

**STATE OF NEVADA
NEVADA DEPARTMENT OF WILDLIFE
NEVADA BOARD OF WILDLIFE COMMISSIONERS**

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATIONS

The Nevada Department of Wildlife is proposing the adoption of regulations pertaining to Chapter 502 of the Nevada Administrative Code. A workshop will be held at 9:00 a.m., on Friday, June 29, 2018 at the Dyer Community Center, Hwy 264 at Blue Bird Rd., Dyer, Nevada 89010. The purpose of the workshop is to solicit written and/or oral comments from interested persons on the following general topics that may be addressed in the proposed regulations:

Commission General Regulation 477, Landowner Deer and Antelope Compensation Tag Program, LCB File No. 096-18 – Game Division Administrator Brian F. Wakeling – For Possible Action

The Commission will hold a workshop to consider a regulation relating to amending Chapter 502 of the Nevada Administrative Code (NAC). This regulation would provide direction for equitably allocating landowner deer and antelope compensation tags if the statutory limit is reached.

This Notice of Workshop and support material 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 will be available at the Nevada Department of Wildlife, Director's Office, 6980 Sierra Center Parkway, Suite 120, Reno, Nevada, for inspection and copying by members of the public during business hours and 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
4747 Vegas Drive, Las Vegas, Nevada 89109 (702) 486-5127

They have also been mailed to the following Nevada county public libraries in which an office of the agency is not maintained for inspection and copying by members of the public during business hours:

Carson City Library, 900 North Rook Street, Carson City, Nevada 89701-3101
Douglas County Library, 1625 Library Lane, Minden, NV 89423
Esmeralda County Library, Corner of Crook & 4th Street, PO Box 430, Goldfield, NV 89013-0430
Eureka County Library, 10190 Monroe Street, Eureka, NV 89316
Humboldt County Library, 85 East 5th Street, Winnemucca, NV 89445-3095
Battle Mountain Branch Library (Lander County), 625 South Broad Street, Battle Mountain, NV 89820
Lincoln County Library, 63 Main Street, Pioche, NV 89043
Lyon County Library System, 20 Nevin Way, Yerington, NV 89447-2399
Mineral County Public Library, PO Box 1390, Hawthorne, NV 89415
Pershing County Library, 1125 Central Avenue, Lovelock, NV 89419
Storey County Clerk's Office, Drawer D, Virginia City, NV 89440
Tonopah Public Library (Nye County), PO Box 449, Tonopah, NV 89049
White Pine County Library, 950 Campton Street, Ely, NV 89301

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/>
http://www.ndow.org/Public_Meetings/Public_Notices/

A copy of all materials relating to the proposed regulations may be obtained at the workshop or by contacting the Director's Office at the Nevada Department of Wildlife, 6980 Sierra Center Parkway, Suite 120, Reno, Nevada 89511, (775) 688-1597. A reasonable fee may be charged for copies if it is deemed necessary.

June 8, 2018

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

LCB File No. R096-18

May 30, 2018

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

AUTHORITY: §1, NRS 501.105, 501.181 and 502.145.

A REGULATION relating to damage compensation tags; requiring the Department of Wildlife to reduce the number of damage compensation tags awarded to an owner applicant under certain circumstances; requiring the Department to award damage compensation tags to certain owner applicants who have entered into cooperative agreements with the Department; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an owner, lessee or manager of private land which is damaged by deer or antelope may apply to the Department of Wildlife for the issuance of a tag as compensation for the damage caused by the deer or antelope. Existing law requires the Board of Wildlife Commissioners to adopt regulations establishing the maximum number of damage compensation tags which the Department may issue annually, which must not exceed 2.5 percent of the total number of deer and antelope tags authorized for issuance annually throughout the State. (NRS 502.145)

Existing regulations set forth provisions concerning the awarding of a damage compensation tag to an owner applicant. (NAC 502.426) This regulation requires the Department to reduce proportionately all awards of damage compensation tags during a calendar year if the cumulative number of damage compensation tags for all eligible owner applicants exceeds 2.5 percent of the total number of deer and antelope tags authorized for issuance throughout the State. This regulation further requires the Department, if the proportionate reduction of awards of damage compensation tags results in the issuance of less than that number, to award all remaining damage compensation tags to certain owner applicants who have entered into cooperative agreements with the Department.

