

CHAPTER 28

REGULATION GOVERNING BIG OR TROPHY GAME ANIMAL OR GAME BIRD OR GRAY WOLF DAMAGE CLAIMS

Section 1. Authority. This regulation is promulgated by authority of Wyoming Statutes § 23-1-101, § 23-1-102, § 23-1-302, § 23-1-304 and § 23-1-901.

Section 2. Definitions. Definitions shall be as set forth in Title 23, Wyoming Statutes, Commission regulations, and the Commission also adopts the following definitions:

(a) “Accepted Agricultural Practices” means traditional agriculture operations that are inherent, customary, reasonable, normal and typical to the agricultural industry or unique to the commodity. Agricultural operations that are conducted for hobby, sport, exhibit or entertainment, and where the purpose of the operation does not support a traditional agricultural business, do not qualify as an accepted agricultural practice.

(b) “Authorized Hunting Seasons” means any hunting season during the twelve (12) month period immediately preceding the date when the claimant filed the verified claim with the Office of the Department that is established by Commission regulation, including Auxiliary Management Hunting Seasons and lethal take permits, for the harvest of the species of big game animals, trophy game animals, or game birds for which the verified claim was filed.

(c) “Award” means compensation for damage offered to a claimant by the Department.

(d) “Board” means a board of arbitrators.

(e) “Calf” means domestic cattle less than twelve (12) months of age.

(f) “Claimant” means any landowner, lessee, agent or property owner whose livestock, bees or hives and honey have been damaged by a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h); or, whose land, growing cultivated crops, stored crops, seed crops or improvements have been damaged by big game animals, trophy game animals or gray wolves in accordance with W.S. § 23-1-901 (g) and (h) or game birds; or, whose grass has been extraordinarily damaged by big game animals or game birds.

(g) “Commercial Garden” means a business that grows fruits or vegetables for commercial sale.

(h) “Commercial Nursery” means a business that grows or stores trees, shrubs or plants solely for commercial sale and that is required under W.S. § 39-15-106 to be licensed with the Wyoming Department of Revenue to collect and remit sales and use tax.

(i) “Commercial Orchard” means a business that grows trees for fruit or nut production for commercial sale.

(j) “Confirmed by the Department or its Representative” means the Department or its representative conducted an inspection or investigation of the damage and determined the damage was more likely than not caused by a big or trophy game animal or game bird, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h).

(k) “Contiguous Tract of Land” means one parcel of fee title land, including land that may be divided by a public road, highway or railroad right of way, which is entirely owned by a private landowner or corporation.

(l) “Consequential Damages” means damage, loss, or injury that does not flow directly and immediately from the act of the big game animal, trophy game animal or game bird, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h), but only from some of the consequences or results of such act. Consequential damages include, but are not necessarily limited to, future or anticipated production (except as otherwise provided in this regulation for young of the year livestock), pollination contracts, sentimental value, weight loss, stress, animal feeding costs and any labor or equipment costs to remove damaged property.

(m) “Damage” means actual consumption, destruction or loss to land, growing cultivated crops, stored crops, seed crops or improvements that is caused by big game animals, trophy game animals or gray wolves in accordance with W.S. § 23-1-901 (g) and (h) or game birds, and sworn by the claimant on the verified claim to have occurred; or extraordinary damage to grass that is caused by big game animals and sworn by the claimant on the verified claim to have occurred. Damage also includes actual injury or death to livestock or actual injury, death, consumption, destruction or loss to bees, hives and honey caused by trophy game animals, or gray wolves in accordance with W.S. § 23-1-901 (g) and (h), and sworn by the claimant on the verified claim to have occurred. Damage shall not include damage to other real or personal property including, but not necessarily limited to: other vegetation or animals; motor vehicles; structures; damages caused by animals or wildlife other than big game animals, trophy game animals or game birds, or gray wolves in accordance with W.S. § 23-1-901 (g) and (h); diseases; lost profits; consequential damages; or, any other damages whatsoever that are not specified in this regulation.

(n) “Disinterested Arbitrator” means an elector residing in the county where the damage occurred, who is capable of making a reasoned and unbiased decision based on evidence presented to the Board by the claimant and the Department.

