

FINAL REGULATIONS - CHAPTER 17 - DAMAGE CAUSED BY WILDLIFE

ARTICLE XVI – DAMAGE CAUSED BY GRAY WOLVES

#17161 – DEFINITIONS APPLICABLE TO ARTICLE XVI

- A. **“Baseline Death Loss”** is a phrase used in rule #17170 regarding Itemized Claims for missing calves, yearlings or sheep. The claimant’s Baseline Death Loss refers to the average proportion of calves, yearlings or sheep lost by the claimant annually for the three years preceding the first Confirmed Wolf Depredation experienced by the claimant on the claimant’s lawful grazing lands, whether public or private, relative to the number of such animals the claimant had under management at the time of loss. All deaths other than those caused by gray wolf depredation shall be included in the baseline, including but not limited to deaths due to predation by other wildlife, disease, poisoning, fire, flood and drought.
- B. **“Baseline Conception Rate”** is a phrase used in rule #17170 regarding itemized claims for reduced conception rates of sheep and cattle. The claimant’s Baseline Conception Rate refers to the claimant’s average conception rate for the three years preceding the first Confirmed Wolf Depredation experienced by the claimant.
- C. **“Baseline Weight”** is a phrase used in rule #17170 regarding itemized claims for decreases in weight gains of sheep and cattle. The claimant’s Baseline Weight refers to the claimant’s average weight for the three years preceding the first Confirmed Wolf Depredation experienced by the claimant.
- D. **“Calves”** refers to domestic cattle from the age of birth through 12 months at the time of loss.
- E. **“Claimant”** refers to the owner of livestock or livestock guard or herding animals who has suffered direct or indirect losses caused by gray wolves. Only such owners can file claims for gray wolf damage compensation as provided for in this Article XVI.
- F. **“Confirmed Wolf Depredation”** has the meaning codified in #17167.
- G. **“Indirect Losses”** means decreased weights for calves, yearlings, and all classes of sheep, and decreased conception rates for domestic cattle and sheep.
- H. **“Livestock”** has the same meaning codified in § 33-2-105.8(5)(c), CRS and also includes domestic bison including hybrids with domestic cattle. See (§ 33-2-105.8(5)(c), CRS (“Livestock” means cattle, horses, mules, burros, sheep, lambs, swine, llama, alpaca, and goats.”).
- I. **“Livestock guard animal”** refers to animals whose primary purpose is attempting to protect livestock from depredation.
- J. **“Livestock herding animal”** refers to animals whose primary purpose is herding livestock.
- K. **“Nonlethal Conflict Minimization”** means 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.
- L. **“Yearling”** refers to domestic cattle between 12 and 24 months old at the time of loss.

#17162 – OVERVIEW OF GRAY WOLF DAMAGE CLAIMS, \$15,000 LIMITATIONS AND FILING

A. Overview

1. Section 33-2-105.8, CRS, requires the Commission to oversee the distribution of state funds that are made available to “[p]ay fair compensation to owners of livestock for any losses of livestock caused by gray wolves....” § 33-2-105.8(2)(e)(2), CRS. This Article XVI implements this requirement through the codification of Base Compensation Claims and two Optional Claims, referred to as Ratio Claims and Itemized Claims.
2. Regardless of what claim or claims agricultural producers rely on to seek compensation for damage caused by gray wolves, eligibility for compensation is limited to the fair market value of the animals at issue in the claim, up to \$15,000 per head of livestock, and up to \$15,000 per livestock guard or herding animal.
3. In addition to damages associated with injury or death, livestock producers are eligible to receive compensation for veterinarian expenses and medical supplies. Only expenses from licensed veterinarians are eligible for reimbursement. Such expenses are limited to \$15,000 or the fair market value of the animal, whichever is lower.
4. Base Compensation Claims make owners of livestock eligible to receive state funds for the injury or death of such animals caused by gray wolves. Although not required by statute, such claims also make claimants eligible to receive state funds for livestock guard and herding animals injured or killed by gray wolves. Base Compensation Claims require claimants to, among other things, present physical evidence demonstrating that gray wolves were the actual cause of injury or death to each animal identified in the claim, such as evidence regarding the type and location of wounds on a carcass.
5. These rules also codify two additional, optional claims for claimants to seek compensation for damage caused by gray wolves (Optional Claims). Optional Claims are only available where the claimant experienced a prior Confirmed Wolf Depredation to sheep or domestic cattle. Optional Claims do not require claimants to prove gray wolves were the actual cause of injury or death to each and every animal identified in the claim, and one of the optional claims makes claimants eligible to receive compensation for Indirect Losses.
6. A Ratio Claim under #17169 is an Optional Claim. Ratio Claims enable claimants to seek compensation for multiple missing calves, yearlings or sheep relative to each Confirmed Wolf Depredation experienced by the claimant. Different ratios apply depending on whether the claimant practiced Nonlethal Conflict Minimization prior to the loss. Indirect Losses are not compensable under a Ratio Claim.
7. An Itemized Claim under #17170 is the other Optional Claim. Itemized Claims enable claimants to seek compensation for all missing calves, yearlings or sheep that the claimant reasonably believes were taken by gray wolves, but only to the extent the number of documented missing calves, yearlings or sheep claimed exceeds the average number of such animals the claimant lost due to causes other than gray wolf depredation in the three years preceding the first Confirmed Wolf Depredation experienced by the claimant. Additionally, Itemized Claims enable claimants to seek compensation for Indirect Losses.
8. Claimants may choose to pursue only Base Compensation Claims. Or claimants may pursue a Base Compensation Claim and, in their discretion, may also pursue either a Ratio Claim or an Itemized Claim, but not both of these Optional Claims.

