

**STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE**

The New Mexico State Game Commission ("Commission") has scheduled a regular meeting and rule hearing for Friday, November 30, 2018, beginning at 8:00 a.m. at the Roswell Convention and Civic Center, 912 N. Main St, Roswell, NM 88201, to hear and consider action as appropriate on the following: Presentation of proposed changes to the Hunting and Fishing Manner and Method rule.

**Synopsis:**

The proposal is to adopt a new Hunting and Fishing Manner and Method rule, 19.31.10 NMAC, which will become effective April 1, 2019.

The proposed new rule has all the regulations pertaining to the manner and method of take for protected species. The rule will contain the pertinent definitions for the legal take while hunting or fishing. The rule will address how a person can legally possess or sell a protected species as well as the use of motorized vehicles and aircraft while hunting. The rule also lists all the manner and method penalty assessment misdemeanors that are allowed to be cited. A more detailed summary, and the full text of changes, is available on the Department's website at: [www.wildlife.state.nm.us](http://www.wildlife.state.nm.us).

Interested persons may submit comments on the proposed changes to the Hunting and Fishing Manner and Method rule at [DGF-FieldOpsComments@state.nm.us](mailto:DGF-FieldOpsComments@state.nm.us); or individuals may submit written comments to the physical address below. Comments are due by 5:00 p.m. on November 29, 2018. The final proposed rule will be voted on by the Commission during a public meeting on November 30, 2018. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearing to be held on November 30, 2018.

Full copies of text of the proposed new rule, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico 87507, or from the Department's website at [www.wildlife.state.nm.us/commission/proposals-under-consideration/](http://www.wildlife.state.nm.us/commission/proposals-under-consideration/). This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at [www.wildlife.state.nm.us](http://www.wildlife.state.nm.us) for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of the State Game Commission 17-1-14, et seq. NMSA 1978; Commission's Power to establish rules and regulations 17-1-26, et seq. NMSA 1978.



## Clean Copy-Initial Proposed Rule

**TITLE 19**      **NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 31**   **HUNTING AND FISHING**  
**PART 10**       **HUNTING AND FISHING - MANNER AND METHOD OF TAKING**

**19.31.10.1**      **ISSUING AGENCY:** New Mexico department of game and fish.  
[19.31.10.1 NMAC - Rp, 19.31.10.1 NMAC, 4-1-2019]

**19.31.10.2**      **SCOPE:** Hunters, anglers, trappers and the general public. Additional requirements may be found in Chapter 17 NMSA 1978 and Title 19 NMAC.  
[19.31.10.2 NMAC - Rp, 19.31.10.2 NMAC, 4-1-2019]

**19.31.10.3**      **STATUTORY AUTHORITY:** Sections 17-1-14, 17-1-26, 17-2-1, 17-2-2, 17-2-2.1, 17-2-4.2, 17-2-6, 17-2-10.1, 17-2-13, 17-2-14, 17-2-20, 17-2-32, 17-2-43, 17-3-2, 17-3-29, 17-2A-3, 17-3-32, 17-3-33, 17-3-42, 17-4-33, 17-5-4 and 17-6-3 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species.  
[19.31.10.3 NMAC - Rp, 19.31.10.3 NMAC, 4-1-2019]

**19.31.10.4**      **DURATION:** Permanent.  
[19.31.10.4 NMAC - Rp, 19.31.10.4 NMAC, 4-1-2019]

**19.31.10.5**      **EFFECTIVE DATE:** April 1, 2019, unless a later date is cited at the end of a section.  
[19.31.10.5 NMAC - Rp, 19.31.10.5 NMAC, 4-1-2019]

**19.31.10.6**      **OBJECTIVE:** To establish general rules, restrictions, requirements, definitions, and regulations governing lawful hunting, fishing, or trapping and the lawful taking or killing of game animals, furbearers, game birds, and game fish, water pollution, possession of wildlife, permits and licenses issued, importation, intrastate transportation, release of wildlife, manner and methods of hunting and fishing and use of department lands.  
[19.31.10.6 NMAC - Rp, 19.31.10.6 NMAC, 4-1-2019]

**19.31.10.7**      **DEFINITIONS:**

- A.      **"Angling"** shall mean taking or attempting to take fish by angling hook and line, with the line held in the hand or attached to a pole or rod or other device that is held in the hand or closely attended.
- B.      **"Angling hook"** shall mean a single, double, or treble (triple) point attached to a single shank.
- C.      **"Any sporting arm"** shall mean any firearm, muzzle-loader, compressed air gun, shotgun, bow or crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.
- D.      **"Arrow" or "Bolt"** shall mean only those arrows or bolts having broadheads with cutting edges except that "judo", "blunt" or similar small game points may be used for upland game and migratory game bird hunting and arrows for bow fishing must have barbs to prevent the loss of fish.
- E.      **"Bag limit"** shall mean the protected species, qualified by species, number, sex, age, antler/horn requirement, or size allowed by state game commission rule that a legally licensed person may attempt to take or take.
- F.      **"Bait"** shall mean any salt, mineral, grain, feed, commercially produced game attractant or any other organic material which is attractive to wildlife.
- G.      **"Baiting"** shall mean the placing, exposing, depositing, distributing, or scattering of any bait on or over areas where any person is attempting to take protected game mammals or game birds as defined in 17-2-3 NMSA 1978.
- H.      **"Bait fish"** is defined as those nongame fish which are not otherwise protected by statute or regulation.
- I.      **"Barbless lure or fly"** shall mean an artificial lure made of wood, metal, or plastic or an artificial fly made from fur, feathers, other animal or man-made materials to resemble or simulate insects, bait fish, or other foods. A barbless fly or lure may only bear a single hook, from which any or all barbs must be removed or bent completely closed, or which are manufactured without barbs. Living or dead arthropods and annelids or other foods are not considered barbless lures or flies.
- J.      **"Big game species"** shall mean Barbary sheep, bear, bighorn sheep, cougar, deer, elk, javelina, oryx Persian ibex, and pronghorn.