(o) “Extraordinary Damage to Grass” means the loss or harm to non-cultivated grass plants of the Family Gramineae as delineated in subsections (i) and (ii) or to rangelands managed for livestock forage as delineated in subsection (iii) as proven by the landowner, lessee, or agent, ~~resulting from one or more of the following:~~

(i) The consumption of non-cultivated grass plants by big game animals that significantly exceeds the usual, customary or average consumption of non-cultivated grass plants

due to a big game distribution and presence change resulting in an increased number of big game animals present on the identified private or leased private lands based on the previous three (3) year period of big game presence; or,

(ii) The usual, customary or average presence and consumption of non-cultivated grass plants by big game animals on the identified private or leased private lands based on the previous three (3) year period of big game presence in an area with a significant shortfall of the average (previous three (3) or more continuous years) non-cultivated grass plant production due to drought of an intensity D2 or higher based on the current year's U.S. Drought Monitor (<https://droughtmonitor.unl.edu/CurrentMap.aspx>) for at least eight (8) consecutive weeks which includes the time big game animals were present on the land for which the extraordinary damage to grass is claimed.

(iii) Extraordinary damage to grass may include damage to forage on privately owned or privately leased rangelands under the following conditions:

(A) Where a big game animal herd is over objective as established by the Commission for three (3) or more consecutive years and damage by over objective big game animals exceeds fifteen percent (15%) of the estimated annual forage production which shall be based on the standard Animal Unit Month (AUM) of forage consumed equivalent to seven hundred fifty (750) pounds of dry forage. For purposes of this subsection, over objective big game animal herds means a population estimate that indicates a herd unit is greater than twenty percent (20%) above the numerical herd objective as set by the Commission; or,

(B) Damage to rangelands by big game animals that exceeds thirty percent (30%) or more of the estimated annual forage production based on the standard AUM of forage consumed equivalent to seven hundred fifty (750) pounds of dry forage.

(p) “Growing Cultivated Crops” means crops or other vegetation that are grown on privately owned or leased land and harvested or utilized annually for commercial sale or to feed livestock, or for human consumption. “Growing cultivated crops” can include grasses and legumes maturing for harvest, small grains, row crops and vegetables, plants grown in commercial nurseries, commercial orchards, commercial gardens, and native hay meadows that are managed for hay or livestock forage. If the crop is not harvested or utilized annually, it is not a growing cultivated crop unless it requires more than one (1) year to become established and ready for harvest. “Growing cultivated crops” do not include rangelands managed for livestock forage, or products of nurseries, orchards, and gardens that are not intended for commercial sale.

(q) “Hearing” means a procedurally correct arbitration hearing as described in Section 8 of this regulation that shall be conducted in such manner as to afford the claimant and the Department the opportunity to present, examine and cross-examine all witnesses and other forms of evidence presented to the Board.

(r) “Hives” means an artificial structure designed and constructed specifically for housing bees.

(s) “Improvements” means a valuable addition made to real estate to increase the agricultural productivity of such land, including fences and man-made structures erected or windbreaks or shelterbelts planted on privately owned or leased land to enhance or improve crop production or livestock production or grazing management or as a protection for livestock. Improvements shall not include windbreaks or shelterbelts, if they are not planted solely to enhance or improve crop production, or livestock production or grazing management or as a protection for livestock. Improvements also shall not include man-made structures erected for human occupancy, or real or personal property or other structures that do not enhance or improve crop production or grazing management or as a protection for livestock.

(t) “Investigated by the Department” means an inspection determined by the Department to be a reasonable assessment of the damage caused by big or trophy game animals or game birds, or gray wolves in accordance with W.S. § 23-1-901 (g) and (h).

(u) “Lethal Take Permit” means a permit authorized in accordance with Commission Regulation Chapter 56, Regulation Governing Lethal Taking of Wildlife.

(v) “Land” means soil on privately owned or leased land.

(w) “Lessee” means a person who leases fee title land or State land for accepted agricultural purposes.

(x) “More Likely than Not” means evidence reasonably tending to support the conclusion. Evidence that is competent, relevant, material and which to a rational and impartial mind naturally leads, or involuntarily leads to conclusion for which there is valid, just and reasonable substantiation.

