

## CITIZEN PETITION FOR RULEMAKING

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*Submitted electronically*

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**PETITIONER:** Center for Biological Diversity.

**ISSUE:** Amending the Colorado Code of Regulations to Clarify “Use of a Variety of Non-lethal Conflict Minimization Materials and Techniques” and “Reasonable Conflict Minimization Techniques.”

### **I. PROPOSED AMENDED RULE**

This Petition seeks to amend the current rules regarding how the Colorado Parks and Wildlife (“CPW” or “Division”) determines the “use of a variety of non-lethal conflict minimization materials and techniques” and that an applicant for a Chronic Depredation Permit “employed reasonable conflict minimization techniques prior to receiving a Chronic Depredation Permit,” pursuant to 2 CCR 406-10L:1001.C.1., C.2., and C.3. These key standards largely govern when protected wolves can be killed for conflicts with livestock in Colorado. This Petition also provides clarity and consistency for the lethal removal determinations and the criteria that apply to lethal removal operations that are conducted by state or federal agencies or livestock operators. This petition is not proposing any changes or revisions to #1001B., the provisions regarding Injurious and Lethal Take of Wolves In the Act of Attacking Livestock or Working Dogs.

It is essential for the Division to fully integrate proven and effective non-lethal techniques to reduce livestock-wolf conflicts in order to support wolf recovery, increase social tolerance, and effectively reduce the occurrence of such conflicts. Lethal control is an extraordinary measure and should not be a backstop for livestock operations that fail to implement readily available, reasonable nonlethal conflict minimization measures.

Clear prerequisites, documentation requirements, and uniform process, ensures that Chronic Depredation determinations and lethal removals are made consistently and do not shift the consequences of poor carcass management and other poor animal husbandry onto wolves and the public.

We suggest the below amendments, identified in red and underlined.

DEPARTMENT OF NATURAL RESOURCES  
Colorado Parks and Wildlife

CHAPTER W-10 - NONGAME WILDLIFE  
2 CCR 406-10

ARTICLE I - GENERAL PROVISIONS

#1001 - AUTHORIZATION FOR REMOVAL, CAPTURE OR DESTRUCTION OF  
ENDANGERED, THREATENED, OR NONGAME GRAY WOLVES

C. Injurious and Lethal Take of Chronically Depredating Gray Wolves

1. The Division will make the determination in writing before lethal control measures commence as to whether a situation qualifies for a Chronic Depredation Permit after considering the following factors:

a. Documented repeated depredation and harassment of the Permit Applicant's livestock or working dogs caused by the wolf, wolves, or pack targeted;

i. The documented evidence shall be separate and independent from the form and process of confirmed wolf depredation pursuant to Article XVI – Damage Caused by Gray Wolves.

b. Reasonable use and exhaustion of a variety of nonlethal conflict minimization materials and techniques;

i. Agency staff will conduct at least one site visit prior to granting a Chronic Depredation Permit. Potential Permit Applicants may seek a site visit and guidance from the Division on what materials and techniques to use before applying for a Permit.

ii. Agency staff will determine what qualifies as reasonable conflict minimization materials and techniques based on site-specific considerations, such as terrain and type of livestock.

iii. Agency staff will determine the timeline to establish requisite exhaustion of minimization techniques, including and not limited to reasonable targeted hazing effort for a minimum of 3 days per deployment, not to exceed 2 weeks.

iv. Upon issuance of the Permit, the Division must document that conflict continued despite exhaustion of such reasonable materials and techniques.

c. Likelihood that additional and continued wolf-related depredation would continue if lethal control is or is not implemented;

d. Unintentional or intentional use of attractants that may be luring or baiting wolves to the location. Livestock carcasses must be removed from areas under the control of the Permit Applicant (through ownership, lease, or permit), unless impracticable. Hazardous terrain or weather may make carcass removal impracticable.

2. Consistent with state and federal law, injurious or lethal control of wolves that have engaged in confirmed depredation(s) of livestock will be conducted by state or federal agents if the Division determines lethal control of the identified wolves is appropriate under the circumstances. Prior to state or federal agents taking injurious or lethal control, the Division shall make a determination of lethal control pursuant to C.1 and include the criteria set forth in C.3.c., C.3.d., and C.3.e.

