

PROPOSED REGULATION OF THE BOARD OF WILDLIFE COMMISSIONERS

LCB File No. R030-15

NEVADA DEPARTMENT OF WILDLIFE NOTICE OF INTENT TO ACT UPON A REGULATION Notice of Hearing for the (Amendment/Adoption/Repeal) of Regulations Nevada Board of Wildlife Commissioners CGR 456 – LCB File No. R030-15 Special Incentive Elk Arbitration Panel

The Board of Wildlife Commissioners will hold a public workshop on August 7, 2015 at 1:30 p.m., at the Churchill County Chambers, 155 N. Taylor Street, Fallon, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of Commission General Regulation 456 (LCB File No. R030-15) pertaining to Chapter 502 of the Nevada Administrative Code.

- 1) The need for and purpose of the proposed regulation:
The purpose for this regulation is to amend existing administrative code to provide the ability for the Nevada Board of Wildlife Commissioners (Commission) to appoint a panel or serve as the panel by which arbitration of disputes over the Nevada Department of Wildlife's (NDOW) determination of appropriate allocation of special incentive elk tags. Currently, the arbitration process has been handled using a panel selected from the local area in which the individual that files the arbitration resides. This panel is currently comprised of a member representing the local business community, one representing the agricultural community and one representing the sportsmen or County Advisory Board to Manage Wildlife. In practice, this has proven problematic as local community members have demonstrated discomfort and unwillingness to serve on a panel that sits in judgment on a fellow community member.
- 2) Text of the proposed regulation:
See attached proposed regulation.
- 3) Will this regulation likely impose a direct and significant economic burden upon small business?
Arbitration is an infrequent occurrence with this process, with relatively few challenges to NDOW determinations. However, during the instances in which arbitration is requested, the likelihood that the arbitration will occur in a location proximal to the individual that submits the request is less likely. While an arbitration request does not require the physical presence of the individual that submits the request and arguments may be at times submitted in writing or via teleconference, such an individual may believe that presentations and discussion made in person may be more persuasive. Consequently, an individual that submits an arbitration request may want to travel to a location where the arbitration request is being heard.

- 4) Will this regulation directly restrict formation, operation or expansion of small business?
No, this regulation will not provide any additional restrictions of any kind on small business.
- 5) Describe how the concerted effort was made to determine the business impact:
Prior arbitration applicants and process was observed and described. As this is an infrequent event, no statistically valid estimate of effect could be determined, but the best estimate is that the only difference to the affected applicant for arbitration would be the location at which the arbitration would occur.
- 6A. Describe the estimated economic effect of the regulation on the business which it is to regulate:
 - (i) Adverse effect – An arbitration applicant may incur travel-related expenses to discuss arbitration in person. This amount may vary depending on location, but could be in the neighborhood of \$50–200.
 - (ii) Beneficial effect – Impossible to quantify, but local community members may have greater likelihood to do business with one another if they were not involved in a judgment of another.
- 6B. Describe the estimated economic effect of the regulation on the public which it is to regulate:
 - (i) Adverse effect – There is none.
 - (ii) Beneficial effect – There is none.
- 7) Describe the method used to calculate the financial impact (positive, negative, or none) on small businesses:
Estimated cost of travel, meals, and lodging for a single individual to attend a meeting not located in that individual's local community. Most meetings are associated with a weekend, so business income is less likely to be affected.
- 8) The name of the person(s) conducting the analysis of the likely impact of the proposed regulation:
Brian Wakeling, Game Division Administrator, Nevada Department of Wildlife
- 9) Estimated cost to the Department of Wildlife for enforcement of the proposed regulation:
Game wardens are currently enforcing NAC 502 laws.

A description of and citation to any regulations of other state or local government agencies which the proposed regulation overlaps or duplicates this regulation does not overlap or duplicate any other state or local government regulation, the duplication or

overlapping is necessary because this regulation does not apply in the case of this regulation.

If the proposed regulation overlaps or duplicates a federal regulation what is the name of the regulatory federal agency?

This regulation does not overlap or duplicate any federal regulations.

10) If the regulation is required pursuant to federal law provide, a citation and description of the federal law.

The regulation is not required by federal law.

11) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:

There is not a federal regulation that regulates this activity.

12) The proposed regulation establishes a new fee or increases an existing fee: X No

This statement shall be made available to the public at least 15 days before the public workshop.