(y) “Number of Big Game Animals Recruited in the Preceding Twelve (12) Months” means the estimated number of big game animals produced during the preceding year and surviving to one (1) year of age based on the size of the population of animals causing damage. Where the Department collects sex and age composition data, the estimated recruitment of yearling animals shall be determined by utilizing the preceding three (3)-year average sex and age composition data within that hunt area where the damage occurred, or where sufficient ratio composition data can be collected from the property sustaining damage.

(z) “Office of the Department” means the Wyoming Game and Fish Department, 5400 Bishop Blvd., Cheyenne, Wyoming 82006-0001 or the Wyoming Game and Fish Department, 3030 Energy Lane, Casper, Wyoming 82604.

(aa) “Open Range Setting” means geographic areas determined by the Department to have terrain, topography, and vegetative characteristics that influence the ability of the claimant and Department to find missing calves, yearlings and sheep that are believed to have been damaged as a result of a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h).

(bb) “Pasture Setting” means any other geographic area not defined as an open range setting in regards to calves, yearlings and sheep that are believed to have been damaged as a result of trophy game animals, or gray wolves in accordance with W.S. § 23-1-901(g) and (h).

(cc) “Permitted Hunting During Authorized Hunting Seasons” means permitted hunting as described in Section 4 of this regulation.

(dd) “Promptly Served upon Each Party” means within ten (10) days following the arbitration hearing, the Board shall serve a written copy of its decision to the Office of the Department and the claimant.

(ee) “Property” means livestock, land, growing cultivated crops, stored crops, bees, hives and honey, seed crops, improvements or grass that has been extraordinarily damaged.

(ff) “Rangelands” means privately owned or privately leased non-cultivated lands grazed by domestic livestock and not typically mechanically harvested or manipulated. Rangelands are dominated by grasses, forbs, shrubs and may include widely spaced deciduous and coniferous trees.

(gg) “Reasonable Expense Charges” means compensation given to an arbitrator while performing duties as an arbitrator that is the same compensation rate afforded to State employees by State statute for per diem and vehicular mileage; and, actual expenses incurred by the arbitrator and documented by receipt including, but not necessarily limited to, telephone calls, paper supplies, and mail service.

(hh) “Reasonable Service Charges” means reimbursement in the amount of one hundred (\$100) dollars per day for performing duties as an arbitrator.

(ii) “Seed Crops” means any crop intentionally planted, managed and grown in accordance with accepted agricultural practices on privately owned or leased land for the production of seed for future propagation, and that is harvested annually by manual or mechanical means. If the crop is not harvested annually, it shall not be classified as a seed crop unless the crop normally requires an establishment period of longer than one (1) year to be harvested or unless the crop is alfalfa seed or crested wheat grass seed.

(jj) “Stored Crops” means crops that have been harvested and saved or stored for future use in accordance with accepted agricultural practices.

(kk) “Sufficient Numbers of Hunters” means the number of hunters who are granted hunting access necessary to successfully harvest more than the number of big game animals, trophy game animals and game birds produced in the previous year, surviving to one (1) year of age (recruited in the preceding twelve (12) months) into the segment of the population responsible for doing damage as determined by the preceding three (3)-year average of recruitment for said species in the hunt area(s) in which the damage occurred.

(ll) “Supervisor” means Regional Wildlife Supervisor.

(~~H~~mm) “Trophy Game Animal” means black bear, grizzly bear or mountain lion, or gray wolf in accordance with W.S. § 23-1-101 (a) (xii) (B) (I) and (II).

(~~mm~~nn) “Value of Livestock” means the monetary value of individual livestock on the date the verified claim was filed with the Office of the Department based upon the fair market value for like livestock at a rate substantiated by a livestock sales barn or other credible written valuation of the livestock provided by the claimant. However, the monetary value of young of the year livestock on the date the verified claim was filed with the Office of the Department shall be based upon the fair market value on that date for like livestock at the weaning weight substantiated by a livestock sales barn or other credible written valuation of the livestock provided by the claimant.

(~~nn~~oo) “Verified Claim” means a Trophy Game Animal or Gray Wolf in accordance with W.S. § 23-1-901 (g) and (h) Damage Claim Affidavit or a Big Game Animal or Game Bird Damage Claim Affidavit that has been signed by the claimant and sworn to be accurate before a person authorized to administer oaths, that has been filed with the Office of the Department and contains all information required in Section 9 of this regulation.

