

NOTICE OF INTENT TO ACT UPON A REGULATION
Notice of Hearing For The (adoption/amendment/repeal Of Regulations Of
Nevada Board Of Wildlife Commissioners

The Board of Wildlife Commissioners will hold a public hearing at 9:00 a.m., on May 9, 1998 at the Sawyer Building, 555 Washington Street, Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations (CGR 265) pertaining to Chapter 502 of the Nevada Administrative Code.

1. **The need for and purpose of the proposed regulation:** The Incentive Elk Tag Regulation will provide an economic award to landowners that allow elk to use their private lands. In most instances, the sale of an elk tag will more than compensate for elk use of private forage. With additional landowner tolerance of elk use on their private lands, the sportsmen will also benefit from increased elk distribution in Nevada.

2. Text of the proposed regulation: (Attached) .

3A. The estimated economic effect of the regulation on the business which it is to regulate:

- (a) Adverse effect- **None.**
- (b) Beneficial effect- **Elk tags issued under this program can be sold for a substantial amount.**
- (c) Immediate effect- **Tags issued through the program could be available in 1999.**
- (d) Long term effect - **Regulation has the potential to provide supplemental income to landowners.**

B. The estimated economic effect of the regulation on the public which it is to regulate:

- (a) Adverse effect - **None.**
- (b) Beneficial effect - **Will improve access to public lands through private land and therefore save time and money for hunters.**
- (c) Immediate effect - **1999.**
- (d) Long-term effect - **Access to public lands.**

4. Estimated cost to the Division of Wildlife for enforcement of the proposed regulation: **Biological assessment of elk use on private lands will initially take a considerable amount of time. There should be very little enforcement time required.**
5. Description of, and citation to, any regulations of other state or local government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. 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, Post Office Box 10678, Reno, Nevada 89520. 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, 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
 (702) 688-1500

Region I Office
 380 W. "B" Street
 Fallon, NV 89406
 (702) 423-3171

Region II Office
 1375 Mt. city Highway
 Elko, NV 89801
 (702) 738-5332
 (702) 738-5332

Region III Office
 4747 W. Vegas Drive
 Las Vegas, NV 89108
 Las Vegas, NV 89108
 (702) 486-5127

The regulations will also 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 which is 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. R057-98

**STATE OF NEVADA
PROPOSED REGULATION OF THE BOARD OF WILDLIFE COMMISSIONERS
COMMISSION GENERAL REGULATION 265**

Authority: 501.181 and 502.142

Notice of Intent: April 7, 1998

Commission Approval:

Workshop Date: May 8, 1998

EXPLANATION: The incentive Elk tag Regulation will provide an economic award to landowners that allow elk to use their private lands. In most instances, the sale of an elk tag will more than compensate for elk use of private forage. With additional landowner tolerance of elk use on their private lands, the sportsmen will also benefit from increased elk distribution in Nevada.

NOTE: Matter in *italics* is new; matter within brackets [] is to be omitted

Section 1. Chapter 502 of NAC is hereby amended by adding thereto the provisions set forth as sections 3 to 7, inclusive, of this regulation.

Section 2. *As used in sections 2 to 7, inclusive, unless the context otherwise requires:*

1. "Special Incentive Elk Tag" means an elk tag awarded to a landowner applicant as an incentive to support the increase in elk numbers above the target levels as determined in a cooperative agreement between the landowner applicant and the Administrator of the Division of Wildlife.

