

Regionwide & Multiple Units

Note: The Board of Game deferred this proposal from the 2016 Statewide Regulations Meeting to each regional meeting. It was previously considered by the board for the Arctic/Western Region (Proposal 20), Interior/Northeast Region (Proposal 48), and the Central/Southwest Region (Proposal 71).

PROPOSAL 54

5 AAC 92.080. Unlawful methods of taking game; exceptions.

5 AAC 92.085. Unlawful methods of taking big game, exceptions.

Allow the use of crossbows in restricted-weapons hunts in the Southcentral Region as follows:

In order to allow more opportunity for those hunters wishing to use a crossbow while hunting during special hunts like the roadside "targeted hunts" for moose in Southcentral and the Interior or while hunting in specific game management areas or state refuges around the state where either muzzleloaders or shotguns and bow and arrow are the approved hunting tools, I would ask the Board of Game to include the use of crossbows as a fourth approved hunting tool.

In addition to those wishing to hunt with a crossbow, there are those older or smaller hunters who, for whatever reason, cannot use a bow and arrow that meets the existing requirements. A person who cannot draw and hold a bow and arrow can normally still use a crossbow if that tool was legal for use.

What I am proposing is that the category of crossbow be added to the list of approved hunting tools for those hunts in game management areas, state game refuges, and special hunts where either a muzzleloader or shotgun is legal along with bow and arrow. For areas or hunts that are specified as bow and arrow only, nothing will change.

A crossbow has certain advantages over a bow and arrow and also has some major disadvantages compared to a bow and arrow. However, the two hunting tools are still relatively comparable in power and range. A crossbow does not even come close to a muzzleloader or shotgun in comparison. If a muzzleloader or a shotgun is legal to use, along with bow and arrow, then there are no practical concerns to not allow a crossbow along with bow and arrow in those areas or hunts which also allow a muzzleloader or shotgun.

What is the issue you would like the board to address and why? There are currently several state game management areas, state refuges, and special hunts statewide which support weapons-restricted big game hunts. Most of these hunts prohibit the use of centerfire, high-powered rifles and specify that only muzzleloaders, shotguns using slugs, or bow and arrow (or some combination of the specified implements) are allowed. Hunters choosing to use muzzleloaders or bow and arrow must comply with existing regulation requirements for these hunting tools, i.e., things like muzzleloading caliber or the bow's draw weight.

These restrictions in areas or refuges or special hunts are done largely for safety reasons because all of the approved hunting tools are considered short-range compared to a highpowered rifle.

The Board of Game recently defined crossbows in regulation into their own category with requirements on power, bolt length, etc. This was done because crossbows as hunting tools are gradually increasing in hunting use for big game in Alaska during the general season and have become the fastest growing hunting tool in the Lower 48 for hunting animals like white-tailed deer and black bear. It was felt that a distinction between bow and arrow and crossbow was necessary.

Since crossbows are defined separately from bow and arrow, current regulations allowing the use of bow and arrow exclude the use of a crossbow for hunting during that same hunt.

PROPOSED BY: Howard Delo (EG-C15-037)

PROPOSAL 55

5 AAC 92.085(8). Unlawful methods of taking big game; exceptions.

Remove the restriction on the use of aircraft for spotting Dall sheep in Units 7 and 14 as follows:

Amend 5 AAC 92.085(8) by deleting the language set forth below, commonly referred to as Proposal 207:

[(8) ... from August 10 through September 20 aircraft may not be used by or for any person to locate Dall sheep for hunting or direct hunters to Dall sheep during the open sheep hunting season, however, aircraft other than helicopters may be used by and for sheep hunters to place and remove hunters and camps, maintain existing camps, and salvage harvested sheep. The Board of Game finding 2016-213-BOG, dated March 17, 2016, is adopted by reference.]

What is the issue you would like the board to address and why? The pertinent part of 5 AAC 92.085(8) states as follows:

(8) ... from August 10 through September 20 aircraft may not be used by or for any person to locate Dall sheep for hunting or direct hunters to Dall sheep during the open sheep hunting season, however, aircraft other than helicopters may be used by and for sheep hunters to place and remove hunters and camps, maintain existing camps, and salvage harvested sheep. The Board of Game finding 2016-213-BOG, dated March 17, 2016, is adopted by reference.

I ask that the Board of Game (board) address the following issues:

1. Federal preemption regarding the limitation it placed upon flying aircraft between August 10 and September 20. Federal law governs the use and operation of aircraft. The Alaska Board of Game does not have the authority to regulate the use and operation of aircraft because federal law preempts state law and its regulations.
2. Enforceability and false reporting problems. There exists a significant danger of false reporting, causing the unnecessary increase in law enforcement time and money. It also costs law abiding pilots time and money to defend false accusations. It is extremely difficult for law enforcement to enforce this regulation. This regulation unnecessarily wastes law enforcement resources on an issue that has no connection with conservation of the resources.