(~~ee~~pp) “Yearling” means domestic cattle at least twelve (12) months of age but less than twenty-four (24) months of age.

(~~pp~~qq) “Young of the Year Livestock” means livestock of any age from birth up until weaning within a continuous time frame. Livestock shall not be considered young of the year livestock if over twelve (12) months of age.

Section 3. Damage to Livestock by Trophy Game Animals or Gray Wolf (in Accordance with W.S. § 23-1-901 (g) and (h)). An award for damage to livestock shall only be made for livestock that are lawfully present at the location and during the time the damage occurred. Except as specified in subsection (a) of this section, the Department shall only offer an award for damage to individual livestock confirmed by the Department or its representative as having been damaged by a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h).

(a) In an open range setting, the Department shall utilize the methods, factors and formulas in this subsection to determine the amount to compensate any landowner, lessee or agent for calves, yearlings and sheep missing as a result of such damage. The methods, factors and formulas in this subsection shall not apply in a pasture setting or to any other older age class or type of livestock in an open range setting.

(i) Any claimant whose verified claim is for missing sheep, calves or yearlings believed to have been damaged as a result of a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h), shall include on their verified claim the total known death loss, including missing animals, for the sheep, calves or yearlings for the grazing season together with the number of such losses known to be due to causes other than damage by a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h).

(ii) Notwithstanding the use of the formulas in this section, the Department shall not offer compensation for more than the total known death loss less the number of such losses known to be due to causes other than damage by a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h). In order to utilize any formula, the Department or its representative must have confirmed the claimant had at least one (1) calf or one (1) yearling or one (1) sheep damaged by a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h).

(A) In Grizzly Bear Occupied Areas – Grizzly Bear, Black Bear and Mountain Lion Damage.

(I) Calves and Sheep: To determine the award due to a claimant for calves and sheep believed to be missing as a result of being damaged by a black bear, grizzly bear or mountain lion in areas occupied by grizzly bears, the Department shall utilize the following formula:

(1.) Number of individual calves or sheep confirmed by the Department or its representative damaged by a black bear, grizzly bear or mountain lion multiplied by three and one-half (3.5) multiplied by the value of calves or sheep equals the amount of the award.

(II) Yearlings: To determine the award due to a claimant for yearlings believed to be missing as a result of being damaged by a black bear, grizzly bear or mountain lion in areas occupied by grizzly bears, the Department shall utilize the following formula:

(1.) Number of individual yearlings confirmed by the Department or its representative damaged by a black bear, grizzly bear or mountain lion multiplied by two (2) multiplied by the value of yearlings equals the amount of the award.

(B) In Grizzly Bear Non-Occupied Areas – Black Bear and Mountain Lion Damage

(I) Sheep: To determine the award due to a claimant for sheep believed to be missing as a result of being damaged by a black bear or mountain lion in areas not occupied by grizzly bears, the Department shall utilize the following formula:

(1.) Number of individual sheep confirmed by the Department or its representative damaged by a black bear or mountain lion multiplied by three (3) multiplied by the value of the sheep equals the amount of the award.

(C) Gray Wolf Damage

(I) Sheep: Sheep in areas set forth by Commission regulation where gray wolves are designated as trophy game animals, or gray wolves in accordance with W.S. § 23-1-901 (g) and (h). To determine the amount of the award due to a claimant for sheep

believed to be missing as a result of being damaged by gray wolves, in areas occupied by gray wolves, the Department shall utilize the following formula:

(1.) Number of individual sheep confirmed by the Department or its representative damaged by a gray wolf multiplied by seven (7) multiplied by the value of the sheep equals the amount of the award.

(II) Calves: Calves in areas set forth by Commission regulation where gray wolves are designated as trophy game animals, or gray wolves in accordance with W.S. § 23-1-901 (g) and (h). To determine the amount of the award due to the claimant for calves believed to be missing as a result of being damaged by gray wolves, in areas occupied by gray wolves, the Department shall utilize the following formula:

(1.) Number of individual calves confirmed by the Department or its representative damaged by gray wolves multiplied by seven (7) multiplied by the value of calves equals the amount of the award.