3. If state and federal agencies do not have the capacity to carry out the timely implementation of the necessary lethal control measures, the Division may issue a Chronic Depredation Permit for the lethal take of wolves to a livestock owner (Permit Applicant), consistent with C.1. of this Section and the conditions below. A Chronic Depredation Permit authorizes a holder to injure or kill wolves in the permit area, regardless of whether they are in the act of attacking livestock or working dogs.

a. The Permit Applicant must have suffered at least one wolf depredation of their own livestock or working dogs, and the Division must have confirmed the depredation within 30 days prior to requesting a Chronic Depredation Permit.

i. If the Permit Applicant's livestock are part of a herd comprised of livestock owned by multiple owners, any owner of livestock in the same herd may also qualify for a Chronic Depredation Permit.

b. The Division must determine that the Permit Applicant employed reasonable conflict minimization techniques prior to receiving a Chronic Depredation Permit.

c. The permit may authorize lethal take of wolves only on the Permit Applicant's private property or on private, state, or federal lands leased for livestock production under a valid lease held by the Permit Applicant. Evidence that Permit Applicants are not in compliance with lease terms would disqualify them for lethal take.

d. The permit authorizing such activities will contain additional terms and conditions, including a limitation on how many wolves may be taken under the Permit and may, in the discretion of the Division, authorize the use of artificial light, electronic night vision equipment, electronically enhanced light-gathering optics, and thermal imaging devices.

e. A Chronic Depredation Permit is valid for a maximum of ~~45~~ 30 days. The Division may terminate the Permit at any time once threats to livestock or working dogs have been resolved or minimized. After the initial ~~45~~ 30 days, the Permit may be renewed at the Division's discretion.

f. Death or injury to wolves must be reported to the Division within 24 hours unless impracticable, but in no event later than 72 hours after such death or injury.

4. The agency shall implement standardized and routine depredation training for depredation response and investigations to ensure consistency in evidence documentation.

~~45~~. The Division shall not issue any Chronic Depredation Permit under this subsection #1001.C unless the U.S. Fish and Wildlife Service has adopted a rule under section 10(j) of the Endangered Species Act designating and providing management flexibility for a non-essential experimental population of wolves in Colorado and that rule is effective at the time of the issuance of any Chronic Depredation Permit.

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## II. REASONS FOR PROPOSED AMENDED RULE

### a. The Proposed Amendments Will Provide Consistency, Clarity, and Transparency.

The petition's proposed amendments ensure that chronic depredation determinations are made in writing, prior to the commencement of lethal control operations, and that each determination applies the same criteria, regardless of what entity may conduct the lethal removal. The proposed changes would also clarify that evidence of predation by a wolf or wolves that supports the agency's chronic depredation determination is independent of the claim damage report and process.

Currently, the agency is using information in claim damage reports to inform its decisions as to when making lethal control determinations. As a result, facts and evidence of what led to an injury or mortality of livestock that are the basis for these extraordinary measures are withheld until the claims are resolved, which is occurring in March of the preceding year, long after any lethal control decision was made and removal has concluded. Whether or not compensation is warranted should not be intertwined with the independent agency determination on whether the factors for taking lethal control measures are present.

The agency should, like in other western states such as Washington, use an "Injury/Mortality Investigation Report Form" that is strictly an evidence and fact-based document with conclusions about the direct cause of injury or mortality of livestock. These reports, not ones intertwined with compensation claims, should be the basis for determining whether there is documented evidence demonstrating predations from a wolf or wolves.

The proposed amendments would also create consistency between the terms and conditions of Chronic Depredation permits, regardless of whether a state or federal agency or livestock operator is undertaking the lethal removal. *See* proposed (C)(2). This harmonization ensures consistency and provides clarity on the criteria and requirements for every chronic depredation determination, benefiting livestock operators, the agency, and the public.

