

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

**Re: Commission General Regulation 461 LCB File No. R014-16 - A regulation amending NAC 502.460 to NAC 502.485 relating to artificial industrial ponds; revising provisions relating to purpose of permits, renewal and modification of permits, assessment fee structure and amounts, definitions to support assessment fee structure; and providing other matters properly relating thereto.**

**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:**

NDOW assessed the potential impact of the proposed regulation change on small business by using a direct survey of potentially affected businesses. All persons on the following lists were contacted through email and/or hard copy mail:

- Existing Industrial Artificial Pond Permit holders,
- Members and contacts of the Nevada Mining Association,
- Contacts from the Nevada Division of Environmental Protection – Bureau of Mining Regulation and Reclamation notification list,
- NDOW Commission, CABMW, and interested parties notification list

A Notice of Stakeholder Meetings was emailed and/or hard-copy mailed to everyone on the above referenced contact list on January 4, 2016. This notice included a statement indicating that NDOW would be conducting a small business impact survey and the survey would be available starting January 12, 2016. On January 12, 2016 a Notice of Small Business Survey and a website link to the support material were emailed to everyone on the above referenced contact list with a valid email address. Notice of the small business impact survey was also provided to those persons in attendance at the three stakeholder meetings conducted January 12 – 14, 2016 in Reno, Las Vegas, and Elko.

These contact lists included persons that are not small business owners or authorized representatives so a series of screening questions was used to sort small-business owners or authorized representatives from non-target persons. Any responses received from non-target individuals were assessed 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 changes on small businesses. The survey was opened on January 12, 2016 at 8:00am and closed on January 20, 2016 at 5:00pm, as indicated on the Notice. One extension request was received via email on January 20<sup>th</sup> and this company was allowed to submit their response on January 21, 2016. As of January 21, 2016, seven people responded to the survey, including one that did not represent a small business and did not complete the survey beyond the screening questions. Of the six valid responses, only 2 were fully completed and contained information suitable for analysis. The remaining four surveys only contained answers for questions related to contact information, the number of employees, and the existing IAP

permits the company holds. Thus, four of the responses did not provide information suitable for analysis of financial effects. Because there were several surveys that were incomplete, NDOW sent a follow-up email asking those participants why they did not complete the questions. One company (a qualified small business) responded and noted the small incremental increase was too insignificant to justify performing the necessary accounting to determine what effect the increase would have on the businesses.

The survey responses are presented in Attachment 1. The results of the two completed surveys are discussed below:

“Company A” does not hold an active IAP permit, as the project is not constructed. If constructed, an IAP permit would likely be required. The company was unable to predict the assessment fees it would pay under existing or proposed regulations, thus a comparison was not completed. The company indicated the permits would create additional costs and labor to maintain and report on the permit, but did not differentiate between the existing and proposed regulations. No specific information on the effect of the proposed regulation change was included. When asked to rate the effect of existing vs. proposed assessment fees and existing vs. proposed permit processes, all rankings were indicated as a 4, which could be described as a slightly negative impact (0 is significantly negative and 10 is significantly positive).

“Company B”, currently holds five active IAP permits and several properties undergoing baseline studies that will likely proceed to permitting. The company reported paying approximately \$10,000 in annual fees and expects the proposed regulations to increase annual fees to \$35,000, indicating an annual increase of approximately \$25,000. The existing assessment fees represent 1 percent of total annual costs and the proposed assessment fees would represent 3 percent of total annual costs associated with operating the company. The respondent indicated most of the permitted facilities are not producing income and the assessment fee increase would be a negative effect to existing properties as well as to any future property acquisitions because of higher holding costs. When asked to rate the effect of existing vs. proposed assessment fees, the existing assessment fee was scored as a 4 and the proposed assessment fee was scored as a 1. This would be described as changing from a slightly negative impact to a moderately significant negative impact (0 is significantly negative and 10 is significantly positive). When asked to rate the effect of existing vs. proposed permitting processes, the existing process was scored as a 5 and the proposed process was scored as a 3. This would be described as changing from no effect to a slightly negative effect (0 is significantly negative and 10 is significantly positive). Company B also indicated there is potential for a modest public image benefit, depending on how the program and funding sources are advertised.

An average of all ranking scores is limited because only two companies provided a complete survey. The ranking was presented on a scale of 0 to 10, where 0 is significant negative impact and 10 is significant positive impact. The average rankings are included below:

Existing assessment fee structure: 4 (slightly negative effect)  
Proposed assessment fee structure: 2.5 (moderately negative effect)  
Existing permitting process: 4.5 (slightly negative to neutral effect)  
Proposed permitting process: 3.5 (slightly to moderately negative effect)

Additional businesses wishing to participate in the small business impact survey can request a survey link from the Nevada Department of Wildlife by contacting Matt Maples at [mmaples@ndow.org](mailto:mmaples@ndow.org) or 775-688-1568.

