

**ADOPTED REGULATION OF THE
DEPARTMENT OF WILDLIFE**

LCB File No. R038-11

Effective March 9, 2012

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

AUTHORITY: §§1-4, section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610); §§5 and 6, sections 7 and 9 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at pages 2547 and 2548 (NRS 701.610 and 701.630).

A REGULATION relating to energy development projects; requiring that notices relating to energy development projects which are filed with the Department of Wildlife contain certain information; requiring certain applicants to pay reimbursement costs in advance to the Department; establishing a cap on the collection of reimbursement costs by the Department; requiring the Department to return to an applicant any unused portion of reimbursement costs paid in advance; providing for the appeal of certain decisions of the Department; and providing other matters properly relating thereto.

Section 1. Chapter 701 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 6, inclusive, of this regulation, unless the context otherwise requires, “applicant” means a person who is required to file a notice pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610).*

Sec. 3. 1. *In addition to the information that is required to be included with a notice filed pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610), the notice must include:*

(a) The name, physical address, telephone number and, if applicable, the electronic mail address of the applicant;

(b) The name, physical address, telephone number and, if applicable, the electronic mail address of the company, and at least one officer of the company, on behalf of which the notice is filed;

(c) The name of the proposed energy development project;

(d) A description and preliminary map of the proposed energy development project;

(e) The infrastructure requirements of the proposed energy development project, including, without limitation, an estimate of the amount of power, fuel, communication lines, access roads, rail lines and water use that will be required to complete the project;

(f) An estimate of the design voltage of any power lines which are required for the proposed energy development project;

(g) An estimate of the net maximum generating capacity of the proposed energy development project upon completion;

(h) A proposed schedule of project activities which identifies the estimated dates during which each project activity will occur and the duration of each activity; and

(i) Any other information that is required by the Department of Wildlife.

2. An applicant shall provide notice of any substantial change in the scope or design of a proposed energy development project to the Department of Wildlife concurrently with any notice of such a change which is provided to the Federal Government, the Public Utilities Commission of Nevada or any county in this State.

Sec. 4. 1. *An applicant must, at the time the applicant files a notice pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS*

701.610), submit to the Department of Wildlife with his or her notice an initial deposit toward reimbursement costs in the amount of:

(a) For a proposed energy development project which is a geothermal project, \$5,000.

(b) For a proposed energy development project which is a power line project with a voltage of 50 kilovolts or more and which is less than 50 miles in length, \$5,000.

(c) For a proposed energy development project other than a project identified in paragraph (a) or (b), \$10,000.

2. The Department of Wildlife shall, not later than 30 days after the receipt of a notice filed pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610) and an initial deposit collected pursuant to subsection 1, provide to the applicant a written estimate of anticipated additional reimbursement costs.

3. Except as otherwise provided in subsection 7, the Department of Wildlife may, upon consideration of the activity and progress of a project, request a payment from an applicant each quarter to apply toward reimbursement costs which is in addition to the initial deposit submitted by the applicant pursuant to subsection 1. An applicant shall submit a payment requested pursuant to this subsection to the Department not later than 30 days after the applicant receives the request for payment by the Department.

4. An initial deposit or additional payment submitted by an applicant pursuant to subsection 1 or 3 must be in the form of an electronic wire transfer to the Department of Wildlife or a check made payable to the Nevada Department of Wildlife.

5. The Department of Wildlife shall, upon written request, provide to an applicant:

(a) A quarterly expense statement which specifies how the initial deposit and any additional payments submitted by the applicant pursuant to subsection 1 or 3 have been spent; and

(b) A statement which identifies the balance of funds of the applicant.

6. The Department of Wildlife shall return to an applicant any unused portion of an initial deposit or additional payment submitted pursuant to subsection 1 or 3 not later than 60 days after the Department:

(a) Completes the review of the proposed energy development project; or

(b) Receives notice from the applicant that the energy development project has been cancelled.

7. The Department of Wildlife shall not collect cumulatively more than \$100,000 in reimbursement costs from an applicant for a proposed energy development project for which a notice is filed pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610).

8. As used in this section, "reimbursement costs" means the actual costs incurred by the Department of Wildlife for providing to the Federal Government, the Public Utilities Commission of Nevada, an applicant or any county in this State any information relating to any wildlife or wildlife habitat based on the location of a proposed energy development project for which a notice is filed pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610).