**K.** “**Big game sporting arms**” shall mean any centerfire firearm at least .22 caliber or larger, any muzzle-loading firearm at least .45 caliber or larger, any shotgun .410 caliber or larger firing a single slug (including muzzle-loading shotguns), any bow or any crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.

**L.** “**Bow**” shall mean compound, recurve, or long bow, which is not equipped with a mechanical device (draw lock) which locks the bow string at full draw. Sights on bows shall not project light, however, illuminated pins/reticles and scopes of any magnification are allowed.

**M.** “**Bow fishing**” shall mean taking or attempting to take game fish with arrows/bolts that are discharged above the surface of the water by a bow or crossbow. Arrows/bolts must be attached by string, line, or rope to facilitate fish retrieval.

**N.** “**Bullet**” shall mean a single projectile fired from a firearm which is designed to expand or fragment upon impact. Tracer or full metal jacket ammunition is not legal for the take or attempted take of any big game species.

**O.** “**Cellular**”, “**Wi-Fi**” or “**satellite camera**” shall mean any remote camera which transmits or is capable of transmitting images or video wirelessly via a cellular, Wi-Fi or satellite connection.

**P.** “**Chumming**” is defined as a means of attracting fish by placing organic materials, non-injurious to aquatic life, into the water.

**Q.** “**Compressed air gun**” shall mean any kind of gun that launches a single non-spherical projectile, pneumatically with compressed air or other gases that are pressurized mechanically without involving any chemical reaction.

**R.** “**Crossbow**” shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light, however, illuminated pins/reticles and scopes of any magnification are allowed.

**S.** “**Department**” shall mean the New Mexico department of game and fish.

**T.** “**Director**” shall mean the director of the New Mexico department of game and fish.

**U.** “**Drone**” is defined as any device used or designed for navigation or flight in the air that is unmanned and guided remotely or by an onboard computer or onboard control system. Drones may also be referred to as “unmanned aerial vehicle (UAV)” or “unmanned aerial vehicle systems (UAVS)”.

**V.** “**Established road**” is defined as follows:

(1) a road, built or maintained by equipment, which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures; or

(2) a two-track road which shows use prior to hunting seasons for other purposes such as recreation, mining, logging, and ranching and which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures.

**W.** “**Game management unit**” or “**GMU**” shall mean those areas as described in 19.30.4 NMAC, Boundary Descriptions for Game Management Units.

**X.** “**License year**” shall mean the period from April 1 through March 31.

**Y.** “**Locate**” shall mean any act or activity, in which any person is searching for, spotting or otherwise finding a protected species from or with the aid of any aircraft or drone.

**Z.** “**Migratory game bird**” shall mean band-tailed pigeon, mourning dove, white-winged dove, sandhill crane, American coot, common moorhen, common snipe, ducks, geese, sora and Virginia rail.

**AA.** “**Muzzle-loader**” or “**muzzle-loading firearms**” shall mean those sporting arms in which the charge and projectile(s) are loaded through the muzzle. Only blackpowder or equivalent blackpowder substitute may be used. Use of smokeless powder is prohibited.

**BB.** “**Nets**” shall mean cast nets, dip nets, and seines which shall not be longer than 20 feet and shall not have a mesh larger than three-eighths of an inch.

**CC.** “**Non-toxic shot**” shall mean that non-toxic shot approved for use by the U. S. fish and wildlife service.

**DD.** “**Protected species**” shall mean any of the following animals:

(1) all animals defined as protected wildlife species and game fish under Section 17-2-3 NMSA 1978;

(2) all animals defined as furbearing animals under Section 17-5-2 NMSA 1978;

(3) all animals listed as endangered or threatened species or subspecies as stated in 19.33.6

NMAC: and

(4) all animals listed under Sections 17-2-13, 17-2-14 or 17-2-4.2 NMSA 1978.

- EE. "Retention" or "retain" shall mean the holding of live protected species in captivity.
- FF. "Restricted muzzle-loading rifle" shall mean any muzzle-loading rifle using open sights, black powder or equivalent propellant and firing a full bore diameter bullet or patched round ball. The use of in-line ignition, scopes and smokeless powder are prohibited.
- GG. "Shotgun" shall mean any centerfire shotgun or muzzle-loading shotgun not larger than 10 gauge.
- HH. "Snagging" is the repeated or exaggerated jerking or pulling of the fishing line or angling hooks in any attempt to impale fish, whether or not it results in physically snagging a fish.
- II. "Spear fishing" shall mean taking or attempting to take game fish with spears, gigs and arrows with barbs.
- JJ. "Sporting arm types" shall be designated in the hunt code as follows unless further restricted or allowed by state game commission rule:
- (1) all hunt codes denoted with -0- shall authorize use of any shotgun firing shot (ex. SCR-0-XXX );
  - (2) all hunt codes denoted with -1- shall authorize use of any big game sporting arm (ex. ELK-1-XXX);
  - (3) all hunt codes denoted with -2- shall authorize use of bows only (ex. ELK-2-XXX);
  - (4) all hunt codes denoted with -3- shall authorize use of bows, crossbows and muzzle-loading firearms (ex. ELK-3-XXX).
- KK. "Take" shall mean to hunt, fish, kill or capture any protected species or parts thereof.
- LL. "Trotline" shall be synonymous with "set line" or "throw line" or "jug", "Yo-Yo line" or "limb line", and shall mean a fishing line that is used without rod or reel and that need not be held in the hand or closely attended.
- MM. "Upland game" shall mean dusky grouse, Eurasian collared-dove, all protected squirrel species, all quail species, chukar and pheasant.
- NN. "Wildlife management area" or "WMA" shall mean those areas as described in 19.34.5 NMAC.
- OO. "Written permission" shall mean a document (which may include a valid hunting, trapping or fishing license) that asserts the holder has permission from the private land owner or their designee to hunt, fish, trap or drive off road on the landowner's property. The information on the document must be verifiable and include the name of the person(s) receiving permission, activity permitted, property's location and name (if applicable), name of person granting permission, date and length of time the permission is granted, and phone number or e-mail of the person granting the permission. Licenses issued for private land which have the ranch name printed on them constitute written permission for that property and no other permission is required except for private land elk licenses in the secondary management zone pursuant to 19.30.5 and 19.31.14 NMAC.
- PP. "Zone" shall mean those bear or cougar hunt areas, consisting of one or more GMUs, as described in 19.31.11 NMAC.
- [19.31.10.7 NMAC - Rp, 19.31.10.7 NMAC, 4-1-2019]

