

STATE OF NEVADA
Nevada Board of Wildlife Commission
Tag Allocation and Application Hunt Committee (TAAHC)
Meeting Minutes
Wednesday, January 23, 2019

The meeting of the Tag Allocation and Application Hunt Committee (TAAHC) was called to order by Chairman Valentine at the Clark County Government Center, Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada, 89115.

1. Call to Order and Roll Call of Committee Members

Members Present:

Chairman Valentine
Meghan Brown
Tommy Caviglia
Joe Crim

Others Present:

Chet Van Dellen, Nevada Dept. of Wildlife
Deputy Attorney General Joshua Woodbury
Steve Marquez, White Pine CAB
Worth Nelson, Lander CAB
Rex Flowers
Mel Belding
Brian Wakeling
Jack Robb
Paul Dixon (telephone)

2. Approval of Agenda

The Chair asked if there were any comments on the Agenda. Mr. Van Dellen stated that Item 7, Benefits and Challenges of Providing Quotas Prior to Application Deadline, would be covered in its entirety at the Commission meeting in three days. And since many members were not at today's meeting, could they postpone Item 7 and remove it from today's agenda? The Chair said since this was an action item, he would open it up for discussion. Ms. Brown said she could not attend the Commission meeting, and Mr. Van Dellen said he would make sure she got all the materials from that presentation, including Power Point slides and related materials.

A MOTION WAS MADE BY MR. CAVIGLIA TO APPROVE THE AGENDA AS PRESENTED, LESS ITEM NUMBER 7. THIS MOTION WAS SECONDED BY MR. CRIM. THE MOTION PASSED UNANIMOUSLY.

3. Approval of Minutes

The Chair asked if there were any corrections or changes to be made from the November 2, 2018 meeting minutes. There were none.

A MOTION WAS MADE BY MS. BROWN TO APPROVE THE MINUTES FROM THE NOVEMBER 2, 2018 MEETING OF THE TAG ALLOCATION APPLICATION HUNT COMMITTEE. THIS MOTION WAS SECONDED BY MR. CRIM. THE MOTION PASSED UNANIMOUSLY.

4. Member Items/Announcements and Correspondence

Chair Valentine said he received an email from Mr. Rex Flowers with some requests to revise some of the junior hunts. He said he and Mr. Van Dellen would be investigating this with the Policy and Procedures Committee. They have to update Policy 24 because it does not match the NAC.

5. Review Draft Regulations

Chair Valentine summarized the topics on the table: Draft regulations include sections NAC 502.422 regarding party bonus points and tag returns, NAC 502.4187 regarding preserving bonus points while deployed outside of the United States and unable to apply and allowing bonus point applications for closed hunts (e.g. non-resident mountain goat and Rocky Mountain bighorn sheep), and NAC 502.4177 regarding junior bonus point application eligibility.

Mr. Van Dellen went into more detail. He explained he wrote this as one regulation change with three parts. His intention was to take an action for all three of them but discuss each part separately

NAC 502.4177. This pertains to the ability for juniors under 12 to apply for a bonus point only. He stated the only change that they see to this regulation is, "Except as otherwise provided in Subsection 2, a person who is at least 12 years of age does not wish to obtain a tag may apply to the Department for the sole purpose of obtaining a bonus point for a tag. Such an application may be submitted by a person who is under 12 years of age if he or she will attain the age of 12 years before the commencement of the earliest season for the category of the species to which the application relates."

Basically, this is saying if you are 12 years old by the opening day of the first hunt, you may apply for a bonus point. They changed one word and substituted the word "latest" season. So, "if he or she is 12 years of age before the commencement of the latest season for the category of the species to which the application relates." This will allow a junior to apply for a bonus point if they turn 12 by the latest season, which is the same criteria used for applying for the hunt itself.

NAC 502.4187. This pertains to how bonus points are accrued and lost given the successful receipt of a tag or the failure to apply within two consecutive calendar years. There's two changes that they're trying to address. One is the provision that will allow military members assigned overseas to request their points be reinstated if they are absent from the country during the second consecutive year and their points have been lost.

