

LCB File No. R229-03

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

**NOTICE OF INTENT TO ACT UPON A REGULATION
Notice of Hearing for The (Adoption/Amendment/Repeal) of Regulations of The
Board Of Wildlife Commissioners**

The Board of Wildlife Commissioners will hold a public hearing February 6-7, 2004 in Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulation CGR 323 (LCB File No.) pertaining to Chapter 502 of the Nevada Administrative Code.

1. The need for and purpose of the proposed regulation: (Description of regulation)
To make various changes to Chapter NAC 502 as a result of legislative changes and Board of Wildlife Commission direction for program changes and enhancements.
2. Text of the proposed regulation:
Please see attached.
- 3A. The estimated economic effect of the regulation on the business which it is to regulate:
 - (a) Adverse effect - N/A
 - (b) Beneficial effect – N/A
 - (c) Immediate effect – N/A
 - (d) Long-term effect – N/A
- 3B. The estimated economic effect of the regulation on the public which it is to regulate:
 - (a) Adverse effect – None.
 - (b) Beneficial effect – Enhances the application hunt options.
 - (c) Immediate effect – Enhances the application hunt options.
 - (d) Long-term effect – Enhances the application hunt options.
4. Estimated cost to the Department of Wildlife for enforcement of the proposed regulation:
Unknown.
5. A description of and citation to any regulations of other state or local government agencies which the proposed regulation overlaps or duplicates, None. The duplication or overlapping is necessary because N/A. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency:
N/A.
6. If the regulation is required pursuant to federal law, a citation and description of the federal law
N/A.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:
N/A.

8. The proposed regulation establishes a new fee or increases an existing fee: X No ___ Yes

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 Division of Wildlife
1100 Valley Road
Reno, Nevada
(775) 688-1500

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

Eastern Region
1375 Mt. City Highway
Elko, NV 89801
(775) 738-5332

Southern Region
4747 Vegas Drive
Las Vegas, NV 89108
(702) 486-5127

The regulations will be available for inspection at all county main public libraries. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations are prepared and published monthly by the Legislative Council Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies 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, shall 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 above locations.

LCB File No. R229-03

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

AUTHORITY: 501.181, 502.010, 502.015, 502.020, 502.030, 502.035, 502.060, 502.090,
502.130, 502.140, 502.175, 502.240, 502.250, 502.253, 502.330, 502.360

Section 1. Chapter 502 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *An application to the Department for the sole purpose of obtaining a bonus point for a tag other than a restricted nonresident deer tag may be submitted by a person who is under the age of 12 years if he will attain the age of 12 years before the commencement of the earliest season for the species category to which the application pertains.*

2. The Department shall award a bonus point to a person described in subsection 1 if the person has complied with all applicable provisions of chapter 502 of NRS and the regulations adopted pursuant thereto.

Sec. 3. *A person may not submit an application for a tag and an application for a bonus point for the same type of hunt in the same draw period.*

Sec. 4. NAC 502.027 is hereby amended to read as follows:

502.027 “Bonus point program” means a method of awarding tags whereby an ~~unsuccessful~~ :

- 1. Unsuccessful applicant for a tag in ~~1~~ one or more ~~special~~ seasons ; or*
- 2. Applicant for a bonus point who does not wish to obtain a tag and is applying for the sole purpose of obtaining a bonus point for a tag other than a restricted nonresident deer tag, is accorded an increased opportunity for a tag in a subsequent drawing.*

Sec. 5. NAC 502.331 is hereby amended to read as follows:

502.331 1. Unless authorized by regulation of the commission, it is unlawful for any person to obtain more than one tag for an antelope, any subspecies of bighorn sheep, an elk or a mountain goat for a season.

2. An application for a tag *or bonus point* must be:

(a) Completed in accordance with the regulations of the Commission and the instructions on the application.

(b) Made for one applicant only. If two or more persons apply on one application, the application must be rejected.

3. The following nonrefundable fees must be charged for acting upon each application for a tag ~~1~~ *or bonus point*:

- (a) Elk tag..... \$15
- (b) Any other tag, other than a mountain lion tag..... 10
- (c) *Bonus point*..... 10

Sec. 6. NAC 502.417 is hereby amended to read as follows:

502.417 Except as otherwise provided in this chapter, the provisions of NAC 502.416 to 502.4225, inclusive, apply to the processing of **applications** :

- 1. *Applications* to obtain tags as provided in NRS 502.130 ~~[-]~~ ; and
- 2. *Applications to obtain bonus points for tags provided in NRS 502.130.*

Sec. 7. NAC 502.4175 is hereby amended to read as follows:

502.4175 1. A person desiring to obtain a tag *or a bonus point without the opportunity to obtain a tag* must apply to the Department on a form provided by the Department that includes spaces for the applicant to:

- (a) Specify his name, address and date of birth;
- (b) Specify the species or category of species for which the applicant is applying;
- (c) Select:
 - (1) Not more than five hunter choice numbers if the applicant applies for a tag to hunt deer, elk, antelope, bighorn sheep or wild turkey; or
 - (2) One hunter choice number if the applicant applies for a tag to hunt mountain goat; and
- (d) Sign the application or, if the application is submitted electronically, acknowledge the affidavit that is included in the application provided by the Department.