9. Itemized Claims accrue over the course of a calendar year, require claimants to provide additional paperwork in support of such claims, and require additional analysis by the Division. Therefore, these rules establish the deadline for claimants to file Itemized Claim forms on or before the last day of December of the calendar year when the losses at issue were sustained. Doing so allows Itemized Claims to accrue and enables claimants to gather the documents and information necessary to support such claims. Claimants may only file one Itemized Claim annually. However, claimants may file multiple Base Compensation Claims and Ratio Claims throughout the year and must do so within the ninety (90) day deadline codified in § 33-3-107(2), CRS, *i.e.*, within 90 days of the Division's receipt of claimant's last Notice of Loss. Provided, however, the claimant may elect to delay filing a Proof of Loss form for a base compensation claim or a ratio claim up to and including December 31 for the year when the losses were sustained by signing a Notice of Election to File Annual Claim for Gray Wolf Depredation form provided by the Division.

B. Filing

These rules require claimants to file notices, claim forms, and supporting documents with the Division by providing such documents to the "relevant CPW Area Office" in paper or electronic form. The relevant CPW Area Office means the office having administrative responsibility over some or all of the lands where the damage at issue occurred as shown on the Areas, Districts and Office Locations map on the CPW website, available at https://cpw.state.co.us/learn/Maps/CPW_Districts.pdf. If the lands where the damage at issue occurred span more than one such area, the claimant should file all papers with the CPW Area Office having authority over the lands where the majority of or the most severe damage occurred. Claimants shall only file papers with one area office.

#17163 – CLAIMANT STATEMENT ON INSURANCE

- A. On forms provided by the Division, Claimants must certify whether the gray wolf damage at issue in their claim is covered under an insurance policy and whether they contemplate receiving insurance compensation for such damage. If the claimant is in possession of an applicable insurance policy, they must provide the name, address, and phone number of the insurance company(s) providing coverage, the name, address, and phone number of the insurance company's agent, the amount and type of coverage provided, and the amount of insurance reimbursement requested and received.
- B. On forms provided by the Division, Claimants must authorize the Division to make inquiries into claimant's insurance coverage, including receiving information from the claimant's insurance companies and agents regarding insurance coverage for the claim submitted to the Division.
- C. In the event a claim is paid by the Division to any person and such person later receives additional compensation for such damage under an insurance policy, they shall immediately repay to the Division any moneys previously received from the State of Colorado for those damages covered by the insurance policy.
- D. Refusal to provide accurate insurance information shall be cause for denial of any claim for damage caused by gray wolves.

