

**ADOPTED REGULATION OF THE
BOARD OF WILDLIFE COMMISSIONERS**

LCB File No. R012-16

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

AUTHORITY: §1, NRS 501.105 and 501.181.

A REGULATION relating to wildlife; prohibiting a person from placing, maintaining or using a trail camera or similar device under certain circumstances; providing exceptions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of Wildlife Commissioners: (1) to establish policies and adopt regulations necessary to preserve, protect, manage and restore wildlife and its habitat; and (2) in establishing such policies and adopting such regulations, to consider first the recommendations of the Department of Wildlife, the county advisory boards to manage wildlife and other persons who present their views at an open meeting of the Commission. (NRS 501.105) Existing law also requires the Commission to adopt regulations necessary to carry out the provisions of title 45 of NRS governing wildlife, including, without limitation, the manner and means of taking wildlife. (NRS 501.181)

This regulation prohibits, with certain exceptions, a person from placing, maintaining or using a trail camera or similar device: (1) at any time during the period beginning August 1 and ending December 31 of each year; (2) at any time during the period beginning July 1 and ending December 31 of each year if the trail camera or similar device transmits, or is capable of transmitting, images, video or location data of wildlife; or (3) at any time if the placement, maintenance or use of the trail camera or similar device prevents wildlife from accessing, or alters the manner in which wildlife accesses, a spring, water source or artificial basin that is used by wildlife and collects, or is designed and constructed to collect, water.

Section 1. Chapter 503 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a person shall not place, maintain or use a trail camera or similar device:

(a) Except as otherwise provided in paragraph (b), at any time during the period beginning August 1 and ending December 31 of each year.

(b) At any time during the period beginning July 1 and ending December 31 of each year if the trail camera or similar device transmits, or is capable of transmitting, images, video or location data of wildlife.

(c) At any time if the placement, maintenance or use of the trail camera or similar device prevents wildlife from accessing, or alters the manner in which wildlife accesses, a spring, water source or artificial basin which is used by wildlife and collects, or is designed and constructed to collect, water.

2. The provisions of subsection 1 do not apply to:

(a) A person who is acting within the scope of his or her official duties, has clearly marked each trail camera or similar device to be used to indicate ownership and is:

(1) An employee or authorized agent of this State;

(2) An employee or authorized agent of a municipal or county government of this State;

or

(3) An employee or authorized agent of the Federal Government.

(b) A person who places, maintains or uses the trail camera or similar device with approval from the Department.

(c) A person who places, maintains, or uses a trail camera or similar device on private property with the permission of the landowner.

(d) A person who places, maintains or uses a trail camera or similar device to monitor the use by livestock of any water source described in paragraph (c) of subsection 1 if the owner of

the trail camera or similar device is the holder of a permit to appropriate water issued by the State Engineer for the purpose of watering livestock.

3. As used in this section, "trail camera or similar device" means any device which is not held or manually operated by a person and is used to capture images, video or location data of wildlife using heat or motion to trigger the device.

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

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS
233B.066**

**LCB FILE NO. R012-16
Commission General Regulation 440**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 503

- 1. A clear and concise explanation of the need for the adopted regulation:**
The proposed regulation is a result of a petition heard and accepted by the Nevada Board of Wildlife Commissioners. The need and purpose of the regulation is to minimize human impact upon wildlife by regulating the use of trail cameras and to address concerns regarding fair chase in big game hunting.
- 2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary:**
Public comment was solicited through a workshop held by the Nevada Board of Wildlife Commissioners (NBWC) in Yerington, Nevada on March 25, 2016; Carson City, Nevada on November 03, 2017; and at the adoption hearing held by the NBWC on January 26, 2018. Both events included members of the public, the County Advisory Boards to Manage Wildlife (CABMW), and the NBWC. Public comment was generally split between those who supported the regulation and those who opposed it. Most who spoke agreed that something needed to be done to regulate the impacts of trail cameras, but opinions varied as to how far the regulation should reach, which users should be most affected, which user groups should be exempted, and what the specific details should say. Minutes of the meetings are available at http://www.ndow.org/Public_Meetings/Com/Minutes/
- 3. The number of persons who:**
 - (a) Attended each hearing: (date and number of attended for workshops and hearings)**
Workshop on 03/25/2016 attendance: 31
Workshop on 11/03/2017 attendance: 25
Adoption Hearing on 1/26/2018 attendance: 42
 - (b) Testified at each hearing: (date and number of attended for workshops and hearings)**
Workshop on 03/25/2016: 10
Workshop on 11/03/2017: 8
Adoption Hearing on 1/26/2018: 20
 - (c) Submitted written comments: (date and number of attended for workshops and hearings)**
Workshop on 03/25/2016: Nine written comments
Workshop on 11/03/2017: Two written comments
Adoption Hearing on 1/26/2018: One written comment

