



**COLORADO**

**Parks and Wildlife**

Department of Natural Resources

Memo To The Commission

*Commissioners,*

*Thank you for your interest in CPW's Draft Compensation and Conflict Minimization Plans. As requested, this memo contains additional information compiled by CPW staff in response to Commissioner Comments and Questions at previous Commission meetings.*

### **1. \$8,000 Limit:**

In 2002, C.R.S. 33-3-104 was amended to allow for a \$5,000 maximum compensatory limit for each head of livestock injured or killed by big game wildlife. This limit has not been adjusted (statutorily) since its inception. If \$5,000 was adjusted for inflation from 2002 to 2022, it would have a current value of approximately \$8,000. If adopted, this limit can be adjusted annually by the Commission at their discretion.

*Update: At the Rifle Commission meeting, the Commission supported increasing the maximum limit per livestock or guard/herding animal to \$15,000.00. This does not include any veterinarian expenses if the animal receiving veterinarian care dies as a result of injuries from wolves (ex. If a horse is injured and receives \$14,000.00 in vet bills but dies as a result of those injuries, the owner could claim the value of the horse, up to \$15,000.00 in addition to the \$14,000.00 in veterinarian expenses).*

### **2. Yearling Cattle Compensation Ratio:**

CPW conducted a scientific literature review of 25 documents in an effort to base any indirect losses or compensation ratios on "the best available science". There is limited scientific evidence to include a compensation ratio (that for every yearling animal killed by wolves that more could be missing that are not discovered) for yearling cattle.

However, The Wyoming Commission recently adopted a *1.25:1 ratio* for yearling cattle (in open range settings) within the wolf trophy game management area and seasonal wolf trophy game management area. Livestock owners are not eligible for wolf damage compensation outside of this area, otherwise known as the Predatory Animal Area. This decision was highly focused on grizzly bear depredation, based on a study (Absaroka Carnivore-Livestock Interaction Study) led by M.S. student Clint Atkinson.

Given the lack of peer-reviewed literature supporting a ratio payment for yearlings outside grizzly country, CPW recommends that yearlings be compensated at 100% FMV under base compensation until more/better research becomes available regarding missing yearlings.

If a yearling compensation ratio is desired by the Commission, CPW recommends that a 1.25 (up to 1.25 animals that could be claimed as missing for each confirmed cattle depredation (1.25:1 ratio) be used, based on the WY study.