**19.31.10.8 UNLAWFUL SUBSTANCE IN PUBLIC WATERS:** It is unlawful for any person, firm, corporation or municipality to introduce, directly or indirectly, into any public water of this state any substance that may stupefy, injure, destroy or drive away from such water any protected species or may be detrimental to the growth and reproduction of those protected species except as exempted in Section 17-2-20 NMSA 1978.  
[19.31.10.8 NMAC - Rp, 19.31.10.8 NMAC, 4-1-2019]

**19.31.10.9 POSSESSION OR SALE OF PROTECTED SPECIES:** It is unlawful to possess, sell or offer for sale all or part of any protected species except as provided below:

A. **License or permit:** A person may possess protected species or parts thereof that they have lawfully taken under a license or permit, in any jurisdiction, or for which they possess a valid possession certificate, permit or invoice from the department or department permitted facility.

B. **Game taken by another "Possession certificate":** It is unlawful for any person to possess any protected species, or parts thereof, taken by another person except as follows: Any person may have in their possession or under their control any protected species or parts thereof that have been lawfully taken by another person, if they possess a possession certificate which shall be provided by the lawful possessor of the protected species, or parts thereof, to the person receiving the animal or parts and which shall contain the following:

- (1) the first and last name of the person receiving the protected species or parts;

(2) the kind and number of game or furbearer parts donated or provided to a taxidermist, meat processor or any other similar business;

(3) the date and GMU where the game or furbearer was lawfully taken;

(4) the lawful possessor's name, phone number, address, and the hunting, fishing or trapping license number, or the permit, certificate or invoice number under which the protected species was lawfully taken;

(5) the date and place of the donation or transaction;

(6) the reason the lawful possessor transferred the animal or parts to the receiver (ie. donation, transportation, taxidermy, meat processing etc). Any possession certificate which only authorizes temporary possession (ie. taxidermist or meat processor) shall have a date of estimated return to the original lawful possessor; and

(7) the signature of both the person receiving and the person transferring the animal or parts.

**C. Retention of live animals:** It is unlawful to retain protected species in a live condition except under permit or license issued by the director. It is unlawful to sell, attempt to sell or possess live protected species in New Mexico, including captive raised animals, except as allowed by permit issued by the director or while in transit through New Mexico when the transporter can demonstrate proof of legal possession of the protected animal being transported.

**D. Sale of protected species parts:** Only skins, heads, antlers, horns, rendered fat, teeth or claws of legally taken or possessed protected species, all parts of furbearers, and feathers from non-migratory game birds may be bartered or sold (internal organs of big game species may not be sold). The disposer must supply to the recipient a written statement which shall contain the following:

(1) the first and last name of the person receiving the protected species or parts;

(2) description of the parts involved;

(3) the date and GMU where the game was taken;

(4) the disposer's name, phone number, address, and the number of either the hunting license, permit, certificate or invoice under which the game was taken;

(5) the date and place of the transaction or sale; and

(6) the signature of both the person selling and the person purchasing the parts.

**E. Possession of game animal parts found in the field:** It is unlawful to possess heads, horns, antlers, or other parts of protected species found in the field without an invoice or permit from the department, with the exception of obviously shed antlers. All shed antlers collected in violation of any state or federal land closure, in violation of criminal trespass, in violation of the habitat protection act, while driving off road on public land or on a closed road on public land remain property of the State of New Mexico and shall be seized.  
[19.31.10.9 NMAC - Rp, 19.31.10.9 NMAC, 4-1-2019]

#### **19.31.10.10 PERMITS AND LICENSES ISSUED:**

**A. Proof of license:** Each licensee or permittee must have a copy of their hunting, fishing or trapping license or their department issued collection permit in their possession while hunting, fishing, trapping or collecting protected species in New Mexico. Licenses or permits may be in electronic or paper format. The authorization number for fishing or game hunting is also valid pursuant to Subsection C of Section 17-3-5 NMSA 1978. The license, authorization or permit must be produced upon request by any law enforcement officer authorized to enforce Chapter 17 NMSA 1978.

**B. Permits and licenses, other than hunting, fishing or trapping licenses, which authorize the holder to import, collect, handle, purchase, possess, barter, transfer, transport, sell or offer to sell species listed as group II, III or IV on the directors "species importation list" or any protected species may only be issued by the director or their designee as authorized by Chapter 17 NMSA 1978 and 19.35 NMAC.**

**C. Permit or license provisions:** Specific provisions for applications, conditions, reporting and other stipulations for permits or licenses will be provided by the department with each permit and license.

