

**NEVADA DEPARTMENT OF WILDLIFE
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NOTICE OF INTENT TO ACT UPON A REGULATION**

**Notice of Hearing for the Adoption of Regulations of the
Nevada Board of Wildlife Commissioners**

**LCB File No. R074-16
Commission General Regulation 464**

The Nevada Board of Wildlife Commissioners will hold a public hearing at 8:30 am, on February 11, 2017, at the Nevada State Capitol Building, Capitol Assembly Chambers, 2nd Floor, 101 North Carson Street, Carson City, Nevada 89701 and videoconferenced to the Grant Sawyer Building, Suite 5100, 5th Floor, 555 East Washington Avenue, Las Vegas, Nevada 89101. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 502 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS233B.0603:

1. **The need for and the purpose of the proposed regulation or amendment:**
The need and purpose of this amendment is to resolve a few problems with the appeals process before the Nevada Board of Wildlife Commissioners which includes:
 - a) Appeals must be heard on the next regularly scheduled Wildlife Commission Meeting and this creates a logistical time constraint.
 - b) There is a conflict with one Attorney General advising two sides of an issue (i.e. the Department who revoked the license, and the Commission who can provide relief).
 - c) It is unclear to persons who have recently pleaded or been convicted that there is no jurisdiction to overturn court actions.
 - d) Lastly, if an appellant has retained an attorney there is usually an increased lengthiness of the actual appeal hearing.Fixing these problems will provide more clarity, simplicity, and flexibility to all parties involved.
2. **Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved:**
First, it clarifies that days means calendar days, and provides flexibility for the appellant and the Commission in scheduling appeals at a convenient date or a separate meeting.
Second, it requires that if the Commission and the Department are represented by the same Attorney General that a separate Attorney General will be appointed to represent the Department to avoid conflicts of interest in advising two sides of a case.
Third it provides clarity to appellants that the Commission has limited jurisdiction and cannot overturn a court decision or hold a rehearing of a case.
Lastly, it requires advance notification of legal representation if the appellant has retained an attorney.
3. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:**
 - (a) **Both adverse and beneficial effects; and**
There is no *economic* effect of the regulation on any business or public.

The regulation affects potential license revocation appellants (hunting, fishing, and trapping) clarifying the process by which they may appeal to the Nevada Board of Wildlife Commissioners a license

revocation or demerit received for violating wildlife laws. Recreational businesses (including guides) are regulated in a separate law. This regulation does not regulate the operation of any small business.

(b) Both immediate and long-term effects:

There is no immediate and long-term economic effect of the regulation on any business or public.

4. The estimated cost to the agency for enforcement of the proposed regulation:

The enforcement of the regulation falls within current operations of the Department; therefore, there will be no additional cost to the agency above the current budget.

5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency:

The regulation does not overlap or duplicate any other state, local, or federal laws or regulations.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law:

The regulation is not required pursuant to federal law.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:

The regulation is not more stringent than federal regulations.

8. Whether the proposed regulation establishes a new fee or increases an existing fee:

This regulation change does not propose new or increased fees.

Persons wishing to comment upon the proposed action of the Nevada Board of Wildlife Commissioners may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Department of Wildlife, 6980 Sierra Center Parkway, Suite 120, Reno, Nevada 89511 attention Director's Office. Written submissions must be received by the Nevada Department of Wildlife 5 week days before the meeting. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Board of Wildlife Commissioners may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the Nevada Department of Wildlife Director's Office, 6980 Sierra Center Parkway, Suite 120, Reno, Nevada 89511, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following Nevada Department of Wildlife offices:

1100 Valley Road, Reno, Nevada 89512 (775) 688-1506
380 W. B Street, Fallon, Nevada 89406 (775) 423-3171
60 Youth Center Road, Elko, Nevada 89801 (775) 777-2300
4747 Vegas Drive, Las Vegas, Nevada 89109 (702) 486-5127