#17164 – NOTICE OF LOSS

- A. In order for claimants to be eligible to receive state funds for damage caused by gray wolves, claimants must give the Division timely notice of their discovery of such suspected damage on Notice of Loss forms provided by the Division. Claimants may provide initial notice of such damage to the Division verbally but must file a Notice of Loss form with the relevant CPW Area Office within ten (10) days of discovering such damage. Said ten (10) day period may be extended for up to an additional ten (10) days for good cause shown, provided the claimant gave the Division verbal notice within ten (10) days of discovering such damage. Good cause exists where the Division fails to provide the necessary forms in a timely manner or other circumstances beyond the claimant's control.
- B. Notices of Loss must identify the date or dates that death or injury to animals eligible for reimbursement occurred or the date or dates that disappearance of such animals was discovered, the number of gray wolves causing such damage, if known, the date such damage was discovered, and the estimated location and extent of such damage.
- C. If the Division receives the claimant's first written Notice of Loss more than ten (10) days after the date of discovery, the claimant shall provide an explanation for the delay. Absent a showing of good cause, claimant's failure to file a timely Notice of Loss shall be cause for denial of the claim.
- D. Claimants must file timely Notices of Loss for each gray wolf depredation event discovered.
 - 1. If the same type of damage caused by gray wolves is ongoing at a single site, additional notices are not required every ten (10) days if the claimant keeps the Division reasonably informed of ongoing damage and the claimant files a comprehensive Notice of Loss when the damage ends. The comprehensive Notice of Loss shall include an estimate of the total extent of damage, specify beginning and ending dates that the damage occurred, and provide the other information required above. Gray wolf damage is not considered as ongoing if more than 30 days have elapsed between instances where damage occurred.
 - 2. A single site is a single herd of cattle or band of sheep, under one ownership and continuous control between spring and winter range. If damage occurs at different sites or is of a different type, separate claims and separate investigation reports shall be required, even if the claimant is the same and gray wolves are the cause of all such damage.
- E. A Division representative accompanied by the claimant shall in cases of claims in excess of \$1,000 and may in cases of \$1,000 or less as is appropriate and necessary to determine the facts underlying the claim make an on-site inspection and investigation within ten days of the receipt of the initial notification or as soon thereafter as practicable. The claimant shall cooperate in the Division's investigation, including reasonably assisting in locating and investigating evidence of alleged damage, and authorizing the Division to enter private property under the claimant's control as is reasonably necessary to conduct the investigation.

#17165 – PROOF OF LOSS FOR BASE COMPENSATION CLAIMS; SETTLEMENT MEETING

- A. The claimant shall file Proof of Loss forms with the relevant CPW Area Office within 90 days of the Division's receipt of claimant's last Notice of Loss. Provided, however, the claimant may elect to delay filing a Proof of Loss form for a base compensation claim up to and including December 31 for the year when the losses were sustained by signing a Notice of Election to File Annual Claim for Gray Wolf Depredation form prepared by the Division. Proof of loss forms shall be provided by the Division and the claimant shall complete and return

only those forms relating to the type of damage at issue. Incomplete or incorrect forms may be returned to the claimant by the Division. However, the time period for filing Proof of Loss forms shall not be altered thereby.

- B. Proof of Loss forms shall be signed and be accompanied by evidence sufficient for the claimant to prove by a preponderance of evidence that they suffered damage to livestock, or livestock guard or herding animals, and that such damage was caused by gray wolves to the extent claimed.
- C. The relevant Area Wildlife Manager or their designee will meet and confer with the claimant within thirty (30) days of the Division's receipt of the claimant's Proof of Loss form in an effort to reach a settlement.

#17166 – DOCUMENTATION OF BASE COMPENSATION CLAIMS

The claimant must produce evidence establishing that gray wolves caused injury or death to livestock or livestock guard or herding animals. Evidence proving such causation may include the type and location of wounds or a physical description of the carcass, such as rake-marks and canine punctures on the hide, the measured distance between canine wounds, and hemorrhaging found underneath the hide.

The claimant must produce tangible evidence that gray wolves were present in the area, such as photographs of gray wolves, photographs of gray wolf tracks, or confirmed fur or scat samples. The claimant may also present evidence in the form of certified statements that gray wolves were in the area based on personal, firsthand observations.

#17167 – CONFIRMED WOLF DEPREDAATION

- A. In cases of physical trauma resulting in injury or death to livestock or livestock guard or herding animals, the Division shall determine whether such damage was caused by gray wolves. The claimant bears the burden of proof on such determination and shall cooperate in the Division's investigation.
- B. The Area Wildlife Manager or his designee will investigate as necessary and shall in cases of claims in excess of \$1,000.00 and may in cases of claims of \$1,000.00 or less as is appropriate and necessary to determine the facts underlying the claim meet with the claimant, within 30 days of the receipt of the proof-of-loss form where practicable, and at a time and place mutually agreed upon to attempt to reach a settlement.
- C. If the preponderance of evidence indicates the damage at issue was not caused by gray wolves but was caused by big game, CPW will apply the standards codified in Articles I-XVI of these rules.