**D. Violation of permit or license provisions or importation/possession of un-permitted wildlife:**

(1) It is unlawful for any person receiving any permit or license pursuant to state game commission rule to violate any provision of state game commission rule or any provision listed on the permit or license.

(2) Any violation of Chapter 17 NMSA 1978, state game commission rule or any permit provision shall render that permit or license invalid. If such an invalidated permit or license authorized possession of any species listed as group II, III or IV on the directors "species importation list" or any protected species, the animals shall be subject to seizure by any officer authorized to enforce the provisions of Chapter 17 NMSA 1978.

(3) It is unlawful to import, collect, handle, purchase, possess, barter, transfer, transport, sell or offer to sell any live animal listed as group II, III or IV on the directors "species importation list" or any protected species without a department issued permit or license or contrary to the provisions of Chapter 17 NMSA 1978, state game commission rule or any department issued permit.

(4) Any animal possessed contrary to this section shall be subject to seizure by any officer authorized to enforce the provisions of Chapter 17 NMSA 1978. Any dangerous, venomous, invasive species or any diseased animals may be destroyed to protect human safety, native wildlife populations or livestock.

(5) Any person who has had an animal seized from them shall have no more than 30 days to arrange for the illegal animal to be transported out of New Mexico and pay for the care and transportation rendered. Failure to make these arrangements within 30 days will result in the animal being considered abandoned. Abandoned animals will be disposed of at the discretion of the department.

**E. Release of wildlife:** It is unlawful for any person or persons to release, intentionally or otherwise; or cause to be released in this state any mammal, bird, fish, reptile or amphibian, except domestic mammals, domestic fowl, or fish from government hatcheries, without first obtaining a permit from the department except department employees while performing their official duties or those individuals working on behalf of the department when directed by a department employee.

[19.31.10.11 NMAC - Rp, 19.31.10.11 NMAC, 4-1-2019]

#### **19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**

**A. Shooting from the road:** It is unlawful to shoot at, wound, take or attempt to take any protected species on, from, across or from within the right-of-way fences of any graded, paved or maintained public road. In the absence of a right-of-way fence it is unlawful to shoot at, wound, take or attempt to take any protected species from any part of the graded, paved or maintained surface of the public road. "Public road" as used herein shall mean any road, street or thoroughfare which is open to the public or which the public has a right of access and which has been paved, graded, maintained or any road, street or thoroughfare which has been paved, graded or maintained using public funds.

**B. Shooting at artificial wildlife from the road:** It is unlawful to shoot at artificial wildlife on, from, across or from within the right-of-way fences of any graded, paved or maintained-public road. In the absence of a right-of-way fence it is unlawful to shoot at any artificial wildlife from any part of the graded, paved or maintained surface of the public road. "Public road" as used herein shall mean any road, street or thoroughfare which is open to the public or which the public has a right of access and which has been paved, graded, maintained or any road, street or thoroughfare which has been paved, graded or maintained using public funds.

**C. Shooting from within or upon a vehicle, boat or aircraft:** It is unlawful to shoot at any protected species from within or upon a motor vehicle, motor-driven boat, sailboat or aircraft except as allowed by a department issued permit. A person may shoot from any motor-driven boat when, the motor has been completely shut off and its progress therefrom has ceased.

**D. Harassing protected species:** It is unlawful, at any time, to pursue, harass, harr, drive or rally any protected species by any means except as allowed while legally hunting, or as otherwise allowed by Chapter 17 NMSA or state game commission rule.

**E. Using aircraft to locate wildlife:**

(1) For the purpose of hunting it is unlawful for any individual to locate or assist in locating a protected species from or with the aid of an aircraft or drone, or to relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action, or to use information pertaining to the location of a protected species gained from the aid of an aircraft or drone during the period beginning on August 1 and ending on January 31 of each license year.

(2) This section shall not apply to regularly scheduled commercial airline flights, direct flights or to any individual acting within the scope of their official duties as an employee or authorized agent of the state of New Mexico or the United States federal government.

**F. Aircraft, drone and vehicle exemptions to this rule:** The Director may exempt a person from the prohibition of utilizing an aircraft, drone or vehicle for management purposes.

**G. Vehicle off of established road or driving on a closed road:**

(1) During the seasons established for any protected species, it is unlawful to drive or ride in a motor vehicle which is driven off an established road on public land or to drive or ride in a motor vehicle on a closed road on public land, when the vehicle bears a licensed hunter, angler or trapper.

(2) During the seasons established for any protected species, it is unlawful to drive or ride in a motor vehicle which is driven off an established road on private land without written permission, when the vehicle bears a licensed hunter, angler or trapper.

(3) It is unlawful to drive or ride in a motor vehicle which is being driven off an established road when gathering or searching for shed antlers on public land or to drive or ride in a motor vehicle on a closed road when gathering or searching for shed antlers on public land.

(4) Except snowmobiles and to retrieve lawfully taken game in an area not closed to vehicular traffic.

(5) Public land as used in this section shall mean any federally owned or managed property, any state owned or managed property, any private property which is part of a unitization hunting agreement, ranch wide agreement or unit wide agreement for the species being hunted, any private property which the department has paid for public access for the species being hunted or any New Mexico state game commission owned or managed property.

**H. Mobility Impaired (MI) hunters:**

(1) **Shooting from a vehicle:** The holder of a MI card is authorized to shoot at, take or attempt to take protected species during their respective open seasons, with the appropriate license, from a stationary motor-driven vehicle only if the vehicle has been parked completely off of the established road's surface and only when the established road has no right-of-way fence. The holder of a MI card may not shoot at, take or attempt to take any protected species from within the right-of-way fence on any established road.

