

**NEVADA DEPARTMENT OF WILDLIFE
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NOTICE OF INTENT TO ACT UPON A REGULATION**

**Notice of Hearing for the Adoption of Regulations of the
Nevada Board of Wildlife Commissioners**

LCB File No. R162-22 – Commission General Regulation 500

The Nevada Board of Wildlife Commissioners will hold a public hearing at 8:30 a.m. on May 4, 2024 at the Washoe County Administrative Complex, Building A, Commission Chambers, 1001 E. Ninth Street, 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. A Zoom link is provided below for those individuals that are unable to attend in person.

If you wish to make public comment, please use this link for Friday, May 3, 2024:

<https://us02web.zoom.us/j/89517228720?pwd=Q1dwTlM0cjlkVjBoQnc1ejM3VUY3UT09>

Passcode: 624875

If you wish to make public comment, please use this link for Saturday, May 4, 2024:

<https://us02web.zoom.us/j/83186611342?pwd=d3o5cmlBOExHZ055dTNQWDU5d0xjdz09>

Passcode: 428479

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:**
There is currently no regulation to carryout the provisions of NRS 278.337.
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 **Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved:**
Establishment of a mechanism to carry out subdivision review will aid in providing wildlife resource review to make more informed subdivision planning and decisions to help avoid, minimize, or mitigate adverse impacts to Nevada's wildlife. This regulation will also adopt a fee structure into NAC.
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**
The regulation will not have any significant adverse or beneficial economic effects on businesses.
 - (b) **Both immediate and long-term effects on businesses:**
There will be no immediate or long-term economic effects from the proposed regulation on small businesses because it does not regulate the operation of any small business.

(c) Both adverse and beneficial effects on the public; and

This regulation does not have an anticipated beneficial or adverse economic effect on the public.

(d) Both immediate and long-term effects on the public:

This regulation does not have an anticipated immediate or long-term economic effect on the public.

4. The estimated cost to the agency for enforcement of the proposed regulation:

There will be no increased costs to enforce the proposed regulation.

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:

This regulation does not overlap or duplicate any other state, local, or federal laws or regulations. Nevada Revised Statute 278.337 authorizes the Nevada Board of Wildlife Commissioners to adopt necessary 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:

This regulation does not include provisions that are more stringent than federal regulations.

8. Whether the proposed regulation establishes a new fee or increases an existing fee:

The agency is preparing to collect \$250 per tentative map received plus \$5 per acre depicted on said map, per NRS.

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>. 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

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/>
<https://nvboardofwildlife.org/>

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.

April 2, 2024

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

LCB File No. R162-22

August 23, 2022

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

AUTHORITY: §§ 1-7, NRS 278.335; § 8, NRS 278.335 and 278.337.

A REGULATION relating to land use planning; defining certain terms relating to the review of a tentative map of a subdivision of land; interpreting certain terms for the purpose of the review of a tentative map by the Department of Wildlife; requiring that certain information be submitted to the Department for the review of a tentative map; providing that the Department will provide written comments on a tentative map; establishing certain fees for the review of a tentative map; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth an approval process for a subdivision of land that requires the subdivider of the land to submit a tentative map to the planning commission or governing body of a county or city, as applicable. (NRS 278.330) Existing law also: (1) requires the tentative map to be forwarded to certain state agencies and local governments for review, which includes, with certain exceptions, the Department of Wildlife; and (2) authorizes the Board of Wildlife Commissioners to establish reasonable fees for the review of a tentative map. (NRS 278.335, 278.337) This regulation sets forth certain procedures and requirements for the review of a tentative map by the Department.

Sections 3 and 4 of this regulation define certain terms relating to the review of a tentative map.

Under existing law, a tentative map is not required to be forwarded to the Department if the proposed subdivision is infill development which is proposed on a vacant or substantially vacant tract of land that is surrounded by land that is already developed. (NRS 278.335) **Section 5** of this regulation sets forth the interpretation by the Department of the terms “infill development,” “substantially vacant” and “vacant” for the purposes of this exception.

