



STATE OF NEVADA

DEPARTMENT OF WILDLIFE

Game Division

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#18B

MEMORANDUM

December 24, 2019

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

From: Brian Wakeling, Administrator, Game Division *BFW*

Title: **Commission General Regulation 488, Landowner Compensation Tags, LCB File No. R083-19 – For Possible Action**

Description: The Commission will consider a regulation 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.

Presenter: Game Division Regional Supervising Biologists Tom Donham and Mike Scott

Summary:

The Nevada Board of Wildlife Commissioners requested the Landowner Compensation Tag Committee determine a method by which compensation tags could be equitably distributed if the statutory limit was exceeded in the future.

Landowners that suffer damage from mule deer or antelope within Nevada can register as a cooperators with the Nevada Department of Wildlife and qualify to receive tags, which they may subsequently use or sell, as compensation for the damage sustained. There are about 105 individual cooperators currently engaged in this program. These landowners may qualify for a compensation tag for each 50 deer or antelope counted on their land by Department biologists. There is a statutory limit in NRS 502.145 on the number of tags that may be awarded annually, yet there is no process in statute or administrative rule to equitably distribute the tags should the cumulative qualifying count across all cooperating landowners exceed the statutory limit.

During spring 2017, cooperators were notified by letter that the number of tags for which they had collectively qualified were in excess of the statutory limit. In anticipation of the need for a Commission Regulation, which is stipulated under NRS 502.145, the Nevada Board of Wildlife Commissioners was provided a briefing in public session during their May 2017 meeting. Amendment to NRS 502.145 was adopted during the 2017 legislative session that increased the statutory limit, making any redistribution of tags unnecessary during 2017

Subsequently, the Commission considered suggestions provided by the Department during spring 2017 at their August Commission meeting. At that meeting, the Commission directed the Department to seek public input from stakeholders about methods to equitably redistribute tags should the new statutory limit be exceeded in the future. The Department sent letters to the 105 cooperators in the compensation tag program during November to inform them that the Department would be hosting public stakeholder meetings in Elko, Ely, and Winnemucca during December 12–14, 2017 to discuss options for equitable reduction if the limit were reached. These letters inviting participation were shared with the County Advisory Boards, Nevada Farm Bureau, Cattleman's Association, Backcountry Hunters and Anglers, Carson Valley Chukar Club, Fraternity of the Desert Bighorn, Nevada Bighorns Unlimited (Fallon, Reno, and Midas chapters), Nevada Bowhunters Association, Nevada Chukar Foundation, Nevada Muleys, and Nevada Outfitters and Guides Association. At the meetings, 6 stakeholders attended in Elko, 9 attended in Ely, and 6 attended in Winnemucca. Another 2 stakeholders emailed comments to the Department. The ideas were compiled and sent to all participants that provided input and asked for ranking of suggested methods for equitable redistribution of compensation tags if the statutory limit were reached. Two stakeholders responded.

The Commission discussed several options and determined that a committee should be established to consider additional options specific to this challenge. The Landowner Compensation Tag Committee comprises four commissioners and three members of the public representing the agricultural and sportsmen's communities. The Landowner Compensation Tag Committee has met on January 24, 2019, May 3, 2019, and August 8, 2019 to address this aspect of their charge.

Based on feedback received from participants and consideration of prior input, the Committee recommended a process by which the first compensation tags would be awarded to all cooperators that had a count of 50 deer or antelope causing damage on the cooperator's property. If the statutory limit would be exceeded if all remaining tags were awarded, the Committee recommended increasing the number of qualifying counts on deer and antelope (e.g., 51, 52, 53, and so on) until the statutory limit was not exceeded. This draft NAC is an attempt to capture the Committee's intent for the Commission's consideration.

The Commission considered this language in workshop during their September 20, 2019 meeting in Las Vegas and requested the Department bring the proposed amendment back to the Commission at a subsequent meeting for adoption.

Recommendation:

The Department recommends that the **COMMISSION VOTE TO ADOPT COMMISSION GENERAL REGULATION 488 LANDOWNER COMPENSATION TAGS, LCB FILE NO. R083-19 AS PRESENTED.**

**PROPOSED REGULATION OF THE BOARD OF WILDLIFE
COMMISSIONERS
COMMISSION GENERAL REGULATION 488
LCB FILE NO. R083-19**

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

AUTHORITY: §1, NRS 501.105, 501.181, 503.300 and 503.310.

A REGULATION relating to Wildlife; regarding the use of live bait fish and special tackle restrictions for the lower Truckee River Basin; and providing other matters properly relating thereto.

NAC 502.426 Issuance, validity, contents and use of tags; fees; reissuance of application; appeal of denial of application. (NRS 501.105, 501.181, 502.145, 502.160, 502.250)

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. ~~[An]~~ *Except as is 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 the total number of deer and antelope tags which are authorized for issuance throughout the state for that calendar year, the Department shall:*

(a) Except as is otherwise provided in subsection (b) and (c), issue one deer tag for the first 50 deer enumerated during the damage count and one antelope tag for the first 50 antelope enumerated during the damage count, after which;

(b) Issue remaining or proportion of remaining deer or antelope tags from those properties that qualify for more than one deer or one antelope tag based on a whole number derived by incrementally increasing the qualifying number for additional tags, until the total number of damage compensation tags falls within the statutory limit; or

(c) If issuing the first deer or antelope tag for all properties would result in exceeding the statutory limit, issue all deer or antelope tags based on a whole number

derived by incrementally increasing the qualifying number for all properties, until the total number of damage compensation tags falls within the statutory limit.

4. 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.]~~ 5. 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.]~~ 6. 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.]~~ 7. 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.

~~[7.]~~ 8. Damage compensation tags will only be issued to owner applicants and sold to hunters through the headquarters of the Department.

~~[8.]~~ 9. 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.

~~[9.]~~ 10. 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.

~~[10.]~~ 11. 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.

(Added to NAC by Bd. of Wildlife Comm'rs, eff. 7-16-92; A 10-26-93, eff. 10-1-93; 11-29-95; R168-99, 1-19-2000; R113-01, 12-17-2001; R107-02, 1-21-2003; R030-06, 6-1-2006)