



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Public Safety

DIVISION OF ALASKA WILDLIFE TROOPERS
Office of the Director

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March 1, 2016

Chairman Ted Spraker
Alaska Board of Game
P.O. Box 115526
Juneau, AK. 99811-5526

Dear Chairman Spraker,

The following comments outline the position the Department of Public Safety, Division of Alaska Wildlife Troopers have on the proposals up for consideration during the March 2016 Board of Game meeting in Fairbanks.

When the board considers seasons and/or bag limit changes, the Alaska Wildlife Troopers request every effort be made to align seasons and bag limits with adjacent game management units/sub units creating consistency of the regulations for the public. When the board considers proposals with allocation or biological concerns, we strive to remain neutral.

Alaska Wildlife Troopers recognize regulations are developed by the Alaska Board of Game through the public process to support management plans and rely on public compliance with regulations to achieve success. Alaska Wildlife Troopers respectfully request the board recognize any new regulation or area restriction may result in additional burdens on Alaska Wildlife Troopers due to our limited resources, personnel and budget.

Sincerely,

Paul L. Fussey
Lieutenant, Alaska Wildlife Troopers

**Alaska Wildlife Troopers Responses to the Board of Game Proposals
2016
Statewide Regulations**

PROPOSAL 1 - 5 AAC 92.990(a) (47) Remove hovercraft and airboats from the definition of motorized land vehicles.

The Alaska Wildlife Troopers do not support this proposal. Hovercrafts and Airboats are true amphibious vehicles, able to travel with ease over water, ice, sandbars and grasslands. They are designed to float above the terrain on a deep cushion of air, with forward thrust provided by an aft-facing propeller.

Under 5AAC 92.004(c) Hovercrafts (air-cushioned vehicles), and air boats operated outside of a navigable waterway are described as off-road vehicles. For enforcement purposes the Alaska Wildlife Troopers ask the board for clarification between the regulations if proposal 1 is passed.

If hovercraft and airboats are removed from being defined as a motorized land vehicle they would be able to access some controlled use areas listed under 5AAC 92.540, from which they are currently banned. They would still be considered a motorized vehicle under 5AAC 92.990(48); however, the definitions are very specific. The use of a hovercraft or air boat would be authorized in the controlled use area in Unit 20E, and the Northeast Chichagof Controlled use area in Unit 4.

PROPOSAL 2 - 5 AAC 92.990(a) (5) (A) Modify the definition of ATV.

The Alaska Wildlife Troopers do not support this proposal. The current definition of an ATV is difficult; however, not impossible to enforce as many machines do not have the dry weight listed on a manufacturing plate. If the board chooses to modify the definition to pounds per square inch of surface area to define an ATV this would create an undue burden on the trooper and resource user. The Wildlife Trooper would be required to carry a set of scales, direct the operator to a hardened surface to conduct the test, almost impossible on the tundra. During this time of decreasing budgets and reduced expenditures this would result in an unforeseen expenditure for the Wildlife Troopers as they would be required to purchase portable scales to measure pounds per square inch.

The Alaska Wildlife Troopers respectfully ask the board to consider raising the weight limit for the definition of an ATV and have included some dry weights of the larger ATV's for reference. The current definitions do not define a 3 wheeler as an ATV; however, they are defined as an "off-road vehicle" under 5AAC 92.004(c).

Arctic Cat Wildcat: 1,305 lbs.

Arctic Cat Prowler 1000: 1,165 lbs.

Yamaha Rhino 700: 1,049lbs.

Yamaha YXZ1000R: 1,510 lbs.

Can-Am Commander 1000X: 1,287 lbs.

Can-am Defender HD8 XT: 1,550

Kawasaki Teryx 750: 1,276 lbs.

Kawasaki Mule Pro-DXT Diesel EPS LE: 1,931

Polaris RZR XP 4 900: 1,390 lbs.