(2) **Crossbow use:** The holder of a MI card may use a crossbow during any bow hunt.

(3) **Assistance for MI hunters:** The holder of a MI card may be accompanied by another person, who is designated in writing, to assist in taking or attempting to take any big game animal which has clearly been wounded by the licensed MI hunter. The person so designated must carry that written authorization from the MI hunter at all times while in the field in order to act as their assistant. A MI hunter may only designate one person at a time to assist them. Any person assisting a MI hunter must follow the sporting arm type designated for that hunt and all other laws and rules which apply to a licensed hunter.

[19.31.10.13 NMAC - Rp, 19.31.10.13 NMAC, 4-1-2019]

**19.31.10.12 BIG GAME AND TURKEY:**

**A. Legal hunting hours:** A person may only take or attempt to take any big game species or turkey during the period from one-half hour before sunrise to one-half hour after sunset. It is unlawful to take or attempt to take big game or turkey outside of legal hunting hours.

**B. Killing out of season:** It is unlawful to take or attempt to take any big game species or turkey outside of the established hunting season.

**C. Bag limit:** It is unlawful for any person to take any big game species or turkey other than the legal bag limit as specified on their big game or turkey license or as indicated by the hunt code, or for any bear hunter to take a sow with cub(s), or any cub less than one year old, or for any cougar hunter to take a spotted cougar kitten or any female accompanied by spotted kitten(s).

**D. Exceeding the bag limit on big game:**

(1) It is unlawful for any person to hunt for or take more than one animal of any big game species per year unless otherwise allowed by state game commission rule.

(2) It is unlawful for any person to hunt for or take more than two cougars per year unless otherwise allowed by state game commission rule.

**E. Exceeding the bag limit on turkey:** It is unlawful for any person to hunt for or take more than two bearded turkeys during the spring turkey season or more than one turkey during the fall turkey season unless otherwise specifically allowed by 19.31.16 NMAC.

**F. Proof of sex or bag limit:** It is unlawful for anyone to transport or possess the carcass of any big game species or turkey without proof of sex or bag limit (except donated parts when accompanied by a proper possession certificate). Proof of sex or bag limit shall be:

(1) Bear and cougar – External genitalia of any bear or cougar killed shall remain naturally attached to the pelt and be readily visible until the pelt has been inspected and pelt-tagged by a department official.

(2) Barbary sheep and oryx – The horns of any Barbary sheep or oryx taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(3) Deer – The antlers of any buck deer taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage. The scalp and

both ears of any antlerless deer or the naturally attached female genitalia shall accompany the carcass in the same manner.

(4) Elk – The antlers of any bull elk taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage. The scalp and both ears of any antlerless elk or the naturally attached female genitalia shall accompany the carcass in the same manner.

(5) Pronghorn - The horns, scalp and both ears of any pronghorn taken shall remain naturally attached to the skull or skull plate and must accompany the carcass until arriving at a residence, taxidermist, meat processing facility or place of final storage. If the horns of a female pronghorn are longer than its ears, and the bag limit is F/IM, the external genitalia must remain naturally attached to the hide/carcass, as appropriate, and be visible to provide proof of legal bag limit until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(6) Bighorn sheep - The horns of any ram shall remain naturally attached to the skull or skull plate and the external genitalia of any ewe taken shall remain naturally attached to the hide/carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(7) Persian ibex - The horns of any ibex shall remain naturally attached to the skull or skull plate. If the horns of any female ibex are 15 inches or longer the external genitalia shall remain naturally attached to the hide/carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(8) Turkey – When the bag limit is a bearded turkey, the beard and a small patch of feathers surrounding the beard shall remain with the carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(9) Javelina – The skull of each javelina shall be proof of bag limit and must be retained until arriving at a residence, taxidermist, meat processing facility or place of final storage.

**G. Tagging of harvested game:**

(1) **Physical Tagging of harvested game:** Licensed hunters of any big game species or turkey, who have chosen to receive a department issued tag at application or purchase, upon harvesting an animal, shall immediately and completely notch out the appropriate month and day on the carcass tag. Prior to moving any part of the carcass from the kill site, the licensed hunter shall remove the entire backing material from the carcass tag and adhere it to the appropriate location on the carcass leaving the entire face of the tag visible. If the species or sex harvested requires the use of an antler or horn tag the licensed hunter shall, prior to moving any part of the carcass from the kill site, remove the entire backing material from the antler/horn tag and adhere it to the appropriate location on the antler or horn leaving the entire face of the tag visible. All tags shall remain attached to the carcass, antlers or horns until it is delivered to a meat processing facility, taxidermist, placed in final cold storage or if required, is inspected and documented or pelt tagged by a department official. The antler/horn tag is not required to be attached or used on antlerless/hornless animals.

(2) **Electronic Tagging of harvested game:** Licensed hunters of any big game species or turkey, who have chosen to electronically tag their game at application or purchase, upon harvesting an animal, shall immediately access the department's electronic tagging (e-tag) application to receive an e-tag number specific to the license. The licensed hunter will legibly write the e-tag number, customer identification number, and the date of harvest on any durable material using permanent ink and shall attach one piece to the big game species or turkey on the appropriate location on the carcass and another piece to the antler or horns as required prior to moving any part of the carcass from the kill site. All e-tag pieces shall remain attached to the carcass, antlers or horns until it is delivered to a meat processing facility, taxidermist, placed in final cold storage or if required, is inspected and documented or pelt tagged by a department official. An antler/horn e-tag is not required to be attached or used on antlerless/hornless animals.

