



STATE OF NEVADA

DEPARTMENT OF WILDLIFE

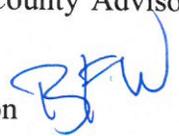
Game Division

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MEMORANDUM

August 30, 2018

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

From: Brian Wakeling, Administrator, Game Division 

Title: **Commission General Regulation 477, Landowner Deer and Antelope Compensation Tag Program, LCB File No. 096-18 –For Possible Action**

Description: The Commission will hold a third workshop to consider a regulation relating to amending Chapter 502 of the Nevada Administrative Code (NAC). This regulation would provide direction for allocating landowner deer and antelope compensation tags if owner applicants cumulatively qualify for compensation tags in excess of the statutory limit. The Commission considered this regulation during a workshop at their meeting on June 29, 2018. The Commission directed the Department to provide specific language to improve the clarity of the proposed regulation. The Commission also considered the regulation during a workshop on Aug. 10, 2018. The Commission directed the Department to provide a mathematical description of the process for tag allocation to improve the precision of the description.

Presenter: Game Division Administrator Brian F. Wakeling

Summary:

Following direction provided by the Commission at their June and August 2018 meetings, the Department has amended draft rule language to describe the process for proportionally awarding landowner deer and antelope compensation tags to avoid exceeding the statutory limit on compensation tags. In short, the proposed amendment to Nevada Administrative Code 502.426 would proportionally award compensation tags by rounding to the nearest whole number to keep the total at or below the statutory limit. If this resulted in fewer compensation tags being issued than the statutory limit, then the remaining compensation tags would be issued in increments of

one to those owner applicants with specific properties having longest continuous history of participation in agreements. Based on the direction provided by the Commission, the Department has drafted a mathematical model describing the proportional award of tags should the qualifying number of compensation tags exceed the statutory limit.

Substantial dialogue on this topic occurred amongst the Department, the Commission, sportsmen, and affected landowners that participate in this program since February 2017. The Commission has heard public input on this program at their meetings in Reno during May 2017, Minden during August 2017, Reno during January 2018, Laughlin during March 2018, Dyer during June 2018, and Caliente during August 2018. The Department hosted three stakeholder meetings on the topic in Elko on December 12, 2017, Ely on December 13, 2017, and Winnemucca on December 14, 2017. The Department provided correspondence on the situation and progress toward solutions to the affected stakeholders through the mail on April 1, 2017, May 23, 2017, June 12, 2017, November 22, 2017, February 5, 2018, and June 14, 2018. The discussion with the Commission at the September meeting is intended to serve as a workshop for further dialogue and discussion.

Recommendation:

The Department recommends that the Commission **VOTE TO APPROVE THE LANGUAGE IN COMMISSION GENERAL REGULATION 478 AND CONSIDER FOR APPROVAL AT THE NOVEMBER 2018 MEETING OF THE NEVADA BOARD OF WILDLIFE COMMISSIONERS.**

PROPOSED REGULATION OF THE
BOARD OF WILDLIFE COMMISSIONERS

LCB File No. R096-18

May 30, 2018

NBWC and NDOW
proposed changes
Sept. 2018
pages 2 and 3
plus Attachment A

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

AUTHORITY: §1, NRS 501.105, 501.181 and 502.145.

A REGULATION relating to damage compensation tags; requiring the Department of Wildlife to reduce the number of damage compensation tags awarded to an owner applicant under certain circumstances; requiring the Department to award damage compensation tags to certain owner applicants who have entered into cooperative agreements with the Department; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an owner, lessee or manager of private land which is damaged by deer or antelope may apply to the Department of Wildlife for the issuance of a tag as compensation for the damage caused by the deer or antelope. Existing law requires the Board of Wildlife Commissioners to adopt regulations establishing the maximum number of damage compensation tags which the Department may issue annually, which must not exceed 2.5 percent of the total number of deer and antelope tags authorized for issuance annually throughout the State. (NRS 502.145)

Existing regulations set forth provisions concerning the awarding of a damage compensation tag to an owner applicant. (NAC 502.426) This regulation requires the Department to reduce proportionately all awards of damage compensation tags during a calendar year if the cumulative number of damage compensation tags for all eligible owner applicants exceeds 2.5 percent of the total number of deer and antelope tags authorized for issuance throughout the State. This regulation further requires the Department, if the proportionate reduction of awards of damage compensation tags results in the issuance of less than that number, to award all remaining damage compensation tags to certain owner applicants who have entered into cooperative agreements with the Department.

Section 1. NAC 502.426 is hereby amended to read as follows:

502.426 1. If the owner applicant enters into a cooperative agreement with the Department and the Department approves the application for a damage compensation tag, the owner

applicant is eligible for the issuance of one or more damage compensation tags pursuant to subsection 2 ~~or~~ 3.

2. ~~That~~ Except as otherwise provided in subsection 3, an owner applicant is eligible for the issuance of:

(a) One damage compensation tag for deer for each 50 deer that caused damage to his or her property; and

(b) One damage compensation tag for antelope for each 50 antelope that caused damage to his or her property.