Section 6 of this regulation requires a developer to submit to the Department a tentative map, a review form and the fee required for the review of a tentative map. **Section 6** also sets forth the information that must be included on the review form submitted to the Department.

Section 7 of this regulation provides that the Department will provide written comments on the tentative map and review form which may include methods to avoid or minimize impacts to wildlife, mitigation measures, best management practices or required design features.

Section 8 of this regulation sets forth the fees charged by the Department for the review of a tentative map, which are: (1) \$250 for the initial review of the tentative map plus an additional \$5 for each acre shown on the map; and (2) \$5 per acre shown on the tentative map for any subsequent review of modifications to the map.

Section 1. Chapter 278 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 8, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Subdivision” has the meaning ascribed to it in NRS 278.320.*

Sec. 4. *“Tentative map” has the meaning ascribed to it in NRS 278.019.*

Sec. 5. *As used in NRS 278.335, the Department of Wildlife interprets the term:*

1. “Infill development” to mean the process of developing vacant or underutilized tracts of land in areas that are already developed.

2. “Substantially vacant” to mean a subdivision of land in which ~~not less than~~ at least 75 percent of the land is vacant.

3. “Vacant” to mean a subdivision of land in which the land:

(a) Is not occupied or used; and

~~(b) Has not been developed or disturbed; and~~

(c) Does not have any forage, cover, nesting habitat or any other value necessary for wildlife.

Sec. 6. *1. Except as otherwise provided in ~~subsection 7 paragraph (d) of subsection 1 of NRS 278.335~~, for each tentative map or a modification to a tentative map submitted pursuant to NRS 278.335, a developer shall submit to the Department of Wildlife for review ~~in printed or electronic form~~:*

- (a) The tentative map;*
- (b) The review form prescribed by the Department of Wildlife; and*
- (c) The fee required pursuant to section 8 of this regulation.*

2. The review form required pursuant to subsection 1 must include, without limitation:

(a) A map that shows:

(1) The topographic features of the subdivision, including, without limitation, the topographic features of the vicinity of the subdivision; and

(2) The location of the proposed subdivision relative to the nearest city, major highway, cross streets and any other easily identifiable landmarks;

(b) The expected general timeline of the development of the subdivision;

(c) The size of the subdivision indicated in acres, including planned open space(s);

(d) A statement of the type of water system to be used in the subdivision and the water source, which may include, without limitation, private wells or a public water system;

(e) A map of the 100-year floodplain for the location of the subdivision, which must have been prepared using recognized methods of preparing a map by a governmental agency responsible for the areas subject to flooding;

(f) A description of the subdivision by 40-acre legal subdivisions within a designated section, township and range or any other legal description which provides a positive identification of the location of the subdivision;

(g) The names, addresses, phone numbers and any other contact information of all developers of the subdivision; and

(h) A description of ~~expected or planned~~ master plan showing the location of future development and the intended use of all the land under the ownership or control of the developers in the vicinity of the subdivision.

3. All items and information required pursuant to subsections 1 and 2 must be submitted to the Department of Wildlife within 5 business days after the tentative map is submitted to the planning commission, or its designated representative, or the clerk of the governing body pursuant to NRS 278.330. If any item or information required pursuant to subsections 1 and 2 are missing, the Department of Wildlife will provide written notice to the developer which identifies the specific item or information that is missing.

4. A developer may submit a tentative map to the Department of Wildlife before submitting the tentative map to the planning commission or governing body to be pre-reviewed by the Department of Wildlife for any potential wildlife issues. If a developer submits a tentative map pursuant to this subsection, he or she must still submit the tentative map, information and fees required in accordance with section 8.

5. The Department of Wildlife will make the review form required pursuant to subsection 1 available on the Internet website of the Department of Wildlife.

6. A developer or other interested party may request wildlife information from the Department of Wildlife before submitting any information required by this section.

~~*NEW 7. A developer shall be exempt from the requirements of this section if a planning commission or its designated representative, or if there is no planning commission, the clerk or other designated representative of a governing body does not submit the tentative map to the Department of Wildlife pursuant to NRS 278.335(1)(d).*~~

NEW 7. The provisions of this section do not apply to a tentative map that is not required to be forwarded to the Department pursuant to subparagraph (1) or (2) of paragraph (d) of subsection 1 of NRS 278.335.