The Committee had a request to allow individuals to apply for a bonus point even if the hunt is not offered. So, they did draft the regulation as requested by the Committee. However, the Department has strong misgivings of offering a product, namely a bonus point for a hunt, when that hunt may or may not come back into existence. A non-resident mountain goat being a good example has been offered sporadically in the past. The Department can't say if it's going to be offered again. It's currently not offered to non-residents. The Department does not want to offer a bonus point to something that may not come back into existence.

In order to enact that, they had to change two sentences pertaining to how bonus points are accumulated and lost. "Except as otherwise provided in Subsections 3 and 4, the bonus points awarded to a person accumulate until the person is successful in drawing a tag for a season for that species or category of a species or the person fails to apply for a season for two consecutive calendar years during which that type of hunt for a season is open." They added the language for that, "if a person fails to apply for a season or for the sole purpose of obtaining a bonus point for two consecutive calendar years during which that type of hunt for a season is open or during which the Department offers the ability to apply for the sole purpose of obtaining a bonus point for a type of hunt for a season that is not open."

Those two sentences will allow you to keep your points as long as you meet those requirements. And then those are the exact same sentences in the second part of the section that says you would lose your points if you failed to meet those requirements. Again, this is the language they feel would enable someone to apply for a bonus point. There is no regulation saying you cannot apply for a bonus point if the hunt is closed. There are regulations, however, pertaining to how you accumulate and how you lose points. So, if they wanted to offer bonus points for hunts that are not offered, this is the language they thought would best enact that. But again, the Department does not support offering something that they can't guarantee will ever be used again.

Mr. Van Dellen said his recommendation was to hold this pending further discussion. The topic was brought forward by the public in June of 2016 and was reviewed at their previous TAAHC meeting. And that's when the request was made to draft the regulation change. They took the opportunity to draft the regulation as requested. They created the authority to do this and the Department could use the additional revenue for conservation and wildlife management across the state. But there is no guarantee that those hunts will come back. So, people could be

accumulating bonus points for something they can never use it for. And the consensus, after reading the revised regulation, was that that was not something the Department wanted to encourage.

Ms. Brown asked if this was this for both out-of-state and in-state people who wish to either apply a bonus point for a closed hunt?

Mr. Van Dellen explained bonus points are grouped into categories. For example, antlered elk is a bonus point category. So, this would apply to anybody who wishes to apply for a bonus point for a category of hunt that is not offered. Currently, the only hunts that they do not offer that they have offered in the past are non-resident mountain goat hunts and non-resident Rocky Mountain ram hunts.

Ms. Brown asked if there was a high volume of people applying for those currently?

Chairman Valentine said he thought there were quite a few people applying for those two hunts. It's because the non-residents cannot apply. Obviously there is not much demand.

Mr. Robb said 2009 was the last time that non-residents were able to apply for a mountain goat and a Rocky Mountain bighorn sheep. That was about the time of the die-off of the Rubies in East Humboldt. Since that time period, they haven't been able to apply. There are people who applied since then; they were residents at the time they were applying and now they're non-residents. They wish to continue applying. And those are the people sitting on a lot of bonus points and they want to continue gaining bonus points.

Mr. Van Dellen clarified that you do not lose your points if you do not apply when the hunt is not offered. So, if you've accrued a number of bonus points as a resident and never happen to draw a mountain goat tag and then you convert to a non-resident, those points stay with you. You do not lose those. Because since they do not offer the hunt, you cannot apply and therefore you are exempt of the two-calendar-year rule. The two-consecutive-calendar-year rule applies to the two consecutive years that the hunt was offered. So, if the hunt was offered in 2007 and 2008, you did not apply in 2008, then we offer it in 2019 and you do not apply again, you will lose your points.

