

Wolf/Livestock Damage Claims:

WAG Presentation

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Wildlife Damage Statutes and Rules

Chapter RCW 77.36

- 77.36.010
- 77.36.100
- 77.36.110
- 77.36.120
- 77.36.130
- 77.36.170
- 77.36.180
- 77.36.200

Chapter 220-440 WAC

- 220-440-020
- 220-440-170
- 220-440-180
- 220-440-230



Definitions in law

RCW 77.36.010 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "**Claim**" means an application to the department for compensation under this chapter.
- (2) "Commercial crop" means ...*
- (3) "Compensation" means a cash payment, materials, or service.
- (4) "**Damage**" means economic losses caused by wildlife interactions.
- (5) "Immediate family member" means ...*
- (6) "**Livestock**" means cattle, sheep, and horses.
- (7) "**Owner**" means a person who has a legal right to commercial crops, livestock, or other property that was damaged during a wildlife interaction.
- (8) "**Wildlife interaction**" means the negative interaction and the resultant damage between wildlife and commercial crops, **livestock**, or other property.

(*... text omitted for brevity)



What can be claimed?

RCW 77.36.010

(6) "Livestock" means cattle, sheep, and horses

WAC 220-440-020

"Livestock" means horses, cattle, sheep, goats, swine, donkeys, mules, llamas, and alpacas

WAC 220-440-170

Claims for cash compensation will be denied when:

(2) The claim is for livestock other than sheep, cattle, or horses, when only state funds are available; or any domestic animals not allowed by the funding entity;



Authority to pay for damage

RCW 77.36.100 Payment of claims for damage to commercial crops or livestock

(1)(a)...the department shall offer to distribute money appropriated* to pay claims to the...or the owner of livestock that has been killed by bears, wolves, or cougars, or injured by bears, wolves, or cougars to such a degree that the market value has been diminished.

** Damage can only be paid out if the legislature appropriates funds for the purpose*



Who and what is eligible?

RCW 77.36.100 continues...

(1)(b) Owners of commercial crops or livestock are only eligible for a claim under this subsection if:

- (i) The commercial crop owner satisfies ...;
- (ii) The conditions of RCW 77.36.110 have been satisfied; and
- (iii) The damage caused to the commercial crop or livestock satisfies the criteria for damage established by the commission under (c) of this subsection.

(1)(c) "...criteria for damage adopted under this subsection must include, but not be limited to, a required minimum economic loss to the owner of the **commercial*** crop or livestock, which may not be set at a value of less than **five hundred dollars.**"

**WDFW may ask for verification of commercial status by requesting the claimant to provide tax forms or other documents showing income from their livestock business including, but not limited to, sales receipts, invoices, ledger copies, etc.*



How is one eligible?

RCW 77.36.110 Eligibility for compensation under this chapter—Adoption of rules.

- (1) No owner may receive compensation for wildlife interactions under this chapter unless the owner has, as determined by the department, first:
 - (a) Utilized applicable legal and practicable self-help preventative measures to prevent the damage, including the use of nonlethal methods and department-provided materials and services when available...

Subsection (2) Contains additional considerations the department may recognize and consider in evaluating the claim.

Subsection (3) Provides that insurance compensation trumps a damage claim.

Subsection (4) Authorizes commission for rule making to implement this section of the chapter.



Department's Duties

RCW 77.36.120

The department shall establish:

- (1) The form of affidavits or proof required to accompany all claims under this chapter;
- (2) The process, time, and methods used to identify and assess damage, including the anticipated timeline for the initiation and conclusion of department action;
- (3) How claims will be prioritized when available funds for reimbursement are limited;
- (4) Timelines after the discovery of damage by which an owner must file a claim or notify the department;
- (5) Protocols for an owner to follow if the owner wishes to undertake activities that would complicate the determination of damages, such as harvesting damaged crops;



Department's Duties Continued

RCW 77.36.120 ...

- (6) The process for determining damage assessments, including the role and selection of professional damage assessors and the responsibility for reimbursing third-party assessors for their services;
- (7) Timelines for a claimant to accept, reject, or appeal a determination made by the department;
- (8) The identification of instances when an owner would be ineligible for compensation;
- (9) An appeals process for an owner eligible for compensation under RCW 77.36.100 who is denied a claim or feels the compensation is insufficient; and
- (10) Other policies necessary for administering this chapter.



Process Rules

WAC 220-440-170

Lists nine reasons livestock claims for cash compensation will be denied

(See slide 22)

WAC 220-440-180

Contains process information with submission deadlines, calculation methods, and other requirements throughout the claim process

(See workflow slide 24)



Burden of Proof

RCW 77.36.130

(4) The burden of proving all property damage, including damage to commercial crops and livestock, belongs to the claimant.

WAC 220-440-230

(8) The burden of proof is on the appellant (owner) to show that he or she is eligible for a claim and that the damage assessment is reliable...