2. *The Department shall not reject an application for a bonus point on the basis that the applicant for the bonus point specified a hunter choice number on his application in which case the application will be processed for the bonus point.*

3. An application must include the applicant’s social security number or a unique number will be assigned by the Department. The Commission will establish the seasons and quotas for a hunt, and the method for submission and deadline for receipt of applications.

4. Except as otherwise provided in this subsection, an application may be withdrawn after it is received by the Department only if the applicant submits to the Department before the draw and with sufficient time for processing a written request that includes, without limitation, his client number. An application may not be withdrawn after the Department has rejected the application. The Department shall not consider a withdrawn application in the procedure for awarding tags *or bonus points*.

5. An applicant must obtain a valid hunting license before submitting his application for a tag *or bonus point*, except that an applicant may apply for a hunting license when he submits his application for a tag *or bonus point* if the applicant is:

- (a) A resident who submits his applications electronically pursuant to subsection 7; or
- (b) A nonresident who submits his applications pursuant to subsection 6 or 7.

6. Except as otherwise provided in subsection 7, an application for a tag *or bonus point* must be accompanied by:

- (a) The appropriate fee for the tag, as provided in NRS 502.250, if the application is for a tag;
- (b) The fee for a hunting license, as provided in NRS 502.240, if the applicant is a nonresident who submits his application for a tag *or bonus point and* has not obtained a hunting license;

(c) The habitat conservation fee, as provided in section 11 of Senate Bill No. 420 of the 72nd Session of the Nevada Legislature, chapter 419, Statutes of Nevada 2003, at page 2540, if the applicant is a nonresident who submits his application for a tag or bonus point and has not obtained a hunting license;

(d) The fee required pursuant to NRS 502.253 for the support of programs to control predators and protect wildlife habitat; and

(e) The applicable fee required pursuant to NAC 502.331 for the Department to act upon the application. The Department shall apply the proceeds of the fee to the cost of processing applications, conducting drawings for tags and performing such related activities as the Commission may direct.

7. If a resident or nonresident applicant submits his application for a tag *or bonus point* electronically, the application must be accompanied by:

(a) The fee required pursuant to NRS 502.253 for the support of programs to control predators and protect wildlife habitat;

(b) Any donation the applicant wishes to make to a program specified in paragraph (a) or any other program conducted by the Department;

(c) The fee for a hunting license, as provided in NRS 502.240, if:

(1) The application is for a bonus point and the applicant has not obtained a hunting license; or

~~(2)~~ (2) The application is for a tag and the applicant:

(I) Has not obtained a hunting license; and

(II) Indicates on his application that he wishes to purchase the hunting license regardless of whether his application is successfully drawn;

(d) The habitat conservation fee as provided in section 11 of Senate Bill No. 420 of the 72nd Session of the Nevada Legislature, chapter 419, Statutes of Nevada 2003, at page 2540, if:

(1) The application is for a bonus point and the applicant has not obtained a hunting license; or

~~(2)~~ (2) The application is for a tag and the applicant:

(I) Has not obtained a hunting license; and

(II) Indicates on his application that he wishes to purchase the hunting license regardless of whether his application is successfully drawn; and

(e) The applicable fee required pursuant to NAC 502.331 for the Department to act upon the application. The Department shall apply the proceeds of the fee to the cost of processing applications, conducting drawings for tags and performing such related activities as the Commission may direct.

8. If an application for a tag specified in subsection 7 is:

(a) Successfully drawn, the Department shall collect from the applicant:

(1) The appropriate fee for the tag as provided in NRS 502.250;

(2) The fee for a hunting license, as provided in NRS 502.240, if the applicant:

(I) Has not obtained a hunting license; and

(II) Indicates on his application that he wishes to purchase the hunting license only if his application is successfully drawn; and

(3) The habitat conservation fee as provided in section 11 of Senate Bill No. 420 of the 72nd Session of the Nevada Legislature, chapter 419, Statutes of Nevada 2003, at page 2540, if the applicant:

(I) Has not obtained a hunting license; and

(II) Indicates on his application that he wishes to purchase the hunting license only if his application is successfully drawn; or

(b) Not successfully drawn, the Department shall collect from the applicant the fee for participating in the partnership in wildlife drawing, as provided in NAC 502.427, if the applicant has indicated on the application that he wishes to participate in that drawing.