Mr. Van Dellen went on to say if they wanted to move forward they could, in the motion, exclude the additions to Section 2 of the regulation.

In Section 4, Mr. Van Dellen said he took the liberty to use the correct word of "shall" instead of "must." It makes no change to the regulation. But since it's open, they might as well correct the language.

Subsection 8 is a new section. This was written to include language around bonus points and closed hunts. If the committee decides not to move forward with such language, Mr. Van Dellen can take that out and still preserve this portion of the regulation. The new subsection 8 is:

“If a person has lost all of his or her bonus points for a species or category of a species after failing to apply for a season or for the sole purpose of obtaining a bonus point for two consecutive calendar years during which that type of hunt for a species is open or during which the department offers the ability to apply for the sole purpose of obtaining a bonus point for a type of hunt for a season that is not opened pursuant to Subsection 2 and if that person was a member of the Armed Forces of the United States and that person was mobilized or deployed outside of the United States or that person was ordered to training outside of the United States or that person was assigned a duty station outside of the United States during the entire application period or periods for which that type of hunt for a species was open, or for the sole purpose of obtaining a bonus point was available for the year the bonus points were lost, the Department shall reinstate the applicant’s lost bonus points if the applicant submits a written request containing a copy of official military orders or other proof satisfactory to the Department substantiating the applicant’s military deployment, training, or assigned duty station outside of the United States within one year of the applicant’s return to the United States.”

The intent of this section is that if you can provide proof that you were actively on assignment outside of the U.S. during the entire application period that pertains to the points you lost during the year that they were lost, you have one year upon your return to the U.S. to request those points be reinstated.

Mr. Van Dellen said they would not need to change anything in that section because the sentence “for which the type of a hunt of species was open or for the sole purpose of obtaining a bonus point,” they would still offer bonus points for open hunts. So, the changes to Section 2 would not need to be brought forward. Section 8 can remain as it’s proposed. They would change “during which that type of hunt for a species is open,” and they would strike out the language that isn’t consistent with the existing language of Subsection 2.

NAC 502.422. NAC 502.422 was amended and some sections were added. NAC 502.118 pertains to the Department’s processing fee. Mr. Van Dellen added in that as part of the refund that is provided if your tag is returned.

Regarding Section 5: If a tag for *antelope* is returned by July 15th, you get your tag fee refunded. This section originally said *bighorn sheep* or *mountain goat* which are specifically addressed in Section 4. So the language for bighorn sheep and mountain goat was removed. It now reads:

“If a tag for antelope, bear, turkey, deer, moose, or elk is returned for a reason other than the reasons set forth in Subsection 1 and 2, which pertain to death, medical, and military reasons, and if the tag is received at least one business day before the opening day of the season for which the tag was issued, the Department shall not return the fee for the tag except as otherwise provided in Subsection 2 of NAC 502.4225.” NAC 502.4225 says if you return your license you will lose your bonus point, “treat the applicant with respect to his or her eligibility to obtain a tag and be awarded a bonus point as if the tag had not been issued and the applicant was unsuccessful.”

So this section is basically saying if you turn your tag in before the hunt starts, you do not get a refund, but you are treated as if you never drew that tag. So, your waiting period would go away if you got one and you would be awarded a bonus point. Your bonus points that were lost would be reinstated and you would be awarded one more bonus point, as if you had never drawn that tag.

The new part is: “If the applicant applied as an individual, the Department shall reinstate any bonus points lost pursuant to NAC 502.4187, Subsection 2,” which is the regulation that says if you drew a tag you lose all your bonus points.

When you obtain a tag and you return that tag, three things need to happen. The Department needs to address your waiting period if you have one. They need to address you getting a new bonus point, as if you did not draw. And they need to address the points that you lost. The original regulation only addressed the first two points explicitly. So, Mr. Van Dellen added a third section to address the part that your lost bonus points will be reinstated explicitly. That’s Subsection C. That only applies if the applicant is an individual.

