

REPORT TO THE NEVADA BOARD OF WILDLIFE COMMISSIONERS AND THE COUNTY ADVISORY BOARDS TO MANAGE WILDLIFE

Subject: Changes to Nevada's Waterfowl Hunting Zones

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Brief: This report has been prepared pursuant to an inquiry by the Elko County Advisory Board to Manage Wildlife (CAB) offered at the Nevada Board of Wildlife Commissioners' (Commission's) August 15th, 2009 meeting. The request was for the Nevada Department of Wildlife (NDOW) to investigate the feasibility of creating regulations that would allow for a waterfowl hunting season in Elko County that would begin and end earlier than the general duck season established for Nevada's two existing zones. This would require a change to current federal rule with regard to zone configurations in Nevada. Additionally, a participant at the Southern Nevada Waterfowl Summit held in Las Vegas on August 8th, 2009 suggested that NDOW investigate the potential to re-designate Lincoln County within the Rest-of-State zone. This action would allow Las Vegas and other southern Nevada hunters to participate in a pre-season youth hunt day in Lincoln County and a post-season youth hunt day(s) in Clark County. This would also require a change to current federal rule with regard to zone configurations in Nevada. This report addresses these questions through an investigation of the federal rules affecting zone designations.

Summary: NDOW desires to discuss this issue with affected counties but cannot institute any zoning changes until the 2011 hunting season.

Background:

Nevada selected a duck opener of October 17th this year (2009). This prompted a mild, limited objection from a few waterfowl hunters in northeast Nevada who observed that the late opener excludes them from early October waterfowl hunting opportunities. Moreover, the early freeze common to Nevada's higher latitudes/elevations effectively negates their participation in late December and January.

In addition, at NDOW's waterfowl summit in Las Vegas in August an attendee suggested that we remove Lincoln County from the Clark-Lincoln zone. This action would place Lincoln County, which contains two hunting areas - Pahrnagat National Wildlife Refuge (PNWR) and Key Pittman Wildlife Management Area (KPWMA), both within a 1½ hour drive of Las Vegas, within the rest-of-state zone. This action could lead to the potential adoption of commission regulations that would give southern Nevadans a youth hunting day that precedes the general duck opener in Lincoln county and the 15 other counties now in the rest-of-state zone. Simultaneously the Commission could continue to adopt regulations allowing for a youth hunt day (rather than two days, as has been their preference for many years) following the general season in the Clark County zone. They offered speculation that this would be valued by Las Vegas hunters who have children or could mentor non-related children.

It has been NDOW's position as a participant in the Pacific Flyway Council (PFC) and its Study Committee (PFSC) to advocate for simplified waterfowl hunting regulations. This same approach has been consistently presented to the Commission over the years. Hard data is not available to support the conclusion that complex regulations have effectively reduced waterfowl hunters and hunter days in Nevada. This is intuitively accepted, but with the acknowledgement that other factors, some social and some ecological, have strong relationships to this phenomenon. The creation of a new zone for northeast Nevada is contrary to that purpose. However, policy-makers should consider the potential increase in hunting recreation as an acceptable trade-off for regulatory complexity.

The Federal Rule: The following guidelines for zones and split seasons were established following coordinated discussions with the four national Flyway Councils and enacted through the United States Fish & Wildlife Service's Regulations Committee (SRC). These were published within the Federal Register, Volume 71, Number 69 on Tuesday April 11, 2006.

C. Zones and Split Seasons

In 1990, because of concerns about the proliferation of zones and split seasons for duck hunting, a cooperative review and evaluation of the historical use of zone/split options was conducted. This review did not show that the proliferation of these options had increased harvest pressure; however, the ability to detect the impact of zone/split configurations was poor because of unreliable response variables, the lack of statistical tests to differentiate between real and perceived changes, and the absence of adequate experimental controls. Consequently, guidelines were established to provide a framework for controlling the proliferation of changes in zone/split options. The guidelines identified a limited number of zone/split configurations that could be used for duck hunting and restricted the frequency of → changes in these configurations to 5-year intervals. In 1996, the guidelines were revised to provide States greater flexibility in using their zone/split arrangements. Open seasons for changes occurred in 1991, 1996, and 2001. The fourth open season will occur this year when zone/split configurations will be established for the 2006–2010 period. For the 2006–2010 period, the following guidelines will be used to guide zone/split selections:

