The Nevada Board of Wildlife Commissioners will hold a public hearing at 8:30AM, on March 21, 2020, at Washoe County Commission Chambers, 1001 E. 9th Street, Building A, Reno, NV 89512. 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 NRS 233B.0603:

1. **The need for and the purpose of the proposed regulation or amendment:**
   This purpose of the regulation is to give the Nevada Board of Wildlife Commissioners the authority to establish a program for hunters to transfer, defer, or return their tag to the Department in extenuating circumstances. Currently, there is no way to accommodate sportsmen who incur an extenuating circumstance after the last business day before the hunt begins up until shooting hours on the first day of the hunt. This authority was given to the Commission by Assembly Bill 404 of the 80th Legislative Session.

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 **Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved:**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 would allow for sportsmen and women diagnosed as terminally ill to transfer their tag to another eligible person. The regulation also allows sportsmen and women who incur an extenuating circumstance after the last business day before the hunt, but before shooting hours on the first day of the hunt, to defer the tag to the next year or return the tag for a bonus point.

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 on businesses; and
   There are no adverse nor beneficial effects on businesses.

   (b) Both immediate and long-term effects on businesses:
   There are no immediate nor long-term effects on businesses.

   (c) Both adverse and beneficial effects on the public; and
   There is no adverse effect on the public. The beneficial effect will be that sportsmen and women who incur extenuating circumstances may be accommodated.

   (d) Both immediate and long-term effects on the public:
There are no immediate and long-term effects on the public.

4. **The estimated cost to the agency for enforcement of the proposed regulation:**
   There is no additional cost to the agency. The license vendor will build these changes into the licensing system.

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:**
   There are no overlapping regulations.

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:**
   There are no federal regulations that regulate this same activity.

8. **Whether the proposed regulation establishes a new fee or increases an existing fee:**
   The regulation does not establish a new fee nor increase an 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 weekdays 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](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
3373 Pepper Lane, Las Vegas, Nevada 89120 (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 Roop 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.

02/20/2020
REVISED PROPOSED REGULATION OF
THE BOARD OF WILDLIFE COMMISSIONERS

LCB File No. R022-19

February 14, 2020

EXPLANATION – Matter in italics is new; matter in brackets [omitted material] is material to be omitted.


A REGULATION relating to wildlife; setting forth certain provisions relating to the transfer, return or deferral of the use of a tag under certain extenuating circumstances; revising certain provisions relating to the refund of a tag; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:
Existing law authorizes the Board of Wildlife Commissioners to establish a program whereby a hunter who has obtained a tag to hunt certain wildlife may transfer, return or defer the use of his or her tag in the event of an extenuating circumstance. (NRS 502.103) Section 1 of this regulation sets forth: (1) what constitutes an “extenuating circumstance”; and (2) the process for the transfer, return or deferral of the use of a tag for such an extenuating circumstance.

Existing law authorizes the Commission to adopt regulations authorizing the return of certain fees collected from a person for a tag. (NRS 502.250) Existing regulations provide that a person may return a tag under certain circumstances. The tag must be received by the Department of Wildlife at least 1 business day before the opening day of the season for which the tag was issued. (NAC 502.422) Section 1 provides that a person may return or defer the use of a tag if he or she incurs certain extenuating circumstances after the date by which he or she may receive a refund, but before the hunting hours begin on the opening day of the season for which the tag was issued. Section 4 of this regulation provides that if the holder of a tag transfers his or her tag to another person due to an extenuating circumstance, the holder of the tag and the new recipient of the tag lose all of their bonus points for that species or category of species. Sections 2 and 3 of this regulation make conforming changes.

Existing regulations authorize the holder of a tag to return the tag for a refund under certain circumstances, including if the holder or a certain relative of the holder incurs a disability which prevents him or her from hunting during the season for which the tag was issued. (NAC
Section 5 of this regulation authorizes the holder of a tag to also return a tag for a refund if the holder or a certain relative of the holder incurs an illness which prevents him or her from hunting during the season for which the tag was issued.

Section 1. Chapter 502 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A holder of a tag may claim an extenuating circumstance and request to transfer the tag, return the tag for the restoration of bonus points or defer the use of the tag pursuant to NRS 502.103 only in accordance with the requirements of this section.

2. If the holder of a tag is diagnosed as terminally ill before hunting hours begin on the opening day of the season for which the tag was issued, the holder of the tag may claim an extenuating circumstance and request to transfer the tag to another person who is otherwise eligible to hunt a big game mammal in this State.