It has also been mailed to the following Nevada county public libraries in which an office of the agency is not maintained, for inspection and copying by members of the public during business hours:

Carson City Library, 900 North Rook Street, Carson City, Nevada 89701-3101
Douglas County Library, 1625 Library Lane, Minden, NV 89423
Esmeralda County Library, Corner of Crook & 4th Street, PO Box 430, Goldfield, NV 89013-0430
Eureka County Library, 10190 Monroe Street, Eureka, NV 89316
Humboldt County Library, 85 East 5th Street, Winnemucca, NV 89445-3095
Battle Mountain Branch Library (Lander County), 625 South Broad Street, Battle Mountain, NV 89820
Lincoln County Library, 63 Main Street, Pioche, NV 89043
Lyon County Library System, 20 Nevin Way, Yerington, NV 89447-2399
Mineral County Public Library, PO Box 1390, Hawthorne, NV 89415
Pershing County Library, 1125 Central Avenue, Lovelock, NV 89419
Storey County Clerk's Office, Drawer D, Virginia City, NV 89440
Tonopah Public Library (Nye County), PO Box 449, Tonopah, NV 89049
White Pine County Library, 950 Campton Street, Ely, NV 89301

These regulations will also be available at the following websites:

<https://www.leg.state.nv.us/App/Notice/A/>
<https://notice.nv.gov/>
<http://www.leg.state.nv.us/register/>
http://www.ndow.org/Public_Meetings/Public_Notices/

A copy of all materials relating to the proposed regulation may be obtained at the hearing or by contacting the Director's Office at the Nevada Department of Wildlife, 6980 Sierra Center Parkway, Suite 120, Reno, Nevada 89511 or (775) 688-1597. A reasonable fee may be charged for copies if it is deemed necessary.

January 3, 2017

**REVISED PROPOSED REGULATION OF THE
BOARD OF WILDLIFE COMMISSIONERS**

LCB File No. R074-16

August 30, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-3, NRS 501.181; §4, NRS 501.181 and 501.1816.

A REGULATION relating to the Board of Wildlife Commissioners; revising provisions relating to practice before the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of Wildlife Commissioners to adopt regulations necessary to carry out the provisions of title 45 of NRS regarding wildlife. (NRS 501.181) Existing law also requires that all parties in a contested case be afforded an opportunity for a hearing after reasonable notice. (NRS 233B.121) Existing regulations require the Commission to hold a hearing requested by a person who is aggrieved by a decision of the Department of Wildlife on the agenda for the next regularly scheduled meeting of the Commission after the request, unless the person and the Department agree otherwise in writing. (NAC 501.150) **Section 1** of this regulation provides that the Commission may hold a special meeting of the Commission to conduct such a hearing.

Existing regulations require the Department to mail notice of a hearing on an appeal not less than 20 days before the date of the hearing, and provide a rebuttable presumption that an appellant has received the notice not less than 10 days after the notice was mailed by the Department. (NAC 501.150) **Section 1** requires the Department to provide notice of a hearing not less than 30 days before the hearing, and provides a rebuttable presumption that an appellant has received the notice not less than 20 days after the notice was mailed by the Department. **Section 1** also clarifies that such notice must be measured in calendar days.

Existing regulations require each party to an appeal before the Commission to provide, at least 14 days before the date set for a hearing, the Commission and all other parties to the appeal certain documents regarding the appeal. (NAC 501.153) **Section 2** of this regulation provides that if an appellant fails to provide those documents in a timely manner, the Commission may dismiss the appeal with prejudice unless the appellant shows good cause for that failure. **Section 1** requires the Department to include in its notice of the hearing the requirements regarding the provision of certain documents and the potential consequences of an appellant's failure to meet those requirements.