#17168 – OPTIONAL CLAIMS FOR DAMAGE CAUSED BY GRAY WOLVES; SETTLEMENT MEETING

Claimants who have experienced a Confirmed Wolf Depredation to sheep or domestic cattle may pursue a Ratio Claim pursuant to #17169 or Itemized Claim pursuant to #17170. Such claims are only available where the claimant has experienced a Confirmed Wolf Depredation within the 12 months preceding the filing of the claim.

The relevant Area Wildlife Manager or their designee will meet and confer with the claimant within thirty (30) days of the Division's receipt of the claimant's Ratio or Itemized Claim form in an effort to reach a settlement.

#17169 – RATIO CLAIMS; RATIO CLAIM FORMS

- A. Ratio Claims enable claimants to seek compensation for missing calves and all classes of sheep based on either a 5:1 or 7:1 ratio of missing calves/sheep relative to each Confirmed Wolf Depredation experienced by the claimant. Compensable calves are limited to the calves of species listed in § 33-2-105.8(5)(c), CRS. Missing livestock guard animals and missing livestock herding animals are not compensable through a Ratio Claim. In order to receive compensation at a 7:1 ratio for calves or sheep, the claimant must prove, by a preponderance of the evidence, that they took reasonable steps to use Nonlethal Conflict Minimization. Where the claimant fails to make such a showing, otherwise valid claims will be paid at a 5:1 ratio. Under no circumstances may the claimant seek compensation for missing calves or sheep in an amount that exceeds the actual number of documented calves or sheep missing. In the event, CPW pays for missing animals and an animal is subsequently returned to the claimant, the claimant shall repay CPW the amount equal to the amount the claimant received from CPW for that animal with 30 days of the animal being returned.
- B. Ratio Claims enable claimants to seek compensation for missing yearlings on either a 1:1 or 1.25:1 ratio of missing yearlings relative to each Confirmed Wolf Depredation experienced by the claimant. Compensable yearlings are limited to the yearlings of species listed in § 33-2-105.8(5)(c), CRS. In order to receive compensation at a 1.25:1 ratio for yearlings, the claimant must prove, by a preponderance of the evidence, that they took reasonable steps to use Nonlethal Conflict Minimization. Where the claimant fails to make such a showing, otherwise valid claims will be paid at a 1:1 ratio. Under no circumstances may the claimant seek compensation for missing yearlings in an amount that exceeds the actual number of documented yearlings missing. In the event, CPW pays for missing animals and an animal is subsequently returned to the claimant, the claimant shall repay CPW the amount equal to the amount the claimant received from CPW for that animal with 30 days of the animal being returned.
- C. The claimant may only pursue claims for missing calves, yearlings or sheep where grazing occurs in large, open range situations, where locating carcasses is difficult due to geographic / topographic factors. The burden of proving that a claimant cannot seek compensation for missing calves, yearlings or sheep in any particular case due to such factors shall be on the Division. During its initial investigation into each Notice of Loss, the Division shall determine whether such factors prevent the claimant from pursuing a Ratio Claim and the Division shall promptly notify the claimant of such determination.
- D. In order to receive compensation, claimants must complete a Ratio Claim form provided by the Division and file the same with the relevant CPW Area Office within 90 days of the Division's receipt of the claimant's last Notice of Loss. Provided, however, the claimant may elect to delay filing a Proof of Loss form for a ratio claim up to and including December 31 for the year when the losses were sustained by signing a form prepared by the Division. Incomplete or incorrect forms may be returned to the claimant by the Division. However, the time period for filing Ratio Claim forms shall not be altered thereby.

- E. On a Ratio Claim form provided by the Division, the claimant must certify, to the best of their knowledge, that the missing calves, yearlings or sheep were lost due to gray wolves and not other predators, disease, or other factors. The claimant must also certify, to the best of their knowledge, that the missing calves, yearlings or sheep were from the same band or flock of sheep, or herd of domestic cattle as the band, flock or herd associated with the prior Confirmed Wolf Depredation(s).