Polaris RZR XP Turbo: 1,495 lbs.

Polaris RZR XP 4 1000: 1,596 lbs.

PROPOSAL 6 - 5 AAC 92.990(a) (46) Modify the definition of a moose antler.

The Alaska Wildlife Troopers do not support this proposal as the current definition of a spike-fork antler is enforceable and is clearly defined. If this proposal is passed it would create two definitions for a tine, I.E a burl point within two inches of the antler base and less than three inches and the current definition listed under 5AAC 92.990(a)(61). Another concern the Alaska Wildlife Troopers have is many moose in units 1 & 3 have very unique antlers and this is a statewide proposal affecting all moose.

PROPOSAL 7 - 5 AAC 92.990(a) (61) Clarify the definition of antler point.

The Alaska Wildlife Troopers do not support this proposal. The current definition of a point is clear and favors the resource user. A point must be at least 1 inch long, therefore to take a legal measurement an individual must begin at least one inch or more from the tip. The current regulation also mirrors both the Boone & Crockett and Pope & Young definitions of a point.

BOONE AND CROCKETT CLUB® INSTRUCTIONS FOR MEASURING MOOSE

Measurements must be made with a 1/4-inch wide flexible steel tape to the nearest one-eighth of an inch.

A. Greatest Spread is measured between perpendiculars in a straight line at a right angle to the center line of the skull.

B. Number of Abnormal Points on Both Antlers: Abnormal points are those projections originating from normal points or from the upper or lower palm surface, or from the inner edge of palm. Abnormal points must be at least one inch long, with length exceeding width at one inch or more of length.

C. Number of Normal Points: Normal points originate from the outer edge of palm. To be counted a point, a projection must be at least one inch long, with the length exceeding width at one inch or more of length. Be sure to verify whether or not each projection qualifies as a point.

Pope & Young measurer's manual for measuring moose.

Measurements must be made with a flexible steel tape and recorded to the nearest one-eighth of an inch.

A. Greatest Spread is measured between perpendiculars in a straight line at the right angle to the center line of the skull, excluding any abnormal points.

B. Number of abnormal points on both antlers. Abnormal points are those originating from normal points, or from the upper or lower palm surface, or from the inner edge of a palm. To qualify as a countable point, abnormal points must be at least one inch long AND, at some location at least one inch from the tip, the length of the projection must exceed its width.

C. Number of normal points. Normal points originate from the outer edge of the palm. To be counted a point a projection, must be at least one inch long AND, at some location at least one inch from the tip, the length of the projection exceeds its width.

PROPOSAL 17 - 5 AAC 92.003 Hunter education and orientation requirements.

The Alaska Wildlife Troopers do not support this proposal and respectfully ask the board to not pass the proposal for the following reasons.

- 1) Basic hunter education is required for all hunters, regardless of age in the Anchorage Coastal Wildlife Refuge, Mendenhall Wetlands state game refuge, Palmer/Wasilla Management area, Eklutna Lake management area, Eagle River Management area, and for hunt AM415 in units 14A & B.
- 2) Proposal 15, if passed, would require all crossbow hunters to pass a certification course before using a crossbow regardless of their date of birth.
- 3) It would ease enforcement of the requirement of the hunter to carry an IBEP or equivalent card on their person, when an individual is taking game with archery equipment, if an exemption is not implemented.

PROPOSAL 21 - 5 AAC 92.085 Modify the restrictions on the use of aircraft for sheep hunting.

The Alaska Wildlife Troopers do not support this proposal for the following reasons. This proposal seeks to delete the wording passed by the board in the last cycle to a new definition which is also extremely hard to enforce. The Alaska Wildlife Troopers would be required to expend a large amount of money and resources, which are dwindling due to the current state budget, to enforce the proposal as written. It would be extremely difficult to prove an individual was judging Dall sheep with an aircraft without a video or recording from inside the aircraft. An aircraft flying through a canyon or valley, circling the area is not evidentiary proof an individual was judging sheep.