(III) Yearlings: Yearlings in areas set forth by Commission regulation where gray wolves are designated as trophy game animals, or gray wolves in accordance with W.S. § 23-1-301 (g) and (h). To determine the amount of the award due to the claimant for yearlings believed to be missing as a result of being damaged by gray wolves, in areas occupied by gray wolves, the Department shall utilize the following formula:

(1.) Number of individual yearlings confirmed by the Department or its representative damaged by gray wolves multiplied by two (2) multiplied by the value of the yearlings equals the amount of the award.

(b) Veterinary costs for the treatment of individual livestock that have been injured by a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h), shall be considered up to a maximum amount that is not to exceed the value of the livestock injured, only in cases where a licensed veterinarian believes the individual livestock in question had a reasonable chance to survive and return to a productive state. If the individual livestock died as a result of an injury inflicted by a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h), even though the livestock received veterinary care, award shall only be made up to a maximum of the value of the livestock.

(c) Any claimant who has sustained gray wolf damage located in the area described in W.S. § 23-1-901 (g) and (h) may be eligible for an award. Each time a claimant reports gray wolf damage to the Department, pursuant to W.S. § 23-1-901 (g) and (h), the claimant shall acknowledge:

(i) The adjacent area of land is outside the area described in W.S. § 23-1-101 (a) (xii) (B) (I) or (II);

(ii) The adjacent area of land is part of a contiguous tract of land a portion of which is currently located within the boundaries described in W.S. § 23-1-101 (a) (xii) (B) (I) or (II);

(iii) The adjacent area of land is privately owned;

(iv) The private landowner of the adjacent area of land consents to the designation;

(v) The designation of the adjacent area of land shall not subtract from or diminish the area described in W.S. § 23-1-101 (a) (xii) (B) (I) or (II).

Section 4. Permitted Hunting During Authorized Hunting Seasons.

(a) A claimant shall not be eligible to receive an award for damage caused by big game animals, trophy game animals, or game birds unless hunting for the species for which damage compensation is claimed has been permitted during authorized hunting seasons on the land for which the verified claim has been filed. For an award to be allowed, the claimant shall allow hunting access to a sufficient number of hunters during authorized hunting seasons if the species of big game animals, trophy game animals, or game birds for which the verified claim was filed were present on the claimant's privately owned or leased land and adjoining Federal or State land during authorized hunting seasons delineated in subsection (ii) (A). If the species of big game animals, trophy game animals, or game birds for which the verified claim has been filed were not present on the claimant's privately owned or leased land and adjoining Federal or State land during the authorized hunting seasons as delineated in subsection (ii) (A), for an award to be allowed the claimant shall allow hunting access to a sufficient number of hunters during authorized hunting seasons delineated in (ii) (B) and (ii) (C) if requested by the Department. The claimant shall allow hunting access to a sufficient number of hunters during authorized hunting seasons delineated in (ii) (B) and (ii) (C) without access fees to hunters or the Department.

(i) For a claimant to be eligible to receive an award for damage on leased private land, the landowner and the lessee of the leased private land shall allow a sufficient number of hunters for the species for which damage compensation is claimed on the land for which the verified claim has been filed, and any adjoining landlocked Federal or State land.

(ii) Authorized hunting seasons include:

(A) Hunting seasons as established by Wyoming Game and Fish Commission regulation;

(B) Auxiliary management hunting seasons; or,

(C) Lethal taking of wildlife through a lethal take permit.

(b) For an award to be allowed, the claimant shall provide documentation with their verified claim affidavit that a sufficient number of hunters have been granted hunting access on

the claimant's privately owned or leased lands and adjoining landlocked federal or state land. Such documentation shall include a list of individual hunters' names and hunting license numbers or verification that the claimant's privately owned or leased land indicated on their verified claim affidavit is enrolled in a Department access program. The claimant shall contact the game warden to whom they reported the damage to determine the sufficient number of hunters necessary to address individual damage claims. An award may be allowed if the Department determines a reduction in big game animals, trophy game animals or game birds affects the Department's ability to sustain the population at the objective the Commission has established.

Section 5. Notification of Damage and Filing of Damage Claims.