Sec. 7. The Department of Wildlife will provide written comments on a tentative map and review form submitted pursuant to section 6 of this regulation by the deadline set forth in

subsection 5 of NRS 278.335. The comments provided by the Department of Wildlife may include, without limitation:

- 1. Methods to avoid or minimize impacts to wildlife;*
- 2. Recommendations on mitigation measures; or*
- 3. Best management practices or ~~required~~ design features.*

Sec. 8. 1. The Department of Wildlife will charge the following fees for the review of a tentative map:

(a) For the review of a tentative map, \$250 plus an additional fee of \$5 for each acre shown on the tentative map; and

(b) For the review of any modifications to a tentative map that was previously submitted to the Department of Wildlife, \$5 for each ~~acre not previously shown~~ reviewed or disclosed, acres outside of previously submitted areas, newly depicted, on ~~the~~ modified tentative map.

2. Any fee required pursuant to subsection 1 must be paid at the same time the developer submits the tentative map and review form to the Department of Wildlife pursuant to section 6 of this regulation.

3. For the purposes of the section, acres subject to fee include only those acres that will be disturbed during development and not those that are reserved in the tentative map for open space.

**STATE OF NEVADA
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NEVADA DEPARTMENT OF WILDLIFE
SMALL BUSINESS IMPACT STATEMENT PURSUANT TO NRS233B**

Commission General Regulation 500 LCB File No. R162-22P Subdivision Review

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” (NRS233B.0382).

- 1.e 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:e

ANSWER:

NDOW assessed the potential impact of the proposed regulation on small business by using a direct survey of potentially affected businesses. In addition to potentially affected businesses, the survey was sent to builders associations across the state, county and city planning departments (where applicable), county planning commissions, and the Nevada Association of Counties. The additional feedback from non-businesses was anticipated to help highlight any other impacts that may not be initially identified by potentially affected business owners. Potential business owners or authorized representatives of business that could be affected were identified from the following sources:

Northern Nevada Builders Association
Southern Nevada Homebuilders Association
Individual builders/developers
County planning departments
City planning departments
County Planning Commissions
Nevada Association of Counties

In total the survey was sent to 238 individual contacts with both target and non-target individuals included and utilized NDOW and builders association email distribution lists. The actual survey included a series of screening questions designed to sort small-businesses from non-target individuals. Any responses received from non-target individuals were considered as general public comments on the proposed regulation change but were not included in the Small Business Impact Statement.

The survey was generated using Survey Monkey and assessed the potential impact of the proposed regulation on small businesses. The survey was open for a total of 21 days from December 21, 2022 to January 10, 2023. With the survey was included a copy of the proposed regulation for review, and notification that an additional public workshop would be held January 24, 2023. No extension requests were received.

A total of 15 responses to the survey were received, including six (6) from qualified small businesses or their representatives, one (1) from a builder’s association, three (3) from a governmental planning commission or body, four (4) responses from county planning departments, and one (1) from a city planning department. Responses from non-target individuals/entities were screened and allowed to respond to the first eight (8) out of 15 questions. Of the six (6) target audience responses, only two (2) were fully completed and contained information suitable for analysis. The remaining four (4) surveys only contained answers for questions related to contact information, the number of employees, and whether

the respondents had previously submitted a tentative map to any agencies, commissions, or governing bodies in Nevada for review under NRS 278.320 through NRS 278.3485. These respondents appear to be contractors who work on behalf of small businesses.