PROPOSAL 22 - 5 AAC 92.085 Modify the restrictions on the use of aircraft for sheep hunting.

The Alaska Wildlife Troopers do not support this proposal. The current wording does not preclude an individual from flying during sheep season as they are still able to fly in hunters, maintain camps, and salvage harvested sheep. This regulation is almost unenforceable and the Alaska Wildlife Troopers would need to show evidentiary proof an individual specifically used an aircraft to spot sheep and then landed and took the same Dall sheep.

The wording proposed by the APHA is listed under 12AAC 75.340(d)(8), which again, is almost unenforceable and currently falls under the disciplinary authority of the Big Game Commercial Services Board and not the Alaska Wildlife Troopers. All classes of guides shall avoid using an aircraft in any manner to spot big game for the purpose of taking a specific animal. This wording, if adopted, would create an undue burden on the Alaska Wildlife Troopers by having to prove an individual hunter used an aircraft to take a specific animal, not just using an aircraft to spot sheep but to take a specific animal. The Alaska Wildlife Troopers ask the board to not consider this proposal due to the lack of enforceability.

PROPOSAL 23 - 5 AAC 92.085 Repeal the restrictions on the use of aircraft for sheep hunting.

The Alaska Wildlife Troopers support this proposal as the current regulation is extremely hard to enforce. The current wording does not preclude an individual from flying during sheep season as they are still able to fly in hunters, maintain camps, and salvage harvested sheep. The Alaska wildlife Troopers would need to show evidentiary proof an individual specifically used an aircraft to spot sheep and then landed and took the same Dall sheep. The Alaska Wildlife Troopers, during the 2015 sheep season received one complaint of an individual using an aircraft to spot sheep, which was later determined to be unfounded. This does not negate the fact this regulation, as it is written is extremely hard to prosecute.

PROPOSAL 24 - 5 AAC 92.085 Repeal the restrictions on the use of aircraft for sheep hunting.

The Alaska Wildlife Troopers support this proposal as the current regulation is extremely hard to enforce. The Alaska Wildlife Troopers acknowledge the current regulation was adhered to by the majority of sheep hunters utilizing aircraft during the past season. The current wording does not preclude an individual from flying during sheep season as they are still able to fly in hunters, maintain camps, and salvage harvested sheep. The Alaska wildlife Troopers would need to show evidentiary proof an individual specifically used an aircraft to spot sheep and then landed and took the same Dall sheep. The Alaska Wildlife Troopers, during the 2015 sheep season received one complaint of an individual using an aircraft to spot sheep, which was later determined to be unfounded. This does not negate the fact this regulation, as it is written is extremely hard to prosecute.

PROPOSAL 25 - 5 AAC 92.085 Repeal the restrictions on the use of aircraft for sheep hunting.

The Alaska Wildlife Troopers support this proposal as the current regulation is extremely hard to enforce. The Alaska Wildlife Troopers acknowledge the current regulation was adhered to by the majority of sheep hunters utilizing aircraft during the past season. The current wording does not preclude an individual from flying during sheep season as they are still able to fly in hunters, maintain camps, and salvage harvested sheep. The Alaska wildlife Troopers would need to show evidentiary proof an individual specifically used an aircraft to spot sheep and then landed and took the same Dall sheep. The Alaska Wildlife Troopers, during the 2015 sheep season received one complaint of an individual using an aircraft to spot sheep, which was later determined to be unfounded. This does not negate the fact this regulation, as it is written is extremely hard to prosecute.

PROPOSAL 26 - 5 AAC 92.085 Repeal the restrictions on the use of aircraft for sheep hunting.