3. In accordance with paragraph (a) of subsection 6 of NRS 502.145, if the cumulative number of damage compensation tags for all eligible owner applicants, during a calendar year exceeds a number equal to ~~2.5 percent of the total number of deer and antelope tags which are~~ ^{which} ~~authorized for issuance throughout the State for that calendar year, the Department shall~~ ^{quality} ~~award damage compensation tags according to the formula: * formula~~ ^{damage compensation} ~~proportionately reduce all awards of damage compensation tags, rounded to the nearest whole~~ ^{will be inserted here - Attachment A.} ~~number, until the total amount of the awards is less than that number.~~ ^{of damage compensation tags} ~~If the proportionate~~ ^{reduction of awards} ~~reduction of awards pursuant to this subsection results in the issuance of less than~~ ^{that} ~~the~~ ^{limit} ~~statutory~~ ^{number,} the remaining available damage compensation tags must be awarded in increments of not more than one damage compensation tag to each owner applicant having the longest continuous history of entering into cooperative agreements ^{for a specific property} as determined pursuant to subsection 4. Damage compensation tags awarded pursuant to this subsection must be awarded in descending order based upon the longest continuous history of each owner applicant.

4. The Department shall ~~the~~ ^{the} determine longest continuous history of an owner applicant for the purposes of subsection 3 based upon the number of consecutive years that the owner

for a specific property
applicant entered into a cooperative agreement pursuant to subsection 1 and qualified for the award of damage compensation tags in accordance with the cooperative agreement, regardless of the number of years in which a damage compensation tag was awarded to the owner applicant.

5. If the Department issues a damage compensation tag, the tag is valid for use in the calendar year after the calendar year in which the application was submitted.

~~4.1~~ 6. The unit or units within a management area or areas for which the Department issues a damage compensation tag must be limited to the unit or units within the management area or areas in which the damaged property is located.

~~5.1~~ 7. The Department shall indicate on each damage compensation tag it issues:

(a) The period or periods during the calendar year for which the tag is valid, which must be limited to the hunting season or seasons, other than a hunting season for a tag issued pursuant to subsection 5 of NRS 502.250, established by the Commission for antlered mule deer or antelope with horns longer than their ears, as appropriate for the species to which the tag applies, in the unit or units within the management area or areas in which the damaged property is located and for which the tag is valid; and

(b) The unit or units within the management area or areas in which the damaged property is located and for which the tag is valid.

~~6.1~~ 8. A person possessing a valid damage compensation tag may hunt only:

(a) During the period or periods indicated by the Department on the tag, as established by the Commission;

(b) With the type of weapon designated for the type of hunt to which each such period applies, as established by the Commission; and

(c) In the unit or units within the management area or areas established by the Commission:

- (1) In which the damaged property is located; and
- (2) For which the tag is valid.

~~17.1~~ **9.** Damage compensation tags will only be issued to owner applicants and sold to hunters through the headquarters of the Department.

~~18.1~~ **10.** The fee charged for a damage compensation tag will include:

- (a) A fee of \$50 for each such tag;
- (b) A license fee based on the status of the hunter as a resident or nonresident; and
- (c) The fee specified in NAC 502.331 for acting upon each application for a tag.

~~19.1~~ **11.** If the Department provides a refund for a cancelled tag under the conditions set forth in NAC 502.422, the Department may reissue an application for a damage compensation tag to the owner applicant.

~~110.1~~ **12.** If the Department denies an application for a damage compensation tag, the owner applicant may appeal the decision to the Commission within 10 days after the Department notifies the owner applicant of the decision. A request for an appeal pursuant to this subsection must be submitted in writing to the Secretary of the Commission. As soon as practicable after receiving such a request, the Chair of the Commission will appoint a panel consisting of not less than two members of the Commission to consider the appeal. The panel shall notify the Commission in writing of its determination. If the panel is unable to make a determination, the Commission will appoint another panel to consider the appeal in accordance with this subsection. The determination of a panel appointed pursuant to this subsection is a final decision for the purposes of judicial review.

Attachment A

$$\text{Stat Limit} \geq \sum_{i=1}^{N_{\text{owner applicants}}} [\text{Round}(x * \text{antlp}_i) + \text{Round}(x * \text{md}_i)]$$

Where:

antlp_i = number of qualifying damage compensation antelope tags for i^{th} owner applicant based on the annual count conducted by the Department

md_i = number of qualifying damage compensation tags mule deer for i^{th} owner applicant based on the annual count conducted by the Department

Stat Limit = the statutory limit for cumulative total antelope and mule deer landowner compensation tags as determined by the annual cumulative total quota for antelope and mule deer tags established by the Commission

x = the largest proportion (0–1.0) that yields a cumulative total that does not exceed the statutory limit

*This attachment will be inserted on page 2
in subsection 3.