The results of the two (2) valid, completed surveys are discussed below:

The initial survey questions were comprised of contact information and screening questions to identify the survey targets. The remaining questions were reserved for small businesses only, and addressed whether a small business:

- e Has previously submitted a tentative map to any agencies, commissions, or governing bodies in Nevada for review under NRS 278.320 through NRS 278.3485;e
- e If a small business expects the proposed regulation to result in a significant adverse change with regards to business' requirement(s) for submitting a tentative map to a governing body (i.e.e planning commission or representative) for review;e
- e What a small business anticipates fees will be on an annual basis, as a result of the proposed regulation based on the proposed fee structure;e
- e Whether the proposed regulation would cause any other significant financial/economic impactse to the business or directly restrict the formation, operation, or expansion of the business; ande
- e If any beneficial effects on the business were anticipated.e

Both respondents indicated their small business (company/corporation) had previously submitted a tentative map for review under NRS 278.320 through NRS 278.3485, indicating they are familiar with the state requirements and submitting tentative maps for review. Additionally, both respondents indicated that they were unsure if the proposed regulation fees would pose a significant financial/economic impact. Additionally, neither respondent anticipated any beneficial effects on business resulting from the proposed regulation.

Concerns identified by both respondents included difficulties in estimating anticipated financial/economic impacts.

Respondent A indicated that without being able to estimate annual fees, they were unsure whether the fees would be a significant financial/economic impact, or what the reduced net revenue would be because of the proposed regulation and believed that fees should be based on lot numbers rather than acres or have a cap on cost included. This respondent did not believe that any other significant impacts restricting formation, operation, or expansion of business would result.

Respondent B indicated that an anticipated annual cost of \$1,400 for NDOW review of tentative maps but was unsure if \$1,400 would constitute a significant financial/economic impact. That respondent also indicated that annual revenue would be reduced by that amount. This respondent was primarily concerned with the added time associated with NDOW review or time required for processing "entitlements."

Results from the Small Business Impact Survey will be made publicly available via NDOW's website, be discussed at the January 24th, 2023, public meeting, and will be available upon request to Jasmine Kleiber, jkleiber@ndow.org or (775) 688-1561.

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

ANSWER:

The analysis was conducted by examining each individual response and organizing concerns based upon Questions 6, and 9-15 in the survey. The other questions were comprised of contact information and screening questions to identify the survey targets. Both small business respondents were considered

appropriate for use, the analysis included an in-depth assessment of each individual business survey response.

3.e 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:

ANSWER:

An *adverse effect* may be realized by subdivision developers, including small businesses, because they will now be subject to required review fees. The increased expense can vary greatly by development size. These added costs have the potential to adversely affect small business to some degree; however, as only one (1) respondent provided quantitative data, the significance of the impact is expected to be minor.

A *beneficial effect* includes that the fee structure is a static fee, and easily estimated based upon the size of a proposed subdivision. This eliminates any guesswork on required fees and can be easily built into project budgets. The fee structure also dictates that smaller subdivisions will pay less, thereby minimizing financial/economic impacts on smaller operations.

Additional beneficial effects may be realized by small business contractors that specialize in habitat improvement work such as re-seeding, pinion-juniper thinning, or other habitat improvement work that may be recommended by NDOW during review to offset impacts resulting from subdivision development. Current funding requires use of sportsman dollars to subsidize developers that do not contribute funding to mitigate impacts to wildlife. If more sportsman dollars are free, NDOW could fund additional wildlife and habitat projects that often benefit small businesses through contract work. Further, fee revenue and re-directed sportsman dollars would increase the amount of State matching dollars NDOW has available to obtain Federal Pittman-Robertson Grant dollars. Additional benefits include the more comprehensive planning to account for wildlife habitat and species and the need for subdivision developers or their representatives to hire resource specialists to assist in the planning processes.

b.) Both direct and indirect effects:

ANSWER:

Direct effects will likely be realized through the requirement of the fee described in NRS and within the proposed regulation, as well as through the addition of the requirement to submit tentative maps both to the planning commission or governing bodies and directly to NDOW. Neither respondent provided concern regarding the requirement to submit tentative maps to NDOW in addition to submission to the planning commission or governing body.

Indirect effects may be seen due to the variable nature of the housing markets. During market contractions, the fee will still be required to review developments. Additionally, there is potential that additional requirements, such as mitigation, may be required by Planning Commissions or other governing bodies as a result of recommendations made by NDOW. While this may cause adverse effects to developers of subdivisions, there may be positive indirect effects to other industries that specialize in habitat restoration, for example.