4. For each person identified in number 3 above, the following information if provided to the agency conducting the hearing:

- (a) **Name:** Joe Crim
- (b) **Telephone number:** (775) 273-1203
- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:** joewwtp@sbcglobal.net
- (f) **Name of entity or organization represented:** Pershing CABMW

- (a) **Name:** Keith Montes
- (b) **Telephone number:**
- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:** nvhighridge@sbcglobal.org
- (f) **Name of entity or organization represented:** Outfitters

- (a) **Name:** Cory Lytle
- (b) **Telephone number:** (775) 962-8071
- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:** clytle@lincolnnv.com
- (f) **Name of entity or organization represented:** Lincoln CABMW

- (a) **Name:** Shane Boren
- (b) **Telephone number:**
- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:** shaneb@mwpower.org
- (f) **Name of entity or organization represented:** White Pine CABMW

- (a) **Name:** Paul Dixon
- (b) **Telephone number:** (505) 699-1744
- (c) **Business address:** 9445 Greenville Avenue. Las Vegas NV 89134
- (d) **Business telephone number:**
- (e) **Electronic mail address:** noxidl960@gmail.com
- (f) **Name of entity or organization represented:** Clark CABMW

- (a) **Name:** Rex Flowers
- (b) **Telephone number:** 775-722-4506
- (c) **Business address:** 3280 Sun Cloud Circle, Reno, NV 89506
- (d) **Business telephone number:**
- (e) **Electronic mail address:** randbflowers@yahoo.com
- (f) **Name of entity or organization represented:** Self

- (a) **Name:** Karen Boeger
- (b) **Telephone number:**

- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:** kboeger1011@gmail.com
- (f) **Name of entity or organization represented:** Nevada Back Country Hunters and Anglers

- (a) **Name:** Jeff Howden
- (b) **Telephone number:** 775-691-0201
- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:**
- (f) **Name of entity or organization represented:** Self

- (a) **Name:** Jana Wright
- (b) **Telephone number:** (702) 816-0211
- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:** jlvin42day@aol.com
- (f) **Name of entity or organization represented:** Private Citizen

- (a) **Name:** Rob Boehmer
- (b) **Telephone number:**
- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:** rboehmer@defcomp.nv.gov
- (f) **Name of entity or organization represented:** Carson City CABMW

- (a) **Name:** Jesse Weller
- (b) **Telephone number:** (775) 527-3321
- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:** jweller@lyoncsd.org
- (f) **Name of entity or organization represented:** Lyon CABMW

- (a) **Name:** Steve Marquez
- (b) **Telephone number:**
- (c) **Business address:** 785 Ave. N. Ely, NV 89301
- (d) **Business telephone number:**
- (e) **Electronic mail address:** marquez.wpcso@gmail.com
- (f) **Name of entity or organization represented:** White Pine CABMW

- (a) **Name:** Mark Edgel
- (b) **Telephone number:**
- (c) **Business address:** 545 W. Alexander Rd., Las Vegas, NV 89130
- (d) **Business telephone number:**
- (e) **Electronic mail address:** sixjs4me@hotmail.com
- (f) **Name of entity or organization represented:**

- (a) **Name:** Mel Belding

- (b) **Telephone number:**
- (c) **Business address:** Washoe County
- (d) **Business telephone number:**
- (e) **Electronic mail address:**
- (f) **Name of entity or organization represented:** Self

- (a) **Name:** Gerald Lent
- (b) **Telephone number:**
- (c) **Business address:**
- (d) **Business telephone number:** 775-852-4636
- (e) **Electronic mail address:**
- (f) **Name of entity or organization represented:** Self

- (a) **Name:** Gary Coleman
- (b) **Telephone number:**
- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:**
- (f) **Name of entity or organization represented:** Self

- (a) **Name:** Kyle Davis
- (b) **Telephone number:** 775-338-6732
- (c) **Business address:** 699 Pu Lane, Reno
- (d) **Business telephone number:**
- (e) **Electronic mail address:** kyle@davis-strategies.com
- (f) **Name of entity or organization represented:** BHA

- (a) **Name:** David Dixon
- (b) **Telephone number:**
- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:** davidstapleydixon@gmail.com
- (f) **Name of entity or organization represented:** Self

- (a) **Name:** Greg Smith
- (b) **Telephone number:**
- (c) **Business address:**
- (d) **Business telephone number:**
- (e) **Electronic mail address:**
- (f) **Name of entity or organization represented:** Nevada Bighorns Unlimited

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

Comment was solicited from affected small businesses by using SurveyMonkey to survey all master guides licensed in Nevada. Of the master guides surveyed, 45 percent responded.