Subsection D is, “If the applicant applied indicated the desire to hunt as a party pursuant to NAC 502.41854 and all tags awarded to the members of the party are returned and received at least one business day before the opening day of the season for which the tags were issued, the Department shall reinstate any bonus points lost pursuant to NAC 502.4187, Subsection 2, to each applicant in the party as if the tags had not been issued and the applicants were unsuccessful.”

So, if you are a member of a party and you return a tag, the Department will remove your waiting period, which is not totally applicable because party hunts are not allowed on hunts with waiting periods. But if they ever become so, the Department will remove your waiting period and treat you as if you were unsuccessful. They will give you a bonus point and treat you as if you were unsuccessful. But in order to reinstate the points you used and your party used to obtain that tag, every member of the party has to return their tags before the hunt starts.

This regulation is saying if party member one returns their tag, they get one bonus point. If party member two returns their tag, they’ll get one bonus point. And if the third and final member of a party returns their tag, everyone goes back to where they started,

plus one bonus point. As if they were all unsuccessful. If a party member returns a tag, it has no bearing on the other members' ability to hunt or not.

Chair Valentine stated it would be important to emphasize in some way the fact that if any single member of a party returns his or her tag, they will lose the bonus points.

Mr. Van Dellen responded that the bonus points are lost pursuant to NAC 502.4187, and that's the paragraph they read earlier saying if you draw a tag, you lose all your bonus points. So, that's addressed in a prior section of NAC 502. Since the Commission prefers straightforward and simple language, he didn't emphasize one part or another.

Ms. Brown asked if the Lincoln County CAB and White Pine County CAB had specific comments regarding this. Did they think this language meets their needs?

Mr. Steve Marquez of White Pine County stated they are in "total agreement" with everything that has been brought forward. It's pretty much exactly where they wanted to go with it and White Pine is 100% on board.

Mr. Rex Flowers said he would like the first part with the bonus points for youths under the age of 12, to be rewritten not for any species, but specific to the junior deer hunt. They have enough problems right now trying to take care of all trophy hunters. In 2017, mule deer-or antelope hunters, there were 17,900 applicants who were unsuccessful. That represents 68% of the total number of people involved. And that number only gets worse as you go up the ladder with all the trophy hunts. When you get in the Rocky Mountain sheep and you get in the mountain goats, there are over 4,000 applicants who are unsuccessful each and every year - over 99% of the applicants. So, if the committee is trying to do is give away bonus points, create entitlement to the youth, keep that within their hunt only and make it to the junior only or the youth hunt.

Mr. Paul Dixon asked if 502.187 covered the situation when you have a group of people and one person turns in their tag and the other ones dump it, the entire party- everybody loses their bonus point.

Mr. Van Dellen replied 502.4187 does not require a change. That already exists. "If an applicant is successful in drawing a tag for a season for a species or category of a species or fails to apply for a season for two consecutive calendar years during which that type of hunt for a season is open, the applicant loses all of his or her bonus points for that species or category of a species." So, this regulation applies to party hunts, individual hunts, anybody who applies. There's no provision that separates them out. If you draw a tag, you lose your points. It doesn't matter if you left the party or not. So, they do not require a change to this part of the regulation to enact the party hunt provisions in the other section of 502.

Mr. Dixon queried how are they currently able to get away with what they're doing if it's already in the regulation?

Mr. Van Dellen explained the current regulation using an example. Let's say you go into a two-person party; if both people draw, your points are averaged. And if both people draw, both members lose all of their points. Then if member one returns their tag before the hunt starts, as the regulation is written right now, they get their bonus points back because they're treated as if they were unsuccessful. It doesn't say that the party is treated as if they were unsuccessful. It says that the applicant is treated as if they were unsuccessful. So, they get their bonus points back and they get one more. Because that's how an unsuccessful applicant goes through the draw process. The party is only intact for the application period. Once that draw occurs, the party effectively no longer matters because everyone gets their own individual tag. They had to link the fact that a tag holder applied as a party or did not apply as a party to preserve that status once the tag is obtained.

