Certification Page
Regular and Emergency Rules
Revised June 2020

☐ Emergency Rules *(Complete Sections 1-3 and 5-6)* ■ Regular Rules

1. General Information

a. Agency/Board Name* Wyoming Game and Fish Department

b. Agency/Board Address 3030 Energy Lane | c. City Casper | d. Zip Code 82604

e. Name of Agency Liaison Mike Choma | f. Agency Liaison Telephone Number 307-473-3417

g. Agency Liaison Email Address mike.choma@wyo.gov | h. Adoption Date November 16,2021

i. Program Game and Fish Commission - Regulations

Amended Program Name (*if applicable*):

* ☐ *By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.*

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular (non-emergency) rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these non-emergency or regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

☐ No. ■ Yes. If the rules are new, please provide the Legislative Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154): 2021 General Session Chapter 88

3. Rule Type and Information

For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title* and Proposed Action for Each Chapter. *Please use the "Additional Rule Information" form to identify additional rule chapters.*

Chapter Number:	Chapter Name:	
70	Regulation Governing Posession of Road Killed Wildlife	■ New ☐ Amended ☐ Repealed
	Amended Chapter Name (*if applicable*):	
Chapter Number:	Chapter Name:	☐ New ☐ Amended ☐ Repealed
	Amended Chapter Name (*if applicable*):	
Chapter Number:	Chapter Name:	☐ New ☐ Amended ☐ Repealed
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	Amended Chapter Name (*if applicable*):	
Chapter Number:	Chapter Name:	☐ New ☐ Amended ☐ Repealed
	Amended Chapter Name (*if applicable*):	

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. ☐ No. ☑ Yes. ☐ N/A

b. A public hearing was held on the proposed rules. ☐ No. ■ Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
August 26, 2021	6:00 PM	Casper	Game and Fish Office

5. Checklist

a. ☑ For regular rules, the Statement of Principal Reasons is attached to this Certification and, in compliance with Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule

b. ☐ For emergency rules, the Memorandum to the Governor documenting the emergency, which requires promulgation of these rules without providing notice or an opportunity for a public hearing, is attached to this Certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct. By electronically submitting the emergency or regular rules into the Wyoming Administrative Rules System, the undersigned acknowledges that the Registrar of Rules will review the rules as to form and, if approved, the electronic filing system will electronically notify the Governor's Office, Attorney General's Office, and Legislative Service Office of the approval and electronically provide them with a copy of the complete rule packet on the date approved by the Registrar of Rules. The complete rules packet includes this signed certification page; the Statement of Principal Reasons or, if emergency rules, the Memorandum to the Governor documenting the emergency; and a strike and underscore copy and clean copy of each chapter of rules.

Signature of Authorized Individual	
Printed Name of Signatory	Peter J. Dube
Signatory Title	President
Date of Signature	November 16,2021

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

STATEMENT OF REASONS

CHAPTER 70

REGULATION GOVERNING POSSESSION OF ROAD KILLED WILDLIFE

W.S. § 23-3-310 directs and empowers the Commission to adopt rules and establish a program whereby a person could legally possess road killed wildlife as the result of an unintentional motor vehicle collision on any public road or highway, and allows for the Department of Transportation to request the exemption of segments of public roads or highways from these provisions.

W.S. § 23-3-106 provides that no person shall ship, transport or receive for shipment or transportation any game animal, game bird or any part thereof unless tagged with an interstate game tag, a proper carcass coupon, a properly licensed game bird or small game hunter or by a person possessing authorization to possess road killed wildlife.

This is a new regulation and is being promulgated in response to the Sixty-Sixth Legislature of the State of Wyoming 2021 General Session House Enrolled Act No. 58.

Section 1 provides for the authority to promulgate this rule.

Section 2 provides definitions specific to this regulation.

Section 3 addresses a public request for authorization from the Wyoming Game and Fish Department to possess road killed wildlife, specific stipulations regarding possession of road killed wildlife and euthanizing wildlife injured in an unintentional vehicle collision.

Section 4 addresses provisions for legally collecting road killed wildlife.