#17170 – ITEMIZED CLAIMS; ITEMIZED CLAIM FORMS

A. Missing Calves, Yearlings and Sheep

1. Itemized Claims enable claimants to seek compensation for missing calves and yearlings of species listed in § 33-2-105.8(5)(c), CRS and missing sheep, provided the claimant reasonably believes such animals were taken by gray wolves. Claimants are eligible to receive compensation for such losses only to the extent that the documented number of such missing animals claimed for the current year exceeds the claimant's Baseline Death Loss.
2. The claimant may only pursue claims for missing calves, yearlings or sheep where grazing occurs in large, open range situations, where locating carcasses is difficult due to geographic / topographic factors. The burden of proving that a claimant cannot seek compensation for missing calves, yearlings or sheep in any particular case due to such factors shall be on the Division. During its initial investigation into each Notice of Loss, the Division shall determine whether such factors prevent the claimant from pursuing compensation for missing calves, yearlings or sheep and the Division shall promptly notify the claimant of such determination.
3. The claimant must produce tangible evidence that gray wolves were present in the area throughout the claim period, such as photographs of gray wolves, photographs of gray wolf tracks, or confirmed fur or scat samples. The claimant should provide such evidence to the Division on a monthly basis throughout the claim period. The claimant may also present evidence in the form of certified statements that gray wolves were in the area based on personal, firsthand observations.
4. The claimant must provide documents and information establishing their Baseline Death Loss.
5. The claimant must provide documents and information establishing that the missing animals were vaccinated or self-certify vaccination status.
6. In order to receive compensation, claimants must complete an Itemized Claim form provided by the Division and file the same with the relevant CPW Area Office no later than December 31 for all losses sustained during the calendar year. Claimants may file Itemized Claims prior to such deadline. Claimants may file multiple Itemized Claims, provided separate claims relate to separate bands or flocks of sheep, or herds of domestic cattle and there was a Confirmed Wolf Depredation associated with each such band, flock or herd.
7. On an Itemized Claim form provided by the Division, the claimant must certify, to the best of their knowledge, that the missing calves, yearlings or sheep were lost due to gray wolves and not other predators, disease, or other factors. The claimant must also certify,

to the best of their knowledge, that the missing calves, yearlings or sheep were from the same band or flock of sheep, or herd of domestic cattle as the band, flock or herd associated with the prior Confirmed Wolf Depredation(s). Under no circumstances may the number of documented missing calves, yearlings or sheep claimed exceed the actual number of documented calves, yearlings or sheep missing. In the event, CPW pays for missing animals and an animal is subsequently returned to the claimant, the claimant shall repay CPW the amount equal to the amount the claimant received from CPW for that animal with 30 days of the animal being returned.

B. Indirect Losses

1. Itemized Claims for Indirect Losses, meaning decreased weights for calves, yearlings, and all classes of sheep, and decreased conception rates for domestic cattle and sheep, are only available to the extent of the difference between the claimant's current, allegedly reduced, weights and rates relative to the average of such weights and rates for the three years preceding the first Confirmed Wolf Depredation experienced by the claimant.
2. In order to receive compensation, claimants must complete an Itemized Claim form provided by the Division and file the same with the relevant CPW Area Office no later than December 31 for all losses sustained during the calendar year. Claimants may file Itemized Claims prior to such deadline but may only file one Itemized Claim for each calendar year.
3. On an Itemized Claim form provided by the Division, the claimant must certify, to the best of their knowledge, that the reduction in weights for calves, yearlings, and all classes of sheep, and decreased conception rates for domestic cattle and sheep were caused by gray wolves and not other factors.
4. Reduced Weights: Where the claimant seeks compensation for reduced weights, the claimant must produce documents and information establishing their Baseline Weight. The claimant must also produce documents and information establishing the claimant's current claim-year weights, such as weight tickets, production records, or sales records. To qualify for compensation, the claimant must show current weights have decreased below the Baseline Weight.
5. Conception Rates: Where the claimant seeks compensation for decreased conception rates among domestic cattle or sheep, the claimant must produce documents and information establishing the claimant's Baseline Conception Rate. The claimant must also produce documents and information establishing the claimant's current claim year conception rates or self-certify such rates. To qualify for compensation, the claimant must show current rates have decreased below the Baseline Conception Rate. The claimant must also provide a statement self-certifying that there are no other causes which contributed to the decrease.

#17171 – VALUATION OF GRAY WOLF DAMAGE CLAIMS; SUPPORTING DOCUMENTS

- A. Payment of gray wolf damage claims will be based on sales receipts or sales contracts when copies of such documents are filed with the Proof of Loss for Base Compensation Claims, or with the Ratio or Itemized Claim forms for Optional Claims. Expenses such as transportation, yardage, feed costs at sales yards, and sales commissions are not eligible for payment.