The Alaska Wildlife Troopers support parts of this proposal as the current regulation is extremely hard to enforce. The requirement of 12" numbers on all aircraft falls under the jurisdiction of the FAA and not the Board of Game or the Alaska Wildlife Troopers. The current wording does not preclude an individual from flying during sheep season as they are still able to fly in hunters, maintain camps, and salvage harvested sheep. The Alaska wildlife Troopers would need to show evidentiary proof an individual specifically used an aircraft to spot sheep and then landed and took the same Dall sheep. The Alaska Wildlife Troopers, during the 2015 sheep season received one complaint of an individual using an aircraft to spot sheep, which was later determined to be unfounded. This does not negate the fact this regulation, as it is written is extremely hard to prosecute.

PROPOSAL 29 - 5 AAC 92.990(a) (30) Define the term broken as it applies to the definition of full-curl horn of male (ram) Dall sheep.

The Alaska Wildlife Troopers support this proposal to define a broken sheep horn. One of the ways a male (ram) Dall sheep can be taken legally is if both tips of the horns are broken. There has been considerable difficulty identifying what a legal animal is if it is taken under the “broken” exemption. There are differing opinions within enforcement, ADF&G and the public as to what qualifies as broken. The Alaska Wildlife Troopers are unnecessarily burdened by not have a clear definition of broken when filing charges in court. Does a cracked horn count as broken, or a horn tip with a chip missing? By creating a definition for “broken”, the board will provide clarity to the regulations and provide a clear and definable measurement for the public, Alaska Wildlife Troopers, and the courts.

PROPOSAL 50 - 5 AAC 92.150 Remove the requirement for evidence of sex for hunts with bag limits of only one sex.

The Alaska Wildlife Troopers do not support this proposal and respectfully ask the board to not pass it on the grounds it would remove a valuable tool to deter an unlawful take of a prohibited animal. The State of Alaska feels this regulation is important enough for the protection of the resources to list it in Rule 43.2, the forfeiture bail schedule at \$150.00.

The State of Alaska currently does not have a legally certified animal forensic lab. This means any lab in the State of Alaska which conducts an animal DNA sample will not be able to testify as an expert witness regarding the sample. The state crime lab’s DNA machines only recognize human DNA and do not work on animals. If a sample from a game animal is tested in the state crime lab’s equipment it will be unable to quantify the tissue for DNA. The proposer’s suggestion that an Alaska Wildlife Trooper can take DNA samples to determine the sex and species of the animal is not accurate. The Alaska Wildlife Troopers would be required to send a sample out of state to the Wildlife Forensic lab in Ashland, Oregon which is run by the USFWS. This lab currently has a three year backlog on all DNA samples.

The Alaska Wildlife Troopers have been told by members of the public antlers should suffice as evidence of sex; however, there are many hunts throughout the state which are cow only. In unit 22 there are multiple hunts for cow caribou only. If the evidence of sex is eliminated by the board the Alaska Wildlife Troopers would be forced to seize an individual’s caribou, store it in an evidence freezer for the required time it takes to send out a DNA sample for confirmation of the sex of the animal or animals. This would create an undue hardship on the resource user due to the loss of the animal and to the Wildlife Troopers for the added expense of storing the animal or animals and paying for the DNA test to be conducted.

PROPOSAL 52 - 5 AAC 92.220(i) Clarify the requirements regarding retrieval and salvage of wounded game.

The Alaska Wildlife Troopers submitted and support this proposal and is similar to one submitted by the Alaska Wildlife Troopers during the Board of Game meetings in 2015. A person who has wounded game shall make every lawful effort to retrieve and salvage that game, except methods and means for taking game prohibited by statute or by regulations in 5AAC 92.080-5AAC 92.100. This proposal was not passed by the board; however, The Alaska Wildlife Troopers feel this is an important issue and one which needs to be addressed.

This proposal will eliminate (i) thereby defaulting to any lawful means to retrieve and salvage game. The Alaska Wildlife Troopers do not support changing the regulation to lawful and reasonable as this may cause confusion with the public and does not eliminate our concerns.