Section 5 identifies specific public roads and highways which are exempt from the provisions authorizing possession of road killed wildlife. The Department of Transportation was consulted in the development of the exemptions being proposed.

Section 6 addresses the disposal of road killed deer, elk and moose carcasses with regard to chronic wasting disease concerns, and is in line with other rules addressing hunter harvested deer, elk and moose carcasses.

Section 7 indicates that any person making a false statement to obtain an authorization to possess road killed wildlife is in violation of Commission regulation.

WYOMING GAME AND FISH DEPARTMENT

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October 4, 2021

MEMORANDUM

TO: Wyoming Game and Fish Commission

FROM: Mike Choma, Wildlife Law Enforcement Supervisor

COPY TO: Rick King, Scott Edberg, Doug Brimeyer, Jenny Staeben and File

SUBJECT: Summary of Public Comments and Department Response; Chapter 70, Regulation Governing Possession of Road Killed Wildlife

The Wyoming Game and Fish Department (Department) conducted one (1) in-person public meeting and posted a voice-over PowerPoint presentation on the Department website to address a draft proposal for this new regulation. A draft Chapter 70 proposal was available for review and electronic public comment through the Department website from August 9, 2021 through September 24, 2021.

The Department received eight (8) total online comments for Chapter 70. Major commenting themes pertained to: requiring data collection from road killed wildlife reports to be used for research and mitigation efforts; a recommendation to include additional Chronic Wasting Disease (CWD) disposal locations and to encourage but not require CWD testing of road killed wildlife; recommendations to require mandatory reporting to a law enforcement agency of at least antlered road killed wildlife to curtail illegal activity and possession of wildlife; to allow for collection of road killed wildlife at night; to allow the public to euthanize injured wildlife and to only allow law enforcement agencies to issue permits for road killed wildlife to deter illegal activity.

The Department is actively coordinating with Wyoming Department of Transportation (WYDOT) personnel to develop an electronic application for a person to request and receive permission to collect road killed wildlife. This application will capture necessary data specific to each road kill collision incident that will enable the Department and WYDOT managers to evaluate management implications.

The Department is not requiring CWD testing for road killed wildlife, and has mirrored the CWD disposal rules in this regulation with CWD disposal regulations already in use in Chapter 2, General Hunting Regulations.

The process for the public to request permission to collect and possess road killed wildlife does not require a response by a law enforcement officer or game warden. This has been proposed so as to not unnecessarily increase workloads by law enforcement personnel. Most road kill incidents happening today do not require an "on scene" response by Department law

enforcement personnel. The current draft regulation includes language requiring a person to present road killed wildlife for inspection to a Department representative upon request to assure its possession meets the requirement of the regulation.

One comment requested permission for road killed wildlife to be collected at night or outside of the time period between sunrise and sunset to avoid meat spoilage. The Department is recommending a road kill collection period between sunrise and sunset to address public safety concerns with vehicles parked along dark roadways at night and an increased vehicle accident rate at night due to distracted drivers. The same commenter requested a way for the public to legally euthanize wildlife injured in a vehicle collision which is not permitted by state statute.

After consideration of all public comments, the Department made no additional recommendations for changes to the original draft regulation.

CHAPTER 70

REGULATION GOVERNING POSSESSION OF ROAD KILLED WILDLIFE

Section 1. Authority. This regulation is promulgated by authority of Wyoming Statutes § 23-3-106 and § 23-3-310.

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) "Approved Landfill or Incinerator" means a landfill or incinerator permitted by the State of Wyoming Department of Environmental Quality to dispose of animal carcasses.

(b) "Public Road or Highway" (except as otherwise provided) means any roadway that is open to vehicular travel by the public. The road surface, the area between the fences on a fenced public road or highway, and an area thirty (30) feet perpendicular to the edge of the road surface on an unfenced public road or highway shall be considered the public road or highway for the purpose of this regulation. Two-track trails on public lands are not public roads.

(c) "Road Killed Wildlife" means any antelope, deer, elk, moose, wild bison or wild turkey killed as the result of an unintentional vehicle collision.

