

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 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.