

**PROPOSED REGULATION OF THE  
BOARD OF WILDLIFE COMMISSIONERS  
COMMISSION GENERAL REGULATION NUMBER 364**

**LCB File No. R206-08**

**#3**

November 24, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.  
Revisions to the proposed regulations are underlined.

AUTHORITY: §§1-5 and 7, NRS 501.105, 501.181, 502.142 and 502.160; §6, NRS 504.165.

A REGULATION relating to elk; revising provisions governing the issuance of a special incentive elk tag to a landowner applicant; prohibiting the Department of Wildlife from issuing a special incentive elk tag to a landowner applicant for a certain period; requiring a landowner applicant to allow an employee or other representative of the Department to enter the private land of the landowner applicant under certain circumstances; and providing other matters properly relating thereto.

**Section 1.** NAC 502.42253 is hereby amended to read as follows:

502.42253 As used in NAC 502.42253 to 502.42283, inclusive, unless the context otherwise requires, the words and terms defined in NAC 502.42256 ~~[to 502.42266, inclusive,]~~, *502.42259 and 502.42263* have the meanings ascribed to them in those sections.

**Sec. 2.** NAC 502.42259 is hereby amended to read as follows:

502.42259 “Landowner applicant” ~~[means]~~ :

*1. Means* any owner, lessee or manager of private land who supports ~~[an increase in the population of elk above the target level.]~~ :

*(a) The established management objective, as defined by the Department in any applicable subplan for the management of elk within the local area of the private land of the landowner applicant; and*

*(b) Any elk in addition to the established management objective living on the private rangeland or native haymeadow which are used to justify the issuance of a special incentive elk tag to the landowner applicant.*

*2. Includes the owner, lessee or manager of any native hay meadow, if the native hay meadow is:*

*(a) Evaluated by the landowner applicant and the Department to determine its suitability as ~~a~~ native habitat for elk; and*

*(b) Recommended for inclusion within the private land of the landowner applicant based upon:*

*(1) The desire of the landowner applicant; and*

*(2) The evaluation conducted pursuant to paragraph (a).*

**Sec. 3.** NAC 502.42263 is hereby amended to read as follows:

502.42263 “Special incentive elk tag” means an elk tag that is awarded to a landowner applicant as an incentive to support ~~[an increase in the population of elk above the target level pursuant to an agreement between the landowner applicant and the Director.]~~ :

*1. The established management objective, as defined by the Department in any applicable subplan for the management of elk within the local area of the private land of the landowner applicant; and*

*2. Any elk in addition to the established management objective living on the private rangeland or private native haymeadow which are used to justify the issuance of the special incentive elk tag to the landowner applicant.*

**Sec. 4.** NAC 502.42273 is hereby amended to read as follows:

502.42273 *1.* The following persons are not eligible for a special incentive elk tag:

~~[1.]~~ (a) A landowner applicant who, during the same calendar year he applies for a special incentive elk tag, has applied for or received compensation pursuant to NRS 504.165 for damage caused by elk to the private land identified in the agreement for the special incentive elk tag.

~~[2.]~~ (b) A landowner applicant whose private land blocks reasonable access to adjacent public land and who does not agree to provide reasonable access through his private land to allow a person or hunting party possessing a valid elk tag to hunt elk on the adjacent public land.

~~[3.]~~ (c) An employee of the Department and his spouse or children if the employee processes the request and awards the special incentive elk tag to himself or to his spouse or children.

***2. If a landowner applicant:***

***(a) Fails to comply with any provision that is included in the agreement made pursuant to NAC 502.42276; or***

***(b) During the term of the agreement, prohibits or attempts to prohibit any hunter or hunting party holding a valid elk tag from entering or crossing the private land of the landowner applicant,***

***↪ the Department shall not, for 1 year after the failure or prohibition occurs, issue a special incentive elk tag to the landowner applicant.***

**Sec. 5.** NAC 502.42276 is hereby amended to read as follows:

502.42276 The agreement made between a landowner applicant and the Director ***of the Department*** for a special incentive elk tag must provide that:

1. The landowner applicant shall:

(a) ~~[Create or approve]~~ ***Approve*** a document ***specified by the Department*** in which the landowner ***applicant*** specifies how he shall support ~~[or encourage an increase in the number of~~

~~elk above the target level established pursuant to the agreement in the unit or units within the management area or areas in which the private land is located; and]~~ :

*(1) The established management objective, as defined by the Department in any applicable subplan for the management of elk within the local area of the private land of the landowner applicant; and*

*(2) Any elk in addition to the established management objective living on the private rangeland or private native haymeadow which are used to justify the issuance of a special incentive elk tag to the landowner applicant;*

(b) If the private land of the landowner applicant ~~[blocks reasonable access to]~~ *is adjacent to public land ~~[, provide reasonable access through his private]~~ for which access is not available except through the private land, allow access to the public land ~~[to allow]~~ :*

*(1) By a person or hunting party possessing a valid elk tag ~~[to hunt]~~ for the purpose of hunting elk on the adjacent public land ~~[,]~~ ; and*

*(2) At a location which is determined by the landowner applicant and the Department; and*

*(c) Allow an employee or other representative of the Department to enter the private land, at any date and time agreed upon by the landowner applicant and the Department, to assess elk use to determine the number of special incentive elk tags that the Department will issue pursuant to NAC 502.42279.*

2. The Department will:

(a) Determine the number of special incentive elk tags that it will award pursuant to NAC 502.42279; and

(b) Assist a landowner applicant in determining the portions of his land that are used by elk.

**Sec. 6.** NAC 504.350 is hereby amended to read as follows:

504.350 As used in NAC 504.350 to 504.440, inclusive, unless the context otherwise requires:

1. “Claimant” means a person claiming damage to private property or privately maintained improvements caused by elk or game animals not native to this State.

2. “Damage” means any change in the quality or quantity of private property or a privately maintained improvement which reduces its value or intended function and which is caused by elk or game animals not native to this State.

3. “Site” includes ~~[an orchard, stack of hay, stored crops and contiguous fields of standing crops.]~~ *any private land, other than native rangeland, that is planted, irrigated or otherwise manipulated to produce a crop. The term includes any private native hay meadow if the private native hay meadow is:*

*(a) Evaluated by the landowner applicant and the Department to determine its suitability as a native habitat for elk; and*

*(b) Not recommended for inclusion within the Incentive Elk Tag Program ~~site based upon:~~*  
~~*(1) The desire of the landowner applicant; and*~~  
~~*(2) The evaluation conducted pursuant to paragraph (a).*~~

4. “Stored crop” means any crop that has been reaped, severed, gathered and stored.

**Sec. 7.** NAC 502.42261 and 502.42266 are hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**502.42261 “Private land” defined. (NRS 501.105, 501.181, 502.142, 502.160)** “Private land” does not include any land of a landowner applicant that, during the calendar year in which the Department receives an application from the landowner applicant for a special incentive elk tag, is planted, irrigated or otherwise manipulated for the production of alfalfa or a cereal grain.

**502.42266 “Target level” defined. (NRS 501.105, 501.181, 502.142, 502.160)** “Target level” means the number of elk that a landowner applicant will allow to use certain portions of his private land during certain times of the year as specified in the agreement for the special incentive elk tag made between the landowner applicant and the Department.