Guidelines for Duck Zones and Split Seasons - The following zone/split-season guidelines apply only for the regular duck season:

- 1.) A zone is a geographic area or portion of a State, with a contiguous boundary, for which independent dates may be selected for the regular duck season.
- 2.) Consideration of changes for management-unit boundaries is not subject to the guidelines and provisions governing the use of zones and split seasons for ducks.
- 3.) Only minor (less than a county in size) boundary changes will be allowed for any grandfather arrangement, and changes are limited to the open season.
- 4.) Once a zone/split option is selected during an open season, it must remain in place for the following 5 years. Any State may continue the configuration used in the previous 5-year period. If changes are made, the zone/split-season configuration must conform to one of the following options:
 - a. Three zones with no splits,
 - b. Split seasons (no more than 3 segments) with no zones, or
 - c. Two zones with the option for 2-way (2-segment) split seasons in one or both zones.

Grandfathered Zone/Split Arrangements:

When the zone/split guidelines were first implemented in 1991, several States had completed experiments with zone/split arrangements different from options 1–3 above. Those States were offered a one-time opportunity to continue those arrangements, with the stipulation that only minor changes could be made to zone boundaries; and if they ever wished to change their zone/split arrangement, the new arrangement would have to conform to one of the 3 options identified above. If a grandfathered State changes its zoning arrangement, it cannot go back to the grandfathered arrangement it previously had in place. We request that by May 1, 2006, States notify us whether or not they plan to change their zone/split configurations for the next 5-year period (2006–2010). Those States wishing to change their configuration should submit a proposal for the change by this date.

The rules that currently exist and apply to Nevada are as follows:

Zoning and Split Seasons: Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may select hunting seasons by zones.

Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may split their seasons into two segments.

Colorado, Montana, and New Mexico may split their seasons into three segments.

Nevada: Lincoln and Clark County Zone: All of Clark and Lincoln Counties.

Remainder-of-the-State Zone: The remainder of Nevada.

Historical Zoning in Nevada In the past, Clark County had been often designated as a single county zone, with all other counties designated as the rest-of-state zone. Beginning in 1969, the state added Lincoln County to the “southern” zone. This term is not the federal designation, rather it is the common parlance used by NDOW. This lasted for nine seasons, and then Lincoln was reincorporated into the rest-of-state zone. It is not uncommon for Nevada game regulations to follow cyclical patterns and in 1996, Lincoln County was again conjoined with Clark County into the southern zone. The opportunity to again excise Lincoln County was discussed during the 2006 regulations cycle when the United States Fish & Wildlife Service (FWS) took action to create the guidelines for the establishment of zones and splits. A split is a gap between contiguous days of hunting within the federal framework for a season. Nevada has utilized splits during times when the maximum season length was less than the ‘liberal’ allowance of 107 days.

Table 1. Zone history for Nevada 1954 – present.		
Time Period	Zone Designations	Administrative Restrictions
Prior to 1954	entire state has a single season	Moapa Valley of Overton WMA Special Season Designation <i>This is not a zone designation by Federal Rule. It is an area-specific administrative season length reduction within the established season framework adopted by the Commission.</i> <i>The following years have been affected:</i> 1997-2004, 2006, 2008-2009
1955 – 1957	Clark County is designated as a separate zone	
1958	entire state has a single season	
1959 – 1961	Clark County is re-designated as a separate zone	
1962 - 1968	entire state has a single season	
1969 - 1977	Clark & Lincoln counties are designated as a zone	
1978 - 1995	Clark County is re-designated as a separate zone	
1996 - 2009	Clark & Lincoln counties are re-designated as a zone	

The 2006 Federal Rule obligated states to retain their zone and split designations for a five-year period. This was the FWS's attempt to quell the proliferation of zones and splits that states had been implementing under the shortened seasons resulting from the implementation of Adaptive Harvest Management (where harvest management fluctuates congruent to fluctuations in the continental duck breeding population). This was not an issue within the Pacific Flyway as AHM allowed 107 day seasons under the liberal framework since 1997. Nevada chose to continue its designation of the Lincoln and Clark County and rest-of-state zones.