Section 1. NAC 502.426 is hereby amended to read as follows:

502.426 1. If the owner applicant enters into a cooperative agreement with the Department and the Department approves the application for a damage compensation tag, the owner

applicant is eligible for the issuance of one or more damage compensation tags pursuant to subsection 2 ~~H~~ or 3.

2. ~~Am~~ *Except as otherwise provided in subsection 3, an* owner applicant is eligible for the issuance of:

(a) One damage compensation tag for deer for each 50 deer that caused damage to his or her property; and

(b) One damage compensation tag for antelope for each 50 antelope that caused damage to his or her property.

3. *In accordance with paragraph (a) of subsection 6 of NRS 502.145, if the cumulative number of damage compensation tags for all eligible owner applicants during a calendar year exceeds a number equal to 2.5 percent of the total number of deer and antelope tags which are authorized for issuance throughout the State for that calendar year, the Department shall proportionately reduce all awards of damage compensation tags, rounded to the nearest whole number, until the total amount of the awards is less than that number. If the proportionate reduction of awards pursuant to this subsection results in the issuance of less than that number, the remaining available damage compensation tags must be awarded in increments of not more than one damage compensation tag to each owner applicant having the longest continuous history of entering into cooperative agreements as determined pursuant to subsection 4. Damage compensation tags awarded pursuant to this subsection must be awarded in descending order based upon the longest continuous history of each owner applicant.*

4. *The Department shall determine longest continuous history of an owner applicant for the purposes of subsection 3 based upon the number of consecutive years that the owner*

applicant entered into a cooperative agreement pursuant to subsection 1 and qualified for the award of damage compensation tags in accordance with the cooperative agreement, regardless of the number of years in which a damage compensation tag was awarded to the owner applicant.

5. If the Department issues a damage compensation tag, the tag is valid for use in the calendar year after the calendar year in which the application was submitted.

~~14.1~~ 6. The unit or units within a management area or areas for which the Department issues a damage compensation tag must be limited to the unit or units within the management area or areas in which the damaged property is located.

~~15.1~~ 7. The Department shall indicate on each damage compensation tag it issues:

(a) The period or periods during the calendar year for which the tag is valid, which must be limited to the hunting season or seasons, other than a hunting season for a tag issued pursuant to subsection 5 of NRS 502.250, established by the Commission for antlered mule deer or antelope with horns longer than their ears, as appropriate for the species to which the tag applies, in the unit or units within the management area or areas in which the damaged property is located and for which the tag is valid; and

(b) The unit or units within the management area or areas in which the damaged property is located and for which the tag is valid.

~~16.1~~ 8. A person possessing a valid damage compensation tag may hunt only:

(a) During the period or periods indicated by the Department on the tag, as established by the Commission;

(b) With the type of weapon designated for the type of hunt to which each such period applies, as established by the Commission; and

(c) In the unit or units within the management area or areas established by the Commission:

(1) In which the damaged property is located; and

(2) For which the tag is valid.

~~17.1~~ **9.** Damage compensation tags will only be issued to owner applicants and sold to hunters through the headquarters of the Department.

~~18.1~~ **10.** The fee charged for a damage compensation tag will include:

(a) A fee of \$50 for each such tag;

(b) A license fee based on the status of the hunter as a resident or nonresident; and

(c) The fee specified in NAC 502.331 for acting upon each application for a tag.

~~19.1~~ **11.** If the Department provides a refund for a cancelled tag under the conditions set forth in NAC 502.422, the Department may reissue an application for a damage compensation tag to the owner applicant.

~~110.1~~ **12.** If the Department denies an application for a damage compensation tag, the owner applicant may appeal the decision to the Commission within 10 days after the Department notifies the owner applicant of the decision. A request for an appeal pursuant to this subsection must be submitted in writing to the Secretary of the Commission. As soon as practicable after receiving such a request, the Chair of the Commission will appoint a panel consisting of not less than two members of the Commission to consider the appeal. The panel shall notify the Commission in writing of its determination. If the panel is unable to make a determination, the Commission will appoint another panel to consider the appeal in accordance with this subsection. The determination of a panel appointed pursuant to this subsection is a final decision for the purposes of judicial review.