Section 3. Authorization to Possess Road Killed Wildlife. Any person who desires to possess road killed wildlife shall apply for and may receive from the Department an authorization to possess road killed wildlife from a public road or highway in accordance with this regulation prior to taking possession of any road killed wildlife. Department authorization may include, but not be limited to, an electronic reporting/authorization process, a Department issued permit to possess road killed wildlife, a donation coupon or an Interstate Game Tag.

(a) A Department authorization to possess road killed wildlife shall not be valid for any wildlife found to be taken illegally.

(b) Nothing in this regulation authorizes an individual to euthanize wildlife injured due to an unintentional vehicle collision on a public road or highway.

Section 4. Provisions for Collecting Road Killed Wildlife. A person shall have been issued a Department authorization to possess road killed wildlife prior to taking possession of any road killed wildlife. Nothing in this section shall allow a person to trespass onto private property to retrieve road killed wildlife without obtaining prior approval from the private landowner or an agent of the landowner. A person in possession of an authorization to possess road killed wildlife shall:

(a) Only take possession of road killed wildlife from a public road or highway from sunrise until sunset;

(b) Park the collection vehicle at least two (2) feet to the right of the roadway's solid white line and outside of the travel lane, or in the case of a paved or gravel road with no white line present, at least two (2) feet off the paved or gravel road surface, so as not to impede traffic while collecting road killed wildlife;

(c) Activate the emergency flashers on the collection vehicle during the entire time the collection vehicle is parked along a roadway. Collection vehicle emergency flashers shall be clearly visible from the front and rear of the vehicle;

(d) Immediately remove the entire road killed wildlife during the authorized time period, including both edible and inedible portions, from the public road or highway. Road killed wildlife shall not be field dressed within any public road or highway right-of-way; and,

(e) Upon request, present the road killed wildlife for inspection to a Department representative to verify the road killed wildlife in possession meets the requirements of this regulation.

Section 5. Public Roads or Highways Exempt from the Provisions Authorizing Possession of Road Killed Wildlife. In consultation with the Wyoming Transportation Commission and to address public safety, the following public roads or highways are prohibited from where a person may apply for and receive authorization to possess road killed wildlife:

(a) Interstate Highway 25;

(b) Interstate Highway 80;

(c) Interstate Highway 90;

(d) Any segment of a public road or highway designated as an active construction or maintenance zone; and,

(e) Any segment of a public road or highway within the exterior boundary of lands administered by the National Park Service.

Section 6. Disposal of Deer, Elk and Moose Road Killed Wildlife. Any person who receives an authorization to possess road killed wildlife shall properly dispose of any deer, elk and moose carcass in accordance with this section.

(a) Deer, elk and moose taken in Wyoming under an authorization to possess road killed wildlife may be transported within Wyoming to a camp, a private residence for processing, a taxidermist, a processor, or a chronic wasting disease (CWD) sample collection site in Wyoming. The head and all portions of the spinal column shall be disposed of in any approved landfill or approved incinerator in Wyoming.

(b) After undergoing processing, only the following parts of deer, elk or moose taken under an authorization to possess road killed wildlife may be transported in Wyoming: edible portions with no part of the spinal column or head; cleaned hide without the head; skull or skull plate or antlers that have been cleaned of all meat and brain tissue; teeth; or, finished taxidermy mounts.

(c) Only the following parts of any deer, elk or moose taken in Wyoming under an authorization to possess road killed wildlife may be transported to other states, provinces or countries: edible portions with no part of the spinal column or head; cleaned hide without the head; skull or skull plate or antlers that have been cleaned of all meat and brain tissue; teeth; or, finished taxidermy mounts.

(d) Whole deer, elk and moose carcasses taken in Wyoming under an authorization to possess road killed wildlife shall not be transported out of Wyoming.

Section 7. Making a False Statement to Obtain an Authorization to Possess Road Killed Wildlife. Any person who makes a false statement to obtain an authorization to possess road killed wildlife shall be in violation of this regulation.

WYOMING GAME AND FISH DEPARTMENT

By: 

Peter J. Dube, President

Dated: November 16, 2021

CHAPTER 70

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Dated: November 16, 2021