9. An application to obtain a tag that is issued by random selection may be submitted by a person who is under 12 years of age if he will attain the age of 12 years before the commencement of each season to which the application relates. An application to obtain a tag that is issued on a first-come, first-served basis may not be submitted by a person who has not yet attained the age of 12 years.

10. The Department and its agents and employees shall not:

(a) Amend or otherwise alter an application to obtain a tag ~~or~~ *or bonus point*.

(b) Issue a tag *or award a bonus point* to an applicant who fails to submit the fees required pursuant to this section.

Sec. 8. NAC 502.418 is hereby amended to read as follows:

502.418 1. The Department shall reject an application to obtain a tag *or bonus point* if any of the following occurs:

(a) The applicant fails to specify his name, date of birth, city or state on the application, unless that information exists in the computer file of the Department, in which case the application must not be rejected if the applicant has specified his name and client number.

(b) The applicant fails to specify or incorrectly specifies on the application the number of his hunting license and the year the license was issued, unless that information exists in the computer file of the Department, in which case the application must not be rejected for that reason.

(c) The applicant fails to specify his social security number on his application for a hunting license if:

(1) The application for a hunting license is included with his application for a tag *or bonus point*; and

(2) The Social Security Administration has issued a social security number to the applicant.

(d) An applicant who is at least 12 years of age but not more than 17 years of age fails to obtain the signature of his parent or legal guardian on his application for a hunting license.

(e) The applicant fails to specify on the application the species or the category of the species for which the application was submitted and, if the application is for a tag, a valid hunter choice number for that type of hunt. If the applicant specifies valid and invalid numbers, the Department shall accept the application for the valid numbers only.

(f) The applicant fails to complete the application in a legible manner.

(g) The applicant fails to sign the application.

(h) The applicant fails to submit the fees required pursuant to NAC 502.4175 or his bank fails to honor his check or draft for those fees.

(i) The applicant fails to complete and return the questionnaire required pursuant to NAC 502.405, unless he pays the applicable administrative fine not later than the third Friday in March of the year in which the application is submitted.

(j) The applicant submits more than one application to hunt for the same species of wildlife during the same year, unless such an application is specifically authorized by the Commission. If

such an application is not specifically authorized by the Commission, all applications submitted by the applicant to hunt for the same species must be rejected.

(k) The application is received after the deadline set by the Commission.

(l) The applicant fails to comply with the provisions of NRS 502.330.

(m) The applicant provides false information on the application.

(n) The applicant is otherwise ineligible to apply for the tag ~~[-.]~~ *or bonus point*.

2. Except as otherwise provided in NAC 502.419, 502.4195 and 502.4197, if an application is rejected by the Department pursuant to this section:

(a) The application must not be included in the procedure for awarding tags;

(b) The applicant must not be awarded a bonus point for the bonus point program for the species or the category of the species for which the application was submitted; and

(c) The nonrefundable application fee for acting upon each application for a tag *or bonus point* and *if the application is for a tag*, the fee required pursuant to NRS 502.253 for the support of programs to control predators and protect wildlife habitat must be retained by the Department.

3. If the Department rejects an application pursuant to paragraph (h) of subsection 1 because the applicant failed to submit the fees required pursuant to NAC 502.4175 or the applicant's bank failed to honor his check or draft for the fees specified in that paragraph, the applicant is ineligible to receive or exercise any privilege conferred upon him pursuant to title 45 of NRS until the Department receives:

(a) The nonrefundable application fee for acting upon the application;

(b) The fee required pursuant to NRS 502.253 for the support of programs to control predators and protect wildlife habitat; and

(c) The fee for the returned check or draft specified in NAC 502, if the bank failed to honor his check or draft for the fees.

4. The Department shall indicate that the applicant owes a fee in the file of the applicant maintained by the Department until the applicant pays all fees owed to the Department.

Sec. 9. NAC 502.4187 is hereby amended to read as follows:

502.4187 1. Except as otherwise provided in NAC 502.416 to 502.4225, inclusive, an applicant to obtain a tag for a season who is unsuccessful *or an applicant for a bonus point who does not wish to obtain a tag and is applying for the sole purpose of earning a bonus point* must be awarded a bonus point for:

(a) The hunt number of the species for which he applied if he applied for a :

(1) Tag to hunt swan;

(2) Tag to hunt wild turkey;

(3) Depredation hunt tag; or

(4) Bonus point for a tag described in subparagraph (1), (2) or (3); or

(b) The category of the species for which he applied if he applied for a tag to hunt deer, elk, mountain goat, antelope or bighorn sheep ~~[-.]~~ *or a bonus point for such a tag*.