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

**ANSWER:**

The analysis was conducted by examining each individual response and tabulating the quantitative information that was obtained. The analysis included an in-depth assessment of each useful survey response.

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:**

An *adverse effect* may be realized by industrial development operators, including small businesses, because they could be subject to increased annual assessment fees. The increased expense can vary greatly by operation. One response from the survey indicated the adverse effect of an assessment fee was similar among existing and proposed assessment fee amounts. A second response indicated it would be a negative effect and could increase assessment fees by \$25,000 per year. A third response, acquired in a follow-up email indicated increase was too insignificant to complete the survey. This suggests the effects of the proposed change could vary among operators based on the size or production of the facility. The proposed assessment fee structure is tiered so smaller operations pay less. Using internal predictions and survey responses, there is the potential for some active permittees that qualify as small-businesses and to see an increase in assessment fees. It is difficult to determine which permittees would qualify as a small business *and* predict the effect of the proposed fee increase on their business. However, NDOW used permit information to make predictions on fee increases for all permittees. Using this information, NDOW predicts that approximately 25 percent of the active IAP permits are issued to small businesses. Of these, 69 percent could see an increase of less than \$3,000 per year and 31 percent could see an increase of greater than \$3,000 per year and less than or equal to \$25,000 per year for a single company with multiple permits (e.g. Company B, in the survey). The average increase is predicted to be approximately \$3,000 per year. These added costs have the potential to *adversely affect* small business to some degree; however, as only one company provided quantitative data, the *significance* of the impact is expected to be minor.

A *beneficial effect* may be realized by small business contractors as NDOW would re-vitalize the Industry Project Fund. This Fund traditionally paid for habitat and research projects associated with industrial development and created a mutual benefit for sportsman and industrial development partners. These projects often use contractors that specialize in habitat improvement work such as re-seeding, pinion-juniper thinning, or installation of bat gates and wildlife surveys, thus presenting a beneficial effect to small businesses. Additional assessment fee revenue and re-directed sportsman dollars would increase the amount of State matching dollars NDOW has available to obtain Federal P-R Grant dollars. The revenue from the proposed assessment fees would generate approximately \$578,000, which can be used to access an additional \$1,734,000 in Federal P-R dollars. The Federal dollars would be used to fund NDOW's Technical Review program and the Industry Project Fund referenced above, both of which support industrial development. The Technical Review program is responsible for providing data and technical comments on industrial development projects occurring on Federally-managed lands.

b.) Both direct and indirect effects:

**ANSWER:**

An increased assessment fee would be a *direct adverse* economic effect to industrial development businesses. Increased Federal P-R dollars and funding the Industry Project Fund would be *direct beneficial* economic effects to contractors specializing in habitat and wildlife related project work. Under the proposed regulation changes, the industry, and associated businesses, will be able to show stakeholders that the industry is paying for their regulatory program, instead of relying on sportsman dollars to subsidize their industry, providing a positive public relations talking point. This is considered an *indirect beneficial effect*. Projects developed under the Industry Project Fund are coordinated with industry partners and result in providing necessary data for environmental analyses, fund reclamation of disturbed sites, and show industry is contributing to wildlife and habitat projects in Nevada. This is considered an *indirect beneficial effect*.

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:**

NDOW considered a suite of alternatives for increasing assessment fee revenue to cover the cost of the IAPP program. Within these analyses, NDOW considered alternatives that used a minimum assessment fee (Tier 1) that ranged from \$50 to \$4,000. The higher the minimum assessment fee is, the greater the potential adverse effect on small businesses. The preferred alternative used a minimum assessment fee (Tier 1) of \$1,500. The preferred alternative represents the smallest allowable increase in fees while still creating a self-sustaining system that complies with NRS 502.390. Alternatives resulting in higher funding levels were not selected as the potential adverse effect on small business would increase, despite the fact that additional revenue would create a more secure funding source for the program.

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

**ANSWER:**

The proposed regulation will not increase the estimated cost to enforce IAPP regulations. Currently, the agency is performing all required duties associated with NRS 502.390, but is forced to use State or Federal sportsman dollars to pay for 55 percent of the program cost. The proposed regulations will increase assessment fees and will allow the agency to fully fund the IAPP program with industry-provided dollars.

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 includes an increase to an existing fee. The increased fee would result in collecting approximately \$320,000 per year. The money will be used to fund agency costs directly associated with implementing the IAPP program (NRS 502.390). This additional revenue will prevent NDOW from subsidizing the IAPP program with State or Federal sportsman dollars.

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:**

Based on internal predictions of small business operations and responses to the online survey, NDOW concludes that this modification to the existing Nevada Administrative Code could have minor impact on certain small businesses.

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.

  
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For Tony Wasley, Director  
Nevada Department of Wildlife