Existing law provides that a person who receives notice from the Department that the person's license, permit or privilege has been suspended or revoked after accumulating a certain number of demerit points may request a hearing before the Commission. (NRS 501.1816) Under existing regulations, at such a hearing the Commission will: (1) allow to be presented only evidence that is in the record on the matter that is on file with the Department; and (2) consider only allegations of procedural error committed by the Department. (NAC 501.165) **Section 4** of this regulation clarifies that such a hearing will not be a hearing de novo but will be confined to the record on review. **Section 1** also requires that the Department include in its required notice of such a hearing a statement that the hearing is: (1) not a rehearing of the original matter; and (2) limited to determining if the Department committed a procedural error.

Existing law provides that any party in a hearing on a contested case against the Department is entitled to be represented by counsel. (NRS 233B.121) **Section 2** requires a person who intends to be represented by counsel in a hearing before the Commission to notify the Commission in writing at least 10 calendar days before the date set for the hearing. **Section 1** requires the Department to include in its required notice of a hearing the requirements for notifying the Commission if an appellant intends to be represented by counsel.

Under existing law, the Attorney General and the duly appointed deputies of the Attorney General are the legal advisors on all state matters arising in the Executive Department of the State Government. (NRS 228.110) Existing law also authorizes the Attorney General to appoint a special deputy to provide legal advice to a regulatory body in certain instances, such as when the Attorney General determines that a conflict of interest exists. (NRS 228.091) **Section 3** of this regulation provides that if the Commission and the Department are represented by the same deputy attorney general, the Commission will request that the Attorney General appoint a deputy attorney general separate from the deputy attorney general representing the Department to represent the Commission in a hearing.

Section 1. NAC 501.150 is hereby amended to read as follows:

501.150 1. A person who is aggrieved by a decision of the Department must submit a written request for a hearing before the Commission within 30 *calendar* days after the person receives a notice from the Department pursuant to subsection 3 of NRS 233B.127 that his or her license or permit will be denied, revoked or suspended. Otherwise, his or her right to the hearing shall be deemed waived. The date of receipt of the notice from the Department that the license or permit will be denied, revoked or suspended shall be deemed to be:

(a) The date that is indicated on the signed certified mail receipt; or

(b) If the person refuses to accept delivery of the notice, 3 *calendar* days after the date the certified mail has been refused by the person.

2. The hearing must be requested on a form provided by the Department.

3. ~~{The}~~ *Except as otherwise provided in NRS 501.1816 and unless the appellant and the Department agree otherwise in writing, the* Commission will ~~{include}~~ :

(a) *Include* the hearing on the agenda for the next regularly scheduled meeting of the Commission that is conducted after the Department receives the request for a hearing ~~{, unless the appellant and Department agree otherwise in writing.}~~ ; or

(b) *Hold a special meeting pursuant to NRS 501.177 for the purpose of conducting the hearing.*

4. The Department shall *send by certified* mail a notice of hearing that complies with the provisions of NRS 233B.121 not less than ~~{20}~~ *30 calendar* days before the date of the hearing. There is a rebuttable presumption that the notice of hearing has been received by an appellant ~~{+0}~~ *20 calendar* days after the date the notice was deposited in the United States mail. *Such a notice must include a statement notifying the appellant of the requirements of NAC 501.153.*

5. *A notice sent pursuant to subsection 4 for a hearing conducted pursuant to NRS 501.1816 must include a statement notifying the appellant that a hearing conducted by the Commission pursuant to NRS 501.1816 is:*

(a) *Not a rehearing of the matter for which the appellant is seeking the hearing; and*

(b) *Limited to determining if the Department committed procedural error.*

6. Any contention that improper notice was given by the Department shall be deemed waived unless the contention is raised at the hearing.

~~{6.}~~ 7. Except as otherwise provided in NRS 501.1816, the Department may grant a stay of its decision to deny, revoke or suspend the license or permit pending the hearing before the Commission if the Department determines that:

- (a) There is good cause to stay its decision; and
- (b) A stay will not have a detrimental impact on wildlife.