3. Except as otherwise provided in subsection 7, the Department shall allow the holder of a tag to return the tag to the Department for the restoration of any bonus points that he or she used to obtain the tag or defer the use of the tag to the next applicable hunting season if any of the following extenuating circumstances occur after the last day that the holder is entitled to return the tag pursuant to NAC 502.422, but before the hunting hours begin on the opening day of the season for which the tag was issued:

   (a) The death of a family member of the holder of the tag, as verified by a certificate of death;
(b) The holder of the tag or a family member of the holder incurs a severe and unanticipated injury or illness which prevents the holder from hunting during the season for which the tag was issued, as verified in writing by a physician; or

(c) The holder of the tag is serving in the Armed Forces of the United States and is transferred to a location which makes it impracticable for the holder to hunt in the area for which the tag was issued, as verified by a copy of his or her orders or other proof satisfactory to the Department.

4. If the holder of the tag claims an extenuating circumstance as described in subsections 2 and 3, he or she must:

(a) Return the tag to the Department not later than 14 business days after the opening day of the season for which the tag was issued;

(b) Attest that he or she did not hunt on the tag; and

(c) Submit evidence to the Department of the extenuating circumstance. In the case of the death of a family member, if the holder of the tag has not received a death certificate for the deceased person within the 14 business days required to return the tag to the Department pursuant to paragraph (a), the death certificate may be submitted to the Department at such time as the holder of the tag receives a copy of the death certificate.

5. If a tag is transferred to another person pursuant to this section, both the original holder of the tag and the new recipient of the tag will be treated as if he or she drew the tag with respect to any applicable waiting periods and bonus points.

6. The Department shall process the transfer, return or deferral within 5 business days after receiving the tag.
7. The provisions of this section do not apply to the holder of a tag who is serving in the Armed Forces of the United States if he or she defers the use of a tag pursuant to NAC 502.336.

8. The Department shall update the Commission on all tags that are transferred, returned or deferred pursuant to this section.

9. As used in this section:

(a) “Family member” has the meaning ascribed to it in NRS 502.103.

(b) “Terminally ill” has the meaning ascribed to it in NRS 449A.081.

Sec. 2. NAC 502.336 is hereby amended to read as follows:

502.336 1. [A] Except as otherwise provided in subsection 4, a person who receives a game tag and who, after receiving the tag, is mobilized or deployed while serving on active duty in the Armed Forces of the United States may:

(a) Return the tag for a refund as provided in NAC 502.422; and

(b) Request that, without entering the drawing for game tags, the privilege to hunt during the season for which the tag is issued be deferred for an identical privilege for not more than 2 successive years during which the hunting season for the identical privilege is open. The person must exercise the privilege during the 2 successive years. If the person did not go hunting under the authority of a hunting license issued to him or her for the hunt year in which the tag was issued, the person may return the hunting license for a refund.

2. To be eligible to defer the privilege to use a game tag pursuant to subsection 1, the person must:

(a) Provide a copy of the person’s orders or other proof satisfactory to the Department;
(b) Submit a written request to the Department to defer the privilege pursuant to subsection 1 together with the request for a refund pursuant to NAC 502.422;

(c) Return the tag and, if applicable, the hunting license to the Department:

   (1) Except as otherwise provided in subparagraph (2), before the opening day of the season for which the tag was issued; or

   (2) Before the close of the season for which the tag was issued, if the person provides proof satisfactory to the Department that he or she was mobilized or deployed before the opening day of the season for which the tag was issued and had no opportunity to hunt under the authority of the tag; and

(d) Submit to the Department:

   (1) The appropriate fee for the issuance of a game tag and a hunting license, if applicable; and

   (2) The nonrefundable application fee and predator fee for the tag.

3. The Department shall not issue a license or tag pursuant to this section unless the Department receives the fees specified in paragraph (d) of subsection 2.

4. *The provisions of this section do not apply to the holder of a tag who is serving on active duty in the Armed Forces of the United States if he or she returns or defers the use of the tag pursuant to section 1 of this regulation.*

Sec. 3. NAC 502.385 is hereby amended to read as follows:

502.385 1. The tag or permit must 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. Except as otherwise provided in NAC 502.42905 and section 1 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. 4. NAC 502.4187 is hereby amended to read as follows:

502.4187 1. Except as otherwise provided in NAC 502.417 to 502.4225, inclusive, an applicant to obtain a tag for a season who is unsuccessful, or an applicant for a bonus point who does not wish to obtain a tag and is applying for the sole purpose of earning a bonus point, must be awarded a bonus point for:

   (a) The hunt number of the species for which the applicant applied if he or she applied for a:

       (1) Tag to hunt wild turkey; or

       (2) Bonus point for a tag described in subparagraph (1); or

   (b) The category of the species for which he or she applied if he or she applied for a tag to hunt deer, elk, mountain goat, antelope, black bear, moose or bighorn sheep, or for a bonus point for such a tag.

