

§ 136.217

(3) That the economic loss claimed was incurred as the result of the injury to or destruction of the property.

§ 136.217 Compensation allowable.

(a) The amount of compensation allowable for damaged property is the lesser of—

- (1) Actual or estimated net cost of repairs necessary to restore the property to substantially the same condition which existed immediately before the damage;
- (2) The difference between value of the property before and after the damage; or
- (3) The replacement value.

(b) Compensation for economic loss resulting from the destruction of real or personal property may be allowed in an amount equal to the reasonable costs actually incurred for use of substitute commercial property or, if substitute commercial property was not reasonably available, in an amount equal to the net economic loss which resulted from not having use of the property. When substitute commercial property was reasonably available, but not used, allowable compensation for loss of use is limited to the cost of the substitute commercial property, or the property lost, whichever is less. Compensation for loss of use of noncommercial property is not allowable.

(c) Compensation for a claim for loss of profits or impairment of earning capacity under §136.213(b) is limited to that allowable under §136.235.

SUBSISTENCE USE

§ 136.219 Authorized claimants.

(a) A claim for loss of subsistence use of natural resources may be presented only by a claimant who actually uses, for subsistence, the natural resources which have been injured, destroyed, or lost, without regard to the ownership or management of the resources.

(b) A claim for loss of profits or impairment of earning capacity due to loss of subsistence use of natural resources must be included as part of the claim under this section and must include the proof required under §136.233.

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§ 136.221 Proof.

In addition to the requirements of subparts A and B of this part, a claimant must provide—

- (a) The identification of each specific natural resource for which compensation for loss of subsistence use is claimed;
- (b) A description of the actual subsistence use made of each specific natural resource by the claimant;
- (c) A description of how and to what extent the claimant's subsistence use was affected by the injury to or loss of each specific natural resource;
- (d) A description of each effort made by the claimant to mitigate the claimant's loss of subsistence use; and
- (e) A description of each alternative source or means of subsistence available to the claimant during the period of time for which loss of subsistence is claimed, and any compensation available to the claimant for loss of subsistence.

§ 136.223 Compensation allowable.

(a) The amount of compensation allowable is the reasonable replacement cost of the subsistence loss suffered by the claimant if, during the period of time for which the loss of subsistence is claimed, there was no alternative source or means of subsistence available.

(b) The amount of compensation allowable under paragraph (a) of this section must be reduced by—

- (1) All compensation made available to the claimant to compensate for subsistence loss;
- (2) All income which was derived by utilizing the time which otherwise would have been used to obtain natural resources for subsistence use; and
- (3) Overheads or other normal expenses of subsistence use not incurred as a result of the incident.

(c) Compensation for a claim for loss of profits or impairment of earning capacity under §136.219(b) is limited to that allowable under §136.235.

GOVERNMENT REVENUES

§ 136.225 Authorized claimants.

A claim for net loss of revenue due to the injury, destruction, or loss of real property, personal property, or natural