Table 2. Derivation of duck hunting recreation in Nevada - 1999-2008.														
Year	Hunters							Hunter Days						
	EL	WP	% of T	LN	CL	all others	TOTAL	EL	WP	% of T	LN	CL	all others	TOTAL
1999	675	134	12%	507	464	5,138	6,918	2,614	1,093	9%	1,982	2,267	31,409	39,365
2000	581	188	12%	433	370	4,587	6,159	3,326	493	12%	3,419	1,935	22,790	31,963
2001	454	104	16%	315	160	2,508	3,541	5,145	339	24%	2,176	516	14,603	22,779
2002	512	180	17%	228	313	2,795	4,028	2,173	687	12%	771	1,440	17,839	22,910
2003	542	53	14%	194	223	3,286	4,298	1,809	126	8%	878	1,392	21,412	25,617
2004	465	30	14%	181	396	2,500	3,572	2,228	67	11%	989	2,571	14,390	20,245
2005	316	110	9%	206	137	4,236	5,005	1,031	426	5%	1,224	756	23,484	26,921
2006	361	137	8%	212	137	5,062	5,909	1,184	848	6%	810	1,010	27,561	31,413
2007	246	45	6%	316	310	3,720	4,637	968	187	3%	1,488	2,083	28,719	33,445
2008	378	70	9%	403	394	3,652	4,897	1,489	187	6%	1,572	2,253	20,519	26,020
AVG:	453	105	11%	300	290	3,748	4,896	2,197	445	9%	1,531	1,622	22,273	28,068

Facts and speculation in opposition of zone changes for Nevada.

1. **Designation of a new zone for Elko and White Pine counties would add complexity to Nevada's waterfowl regulations.** NDOW has strived to keep waterfowl hunting regulations as simple as possible.
 - a.
 - b. The liberal framework under AHM has allowed for 107 day long seasons since 1997. The framework permitted Nevada to adopt statewide seasons wherein the opening date was early in October and the closing date was in January with an allowance for the number of days devoted to the special youth hunt subtracted from the 107 total allowed under the Migratory Bird Treaty Act.
 - c. The creation of a new zone for northeast Nevada (*for this report we consider only Elko and White Pine counties for this potential proposal- henceforth the 'EL-WP zone'*) would be done so as to allow an earlier opening season, possibly as early as the Saturday closest to September 24th, as allowed under the federal framework. This could confuse hunters, possibly leading to non-compliance issues, particularly in January when the season would be closed in the new zone.
2. **Hunter recreation in Elko and White Pine counties combine to amount to a very small proportion of Nevada's total waterfowl recreation and harvest.** Normally, management emphasis is to direct hunter recreation to where the resources are most abundant. Hunter distribution is truly a self-directed act when it applies to small game. Specific regulations designed to distribute small game hunter recreation are only necessary to protect some species like sage-grouse on a small geographic scale. It hasn't been necessary for waterfowl species.

3. **Special zone designations are moot under a 107 day long season.** The origin of zones and splits was to allow states to designate specific geographic locales along a latitudinal stratum in order to accommodate waterfowl migration patterns.
 - a. This was appropriate when seasons were shorter. In the Pacific Flyway, zones have become somewhat obsolete under this context since AHM has allowed for 107 day seasons for the past 13 years.
 - i. Nevada formerly had differing season dates for the southern zone versus the rest-of-state zone when the federal frameworks called for seasons less than 107 days in length. Splits have rarely been invoked.
 - b. Presently, many zones have been established to address specific issues relating to one or more population of birds. An example - a special goose zone along the Pacific Coast of California addresses agricultural depredation by Aleutian geese.
 - c. In Nevada, the October opener and late January closing date assure that hunters in any part of the state can participate in waterfowl hunting regardless of the typical climatic factors affecting waterfowl distribution in their county of residence.
 - d. Realistically, as long as the 107 day season is allowed under AHM, zones are unnecessary for Nevada.
4. **Re-establishing Lincoln County within the rest-of-state zone would create regulatory complexity.** Lincoln County's inclusion with Clark County has varied over the years and explanations for the changes are not contained within NDOW archives.