Sec. 2. NAC 501.153 is hereby amended to read as follows:

501.153 1. At least 14 *calendar* days before the date set for a hearing for an appeal, each party to the appeal must file with the Commission and serve upon all other parties to the appeal:

- ~~{1.}~~ (a) All documents that the party intends to introduce as evidence at the hearing; and
- ~~{2.}~~ (b) A written statement setting forth:
 - ~~{(a)}~~ (1) The name and address of the party;
 - ~~{(b)}~~ (2) The reason for the appeal, if the party is the appellant;
 - ~~{(c)}~~ (3) A brief statement supporting the position of the party; and
 - ~~{(d)}~~ (4) If the party intends to introduce witnesses, a list setting forth the name of each witness together with a brief summary of the proposed testimony of the witness.

2. If an appellant fails to meet the requirements of subsection 1 and the appellant does not show good cause for the failure to meet those requirements, the Commission may dismiss the appeal with prejudice. An appeal that is dismissed pursuant to this subsection may not be reconsidered by the Commission. The dismissal of an appeal pursuant to this subsection is a final decision for purposes of judicial review.

3. An appellant or petitioner who intends to be represented by an attorney pursuant to NAC 501.155 must notify the Commission of that fact in writing at least 10 calendar days before the date set for the hearing for an appeal or a petition.

Sec. 3. NAC 501.155 is hereby amended to read as follows:

501.155 1. An appellant or a petitioner may be represented by an attorney who is licensed to practice law in this State.

2. If the Commission and the Department are represented by the same deputy attorney general, the Commission will request, at least 10 days before a hearing, that the Attorney General appoint a deputy attorney general separate from the deputy attorney general representing the Department to represent the Commission in the hearing.

Sec. 4. NAC 501.165 is hereby amended to read as follows:

501.165 1. Except as otherwise provided in subsection 2, a hearing regarding a denial, revocation or suspension of a license or permit ordered pursuant to the provisions of chapters 501 to 506, inclusive, of NRS and any regulations adopted pursuant to those chapters will be conducted by the Commission as a hearing de novo.

2. ~~At a~~ A hearing conducted pursuant to NRS 501.1816 ~~the~~ *will not be conducted as a hearing de novo but will be confined to the record on review. The* Commission will:

(a) Allow to be presented only evidence that is in the record regarding the suspension or revocation of the license, permit or privilege that is on file with the Department; and

(b) Consider only allegations of procedural error committed by the Department that affect the substantive rights of the appellant.

**STATE OF NEVADA
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NEVADA DEPARTMENT OF WILDLIFE
SMALL BUSINESS IMPACT STATEMENT PURSUANT TO NRS 233B**

**Re: Commission General Regulation 464 LCB File No. R074-16 – Appeals – Practice and Procedure
Before Board of Wildlife Commissioners**

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 to determine whether a small business impact statement is required for submittal of a proposed regulation before the Nevada Board of Wildlife Commissioners. Note: Small business is defined as a “business conducted for profit which employs fewer than 150 full-time or part-time employees” (NRS233B.0382).

1. Describe the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary:

ANSWER:

The regulation affects potential license revocation appellants (hunting, fishing, and trapping) clarifying the process by which they may appeal to the Nevada Board of Wildlife Commissioners a license revocation or demerit received for violating wildlife laws. Recreational businesses (including guides) are regulated in a separate law. This regulation does not regulate the operation of any small business. Agency personnel concluded there would be no small businesses impact and no need for a small business impact statement.

2. Describe the manner in which the analysis was conducted:

ANSWER:

Agency personnel met with board members and discussed the potential for a small business impact. They determined that there will be no impact.

3. Describe the estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

- a.) Both adverse and beneficial effects:
- b.) Both direct and indirect effects:

ANSWER:

There will be no adverse or beneficial direct or indirect economic effects from the proposed regulation on small business because it does not regulate the operation of any small business.

4. Describe the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods:

ANSWER:

The agency concluded that this regulation does not regulate any small business; therefore, no methods were considered to reduce the impact, because there is no impact.