An individual would still be allowed to search for an animal from the air; however, if the animal was still alive they would not be able to shoot the animal until after 3:00 a.m. the next morning. An enforcement concern for the Alaska Wildlife Troopers is without a change in the regulations an individual could find it “reasonable” to use a helicopter to retrieve a wounded Dall sheep or Mt. Goat. This is currently unlawful under 5AAC 92.080(3); however, does this meet the reasonable standard?

The proposal would still allow an individual to use artificial light to track and dispatch a wounded game animal, without the use of a motorized vehicle.

PROPOSAL 56 - 5 AAC 92.220(e) Prohibit the transport of hide and skull of black or brown bear from the field until edible meat has been salvaged.

The Alaska Wildlife Troopers submitted and support this proposal. The Alaska Wildlife Troopers feel a black or brown bear is a trophy animal and therefore should hold the same value as other trophy animals and their salvage requirements. With the recent introduction of taking brown bear over bait as well as the salvage requirement of all edible meat the lack of inclusion of the salvage requirement of the meat before the trophy was an unforeseen consequence. A recent case regarding an individual harvesting a brown bear over bait and failing to salvage from the field all edible meat before it spoiled brought this issue to the forefront. The Alaska Wildlife Troopers ask the board to adopt this proposal for continuity of all trophy animals where the salvage of edible meat is required.

PROPOSAL 59 - 5 AAC 92.044 Clarify and restrict the use of liquids at bear bait stations.

The Alaska Wildlife Troopers do not support this proposal; however, they do appreciate the direction the Fairbanks Advisory committee is headed toward removing of bait from a registered bear bait site. The concerns the Alaska Wildlife Troopers have with the proposal are (i) states an individual may pour the oil over or mix with absorbent bait. Does this mean five gallons of liquid bait may be poured over a pound of absorbent bait? If the combination is poured into a five gallon bucket but is not fully absorbed the individual would still be required to remove the “bait” from the soil. A further concern for the Alaska Wildlife Troopers is the terminology of readily flows. The regulations do not define what “readily flows” means and is therefore open to interpretation and unenforceable.

PROPOSAL 60 - 5 AAC 92.044 Allow the use of Northern Pike designated as invasive species as bait.

The Alaska Wildlife Troopers do not support this proposal. The inclusion of the use of all parts of a Northern Pike taken from areas where they are designated as an “invasive species” would be extremely difficult to enforce. If the proposal passes an individual could use Northern Pike taken from anywhere in the state and the Wildlife Troopers would be unable to track where the Northern Pike originally were retained. An individual would be able to catch and retain Northern Pike in areas they are not considered an “invasive species” and use them for bait. There are currently three main areas in the state where Northern Pike are designated as invasive based on the ADFG Invasive Pike Management plan, Southeast, Kodiak, and South Central. This proposal would create enforcement concerns statewide.

PROPOSAL 63 - 5 AAC 92.044 Amend bear baiting regulations to require specific locations to be given at the time of registration and to update the nomenclature of the signs required.

The Alaska Wildlife Troopers support this proposal. The Alaska Wildlife Troopers are tasked with the responsibility of enforcing 5AAC 92.044(b) (10), a permittee must remove bait, litter, and equipment from the bait station site when hunting is completed. In units 1-5 the requirement of a GPS coordinate before the establishment of a bear baiting station makes it easier to conduct compliance checks. Without the requirement of a specific location or a GPS coordinate it is almost impossible to conduct compliance checks.

Currently in areas without a specific location or a GPS coordinate the Alaska Wildlife Troopers must utilize aircraft and multiple hours of overtime to look for bear bait stations after the season when the foliage is absent. The majority of bear bait stations located are only found because the individual failed to remove all of the required items listed on the permit. With the dwindling operating budget of the Alaska Wildlife Troopers the requirement of a specific location or preferably a GPS coordinate would expand the patrol efficiencies on compliance checks and would strengthen the burden of the resource user to comply with the regulation and permit requirements.