2. *“Target Level” means an agreed upon number of elk, identified in the Cooperative Agreement that utilize specified private lands. The agreement for a target level, made between the private landowner and the Nevada Division of Wildlife, will identify the number of elk and the period during the year when elk will make use of the habitat provided by the landowner’s private lands.*

3. *“Landowner Applicant” means the owner, lessee or manager of private land that supports elk population levels above target levels.*

4. *“Actual Elk Use Area” means the hunt unit group.*

Section 3. *1. For the purposes of subsection 4 of NRS 502.145, the commission will interpret “any holder of a valid Nevada hunting license” to mean a person who currently holds a valid Nevada hunting license and who has not had any hunting privileges limited or revoked pursuant to NRS 502.330 or 503.185, or NAC 502.405, or similar statute or regulation of another state.*

Section 4. *1. The following persons are **not** eligible for special incentive elk tags:*

a. *A landowner applicant who has, within a particular calendar year, applied for or received damage compensation payment pursuant to NRS 504.165 as reimbursement for damage caused by elk to the **same** private land as identified in the landowner incentive tag cooperative agreement between the owner applicant and the Administrator of the Division of Wildlife.*

b. *A landowner applicant, whose private land blocks reasonable access to adjacent public lands and who does not agree to provide reasonable access under the terms of the cooperative agreement for a person or hunting party possessing a valid tag to hunt elk on the adjacent public land.*

- c. *An employee of the Division and his family may not purchase or use a special incentive elk tag resulting from a request serviced directly by the employee.*

Section 5. *1. The cooperative agreement must provide that:*

a. The landowner applicant will:

- 1. *Develop a planning document that identifies how the landowner applicant intends to support or encourage the increase in elk numbers in the unit or units on, or adjacent to his private lands above the target level for elk identified in the incentive tag cooperative agreement.*
- 2. *Provide public access to public land if the landowner applicant's private land is adjacent to public land for which reasonable access is not available except through the private land, during the hunting season, to a person or hunting party with a tag for the purpose of hunting elk on the public land. The access may be at a specified location or locations as mutually agreed upon by the landowner applicant and the Division and must be identified on a United States Geological Survey Map (1:100,000 scale or larger). The map will be attached to the cooperative agreement.*

b. The Division agrees to:

- 1. *Determine the number of special incentive elk tags to be awarded as identified in section 6.*
- 2. *Assist the landowner applicant in determining the percentage of his private land that occurs within an actual elk use area.*

Section 6. *1. Special incentive elk tags will be allocated based on the following formula:*

Elk numbers

Number of tags issued

*using private land X Elk days on private land X last year for elk use area =**

Total number of elk

365

(Hunt unit group)

in actual use area

**New areas - up to 50 percent of first years tags, NRS 502.142, 1.(d) (3) and 1. (h)*

- 2. A landowner, lessee or manager, or a group of landowners, lessees or managers, any qualify to receive a special incentive elk tag(s) for their combined private lands.*
 - a. How the tag(s) and may income from the tag(s) is allocated, will be at the discretion of the owner applicant(s).*
- 3. The issuance of special incentive elk tags will not result in the total number of bull elk tags issued to the public in any year being reduced to a number of below the quota for bull elk tags established by the commission for 1997 (187).*
- 4. A special incentive elk tag is valid for both sexes of elk.*
- 5. A landowner applicant to whom a special incentive elk tag is issued pursuant to this section may:*
 - a. Use the special incentive elk tag himself, if her holds a valid hunting license issued by this state; or*
 - b. Allocate the special incentive elk tag to another person who holds a valid hunting license issued by this state at any price upon which the parties mutually agree.*

6. *The fee charged for an elk tag, and any administrative fee charged in connection with the issuance of an elk tag, will be pursuant to NRS 502.250*
7. *A person who is issued a special incentive elk tag must hunt:*
 - a. *During an open season for elk with the designated weapon for that season.*
 - b. *In the unit or unit within the management area or areas in which the private land is located.*

Section 7. *1. In the event a landowner applicant and the Division may not agree on the number of special incentive elk tags to be awarded, the Board of Wildlife Commissioners will select a local arbitration panel from the residents of the county in which the owner applicant resides to assess the claim. The local arbitration panel will also determine if the party's named on the special incentive elk tag cooperative agreement adhered to the agreement.*

2. The selection and terms of members of a local arbitration panel will be consistent with NAC 504.430, 2 through 6.

3. Appeals to local arbitration panels, duties of the panels, and payment of members will be consistent with NAC 504.435.