The language changes proposed for 502.4187 pertaining to either offering bonus points to closed hunts or offering the ability for active duty members of the military to get their points back, none of those changes would impact what they're trying to do in 502.422. Because the existing language in 4187 already takes care of how your points are accumulated and lost, regardless of whether you're a member of a party or not.

Mr. Dixon said if they end up implementing this regulation change, there would be some very surprised members of the public because this is a pretty dramatic difference in how things are handled now.

Mr. Worth Nelson from Lander CAB stated that they studied the materials in their meeting and there were no questions or concerns. Everything proposed is fine with them.

Mr. Mel Belding asked about the wording in the section saying that they can get their bonus points back providing they have a written request. What kind of written request would that be?

Mr. Van Dellen replied the Department could consider written and electronic submission. It could be an email, it could be a form. They're not trying to make it difficult for someone to submit this request.

Mr. Van Dellen shared some notes from other CAB meetings. Mineral County did not discuss these regulation changes. Carson City supports the regulations as written. Clark County didn't discuss. Douglas County didn't discuss. Elko County didn't discuss. Eureka County didn't discuss. Lyon, no news. Lincoln does not want to allow party members to return a tag at all.

Mr. Robb had a comment in reference to the question about requests being in writing. He said any time a member of the public or a successful tag holder returns a tag to the Department, there is paperwork accompanying that. It is just not the return of the tag. There is paperwork that is filled out at that time stating whether it's for any reason, death, medical, military, whatever those reasons may be, so it can be documented. So, without a doubt, that is in writing. It is not an email request. It has to happen at the time that the tag is returned.

Mr. Caviglia asked if they could add some verbiage to the proposed language that would be more informative and specific and would better clarify things for the public.

Mr. Robb said 99% of the time the public doesn't read regulations. They call and ask the Department questions and then the Department interprets those regulations for the general public. And they would make it a standard of the operating procedure that if somebody that had eight bonus points for deer return the tag, they would notify them at the point that they are returning that tag that if other party members didn't return their tags that they would be reset to the one bonus point. They would give up all their prior bonus points and only get the bonus point for the year that they had applied. So, that would become part of the normal operating standard.

Mr. Van Dellen reminded everyone they are somewhat at the mercy of the legislative process. They can add clarification, they can add an emphasis, but in their experience, they'll strip that right out. They want the regulation to be as bare bones and concise as possible.

The Department has a lot of tools that they can use. They can put it on the tag return form. They will instruct staff that any time a tag is returned they explain to them what's going on. They can add it to the hunt book and the application guide. They can email postcards. The Department is committed to not letting people be caught unawares.

Chair Valentine asked if there were additional questions or comments, and there were none. He said he would accept a motion.

A MOTION WAS MADE BY MR. CAVIGLIA TO FORWARD THE PROPOSED DRAFT REGULATIONS AS WRITTEN TO THE COMMISSION. THE MOTION WAS SECONDED BY MS. BROWN. THE MOTION PASSED UNANIMOUSLY.

6. Tag Transfer Legal Review

The Chair stated that Deputy Attorney General Woodbury would provide a review of the laws and regulations regarding how tags specifically confer the privilege to harvest a game animal and the potential legal changes required to allow the transfer of game tags under specific conditions, such as apprentice hunters, military deployment, significant injury, or the death of the tag holder.

Mr. Woodbury said at the last Committee meeting, Brad Johnston had identified several statutes that he thought might identify authority under the Nevada Revised Statute that the Commission had to adopt tag transfer regulations without changing the current structure of the Nevada Revised Statutes. The two statutes he had identified were NRS 501.181, Subsection 9, and NRS 501.376, Subsection 1E. Those both talk about the inability to hunt with a tag unless you're working under a tag that someone else had obtained.