The Alaska Wildlife Troopers feel the definition of a specified location under 12AAC 75.990(2) should not be used as this is not specific enough to describe a bait station location and would further hinder compliance checks. The Alaska Wildlife Troopers requests GPS coordinates be required if the board intends to adopt this requirement.

PROPOSAL 68 - 5 AAC 92.080(7) Prohibit the use of forward looking infrared (FLIR) devices.

The Alaska Wildlife Troopers submitted and support this proposal. The use of Forward Looking Infrared (FLIR) devices is becoming more popular and prevalent as they become cheaper and more devices become available. The same must be said for electronically enhanced night vision devices. We ask the board to consider if they want these devices to be used to take game.

Currently an individual can lawfully use a set of electronically enhanced night vision goggles with iron sights or even a regular scope to take an animal as goggles do not fit the definition of a scope as listed in the regulation. The Alaska Wildlife Troopers believe this was not the intent of the original regulation and respectfully ask the board to eliminate this loophole. The use of a FLIR scope or device gives an individual an unfair advantage when hunting and allows an individual to locate and take an animal in the total darkness by the animal's body heat signature.

If the board decides that a FLIR device should not be used to take game the Alaska Wildlife Troopers ask the board to apply this restriction to all game and furbearers to eliminate any enforcement difficulties. Under 5AAC 92.085(C) artificial light may be for the purpose of taking furbearers under a trapping license during an open season November 1- March 31 in Units 7 and 9-26. These restrictions were included to eliminate an individual from using artificial light to locate and take deer. The use of artificial light is easier to enforce as the individual is visible when using artificial light as opposed to an individual using a FLIR or NVG device.

PROPOSAL 71 - 5 AAC 92.085(8) Clarify same day airborne prohibitions.

The Alaska Wildlife Troopers submitted and support this proposal. This proposal would hold all participants liable for the taking of a big game animal with the use of an aircraft during the same day they are airborne. Currently if an individual takes a big game animal on the same day they receive information as to the location or direction of that animal from someone who was airborne is not held liable under the regulation. The individual who was airborne and assisted in the take of the big game animal by providing the information would be held liable and charged under the unlawful methods and means of same day airborne.

The Alaska Wildlife Troopers have heard comments from the public regarding this issue and many believed this was already unlawful and were unaware only the individual who was airborne could be charged under this regulation. The Alaska Wildlife Troopers ask the board to pass this proposal to correct a possible oversight and to clarify a regulation which members of the public believe is already in place.

PROPOSAL 79 - 5 AAC 92.095(a) Require traps to be checked every 24 hours.

The Alaska Wildlife Troopers do not support this proposal to mandate a 24 hour trap check. This proposal would create an undue burden and cost on the Wildlife Troopers to monitor each local trap line for compliance. The Alaska Wildlife Troopers are also concerned about the requirement to document severe weather and its definition. What is considered severe weather for one individual may not be severe to another, depending on equipment, experience, or

knowledge. Many patrols are conducted on trap lines where the individual trapper is never contacted. The Alaska Wildlife Troopers would not be able to ascertain how long it had been between trap checks.

PROPOSAL 81 - 5 AAC 92.095 Define the term underwater for the purposes of allowing furbearers to be harvested with underwater traps or snares.

The Alaska Wildlife Troopers support this proposal in concept with some suggestions and clarifications. The Alaska Wildlife Troopers respectfully ask the board to consider the definition of “underwater traps and snares” means the trap or snare must be set below the waterline. This definition would eliminate the possible confusion which may arise with what is a portion of a trap or snare. Is it the chain, locking cable, swivel, or part of the jaws of the trap? Stating the trap or snare must be set or staked below the waterline is clear and concise and should eliminate any confusion between resource users. Some definitions of water sets in other states are ½ of the trap or snare is located underwater at all times.

