

Digest for Adopted Regulation R_004-13

Existing law requires the Board of Wildlife Commissioners to establish policies and adopt regulations to preserve, protect, propagate, restore, transplant, introduce and manage wildlife in this State. (NRS 501.105, 501.181) Existing regulations prohibit a person from hunting or taking any wildlife which is classified as protected without first obtaining the appropriate license, permit or written authorization from the Department of Wildlife. Existing regulations also authorize the possession of a desert tortoise without such a license, permit or written authorization under certain circumstances, including an adoption program approved by the United States Fish and Wildlife Service. (NAC 503.093) **Section 1** of this regulation imposes a possession limit of one desert tortoise acquired through an adoption program or another method approved by the United States Fish and Wildlife Service. **Section 2** of this regulation provides that the possession limit does not apply to a desert tortoise that was acquired before May 1, 2013.

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

LCB File No. R004-13

Effective October 23, 2013

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

AUTHORITY: §§1 and 2, 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.*

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 acquired a desert tortoise specified in subparagraph (2) of paragraph (a) of subsection 2 of that section before May 1, 2013.

STATE OF NEVADA
BOARD OF WILDLIFE COMMISSIONERS
LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement

LCB File No. R004-13 -- Desert Tortoise

MEMORANDUM

To: Legislative Counsel Bureau **Date:** October 14, 2013
From: Tony Wasley, Secretary, Board of Wildlife Commissioners
Subject: Informational statement relating to Commission General Regulation No. 414/426
(LCB File No. R004-13) - as required by Chapter 233B.066.

1. A clear and concise explanation of the need for the adopted regulation.

The amendment is needed due to the over breeding and proliferation of unwanted pet desert tortoises in captivity, primarily in southern Nevada, and will decrease the need for public funding to pick up and care for unwanted pet tortoises. The proposed regulation restricts the number of pet desert tortoises for adoption/possession to *one* per person as of May 1, 2013. Pet desert tortoises in possession prior to this date are not affected by the regulation (only new possessions of pet desert tortoise as of May 1, 2013). This amendment also allows U.S. Fish and Wildlife Service (USFWS) more flexibility to designate approved adoption programs or other entities to adopt pet desert tortoises.

The number of unwanted pet tortoises that can be placed into the wild is limited by the health condition of the tortoises and the availability of suitable relocation areas. Some of the captive pet tortoises that come into the Desert Tortoise Conservation Center (DTCC) in Clark County are diseased, malnourished, or otherwise in poor health, and run the risk of spreading disease to wild tortoises. Releasing unhealthy tortoises poses a threat to the continued conservation of this species in its native habitat. All healthy tortoises currently at the DTCC will be translocated by the USFWS and other partners to sites that will support the recovery of the species.

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

Comment was received at the Nevada Board of Wildlife Commission (NBWC) meeting which was held on September 20-21, 2013 in Las Vegas. There was very little comment from the public. The Director's office maintains recordings, comments and minutes of the Commission meeting that was held. Copies can be obtained at NDOW, Director's Office, 1100 Valley Road, Reno, Nevada.

3. The number of persons who:

- (a) Attended each hearing: 24 Workshop 28 Hearing
- (b) Testified at each hearing: 0 Workshop 0 Hearing
- (c) Submitted written comments: 0

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

- (a) Name;
- (b) Telephone number;
- (c) Business address;
- (d) Business telephone number;
- (e) Electronic mail address; and
- (f) Name of entity or organization represented.

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

No businesses are affected by this regulation. At the Nevada Board of Wildlife Commission (NBWC) meeting, public comment was solicited on each agenda item. The Director's office maintains recordings, comments and minutes of the Commission meeting that was held on September 20-21, 2013. Copies can be obtained at NDOW, Director's Office, 1100 Valley Road, Reno, Nevada.

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

This regulation was adopted without change due to the fact there were no dissenting views expressed during public comment.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

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

No impact.

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

This regulation will reduce the over breeding and proliferation of unwanted pet desert tortoises in southern Nevada and will decrease the need for public funding to pickup and care for unwanted pet tortoises.

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

The enforcement and monitoring will be included in existing programs. There will be no additional costs anticipated for enforcement of the proposed regulation.

9. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

This regulation does not overlap or duplicate a federal regulation. 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 reduce the over breeding and proliferation of unwanted pet desert tortoises in southern Nevada. This amended regulation will not impact existing pet desert tortoise custodians.

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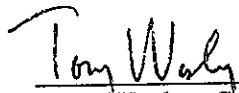
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10. **If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

This regulation does not overlap or duplicate a federal regulation.

11. **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 does not have a new fee or increase in fee.



Tony Wasley, Secretary
Board of Wildlife Commissioners