



## STATE OF NEVADA

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## DEPARTMENT OF WILDLIFE

## Game Division

6980 Sierra Center Parkway, Ste 120 • Reno, Nevada 89511  
(775) 688-1500 Fax (775) 688-1987

## MEMORANDUM

May 31, 2016

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

**From:** Brian Wakeling, Administrator, Game Division

BFW

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

**Description:** The Commission will consider adopting amendments to 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:** 25

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 experienced low hunt success and, on occasion, 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.

The Department originally proposed language to amend existing NAC to reduce the likelihood of hunter error and better achieve management objectives, which was presented at a workshop held in Yerington on March 25, 2016. At that meeting, the Commission directed the Department to contact Utah to identify if they have had any issues with enforcement regarding the way that

## CGR 460, Definition of Spike Elk

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their language is written, which was similar to the Department's originally 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 resembles the originally 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.

A subsequent hearing was held in Reno on Saturday, May 14, 2016 at which this definition was further discussed. At the hearing, the Commission was provided with an alternate definition for spike elk that was developed based on public input. That definition specified that a spike elk "means any antlered elk having no more than two points above the top of the ear on either antler." Testimony by County Advisory Boards to Manage Wildlife (CABs) and the public was supportive of the newly amended language, the Department acknowledges that the newly amended language will meet the management objectives of the original proposed language, and the newly amended language uses terms such as "points" defined in NAC, whereas the original proposed language referred to "branching," which was not defined in NAC. Although this change was not deemed to be a substantive change to wording, the Commission wanted to ensure that this newly amended language was shared with CABs prior to adopting final regulation.

The intent of this newly amended language 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, hunters at times make honest errors. To clearly delineate an animal for lawful take provide a definition with greatest clarity, the Department believes the newly amended language best meets these desires.

Recommendation:

The Department recommends that the Commission **VOTE TO ADOPT COMMISSION GENERAL REGULATION 460, DEFINITION OF "SPIKE ELK," LCB FILE NO. R013-16 AS PRESENTED.**

Department proposed changes for adoption at June 2016 Mtg.

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 <sup>antlered no more than two points</sup> having ~~at least one antler~~ <sup>me top of on either antler</sup> without branching ~~on either antler~~ <sup>above the ears</sup>.

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 <sup>antlered no more than two points</sup> ~~having at least one antler without branching~~ ~~on either antler.~~ <sup>the top of</sup> ~~above the ears~~ <sup>on either antler</sup>