(a) Any claimant who has incurred damage as defined in Section 2 of this regulation shall report the damage to the nearest game warden, supervisor, or Commission member within fifteen (15) consecutive days following the date damage was discovered. If the claimant intends to take actions that prevent the damage being investigated by the Department, such as harvest of damaged crops or removal of damaged livestock, the claimant shall notify the nearest game warden, supervisor, or Commission member as soon as reasonably possible after discovery of the damage so the damage can be investigated by the Department prior to removal, harvest, modification or destruction of the damaged property; however, in no case shall the claimant take actions that preclude the damage being investigated by the Department. If the claimant denies or precludes the damage being investigated by the Department, the Department shall deny the verified claim.

(b) The claimant shall present a verified claim in accordance with Section 9 of this regulation to the Office of the Department within sixty (60) consecutive days following the date the last item of damage was discovered.

(i) For verified claims of damage to individual livestock by a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h), the sixty (60) consecutive day period shall commence from the last date the livestock were lawfully present on the grazing allotment or geographic location where the damage occurred, and no later than sixty (60) consecutive days following the last day of the calendar year in which the damage occurred;

(ii) For verified claims of damage to bees, hives and honey by a trophy game animal, or gray wolves in accordance with W.S. § 23-1-901 (g) and (h), the sixty (60) consecutive day period shall commence from the last date damage occurred or from the last date the bees, hives and honey were present on the location where the damage occurred, whichever date occurs first, and no later than sixty (60) consecutive days following the last day of the calendar year in which the damage occurred; and,

(iii) For verified claims of damage to land, growing cultivated crops, seed crops, stored crops, improvements or extraordinary damage to grass by big game animals, trophy game animals or gray wolves in accordance with W.S. § 23-1-901 (g) and (h) or game birds, the sixty (60) consecutive day period shall commence from the last date the growing cultivated crop

or seed crop was harvested or the land, stored crops or improvements were damaged or the extraordinary damage to grass occurred.

(iv) Verified claims for big game, trophy game or gray wolf in accordance with W.S. § 23-1-901 (g) and (h) and game bird damage shall not exceed three hundred sixty five (365) consecutive days from when the damage was reported to the Department. Nothing in this section prevents a claimant from initiating a new damage claim after a three hundred sixty five (365) consecutive day time period in accordance with W.S. § 23-1-901 and this regulation.

(c) If a claimant chooses to appeal the Department's decision regarding a verified claim award to the Commission, the claimant shall file a written appeal that is received by the Office of the Department within thirty (30) consecutive days from the date the claimant received the Department's notification of its award decision on the verified claim.

(d) The claimant shall have no right of appeal to the Commission of the Department's denial of the claim if based upon the information provided by the claimant in the verified claim, the claimant failed to comply with subsection (a) or (b) of this section. The claimant shall have no right of appeal to the Commission of the Department's decision on a verified claim if the claimant failed to comply with subsection (c) of this section.

(e) The U.S. Postal Service or any other mail delivery service providers are not agents of the Department. Therefore, the Department cannot assume responsibility for mail delivery to the Office of the Department. It is the claimant's responsibility to assure the delivery of a verified claim to the Office of the Department.

Section 6. Investigation and Award of Verified Claims.

(a) When investigating damage claims, the Department shall utilize the standard of "more likely than not" in determining whether or not the damage was the result of big or trophy game animals or game birds, or gray wolves in accordance with W.S. § 23-1-901 (g) and (h).

(b) The Department shall consider damage that was discovered by the claimant and reported to the nearest game warden, supervisor or Commission member within fifteen (15) consecutive days after the date the damage was discovered. Any damage that was reported more than fifteen (15) consecutive days after the date it was discovered by the claimant shall not be considered by the Department as damage under this regulation.

(c) The Department shall investigate the verified claim and either reject the claim or provide for a full or partial award to the claimant within ninety (90) consecutive days following the date the Office of the Department received the verified claim.

Section 7. Reasons for Denial of a Verified Claim.

(a) The Department shall deny the verified claim for any of the reasons specified in this subsection.

(i) The claimant did not report the damage to the nearest game warden, supervisor or Commission member within fifteen (15) consecutive days after the date the damage was discovered. Any damage that was reported more than fifteen (15) consecutive days after the date it was discovered by the claimant shall not be considered by the Department as damage under this regulation.

(ii) The damage was caused by animals or wildlife other than big game animals, trophy game animals or game birds, or gray wolves in accordance with W.S. § 23-1-901 (g) and (h).

(iii) The big or trophy game animals or game birds causing damage were on the claimant's privately owned or leased land and adjoining Federal or State land during authorized hunting seasons as specified in Section 4 (a) (ii) (A), and the claimant did not allow hunting access to a sufficient number of hunters in accordance with Section 4 (a) (ii) (A) of this regulation.

(iv) The big or trophy game animals or game birds causing damage were not on the claimant's privately owned or leased land and adjoining Federal or State land during authorized hunting seasons as specified in Section 4 (a) (ii) (A), and the claimant would not agree to the Department's implementation of an auxiliary management hunting season as specified in Section 4 (a) (ii) (B) or charged a hunting access fee to hunters to participate in an auxiliary management hunting season as specified in Section 4 (a) (ii) (B).

(v) The big or trophy game animals or game birds causing damage were not on the claimant's privately owned or leased land and adjoining Federal or State land during authorized hunting seasons as specified in Section 4 (a) (ii) (A), and the claimant would not agree to the Department's implementation of a lethal take permit as specified in Section 4 (a) (ii) (C) or charged an access fee to the Department or other individuals authorized under the lethal take permit to implement a lethal take permit as specified in Section 4.

(vi) The verified claim was for property not defined as property in Section 2 of this regulation.

(vii) The claimant was compensated by crop or livestock insurance, a Federal subsidy program or the Gray Wolf Depredation Compensation Program for the property damaged. If the claimant receives compensation for damaged property under a damage claim affidavit and subsequently receives compensation from crop or livestock insurance, a Federal subsidy program or the Gray Wolf Depredation Compensation Program for the same damaged property within the twelve (12) consecutive months following the end of damages, the claimant shall refund the Department's damage claim award including interest based on local bank preferred rates to the Department.

(viii) The claimant submitted a verified claim that did not provide all required information specified in Section 9 of this regulation to the Office of the Department within sixty (60) consecutive days after the damage or last item of damage was discovered by the claimant.

(ix) The verified claim was for consequential damages.

(x) A sufficient number of hunters were not allowed hunting access during authorized hunting seasons on land in a platted subdivision where the damage occurred due to the actions of a municipal or county ordinance, or homeowners' association covenant prohibiting the discharge of firearms.

(xi) Due to actions of the claimant, the damage was not investigated by the Department.

(xii) The claimant prevented the Department's attempts to mitigate or alleviate the damage through such actions as moving the big or trophy game animals or game birds, or gray wolves in accordance with W.S. § 23-1-901 (g) and (h) responsible for the damage or the claimant refused to utilize fencing materials provided by the Department to protect stored crops, livestock, bees, hives and honey.

(xiii) The verified claim included any methods, factor or formula for missing livestock not in accordance with Section 3 of this regulation.

Section 8. Arbitration.

(a) If the claimant wishes to appeal the Commission's decision regarding a verified claim, the claimant shall file a written call for arbitration with the Office of the Department within ninety (90) consecutive days from the date the claimant received notice of the Commission's decision.

(b) If the claimant calls for arbitration, the claimant and the Office of the Department shall each appoint a disinterested arbitrator within fifteen (15) consecutive days from the date the Office of the Department received the written call for arbitration.

(c) When the claimant and the Office of the Department appoint arbitrators, written notification of the name, mailing address, and telephone number of arbitrators shall be made by each party to the other within fifteen (15) consecutive days from the date the Office of the Department received the written call for arbitration.

(d) Within twenty (20) consecutive days after their appointment, the two (2) arbitrators shall appoint a third arbitrator. The two (2) arbitrators selected shall notify both the claimant and the Office of the Department in writing of the name, mailing address, and telephone number of the third arbitrator selected. If the third arbitrator is not appointed within this time period, the judge of the district court of the county or the court commissioner in the absence of the judge shall appoint the third arbitrator upon the application of either arbitrator.

(e) The three (3) arbitrators shall appoint a chairman who shall chair the Board and serve as secretary to carry out the correspondence of the Board.

(f) At least twenty (20) consecutive days before the hearing, the Board shall provide the claimant and the Office of the Department written notice of the time and place in the county

when and where the testimony of the claimant and the Department shall be heard and the claim investigated and decided by the Board.

