

*The Board of Game deferred this proposal from the Interior and Eastern Arctic Region meeting in March 2020. The original proposal was Proposal 64.*

## **PROPOSAL 172**

### **5 AAC 92.530. Management areas.**

Clarify the legal use of highway vehicles, snow machines and off-road vehicles in the Dalton Highway Corridor Management Area (DHCMA) for hunting and trapping. Clarify the use of firearms, and transport of furbearers and trapping bait when trapping in the DHCMA:

- Do hunting restrictions in 5 AAC 92.530(7) allow travelers who exit the DHCMA (e.g. to travel by licensed highway vehicle or other motorized means to Nuiqsut, Anaktuvuk Pass, Bettles, Wiseman, Coldfoot airport, or by snow machine to a homestead outside the corridor) to hunt once they exit the DHCMA?
- Does the definition of “off-road vehicle,” in AS 19.40.210 affect use of a “licensed highway vehicle” and “snow machine” in 5 AAC 92.530(7)?
  - When it is operated off the highway, is a “licensed highway vehicle” in 5 AAC 92.530(7) an “off-road vehicle,” as defined by 19.40.210?
  - Is the prohibition in 5 AAC 92.530(7) on use of motorized vehicles, with exceptions for use of licensed highway vehicles, snow machines, aircraft and boats consistent with restrictions placed on off-road vehicles and snow machines in AS 19.40.210?
- Does the prohibition on hunting in 5 AAC 92.530(7)(B) also prohibit trapping?
  - If 5 AAC 92.530(7)(B) allows use of firearms for trapping in 5 AAC 92.530(7), is this consistent with the prohibition of hunting with firearms in AS 16.05.789?
- May a trapper or hunter crossing the DHCMA with a snow machine, stop to hunt or trap within the DHCMA, or become “parallel to the right-of-way of the highway” without violation of AS 19.40.210?
- May a trapper or hunter use a snow machine to enter the DHCMA from outside the area and trap or hunt within the DHCMA if the trapper does not travel all the way across the DHCMA?

**What is the issue you would like the board to address and why?** This is a placeholder proposal, intended to solicit public and agency input regarding the interpretation of state statutes and regulations pertaining to the Dalton Highway Corridor Management Area (DHCMA). Clarification is needed, as there is confusion within state government and the public regarding which activities and methods of access are legal within the DHCMA and what changes to 5 AAC 92.530(7) the Board of Game could legally undertake.

Although the above list is not a comprehensive list of issues associated with the DHCMA, the department recommends clarification of these issues in order to give the public the ability to correctly follow the restrictions set out in 5 AAC 92.530(7) and statutes AS 19.40.210 and AS 16.05.789, or to recommend changes to 5 AAC 92.530(7).

Federal access permits are also a consideration on federal lands within the DHCMA. For example, on federal lands in the DHCMA, federally-qualified users may use a snowmachine to trap, but cannot use a snowmachine to transport furbearers they catch or parts of game used as bait because

of current language in 5 AAC 92.530(7). Additionally, nonfederally qualified users may obtain a permit to cross federal lands in the DHCMA by snowmachine in order to access property outside the DHCMA, but they may not use a snowmachine to trap in the DHCMA or transport game across the DCHMA. Federally-qualified trappers and nonfederally-qualified trappers who obtain such a permit can use snowmachines on federal land, but not state lands such as frozen rivers, and cannot transport game.

To aid the board in their decisions regarding 5 AAC 92.530(7) and possible conflicts this regulation may have with Alaska Statutes, we provide the relevant statutes below. Regulation 5 AAC 92.530(7) prior to the March 2019 Board of Game meeting is also included. The most recent board changes to 5 AAC 92.530(7) will be provided when they are available to the department.

**Regulation 5 AAC 92.530. Management areas.** The following management areas are subject to special restrictions:

...

(7) the Dalton Highway Corridor Management Area:

(A) the area consists of those portions of Units 20 and 24–26 extending five miles from each side of the Dalton Highway, including the drivable surface of the Dalton Highway, from the Yukon River to the Arctic Ocean, and including the Prudhoe Bay Closed Area;

(B) the area within the Prudhoe Bay Closed Area is closed to the taking of big game; the remainder of the Dalton Highway Corridor Management Area is closed to hunting; however, big game, small game, and fur animals may be taken in the area by bow and arrow only, and small game may be taken by falconry;

(C) no motorized vehicle may be used to transport hunters, hunting gear, or parts of game, within the Dalton Highway Corridor Management Area, except that

(i) licensed highway vehicles may be used on the following designated roads:

(1) Dalton Highway, (2) Bettles Winter Trail during periods when the Bureau of Land Management and the City of Bettles announce that the trail is open for winter travel, (3) Galbraith Lake Road from the Dalton Highway to the BLM campground at Galbraith Lake, including the gravel pit access road when the gate is open, (4) Toolik Lake Road, excluding the driveway to the Toolik Lake Research Facility, (5) the Sagavanirktok River access road two miles north of Pump Station 2, and (6) any constructed roadway or gravel pit within one-quarter mile of the Dalton Highway;

(ii) aircraft and boats may be used;

(iii) a snowmachine may be used to cross the management area from land outside the management area to access land on the other side of the management area;

(D) any hunter traveling on the Dalton Highway must stop at any check station operated by the department within the Dalton Highway Corridor Management Area

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**Alaska Statute Sec. 16.05.789. Prohibition on hunting adjacent to highway between Yukon River and Arctic Ocean.**

- (a) Hunting with firearms is prohibited north of the Yukon River in the area within five miles on either side of the highway between the Yukon River and the Arctic Ocean.
- (b) A person who violates this section is guilty of a class A misdemeanor.

**Alaska Statute Sec. 19.40.210. Prohibition of off-road vehicles.**

- (a) Off-road vehicles are prohibited on land within the highway corridor. However, this prohibition does not apply to
  - (1) off-road vehicles necessary for oil and gas exploration, development, production, or transportation;
  - (2) a person who holds a mining claim in the vicinity of the highway and who must use land in the highway corridor to gain access to the mining claim;
  - (3) the use of a snow machine to travel across the highway corridor from land outside the corridor to access land outside the other side of the corridor; this paragraph does not permit the use of a snow machine for any purpose within the corridor if the use begins or ends within the corridor or within the right-of-way of the highway or if the use is for travel within the corridor that is parallel to the right-of-way of the highway; or
  - (4) a person who must use land in the highway corridor to gain access to private property that
    - (A) is located outside the corridor; and
    - (B) has an established history of use as a homestead.
- (b) Nothing in this section authorizes a person to access the land of another person unlawfully.
- (c) In this section, “highway corridor” or “corridor” means land within five miles of the right-of-way of the highway.

**PROPOSED BY:** Alaska Department of Fish and Game (HQ-F19-152)  
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