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

Re: Commission General Regulation 477 LCB File No. RXXX-XX (landowner compensation tags)

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:

Landowners that suffer damage from mule deer or antelope within Nevada can register as a cooperator with the Nevada Department of Wildlife and qualify to receive tags, which they may subsequently use or sell, as compensation for the damage sustained. There are about 105 individual cooperators currently engaged in this program. These landowners may qualify for a compensation tag for each 50 deer or antelope counted on their land by Department biologists. There is a statutory limit in NRS 502.145 on the number of tags that may be awarded annually, yet there is no process in statute or administrative rule to equitably distribute the tags should the cumulative qualifying count across all cooperating landowners exceed the statutory limit.

During spring 2017, cooperators were notified by letter that the number of tags for which they had collectively qualified were in excess of the statutory limit. In anticipation of the need for a Commission Regulation, which is stipulated under NRS 502.145, the Nevada Board of Wildlife Commissioners was provided a briefing in public session during their May 2017 meeting. Amendment to NRS 502.145 was adopted during the 2017 legislative session that increased the statutory limit, making any redistribution of tags unnecessary during 2017

Subsequently, at their August 2017 meeting, the Commission considered suggestions provided by the Department during spring 2017. At that meeting, the Commission directed the Department to seek public input from stakeholders about methods to equitably redistribute tags should the new statutory limit be reached in the future. The Department sent letters to the 105 cooperators in the compensation tag program during November to inform them that the Department would be hosting public stakeholder meetings in Elko, Ely, and Winnemucca during December 12–14, 2017 to discuss options for equitable reduction if the limit were reached. These letters inviting participation were shared with the County Advisory Boards, Nevada Farm Bureau, Cattleman's Association, Backcountry Hunters and Anglers, Carson Valley Chukar Club, Fraternity of the Desert Bighorn, Nevada Bighorns Unlimited (Fallon, Reno, and Midas chapters), Nevada Bowhunters Association, Nevada Chukar Foundation, Nevada Muleys, and Nevada Outfitters and Guides Association. At the meetings, 6 stakeholders attended in Elko, 9 attended in Ely, and 6 attended in Winnemucca. Another 2 stakeholders emailed comments to the Department. The ideas were compiled and sent to all participants that provided input and asked for ranking of suggested methods for equitable redistribution of compensation tags if the statutory limit were reached. Two stakeholders responded.

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

ANSWER:

The information provided by the stakeholders through the meetings, emails, and prioritization process was shared with the Commission at their January 2018 meeting. Based on the information provided, the Commission indicated that they were interested in proceeding with a mathematical formula that would equitably reduce tags while protecting the individuals that received the least compensation tags. Further, the Commission sought a system that provided some preference to those cooperators with the longest participation. This information was again sent by letter to the 105 cooperators in the compensation tag program and distributed to the same stakeholders as the original requests. This letter informed stakeholders of the intent of the Commission to possibly direct the Department to initiate rulemaking at the March 2018 meeting of the Commission. The Commission again discussed these concepts at this public meeting.

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:

Statute already places a limit on the number of tags that may be issued, but neither statute nor existing regulation describe how those tags will be distributed in the event that the limit is exceeded. The most direct effect will be beneficial in that it will reduce confusion and provide a simple method by which tags may be equitably reallocated should the qualifying counts exceed statutory limits. No adverse effects are anticipated.

b.) Both direct and indirect effects:

ANSWER:

Statute already places a limit on the number of tags that may be issued, but neither statute nor existing regulation describe how those tags will be distributed in the event that the limit is exceeded. The most direct effect will be beneficial in that it will reduce confusion and provide a simple method by which tags may be equitably reallocated should the qualifying counts exceed statutory limits. No indirect effects are anticipated.

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 is no impact to small business anticipated as a result of the proposed regulation.

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

ANSWER:

Because the proposed regulation establishes a process by which to address a regulatory limitation already in place through statutory mandate, the cost to the agency will be reduced because a regulation will not need to be addressed reactively when the limit is again approached or exceeded.

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:

No new fee.

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:

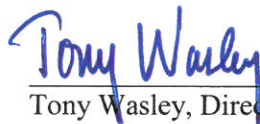
No duplication of regulation.

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

ANSWER:

Because the proposed regulation establishes a process by which to address a regulatory limitation already in place through statutory mandate, the Department believes that a simple process to address the existing limitations will eliminate confusion, expedite decisions, reduce cost to the agency, and have no measurable impact on small business.

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.



Tony Wasley, Director
Nevada Department of Wildlife