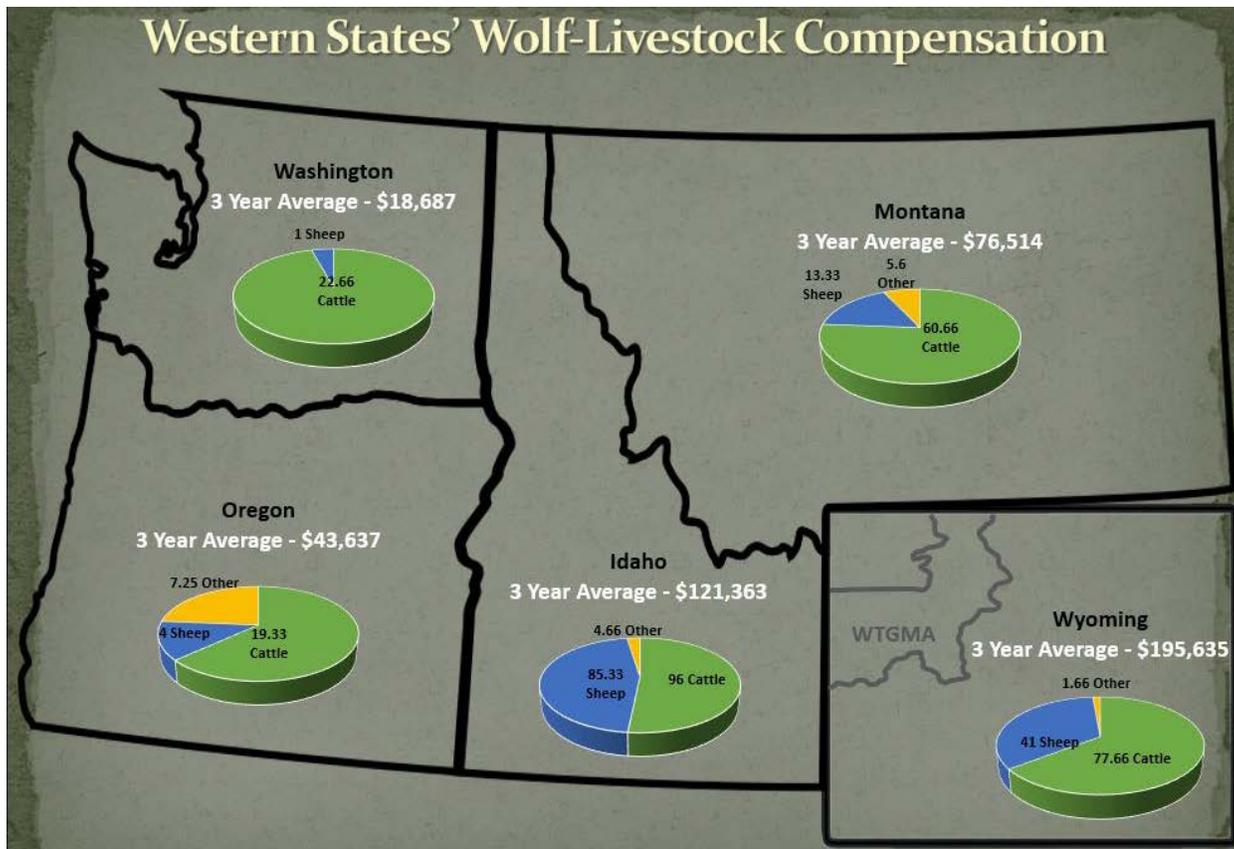
The Commission could choose to implement a two-tiered compensation ratio based on conflict minimization technique implementation (ex. 1.25:1 if conflict minimization techniques are implemented or a 1:1 ratio if conflict minimization techniques are not implemented). This would incentivize livestock owners to implement conflict minimization.



### 3. Western States' Wolf-Livestock Compensation Amounts:

\* Each of these states have different compensation programs, livestock densities, wolf populations and funding mechanisms, which all influence compensation costs.

\* Idaho, Oregon, Washington require some type of preventative/mitigating effort for compensation eligibility, while Wyoming and Montana do not require prevention efforts for compensation eligibility.



Note: 3-year averages generally cover 2017-2019

#### Conflict Minimization cost correlation to damage costs:

Washington spends the most (a few hundred thousand dollars per year) on conflict minimization, followed by Oregon; Montana spends a moderate amount, Idaho less, and Wyoming very little.

Washington and Oregon have the least wolf-livestock conflict, followed by Montana and Idaho; Wyoming has the most. Wyoming also spends by far the most on compensation, with its 7x multiplier (only in a small geographic area).

#### Montana:

2019 (1/1/19 - 12/31/19):

833 wolves statewide estimated.

94 livestock (69 cattle, 21 sheep, 2 goats, 2 horses, 3 guard dogs) verified by WS.  
Compensation: (Montana Livestock Loss Board) \$82,450 to 32 claimants for 78 livestock (confirmed/probable losses 100% FMV & Vet bills up to 100% FMV).

2018 (1/1/18 - 12/31/18):

71 head of livestock (64 cattle, 7 sheep, 2 dogs) verified by WS as confirmed or probable  
Compensation: (Montana Livestock Loss Board) \$82,959 for confirmed and probable.

2017 (1/1/17 - 12/31/17):

80 livestock (49 cattle, 12 sheep, and 19 goats) verified by WS as confirmed or probable  
Compensation: (Montana Livestock Loss Board) \$64,133 for confirmed and probable

Source: <https://fwp.mt.gov/conservation/wildlife-management/wolf>

### **Wyoming:**

2019 (1/1/19 - 12/31/19):

70 livestock killed (42 cattle, 27 sheep, 1 donkey, 1 dog), 12 injured (11 cattle, 1 donkey).  
Compensation: (WGFD) \$106,183 to 19 claimants.

