



STATE OF NEVADA

DEPARTMENT OF WILDLIFE

Director's Office

6980 Sierra Center Parkway, Ste 120 • Reno, Nevada 89511  
(775) 688-1500 Fax (775) 688-1207

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**MEMORANDUM**

November 18, 2016

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

**From:** Tony Wasley, Director

**Title:** Commission General Regulation 470, Petitions, LCB File No. R095-16

**Description:** The Commission will consider amendments to NAC 501.195, which were developed by the Wildlife Commission's Administrative Procedures, Regulations, and Policy (APRP) Committee after several public meetings, and incorporating relevant suggestions from the public and legal counsel.

**Presenter:** APRP Committee Chairman and Commissioner David McNinch

**Agenda No.** 9

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**Summary:**

As part of the review of the Rules of Practice, the Administrative Procedures, Regulations, and Policy Committee held several public committee meetings to review the regulations within Nevada Administrative Code governing practice and procedure before the Wildlife Commission related to petitions.

The Committee held meetings on the conceptual petition regulation on January 13, 2016, and on the amendment development on February 18, May 12, and finally on June 13, before submitting the language to LCB for drafting.

The existence of this regulation is to delineate the process for the public to petition the Wildlife Commission for adoption, filing, amendment or repeal of any regulation within its authority. The proposed amendments provide clarity on the roles of the Department, the Commission, and Petitioner in Nevada Administrative Code (NAC).

**Purpose:**

The amendments are necessary to improve the regulation:

1. To provide flexibility and more efficiency for submitting petitions.
2. To simplify the information required to be submitted by the petitioner.
3. To provide review of the petition for legal authority prior to consideration by the Wildlife Commission rather than during a Wildlife Commission meeting.

**Recommendation:**

The Department recommends that the Commission support the language as proposed by LCB and move the regulation forward for adoption at a future Commission meeting.

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

**LCB File No. R095-16**

July 22, 2016

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

AUTHORITY: §1, NRS 233B.100 and 501.181.

A REGULATION relating to wildlife; revising provisions relating to petitions submitted to the Board of Wildlife Commissioners to adopt, file, amend or repeal any permanent regulation; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that any person may petition a state agency to request the adoption, filing, amendment or repeal of any regulation and requires each state agency to prescribe by regulation the form for the petition and the procedure for its submission, consideration and disposition. (NRS 233B.100) Existing regulations prescribe the form and procedure to petition the Board of Wildlife Commissioners to adopt, file, amend or repeal a permanent regulation. (NAC 501.195)

This regulation revises the procedure for the evaluation of such a petition and provides that the Commission will refer each petition to the Department of Wildlife to obtain from the Department its recommendation whether to approve or deny the petition based on the determination by the Department whether there is legal authority for the proposed adoption, filing, amendment or repeal of a permanent regulation. This regulation also requires the Department to forward to the Commission its recommendation regarding each petition as soon as practicable, but not later than 20 days after the date on which the petition was submitted by the petitioner to the Commission.

**Section 1.** NAC 501.195 is hereby amended to read as follows:

501.195 1. A person who wishes to request that the Commission adopt, file, amend or repeal a permanent regulation must submit a written petition to the Commission on a form provided by the Department. The petition *may be submitted by mail, facsimile machine or electronic mail and* must include:

(a) The name , *telephone number, electronic mail address, if any*, and mailing address of the petitioner.

(b) A statement of the reason *and the legal authority* for the adoption, filing, amendment or repeal of the permanent regulation.

(c) The language of the permanent regulation to be adopted, filed, amended or repealed or a description of the subjects and issues involved in the permanent regulation.

~~[(d) An estimate made by the petitioner of the economic effect that the permanent regulation to be adopted, filed, amended or repealed will have on the general public and on any business which the permanent regulation regulates or will regulate. Those effects must be stated separately and in each case must include:~~

~~—— (1) The adverse and beneficial effects; and~~

~~—— (2) The immediate and long term effects.~~

~~—— (e) If the adoption, filing or amendment of a permanent regulation is requested, an estimate made by the petitioner of the estimated cost to the Department for enforcement of the permanent regulation.~~

~~—— (f) A statement indicating whether the petitioner is aware of any federal regulations or regulations of other state or local governmental agencies that overlap or duplicate the permanent regulation to be adopted, filed, amended or repealed.~~

~~—— (g) If the adoption, filing or amendment of a permanent regulation is requested, a statement indicating whether the permanent regulation establishes a new fee or increases an existing fee.~~

~~—— (h) The signature of the petitioner and the date the petition was signed.]~~

2. A petition requesting the adoption, filing, amendment or repeal of a permanent regulation shall be deemed to be submitted to the Commission on the date of the next regularly scheduled meeting of the Commission that occurs after the petition is received by the Commission.

3. *Upon receipt of a petition requesting the adoption, filing, amendment or repeal of a permanent regulation, the Commission will refer the petition to the Department to obtain from the Department its recommendation whether to approve or deny the petition which must be based on the determination by the Department whether there is legal authority for the proposed adoption, filing, amendment or repeal of the permanent regulation.*

4. *As soon as practicable after receiving a petition, but not later than 20 days after the date on which the petition is submitted to the Commission, the Department shall:*

*(a) Review the petition to determine whether there is legal authority for the proposed adoption, filing, amendment or repeal of the permanent regulation; and*

*(b) Forward to the Commission the petition and the recommendation of the Department whether to approve or deny the petition.*

5. Within 30 days after a petition is submitted, the Commission will:

(a) Notify the petitioner in writing of its decision to deny the petition, including the reasons for the denial; or

(b) Initiate the regulation-making procedures set forth in chapter 233B of NRS, if the petition requests the adoption, filing, amendment or repeal of a permanent regulation, except a permanent regulation relating to the classification of wildlife or the designation of seasons for hunting, fishing or trapping by the Commission pursuant to the provisions of title 45 of NRS.