Facts and speculation in support of zone changes for Nevada.

5. **Designation of a the EL-WP zone would allow hunters to take advantage of duck numbers when they are present.**
 - a. NDOW acknowledges that freeze-up normally occurs earlier in Elko and White Pine counties and when it happens, waterfowl hunting essentially shuts down except for a small amount of goose hunting along the Humboldt River.
 - b. A season opener of the first Saturday in October or even the Saturday closest to September 24th would give northeastern hunters the opportunity to partake of early migrating birds.
 - c. Duck seasons in areas of adjoining states proximal to the EL-WP zone all hunt under the season structure noted above, for the reason stated above.
6. **Hunter recreation in Elko and White Pine would increase under a special zone designation.**
 - a. As noted in table 2, the EL-WP zone has previously supported recreation that amounted to more than 10% of the state's total recreation. That phenomenon usually occurred in years when Ruby Lake NWR and Franklin Lake WMA had sufficient habitat to support lingering populations of waterfowl.
 - b. An earlier season structure could entice hunters from other parts of the state to recreate in the EL-WP zone before the season opens in the areas that they reside.
 - c. A positive economic impact could be realized for communities within the EL-WP zone.
7. **Re-establishing Lincoln County within the rest-of-state zone would allow southern Nevada youth waterfowlers the opportunity to participate in two different special youth hunt days.** The youth hunt day has always been before the opening weekend of the general duck season within the rest-of-state zone. For the most part, the Commission has adopted

two special hunt youth days following the conclusion of the general season within the southern zone. If Lincoln County is re-designated as part of the rest-of-state zone, youths living in southern Nevada communities could hunt before the general season at KPWMA and PNWR *and again* at Overton WMA after the general season ends there.

a. Note - Delayed openers for the Moapa Valley portion of the Overton WMA have not been supported by NDOW as this administrative restriction reduces the number of days allowed for duck hunting in this important area of southern Nevada.

8. In the event that shorter total season lengths are again applied throughout the Pacific Flyway, the two zoning changes discussed above would allow those waterfowlers willing to travel in Nevada an extended overall duck hunting season.

Timeline: The earliest opportunity to consider changes to zone/split arrangements under federal rule will be visited during the 2011 regulations cycle. The following sequence of events generally summarizes the process to make zoning changes happen for Nevada:

- December 2009 – Notification to Nevada CABs through this report to the Commission. No action at this time.
- December 2009 – Initial discussion with the PFSC. No action at this time.
- August 2010 - Gather public input at the Northern and Southern Waterfowl Summits and at the meetings of the Elko, White Pine and Clark CABs. Action:
 - ✓ If not supported, no further action will be taken and the existing zones will remain as they are.
 - ✓ If supported, NDOW will prepare a formal proposal to the PFSC which would be considered through this continuing sequence of events:
- December 2010 - NDOW prepares and submits a verbal proposal of any zoning changes to the PFSC. The PFSC would undertake scientific scrutiny of Nevada's proposal in an attempt to determine if the action would have any biological impacts, and to assess whether the action could result in changes in waterfowl distribution that could affect the other states in the Pacific Flyway.
- March 2011 - Once accepted, the PFSC would forward this recommendation within its omnibus waterfowl regulations recommendation to the PFC for approval at their March 2011 meeting. The PFC is a policy board that acts somewhat similarly as a commission might for state government and is comprised of members of all eleven states within the Pacific Flyway.
- June 2011 - Once approved the recommendation is forwarded by the PFC to the SRC, which would determine whether the recommendation complies with the Migratory Bird Treaty Act and all federal policies regarding the management of migratory game birds.
- July 2011 – formal proposed changes appear in the Federal Register. If not opposed – opposition would stimulate a higher level of formal investigation - then Nevada would be notified that the requested zone change can be incorporated within the federal frameworks for waterfowl seasons.
- August 2011 – NDOW prepares proposed waterfowl hunting season regulations that fit within the federal framework. This could allow the EL-WP zone to open its general season as early as the Saturday closest to September 24th. The proposals are discussed at the Summits, the CABs and finally considered for adoption before the Commission.