↳ Regardless of the number of applications to obtain a tag *or bonus point* for a season submitted by a person, the Department shall not award him more than one bonus point per season for each species or category of a species for which the person applied.

2. Except as otherwise provided in subsection 3, the bonus points awarded to a person accumulate until he is successful in drawing a tag for a season for that species or category of a species or he fails to apply for a season for 2 consecutive calendar years during which that type

of hunt for a season is open. If an applicant is successful in drawing a tag for a season for a species or category of a species or fails to apply for a season for 2 consecutive calendar years during which that type of hunt for a season is open, he loses all of his bonus points for that species or category of a species.

3. A person may not use any bonus points awarded to him for being unsuccessful in a junior hunt to apply for a drawing for a tag for any other type of hunt after the person is no longer eligible to participate in a junior hunt.

4. If an applicant requests and receives a refund for the value of his hunting license, the Department shall not award him a bonus point for any species or category of species applied for during the period that the applicant possessed the hunting license.

Sec. 10. NAC 502.4195 is hereby amended to read as follows:

502.4195 1. If the Department commits an error which results in the rejection or incorrect processing of an application to obtain a tag that has been submitted in compliance with the regulations of the Commission, the Department shall, until the close of the season, issue the remaining tags applied for and then, if there are no further tags available, the Department may exceed its quota for the type of hunt to which the application pertains.

2. The Department shall issue a tag for a season to an applicant who, because he was assigned a low draw number, would have been awarded a tag in the drawing to which his application pertains if not for the error of the Department specified in subsection 1.

3. If the Department confirms an error on a rejected or incorrectly processed application for a tag after the close of all of the seasons, the Department shall award that applicant a bonus point for the species or the category of the species for which the application was submitted. The bonus point is not effective until the next drawing for that hunt. The Department must receive notification of the error before the expiration of the period for submission of applications for the same hunt in the next open season.

If the application was one of two or more applications submitted by a group of persons applying as a party for deer tags, the Department shall treat the applicant the same as the remaining members of his party.

4. If the Department confirms an error on a rejected or incorrectly processed application for a bonus point after the close of all of the seasons, the Department shall award that applicant a bonus point for the species or the category of the species for which the application was submitted. The bonus point is not effective until the next drawing for that hunt. The Department must receive notification of the error before the expiration of the period for submission of applications for the same hunt in the next open season.

Sec. 11. NAC 502.4197 is hereby amended to read as follows:

502.4197 1. The Department shall allow an applicant to correct a correctable error in an application for a tag for the main draw if:

(a) The Department receives the application and enters the information on the application into the computer;

(b) The application contains an error that causes the computer to send to the applicant a letter of rejection and blank correction document; and

(c) The Department receives the completed correction document on or before the deadline set forth in the correction document.

2. If the Department receives the completed correction document on or before the deadline set forth in the correction document, the Department shall:
 - (a) Use the information contained in the correction document to update the applicant's file on the computer; and
 - (b) Consider the applicant in the procedure for awarding a tag.
3. The Department shall not consider an applicant in the procedure for awarding a tag if:
 - (a) The applicant submits a correction document that does not contain information sufficient to correct every error in the application; or
 - (b) The correction document is not received by the Department on or before the deadline set forth in the correction document.
4. As used in this section:
 - (a) "Correctable error" means:
 - (1) An incorrect or missing date of birth;
 - (2) An incorrect, invalid or missing number of a hunting license;
 - (3) An incorrect, invalid or missing hunter choice number;
 - (4) Failure to specify the species or the category of the species for which the application was submitted;
 - (5) Failure of the applicant to specify his social security number on the application for a hunting license if:
 - (I) The application is included with his application for a tag *or bonus point; and*
 - (II) The Social Security Administration has issued a social security number to the applicant;
 - (6) Failure to include the proper fee;
 - (7) Failure of the applicant to sign the application;
 - (8) If the applicant is less than 18 years of age, failure of his parent or legal guardian to sign the application; or
 - (9) Failure to complete a course in the responsibilities of hunters as required pursuant to NRS 502.330.
 - (b) "Main draw" means the draw pursuant to which the greatest number of big game tags are issued to residents and nonresidents.

Sec. 12. 1. This section and sections 1 to 11 inclusive of this regulation become effective upon filing with the Secretary of State or March 1, 2004 whichever occurs later.