(3) **The proper location to attach all carcass tags and e-tags:**

(a) The proper location to attach the carcass tag or e-tag on any game species is to attach it conspicuously on the hock tendon on either hind leg.

(b) The proper location to attach the carcass tag or e-tag on javelina is to adhere it to the head/skull around the nose.

(c) The proper location to attach the carcass tag or e-tag on a turkey is to adhere it around the leg above the foot and below the feathers on the thigh.

(d) The proper location to attach the carcass tag or e-tag on a bear or cougar is to adhere it around the ankle area of the hide above the foot. Bear and cougar carcass tags authorize possession of those animals until pelt tagged in accordance with state game commission rule or for five days from date of kill, whichever comes first.



(i) Any bear or cougar killed shall be tagged with a pelt tag furnished free of charge by the department.

(ii) The hunter who kills the bear or cougar or the hunter's designee must present the unfrozen skull and pelt to a department official for tooth removal and pelt tagging within five calendar days from the date of harvest, before the pelt can be frozen, processed, tanned or salted by a taxidermist, or before taking the pelt out of New Mexico, whichever comes first.

(iii) Any hunter who appoints a designee to present the skull and pelt for pelt tagging is required to contact a conservation officer prior to having the pelt inspected and tagged.

(iv) The pelt tag shall remain attached until the pelt is tanned.

(v) Skulls with mouths closed may not be accepted until the mouth is opened by the hunter or designee.

(vi) Licensed bear or cougar hunters or their designees who provide false or fraudulent information regarding the required information including, but not limited to, sex, date or location of harvest shall be assessed 20 revocation points pursuant to 19.31.2 NMAC.

(e) The proper location to attach an antler tag or e-tag is to adhere the tag around the main beam of the antler between any of the points or tines as close to the base as possible to prevent the tag from coming off.

(f) The proper location to attach a horn tag or e-tag is to adhere the tag around the horn as close to the base as possible to prevent the tag from coming off.

**H. It is unlawful:**

(1) for any licensed hunter to fail to properly tag their big game species or turkey with the carcass and antler tag or e-tag as prescribed;

(2) to possess any portion of a big game or turkey carcass that does not have a properly notched carcass tag attached to it or a completed e-tag attached to it, except lawfully taken game that is accompanied by a proper possession certificate or department invoice;

(3) to possess any bear or cougar or parts thereof which has not been pelt tagged within five days of kill, has been taken out of state prior to pelt tagging or has not otherwise been pelt tagged in accordance with state game commission rule;

(4) for any person to transport or possess the carcass of any big game species or turkey without proof of sex naturally attached or proof of legal bag limit until the carcass arrives at a residence, taxidermist, meat processing facility, place of final storage or if required, is inspected and documented or pelt tagged by a department official, except lawfully taken game that is accompanied by a proper possession certificate or department invoice;

(5) to use a carcass or antler tag that is cut, torn, notched or mutilated. Cut, torn, notched or mutilated tags are no longer valid for the take of a big game species or turkey; or

(6) to use a previously issued carcass or antler tag once a duplicate has been obtained or to use the carcass, antler tag or e-tag of any other person. Any previous carcass or antler tag assigned to a license which is replaced by a duplicate is void and no longer valid for the take of a big game species or turkey.

**I. Once-in-a lifetime hunts:** It is unlawful for any person to apply for, receive or use any once-in-a lifetime license if they have ever held a once-in-a lifetime license for that species which has the same bag limit or eligibility requirements.

**J. Youth only (YO), mobility impaired (MI), Iraq/Afghanistan veterans (I/A) and military only (MO) hunts or military discounted licenses:** It is unlawful for anyone to apply for or receive or use any YO, MI, I/A or MO license or any military discounted license except as allowed by state game commission rule.

**K. License sale:** It is unlawful for anyone to sell or offer for sale any hunting, fishing or trapping license, permit or tag which has been issued by the department, or to sell or offer for sale any commercial collection permit or scientific collection permit.

**L. Use of dogs in hunting:**

(1) It is unlawful to use dogs to hunt or pursue big game species or turkey, except for bear and cougar.

(2) Dogs may be used only to hunt bear and cougar during open seasons unless otherwise restricted. It is unlawful to:

(a) hunt for or pursue bear or cougar with dog(s) on the Valle Vidal except holders of bear entry permits for the hunting of bear only;

(b) hunt for or pursue bear or cougar with dog(s) during any September big game bow season statewide except as otherwise allowed by state game commission rule;

(c) release dog(s) to pursue or hold bear or cougar outside of legal hunting hours or during closed season or in a closed area or zone;

(d) to pursue bear or cougar with dog(s) without the licensed hunter, who intends to kill or who kills the bear or cougar, present continuously from the initial release of any dog(s).

(3) It is unlawful to use dog(s) to assist in the recovery of wounded or dead big game or turkey except as follows:

(a) Dog(s) may be used to assist in the recovery of wounded game provided that no more than two dogs may be used at any one time to locate a wounded or dead deer, elk, pronghorn, bighorn sheep, Barbary sheep, oryx, Persian ibex, javelina or turkey.

(b) Dog(s) used to assist in the recovery of deer, elk, pronghorn, bighorn sheep, Barbary sheep, oryx, Persian ibex, javelina or turkey shall be leashed and under the control of the handler at all times and cannot be used to pursue or harass wildlife. No person assisting in the recovery of a wounded animal may shoot or kill the animal being tracked unless they are a licensed hunter for that species, season and area and they intend to tag the animal as their own.

