

**LCB File No. R030-06**

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

**NOTICE OF INTENT TO ACT UPON A REGULATION  
Notice of Hearing for The Adoption and Amendment of Regulations of The  
Nevada Board of Wildlife Commissioners**

The Board of Wildlife Commissioners will hold a public hearing on May 12-13, 2006, at \_\_\_\_\_ a.m., at the Nevada Department of Wildlife, 1100 Valley Road, Reno, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulation Commission General Regulation No. 343 (LCB File No. R030-06) pertaining to Chapters 502 of the Nevada Administrative Code.

1. The need for and purpose of the proposed regulation: **Amendments to Damage Compensation Tags NAC 502.4246-502.4264. Clarifies language pertaining to the application; requires written authorization for other than deeded owner to participate in program; notification to Department can be other than in writing; clarifies responsibilities of Department and owner applicant in cooperative agreement; identifies Department as conducting animal counts; clarifies notification, inspection, and proof of damage; clarifies mitigation of damage; sets the following year after the calendar year damage occurs when compensation tags will be issued.**
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 – **Will allow owner applicant to market the compensation tags he is awarded over a longer period of time if necessary to reach greater number of potential buyers which should allow for more competitive offers for the tag.**
  - (c) Immediate effect – **Will involve a transition period for both Department and owner applicant where any questions regarding the timing of tag issuance will be answered through added communication efforts.**
  - (d) Long-term effect – **The tag value may increase due to the fact the owner applicant can take more time to market the tag and broaden the search of potential buyers.**
- 3B. 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 Department of Wildlife for enforcement of the proposed regulation: Costs will be minimal to nonexistent, does not increase existing workloads or processes.
  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: **NA**. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency: **NA**
  6. If the regulation is required pursuant to federal law, a citation and description of the federal law. **Not applicable**.
  7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions: **Not applicable**
  8. The proposed regulation establishes a new fee: \_\_\_No \_\_\_**X**Yes. Establishes an administrative assessment of \$50 for reinstating a trappers suspended license privileges.

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

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

Eastern Region  
 60 Youth Center Road  
 Elko, NV 89801  
 (775) 777-2300

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. R030-06

### PROPOSED REGULATION OF THE BOARD OF WILDLIFE COMMISSIONERS

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

AUTHORITY: NRS 501.105, 501.181, 502.145, 502.160, 502.250

**Explanation:** Makes various changes to the damage compensation tag regulations: clarifies language pertaining to the application; requires written authorization for other than deeded owner to participate in program; notification to Department can be other than in writing; clarifies responsibilities of Department and owner applicant in cooperative agreement; identifies Department as conducting animal counts; clarifies notification, inspection, and proof of damage; clarifies mitigation of damage; sets the following year after the calendar year damage occurs when compensation tags will be issued.

**Section 1.** NAC 502.4246 is hereby amended to read as follows:

- 502.4246**
1. Have sustained damage to his private property caused by deer or antelope;
  2. Notify the Department ~~[in writing]~~ of any damage within 10 days after he discovers it;
  3. *If not the deeded owner of the private land that sustained damage, submit to the Department written authorization for representing the deeded owner in decisions involving and receiving damage compensation tags.*
  - ~~[3.]~~ 4. Submit an application which includes ~~[and]~~ a proof of damage form, *map of access to public land if applicable, and signed cooperative agreement with Department;*
  - ~~[4.]~~ 5. Cooperate with the Department in inspecting the damage and formulating a plan to prevent or mitigate the damage;
  - ~~[5. Keep the Department advised if the damage is ongoing or if the damage ceases;]~~
  6. Mitigate damages where possible and not feed or bait deer or antelope to attract the animals onto his land;
  7. ~~[Enter into a cooperative agreement with the Department; and]~~

~~[(8.)~~ Comply with the requirements of NAC 502.424 to 502.4268, inclusive.

**Sec. 2.** NAC 502.4248 is hereby amended to read as follows:

**502.4248** 1. To be eligible for the issuance of a damage compensation tag, an owner applicant must enter into a cooperative agreement with the Department.

2. The cooperative agreement must:

(a) ~~[(Specify, in writing and on a map provided by the Department, the private land designated by the owner applicant as being open to hunting using the damage compensation tag.)]~~

(b) Provide that, if the owner applicant's private land is adjacent to public land for which access is not available except through the private land, the owner applicant shall provide access to the public land during the hunting season to a person or hunting party with a tag for the purpose of hunting on the public land. The access may be at a specified location or locations as mutually agreed upon by the owner applicant and the Department and must be identified on the map provided by the Department.