5. Describe the estimated cost to the agency for enforcement of the proposed regulation:

ANSWER:

The enforcement of the regulation falls within current operations of the Department; therefore, there will be no additional cost to the agency above the current budget.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used:

ANSWER:

This regulation does not propose new fees or increased fees.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary:

ANSWER:

The amendments do not duplicate any laws regulating the same activity, nor strengthen others.

8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses:

ANSWER:

There is no impact on small businesses because the changes are associated with individual recreational licenses: hunting, fishing, or trapping license holders who are revoked or have demerit point concerns and are seeking due process or relief from the Nevada Board of Wildlife Commissioners.

I hereby certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.



Tony Wasley, Director
Nevada Department of Wildlife

**NEVADA DEPARTMENT OF WILDLIFE
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NOTICE OF INTENT TO ACT UPON A REGULATION**

**Notice of Hearing for the Adoption of Regulations of the
Nevada Board of Wildlife Commissioners**

**LCB File No. 105-16
Commission General Regulation 467**

The Nevada Board of Wildlife Commissioners will hold a public hearing at 8:30 am, on February 11, 2017, at the Nevada State Capitol Building, Capitol Assembly Chambers, 2nd Floor, 101 North Carson Street, Carson City, Nevada 89701 and videoconferenced to the Grant Sawyer Building, suite 5100, 5th Floor, 555 East Washington Avenue, Las Vegas, Nevada 89101. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 503 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. **The need for and the purpose of the proposed regulation or amendment:**
This regulation is intended to comply with Assembly Bill 136, which requires the Commission to adopt regulations prescribing the circumstances under which a person may assist in the killing and retrieval of a wounded big game mammal by another person who: (1) is a paraplegic, has had one or both legs amputated or has suffered a paralysis of one or both legs which severely impedes the person's walking; and (2) has obtained a valid tag issued by the Department for hunting that animal.
2. **Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved:**
This regulation gives disabled hunters the ability to be accompanied on a hunt for a big game mammal by a designated licensed assistant(s) who has a Nevada Hunting License and Special Assistance Permit. This allows the designated licensed hunter to assist by pursuing and taking a big game mammal for which the disabled hunter possesses a tag.
3. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:**
 - (a) **Both adverse and beneficial effects; and**
This regulation will not have any adverse economic effect on a business because this regulation does not regulate businesses. The regulation will have neither an adverse, nor a beneficial effect on the public.
 - (b) **Both immediate and long-term effects.**
This regulation will have neither an immediate, nor a long-term economic effect on a business because it does not regulate businesses. It will also have neither an immediate, nor a long term economic effect on the public.
4. **The estimated cost to the agency for enforcement of the proposed regulation:**
There is no additional cost to the agency. Enforcement of this regulation falls within the regular duties of the Department.

5. **A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency:**
The proposed regulation does not overlap or duplicate any existing regulation of any other state, local or federal governmental agency.
6. **If the regulation is required pursuant to federal law, a citation and description of the federal law:**
This regulation is not required pursuant to federal law.
7. **If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:**
This regulation is not more stringent than a federal regulation.
8. **Whether the proposed regulation establishes a new fee or increases an existing fee:**
The proposed regulation does not establish a new fee or increase any existing fee.

Persons wishing to comment upon the proposed action of the Nevada Board of Wildlife Commissioners may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Department of Wildlife, 6980 Sierra Center Parkway, Suite 120, Reno, Nevada 89511 attention Director's Office. Written submissions must be received by the Nevada Department of Wildlife 5 week days before the meeting. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Board of Wildlife Commissioners may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be (Adopted/Amended/Repealed) will be available at the Nevada Department of Wildlife Director's Office, 6980 Sierra Center Parkway, Suite 120, Reno, Nevada 89511, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