4.e 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:

During initial public involvement for development of the proposed regulation, it was noted that there was significant concern over review time. This was identified by both survey respondents as well. In order to allow additional time for review and coordination, the proposed regulation includes a provision allowing the submission and coordination of review with NDOW prior to submission to the planning commission or governing body. This will not circumvent that requirement but will allow the review and identification of any major wildlife-related concerns well in advance, thereby reducing the likelihood of issues arising later in the planning process. It is anticipated that this will allow developers to meet their timelines without accruing any additional external penalties.

5. Describe the estimated cost to the agency for enforcement of the proposed regulation:

ANSWER:

Implementation of the review process outlined in the proposed regulation is anticipated to cost approximately \$124,224 for the initial establishment of the review process and program and associated equipment, operating expenses, and standard information services expenses, and approximately \$106,245 annually after establishment. This estimate is based upon the requirement of a new full-time (FTE) Wildlife Staff Specialist (approved by IFC in November 2022) to administer this review program. In addition to review of tentative maps, NDOW has fielded numerous calls from interested members of the public relative to proposed subdivisions, and NDOW will continue devoting staff resources toward public and/or interested party coordination.

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 agency is preparing to collect \$250 per tentative map received plus \$5 per acre depicted on said map, per NRS.

To-date, the Nevada Department of Wildlife has not fully enforced NRS 278.335-337 due to the lack of guiding regulations for implementation of review and collection of fees outlined in NRS, though it is anticipated fees collected may increase with the passage of these regulations. However, NDOW has received 31 tentative subdivision maps since passage of Assembly Bill 211 (2021). No fees were collected for review of these maps. The subdivision maps covered 5,117 acres. Had NDOW been fully implementing review including collection of fees under NRS, this would have amounted to collecting of \$33,335.50 in revenue.

It is also anticipated that fees will significantly fluctuate during periods of increased or decreased housing development. It is difficult to anticipate exactly how much will be collected due to these variations.

Funding will be used in its entirety toward review costs, but it is not anticipated to cover the entire costs of reviews.

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:

There are no duplicate or applicable federal, state, or local standards that apply to this regulation.

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

ANSWER:

The Nevada Department of Wildlife has determined that the proposed regulation is unlikely to directly impose a significant negative financial/economic impact upon small businesses or have a negative impact

on the formation, operation or expansion of a small business in Nevada. The fee is currently required and outlined under NRS; NDOW is simply creating provision for how maps will be reviewed and creating a mechanism to collect the required fees.

Feedback received during various public workshops (County Advisory Board Meetings, Nevada Board of Wildlife Commissioners meetings, and the SBI survey) have indicated that most concern is regarding processing and review timelines. Some concern was expressed in survey responses regarding the fees; however, based upon our current estimate across the last 18 months from tentative maps received, the fees appear modest.

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.

A handwritten signature in blue ink, appearing to read 'Alan Jenne', is written over a horizontal line.

Alan Jenne, Director
Nevada Department of Wildlife

**NEVADA DEPARTMENT OF WILDLIFE
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NOTICE OF INTENT TO ACT UPON A REGULATION**

**Notice of Hearing for the Adoption of Regulations of the
Nevada Board of Wildlife Commissioners**

LCB File No. R014-24 – Commission General Regulation 520

The Nevada Board of Wildlife Commissioners will hold a public hearing at 8:30 a.m. on May 4, 2024 at the Washoe County Administrative Complex, Building A, Commission Chambers, 1001 E. Ninth Street, 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. A Zoom link is provided below for those individuals that are unable to attend in person.

If you wish to make public comment, please use this link for Friday, May 3, 2024:

<https://us02web.zoom.us/j/89517228720?pwd=Q1dwTIM0cjlKVjBoQncejM3VUY3UT09>

Passcode: 624875

If you wish to make public comment, please use this link for Saturday, May 4, 2024:

<https://us02web.zoom.us/j/83186611342?pwd=d3o5cnIBOExHZ055dTNQWDU5d0xjd09>

Passcode: 428479

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 regulation is designed to help define and regulate the big game tag deferral option within the extenuating circumstance regulation adopted as LCB File No R022-19.
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:**
The terms of this regulation would narrow the tag deferral window back to its original window. Initially customers had anywhere from 12-72 hours to defer a tag under extenuating circumstances. It was then widened to anytime from the Big Game Draw to opening hours of the hunt. This regulation takes the window back to its original timeframe. It also clarifies which tags are unable to be deferred.
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**
The regulation will not have any significant adverse or beneficial economic effects on businesses.
 - (b) **Both immediate and long-term effects on businesses:**
There will be no immediate or long-term economic effects from the proposed regulation on small businesses because it does not regulate the operation of any

small business.

