

**REVISED PROPOSED REGULATION OF THE
DEPARTMENT OF WILDLIFE**

LCB File No. R038-11

November 9, 2011

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

AUTHORITY: §§1-4, section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610); §§5 and 6, sections 7 and 9 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at pages 2547 and 2548 (NRS 701.610 and 701.630).

A REGULATION relating to energy development projects; requiring that notices relating to energy development projects which are filed with the Department of Wildlife contain certain information; requiring certain applicants to pay reimbursement costs in advance to the Department; establishing a cap on the collection of reimbursement costs by the Department; requiring the Department to return to an applicant any unused portion of reimbursement costs paid in advance; providing for the appeal of certain decisions of the Department; and providing other matters properly relating thereto.

Section 1. Chapter 701 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 6, inclusive, of this regulation, unless the context otherwise requires, “applicant” means a person who is required to file a notice pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610).*

Sec. 3. *In addition to the information that is required to be included with a notice filed pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610), the notice must include:*

1. The name, physical address, telephone number and, if applicable, the electronic mail address of the applicant;

2. The name, physical address, telephone number and, if applicable, the electronic mail address of the company, and the officers of the company, on behalf of which the notice is filed;

3. The name of the proposed energy development project;

4. A description and map of the proposed energy development project for each phase of the project until the completion of the project;

5. An itemized estimate of the infrastructure requirements of the proposed energy development project, including, without limitation, an estimate of the amount of power, fuel, communication lines, access roads, rail lines and water use that will be required to complete the project;

6. An estimate of the design voltage of any power lines which are required for the proposed energy development project;

7. An estimate of the maximum generating capacity of the proposed energy development project upon completion;

8. A proposed schedule of construction activities; and

9. Any other information that is required by the Department of Wildlife.

Sec. 4. 1. *An applicant must, at the time the applicant files a notice pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610), submit to the Department of Wildlife with his or her notice an initial deposit toward reimbursement costs in the amount of:*

(a) For a proposed energy development project which is a geothermal project, \$5,000.

(b) For a proposed energy development project which is a power line project with a voltage of 50 kilovolts or more and which is less than 50 miles in length, \$5,000.

(c) For a proposed energy development project other than a project identified in paragraph (a) or (b), \$10,000.

2. The Department of Wildlife shall, not later than 30 days after the receipt of a notice filed pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610) and an initial deposit collected pursuant to subsection 1, provide to the applicant an estimate of anticipated additional reimbursement costs.

3. Except as otherwise provided in subsection 6, the Department of Wildlife may, upon consideration of the activity and progress of a project, request a payment from an applicant each quarter to apply toward reimbursement costs which is in addition to the initial deposit submitted by the applicant pursuant to subsection 1. An applicant shall submit a payment requested pursuant to this subsection to the Department not later than 30 days after the applicant receives the request for payment by the Department.

4. An initial deposit or payment submitted by an applicant pursuant to subsection 1 or 3 must be in the form of an electronic wire transfer to the Department of Wildlife or a check made payable to the Department of Wildlife.

5. The Department of Wildlife shall return to an applicant any unused portion of an initial deposit or payment submitted pursuant to subsection 1 or 3 not later than 60 days after the Department completes the review of the energy development project.

6. The Department of Wildlife shall not collect cumulatively more than \$100,000 in reimbursement costs from an applicant for an energy development project for which a notice

is filed pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610).

7. As used in this section, “reimbursement costs” means the actual costs incurred by the Department of Wildlife for providing to the Federal Government, the Public Utilities Commission of Nevada, an applicant or any county in this State any information relating to any wildlife or wildlife habitat based on the location of an energy development project for which a notice is filed pursuant to section 7 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2547 (NRS 701.610).

Sec. 5. The Department of Wildlife may use money in the Energy Planning and Conservation Fund for any program or project which:

- 1. Is in accordance with the State Wildlife Action Plan;*
- 2. Is for a purpose described in subsection 4 of section 9 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at page 2548 (NRS 701.630); and*
- 3. Includes one or more of the following components:*
 - (a) The conducting of inventories of fish, wildlife or habitats for inclusion in a geographic information system database;*
 - (b) The monitoring of fish or wildlife populations or habitats to support planning, status determination and impact assessment;*
 - (c) The mapping of fish and wildlife habitats, potential fish and wildlife habitats and fish and wildlife occurrences to support the development and maintenance of databases of such information;*
 - (d) The maintenance, database development and infrastructure support of geographic information systems;*

(e) The implementation of conservation projects designed to establish or enhance fish or wildlife populations or habitats; or

(f) The use of money from the Fund to match money provided through grants, projects or programs provided or established by the Federal Government.

Sec. 6. 1. *Any person who is aggrieved by a decision of the Department of Wildlife pursuant to section 7 or 9.5 of Assembly Bill No. 307, chapter 409, Statutes of Nevada 2011, at pages 2547 and 2549 (NRS 701.610 or 701.640) or section 4 of this regulation may, not later than 20 days after the issuance of the decision, submit to the Director of the Department a written request for a hearing.*

2. If the Director of the Department of Wildlife receives a written request for a hearing pursuant to subsection 1, the Director shall:

(a) Set a hearing not later than 60 days after the request is received; and

(b) Provide all interested parties written notice of the hearing by certified mail at least 10 days before the hearing.

3. All determinations, findings and conclusions of the Director of the Department of Wildlife at a hearing held pursuant to subsection 2 are final. Any person who is aggrieved by a final decision of the Director at a hearing held pursuant to subsection 2 is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS.