

*Note: Conducting management activities and exercising administrative authority are legislatively authorized powers of the Department of Fish and Game and are not regulations subject to the Administrative Procedure Act.*

**PROPOSAL 148**

**5 AAC 5AAC 92.110(e). Control of predation by wolves.**

Clarify the commissioner’s ability to implement an intensive management plan following its adoption by the Board of Game as follows:

Modify and amend 5AAC 92,110(e) to provide as follows: (e) After the board has adopted a predation control implementation plan, the commissioner may, at any time during the period for which the plan is in effect, determine whether to implement the plan: but only (i) if the commissioner finds that the conditions specified in AS 16.05.255(e) apply at that time; and (ii) in the event the commissioner determines to authorize the use of aircraft and/or the taking of wolves from aircraft the same day airborne, the commissioner also finds that the conditions specified in AS 16.05.783(a) apply at that time. Before proceeding with implementation, prior public notice of the commissioner’s determination and findings must be given, and the public given the opportunity to comment as provided in the Administrative Procedures Act.

**What is the issue you would like the board to address and why?** In Unit 15C, and in other units, the Board of Game has avoided the mandatory provisions of Alaska Statutes 16.05.255(e) and AS 16.05.783(a) when approving intensive management plans, apparently relying on representations by the Department of Fish and Game that the intensive management (IM) plan will be inactive until the commissioner implements the IM plan. 5AAC 92.118(c) which was adopted by the Board of Game at its March 2023 meeting, and which provides for intensive management of moose and control of wolves, including aerial and same day airborne taking of wolves, is a good example of a plan where the board appears to have relied on the department’s representations that the IM plan would be inactive. The problem is that by approving IM plans intended to be inactive until the Commissioner makes the determination to implement the plan, the Board of Game has been delegating its nondelegable obligations set forth in these two statutes to the commissioner: who can then commence active predator control, including the use of aerial and same-day airborne taking of wolves, in the commissioner’s sole discretion, without going through any public process and without providing prior notice to the public, and the opportunity for public comment as provided in the Administrative Procedures Act.

If nothing is done, the violation of the mandatory provisions contained in these two statutes will continue throughout the state. No other solution to this problem is possible; that is with the exception of litigation, which is ongoing at this time, namely April 30,2024. Adoption of this proposal might make most of the substantive issues of that litigation moot.

**Did you develop your proposal in coordination with others, or with your local fish and game advisory committee?** The Anchorage Advisory Committee doesn’t meet again until October, and ordinarily doesn’t make proposals. The undersign is a member of the Anchorage Advisory Committee and is on the Game Subcommittee; and believes that a majority of the Anchorage AC will support this proposal, although there will be dissent and perhaps modifications.

**PROPOSED BY:** Kneeland Taylor

(EG-F24-064)

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