

LCB File No. R083-98

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 July 11, 1998 at the Douglas County Courthouse, Minden, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations (CGR 267) pertaining to Chapter 501 of the Nevada Administrative Code.

1. **The need for and purpose of the proposed regulation:** To guide the Commission as required by statute on the conduct of Administrative Hearing for appeals of contested license and permit revocations. To establish the protocol necessary for the public hearings thereby institute rules for all involved parties to use for these hearings.

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- **None.**
- (c) Immediate effect- **None.**
- (d) Long term effect - **None.**

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

- (a) Adverse effect - **None.**
- (b) Beneficial effect - **None.**
- (c) Immediate effect - **None.**
- (d) Long-term effect - **None.**

4. Estimated cost to the Division of Wildlife for enforcement of the proposed regulation: **No additional cost to the Division will result. The regulation establishes procedures for conduct at hearing.**

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. **Other agencies have rules, however, there is no overlap.**

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.

**PROPOSED REGULATION OF THE
BOARD OF WILDLIFE COMMISSIONERS
COMMISSION GENERAL REGULATION 67**

Authority: NRS 501.105, 501.181 and 50.030

Notice of Intent: June 10, 1998

Commission Approval:

Workshop Date: March 6, 1998 and April 4, 1998

EXPLANATION: To guide the Commission as required by statute on the conduct of Administrative Hearing for appeals of contested license and permit revocations. To establish the protocol necessary for the public hearings thereby institute rules for all involved parties to use for these hearings.

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

Section 1. NAC 501 is hereby amended to adding thereto the provision set forth as sections 1 to 8, inclusive, of this regulation.

1. *“Board” means the Board of Wildlife Commissioners.*
2. *“Notice of Hearing” must contain the date, time, location, nature of the hearing and the applicable legal authority. The complaint and notice of hearing may be contained in the same document.*
3. *“Petitioner” is the person or agency requesting a hearing before the Board.*
4. *“Respondent” is the person or agency responding to the request for a hearing.*
5. *“Division’ is the Division of Wildlife.*
6. *“Contested Case” has the meaning ascribed to it in NRS 233B.032.*

Section 2. 1. *These regulations apply to all contested cases brought before the Board on any permit or license denial, suspension or revocation pursuant to NRS 501.1816, chapters 502, 503 and 504, inclusive, and all child support requirements. The regulations are intended*

to simplify and expedite contested hearings before the Board while at the same time ensuring a fair hearing.

Section 3. *1. A contested case may be commenced by a petitioner on a complaint form provided by the Division within 30 days of the date of receipt of the notice of denial, revocation or suspension. Receipt shall be evidenced by a signed and dated return mail receipt or by the receipt of mailing plus three days if returned unsigned.*

2. The Division shall mail a notice of hearing to the petitioner's address contained on the form described in paragraph one of this section at least 20 days prior to the date fixed for the hearing on the petition. There is a rebuttable presumption that a complaint and notice have been received upon the expiration of ten days after the notice has been deposited in the United States mail. 3. Any contention that improper notice was given shall be deemed waived unless it is raised at the hearing.

Section 4. *1. Any party is entitled to representation of an attorney licensed to practice in Nevada or the party may appear on his or her own behalf.*

2. Attorneys appearing before the Board must conform their conduct to the Nevada Rules of Professional Conduct. All other persons appearing before the Board must act in a courteous manner conducive to the proper functioning of the Board. The Board may, in its discretion, exclude a party or their representative from the hearing, limit the taking of evidence or take any other necessary action to maintain proper decorum.

3. An attorney may withdraw from representation upon notice and filing a request with the Board stating the reasons for the withdrawal. The Board may deny the request if withdrawal would unreasonably delay the hearing.

Section 5. *Discovery shall be limited to evidence relevant to the standard of review and issues brought before the Board. Upon written request between the parties, each party is entitled to relevant information not designed to harass or delay including, 1) names and addresses of all witnesses; 20 copies of all documents which may be entered into evidence at the hearing; and 3) a description of any other evidence that may be offered.*

Section 6. *1. All contested hearings shall be de novo with the exception of those brought pursuant to NRS 501.1812, et. seq. which shall be confined to the record and limited to procedural error employed by the Division.*

Section 7. *1. The date of hearing may be continued by written stipulation of all parties or by ruling by the Board upon motion. No continuance shall be granted without showing of good cause and a finding that no prejudice to the non-moving party will result.*

Section 8. *1. Failure to appear at a duly noticed hearing shall result in default judgement in favor of the appearing party. The party failing to appear may file a request for reconsideration for good cause shown within ten days of the date of the hearing. The Board may withdraw its default decision and schedule a rehearing upon terms and conditions as may be just.*

2. All contested hearings shall be open to the public and consistent with the Open Meeting Law.

3. The sequence to be followed for all contested hearings is as follows:

- a. Hearing is called to order by the Chairperson of the Board.*
- b. The parties and their representatives enter an appearance on the record.*
- c. The petition, notice and answer, if any, are entered into evidence.*
- d. Witnesses may be excluded upon request of any party.*

- e. Any preliminary motions, stipulations or agreed orders will be entertained.*
 - f. Division staff presents evidence with cross examination and questioning by the petitioner of the Board.*
 - g. The petitioner presents evidence with cross examination and questioning by the Division and the Board.*
 - h. The Division and petitioner are allowed to present appropriate rebuttal evidence with cross examination limited to areas raised on rebuttal.*
 - i. Closing arguments presented by the Division followed by the petitioner.*
 - j. Deliberations will take place on the record at an open meeting.*
- 4. The Board may deviate from this procedure and allow or limit questioning as necessary to elicit all relevant, non-repetitive testimony and evidence.*
 - 5. The rules of evidence shall be as described in NRS 233B.123.*
 - 6. Oral proceedings shall be recorded and transcribed upon request of any party at the expense of the requesting party.*
 - 7. The burden of proof rests with the Division.*
 - 8. The official record of the hearing shall serve as the order of the Board unless otherwise stated at the hearing. The Board shall issue oral findings of fact, conclusions of law and its order consistent with NRS 233B.121 and shall be based upon substantial evidence.*
 - 9. Upon request of either party, a copy of the decision and order as transcribed from the official record of the hearing shall be mailed or delivered by the Division.*