(c) Both adverse and beneficial effects on the public; and

This regulation does not have an anticipated beneficial or adverse economic effect on the public.

(d) Both immediate and long-term effects on the public:

This regulation does not have an anticipated immediate or long-term economic effect on the public.

4. The estimated cost to the agency for enforcement of the proposed regulation:

There will be no increased costs to enforce the proposed regulation.

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:

This regulation does not overlap or duplicate any other state, local, or federal laws or 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:

This regulation does not include provisions that are more stringent than federal regulations.

8. Whether the proposed regulation establishes a new fee or increases an existing fee:

This regulation does not establish a new fee or 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>. 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.

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60 Youth Center Road; Elko, Nevada 89801 (775) 777-2300
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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/>
<https://nvboardofwildlife.org/>

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.

April 2, 2024

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

LCB File No. R014-24

March 11, 2024

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

AUTHORITY: § 1, NRS 501.105, 501.181, 502.103 and 502.104.

A REGULATION relating to wildlife; establishing certain exclusions relating to the deferral of the use of a tag under extenuating circumstances; revising certain provisions relating to the time within which a tag may be returned or deferred under certain extenuating circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires, with certain exceptions, a person who hunts any wildlife in this State to first obtain a license and, if he or she wishes to hunt certain designated big game mammals, to first obtain an additional license known as a big game tag. (NRS 502.010, 502.130) Existing law authorizes the Board of Wildlife Commissioners to establish a program whereby a holder of a tag may transfer, return or defer the use of his or her tag in the event of an extenuating circumstance. (NRS 502.103) This regulation prohibits a holder of a tag from deferring the use of a tag awarded under certain provisions of existing regulations. Existing regulations establish that the use of a tag may be deferred if certain extenuating circumstances occur before the hunting hours begin on the opening day of the season for which the tag was issued. (Section 1 of LCB File No. R022-19) This regulation further sets forth that use of the tag may be deferred if certain extenuating circumstances occur after the last day that the holder is entitled to return the tag but before hunting hours begin on the opening day of the season for which the tag was issued.

Section 1. Section 1 of LCB File No. R022-19 is hereby amended to read as follows:

1. ~~1A~~ *Except as otherwise provided in subsection 2, 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. A holder of a tag may not defer the use of a tag awarded:

(a) From the alternate list generated pursuant to NAC 502.421;

(b) To an eligible hunter who applied electronically for any remaining tags after tags have been issued for a season pursuant to NAC 502.4215;

(c) Through the issuance of special incentive elk tags pursuant to NAC 502.42253 to 502.42283, inclusive;

(d) From the drawing for restricted nonresident deer tags pursuant to NAC 502.423 to 502.4238, inclusive;

(e) Through the issuance of damage compensation tags pursuant to NAC 502.424 to 502.4268, inclusive;

(f) Through a Dream Tag raffle pursuant to NAC 502.4269 to 502.42696, inclusive;

(g) Through the Partnership in Wildlife Drawing pursuant to NAC 502.4273 to 502.429, inclusive; or

(h) Through the Silver State Tag Drawing, auctions or other sealed bids conducted pursuant to NRS 501.3575 and 502.250 NAC 502.4291 to 502.4298, inclusive.

(i) If there is no identically matching open season the following year, in this circumstance, the tag will be returned, and bonus points restored.

~~12.1~~ 3. A person who applies for a big game tag may designate a beneficiary of the tag.

