



**STATE OF NEVADA
DEPARTMENT OF WILDLIFE**

Director's Office

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MEMORANDUM

Date: March 16, 2018

To: Nevada Board of Wildlife Commissioners, County Advisory Boards to Manage Wildlife, and Interested Publics

From: Jordan Neubauer, Management Analyst III

Title: Commission General Regulation 470, Miscellaneous Petitions, LCB File No. R095-16

Description: The Commission will consider adopting amendments to Chapter 501 of the Nevada Administrative Code (NAC). The regulation was developed by the Administrative Procedures, Regulations, and Policy (APRP) Committee after several public meetings incorporating relevant suggestions from the public, legal counsel, the Department and the Committee. The amendments will simplify petition form requirements and the petition process overall. Two workshops have been held on this regulation, November 18, 2016 and August 11, 2017.

Summary:

As part of the review of the Rules of Practice, the APRP Committee held several public meetings to review the regulations within the NAC governing practice and procedure before the Nevada Board of Wildlife Commissioners related to petitions.

The existence of this regulation is to delineate the process for the public to petition the Nevada Board of Wildlife Commissioners for adoption, filing, amendment or repeal of any regulation within its authority. The proposed amendments provide clarity and simplicity on the roles of the Department, the Commission, and the petitioner.

The Committee has discussed this regulation at several meetings. Nevada Revised Statutes (NRS) 233B.100 says, "Upon submission of such a petition, the agency shall within 30 days either deny the petition in writing, stating its reasons, or initiate regulation-making proceedings." The Department is hopeful that this limitation can be changed during the next legislative session to provide more flexibility to boards and commissions that meet less frequently. However, at this time the Committee would like to move forward with the attached changes that will simplify the process.

Recommendation:

The Department and the APRP Committee recommend that the Commission **DISCUSS THE REGULATION AND MOVE IT FORWARD AS PRESENTED FOR ADOPTION AT THE MAY 2018 COMMISSION MEETING.**

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

LCB File No. R095-16

October 16, 2017

* Changes on
page 3
Recommended by
The APRP Committee
on January 26, 2018.

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

AUTHORITY: §1, NRS 233B.100 and 501.181.

A REGULATION relating to wildlife; revising provisions relating to petitions submitted to the Board of Wildlife Commissioners to adopt, file, amend or repeal any permanent regulation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes any interested person to petition a state agency requesting the adoption, filing, amendment or repeal of any regulation and requires each state agency to prescribe by regulation the form for the petition and the procedure for its submission, consideration and disposition. (NRS 233B.100) Existing regulations prescribe the form and procedure to petition the Board of Wildlife Commissioners to adopt, file, amend or repeal a permanent regulation. (NAC 501.195)

This regulation revises the procedure for the submission and evaluation of such a petition by: (1) deleting certain information that must be included in the petition; (2) requiring the Commission to refer each petition to the Department of Wildlife to obtain from the Department its recommendation whether to approve or deny the petition; (3) requiring the Department to forward to the Commission its recommendation regarding each petition as soon as practicable, but not later than 20 days after the date on which the petition was received by the Commission; (4) providing that the Commission will review and make a decision concerning a petition at the next scheduled meeting of the Commission in which consideration of the petition is feasible; (5) providing that, within 30 days after a petition is considered, the Commission will notify the petitioner of its denial of the petition or, under certain circumstances, initiate regulation-making procedures; and (6) providing that a decision of the Commission to deny a petition is a final decision for the purposes of judicial review.

Section 1. NAC 501.195 is hereby amended to read as follows:

501.195 1. A person who wishes to request that the Commission adopt, file, amend or repeal a permanent regulation must submit a written petition to the Commission on a form

provided by the Department. The petition *may be submitted by mail, facsimile machine or electronic mail and* must include:

(a) The name , *telephone number, electronic mail address, if any,* and mailing address of the petitioner.

(b) A statement of the reason *and the legal authority* for the adoption, filing, amendment or repeal of the permanent regulation.

(c) The language of the permanent regulation to be adopted, filed, amended or repealed or a description of the subjects and issues involved in the permanent regulation.

~~[(d) An estimate made by the petitioner of the economic effect that the permanent regulation to be adopted, filed, amended or repealed will have on the general public and on any business which the permanent regulation regulates or will regulate. Those effects must be stated separately and in each case must include:~~

~~—(1) The adverse and beneficial effects; and~~

~~—(2) The immediate and long-term effects.~~

~~—(e) If the adoption, filing or amendment of a permanent regulation is requested, an estimate made by the petitioner of the estimated cost to the Department for enforcement of the permanent regulation.~~

~~—(f) A statement indicating whether the petitioner is aware of any federal regulations or regulations of other state or local governmental agencies that overlap or duplicate the permanent regulation to be adopted, filed, amended or repealed.~~

~~—(g) If the adoption, filing or amendment of a permanent regulation is requested, a statement indicating whether the permanent regulation establishes a new fee or increases an existing fee.~~

~~—(h) The signature of the petitioner and the date the petition was signed.]~~

2. ~~[A petition requesting the adoption, filing, amendment or repeal of a permanent regulation shall be deemed to be submitted to the Commission on the date of the next regularly scheduled meeting of the Commission that occurs after the petition is received by the Commission.~~

~~3.]~~ Upon receipt of a petition requesting the adoption, filing, amendment or repeal of a permanent regulation, the Commission will refer the petition to the Department to obtain from the Department a recommendation whether to approve or deny the petition.

3. As soon as practicable after receiving a petition, but not later than 20 days after the date on which the petition is received by the Commission, the Department shall:

(a) Review the petition to determine whether there is legal authority for the proposed adoption, filing, amendment or repeal of the permanent regulation; and

(b) Forward to the Commission the petition and the recommendation of the Department whether to approve or deny the petition.

~~4. The Commission will review and make a decision concerning a petition at the next scheduled meeting of the Commission in which consideration of the petition is feasible following the receipt of the petition.]~~

4. ~~5.]~~ Within 30 days after a petition is ^{submitted,} ~~submitted,]~~ ~~considered by the Commission pursuant to subsection 4,~~ the Commission will:

(a) Notify the petitioner in writing of its decision to deny the petition, including the reasons for the denial; or

(b) Initiate the regulation-making procedures set forth in chapter 233B of NRS, if the petition requests the adoption, filing, amendment or repeal of a permanent regulation, except a permanent

regulation relating to the classification of wildlife or the designation of seasons for hunting, fishing or trapping by the Commission pursuant to the provisions of title 45 of NRS.

6. A decision of the Commission to deny a petition is a final decision for the purposes of judicial review.