- B. Where such receipts or contracts are not submitted to the Division, the following methods shall be used:
1. Payment of adult range sheep claims for each age class, other than running age ewes, will be based on the prices in the USDA Agricultural Marketing Service reports from the September preceding the date of the loss or damage. Payment for running-age ewes (ewes between the ages of 2 and 5 years old) will be determined by the following formula: The value shall equal the price received for lambs based on contracts or the average weekly sale price from the USDA Agricultural Marketing Service report from the last week of September plus 50% of the above value. (Example: Fall lambs at \$90 Plus 50% = \$90 + \$45 or \$135, total value of each running-age ewe.)
 2. Payment of lamb claims will be based on the average sale price shown in the weekly USDA Agricultural Marketing Service report for the last week of the September preceding the date of the loss or damage.
 3. Payment of calf claims will be based on the average sale price shown in the monthly update published by the USDA Agricultural Marketing Service for the month of the October preceding the date of the loss.
 4. Payment of claims for decreased weights of sheep or domestic cattle shall be measured by the difference between the average weight of such animals in the claim year at the time of sale versus the average weight of such animals at the time of sale in the three years preceding the confirmed wolf depredation.
 5. Payment of claims for decreased conception rates of sheep shall be measured by the difference between an unbred sheep and a bred sheep based on the average sale price shown in the weekly USDA Agricultural Marketing Service report for the last week of the September preceding the date of the loss.
 6. Payment of claims for decreased conception rates of domestic cattle shall be measured by the difference between an unbred cow and a bred cow based on the average sale price shown in the weekly USDA Agricultural Marketing Service report for the last week of the October preceding the date of the loss.
 7. Payment of all other claims will be based on the fair market value at the time of the loss for the type, age and weight of the animal involved.
- C. For good cause shown, a claimant may establish the value of losses of livestock and, where compensable, livestock guard and herding animals, by reliable means other than those shown above. The claimant shall be required to establish by a preponderance of evidence that the valuation methods listed above are inappropriate for the claim submitted and that the method of valuation requested represents the fair market value of claimant's loss.
- D. In addition to damages associated with injury or death, livestock producers are eligible to receive compensation for veterinarian expenses and medical supplies. Claims for veterinarian expenses and medical supplies shall be accompanied by invoices and/or evidence of payment. Only expenses from licensed veterinarians are eligible for reimbursement. Such expenses are limited to \$15,000 or the fair market value of the animal, whichever is lower.

#17172 – CLAIM SETTLEMENT; WAIVER OF COMMISSION REVIEW

- A. Any claim up to \$5,000 may be approved by the Area Wildlife Manager. Claims in the amount of \$5,001 to \$20,000 may be approved by the Regional Manager. Claims exceeding \$20,000 which are recommended for payment by the Division must be approved by the Commission.
- B. In cases where the Division and the claimant are unable to reach settlement, the claimant may seek review by the Commission or, subject to §§ 33-3-107 – 33-3-110, CRS, file an action in the small claims division of county court. A claim of any amount, which is recommended for denial of payment by the Director, shall require a final decision by the Commission. However, if the claim is for \$7,500 or less, the claimant may waive review by the Commission and commence an action in the small claims division of the county court for the county where the damage allegedly occurred. Such waiver shall be in writing and shall be filed in the relevant CPW Area Office within ten (10) days after such claimant receives notification from the Division of its intent to recommend the Commission deny their claim, or within ten (10) days after the claimant receives from the Division an offer of settlement unacceptable to such claimant.
- C. When a claim is recommended for denial of payment by the Division, the claimant will be notified of such recommendation by certified mail at least 30 days prior to the regularly scheduled Commission meeting when such claim will or could be considered.
- D. Any claimant who cashes a state warrant issued for the purpose of claim settlement thereby acknowledges receipt of payment in full satisfaction of damages claimed and thereby waives any and all further claim against the state for such damages.
- E. Base Compensation Claims and Optional Claims, and their associated remedies, are only available to claimants if they follow the processes codified in these regulations and, if denied, may be appealed pursuant to the State Administrative Procedure Act, §§ 24-4-101 – 204, CRS. If claimants waive commission review pursuant to #17172 or file an action for damages as authorized by § 33-3-108, CRS, none of the presumptions or inferences contained in these rules shall apply, nor shall such claimants have a claim against the state related to guard or herding animals, and the claimant shall plead and prove their entitlement to fair compensation as provided by law.

#17173 – REQUESTS FOR CONFLICT MINIMIZATION MATERIALS

Owners of livestock may request conflict minimization materials from the Division. The request must be made on a form provided by the Division and the requestor must indicate they have the legal right to install or use the materials sought in the location specified in the request form. Conflict minimization materials include fladry, electrified fladry, and scare devices, such as shell-crackers, propane cannons, and fox-lights.