The Division may "issue a Chronic Depredation Permit for the lethal take of wolves to a livestock owner (Permit Applicant)," consistent with various conditions. *See* 2 CCR 406-10-1101(C)(3). One of these conditions requires the Division to "determine that the Permit Applicant employed reasonable conflict minimization techniques prior to receiving a Chronic Depredation Permit." 2 CCR 406-10-1101(C)(3)(b); *see also* 2 CCR-406-10-1101(C)(1)(b) (stating a situation only qualifies for a Chronic Depredation Permit after considering "[u]se of a variety of nonlethal conflict minimization materials and techniques."). However, the Colorado Code of Regulations provides no parameters as to how the Division makes this determination and what constitutes "reasonable" conflict minimization techniques. This may lead to inconsistent determinations and leave permit applicants unclear as to what is required of them to qualify for a permit. The petition's proposed amendments would clarify what constitutes "reasonable conflict minimization techniques," namely, by requiring agency staff to make a site-specific determination of the appropriate minimization techniques that the operator must utilize prior to receiving a Permit. This would provide clarity for permit applicants and transparency to the public as to what permit applicants must do to reduce conflicts before the agency allows

wolves to be killed. Written documentation of the techniques employed before the granting of a permit will also help the Division keep track of the effectiveness of the various techniques.

Furthermore, the Code states that a situation will only qualify for a Chronic Depredation Permit after the Division considers if there was “[u]nintentional or intentional use of attractants that may be luring or baiting wolves to the location.” 2 CCR-406-10-1101(C)(1)(d). We ask that the Commission specifically include timely carcass management and removal as a requirement before a permit may be granted. Carcasses constitute a major attractant for wolves and other native Colorado predators. The failure to manage, remove, or dispose of carcasses in a timely and effective manner is almost certain to attract wolves, contributing to wolf-livestock conflicts. Grants for up to \$20,000 are in place for assisting with carcass disposal and other non-lethal conflict reduction measures.<sup>1</sup> Additionally, because lethal control is an extraordinary measure, a livestock operator that is not operating in compliance with their lease terms should be disqualified from receiving a Chronic Depredation Permit.

Lastly, this Petition proposes changing the duration of a Chronic Depredation Permit from 45 days to 30 days to reflect the extraordinary nature of lethal control and that lethal control is not a tactic that results in tolerance or long-term coexistence.

#### **b. Science Supports the Proposed Amendments.**

Science and research show that the use of nonlethal minimization techniques to reduce wolf-livestock conflicts works. The developing body of published, peer-reviewed literature also concludes that translocations and lethal removal of wolves are mostly ineffective in reducing conflicts and/or harmful to carnivore populations, without fostering successful long-term coexistence.<sup>2</sup>

The use of livestock-guarding dogs, herdsman, fencing, electrified fencing and electrified fladry may significantly reduce domestic animal losses from large carnivores.<sup>3</sup> Another low-tech, non-lethal deterrent that has been evaluated for its ability to deter grizzly bears, gray wolves, cougars, black bears, and coyotes is called low-stress livestock handling (L-SLH), a form of range riding. The study, conducted in Southwestern Alberta, compared the use of one experienced range rider alone versus two newly trained riders accompanied by the experienced one. The study found that under either condition, the cattle being monitored experienced zero injuries or death.<sup>4</sup> The study confirmed there is no support for the hypothesis that large carnivores moved from better-

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<sup>1</sup> Colorado Outdoors, *Improved Livestock Conflict Minimization Program*, (Dec. 12, 2024) <https://coloradooutdoorsmag.com/2024/12/12/improved-livestock-conflict-minimization-program/> (last visited Jan. 9, 2026).

<sup>2</sup> See e.g. Lorand, C., Robert, A., Gastineau, A., Mihoub, J., & Bessa-Gomes, C. (2022). Effectiveness of interventions for managing human-large carnivore conflicts worldwide: Scare them off, don't remove them. *Science of the Total Environment*, 838(2). <http://dx.doi.org/10.1016/j.scitotenv.2022.156195>; Moreira-Arce, D., Ugarte, C.S., Zorondo-Rodríguez, F., & Simonetti, J.A. (2018). Management tools to reduce carnivore-livestock conflicts; Current gap and future challenges. *Rangeland Ecology & Management*, 71(3), 389–394.

<sup>3</sup> Moreira-Arce, D. et al. 2018; See also Bruns, A., Waltert, M., & Khorozyan, I. (2020). The effectiveness of livestock protection measures against wolves (*Canis lupus*) and implications for their co-existence with humans. *Global Ecology and Conservation*, 21, e00868. <https://doi.org/10.1016/j.gecco.2019.e00868>.