(g) Arbitration hearings shall be conducted as contested cases by the Office of Administrative Hearings or other independent hearing administrator as selected by the Department. Upon referral from the Department, the Office of Administrative Hearings or the independent hearing administrator shall have the authority to conduct the arbitration hearing in an impartial manner pursuant to the Wyoming Administrative Procedure Act, applicable provisions of the Wyoming Rules of Civil Procedure, and Chapters 1 and 2 of the Uniform Contested Case Rules adopted by the Office of Administrative Hearings (Chapter 1 effective October 17, 2014; Chapter 2 effective July 20, 2017) and found at <http://rules.wyo.gov> hereby incorporated by reference but not including any later amendments or editions, to the extent those statutes and rules do not conflict with W.S. § 23-1-901 or the Uniform Arbitration Act.

(h) Following the arbitration hearing, the Board shall within ten (10) consecutive days provide a written copy of its decision to the Office of the Department and the claimant.

(i) Unless otherwise specified in this section, the Uniform Arbitration Act, W.S. § 1-36-101 et seq. shall apply to the hearing.

(j) The decision of the Board shall become part of the Office of the Department's file and shall be made part of the record in the event of an appeal of the Board's decision and any appeal to district court shall be conducted in conformity with the Uniform Arbitration Act, W.S. § 1-36-114 (a) or W.S. § 1-36-115.

Section 9. Verified Claim Requirements. The verified claim required by W.S. § 23-1-901 (b) shall be submitted on the form prescribed by the Department. The verified claim shall contain the following information:

(a) A description of the land on which the damage occurred, including the legal description (section, range, township), the county in which the land is located, and whether the land is privately owned, leased, or federally owned;

(b) Whether the claimant is the landowner, lessee, or agent of the landowner or lessee;

(c) A description of individual livestock, including the number, age class and sex if known, or description of bees, hives and honey damaged or killed by a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h);

(d) A description of the land, growing cultivated crops, stored crops, seed crops, or improvements damaged by a big game animal, trophy game animal or gray wolf in accordance with W.S. § 23-1-901 (g) and (h) or game bird; or a description of the grass extraordinarily damaged by big game animals;

- (e) Competent, relevant and material evidence provided by the claimant that a big game animal, trophy game animal or game bird, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h) caused the damage;
- (f) The dates during which damage took place, to include the specific date the damage was discovered by the claimant and the specific date the damage ended;
- (g) The amount and value of property damaged, including all calculations and evidence supporting the value determination;
- (h) The species and number, if known, of big or trophy game animals or game birds, or gray wolves in accordance with W.S. § 23-1-901 (g) and (h) that caused the damage;
- (i) The name of the game warden, supervisor or Commission member to whom the claimant reported the damage and the specific date it was reported;
- (j) Information to allow the Department to determine whether or not the claimant allowed hunting access to a sufficient number of hunters during authorized hunting seasons for the species causing damage in accordance with Section 4;
- (k) Information as to whether or not an access fee was charged for hunting access during authorized hunting seasons for the species of big game animal, trophy game animal or game bird for which the verified claim was filed; the total amount of access fee charged per hunter; and, the total number of hunters allowed hunting access to hunt during authorized hunting seasons for the species causing damage in accordance with Section 4;
- (l) Information by which the Office of the Department can recognize the claimant signed and swore before a notary that the claimant verifies is accurate;
- (m) For verified claims for calves, yearlings and sheep missing as a result of damage by a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h), the total known death loss, including missing animals, for the calves, and yearlings or sheep for the grazing season together with the number of such losses known to be due to causes other than damage by a trophy game animal, or gray wolf in accordance with W.S. § 23-1-901 (g) and (h);
- (n) Information to indicate if all or what portion of the property damaged was compensated for by crop or livestock insurance or a State or Federal subsidy program to the extent the claimant received compensation under that insurance or subsidy program; and,
- (o) Whether the claimant is applying for damage compensation per W.S. § 23-1-901 (g) and (h).
- (p) The claimant may submit additional supporting information, which shall be considered as part of the verified claim.

WYOMING GAME AND FISH COMMISSION

By: _____

~~Ralph Brokaw~~ Richard Ladwig, President

Dated: September ~~13, 2023~~ xx, 2024