Subject to available appropriations and taking into consideration gray wolf activity in the area, the Division may loan and deliver conflict minimization materials to the requestor only under the terms of a written cooperative agreement. Materials will be provided on a case-by-case basis, taking into consideration the proximity of wolves to livestock, previous behavior of wolf packs in the area, and whether the requestor has experienced a prior Confirmed Wolf Depredation. The Division may, in its discretion, prioritize the distribution of conflict minimization materials throughout the state and may recommend and supply materials that are different than those requested.

#17174 – POOLED GRAZING RATIO CLAIMS

- A. The purpose of this regulation #17174 is to extend and modify the rules applicable to individual claimants pursuing Ratio Claims pursuant to #17169 to livestock owners participating in pooled grazing who have not experienced a Confirmed Wolf Depredation (Pooled Owner Claimants). For purposes of this regulation, pooled grazing refers to the practice of two or more livestock owners commingling their domestic cattle or sheep into one herd at a single site between spring and winter range. Unless otherwise provided in this regulation #17174, all other requirements of Chapter 17, Article XVI apply.
- B. Under this regulation #17174, Pooled Owner Claimants are eligible to seek compensation for multiple missing calves, yearlings, and sheep relative to each Confirmed Wolf Depredation experienced by any member of the grazing pool (Confirmed Owner(s). As stated in regulation #17169, different ratios apply depending on whether the grazing pool, as a whole, took reasonable steps to use Nonlethal Conflict Minimization. Indirect Losses are not compensable under a Ratio Claim or Pooled Grazing Ratio Claim. Pooled Owner Claimants are not eligible to pursue claims for Indirect Losses and are not eligible to pursue a Pooled Grazing Ratio Claim where the Confirmed Owner pursues an Itemized Claim.
- C. A Pooled Owner Claimant is eligible to obtain compensation under this rule provided the following conditions are met:
1. One or more Confirmed Owners experienced one or more Confirmed Wolf Depredations;
 2. One or more Confirmed Owners elected to pursue a Ratio Claim pursuant to #17169 or elected to pursue neither of the Optional Claims pursuant to #17169 (Ratio Claims) or #17170 (Itemized Claims); and
 3. There is a difference between (1) the total number of missing calves, yearlings or sheep for which the Confirmed Owner(s) received compensation and (2) the maximum number of missing calves, yearlings or sheep otherwise payable to such Confirmed Owner(s) had they claimed additional animals as missing (Excess Ratio).
- D. The Excess Ratio is available to pay otherwise valid Pooled Grazing Ratio Claims.
- E. In order to receive compensation, Pooled Owner Claimants must complete a Pooled Grazing Ratio Claim form provided by the Division and file the same with the relevant CPW Area Office within 90 days of the Division's receipt of the Pooled Owner Claimant's last Notice of Loss. Provided, however, Pooled Owner Claimants may elect to delay filing a Proof of Loss form for a Pooled Grazing Ratio Claim up to and including December 31 for the year when the losses were sustained by signing a form prepared by the Division. Incomplete or incorrect forms may be returned to the claimant by the Division. However, the time period for filing Pooled Grazing Ratio Claim forms shall not be altered thereby.
- F. Pooled Grazing Ratio Claims are dependent on a Confirmed Owner experiencing a Confirmed Wolf Depredation, will be affected by whether the Confirmed Owner has missing animals for which they seek compensation, and are unavailable where the Confirmed Owner elects to pursue an Itemized Claim. Accordingly, the Division will review Pooled Grazing Ratio Claims annually and in conjunction with its review of any claims filed by Confirmed Owners.

- G. On a Pooled Grazing Ratio Claim form provided by the Division, the Pooled Owner Claimant must certify, to the best of their knowledge, that their missing calves, yearlings or sheep were lost due to gray wolves and not other predators, disease, or other factors. The Pooled Owner Claimant must also certify, to the best of their knowledge, that their missing calves or yearlings were from the same pooled herd of domestic cattle or sheep as the herd associated with the prior Confirmed Wolf Depredation(s). The Pooled Owner Claimant must also certify, to the best of their knowledge, the total number of livestock turned out for grazing and the total brought in at the end of the grazing season, including those owned by the Pooled Owner Claimant and the pool in the aggregate.
- H. Nothing in this regulation is intended to increase the ratio of compensable missing animals relative to each Confirmed Wolf Depredation as codified in regulation #17169.
- I. In situations where Pooled Owner Claimants are missing animals in excess of the available and applicable ratio, priority shall be given to Confirmed Owners. Confirmed Owners are entitled to the full benefit of the applicable ratio before any Pooled Owner Claimants are entitled to any ratio-based compensation. Provided, however, no Confirmed Owner may receive compensation in an amount in excess of the applicable ratio codified in regulation #17169.
- J. In situations where there is an Excess Ratio, but it is inadequate to fully compensate all remaining Pooled Owner Claimants, such owners shall meet and confer in an attempt to reach a stipulated resolution of their claims. If a stipulation is reached, the claimants shall jointly notify the Division of the stipulation in writing. If the Pooled Owner Claimants cannot reach a stipulation, the Division will prioritize payments to Pooled Owner Claimants who have lost a higher proportion of animals relative to the total number of animals they had in the pool and to claimants who have a history of uncompensated Pooled Grazing Ratio Claims.