PROPOSAL 83 - 5 AAC 92.010 Eliminate the use of harvest tickets in any hunt requiring a metal locking tag.

The Alaska Wildlife Troopers do not support this proposal. Under A.S. 16.05.340(15) a non-resident may use an issued but unused locking tag for an animal of any other species of an equal or lesser value. The enforcement concern the Alaska Wildlife Troopers have with the suggested proposal is with the ability to tag down an animal. The Alaska Wildlife Troopers would never know what animal an individual was hunting for when contacted in the field. A corresponding locking tag with a harvest ticket of the same species designates immediately what the resource user is targeting when contacted in the field.

A non-resident could purchase a moose locking tag for \$400.00 and be able to use the tag on a goat, caribou, or black bear. This would complicate issues when inspecting a guided hunter in the field as the top portion of the hunt record Rev 10/2012 must list all harvest tickets, big game tag numbers, and hunting license number. The form is required to be produced and shown upon request; however, with the elimination of a harvest ticket it would not be known what the client was actually being guided for as the hunt contract listing the specific species to be taken is not required to be shown or carried in the field.

This proposal would make it extremely difficult to enforce 5AAC 92.050(a) (8) as the removal of the harvest ticket requirement for non-residents would make this regulation only applicable to residents.

PROPOSAL 84 - 5 AAC 92.012(b) Clarify the inspection requirements for licenses, harvest tickets, and permits.

The Alaska Wildlife Troopers do not support this proposal and feel this is a solution to a non-existent problem.

Hunting and fishing in Alaska are highly regulated activities. Many statutes and regulations govern the take of resources. Regulations are made through the board process within the respective hunting or fishing regimes. The Alaska Wildlife Troopers are mandated to enforce the regulations enacted by the boards and do so with a finite amount of resources and dwindling personnel and budgets.

The Alaska Wildlife Troopers currently do not have any problems enforcing 5 AAC 92.012(b) as written. If the board chooses to amend this regulation and adopt the language that the proposer suggests, we will have significant problems with enforcement of the regulations that the board creates. The current regulation does not allow for the inspection or searching of boats, vehicles, ATV's, aircraft, or other personal property beyond "apparatus designed to be, and capable of being used to take game." The Alaska courts would interpret the regulation to extend to furbearers as well as game so as to give the regulation a meaning in accord with common sense. Amending the regulation as proposed would result in Wildlife Troopers no longer being able to, among other things: inspect bows to ensure they are not designed to shoot more than one arrow at a time, inspect muzzleloaders used in big game hunting to ensure they are of .45 caliber or larger, inspect bows and crossbows used in big game hunting to ensure they are of sufficient draw weight, and inspect broadheads used in big game hunting to ensure they are of sufficient weight and size.

The proposer suggests that hunters and fisherman should be treated the same with inspection. AWT agrees with this statement and are of the view that if it is necessary to amend the regulation, the words "the act" should be deleted. The fishing regulation does not include those words. Hunting is not a single act. The proposer suggests "the act" of hunting which lends itself to further questions: after an animal is shot is an individual no longer in "the act" of hunting? If an individual is putting on gear and loading their ATV with equipment at a trailhead are they in "the act" of hunting? If an individual is sitting at camp utilizing a spotting scope are they not in "the act" of hunting. It is more than killing, the pulling of a firearm trigger, or release of a bow string. Trapping similarly is not a single act.

Hunting is defined in AS 16.05.940(21) as the taking of game. Trapping is defined in AS 16.05.940(36) as the taking of mammals declared by regulation to be furbearers. Take is defined in AS 16.05.940(34) as taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing, or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game.

Current regulations, as written, allow enforcement officers to ensure hunters and trappers are following all applicable regulations. If adopted, there would be no way to verify compliance with bag and size limits and if legal equipment was used to take game.