**M. Use of bait:** It is unlawful for any person to take or attempt to take any big game species or turkey by use of baiting or for any person to take or attempt to take big game or turkey from an area which has not been completely free of bait (including in feeders) for at least 10 days. Preexisting legitimate livestock salt and mineral and natural attractants such as cultivated fields, water, orchards, natural kills, carrion or offal are not considered bait unless they have been moved or placed there from another location. It is unlawful to create, maintain or use any bait station in hunting bear or cougar. It is unlawful to use any scent attractant in hunting bears.

**N. Live animals:** It is unlawful to use live protected species as a decoy in taking or attempting to take any big game species or turkey.

**O. Hunting captive big game species:** It is unlawful to take or attempt to take any big game species within any fence or enclosure, or by use of any fence or enclosure, which significantly restricts or limits the free ingress or egress of that big game species except as allowed by permit from the department. Any fence which is 7.5 feet tall or taller shall be considered game proof and hunting within any such enclosure, even if there are open gate(s), is unlawful. Exception: Net wire fencing commonly used as sheep or goat fencing which is not taller than four feet is not considered to significantly restrict or limit the free ingress or egress of any protected species.

**P. Use of calling devices:** It is unlawful to use any electronically or mechanically recorded calling device in taking or attempting to take any big game species or turkey, except javelina, bear and cougar.

**Q. Automatic firearms:** It is unlawful to take or attempt to take any big game species or turkey with a fully automatic firearm.

**R. Bullets:** It is unlawful to take or attempt to take any big game species or turkey by the use of a prohibited bullet.

**S. Drugs and explosives:** It is unlawful to use any form of drug to capture, take or attempt to take any big game species or turkey unless specifically authorized by the department, or to use arrows driven by explosives, gunpowder or compressed air.

**T. Legal sporting arm types:**

(1) It is unlawful to use any sporting arm type for big game species other than those defined under big game sporting arms except for cougar and javelina which may be taken with those defined under any sporting arm. For cougar and javelina, compressed air guns must be .22 caliber or larger and shotguns must fire a single slug or #4 buckshot or larger.

(2) It is unlawful to use any sporting arm type for a big game species which does not correspond with the hunt code authorized sporting arm type.

(3) It is unlawful to use sporting arms for turkey other than a shotgun firing shot, bow or crossbow.

**U. Hunting on the wrong ranch, in the wrong area or in the wrong GMU:** It is unlawful for any person to hunt in any location, GMU or ranch other than that area specified on their license or permit unless otherwise allowed by state game commission rule.

(1) A landowner whose contiguous deeded property extends into an adjacent GMU(s) may enter into a written agreement with the department to hunt big game on the contiguous deeded property of the ranch. This permission shall be requested annually, at the local department office, in person or in writing by the landowner

at least one week prior to the desired hunt dates. The landowner must show proof of ownership and property location. The season dates, bag limit and sporting arm type will be determined by the GMU where the majority of the deeded property lies. Landowners who enter into this agreement may not hunt the GMU where the minority of the contiguous property lies during that minority GMU's season dates if different from the majority dates. Unit-wide and ranch-wide properties are not eligible for this agreement for those species for which the unit-wide or ranch-wide agreement applies.

(2) A licensed big game hunter may hunt a landowner's contiguous private property which extends into an adjoining GMU(s) only when a department agreement exists and must adhere to the department issued agreement unless otherwise restricted by state game commission rule.

**V. Restricted areas on White Sands missile range:**

(1) It is unlawful to drive or ride in a motor vehicle into an area signed "no hunting" or otherwise restricting hunting or as documented on a map or as presented during the hunt's briefing, except if the hunter or driver is escorted by official personnel;

(2) It is unlawful for a licensed hunter to enter an area signed "no hunting" or otherwise restricting hunting except if the hunter is escorted by official personnel; and

(3) It is unlawful for a licensed security badged hunter to hunt or take any oryx in an area other than their "to be assigned" area.

**W. Validity of licenses and unitizations:** All big game and turkey licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit, and area specified by the hunt code printed on the license including those areas designated as public or private land per a current unitization agreement between the department and U. S. bureau of land management, state land office or other public land holding entity.

**X. Hunting on public land with a private land only license:** It is unlawful to hunt big game on any public land with a private land only license. Public land as used in this section shall mean any federally owned or managed property, any state owned or managed property, or any private property which is part of a unitization hunting agreement, ranch wide agreement or unit wide agreement for the species being hunted, any private property which the department has paid for public access for the species being hunted or any New Mexico state game commission owned or managed property.

**Y. Collars or tracking devices:** It is unlawful to attach any collar or electronic tracking device to any big game species or turkey except as specifically authorized by the department.

**Z. License purchase:** Bear or cougar hunters must purchase their bear or cougar license at least two calendar days prior to taking or attempting to take any bear or cougar. It is unlawful for any bear or cougar hunter to take or attempt to take a bear or cougar within two calendar days of purchasing their license.

**AA. Zones:** It is unlawful to pursue, take or attempt to take a bear or cougar in a closed zone. Zones will close pursuant to 19.31.11 NMAC.

**BB. Valle Vidal:** It is unlawful to hunt bear or cougar on the Valle Vidal except for properly licensed bear or cougar hunters that also possess a Valle Vidal elk hunting license (only during the dates and with the sporting arm type specified on their elk license) and holders of a Valle Vidal bear entry permit (only during their entry permit hunt dates).

**CC. Cougar ID:** It is unlawful for any person to hunt for cougar without having completed the department's cougar ID course and having the verification code printed on their license.

**DD. Cougar trapping season:** It is unlawful to trap or foot snare cougar outside of the season established for furbearer trapping or to kill any cougar which has been trapped or foot snared in a cougar zone which is closed.

