



STATE OF NEVADA

DEPARTMENT OF WILDLIFE

Game Division

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#23

MEMORANDUM

April 22, 2016

To: Nevada Board of Wildlife Commissioners, County Advisory Boards to Manage Wildlife, and Interested Publics

From: Brian Wakeling, Administrator, Game Division

Title: Commission General Regulation 460, Definition of "Spike Elk," LCB File No. R013-16 – For Possible Action

Description: The Commission will consider amending NAC 502.104 and 502.1045 to define "Spike Elk" in a manner that limits inadvertent errors in the field. The intent is to consider and broaden the definition of spike while reducing the likelihood of errors in harvest identification.

Presenter: Game Division Administrator Brian F. Wakeling

Agenda No: 23

Summary:

For management purposes, NAC 502.104 and 502.1045 have been promulgated to provide for a designation of antlered elk defined as "spike elk," which means any antlered elk without branching on either antler. This designation is useful in developing hunts that reduce bull to cow ratios or reduce population size to meet management objectives established in elk plans and herd sub-plans. However, because the definition is narrow, hunters have inadvertently harvested antlered elk that have small, branched antlers that are obscured by their ears. In addition to the unfortunate error, ensuing citation, and confiscation of harvested animal, the harvest of these animals is consistent with the objectives for harvest of the hunt in which they were taken.

To reduce the likelihood for inadvertent error and increase the effectiveness of the hunt designation, the Department is recommending an amendment to existing NAC defining "spike elk" and "spike elk only" to include any antlered elk that possesses antlers that do not branch above the ear. In addition to the compliance and efficacy issues, the proposed definition is also consistent with that currently in place within the neighboring state of Utah.

A workshop was held in Yerington on March 25, 2016. The Commission directed the Department to contact Utah to identify if they have had any issues with enforcement regarding the way that their language is written, which is similar to the Department's proposed language. At the workshop, alternative language was discussed including the use of the number of branches or points in the final definition.

The Department queried many western states regarding the efficacy of any regulation they currently had regarding a definition of spike. Utah, whose regulation most closely mimics the proposed Nevada regulation, responded that their definition seems to work well, although they still have some issues with small antlers branching near the top of the ear that hunters may not observe. Utah also observed that they had yet to find any definition that better serves this purpose.

The intent of this proposed amendment is to reduce the likelihood of an inadvertent error while still targeting the largest proportion of young male elk. Because portions of an antler may at times be obscured by an ear from an elk in the field, or because both antlers may not be clearly visible, hunters at times make honest errors. To clearly delineate an animal for lawful take provide a definition with greatest clarity, the Department believes the proposed language best meets these desires.

Because Utah believes their definition works fairly well, the definition proposed provides greatest clarity, and no superior definition has been determined thus far, the Department believes the proposed language in this regulation is appropriate for adoption.

Recommendation:

The Department recommends that the Commission **VOTE TO ADOPT COMMISSION GENERAL REGULATION 460, DEFINITION OF "SPIKE ELK," LCB FILE NO. 4013-16 AS PRESENTED.**

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

LCB File No. R013-16

March 1, 2016

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

AUTHORITY: §§1 and 2, NRS 501.105 and 501.181, as amended by sections 1 and 1.2, respectively, of Assembly Bill No. 78, chapter 202, Statutes of Nevada 2015, at page 956.

A REGULATION relating to elk; revising certain definitions relating to spike elk; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Board of Wildlife Commissioners: (1) to establish policies and adopt regulations necessary to preserve, protect, manage and restore wildlife and its habitat; and (2) in establishing such policies and adopting such regulations, to consider first the recommendations of the Department of Wildlife, the county advisory boards to manage wildlife and other persons who present their views at an open meeting of the Commission. (NRS 501.105, as amended by section 1 of Assembly Bill No. 78, chapter 202, Statutes of Nevada 2015, at page 956) Existing law also requires the Commission to adopt regulations necessary to carry out the provisions of title 45 of NRS governing wildlife, including, without limitation, the manner and means of taking wildlife. (NRS 501.181, as amended by section 1.2 of Assembly Bill No. 78, chapter 202, Statutes of Nevada 2015, at page 956)

Existing regulations set forth certain definitions relating to spike elk. (NAC 502.104, 502.1045) **Section 1** of this regulation revises the term “spike elk” to mean “any elk having at least one antler without branching above the ears.” **Section 2** of this regulation revises the term “spike elk only” to mean “in a designation of elk that may be taken during an open season, only elk having at least one antler without branching above the ears.”

Section 1. NAC 502.104 is hereby amended to read as follows:

502.104 “Spike elk” means any elk *having at least one antler* without branching ~~[on either antler.]~~ *above the ears.*

Sec. 2. NAC 502.1045 is hereby amended to read as follows:

502.1045 “Spike elk only” means, in a designation of elk that may be taken during an open season, only elk *having at least one antler* without branching ~~on either antler.~~ *above the ears.*