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Eureka County Library, 10190 Monroe Street, Eureka, NV 89316
Humboldt County Library, 85 East 5th Street, Winnemucca, NV 89445-3095
Battle Mountain Branch Library (Lander County), 625 South Broad Street, Battle Mountain, NV 89820
Lincoln County Library, 63 Main Street, Pioche, NV 89043
Lyon County Library System, 20 Nevin Way, Yerington, NV 89447-2399
Mineral County Public Library, PO Box 1390, Hawthorne, NV 89415
Pershing County Library, 1125 Central Avenue, Lovelock, NV 89419
Storey County Clerk's Office, Drawer D, Virginia City, NV 89440
Tonopah Public Library (Nye County), PO Box 449, Tonopah, NV 89049
White Pine County Library, 950 Campton Street, Ely, NV 89301

These regulations will also be available at the following websites:

<https://www.leg.state.nv.us/App/Notice/A/>

<https://notice.nv.gov/>

<http://www.leg.state.nv.us/register/>

http://www.ndow.org/Public_Meetings/Public_Notices/

A copy of all materials relating to the proposed regulation may be obtained at the hearing or by contacting the Director's Office at the Nevada Department of Wildlife, 6980 Sierra Center Parkway, Suite 120, Reno, Nevada 89511 or (775) 688-1597. A reasonable fee may be charged for copies if it is deemed necessary.

January 3, 2017

**REVISED PROPOSED REGULATION OF THE
BOARD OF WILDLIFE COMMISSIONERS**

LCB File No. R105-16

October 18, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-5, NRS 501.181; §§6-8, NRS 501.181 and 502.160.

A REGULATION relating to hunting; authorizing certain persons with disabilities to apply for the issuance of a special assistance permit; authorizing a designated licensed assistant to provide assistance to the holder of a special assistance permit in hunting a big game mammal under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Board of Wildlife Commissioners to adopt regulations prescribing the circumstances under which a person may assist a person with certain disabilities in hunting a big game mammal for which the person with a disability has obtained a tag. (NRS 501.181) **Section 4** of this regulation sets forth the manner in which a person with a qualifying disability who holds a tag to hunt a big game mammal may obtain a special assistance permit which names one or more designated licensed assistants. **Section 4** also sets forth the required qualifications for the person with a disability and each designated licensed assistant. A designated licensed assistant must be at least 18 years of age and must hold a valid hunting license, but is not required to hold a tag for the big game mammal which the person with a disability is authorized to hunt. **Section 5** of this regulation provides that only one designated licensed assistant may assist the holder of special permit at a time during the hunt. The acting designated licensed assistant must be accompanied by the holder of a special assistance permit during the hunt except for certain circumstances that allow the designated licensed assistant to assist the person with a disability in the field by: (1) if the designated licensed assistant has a good faith belief that the person with a disability has lawfully wounded a big game mammal, discharging his or her weapon to assist in the taking of the big game mammal; (2) validating the tag which authorizes the taking of the big game mammal and attaching that tag to the carcass; and (3) retrieving the big game mammal. **Section 5** also provides that: (1) the designated licensed assistant must have a copy of the special assistance permit in his or her possession in the field during a hunt; (2) the designated licensed assistant is prohibited from using a weapon other than the weapon authorized by the tag; and (3) the person with a disability and the designated licensed assistant are subject to all other applicable laws and regulations governing the hunt. Existing law makes it a misdemeanor for a person engaged in a hunt, including a designated licensed assistant, to: (1) fail to have his or her required license or permit in his or her

possession; or (2) refuse to exhibit that license or permit upon the demand of any officer authorized to enforce the fish and game laws of this State. (NRS 502.120)

Section 1. Chapter 502 of NAC is hereby amended by adding thereto the provisions set forth as section 2 to 5, inclusive, of this regulation.

