

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

1154

DATE : January 6, 1988

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

FROM : MARTHA J. CASSERLY  
 Special Assistant  
 Attorney General *Martha J. Casserly*

PHONE : 296-6839

SUBJECT : 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.<sup>1/</sup> 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.<sup>2/</sup>

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

<sup>2/</sup> 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)

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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

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(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.

# Office of the Revisor of Statutes Administrative Rules



**TITLE:** Adopted Exempt Permanent Rules Relating to Fugitive Emissions and Determining Potential to Emit

**AGENCY:** Pollution Control Agency

**MINNESOTA RULES:** Chapter 7005

**RULE APPROVED  
OFFICE OF ADMINISTRATIVE HEARINGS**

9/5/14

**DATE**

**ADMINISTRATIVE LAW JUDGE.**

for G. Beck

The attached rules are approved as to form

*Cindy K. Maxwell*

Cindy K. Maxwell  
Senior Assistant Revisor

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