

23-16-4 Compensation for damage to crops, fences, or irrigation equipment -- Limitations -- Appeals.

- (1) The division may provide compensation to claimants for damage caused by big game to:
 - (a) cultivated crops from or on cleared and planted land;
 - (b) fences on private land; or
 - (c) irrigation equipment on private land.
- (2) To be eligible to receive compensation as provided in this section, the claimant shall:
 - (a) notify the division of the damage within 72 hours after the damage is discovered; and
 - (b) allow division personnel reasonable access to the property to verify and alleviate the depredation problem.
- (3)
 - (a) The appraisal of the damage shall be made by the claimant and the division as soon after notification as possible.
 - (b) In determining damage payment, the division and claimant shall consider:
 - (i) the extent of damage experienced; and
 - (ii) any revenue the landowner derives from:
 - (A) participation in a cooperative wildlife management unit;
 - (B) use of landowner association permits;
 - (C) use of mitigation permits; and
 - (D) charging for hunter access.
 - (c) In determining how to assess and compensate for damages to cultivated crops, the division's determination shall be based on the:
 - (i) full replacement value in the local market of the cultivated crops that actually have been or will be damaged or consumed by big game animals; and
 - (ii) cost of delivery of a replacement crop to the location of the damaged crop or other location that is not farther from the source of the replacement crop.
 - (d) If the claimant and the division are unable to agree on a fair and equitable damage payment, they shall designate a third party, consisting of one or more persons familiar with the crops, fences, or irrigation equipment and the type of game animals doing the damage, to appraise the damage.
- (4)
 - (a) Notwithstanding Section 63J-1-504, the total amount of compensation that may be provided by the division pursuant to this section and the total cost of fencing materials provided by the division to prevent crop damage may not exceed the legislative appropriation for fencing material and compensation for damaged crops, fences, and irrigation equipment.
 - (b)
 - (i) Any claim of \$1,000 or less may be paid after appraisal of the damage as provided in Subsection (3), unless the claim brings the total amount of claims submitted by the claimant in the fiscal year to an amount in excess of \$1,000.
 - (ii) Any claim for damage to irrigation equipment may be paid after appraisal of the damage as provided in Subsection (3).
 - (c)
 - (i) Any claim in excess of \$1,000, or claim that brings the total amount of claims submitted by the claimant in the fiscal year to an amount in excess of \$1,000, shall be treated as follows:
 - (A) \$1,000 may be paid pursuant to the conditions of this section; and
 - (B) the amount in excess of \$1,000 may not be paid until the total amount of the approved claims of all the claimants and expenses for fencing materials for the fiscal year are determined.

- (ii) If the total exceeds the amount appropriated by the Legislature pursuant to Subsection (4) (a), claims in excess of \$1,000, or any claim that brings the total amount of a claimant's claims in a fiscal year to an amount in excess of \$1,000, shall be prorated.
- (5) The division may deny or limit compensation if the claimant:
 - (a) has failed to exercise reasonable care and diligence to avoid the loss or minimize the damage; or
 - (b) has unreasonably restricted hunting on land under the claimant's control or passage through the land to access public lands for the purpose of hunting, after receiving written notification from the division of the necessity of allowing such hunting or access to control or mitigate damage by big game.
- (6)
 - (a) The Wildlife Board shall make rules specifying procedures for the appeal of division actions under this section.
 - (b) Upon the petition of an aggrieved party to a final division action, the Wildlife Board may review the action on the record and issue an order modifying or rescinding the division action.
 - (c) A qualified hearing examiner may be appointed for purposes of taking evidence and making recommendations for a board order. The board shall consider the recommendations of the examiner in making decisions.
 - (d) Board review of final agency action and judicial review of final board action shall be governed by Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 297, 2011 General Session