Sec. 2. *“Designated licensed assistant” means a person designated on a special assistance permit to assist the holder of the permit in accordance with sections 2 to 5, inclusive, of this regulation.*

Sec. 3. *“Special assistance permit” means a permit issued by the Department to a person who meets the requirements of section 4 of this regulation.*

Sec. 4. 1. *The holder of a tag issued by the Department authorizing the holder to hunt a big game mammal may apply for a special assistance permit authorizing a designated licensed assistant to assist the holder in accordance with section 5 of this regulation if the holder:*

- (a) Is a paraplegic;*
- (b) Has had one or both legs amputated; or*
- (c) Has suffered a paralysis of one or both legs which severely impedes the holder’s walking.*

2. *An application for a special assistance permit must:*

(a) Be submitted on a form provided by the Department and must include, without limitation:

- (1) The applicant’s legal name, physical address, mailing address if different from the physical address and telephone number;*
- (2) The social security number and client number of the applicant;*
- (3) The class and number of the hunting license issued to the applicant in this State;*
- (4) The legal name of each designated licensed assistant;*

(5) The physical mailing address and telephone number of each designated licensed assistant; and

(6) The hunting license number and client number of each designated licensed assistant.

(b) Include:

(1) A statement signed by the applicant which affirms that the applicant is eligible for the special assistance permit pursuant to subsection 1; and

(2) A signed statement from each designated licensed assistant named in the application affirming that the designated licensed assistant meets the requirements of subsection 4.

(c) Be accompanied by a certificate issued by a licensed physician certifying that the applicant meets the requirements of subsection 1.

3. An applicant for a special assistance permit pursuant to this section who holds more than one tag issued by the Department authorizing the holder to hunt a big game mammal must complete a separate application for each tag. The applicant:

(a) Is not required to use the same designated licensed assistant for each tag; and

(b) May list more than one designated licensed assistant for each tag.

4. To be a designated licensed assistant, a person:

(a) Must be 18 years of age or older;

(b) Must hold a valid hunting license in this State;

(c) Must not have any license, permit or privilege issued to him or her pursuant to title 45 of NRS suspended or revoked; and

(d) Is not required to hold a tag for the big game mammal which the holder of the special assistance permit is authorized to take.

5. A special assistance permit issued pursuant to this section must be issued free of charge to the applicant.

Sec. 5. 1. A holder of a special assistance permit who is in the field:

(a) Must have the special assistance permit in his or her possession; and

(b) May be accompanied by more than one designated licensed assistant listed on his or her special assistance permit but may only be actively assisted during the hunt by one designated licensed assistant at a time.

2. Each designated licensed assistant in the field with the holder of a special assistance permit must have a copy of the special assistance permit in his or her possession, and must exhibit the copy of the permit upon the demand of any officer authorized to enforce the fish and game laws of this State.

3. A designated licensed assistant who is in the field to assist the holder of a special assistance permit during a hunt:

(a) Must have his or her hunting license and a copy of the special assistance permit in his or her possession;

(b) May not use a weapon other than the weapon authorized by the tag of the holder of the special assistance permit;

(c) Except as required to perform any task authorized in paragraphs (d) and (e), must be accompanied at all times during the hunt by the holder of the special assistance permit;

(d) May, if he or she has a good faith belief that the holder of a special assistance permit has lawfully wounded a big game mammal, discharge his or her weapon to assist in the taking of the big game mammal; and

(e) May assist the holder of a special assistance permit in:

(1) The validation and attachment of the tag of the holder of a special assistance permit that is required by NAC 502.390 and 502.400; and

(2) Retrieving the big game mammal wounded or killed by the holder of a special assistance permit.

4. For the purposes of title 45 of NRS, if a big game mammal is harvested pursuant to the provisions of this section, the holder of the special assistance permit will be deemed to be the person who killed or harvested the big game mammal.

5. Except as otherwise provided in this section and section 4 of this regulation, each holder of a special assistance permit and each designated licensed assistant is subject to all applicable laws and regulations relating to the type of hunt for which the holder of the special assistance permit is authorized, except those provisions which by their nature can have no application.