Sec. 5. *The Department of Wildlife may use money in the Energy Planning and Conservation Fund for any program or project which:*

1. Is in accordance with the State Wildlife Action Plan;

2. *Is for a purpose described in subsection 4 of section 9 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2548 (NRS 701.630); and*

3. *Includes one or more of the following components:*

(a) *The conducting of inventories of fish, wildlife or habitats for inclusion in a geographic information system database;*

(b) *The monitoring of fish or wildlife populations or habitats to support planning, status determination and impact assessment;*

(c) *The mapping of fish and wildlife habitats, potential fish and wildlife habitats and fish and wildlife occurrences to support the development and maintenance of databases of such information;*

(d) *The maintenance, database development and infrastructure support of geographic information systems;*

(e) *The implementation of conservation projects designed to establish or enhance fish or wildlife populations or habitats; or*

(f) *The use of money from the Fund to match money provided through grants, projects or programs provided or established by the Federal Government.*

Sec. 6. 1. *Any person who is aggrieved by a decision of the Department of Wildlife pursuant to section 7 or 9.5 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at pages 2547 and 2549 (NRS 701.610 or 701.640) or section 4 of this regulation may, not later than 20 days after the issuance of the decision, submit to the Director of the Department a written request for a hearing.*

2. *If the Director of the Department of Wildlife receives a written request for a hearing pursuant to subsection 1, the Director shall:*

(a) Set a hearing not later than 60 days after the request is received; and

(b) Provide all interested parties written notice of the hearing by certified mail at least 10 days before the hearing.

3. All determinations, findings and conclusions of the Director of the Department of Wildlife at a hearing held pursuant to subsection 2 are final. Any person who is aggrieved by a final decision of the Director at a hearing held pursuant to subsection 2 is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS.

**STATE OF NEVADA
BOARD OF WILDLIFE COMMISSIONERS**

MEMORANDUM

To: Legislative Counsel Bureau Date: February 8, 2011

From: Kenneth E. Mayer, Secretary, Board of Wildlife Commissioners

Subject: Informational statement relating to Commission General Regulation AB307 - No. R038-11 as required by Chapter 233B.066.

1. Description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The proposed regulation was noticed and posted on an agenda according to the Open Meeting Law; distributed to the Board of Wildlife Commissioners, 17 county advisory boards to manage wildlife, and other interested persons. It was presented at a public workshop and at the public meeting. A summary is available by contacting the Department of Wildlife.

2. The number of persons who:

- (a) **Attended each hearing:** 16- Workshop / 10-Hearing
- (b) **Testified at each hearing:** 4-Workshop/ 3- Hearing
- (c) **Submitted to the agency written statements:** 2-Email/0-hardcopy

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary:

The proposed regulation was noticed and posted on an agenda according to the Open Meeting Law; distributed to the Board of Wildlife Commissioners, 17 county advisory boards to manage wildlife and other interested persons. It was presented at a public workshop and at the' public meeting. A summary is available by contacting the Department of Wildlife.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change:

The regulation was adopted with change. The final approved wording is attached.

5. The estimated economic effect of the regulations on the businesses they are to regulate and on the public.

(a) **Estimated economic effect on the businesses which they are to regulate.**

(1) **Adverse** – The initial fees will be either \$5,000 or \$10,000 with a maximum fee per project of \$100,000

(2) **Beneficial** – Receipt of information, a review of the project and submitted documents to facilitate permitting with regulatory agencies

- (3) **Immediate** – The initial fees will be either \$5,000 or \$10,000
- (4) **Long term** – A maximum cost reimbursement of \$100,000 per project

(b) **Estimated economic effect on the public which they are to regulate.**

- (1) **Adverse** – \$0
- (2) **Beneficial** – \$0
- (3) **Immediate** – \$0
- (4) **Long term** – \$0

6. **The estimated cost to the agency for enforcement of the proposed regulation:**
Approximately \$2,500 per year for project application tracking. The amount will vary based upon the number of applications received.
7. **A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary:** The Bureau of Land Management and the Public utilities Commission also conduct project review but rely upon the Department of Wildlife to provide the wildlife analysis and project effect. The cost reimbursement process is modeled after the Bureau of Land Management’s program but the Department of Wildlife does not receive any of their cost reimbursement funds.

If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency:

8. **If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions:** N/A
9. **If the 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:** \$100,000 per project. The funds will be used to offset the costs incurred in project review which are currently funded by Sportsmen’s dollars.