

FWP proposal to be amended: Bighorn Sheep

Commissioner: Pat Tabor

Date received by Commission:

Proposed amendment: I move that the Department adopt procedures that require forfeiture of sheep bonus points upon purchase of an unlimited sheep license for HDs 300, 303, 500, 501 and 502 and that applicants for the unlimited license be only be allowed to hold that license every other year. This would require applicants to commit to either the unlimited or limited draw opportunity. Either use your points in the Unlimited Draw, just like you would any other Draw, or Bank your points towards specific sheep areas under specific number of permits.

Requested by FWP: No

Rationale and Background:

- Currently a hunter may purchase an over-the counter unlimited sheep permit and may also purchase a bonus point to be applied during the coveted drawing process for wild sheep. This affords a hunter the ability to hunt sheep year after year and also gain bonus points toward one of Montana's marquis draw areas. It raises a fairness question; particularly in the light of growing demand for the unlimited area hunt opportunity. It appears that the hunting forums and blogs have promoted how to "Game The System", by suggesting to acquire a tag pre-draw and yet during the May 1, Moose, Goat and Sheep application gain a preference point also. This ability did not formerly exist. In the past, not only did you have to put in with all other sheep, goat, and moose applications, but when you drew an Unlimited tag, you burned your preference points towards a sheep draw area, forcing hunters to commit one way or the other.
- Unlimited Sheep Permit Areas afford unparalleled opportunities for anyone to participate in a wild big horn sheep hunt and demand has grown dramatically in recent times (2009-2021). In 2009, 216 hunters participated in 5 units; by 2021 participation was up to 666, or triple the 2021 numbers.
- Increased unlimited demand and the use of advancing technology has led to over harvests in HD 303,500,501, and 502, have each had significant harvests over the quota in the last two years. With 501 giving up 6 rams in 2020, and 501 giving up 4 in 2020. A strategy is even openly discussed and promoted in two podcasts. The ability of hunters to use technology to coordinate in the last 96 hours of the hunt is proving effective. Hunters are gaming the ability to delay their check in 48 hours, in order to extend the 48-hour closure, there by giving cohorts an extra two days, effectively creating a 96-hour window, instead of the traditional 48-hour window prior to season closure. Consideration should be given on how to close this loophole
- By offering the unlimited hunt opportunity on every other year basis for individuals, similar to what is done in other states for special species, Montana can cut the pressure on the resource perhaps by half. This seems sensible given that participation is currently triple historic norms.

Department Response:

The department appreciates the proposed amendment's attempt to address sheep management and harvest concerns. However, the commission does not have the authority to direct the department to use a drawing versus an over-the-counter purchase option. See § 87-2-113, MCA. Instead, it is the department's authority to determine when a drawing for any license opportunity is necessary.

Additionally, the commission does not have authority to prohibit a member of the public from obtaining a license authorized by the legislature – as that authority rests with the legislature. In § 87-2-702(1), MCA, the law states that any person who kills a game animal (except elk, deer, or antelope), cannot acquire a special license during that same license year. Moreover, any successful sheep hunter must wait seven years before obtaining another sheep license – whether limited or unlimited. See § 87-2-702(4), MCA. Therefore, the department is concerned that given the legislature’s specificity on the issuance of special licenses, and time periods for ineligibility – the commission may not create a regulation restricting certain individuals from obtaining a sheep license. The commission does have authority to create a bonus point system. See § 87-2-117, MCA. Therefore, it is the commission’s purview to determine how the bonus point system for any species should be implemented.

Given these different authorities, the commission has two options related to how bonus points are administered:

1) Drawing

The first option is to require an applicant in the unlimited sheep draw to automatically use any accumulated bonus points in the drawing. Bonus points could be purchased at the time of application or between July 1st and September 30th. Applicants acquiring unlimited licenses through the drawing have their bonus points reduced to zero. Drawing applicants would not be eligible to purchase an unlimited sheep license over the counter, as this option would not be available.

2) Over the Counter / Point of Sale

The second option is to offer unlimited bighorn sheep licenses to the public through an over-the-counter/point of sale purchase. Individuals that purchased licenses over the counter would also have the ability to purchase a bonus point later in the year, so their bonus point balance would not change among years when an unlimited license was purchased over the counter. The commission could direct the department to have all individuals use any accumulated sheep bonus points upon purchase of the license. Purchasers of the over-the-counter license would not be eligible to apply for an unlimited sheep license via drawing during the same year.

The two options available to the commission to allocate hunting opportunity within unlimited license quotas is entirely social in nature and would have no adverse effects on bighorn sheep populations within these hunting districts.

Summary: The commission could direct the department to automatically use any bonus point when a person purchases an unlimited sheep license. However, § 87-2-117(6), MCA, already requires the department to delete an individual’s bonus points when the person “obtains the license.” Therefore, the commission could request the department to only use an over-the-counter/point of sale mechanism to simplify how bonus points are administered and removed. Requiring the department to forfeit a person’s bonus points when they simply *apply* for a license would violate § 87-2-117(6), MCA.