Sec. 6. NAC 502.385 is hereby amended to read as follows:

502.385 1. The tag or permit must:

(a) Include, in the space provided on the tag or permit, the signature of the holder of the tag or permit and the date on which and time at which the holder signed the tag or permit; and

(b) Be carried by the holder at all times while the holder is hunting or trapping or while he or she is fishing for wildlife for which a tag or permit is required.

2. ~~It~~ *Except as otherwise provided in section 5 of this regulation, it* is unlawful for any person to:

(a) Use or possess a tag or permit issued to any other person;

(b) Transfer or give a tag or permit issued to him or her to any other person;

(c) Use any tag or permit in a management area or unit for which it is not intended; or

(d) Use a tag or permit at any time other than at the time intended.

3. After it has been issued, a tag or permit may not be exchanged or a refund made except in accordance with the policies and regulations of the Commission.

Sec. 7. NAC 502.390 is hereby amended to read as follows:

502.390 ~~{When}~~ *Except as otherwise provided in section 5 of this regulation, when* a person reaches any wildlife which the person has killed, he or she must validate his or her tag or permit immediately by clearly punching out the spaces necessary to properly identify the physical description of the animal, including its sex and antler points, where appropriate, and the day and month of the kill.

Sec. 8. NAC 502.400 is hereby amended to read as follows:

502.400 1. Except as otherwise provided in subsection 2 ~~{H}~~ *and section 5 of this regulation*, the owner of a tag or permit must firmly attach it to the carcass of an animal killed by the owner, at or before the time he or she first reaches his or her means of transportation or camp. The tag or permit must remain with the major portion of the meat until it is consumed.

2. If the animal killed is a mountain lion or fur-bearing mammal for which a tag or permit is required, the owner of the tag or permit *or a designated licensed assistant pursuant to section 5 of this regulation* must firmly attach it to the hide or pelt of the animal. The tag or permit must remain attached to the hide while it is transported and until it is processed.

**STATE OF NEVADA
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NEVADA DEPARTMENT OF WILDLIFE
SMALL BUSINESS IMPACT STATEMENT PURSUANT TO NRS233B**

Re: Commission General Regulation 467 - LCB File No. R105-16 – Special Assistance Permit: Possession of permit; requirements for accompaniment and assistance to disabled hunter.

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 to determine whether a small business impact statement is required for submittal of a proposed regulation before the Nevada Board of Wildlife Commissioners. Note: Small business is defined as a “business conducted for profit which employs fewer than 150 full-time or part-time employees” (NRS233B.0382).

The need and purpose for the proposed amendment is to provide reasonable accommodations for disabled hunters utilizing a companion hunter in the field.

1. Describe the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary:

ANSWER:

Comment was not solicited from small businesses. This regulation does not affect small businesses. This regulation contains guidelines for hunters.

2. Describe the manner in which the analysis was conducted:

ANSWER:

Agency personnel and board members of the Nevada Board of Wildlife Commissioners concluded that there would be no small business impact and no need for a small business impact statement.

3. Describe the estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

- a.) Both adverse and beneficial effects:
- b.) Both direct and indirect effects:

ANSWER:

There will be no adverse or beneficial, direct or indirect economic effects from the proposed regulation on small business because it does not regulate the operation of any small business.

4. Describe the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods:

ANSWER:

The agency concluded that this regulation does not regulate any small business; therefore, no methods were considered to reduce the impact, because there is no impact.

5. Describe the estimated cost to the agency for enforcement of the proposed regulation:

ANSWER:

The enforcement of the regulation falls within current operations of the Department; therefore, there will be no additional cost to the agency above the current legislatively approved budget.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used:

ANSWER:

This regulation does not propose new fees or increased fees.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary:

ANSWER:

This regulation does not overlap or duplicate any federal, state, or local regulation, nor strengthen others.

8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses:

ANSWER:

There is no impact on small businesses because the changes are associated with guidelines for hunters.

I hereby certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.



Tony Wasley, Director
Nevada Department of Wildlife