule for at least 25 days after notice of proposed rulemaking.

No written submissions or comments on the rule were received by the department. However, part 1506.0025, subp. 2, was changed because of recommendations by the department's counsel to the commissioner and phone conversations with Ray Eggelston of the Federal Crop Insurance Corporation in Thief River Falls. No requests for notice of submission to the attorney general were received by the agency.

1506.0025.

The change in this part gives the crop owner two crop adjustment options. Using option A would give the crop owner a quicker settlement, but since it only estimates potential yield, the crop owner may not be fully compensated for loss. Crop owners using option B would not be compensated for loss until after harvest, but the amount of loss and compensation could be fully calculated. This change makes the compensation program more equitable by giving crop owners the option of waiting for a complete and accurate adjustment based on actual yield. The change is not substantial because it only changes the method for calculating crop loss.

NOW THEREFORE, IT IS ORDERED that the rule identified as the Emergency Rule Governing Compensation for Crops Damaged or Destroyed by Elk as modified is adopted this 10th day of December, 1987, pursuant to authority vested in me by Minnesota Statutes, section 3.7371.

STATE OF MINNESOTA

Jim Nichols

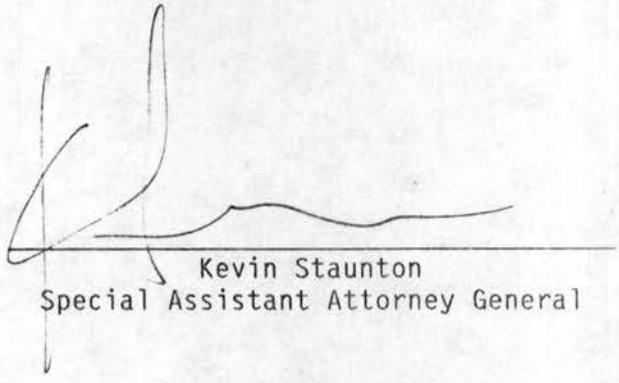
Jim Nichols
Commissioner of Agriculture

RECEIVED
DEC 15 1987
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

In the Matter of the Adoption of the
Emergency Rule of the Minnesota Department
of Agriculture Governing Compensation for
Crops Damaged or Destroyed by Elk

DECLARATION
OF COUNSEL

I, Kevin Staunton, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, Chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0986.



Kevin Staunton
Special Assistant Attorney General

Date: 12/16/87

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : OF AGRICULTURE

DATE : December 16, 1987

TO : Rita Desmond
Administration - Finance Division
Office of the Attorney General

FROM : Carol Milligan, Management Analyst
Planning Division

PHONE : 296-6906

SUBJECT : Review of Proposed Emergency Rule Governing Elk Damage Compensation Claims

The Department of Agriculture adopted the above-mentioned rule pursuant to Minnesota Statutes, sections 14.29-14.36. Enclosed with this memorandum are the documents which are required to be submitted to the Attorney General for review prior to final approval of the rule. A list of the documents is attached for your convenience.

The department did not receive any written comments or requests for notification of submission to the Attorney General.

If you have questions, please contact me.

CM:cb

Attachment

cc: Jim Nichols, Commissioner
Paul Strandberg, Special Assistant Attorney General
Craig Lindeke, Office of Revisor of Statutes
Gerald Heil, Director, Planning Division
Pat Jensen, Counsel to the Commissioner

RECEIVED
ATTORNEY GENERAL'S OFFICE

DEC 18 1987

204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ENCLOSED DOCUMENTS

A. Emergency Rules as Proposed.

B. Notice of Intent to Adopt Emergency Rules.

C. Affidavit of Mailing Notice of Intent to Adopt Emergency Rules.

D. State Register Photo Copy of Notice of Intent to Adopt.

E. Emergency Rules as Adopted. (4 copies).

F. Findings of Fact and Conclusions, and Order Adopting Rule.

G. Declaration of Counsel.

Authority: 3.73-1A ok - effective June 3, 1987
6 mos is - 12-3-87

Rule must include:

1) methods of valuation of crops damaged or destroyed
2) criteria for determination of the cause of the crop damage or destruction
3) notice requirements by the owner of the damaged or destroyed crop; and
4) any other matters determined necessary by the Commissioner to carry out the provisions of this section.

Rule

Changes made or adopted
I did not read this rule.