

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

LCB File No. T004-13

COMMISSION GENERAL REGULATION 426

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for The (Adoption/Amendment/Repeal) of Regulations of The
Nevada Board of Wildlife Commissioners**

The Board of Wildlife Commissioners will hold a public hearing on March 16, 2013 at 8:00 a.m., at the TBD, Reno, Nevada 89512. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulation CGR 426 – LCB File No. T004-13 pertaining to Chapter 503 of the Nevada Administrative Code.

1. The need for and purpose of the proposed regulation: (Description of regulation).
A regulation relating to wildlife, amending regulations to allow possession of only one captive desert tortoise after May 1, 2013; and providing other matters properly relating thereto.
2. Text of the proposed regulation: See attached.
- 3A. The estimated economic effect of the regulation on the business which it is to regulate:
 - (a) Adverse effect - No adverse economic effect to businesses is anticipated from this amended regulation as the desert tortoise is a threatened species and therefore cannot be commercially collected or marketed within the State. There are no new fees associated with this regulation.
 - (b) Beneficial effect – No beneficial economic effect to businesses is anticipated from this amended regulation as the desert tortoise is a threatened species and therefore cannot be commercially collected or marketed within the State.
 - (c) Immediate effect – No immediate economic effect to businesses is anticipated from this regulation.
 - (d) Long-term effect – No long-term economic effect to businesses is anticipated from this regulation.
- 3B. The estimated economic effect of the regulation on the public which it is to regulate:
 - (a) Adverse effect – No adverse economic effect on the public is anticipated from this amended regulation.
 - (b) Beneficial effect – This amended regulation is anticipated to gradually diminish the over breeding and proliferation of unwanted pet desert tortoises in southern Nevada. This will decrease the need for public funding to pick up and care for

unwanted pet tortoises. This amended regulation will not impact existing pet desert tortoise custodians.

- (c) Immediate effect – This amended regulation will allow possession of only one captive desert tortoise after May 1, 2013, which will reduce the over breeding and proliferation of unwanted pet desert tortoises in southern Nevada.
- (d) Long-term effect – In the long-term, this amended regulation will diminish the over breeding and proliferation of unwanted pet desert tortoises in southern Nevada, and will decrease the need for public funding to pick up and care for unwanted pet tortoises.

4. Estimated cost to the Department of Wildlife for enforcement of the proposed regulation: Enforcement and monitoring will be included in existing programs. There will be no additional costs to the Department for enforcement of the proposed regulations.

5. A description of and citation to any regulations of other state or local government agencies which the proposed regulation overlaps or duplicates, _____ the duplication or overlapping is necessary because _____. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency: _____.
This regulation does not overlap or duplicate any state or local government regulation.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law:
The language in the amended regulation is not required by federal law, but NDOW is cooperating closely with the U.S. Fish and Wildlife Service to implement this amended regulation to gradually diminish the over breeding and proliferation of unwanted pet desert tortoises in southern Nevada.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:
This amended regulation will allow possession of only one captive desert tortoise after May 1, 2013. The language in the amended regulation is not required by federal law, but NDOW is cooperating closely with the U.S. Fish and Wildlife Service to implement this amended regulation to gradually diminish the over breeding and proliferation of unwanted pet desert tortoises in southern Nevada. This amended regulation will not impact existing pet desert tortoise custodians.

8. The proposed regulation establishes a new fee or increases an existing fee: 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, 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.

Chapter 503 of NAC

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

LCB File No. T004-13

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

AUTHORITY: §§1-3, NRS 501.105 and 501.181.

A REGULATION relating to desert tortoises; prohibiting a person from possessing more than one desert tortoise under certain circumstances; and providing other matters properly relating thereto.

Section 1. NAC 503.093 is hereby amended to read as follows:

503.093 1. Except as otherwise provided in subsection 2, a person shall not hunt or take any wildlife which is classified as protected, or possess any part thereof, without first obtaining the appropriate license, permit or written authorization from the Department.

2. Such a license, permit or authorization is not required for:

(a) The possession of a desert tortoise which:

(1) Was held in captivity on or before August 4, 1989; or

(2) Is acquired through an adoption program *or another method* approved by the United States Fish and Wildlife Service.

(b) The possession of any species of wildlife classified as protected in Nevada which is:

(1) Lawfully killed in another state and imported to Nevada; and

(2) Possessed under the authority of the other state's appropriate license, tag, permit or other authorization.

(c) The taking of a protected vector or a protected venomous reptile:

(1) Which is found in a residence, school or other building open to the public; or

(2) If the taking is necessary to protect the life of any person in imminent danger of being attacked or bitten by the protected vector or protected venomous reptile.

3. *A person possessing a desert tortoise pursuant to subparagraph 2 of paragraph (a) of subsection 2 shall not possess more than one desert tortoise and shall not allow that desert tortoise to physically contact another desert tortoise.*

4. As used in this section:

(a) "Classified as protected" includes wildlife that is classified as sensitive, threatened or endangered.

(b) "Vector" means a living nonhuman animal capable of carrying infectious disease from one person or animal to another.

Sec. 2. The amendatory provisions of section 1 of this regulation do not apply to a person who acquires a desert tortoise specified in subparagraph (2) of paragraph (a) of subsection 2 of that section before January 1, 2013.

Sec. 3. This regulation becomes effective on January 1, 2013.