

WAC 220-440-180 Application for cash compensation for livestock damage or domestic animal—Procedure. Pursuant to this section, the department may distribute money specifically appropriated by the legislature or other funding entity to pay commercial livestock or guard dog losses caused by wild bear, cougar, or wolves in the amount of up to ten thousand dollars per claim unless, following an appeal, the department is ordered to pay more (see RCW 77.36.130(2)). The department will develop claim procedures and application forms consistent with this section for cash compensation of commercial livestock or guard dog losses. Partnerships with other public and private organizations to assist with completion of applications, assessment of losses, and to provide funding for compensation are encouraged.

Filing a claim:

(1) Claimant must notify the department within twenty-four hours of discovery of livestock or other domestic animal attack or as soon as feasible.

(2) Damage claim assessment of amount and value of eligible livestock or guard dog loss is the primary responsibility of the claimant.

(3) Investigation of the loss and review and approval of the assessment will be conducted by the department:

(a) The claimant must provide access to department staff or designees to investigate the cause of death or injury to eligible livestock or guard dogs and use reasonable measures to protect evidence at the depredation site.

(b) Federal officials may be responsible for the investigation when it is suspected that the attack was by a federally listed species.

(4) To be eligible a claimant must submit a written statement, electronic or hard copy, within thirty days of discovery of a loss to indicate his or her intent to file a claim.

(5) A complete claim package must be submitted to the department within ninety days of a discovery of an attack on livestock or guard dogs to be eligible for compensation.

(6) A claim form declaration must be signed, affirming that the information provided is factual and truthful, per the certification set out in RCW 9A.72.085 before the department will process the claim.

(7) In addition to a completed claim form, a claimant must provide:

(a) Proof of legal ownership or contractual lease of claimed livestock.

(b) Records documenting the value of the livestock or guard dog depending upon the determination for cause of loss.

(c) Declaration signed under penalty of perjury indicating that the claimant is eligible for the claim, meets eligibility requirements listed under this chapter and in RCW 77.36.100, 77.36.110, and 77.36.120, and all claim evaluation and assessment information in the claim application is to the best knowledge of the claimant true and accurate.

(d) A copy of any insurance policy covering loss claimed.

(e) Copies of applications for other sources of loss compensation and any payment or denial documentation.

(f) The department approved checklist of preventative measures that have been deployed, or documented compliance with the terms and conditions of the claimant's agreement with the department, or the director approved waiver.

Settlement of claims:

(8) Subject to funds appropriated to pay for livestock or guard dog losses, undisputed claims will be paid up to ten thousand dollars.

(9) Valuation of the lost livestock;

(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.

(c) The payment amount for wolf depredations to livestock will be based on the following criteria:

(i) Where the livestock grazing site was greater than or equal to one hundred acres, there is a rebuttable presumption that the number of commercial livestock wolf depredations that are eligible for compensation is twice the number of wolf livestock depredations documented by the department, unless all remaining livestock are accounted for. On these grazing sites, the payment for each confirmed wolf depredation will be the full market value for two commercial livestock. The payment for each probable wolf depredation will be half the full market value for two commercial livestock. Payments will be reduced by half if all the remaining livestock are accounted for.

(ii) Where the livestock grazing site was less than one hundred acres, there is a rebuttable presumption that all the commercial livestock wolf depredations are discovered by the livestock owner. On these grazing sites, the payment for each confirmed wolf depredation will be the full market value for one commercial livestock. The payment for each probable wolf depredation will be half the full market value for one commercial livestock.

(d) For losses caused by bear or cougar, livestock value will be determined by the market value for an animal of the same breed, sex, and average weight at the time the animal is lost.

(10) Claims for higher than normal livestock losses, reduced weight gains, or reduced pregnancy rates due to harassment of livestock caused by wolves must include:

(a) 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;

(b) 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;

(c) Verification by the department that wolves are occupying the area;

(d) The losses cannot be reasonably explained by other causes;

(e) Compliance with the department's preventative measures checklist, or damage prevention cooperative agreement, or a waiver signed by the director.

(11) Compensation paid by the department combined with any other compensation may not exceed the total assessed value of the loss.

(12) Upon completion of an evaluation, the department will notify the claimant of its decision to either deny the claim or make a settlement offer (order). The claimant has sixty days from the date received to accept, sign, and mail to the department the original offer for settlement of the claim. If the claimant wishes to appeal the offer, they must request an informal resolution or adjudicative proceeding as described in WAC 220-440-230. The appeal must be in writing and may be mailed or submitted by email. If no written acceptance or request for appeal is received within sixty days of receipt of the settlement offer, the offer is considered rejected and not subject to appeal.

(13) If the claimant accepts the department's offer, the department will provide payment to the claimant within thirty days from receipt of the written acceptance document(s).

(14) The department will prioritize payment for livestock losses in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for livestock losses during the current fiscal year, the claim shall be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in chronological order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.36.170, and 77.36.180. WSR 18-04-049 (Order 18-15), § 220-440-180, filed 1/31/18, effective 3/3/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-440-180, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.320, 77.12.150, 77.15.245, and chapter 77.36 RCW. WSR 16-04-066 (Order 16-18), § 232-36-210, filed 1/28/16, effective 2/28/16. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.047, 77.12.240, chapter 77.36 RCW, and 2013 c 329. WSR 13-22-056 (Order 13-282), § 232-36-210, filed 11/4/13, effective 12/5/13. Statutory Authority: RCW 77.04.012, 77.04.020, and 77.04.055. WSR 10-13-182 (Order 10-156), § 232-36-210, filed 6/23/10, effective 7/24/10.]