2018 (1/1/18 - 12/31/18):

71 livestock killed (55 cattle, 15 sheep, 1 horse), 8 injured (7 cattle, 1 horse).

Compensation: (WGFD) \$169,107

2017 (1/1/17 - 12/31/17):

194 livestock killed (113 cattle, 81 sheep), 5 injured (all cattle).

Compensation: (WGFD) \$311,614

Source: <https://wgfd.wyo.gov/Wildlife-in-Wyoming/More-Wildlife/Large-Carnivore/Wolves-in-Wyoming>

### **Oregon:**

2019 (1/1/19 - 12/31/19):

27 livestock killed (13 cattle, 6 sheep, 1 dog), 7 injured (6 sheep, 1 cattle).

\$29,037 awarded to 7 counties for confirmed/probable deaths/injuries.

\$16,887 awarded to 3 counties for previous year's missing livestock (unknown #).

2018 (1/1/18 - 12/31/18):

20 livestock killed (17 cattle, 1 llama, 2 guard dogs), 13 cattle injured.

\$13,771 awarded to 4 counties for confirmed/probable livestock deaths/injuries

\$21,046 awarded to 4 counties for previous year's missing livestock (unknown #).

2017 (1/1/17 - 12/31/17):

36 livestock killed (11 cattle, 1 llama, 1 alpaca, 23 fowl, 3 cattle injured).

\$15,227 awarded to 5 counties for confirmed/probable livestock deaths/injuries.

\$34,942 awarded to 3 counties for previous year's missing livestock (unknown #).

Compensation: Oregon Dept. of Ag wolf depredation compensation and financial assistance county block grant program for confirmed and probable wolf depredations /payment for missing livestock during the previous year.

Source: [https://dfw.state.or.us/Wolves/annual\\_reports.asp](https://dfw.state.or.us/Wolves/annual_reports.asp)

### **Washington:**

2019 (1/1/19 - 12/31/19):

14 cattle killed, 11 cattle injured (verified by WDFW).

\$38,876 compensation for livestock losses/indirect losses to 3 livestock owners.

2018 (1/1/18 - 12/31/18):

12 livestock killed (11 cattle, 1 sheep), 21 injured (19 cattle, 2 sheep).

\$13,486 compensation for livestock losses/indirect losses to 6 livestock owners.

2017 (1/1/17 - 12/31/17):

8 cattle killed, 5 cattle injured.

\$3,700 compensation for livestock losses to (only confirmed or probable).

Source:

[https://wdfw.wa.gov/publications?title=Washington+Gray+Wolf+Conservation+and+Management+&term\\_node\\_tid\\_depth=All&author](https://wdfw.wa.gov/publications?title=Washington+Gray+Wolf+Conservation+and+Management+&term_node_tid_depth=All&author)

**Idaho:**

Sources:

<https://collaboration.idfg.idaho.gov/WildlifeTechnicalReports/Statewide%20Wolf%20Report%20FY2018.pdf>

<https://species.idaho.gov/wp-content/uploads/sites/82/2019/09/Wolf-Depredation-Compensation-Announcement-2019.pdf>

<https://legislature.idaho.gov/wp-content/uploads/budget/committee/jfac/2021/F1.Monday,%20February%2015/03.Office%20of%20Species%20Conservation.pdf>

#### 4. Legal explanation of Preponderance of Evidence and SAG's Evidence Standard:

Preponderance of the evidence is a legal phrase that means that something is more likely than not OR as a percentage, more than 50% likely true.

An alternative to this standard was proposed by several members of the Stakeholder Advisory Group: "100% FMV for a depredation event (death or injury) for livestock (including guard and herding animals) that the investigating officer reasonably determines is the result of a wolf depredation, *resolving any unknowns in the producer's favor*". This standard was proposed by several SAG members based on producers' input to them that proving loss and entitlement for compensation is impossible under a preponderance of evidence standard. This is contrary to CPW's historic livestock compensation figures:

- CPW's average compensation costs for damage to livestock caused by bear and mountain lion over the past five years is approximately \$390,000/127 claims annually.
- CPW's 5 year average of claims denied based on preponderance of the evidence is only 1.6 claims annually or 0.01% of all livestock claims submitted annually.