<sup>4</sup> Louchouart, N.X. & Treves, A. (2023). Low-stress livestock handling protects cattle in a five-predator habitat. *PeerJ*, 11, e14788. <http://doi.org/10.7717/peerj.14788>.

protected herds to less well-protected herds within a large public grazing land allotment, such negative “spill-over effects have been reported for lethal control” in multiple studies.<sup>5</sup>

Colorado has acknowledged the utility of nonlethal minimization techniques, as demonstrated through language requiring the Division to consider the use of minimization techniques before lethal removal actions or issuing Chronic Depredation Permits to livestock owners. CPW also has in place a Conflict Minimization Program, which includes support and resources for: site assessments, conflict specialists, predation response, range riders, carcass management, grant programming, and educational workshops.<sup>6</sup>

Given wolves can detect a carcass from up to 1.5 miles away,<sup>7</sup> carcass removal is a particularly effective tool to minimize wolf predation of livestock. Three Pacific states—Washington, Oregon, and California—have all identified carcass removal as essential to preventing wolf conflicts with livestock.<sup>8</sup> As the Oregon Department of Fish and Wildlife notes, “the presence of a single carcass can have the effect of attracting and keeping wolves in the areas of livestock.”<sup>9</sup> Thus, “[c]arcass and bone pile removal may be the single best action to keep from attracting wolves to areas of livestock.”

Indeed, CPW has noted during trainings for the livestock industry that “[c]arcass management best practices should be followed regardless of wolf presence as they mitigate risk from all types of predators.”<sup>10</sup> CPW described best management practices should include the following: (1) quickly remove carcasses from the landscape, break them down if necessary, and transport them to a landfill; (2) secure or remove old bone piles to prevent scavenger attraction; (3) remove carcasses near calving grounds, water sources, or salt licks; and (4) use range riders to locate and manage carcasses in coordination with operators.<sup>11</sup> For these reasons, we ask the Commission to grant this rulemaking petition and adopt amended language as proposed herein.

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<sup>5</sup> *Id.*

<sup>6</sup> Colorado Parks and Wildlife, email dated Dec. 9, 2024 entitled “CPW and CDA prepare for 2025 gray wolf releases with improved Livestock Conflict Minimization Program.”

<sup>7</sup> Mech, L. D (1974). *Canis lupus*. *Mammalian Species*, 37, 1–6. <https://doi.org/10.2307/3503924>.

<sup>8</sup> See, e.g., Washington Department of Fish and Wildlife, *Wolf-livestock conflict mitigation*, accessible at <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/conflict-prevention> (describing why and how carcasses should be removed) (last visited Mar. 6, 2026); Washington Department of Fish and Wildlife, *Washington Department of Fish and Wildlife Staff Guidelines: LIVESTOCK-WOLF MITIGATION MEASURES*, accessible at [https://wdfw.wa.gov/sites/default/files/2019-02/livestock\\_wolf\\_mitigation\\_checklist.pdf](https://wdfw.wa.gov/sites/default/files/2019-02/livestock_wolf_mitigation_checklist.pdf) (describing carcass removal as an essential action (last visited Mar. 6, 2026); California Department of Fish and Wildlife, *Tools for California Livestock Producers to Discourage Wolf Presence, Guidance for Suspected Wolf Depredation, and Wolf Legal Status*, accessible at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=190291&inline> (calling on operators to dispose of carcasses and to clean up, remove, or fence carcass removal sites) (last visited Mar. 6, 2026).

<sup>9</sup> Oregon Department of Fish and Wildlife, *Protecting Livestock – Non-lethal measures to minimize wolf-livestock conflict*, accessible at [https://www.dfw.state.or.us/Wolves/non-lethal\\_methods.asp#Reducing\\_Attractants](https://www.dfw.state.or.us/Wolves/non-lethal_methods.asp#Reducing_Attractants) (last visited Mar. 6, 2026).

<sup>10</sup> See Carly Winchell, *Part 1 Non-Lethal Wolf Conflict Reduction Training Discusses Best Practices for Producers*, accessible at <https://arkvalleyvoice.com/part-1-non-lethal-wolf-conflict-reduction-training-discusses-best-practices-for-producers/> (last visited Mar. 6, 2026).

<sup>11</sup> *Id.*

Thank you for your consideration of these proposed amendments. If you have any questions or would like to discuss this petition, please feel free to contact Alli Henderson at (970) 218-4928, or via email at [ahenderson@biologicaldiversity.org](mailto:ahenderson@biologicaldiversity.org). We look forward to your response.

Sincerely,

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## RELEVANT SCIENTIFIC LITERATURE

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