

**WAC 220-440-150 Application for cash compensation for commercial crop damage—Procedure.** Pursuant to this section, the department may distribute funds appropriated by the legislature to pay commercial crop damage caused by wild deer or elk in the amount of up to ten thousand dollars per claim, unless following an appeal the department is ordered to pay more (see RCW 77.36.130(2)). The department shall develop claim procedures and application forms consistent with this section for cash compensation of commercial crop damage. Partnerships with other public and private organizations to assist with completion of applications, assessment of damage, and to provide funding for compensation are encouraged.

Filing a claim:

(1) Claimants who have cooperated with the department and have a valid damage prevention cooperative agreement or a department approved checklist to prevent deer or elk damage, or a waiver from the director, yet still experience loss and meet eligibility requirements, may file a claim for cash compensation.

(2) The claimant must notify the department within seventy-two hours of discovery of crop damage and at least seventy-two hours prior to harvest of the claimed crop.

(3) A complete written claim and completed crop assessment must be submitted to the department within sixty days of harvest.

(4) Claimants may only file one claim per year. Multiple partners in a farming operation are considered one claimant. Operations involving multiple partners must designate a "primary grower" to receive payment from the department.

(5) The claim form declaration must be signed, affirming that the information provided is factual and truthful per the certification set out in RCW 9A.72.085, before the department will process the claim.

(6) In addition to a completed claim form, a claimant must provide:

(a) A copy of claimant's Schedule F of Form 1040, Form 1120, or other applicable forms filed with the Internal Revenue Service or other documentation indicating the claimant's gross sales or harvested value of commercial crops for the previous tax year.

(b) The assessment method used is consistent with WAC 220-440-160, valuation of property damage.

(c) Proof of ownership of claimed commercial crops or contractual lease of claimed commercial crops consistent with department procedural requirements for submission of documents.

(d) Written documentation of approved methodology used to assess and determine final crop loss and value.

(e) Records documenting average yield on claimed crop and parcel, certified yield reports, production reports and weight certificates completed at the time weighed for claimed year, and other applicable documents that support yield loss and current market price. Current market price will be determined less transportation and cleaning costs when applicable.

(f) A declaration signed under penalty of perjury as provided in RCW 9A.72.085, indicating that the claimant is eligible for the claim, meets eligibility requirements listed under this section, and that all claim evaluation and assessment information in the claim application is true and accurate to the best knowledge of the claimant.

(g) A copy of the insurance policy and payment on the commercial crop where loss is claimed.

(h) Copies of any applications for other sources of loss compensation and any payment or denial documentation.

Damage claim assessment:

(7) Completion of a damage claim assessment for the amount and value of commercial crop loss is the responsibility of the claimant. A crop damage evaluation and assessment must be conducted by a licensed crop insurance adjustor in cooperation with the claimant:

(a) The claimant must submit a damage claim assessment prepared by a crop insurance adjustor licensed by the state of Washington and certified by the federal crop insurance service.

(b) The department will provide the claimant with a list of approved adjustors. The claimant may select an adjustor from the approved list and work with the department and the adjustor to arrange for the completion of a crop damage assessment or select a state licensed adjustor of their own choosing.

(i) If the claimant selects an adjustor from the approved list, the department will provide the adjustor written authorization to proceed with an assessment and adjustor fees will be the shared responsibility of the owner and the department. The claimant portion of the assessment fees may not exceed one half or a maximum of six hundred dollars, whichever is smaller, and will be deducted from the final payment.

(ii) If the claimant selects a state licensed adjustor of their own choosing then the claimant accepts full responsibility for the assessment fees.

(c) The department or the claimant may accept the damage claim assessment provided by the licensed adjuster or may hire a state licensed adjustor of their choosing and conduct a separate assessment or evaluation of the crop loss amount and value. The party hiring an adjustor to conduct a separate assessment or evaluation is responsible for payment of all fees.

(8) Disagreement between the claimant and the department over the crop loss value may be settled through an adjudicative proceeding pursuant to chapter 34.05 RCW.

Settlement of claims:

(9) Compensation paid by the department, in addition to any other compensation received by the claimant, may not exceed the total value of the assessed crop loss.

(10) The claimant will be notified by the department upon completion of the evaluation and has sixty days to accept or appeal the department's offer for settlement of the claim, or the claim is considered accepted and not subject to appeal.

(11) The department will prioritize payment for commercial crop damage in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for commercial crop damage during the current fiscal year, the claim will be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronologic order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-440-150, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.320, 77.12.150, 77.15.245, and chapter 77.36 RCW. WSR 16-04-066 (Order 16-18), § 232-36-110, filed 1/28/16, effective 2/28/16. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, 77.12.240, chapter 77.36 RCW, and 2013 c 329. WSR 13-22-056 (Order 13-282), § 232-36-110, filed 11/4/13, effective 12/5/13. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.055. WSR 10-13-182 (Order 10-156), § 232-36-110, filed 6/23/10, effective 7/24/10.]