

**ADOPTED REGULATION OF THE
BOARD OF WILDLIFE COMMISSIONERS**

LCB File No. R148-12

Effective December 20, 2012

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

AUTHORITY: §1, NRS 501.105, 501.181, 502.240 and 503.597.

A REGULATION relating to wildlife; authorizing the Department of Wildlife to issue a special permit to allow a person to handle, move or temporarily possess any wildlife which is classified as protected under certain circumstances; setting forth the information which must be included in an application for the special permit; specifying the maximum period of validity of the special permit; requiring a holder of the special permit to submit a report to the Department within a certain period after the special permit expires; and providing other matters properly relating thereto.

Section 1. Chapter 503 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The Department may issue a special permit pursuant to subsection 1 of NRS 503.597 to allow a person to handle, move or temporarily possess any wildlife which is classified as protected for the purpose of reducing or eliminating the risk of harm to the wildlife that may result from any lawful activity conducted on land where the wildlife is located. The fee for such a special permit is \$200.

2. An applicant for a special permit specified in subsection 1 must include on the application:

- (a) The name and date of birth of the applicant;*
- (b) The physical or mailing address and telephone number of the applicant;*
- (c) The name, address and telephone number of the place of employment of the applicant;*

(d) The driver's license number, the state that issued the driver's license and the date of issue of the driver's license of the applicant if the applicant holds a driver's license;

(e) The name of the company or other entity that the applicant is representing, if different from the employer of the applicant;

(f) The name of each person who, at the direction of the applicant, will handle, move or temporarily possess the wildlife under the authority of the special permit;

(g) The common and scientific name and the number of each species of wildlife, or nests or eggs thereof, to be handled, moved or temporarily possessed;

(h) The manner in which each specimen of wildlife will be handled, moved or temporarily possessed;

(i) The locations at which and the dates when the wildlife are to be handled, moved or temporarily possessed;

(j) The locations at which or to which the wildlife will be handled, moved or temporarily possessed, if any;

(k) A brief synopsis, not to exceed five pages, of the purpose and justification for the handling, moving or temporary possession of the wildlife; and

(l) The signature of the applicant and the date on which the applicant signed the application.

3. A special permit specified in subsection 1 must be valid for not more than 1 year. Upon its approval of the application and submission of the fee, the Department shall issue the special permit based on a calendar year.

4. Based on its evaluation of the application, the Department may make such stipulations and conditions on the use and scope of the special permit as the Department deems

appropriate. A violation of a stipulation or condition is cause for the cancellation of the special permit.

5. Not later than 30 days after expiration of a special permit specified in subsection 1, the holder of the special permit shall submit to the Department a report which includes, without limitation:

(a) A list of each species of wildlife which is classified as protected that was handled, moved or temporarily possessed, and for each such species:

(1) The number of wildlife handled, moved or temporarily possessed at each location where the wildlife was handled, moved or temporarily possessed; and

(2) The date on which the wildlife was handled, moved or temporarily possessed; and

(b) Any other information which the Department requires.

6. A special permit specified in subsection 1 which is issued by the Department for the handling, movement or temporary possession of:

(a) A migratory bird that is protected by the Migratory Bird Treaty Act, as amended, 16 U.S.C. §§ 703 et seq.; or

(b) A species of wildlife that is listed as threatened or endangered by the United States Fish and Wildlife Service,

↪ is not valid for the handling, movement or temporary possession of the migratory bird or the threatened or endangered species until the Department receives a copy of the federal permit issued by the United States Fish and Wildlife Service to the applicant for the handling, movement or temporary possession of the bird or species.

**STATE OF NEVADA
BOARD OF WILDLIFE COMMISSIONERS**

**Informational statement relating to Commission General Regulation No. 399
(LCB File No. R148-12 - as required by Chapter 233B.066.**

1. Description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The proposed regulation was noticed and posted on an agenda according to the Open Meeting Law; distributed to the Board of Wildlife Commissioners, 17 county advisory boards to manage wildlife and other interested persons; and presented at the Nevada Board of Wildlife Commissioners' (NBWC) meeting. A summary is available by contacting the Department of Wildlife.

2. The number of persons who:

(a) **Attended each hearing:** 29 Workshop/ 29 Hearing.

(b) **Testified at each hearing:** 0 Workshop/ 0 Hearing

(c) **Submitted to the agency written statements:** 0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary:

The proposed regulation was noticed and posted on an agenda according to the Open Meeting Law; distributed to the Board of Wildlife Commissioners, 17 county advisory boards to manage wildlife and other interested persons; and presented at the Nevada Board of Wildlife Commissioners' (NBWC) meeting. A summary is available by contacting the Department of Wildlife.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change:

One minor typo was corrected which included the insertion of the word "of". See attached regulation.

5. The estimated economic effect of the regulations on the businesses they are to regulate and on the public.

(a) **Estimated economic effect on the businesses which they are to regulate.**

(1) **Adverse** – This regulation addresses the problem of possession and translocation of sensitive species (desert tortoise and Gila monster) out of harm's way, as per NRS 503.597, incidental to U. S. Fish and Wildlife Service approved Biological Opinions for the myriad of land use projects in southern Nevada. The \$200 permit fee may be an adverse impact for business, but relative to the entire cost of a project (i.e. energy development and associated infrastructure), it is a nominal fee, and it offsets the Department's costs to review the application for the permit.

(2) **Beneficial** – This regulation will afford project proponents the lawful means for moving sensitive species (desert tortoise and Gila monster), out of harm's way incidental to project development. The Department will be

engaged with the proponent of the project to ensure the proper handling of these species. The regulation provides a fee for biologist review of the application and administrative time to issue the permit.

- (3) **Immediate** – A minor immediate economic effect is anticipated from the nominal permit fee of \$200.
- (4) **Long term** – In the long-term, this regulation will allow businesses to move forward with minimal delay on proposed land use projects and facilitate compliance with U. S. Fish and Wildlife Service Biological Opinions.

(b) **Estimated economic effect on the public which they are to regulate.**

- (1) **Adverse** – No adverse economic effect is anticipated for the public from this regulation.
- (2) **Beneficial** – The public will benefit from this regulation in that it will ensure sensitive species are protected through proper handling and permitting.
- (3) **Immediate** – No immediate economic effect on the public is anticipated from this regulation.
- (4) **Long term** – No long-term economic effect on the public is anticipated from this regulation.

6. The estimated cost to the agency for enforcement of the proposed regulation:

Permit applicants are approved biological consultants through existing U.S. Fish and Wildlife Service Biological Opinions, therefore it is anticipated there will be very limited need for enforcement of the proposed regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary: This regulation does not overlap or duplicate any state or local government regulation.

If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency:

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions:

This regulation requires reporting of any Gila monsters (a state protected species) that are moved out of harm's way. The reporting of this state protected species is not required by the U. S. Fish and Wildlife Service.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used:

This regulation proposes a \$200 permit fee to cover costs for biologist review of the application and administrative time to issue the permit. Currently, there is no fee to issue the permit and NDOW's salary costs for biologists and License Office staff to review and issue each permit is estimated to be \$370.