Maximum Claim Amount

RCW 77.36.130

- (1) ...the cash compensation portion of each claim by the department under this chapter is limited to the lesser of:
- (b) **Ten thousand dollars.**

Note: Unless an outcome of appeal determines a higher amount.



Two Types of Livestock Claims

WACs 220-440-170 and 220-440-180(3)

- Direct Damage Claim
 - Occurs when WDFW investigated and either found it was a “confirmed or probable” wolf depredation event resulting in lost or diminished value of livestock

WACs 220-440-170 and 220-440-180(10)

- Indirect Damage Claim
 - Occurs when livestock come off the range with reduced weight gain or reduced pregnancy rate, or the livestock don't return at all with, in the absence of another reasonable explanation, the assumption is the loss is due to the harassment and stresses caused by wolves being present



Valuation of livestock

WAC 220-440-180(9)

(a) The department may utilize the services of an independent certified appraiser to assist in the evaluation of livestock or guard dog claims.

(b) For losses caused by wolves, the compensation value for livestock or guard dogs will be based on the value at the time the animal would normally be sold at market or the cost to replace the animal, and based on comparable types and/or weight of livestock or guard dogs, such as comparable calves, steers, cows, ewes, and lambs; except bulls will be replaced based on the actual purchase price prorated on a four-year depreciation cycle minus salvage value if applicable. The market or replacement value will be determined by an independent certified appraiser, the sales receipts from the most recent sale of comparable animals by the owner, or the sales receipts from the next sale of comparable animals by the owner.



What constitutes a direct loss?

- A confirmed or probable depredation, an investigation conducted by WDFW is required
- Injuries can be compensated for unless the animal can be sold at full market value (thus no value loss)



Direct Claim Calculations

- Grazing site was greater than 100 acres:
 - Each confirmed depredation will be compensated with the full market value of two commercial livestock (200%)
 - Each probable depredation will be compensated with half the full market value of two commercial livestock (equal to 100% value for one commercial livestock)
 - Payments will be reduced by half if all remaining livestock have been accounted for



Direct Claim Calculations Cont.

- Grazing site was less than 100 acres:
 - Each confirmed depredation will be compensated with the full market value (100%) for one commercial livestock
 - Each probable depredation will be compensated with half the full market value (50%) for one commercial livestock



What constitutes an indirect loss?

Losses that cannot be directly identified as a wolf-caused loss investigated by WDFW as part of an actual depredation incident

- Only for reduced pregnancy rate, reduced weight gain, and/or higher than normal loss/missing;
- Does **not** include any depredations confirmed by WDFW as confirmed or probable — which are considered a direct loss;
- Does not cover, investigated but no wolf-cause determination;
- Verification by the department that wolves are regularly occupying the area;
- The losses cannot be reasonably explained by other causes;



Indirect Damage Claim - Criteria

- Claimant must provide at least three consecutive years of records preceding the year of the claim;
- Claims will be assessed for losses in excess of the preceding three-year running average;
- The losses must occur on large pastures or range land used for grazing, lambing, or calving **where regular monitoring of livestock is impractical** (and therefore discovery of carcasses infeasible) as determined by the department



Indirect Damage Claim – Criteria Cont.

- Claimant has complied with the department's preventative measures checklist, DPCA, or a waiver signed by the director



Indirect Claim Calculations

To establish the higher-than-normal loss for the claim year of 2023, an example:

1. $3+1+0=4$ (past loss records)
2. $4/3=1.33$ (average of past losses)
3. $10-1.33=$ **8.67** (current losses above the average)

To determine the total compensation value:

1. Using \$1,250 as an example value for one 650lb steer
 $\$1,250 \times 8.67 =$ **\$10,837.50**

Year	2020	2021	2022	2023
Total Steers	50	53	50	52
Missing Steers	3	1	0	10



End of Livestock Review Board(LRB)?

- Board members terms were expired
- Not all members wanted to stay on
- Original board was *ad hoc*, pre-offer and not based in WAC
- The LRB process alone added *many* days to the indirect claim process, including staff time to prepare
- Consideration is to construct the post-offer
Livestock Appeals Committee
(as found in WAC 220-440-230)



Denial of claims in WAC

All RCWs must first be complied with. And then

WAC 220-440-170 states, "*Commercial livestock owners who have worked with the department to prevent depredation but continue to experience losses, or who experience unforeseen losses, may be eligible to file a damage claim and receive cash compensation...*"

➤ Nine reasons claims "will be" denied: (text summarized here)

- (1) No appropriation (\$) by the legislature or another funding entity;
- (2) The claim is for any domestic animals not allowed by the state or funding entity;
- (3) The owner fails to provide the department with an approved checklist of the preventative and nonlethal means that have been employed, or the owner failed to comply with the terms and conditions of his or her agreement(s) with the department; ...



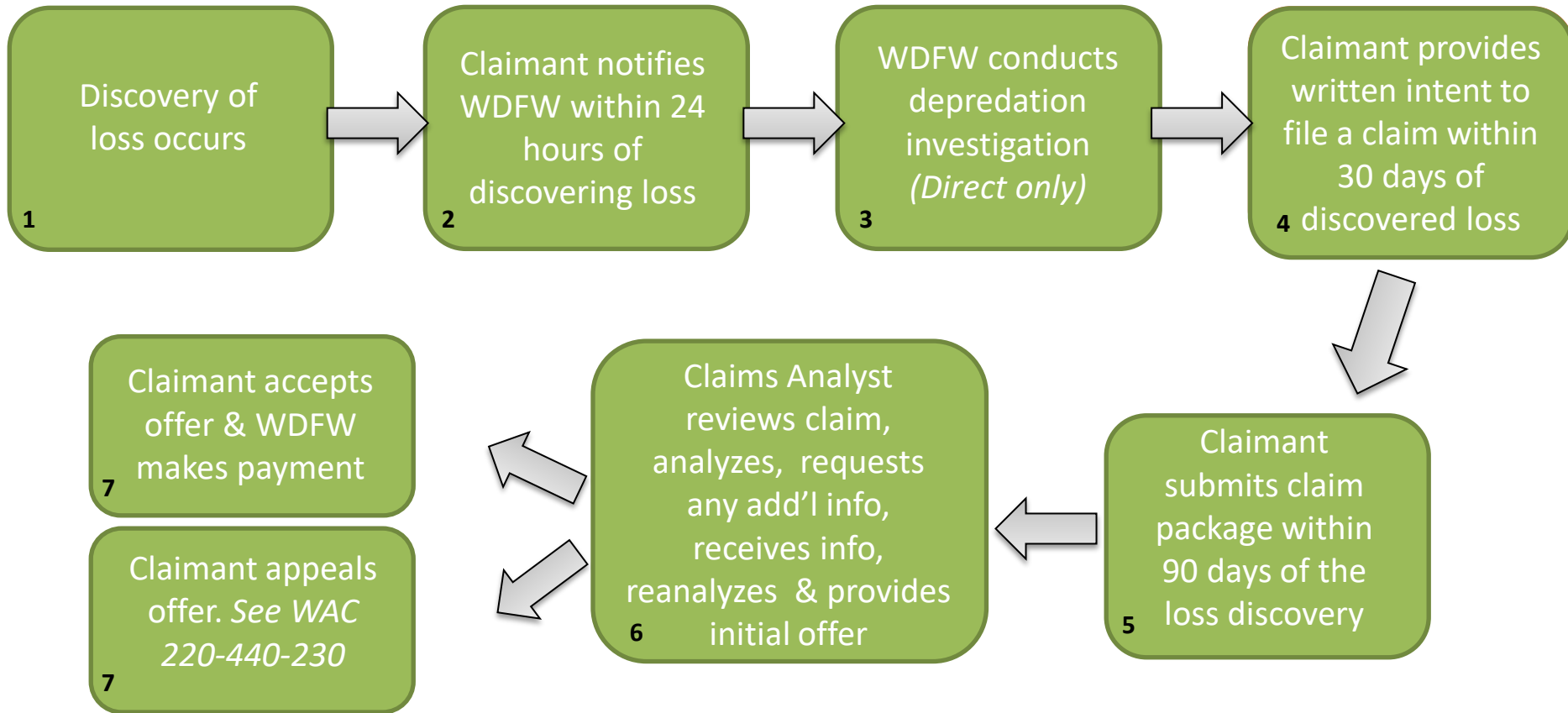
Denial of claims in WAC

WAC 220-440-170 continued...

- (4) The owner has accepted noncash compensation to offset livestock losses in lieu of cash;
- (5) Damages to animals claimed are covered by insurance or are eligible for payment from nonprofit organizations;
- (6) The owner fails to provide on-site access to the department for investigation of alleged attack or to verify eligibility for claim;
- (7) The owner has not provided a completed written claim form and all other required information, nor met required timelines prescribed within this chapter;
- (8) Owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge; or
- (9) The owner or designee has salvaged or rendered the carcass or allowed it to be scavenged without an investigation completed under the direction of the department.



Process Overview



(60 days to accept, or appeal)



Claims data

Fiscal Year	2021	2022	2023	2024
Direct	1	6	1	12*
Value	\$208.10	\$12,436.50	\$2,107.14	-
Indirect	1	4	3	5*
Value	\$16,607.92	\$32,737.02	-	-

**Includes "intent to file claims" notices we have received from producers.*

- Direct claims take about 3-6 months to process.
- Indirect claims take about 6-8 months to process.
 - Principal reasons:
 - Staffing vs. volume of ALL claims, livestock and crops
 - Responsiveness to requests for additional information
 - ~~LRB process~~
 - Appeals process time - outside of department control



Questions?

