

# Concise Explanatory Statement Crop Damage Expedited Rule Making

## Rules amended as part of this rulemaking:

- WAC 220-440-140 Payment for commercial crop damage – Limitations.
- WAC 220-440-150 Application for cash compensation for commercial crop damage – Procedure.
- WAC 220-440-180 Application for cash compensation for livestock damage or domestic animal – Procedure.
- WAC 220-440-230 Commercial crop or livestock damage claim – Dispute resolution.

## Rules repealed as part of this rulemaking:

None

## Rules created as part of this rulemaking:

None

### 1. Background/Summary of Project:

The law passed Senate Bill 5784 (2SSB 5784) in the 2024 legislative session places limits on the amounts paid to eligible farmers for damage to their commercial crops caused by damage from deer and elk. Washington Department of Fish and Wildlife (WDFW) is now restricted to pay no more than \$300,000 per fiscal year from the general fund. In addition, the maximum payment amount for a crop or livestock loss claim is increased from \$10,000 to \$30,000. The limit of a claim is now \$30,000 and not appealable for a higher payment.

The bill also provides that any qualified claim for payment that is more than the available funds in the current fiscal year is eligible for payment in the next fiscal year. If additional funds are not provided by the Legislature in the next fiscal year, then no further payment may be made on the claim unless the legislature specifically appropriates funds for that purpose. Under certain circumstances, the Legislature may declare an emergency and may appropriate additional monies to pay WDFW for qualified crop damage claims. Furthermore, the bill requires that claims that are submitted to WDFW will be prioritized for payment based upon the highest percentage of loss, calculated by comparing agreed-upon or alternatively paid out commercial crop damages to the gross sales or harvested value of commercial crops for the previous tax year.

### 2. Reasons for adopting the rule:

Based on the passage of 2SSB 5874, the department needed to amend the foregoing WAC sections in WAC chapter 220-440. They were limited to only those necessary to conform to changes made in RCWs 77.36.080, 77.36.100, and 77.36.130.

3. **Differences between the text of the proposed rule and the rule as adopted:**

There was an error in reference to RCW 77.36.080 in WAC sections 220-440-140 and 220-440-150. The correct reference should be to RCW 77.36.130.

In addition, there was an error by reference to only RCW 77.36.100 in WAC 220-440-180(14). Two other statutes also apply in this sub-section. These additional references to RCWs 77.36.170 and 77.36.180 complete the conformity between the administrative requirements in WAC chapter 220-440 and the legal requirements in RCW chapter 77.36.

These incorrect references have been made and are the only differences between the proposed version of the rules and the adopted version.

**The department amendments to the following WAC rules as follows:**

**WAC 220-440-140 Payment for commercial crop damage—Limitations.**

1. The limit of claim amount was changed from \$10,000 to instead follow the limits prescribed in RCW 77.36.130.
2. The former process for the order of payment by multiple claimants in order of receipt and for payment of claims in excess of available funding being held over for subsequent years, was changed to a claims payment prioritization process and annual limit for total claims without a subsequent year additional legislative appropriation as prescribed in RCW 77.36.100.

Both changes conform the rule to the language in the respective RCW changes from 2SSB 5784.

**WAC 220-440-150 Application for cash compensation for commercial crop damage—Procedure.**

1. The limit of claim amount was changed from \$10,000 to instead follow the limits prescribed in RCW 77.36.130.
2. Subsection (1) was clarified to conform with the requirement to meet the claim eligibility requirements of WAC 220-440-140 before application for a claim may be made.
3. The former process for order of payment by multiple claimants by in order of receipt and claims in excess of available funding being held over for subsequent years, was changed to a claims payment prioritization process and annual limit for total claims without a subsequent year additional legislative appropriation as prescribed in RCW 77.36.100.

These changes conform the rule to the language in the respective RCW changes from 2SSB 5784.

**WAC 220-440-180 Application for cash compensation for livestock damage or domestic animal—Procedure.**

1. Though 2SSB 6784 was a bill to modify commercial crop payments, the similar process of payment limits for livestock was also found in the same RCW 77.36.130. And thus, when the crop claim amount limit was changed in RCW 77.36.130 for the language for

livestock damage claims was also changed. This rule change conforms the limit to those found in the revised RCW 77.36.130.

2. The process for the order of payment by multiple livestock damage claimants is in the order of receipt and for payment of claims. And claims excess of available funding being held over for subsequent years is addressed in the revised language of RCW 77.36.100 but is also referenced in the following unchanged RCW 77.36.170 and RCW 77.36.180. The changes to this rule conform the rule to all three RCWs by reference.

**WAC 220-440-230 Commercial crop or livestock damage claim—Dispute resolution**

1. Though 2SSB 5784 was a bill to modify commercial crop payments, the similar process of payment limits for livestock was also found in the same RCW 77.36.130. And thus, when the crop claim amount limit was changed in RCW 77.36.130 the language for livestock damage claims was also changed. This rule change conforms the limit to those found in the revised RCW 77.36.130.

**4. Public comments, response to comments, and consideration of comments**

Department staff did not receive any public comments on the proposed amendments. Therefore, staff did not need to summarize any of the comments received regarding the proposed rule or responding to the comments by category or subject matter, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so per RCW 34.05.325(6)(a)(iii).