After looking into these statutes and regulations that were adopted around these statutes, they all kind of relate back to AB 136, which was a bill in the 2015 legislative session that dealt with individuals that had disabilities and special assistance permits and different regulations that allowed individuals to assist people with certain disabilities to either harvest or retrieve animals that they had hunted under their own tag. This was a statute that Chairman Johnston had identified as very limited in scope and related only to this one bill and aiding tag holders who have one of the specified disabilities.

Mr. Woodbury said he didn't think that the Commission has broader authority to adopt tag transfer regulations. NRS 501.181 talks about the Commission having authority related to the manner of using, attaching, filling out, punching, inspecting, validating, or reporting tags. And so, the Commission has authority to establish regulations on the using of tags. Similarly in an-in NRS 502.160, Subsection 2, it reads that the Commission may adopt any regulations necessary relative to the manner of qualifying and applying for using again. Completing, attaching, filling out, punching, inspecting, validating, or reporting such tags.

So, those two statutes, 501.181 and 502.160, talk about the Commission's ability to adopt regulations for the use of tags. The argument could be made that since the Commission does have authority to regulate the use of tags, that some transfer of tags could fall under that. But it would be much easier to attack that regulation based on one of those statutes. And so, after careful study, Mr. Woodbury said the safest route would be to seek a statutory amendment explicitly granting the Commission authority to adopt tag transfer regulations in specific situations.

Chair Valentine asked Mr. Woodbury if he was actually saying was that this was going to require some NRS revisions? Mr. Woodberry responded in the affirmative and said he thought the best way to do would be to identify those specific categories where the Commission would like the ability to transfer tags and then have a statutory change.

Mr. Robb said the Department has been made aware that there are individuals working on language to take forward to the legislature at this time, and he believes there is a legislator that is willing to carry the bill. So, they may be seeing it in one form or the other. And then the legislative committee and the Commission then could take action on it at a future date. Chair Valentine said they would just have to wait to see what shakes out during this legislative session. And since Item 7 was removed from the agenda, they could move on to Item 8.

7. Benefits and Challenges of Providing Quotas Prior to Application Deadline

This Item was removed from the Agenda.

8. Public Comment Period

Mr. Worth Nelson from Lander CAB needed some clarification about the junior antelope hunt. In the minutes from the September meeting, Chair Johnston stated he was a big proponent of junior hunts, but asked did they really need another junior hunt; were people going to start talking about junior hunts across all species?

Mr. Nelson said the main objective in bringing this to the committee was to take some of the pressure off the deer herd because juniors are allowed to shoot buck or doe, either one. Any deer that can be saved would help. There are plenty of antelope across Northern Nevada. So they thought if they could take some of the pressure off the deer herd and take a split off of the deer junior hunt for an antelope hunt.

Mr. Nelson said the September minutes also reflected Mr. Valentine asking about the ability to hunt all three seasons. Mr. Nelson said he believed there's only two seasons as far as antelope goes. He wasn't sure there's a muzzleloader season in Lander County; he thought it was just archery and-and rifle, or any legal weapon.

The minutes also said Mr. Barnes agreed that deer and antelope would be okay but not elk. Mr. Nelson questioned where elk came from because that was not their intention whatsoever. In the minutes it reflects that a motion was made that included elk and so the motion contradicts what was said in the discussion. Lander's focus was strictly an antelope thing, not to lose any junior hunt opportunity but to move some of it-theoretically, half of it from the deer herd to antelope. Because the antelope are flourishing very well and the deer herds are not.

Chair Valentine thanked Mr. Nelson and said that that is still a topic item on the committee's list and they will be discussing it again. He said he would let Mr. Nelson know when they would be discussing that in the future and his representation would be appreciated.

There were no further comments in the public comment period.

9. Future Committee Meetings

The Chair said their next Commission meeting is in March. He will notify everyone if the committee needs to meet then. There are still a few items left on their list of things to discuss so he said to anticipate a March meeting. Chairman Valentine asked if there were any more questions or comments, and there were none. The Chair adjourned the meeting.