~~[(e)]~~ Provide that the Department agrees to:

*Act expeditiously when it receives a notice of damage, to consult with the owner applicant, assess the cause of damage, conduct a count of the depredating animals if applicable, and recommend a course of action to mitigate damages.*

~~[(1) Act expeditiously when it receives an application for a damage compensation tag;~~  
~~— (2) Assess the cause of the problem, consult with the owner applicant and recommend a course of action to the owner applicant;~~  
~~— (3) Compensate the owner applicant for damage by providing one damage compensation tag for each 50 deer or 50 antelope causing damage on private land if a preponderance of the~~

~~evidence, as determined by the Department, proves that the loss was caused by the deer or antelope; and~~

~~— (4) Allow the user of a damage compensation tag to hunt in the unit or units within the management area or areas in which the owner applicant's damaged property is located.]~~

~~[(d)]~~ (c) Provide that the owner applicant agrees to:

(1) Consult with the Department and consider its technical advice;

(2) Allow a representative of the Department to enter his property at times mutually agreed

upon to:

*(I) To inspect the property and assess the cause of the damage;*

*(II) Count depredating animals; and*

~~[(I) Remove deer or antelope; and]~~

*(III) Prevent further damage by any method the Department deems to be necessary, including, but not limited to, hazing, hunting, shooting and scaring;*

~~[(3) Allow a hunter who has purchased a damage compensation tag that was issued to the owner applicant to hunt on the owner applicant's property as designated on the map which is provided by the Department and attached to the cooperative agreement; and~~

~~— (4) Give such a hunter written authorization to hunt on the designated property and provide him with a map thereof when a damage compensation tag is sold to him.]~~

3. If the owner applicant stops or attempts to stop any hunter holding a tag from entering or crossing his private land before the expiration of the agreement, the Department will refuse to issue any damage compensation tags to the owner *applicant* for 1 year.

**Sec. 3.** NAC 502.4252 is hereby amended to read as follows :

**502.4252** 1. ~~[The owner applicant has the burden of proving the damage claimed. The Department shall provide a form to be used by an owner applicant in proving the damage. The owner applicant must complete and submit the proof of damage form to the Department within 30 days after he files his notice of damage.~~

~~—2. The proof of damage form must include the following information:~~

~~—(a) The condition the property was in before the damage occurred;~~

~~—(b) The amount and type of property damaged;~~

~~—(c) The number of deer or antelope that caused the damage;~~

~~—(d) The number of damage compensation tags being requested; and~~

~~—(e) The results of any investigation performed by an investigator of the Department.]~~

*1. Within 10 days after the Department receives a notice of damage, the Department shall inspect the property.*

*2. The notice of damage must include:*

*(a) Owner applicant contact information;*

*(b) Location and name of property/ranch;*

*(c) Date on which the damage was discovered; and*

*(d) Description of damage including estimated number of animals by species that caused the damage.*

*3. The Department will inspect the property, assess the cause of the damage, and conduct a count, if applicable, of the depredating animals during a time of day when each species of animal is most active.*

*4. The owner applicant and the Department will complete the proof of damage form and cooperative agreement provided by the Department.*

~~5.3.1~~ A separate application must be made, and a separate cooperative agreement must be entered into, for each request for one or more damage compensation tags made with regard to each separate location on the owner applicant's property at which damage was sustained.

**Sec. 6.** NAC 502.4258 is hereby amended to read as follows:

**502.4258** 1. ~~[ Within 10 days after the Department receives a notice of damage, a representative of the Department and the owner applicant shall inspect the property claimed to have been damaged.~~

~~2.]~~ After the property is inspected, the Department and the owner applicant shall formulate a plan, if possible, to prevent or mitigate damage caused by the deer or antelope, including, but not limited to:

- (a) Hazing and scaring;
- (b) Erecting exclusionary devices;
- (c) Issuing special depredation or emergency depredation hunt tags; or
- (d) Removing the animals that are causing the damage.

*2. Each owner applicant shall implement the plan where possible, by exercising reasonable care and diligence to minimize or lessen damage.*

**Sec. 7.** NAC 502.426 is hereby amended to read as follows:

**502.426** 1. If the Department approves the application for a damage compensation tag, and the owner applicant enters into a cooperative agreement with the Department, the owner applicant is eligible for the issuance of one or more damage compensation tags pursuant to subsection 2.