   Regardless of the number of applications to obtain a tag or bonus point for a season submitted by a person, the Department shall not award the person more than one bonus point per season for each species or category of a species for which the person applied.
2. Except as otherwise provided in subsections 3 and 4, the bonus points awarded to a person accumulate until the person is successful in drawing a tag for a season for that species or category of a species or the person fails to apply for a season for 2 consecutive calendar years during which that type of hunt for a season is open. If an applicant is successful in drawing a tag for a season for a species or category of a species or fails to apply for a season for 2 consecutive calendar years during which that type of hunt for a season is open, the applicant loses all of his or her bonus points for that species or category of a species.

3. Except as otherwise provided in NAC 502.4189, a person may not use any bonus points awarded to the person for being unsuccessful in a junior hunt to apply for a drawing for a tag for any other type of hunt after the person is no longer eligible to participate in a junior hunt.

4. If a person is successful in obtaining a tag for a species or category of a species pursuant to NAC 502.4215, he or she must not lose any bonus point awarded to him or her for that species or category of a species.

5. If an applicant requests and receives a refund for the value of his or her hunting license, the Department shall not award the applicant a bonus point for any species or category of species applied for during the period that the applicant possessed the hunting license.

6. If an applicant is successful in obtaining a tag for a species or category of a species but transfers the tag to another person pursuant to section 1 of this regulation, the applicant and the new recipient of the tag lose all bonus points for that species or category of species.

7. The Department shall not award bonus points for depredation hunts or management hunts.
7. As used in this section, “management hunt” means a hunt established to seek the harvest of additional wildlife within a population.

Sec. 5. NAC 502.422 is hereby amended to read as follows:

502.422 1. The Department may cancel a tag and provide a refund if the Department issues the tag in error.

2. The Department shall provide a refund if the holder of a tag:

(a) Or a person to whom the holder is related within the third degree of consanguinity or affinity dies, as verified by a certificate of death;

(b) Or a person to whom the holder is related within the third degree of consanguinity or affinity incurs a disability or illness, as verified in writing by a physician, which prevents him or her from hunting during the season for which the tag was issued;

(c) Is serving in the Armed Forces of the United States and is transferred, as verified by a copy of his or her orders or other proof satisfactory to the Department, to a location which makes it impracticable for the holder to hunt in the area for which the tag was issued; or

(d) Is a recipient of a Dream Tag issued pursuant to NRS 502.219 and returns the drawn tag to the Department pursuant to NAC 502.42695, and, except as otherwise provided in NAC 502.336, his or her tag is received by the Department at least 1 business day before the opening day of the season for which the tag was issued. If the holder obtained his or her hunting license with his or her tag, the hunting license may be returned with the tag.

3. If a refund is provided pursuant to subsection 1 or 2, the Department shall:
(a) Return all the fees submitted with the application for the tag except the fees required pursuant to NRS 502.253 and NAC 502.331; and

(b) Except as otherwise provided in subsection 2 of NAC 502.4225, treat the recipient of the refund, with respect to his or her eligibility to obtain a tag and to be awarded a bonus point, as if the tag had not been issued and the applicant was unsuccessful.

4. If a tag for any subspecies of bighorn sheep or mountain goat is returned for a reason other than the reasons set forth in subsection 1 or 2, the Department shall:

(a) If the tag is received not later than July 15, return all the fees submitted with the application for the tag except the fees required pursuant to NRS 502.253 and NAC 502.331; and

(b) Except as otherwise provided in subsection 2 of NAC 502.4225, treat the recipient of the refund, with respect to his or her eligibility to obtain a tag and to be awarded a bonus point, as if the tag had not been issued and the applicant was unsuccessful.

5. If a tag for antelope, bighorn sheep, mountain goat, bear, turkey, deer, moose or elk is returned for a reason other than the reasons set forth in subsection 1 or 2, and if the tag is received at least 1 business day before the opening day of the season for which the tag was issued, the Department:

(a) Shall, except as otherwise provided in subsection 2 of NAC 502.4225, treat the applicant, with respect to his or her eligibility to obtain a tag and to be awarded a bonus point, as if the tag had not been issued and the applicant was unsuccessful; and

(b) Shall not return any fee paid for the tag.
6. Except as otherwise provided in NAC 502.421, the Department is not required to refill a quota for the issuance of tags if the application of this section reduces the number of tags issued to less than a quota.
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" (NRS 233B.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:**
   Comment was not solicited from small businesses. This regulation does not affect small businesses. The changes are associated with individual customers of the Nevada Department of Wildlife.

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

   **ANSWER:**
   Agency personnel concluded that there would be no small businesses 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:**
   There will be no impact from the proposed regulation on small businesses, therefore no methods were considered or taken by the agency.

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:**
The proposed regulation does not provide new 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 include provisions that duplicate or are more stringent than federal, state, or local standards.

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

**ANSWER:**
The agency concluded that this regulation does not impact small businesses because the changes are associated with individual customers of the Nevada Department of Wildlife.

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