

Note: The Board of Game cannot adopt a regulation that is inconsistent with state statute. Alaska Statute 08.54.750(e) states that guides can only conduct hunts for the big game species identified by the Board of Game as the cause of the depletion or reduction of productivity of a big game prey population.

PROPOSAL 50 – 5 AAC 92.116. Special provisions in predation control areas. Provide clarification for allowing guides to register additional guide use areas for taking predators, and to restrict the take of predators in those guide use areas as follows:

Provide clarification for the "extra guide use area provision" in AS 08.54.750 as follows:

5 AAC 92.116. Special provisions in predation control areas.

...

(e) A guide may register extra guide use areas under AS 08.54.750(f) in all IM program areas, and for all predator species within the “game management unit or portion of a game management unit where the Board of Game has identified predation by wolf, black bear, brown bear, or grizzly bear as a cause of the depletion of a big game prey population or a reduction of the productivity of a big game prey population”; unless the board specifically eliminates an area or species within an area from this provision.

(1) Unit 9, brown bear may not be taken in an extra guide use area under AS 08.54.750(f)

(2) Units 7 and 15, brown bear and black bear may not be taken in an extra guide use area under AS 08.54.750(f)

What is the issue you would like the board to address and why? The Board of Game (board) needs to determine where is it appropriate, and for what species, extra guide use areas should be allowed under AS 08.54.750(f). Specifically, what species should be allowed to be taken under this provision in each Intensive Management (IM) Plan.

ADF&G made an administrative interpretation of AS 08.54.750(f) in 2014. This statute allows for guides to choose extra guide use areas in a “game management unit or portion of a game management unit where the Board of Game has identified predation by wolf, black bear, brown bear, or grizzly bear as a cause of the depletion of a big game prey population or a reduction of the productivity of a big game prey population” to assist in the increased take of predators. ADF&G’s recent interpretation allows for this only in areas where they are currently issuing permits in an active predator control program. According to legislators that worked on this statute, this interpretation is contrary to legislative intent. It is also contrary to the way the law was implemented for at least the first six years it was in place.

ADF&G originally made this new interpretation several years ago when an IM plan was developed for Unit 9. At this point there was a small amount of internal panic that every guide would be able to register guide use areas in Unit 9 as extra guide use areas for brown bears. No

one intended this to be the case but it would have been fact if the old interpretation and legislative intent were followed. In this case the board should determine that Unit 9 may only be used for extra guide use areas for wolves and not for brown bears.

Guides were not informed of this administrative change for several years and it has still not been widely published. Many ADF&G staff where not even up to speed on the interpretation for several years. When I was made aware of the interpretation, I requested both ADF&G and Big Game Commercial Services Board staff send a letter to all guides informing them of the change. They refused and asked me, a member of the general public, to inform those guides! There is now a link on the Department of Commerce website but it took a couple years. It was on the ADF&G homepage for a couple days after I first brought it up but it has been removed. The memo is buried in the ADF&G website. This is not listed anywhere in regulation because it is not a codified regulation.

AS 08.54.750(f) is a very valuable provision in that it provides for increased predator take while avoiding costly ADF&G programs and predator control permits. Without this provision, ADF&G would not have come close to the desired take of bears in IM programs in Units 16 and 13 in the last decade.

I would recommend the board create an "opt-out" provision rather than the current "opt-in" provision. That is, all predator species would be available for guided take under AS 08.54.750(f) IM programs unless the board specifically removes them for conservation or other reasons.

The board would need to make specific determinations, but I would anticipate restrictions on this provision only in a few cases. Some that come to mind are Unit 9 brown bears, Units 7 and 15 black and brown bears and maybe very few others. I would not anticipate wolves needing to be restricted in any IM area.

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