2. An owner applicant is eligible for the issuance of:



(a) One damage compensation tag for deer for each 50 deer that caused damage to his property; and

(b) One damage compensation tag for antelope for each 50 antelope that caused damage to his property.

*3. The Department will issue damage compensation tags to the owner applicant for use in the year following the calendar year the application was submitted.*

~~{3.}~~ 4. The Department shall indicate on each damage compensation tag it issues:

(a) The period or periods for which the tag is valid, which must be limited to the hunting season or seasons, other than a hunting season for a tag issued pursuant to subsection 5 of NRS 502.250, established by the Commission for antlered mule deer or antelope with horns longer than their ears, as appropriate for the species to which the tag applies, in the unit or units within the management area or areas for which the tag is valid; and

(b) The unit or units within the management area or areas for which the tag is valid, which must be limited to the unit or units within the management area or areas in which the damaged property is located.

~~{4.}~~ 5. A damage compensation tag may be used for each type of hunt, as based upon the type of weapon authorized to be used, established by the Commission for antlered mule deer or antelope with horns longer than their ears in the unit or units within the management area or areas for which the tag is valid. A person possessing a valid damage compensation tag may hunt only:

(a) During the period or periods indicated by the Department on the tag;

(b) With the type of weapon designated for the type of hunt to which each such period applies; and

(c) In the unit or units within the management area or areas indicated by the Department on the tag.

~~[5.]~~ **6.** Damage compensation tags will only be issued to owner applicants and sold to hunters through the headquarters of the Department.

~~[6.]~~ **7.** The fee charged for a damage compensation tag will include:

(a) A fee of \$50 for each such tag;

(b) A license fee based on the status of the hunter as a resident or nonresident; and

(c) The fee specified in NAC 502.331 for acting upon each application for a tag.

~~[7.]~~ **8.** If the Department provides a refund for a cancelled tag under the conditions set forth in NAC 502.422, the Department may reissue an application for a damage compensation tag to the owner applicant.

~~[8.]~~ **9.** If the Department denies an application for a damage compensation tag, the owner applicant may appeal the decision to the Commission within 10 days after the Department notifies the owner applicant of the decision. A request for an appeal pursuant to this subsection must be submitted in writing to the Secretary of the Commission. As soon as practicable after receiving such a request, the Chairman of the Commission will appoint a panel consisting of not less than two members of the Commission to consider the appeal. The panel shall notify the Commission in writing of its determination. If the panel is unable to make a determination, the Commission will appoint another panel to consider the appeal in accordance with this subsection. The determination of a panel appointed pursuant to this subsection is a final decision for the purposes of judicial review.

**Sec. 4.** NAC 502.4254 is hereby repealed:

~~**[502.4254 Notification regarding damage; mitigation of damage.**~~

~~— 1. If the damage is ongoing, the owner applicant shall keep the Department advised of the nature, status and extent of the damage.~~

~~— 2. The owner applicant shall notify the Department in writing not later than 30 days after the damage ceases. The notice must include the following information:~~

~~— (a) The total extent of the damage; and~~

~~— (b) Dates when the damage began and ended.]~~

~~— 3. Each owner applicant shall mitigate damages where possible, by exercising reasonable care and diligence to avoid the loss or to minimize or lessen damage.~~

~~— 4. The burden of proving a failure to mitigate damages rests with the Department.]~~

**Sec. 5.** NAC 502.4256 is hereby repealed:

~~{1. The notice of damage must include:~~

~~— (a) The date on which the damage was discovered;~~

~~— (b) The date or dates on which the damage occurred or an estimate of those dates;~~

~~— (c) The estimated number of deer or antelope that caused the damage;~~

~~— (d) A description of the damage; and~~

~~— (e) The location of the damage.~~

~~— 2. The Department will accept a notice of damage that is filed more than 10 days after the owner applicant discovers the damage if:~~

~~— (a) The owner applicant gave verbal notice of the damage to the Department within the 10 days; and~~

~~— (b) The owner applicant shows that his failure to file written notice of the damage within the 10 days was:~~

~~— (1) For good cause;~~

~~——(2) Not caused by his lack of diligence; or~~

~~——(3) Caused by the Department.]~~

**Sec. 8.** NAC 502.4264 is hereby repealed:

~~[If damage to an owner applicant's land in any year occurs after August 1 for antelope, or October 1 for deer, the Department may, upon request, issue damage compensation tags to the owner applicant for use in the following year.]~~