The proposer suggests "the act" of hunting which lends itself to further questions: after an animal is shot is an individual no longer in "the act" of hunting? If an individual is putting on gear and loading their ATV with equipment at a trailhead are they in "the act" of hunting? If an individual is sitting at camp utilizing a spotting scope are they not in "the act" of hunting.

There have been several court cases throughout the United States concurring with the aforementioned information.

“Hunting and fishing are highly regulated activities that result in diminished expectation of privacy. Without exception each state court that has confronted this issue has rejected Fourth Amendment challenges to the authority of wildlife officers to briefly detain persons for the purpose of conducting compliance checks.

(Pickle vs state)(People vs Maikhio)(State vs McHugh)(State vs Colosimo)

“All-terrain vehicle (ATV) riders had a limited expectation of privacy, and thus statute authorizing wardens to stop and examine any ATV without a reasonable, articulable suspicion, in order to ascertain whether it was being operated in compliance with the law, did not violate Fourth Amendment; ATV’s were designed primarily for off-road recreation, and the State had a legitimate and substantial interest in its natural resources and the safety of all involved. *(State of Maine vs McKeen)*

The United States Supreme Court has long recognized that there are circumstances in which the Fourth Amendment protections may be limited *(City of Indianapolis v Edmond)* Often, these circumstances involve stops by wardens and others who are charged with promoting safety and protecting natural resources *(Delaware v Prouse)*(clarifying that the restrictions on motor vehicle stops as set out in *Prouse* do not cast any “constitutional shadow upon the necessarily somewhat individualized and perhaps largely random examination by game wardens in the performance of their duties”).

“The roving conservation officer patrol stopping hunters, encountered in the field ... does not violate the fourth amendment” because hunters are deemed to have consented to some intrusions when they get a hunting license or hunt without one” *(State v Boyer)*

(holding that a game warden may request production of a valid hunting or fishing license when the circumstances reasonably indicate that an individual has been engaged in those activities)

The California supreme court in *(People v Maikhio)* stated: The Fourth Amendment does not preclude a state from authorizing a fish and game warden to briefly stop a person the warden encounters on a pier, in a boat, or in the field, who the warden reasonably believes has recently been fishing or hunting, to demand that the person display all fish or game that he or she has caught or taken, even in the absence of reasonable suspicion that the person has violated a fish and game statute or regulation.

The California Supreme Court Justice Cantil-Sakauye in *People v Maikhio* stated “To protect and preserve the wildlife of the state for current and future generations, California- like other states- has adopted numerous statutes and regulations governing the conduct of persons who fish and hunt in this state, prescribing, for example, the places where fishing or hunting may occur, the seasons in which particular species may be taken, the number and size of different types of fish or animals that may be caught or shot, the means by which particular types of wildlife may be taken, and the licenses, permits, and records required for different hunting and fishing activities. To make possible the effective enforcement of these regulations, California law has long required anyone who chooses to fish or hunt in this state to exhibit or display, upon demand of any official authorized by California law to enforce fish and game statutes and regulations (1) any required fishing or hunting license, (2) all fish or game the angler or hunter has caught or taken, and (3) any equipment capable of being used to take such fish or game.”

In the cases cited above, courts have articulated the need to preserve natural resources so that generations to come can enjoy these resources.

PROPOSAL 105 - 5 AAC 92.070(a) Modify the qualification under the Tier II subsistence hunting permit point system.

The Alaska Wildlife Troopers do not support this proposal. The proposal attempts to redefine the qualifications for a tier II hunt with a requirement that is unquantifiable. The Alaska Wildlife Troopers are tasked with enforcing 5AAC 92.062(d) a person may not submit false or inaccurate information in support of a Tier II application on behalf of himself or herself or another person. The proposal would force resource users to document all of the days they spent participating in a noncommercial harvest to show proof of 180 days. The proposal would be almost impossible to enforce due to the lack of documented evidence as whether an individual spent the minimum 180 days and consecutive years.