

ACR 5 – Clarify that big game tags be paid for and issued prior to hunters taking big game that require tags.

SUBMITTED BY: Alaska Wildlife Troopers

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 92.012. Licenses and tags, and 5 AAC 92.990. Definitions.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM. Make it clear to all users that big game tags must be paid for and issued to them prior to taking big game animals that require tags.

5 AAC 92.012 (new subsection)

In any hunt where a nontransferable locking tag is required under AS 16.05.340 the appropriate tag must be previously purchased, and the big game tag record must be completed. The completed big game tag record must be in the hunter's actual possession in the field.

5 AAC 92.990 (new subsection)

“Previously Purchased” means fully paid and in possession of the hunter before taking an animal. “Take” has the meaning found in AS 16.05.940(35).

WHAT SOLUTION DO YOU PREFER? Make it clear to all users that big game tags must be paid for and issued to them prior to taking big game animals that require tags.

STATE IN DETAIL HOW THIS ACR MEETS THE FOLLOWING CRITERIA:

- 1) **To correct an error in regulation.**
- 2) **To correct an effect of a regulation that was unforeseen when a regulation was adopted.** On October 4, 2019, a conviction in a criminal case was reversed by the State of Alaska Court of Appeals. (Kinmon v. State of Alaska) In the case a nonresident hunter had failed to previously purchase a big game locking tag prior to taking a big game animal. AS 16.05.340 (15 & 20) both state a nonresident/nonresident alien “may not take a big game animal without previously purchasing a numbered, nontransferable, appropriate tag ...”. The Court of Appeals ruled that the term “previously purchasing” used in AS 16.05.340 is ambiguous and reversed the conviction. Alaska Statute 16.05.340 does not use this wording for resident locking tags, and the requirement to possess a tag is set out in regulation (5AAC 92.012(c)), solely for residents.

5AAC 92.012(c) states residents need to possess a locking tag that is issued to them but does not put this same requirement on nonresident or nonresident aliens. By adding this new subsection to 5AAC 92.012 it will make it clear to all hunters, no matter what their residence status is, that a big game tag must be purchased prior to taking a big game animal in which a tag is required for. Additionally, by creating a definition of “previously purchased” it will leave no ambiguity in what that term is intended to mean.

- 3) Does the request identify a biological concern for the population or a threat to meeting objectives for the population?
- 4) Does the request identify an unforeseen, unexpected event or effect that would otherwise restrict or reduce a reasonable opportunity for customary and traditional wildlife uses, as defined in AS 16.05.258(f)?
- 5) Does the request identify an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome because the resource would be unavailable in the future?

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE? Nonresidents and nonresident aliens who are not “previously purchasing” big game tags prior to taking big game animals cannot be held accountable to the intent of the statutes and regulations. Residents will continue to be held accountable for the same violation. This can lead to a model of hunting where a hunter takes a game animal and then purchases the appropriate tag after the take when a vendor is accompanying them in the field.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE. This is a regulation concerning the locking tag requirements of nonresident and nonresident alien hunters involved in the taking of big game animals.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

STATE YOUR INVOLVEMENT IN THE ISSUE THAT IS THE SUBJECT OF THIS ACR.
Enforcement

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF GAME MEETING. Not that the Alaska Wildlife Troopers are aware of.