60% of respondents stated that they use trail cameras, trail camera photos, or trail camera video in their guide businesses. 40% of respondents stated that restricting the use of trail cameras would adversely affect their business financially.

A copy of the summary can be obtained through the Nevada Department of Wildlife, Division of Law Enforcement, 6980 Sierra Center Parkway, Suite 120, Reno, NV 89511.

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

The regulation was adopted with changes. As initially proposed, the regulation would have prohibited trail cameras within 200 feet of a point-source water from August 1st through December 31st, and would have prohibited transmitting trail cameras at any location during those same dates. After hearing public comment and input from the County Advisory Boards to Manage Wildlife, the adopted regulation prohibits trail cameras at any location from August 1st through December 31st and further prohibits transmitting trail cameras at any location from July 1st through December 31st. Both the proposed and adopted versions of the regulation provide exemptions for certain industries, agencies, and private landowners.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects on businesses; and

40% of respondents (18 licensed master guides) stated there would be an adverse effect on their small business if this regulation change were to pass. It is assumed that these guides would not be able to find trophy animals for their clients as easily and would have to work harder and spend more time scouting and hunting to locate the animals, rather than simply checking their remote cameras to see if animals came in to a water source.

(b) Both immediate and long-term effects on businesses:

40% of respondents (18 licensed master guides) stated there would be an adverse effect on their small business if this regulation change were to pass. It is assumed that these guides would not be able to find trophy animals for their clients as easily and would have to work harder and spend more time scouting and hunting to locate the animals, rather than simply checking their remote cameras to see if animals came in to a water source.

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

There will be no adverse, or beneficial economic effects from the proposed regulation on the public.

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

There will be no immediate or long-term economic effects from the proposed regulation on the public.

8. **The estimated cost to the agency for enforcement of the adopted regulation:**
The enforcement of the regulation falls within current operations of the Department; therefore, there will be no additional cost to the agency above the current legislatively approved budget.
9. **A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency:**
The adopted regulation does not overlap or duplicate any other state, local, or federal laws or regulations.
10. **If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions:**
There is no federal regulation which regulates the same activity.
11. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**
The regulation does not provide for a new fee or increase an existing fee.

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

Re: Commission General Regulation 440 LCB File No. R012-16 - Establish provision pertaining use of trail cameras for the purpose of hunting wildlife.

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 solicited from affected small businesses by using SurveyMonkey to survey all master guides licensed in Nevada. Of the master guides surveyed, 45 percent responded.

60% of respondents stated that they use trail cameras, trail camera photos, or trail camera video in their guide businesses. 40% of respondents stated that restricting the use of trail cameras would adversely affect their business financially.

A copy of the summary can be obtained through the Nevada Department of Wildlife, Division of Law Enforcement, 6980 Sierra Center Parkway, Suite 120, Reno, NV 89511.

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

ANSWER:

SurveyMonkey automatically analyzes the emailed data. Additional mail-in responses were then included in the total analysis. This analysis gave percentages for each answer of each question. From this analysis, Chief Game Warden Tyler Turnipseed determined the proposed regulation could cause a financial impact to approximately 40 small businesses (licensed master guides).

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:

40% of respondents (18 licensed master guides) stated there would be an adverse effect on their small business if this regulation change were to pass. It is assumed that these guides would not be able to find trophy animals for their clients as easily and would have to work harder and spend more time scouting and hunting to locate the animals, rather than simply checking their remote cameras to see if animals came in to a water source.

- b.) Both direct and indirect effects:

ANSWER:

A potential indirect beneficial effect would be an improvement in the reputation of the guiding industry for conforming to a fair chase ethic that may not be in line with use of trail cameras during a hunt. It could also help guides that do not believe in using trail cameras for hunting and scouting.

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:

At question in the proposed regulation change is the disturbance of wildlife at desert water sources and the unfair advantage that trail cameras may provide for hunters and guides. Methods to reduce economic impacts of regulation implementation are unknown.

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

ANSWER:

The enforcement of the regulation falls within 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:

This regulation change does not propose 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:

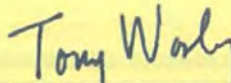
This regulation does not overlap or duplicate any local, state, or federal regulation.

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

ANSWER:

At question in the proposed regulation change is the disturbance of animals and the unfair advantage that trail cameras may create for hunters and guides who would use them during hunting seasons. Restricting the use of trail cameras may adversely impact some guide businesses that currently rely on them to locate trophy big game animals. It can be speculated that this regulation change could benefit guides that believe trail cameras violate the fair chase ethic by creating greater equality of tactics.

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