Both of these statistics are important since CPW's big game damage program uses a preponderance of evidence standard, which is a relatively low standard of evidence that the Commission should consider maintaining for many policy reasons, including the benefits of mirroring with the current big game damage standard.

CPW's draft wolf compensation regulations do not create a pure preponderance of the evidence standard. Under a pure preponderance standard, the claimant would need to prove each element of their claim by a preponderance of the evidence. But that is not the case with CPW's proposed rules. Most importantly, the proposed rules do not require claimants to prove that wolves were the cause of death for missing animals or were the cause of indirect losses once the claimant experiences a "confirmed wolf depredation."

The draft "confirmed wolf depredation" rule creates a presumption in favor of producers. Ratio claims and itemized claims are only available to producers who first suffered a "confirmed wolf depredation." CPW must investigate each notice of loss and inform the producer whether the loss was caused by wolves, or not. If CPW cannot, in good faith, rule out wolves as the cause of injury or death within 30 days of the investigation, the depredation is presumed to have been caused by wolves and constitutes a "confirmed

wolf depredation.” This presumption enables the producer to then pursue ratio claims and itemized claims since they have suffered a “confirmed wolf depredation.”

Keeping preponderance of evidence for confirmed wolf-livestock depredations encourages and incentivizes livestock owners and their employees to maintain close contact with livestock in order to locate depredations and report to CPW in a timely manner.

To clarify, livestock owners can provide evidence to support their claim that an animal was killed by wolves, particularly if CPW staff are unable to perform an on-site investigation. As with the current Big Game Damage program, producers can submit day/time stamped photos of livestock carcasses, scat, tracks, and other tangible evidence that helps to substantiate their claim.

#### **5. Veterinarian documentation for Itemized Production Losses Claims:**

The SAG had strong support for including an option for livestock owners to claim itemized production losses after a confirmed wolf depredation. This is a novel concept because it is extremely difficult to quantify what those losses are and to distinguish them from the many other factors (disease, seasonal climate variability, etc.) that could also contribute to decreased weight gains or conception rates.

The SAG suggested a 3-year average pre-wolf presence, hoping that it would capture enough of the potential variability that could occur and give a reasonable baseline for comparison. Any decreases in production are then attributed to wolves and eligible to be claimed as losses. The SAG also acknowledged that livestock owners would need to provide additional information to help support their claims of decreased production. Producers that cannot provide the documentation would still receive fair compensation because they could pursue a claim for base compensation AND a compensation ratio claim for missing livestock.

In order to pursue an itemized claim for missing calves or sheep or for production losses to cattle or sheep under the draft plan, livestock owners must submit records for the current year that demonstrate vaccination status (for missing livestock), a written statement from a certified veterinarian affirming no known issues existed and body condition scores (for reduced conception rates). Submitting veterinarian and vaccination documentation can be beneficial to the claimant by providing evidence supporting their livestock did not die of other causes other than predation.

*Update: At the February 16<sup>th</sup> virtual Commission meeting, the Commission supported allowing livestock owners to submit ranch records in lieu of veterinarian documentation for Itemized Production losses requirements.*

## Glossary

### *“Preponderance of the Evidence”:*

Standard of evidence meaning that something is more likely true than not true, or 51% true.

### *“Pre-Wolf Presence”:*

As used in the chapter 6 context (regarding claiming itemized production losses), pre-wolf presence means 3 years preceding the first confirmed wolf depredation experienced by the livestock owner. Pre wolf presence does not mean wolves were merely present and is tied to the first confirmed wolf-livestock depredation for each livestock owner.

### *“Nonlethal Conflict Minimization”:*

Lawful, nonlethal materials and techniques used by owners of livestock for purposes of avoiding, minimizing, or mitigating gray wolf damage to livestock. Such measures include hazing techniques authorized under Chapter W-10 and carcass management.

### *“Livestock guard animal”:*

Refers to animals whose primary purpose is attempting to protect livestock, as defined in § 33-2-105.8(5)(c), CRS, from depredation.

### *“Livestock herding animal”:*

Refers to animals whose primary purpose is herding livestock as defined in § 33-2-105.8(5)(c), CRS.