Persons wishing to comment upon the proposed action of the 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 Secretary, Board of Wildlife Commissioners, 1100 Valley Road, Reno, Nevada 89512. Written submissions must be received by the Secretary, Board of Wildlife Commissioners, at least five days before the scheduled public hearing. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board of Wildlife Commissioners may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed regulation will be on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the regulations to be adopted will be available for inspection and may be copied at the following locations:

Nevada Department of Wildlife offices:

Nevada Department of Wildlife, Headquarters, 1100 Valley Rd, Reno, NV, 89512
(775) 688-1549

Nevada Department of Wildlife, Western Region, 380 W. "B" St., Fallon, NV 89406
(775) 423-3171

Nevada Department of Wildlife, Eastern Region, 60 Youth Center Rd., Elko, NV
89801 (775) 777-2300

Nevada Department of Wildlife, Southern Region, 4747 Vegas Dr., Las Vegas, NV
89108 (702) 486-5127

March 18, 2015
July 10, 2015 – Updated

Small Business Impact Statement

Commission General Regulation 456
LCB File No. T004-15/R030-15
Special Incentive Elk Tag Arbitration

The Commission will consider permanent adoption of the temporary regulation which expires November 1, 2015, relating to amending NAC 502.42283 by which the Commission may facilitate decisions by appointing or serving as the arbitration panel should arbitration of elk incentive tag awards become necessary; and other matters relating thereto. The temporary regulation was workshopped on March 20, 2015 and action was taken on May 15, 2015, at the Nevada Board of Wildlife Commissioners meetings. The Nevada Board of Wildlife Commissioners will hold a workshop at their meeting on August 7, 2015, and for possible action at their September 25-26, 2015 meeting.

The purpose for this regulation is to amend existing administrative code to provide the ability for the Nevada Board of Wildlife Commissioners (Commission) to appoint a panel or serve as the panel by which arbitration of disputes over the Nevada Department of Wildlife's (NDOW) determination of appropriate allocation of special incentive elk tags.

Currently, the arbitration process has been handled using a panel selected from the local area in which the individual that files the arbitration resides. This panel currently comprises a member representing the local business community, one representing the agricultural community, and one representing the sportsmen or County Advisory Board to Manage Wildlife. In practice, this has proven problematic as local community members have demonstrated discomfort and unwillingness to serve on a panel that sits in judgment on a fellow community member. This difficulty was pointed out and an amendment to the existing process was requested by the White Pine County Board chairman on August 11, 2014.

Subsequent to this letter, the Commission has heard and discussed the existing process and NAC on three separate times: at the Churchill County Chambers, 155 Taylor Street, Fallon, NV on Friday, August 15, 2014; at the Clark County Government Chambers, 500 South Grand Central Parkway, Las Vegas, NV on Saturday, September 13, 2014; and at Truckee Meadows Community College, 7000 Dandini Blvd., Sierra Building, Room 108, Reno, NV on November 14, 2014. On March 20, 2015 this temporary NAC was discussed in workshop from the Truckee Meadows Community College as well. At the latter two meetings, video and audio was also teleconferenced into Elko and Las Vegas, NV from which the public could comment.

Arbitration is an infrequent occurrence with this process, with relatively few challenges to NDOW determinations. However, during the instances in which arbitration is requested, the likelihood that the arbitration will occur in a location proximal to the individual that submits the

request is less likely. While an arbitration request does not require the physical presence of the individual that submits the request and arguments may be at times submitted in writing or via teleconference, such an individual may believe that presentations and discussion made in person may be more persuasive. Consequently, an individual that submits an arbitration request may want to travel to a location where the arbitration request is being heard.

The Commission will have an increased workload associated with any Commission meeting at which they choose to hear an arbitration request. This may result in longer meetings, although it is unlikely that additional days or expenses will be accrued in association with these meetings. In the event that the Commission simply appointed a panel to serve the arbitration process, no added expense would be expected beyond that currently in place with the local panel.

The suggested amendment provides for an efficient method to address any arbitration request, but does not place fellow community members in a position by which they must sit in judgment of another.

The Small Business Impact Statement was completed by Brian Wakeling, Game Division Administrator.

There will be no additional cost to NDOW, for the enactment, enforcement of this regulation.

The proposed regulation does not include provisions that will be duplicative of or more stringent than federal, state, or local standards and do not provide a new fee or increase in an existing fee.

A copy of the Small Business Impact Statement will be on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the Small Business Impact Statement by contacting Joanne Trendler at 775-688-1549 and are also available at the following locations:

Nevada Department of Wildlife offices:

NDOW - Western Region Field Office
380 W. "B" Street
Fallon, NV 89406
(775) 423-3171

NDOW - Southern Region Field Office
4747 Vegas Dr.
Las Vegas, NV 89108
(702) 486-5127

NDOW - Eastern Region Field Office
60 Youth Center Road
Elko, NV 89801
(775) 777-2300

NDOW Reno Headquarters—Law Enforcement
1100 Valley Road
Reno, Nevada 89512
(775) 688-1549

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 is accurate.

/s/
Tony Wasley, Secretary
Board of Wildlife Commissioners

TW:jt