Upon the death of the holder of the tag, if the designated beneficiary provides a death certificate to the Department, the designated beneficiary will be treated as if he or she were awarded the tag pursuant to subsection ~~16.1~~ 7. The designated beneficiary may:

(a) Use the tag if he or she is otherwise eligible to hunt a big game mammal in this State, subject to any applicable waiting period, as long as the person has not been suspended by the Department from using a tag;

(b) Transfer the tag to a qualified organization approved by the Department pursuant to subsection ~~10;~~ *11*; or

(c) Return the tag to the Department.

~~13;~~ *4.* If the holder of a tag is diagnosed as terminally ill *after the tag has been awarded 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. *A tag holder may claim an extenuating circumstance any time after the tag has been awarded and choose to transfer their tag to a qualifying organization. All transfer requests must be received by the Department no later than 5 business days prior to the hunt season.*

~~14;~~ *5.* Except as otherwise provided in ~~subsection 8;~~ *subsections 2 and 9*, the Department shall allow the holder of a tag to return the tag to the Department pursuant to NAC 502.422, 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 *year's* applicable hunting season, *if any exist, and* 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.

~~{5.}~~ **6.** If the holder of the tag claims an extenuating circumstance as described in subsections ~~{3.}~~ **4** and ~~{4.}~~ **5**, 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.

~~{6.}~~ **7.** If a tag is transferred to another person or qualifying organization 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.

~~{7.}~~ **8.** The Department shall process the transfer, return or deferral within 5 business days after receiving the tag.

~~{8.}~~ **9.** 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.

~~{9.}~~ **10.** The tag transfer program is hereby established. An organization that wishes to participate in the tag transfer program must submit an application to the Department between September 1 and October 31 of each year for participation in the hunting season for the following year. An application submitted by an organization must demonstrate that the organization is a qualified organization, as that term is defined in NRS 502.104, and further

demonstrate:

(a) The ability of the organization to cooperate with a licensed master guide, licensed subguide or otherwise qualified person to safely guide or mentor persons who are eligible to receive a transferred tag pursuant to this section;

(b) The number of persons represented out of each category described in subparagraphs (1) and (2) of paragraph (b) of subsection 3 of NRS 502.104, who are eligible to receive a transferred tag pursuant to this section, including, without limitation, the following information:

(1) The first and last name of each person;

(2) The date of birth of each person; and

(3) The client number, as defined in NAC 502.029, of each person; and

(c) That no monetary trade or exchange of goods will be taken or given by the organization, a person or family member of a person represented by a qualifying organization or a person wishing to transfer his or her tag.

~~10.1~~ **11.** If an application submitted pursuant to subsection ~~9.1~~ **10** is approved, the Department shall notify the organization of the approval. Such approval authorizes the qualified organization to participate in the tag transfer program for 1 calendar year beginning on January 1 and ending on the last day of that year's concurrent hunting seasons.

~~11.1~~ **12.** At the request of the holder of a tag, the Department shall provide a tag transfer request form and list of qualified organizations to the holder for submission to the Department designating the qualified organization that will receive the tag.

~~12.1~~ **13.** If a qualified organization fails to meet the requirements set forth in subsection ~~9.1~~ **10**, the Department shall revoke the authorization of the organization to participate in the tag transfer program for the remainder of the current year's hunting season.

~~13.~~ 14. The Department shall update the Commission on all tags that are transferred, returned or deferred pursuant to this section.

~~14.~~ 15. As used in this section:

- (a) “Family member” has the meaning ascribed to it in NRS 502.103.
- (b) “Tag transfer program” means the program established by this section pursuant to NRS 502.104.
- (c) “Terminally ill” has the meaning ascribed to it in NRS 449A.081.

**STATE OF NEVADA
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NEVADA DEPARTMENT OF WILDLIFE
SMALL BUSINESS IMPACT STATEMENT PURSUANT TO NRS233B**

**Commission General Regulation 520 LCB File No. RXXX-XX Extenuating Circumstance Tag
Deferral**

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” (NRS233B.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 as 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 analysis.

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:

ANSWER:

There will be no adverse or beneficial effects from the proposed regulation on small business because it does not regulate the operation of any small business.

- b.) Both direct and indirect effects:

ANSWER:

There will be no 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 the 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.


Alan Jenne, Director
Nevada Department of Wildlife