Basis and Purpose:

Adopting regulation to include domestic bison as a compensable species

Proposition 114, now codified in § 33-2-105.8, CRS, requires CPW to “[p]ay fair compensation to owners of livestock for any losses of livestock caused by gray wolves.” § 105.8(2)(e)(2). Proposition 114 specifically defined “livestock” as “cattle, horses, mules, burros, sheep, lambs, swine, llama, alpaca, and goats.” CPW’s gray wolf compensation program is currently limited to compensating producers for damages to Proposition 114 Livestock and injury or death to livestock guard or herding animals (including veterinarian expenses and medical supplies).

These changes expand the current gray wolf compensation program to include domestic bison, including hybrids with domestic cattle, where such animals are injured or killed by a gray wolf. The change also extends CPW’s compensation program to guard animals and herding animals that were injured or killed in connection with a domestic bison operation. These changes are limited to expanding CPW’s Base Compensation Claims to domestic bison. Such claims only compensate for death or injury caused by gray wolves. See Chapter W-17; #17165 – #17166 Base Compensation Claims. These changes do not allow owners of domestic bison to apply for Ratio Claims or Itemized Claims, codified in Chapter W-17; #17169 – #17170. These amendments are the result of concerns raised by the Southern Ute Indian Tribe and other domestic bison producers.

Adopting regulation to make pooled cattle owners eligible for Ratio Claims

For Colorado’s livestock producers, it is common for multiple livestock owners to graze their stock together, particularly on large, public land grazing allotments. This type of commingled grazing operation is often referred to as a livestock pool. Current regulations (Article 16 of W-17) authorize sheep and domestic cattle owners who have experienced a confirmed wolf depredation in large, open range situations, to file claims for missing sheep, calves and yearlings but do not allow other livestock owners within a pooled grazing situation to file for their missing sheep, calves and yearlings.

The agricultural industry has expressed concern that wolf depredation could happen in a pooled grazing situation where one owner has a confirmed wolf depredation but missing sheep, calves or yearlings from another owner within the pool would not be eligible to receive compensation unless that owner also has a confirmed wolf depredation. These regulation changes allow pooled livestock owners who have not experienced a confirmed wolf depredation to file for missing sheep, calves and yearlings they believe were lost to gray wolves if another pooled owner experiences a confirmed wolf depredation to their commingled herd. However, if the owner who has experienced a confirmed wolf depredation elects to file an itemized claim, the remaining pooled owners would not be eligible to file a ratio claim. This keeps the regulations constant for compensation cases between individual and pooled claims. The intent of these regulations addresses several concerns by the Stakeholder Advisory Group, which much of the current regulations have been based upon. It will be important to continually monitor the effectiveness of this compensation program over time along with CPW’s adaptive management strategies to effectively compensate Colorado’s livestock owners.

The statements of basis and purpose for these regulations can be viewed and copies obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager, Policy and Planning Unit, 6060 Broadway, Denver, CO 80216.

The primary statutory authority for these regulations can be found in § 24-4-103, C.R.S., and the state Wildlife Act, §§ 33-1-101 to 33-6-209, C.R.S., specifically including, but not limited to: §§ 33-1-106, C.R.S.

EFFECTIVE DATE - THESE REGULATIONS SHALL BECOME EFFECTIVE AUGUST 1, 2024 AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REPEALED, AMENDED OR SUPERSEDED.

APPROVED AND ADOPTED BY THE PARKS AND WILDLIFE COMMISSION OF THE STATE OF COLORADO THIS 12TH DAY OF JUNE 2024.

**Approved:
Dallas May
Chair**

**Attest:
Karen Bailey
Secretary**