Law enforcement is unable to know whether a pilot hunted, or attempted to hunt, after circling sheep from an airplane. Is a pilot flying with moose, caribou and sheep harvest tags violating the regulation if he spots a sheep from the air then lands and hunts any other lawful species of game? How does law enforcement enforce the regulation if the pilot denies that he was hunting for sheep? Non-hunter pilots, commercial operators and others are subject to unwarranted harassment without any way to determine whether the operator of the aircraft or any passengers actually hunted.

3. Equal protection. This regulation illegally penalizes all pilots, whether private resident pilots, guides with planes, transporters or Part 135 operators. In addition, the resident private pilots are particularly penalized without any rational basis for the restriction. This regulation has a disparate impact on resident private pilots. Hunters using an airboat, Argo, 4-wheeler, river boats, rafts, etc.... are not penalized at all. Businesses such as transporters, guides and FAR Part 135 operators have more established landing spots and locations to bring their clients. These businesses are subject to false accusations but are less likely to be falsely accused of spotting for sheep than the private pilot. Private pilots explore the mountains for sheep, for places to land and for places to hunt. It is the resident private pilot that feels the impact perhaps more than any other user group.

4. Safety issues. This regulation places yet one more concern on the pilot. There exists a lot of responsibility associated with flying. Since the passage of this regulation, pilots are afraid to circle and make multiple passes over multiple areas in the mountains out of fear that they will be accused of violating Proposition 207. Pilots are forced to balance the safe operation of their aircraft with the possibility of criminal prosecution and confiscation of their airplane. Separately, pilots are forced to fly pre-season instead of during the season, increasing the likelihood of a mid-air collision in the mountains. This pre-season flying also causes the extra stress on pilots to fly on August 7, 8 or 9. If the weather is marginal, a pilot is forced to balance flying in marginal weather and being able to spot for sheep against waiting a few days for good weather but not begin able to spot for sheep during the remainder of the season. This is an unacceptable burden placed upon a pilot who already has enough pressures associated with flying.

Non-hunter pilots are also affected by this regulation as this regulation directly impacts the decision-making process of a pilot while flying in the mountains between August 10 and September 20.

5. "Fair chase" is a red herring. It is legal to spot a sheep from the air on August 9, land on the evening of August 9, and then shoot that sheep on the morning of August 10. It is illegal to spot a sheep from the air on August 10, land on August 10, and then hike for 10 days through the mountains, stalk that sheep, and then shoot that sheep on August 20. In fact, is it illegal to spot the sheep on August 10, be on the ground for 39 days, and then shoot a sheep on the last day of the season. "Fair chase" is a red herring to justify penalizing pilots that utilize airplanes for sheep hunting.

6. Widely unpopular. Proposal 207 was a board-generated proposal created behind closed doors. When it came to the public's attention it was overwhelmingly unpopular. The Board of Game

ignored the troopers, local advisory committees, the overwhelming majority of the public testimony, and objections by other hunting and flying organizations.

PROPOSED BY: Robert Stone

(EG-F18-066)

PROPOSAL 56

5 AAC 92.106. Intensive management of identified big game prey populations.

Prohibit nonresident hunting of moose and caribou under intensive management in the Southcentral Region until harvest or population objectives are met as follows:

Nonresident hunting shall not be allowed in Region II (Southcentral) for any moose or caribou population under a current active Intensive Management Predation Control Program until the minimum Intensive Management population or harvest objective for that population has been reached.

What is the issue you would like the board to address and why?

Nonresident hunting opportunity in areas within Region II (Southcentral) under active Intensive Management Predation Control Programs.

Intensive Management (IM) Predation Control Implementation Programs to restore the abundance of prey species as necessary to achieve human consumptive use goals are intended to benefit resident Alaskans.

Resident Hunters of Alaska supports IM efforts to achieve these goals.

We understand that nonresidents may benefit from IM programs once IM population or harvest objectives are met. That is why we support nonresidents as well as residents paying a fee for the state's intensive management programs. However, nonresidents are not entitled to benefit from IM programs while they are in progress until either the harvest or population objectives for specific moose or caribou populations have been achieved.

We would like to see the Board of Game (board) adopt regulations that match the intent of our Intensive Management law. No nonresident hunting should be allowed in Region II for a moose or caribou population that is under a formal IM Predation Control program to increase populations for the benefit of resident consumptive uses when the minimum IM population or harvest objectives for that prey species has not been reached.

Currently there are no active IM programs in place in Region II, as the active wolf control program in Unit 15C expired in 2017. Moose are just above the population objective for Unit 15C of 2,500–3,500 moose, and we are substantially below the harvest objective of 200–350 moose. Nonresident moose hunting is currently allowed in Unit 15C.

This proposal would not affect any current nonresident moose hunting opportunities in Region II (Southcentral) but looks forward should any future active IM programs in Region II be implemented and is a simple straightforward step the board can take to ensure for the public that

when we undertake predation control programs to reduce predators, its primary intention is to benefit resident Alaskans so that they can put food on their tables.

PROPOSED BY: Resident Hunters of Alaska

(HQ-F18-026)

