

The Board of Game deferred Proposal 18 as amended from the November 2011 the Arctic/Western Region meeting. The following information includes the original proposal, the amendment adopted by the board, and the additional regulations affected by the proposal that the board intends to consider at the January 2012 Statewide Regulations meeting.

PROPOSAL 18 - 5 AAC 92.095. Unlawful methods of taking furbearers; exceptions.

Clarify when a violation has occurred concerning incidental take by trappers.

Original Language Proposal in 18:

Continuing to take, or attempting to take, furbearers at a site where a moose, caribou, or deer has been taken incidentally is a violation. Any moose, caribou or deer that dies as a result of being caught in a trap or snare, whether found dead or euthanized, becomes the property of the regional management agency. The trapper should salvage edible meat and surrender it to the appropriate agency. **A person who salvages and surrenders the edible meat in accordance with this regulation will not be subject to citation.** If such an incidental take occurs, the trapper must **move all active traps and snares at least 300 feet from the site for the remainder of the regulatory year (July 1 through June 30), and after the ending of the July 1 – June 30 regulatory year, may reset again in the same place or area during subsequent trapping seasons.**

Board action from the November 2011 meeting in Barrow:

The Board amended one portion of 5 AAC 92.095 to read:

5 AAC 92.095. Unlawful methods of taking furbearers; exceptions. (a) The following methods and means of taking furbearers under a trapping license are prohibited, in addition to the prohibitions in 5 AAC 92.080:

(12) by placing or leaving an active trap or snare set on land **or ice** that is within 300 feet of the site at which a moose, caribou, or deer was taken using a trap or snare; this prohibition applies for the duration of the regulatory year in which the moose, caribou, or deer was taken using the trap or snare.

Other Regulations for Consideration: The original language in the proposal is a paraphrase of the existing regulations and does not make apparent the changes for those regulations. Several regulations are involved concerning incidental trapping of moose, caribou and deer, the subsequent reporting and salvage requirements, and property rights to the harvested animal. The following is an explanation of the relationship between existing regulations.

1. Under existing regulations, if a trapper takes a moose, caribou or deer with a trap or snare, the traps and snares must be moved 300 feet away from the site. This is in effect until the following June 30 (end of regulatory year).

5 AAC 92.095. Unlawful methods of taking furbearers; exceptions. (a) The following methods and means of taking furbearers under a trapping license are prohibited, in addition to the prohibitions in 5 AAC 92.080:

...

(12) by placing or leaving an active trap or snare set on land that is within 300 feet of the site at which a moose, caribou, or deer was taken using a trap or snare; this prohibition applies for the duration of the regulatory year in which the moose, caribou, or deer was taken using the trap or snare.

2. The trapper already has an affirmative defense for possession and transportation if he salvages and surrenders that animal or animals to the Department of Fish and Game or the Alaska Wildlife Troopers.

5 AAC 92.140. Unlawful possession or transportation of game. (a) A person may not possess, transport, give, receive, or barter game or parts of game that the person knows or should know were taken in violation of AS 11.61.210, AS 16 or a regulation adopted under AS 16.

...
(d) Notwithstanding (a) of this section; it is an affirmative defense to the crime of unlawful possession or transportation of game, if the person who possesses and transports game or parts of game taken in violation of AS 16 or a regulation adopted under AS 16 is doing so for the sole purpose of salvaging that game or parts of game as required by 5 AAC 92.220, immediately salvaging that game or parts of game from the field and immediately surrendering that game or parts of game to a representative of the state located at the nearest office of the Department of Fish and Game (ADF&G) or Department of Public Safety (DPS).

3. When moose, deer or caribou are taken with a trap or snare, which is not a legal method or means for these animals, the animals are considered to be taken illegally and are property of the state.

5 AAC 92.220. Salvage of game meat, furs, and hides.

...
(h) A game animal taken in violation of Alaska Statute 16 or a regulation adopted under AS 16 is the property of the state.

4. In addition to the language already amended, the Board indicated a desire to clarify salvage requirements in these cases, citing concerns about frozen, unusable animals and hardships to trappers required to transport animals long distances, in addition to moving traps and snares.

5 AAC 92.220. Salvage of game meat, furs, and hides.

(d) A person taking game... shall salvage for human consumption all edible meat, as defined in 5 AAC 92.990.

5 AAC 92.990 (24).Definitions.

...
(24) "edible meat" means, in the case of a big game animal, ..the meat of the ribs, neck, brisket, front quarters as far as the distal joint of the radius - ulna (knee), hindquarters as far as the distal joint of the tibia - fibula (hock), and the meat along the backbone between the front and hindquarters; "edible meat" of big game or wild fowl does not include meat of the head, meat that has been damaged and made inedible by the method of taking, bones,

sinew, incidental meat reasonably lost as a result of boning or a close trimming of the bones, or viscera;

ISSUE: Clarifying language is needed so that trappers will not be cited for an incidental catch of non-target species the following year if it occurs in the same area as the previous year.

WHAT WILL HAPPEN IF NOTHING IS DONE? The current language is unclear to some individuals (both enforcement officers and trappers) regarding the difference between the regulatory year and the calendar year, and unnecessary citations (subsequently dismissed after court time and legal fee expenditures) have been issued as a result. Also, trappers should be made clear that trappers will not be subjected to further hardship in their good faith efforts to comply with the law.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR THE PRODUCTS PRODUCED BE IMPROVED? Not applicable.

WHO IS LIKELY TO BENEFIT? Trappers would gain more buy-in and faith in fairness of the management system. Enforcement should not feel compelled to issue questionable or unnecessary citations from misapplication or misinterpretation in this current “grey area”.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED:

PROPOSED BY: Lower Kuskokwim Advisory Committee and Orutsararmiut Native Council

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