**EE. Use of traps and foot snares for cougar:** Licensed trappers who also hold a valid cougar license may use traps or foot snares to harvest cougars on state trust land, or private land with written permission from the landowner or person authorized to grant permission. Neck snares are not permitted. Restrictions for cougar take using traps or foot snares shall follow the regulations on methods, trap specification, trap inspection, wildlife removal as defined in 19.32.2 NMAC. No trap with a jaw spread of larger than 6.5 inches or 7 inches if outside laminated shall be allowed.

(1) It is unlawful to set a foot snare for cougar in GMU 27 and those portions of GMU 26 designated by the United States fish and wildlife service as critical habitat for jaguar.

(2) It is unlawful to kill any cougar captured on BLM or US Forest Service land by the use of traps or foot snares unless authorized by the director.

(3) It is unlawful to take any cougar with a neck snare or prohibited trap.

**FF. Use of cellular, Wi-Fi or satellite cameras:** It is unlawful for any person to use any cellular, Wi-Fi or satellite camera for the purpose of hunting or scouting for any big game animal. Exception: This section does not apply to cellular or satellite phones which are kept on one's person and not used remotely or department employees and their designees while performing their official duties.

[19.31.10.13 NMAC - Rp, 19.31.10.13 NMAC, 4-1-2019]

**19.31.10.13 UPLAND GAME AND MIGRATORY GAME BIRDS:**

**A. Upland game hunting hours:** Upland game species may be hunted or taken only during the period from one-half hour before sunrise to one-half hour after sunset. It is unlawful to take or attempt to take upland game outside of legal hunting hours.

**B. Killing out of season:** It is unlawful to kill any migratory game bird or upland game out of season.

**C. Exceeding the bag limit:** It is unlawful for any person to take or attempt to take more than one daily bag limit of any migratory game bird species or upland game species allowed by state game commission rule. There shall be no daily bag or possession limit for light geese during the light goose conservation order hunt dates.

**D. Possession limit:** It is unlawful for any person to possess more than one possession limit of any migratory game bird or upland game species.

**E. Proof of species or sex:** It is unlawful for any person to possess any migratory bird or upland game without proof of species or sex as required below:

(1) One foot shall remain attached to each quail taken until the bird has arrived at a residence, taxidermist, meat processing facility or place of final cold storage.

(2) The head or one leg of each pheasant taken must remain attached to the bird until the bird arrived at a residence, taxidermist, meat processing facility or place of final cold storage.

(3) One fully feathered wing must remain attached to all migratory game birds, except dove and band-tailed pigeon, until the bird has arrived at a residence, taxidermist, meat processing facility or place of final cold storage.

**F. Youth only (YO), mobility impaired (MI), Iraq/Afghanistan veterans (I/A) and military only (MO) hunts or military discounted licenses:** It is unlawful for anyone to apply for or receive or use any YO, MI, I/A or MO license or any military discounted license except as allowed by state game commission rule.

**G. License sale:** It is unlawful for anyone to sell or offer for sale any hunting, fishing or trapping license, permit or tag which has been issued by the department, or to sell or offer for sale any commercial collection permit or scientific collection permit.

**H. Use of dogs in hunting:** Dog(s) may be used to hunt migratory game bird species and upland game. It is unlawful to pursue migratory game birds or upland game with dog(s) outside of the hunting seasons established except in conjunction with a permitted event.

**I. Use of bait:** It is unlawful for any person to take or attempt to take any migratory game bird species or upland game by use of baiting or for any person to take or attempt to take migratory game birds or upland game from an area which has not been completely free of bait (including in feeders) for at least 10 days. Preexisting legitimate livestock salt and mineral and natural attractants such as cultivated fields, water, orchards, carrion or offal are not considered bait unless they have been moved there from another location.

**J. Live animals:** It is unlawful to use live protected species as a decoy in taking or attempting to take any migratory game bird species or upland game species.

**K. Use of calling devices:** It is unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any migratory game bird or upland game species. During the light goose conservation order hunt dates, electronic calling devices are allowed for the take of light geese.

**L. Automatic firearms:** It is unlawful to take or attempt to take any migratory game bird or upland game species with a fully automatic firearm.

**M. Non-toxic shot:** It is unlawful for any person to use or possess any shotgun shell loaded with anything other than non-toxic shot or for any person using a muzzle-loading shotgun to possess anything other than non-toxic shot while hunting for any migratory game bird species, except when hunting dove, band-tailed pigeon or eastern sandhill crane. Non-toxic shot is required for all migratory game birds and upland game species on Bernardo WMA, La Joya WMA, and Huey WMA.

**N. Drugs and explosives:** It is unlawful to use any form of drug to capture, take or attempt to take any migratory game bird or upland game species unless specifically authorized by the department, or to use arrows driven by explosives, gunpowder or compressed air.

**O. Legal sporting arms and ammunition:** It is unlawful to use sporting arms other than those listed below to take or attempt to take of any migratory game bird or upland game species.

- (1) The following are legal sporting arms for pheasants and quail:
  - (a) shotguns firing shot;
  - (b) bows; and
  - (c) crossbows.
- (2) The following are legal sporting arms for dusky grouse, chukar, Eurasian collared-dove, Abert's squirrels, Arizona gray squirrels, fox squirrels, eastern gray squirrels and red squirrels:
  - (a) shotguns firing shot;
  - (b) rimfire firearms;
  - (c) muzzle-loading firearms;
  - (d) bows;
  - (e) crossbows; and
  - (f) compressed air guns, .177 caliber or larger.
- (3) The following are legal sporting arms for migratory game birds:
  - (a) shotguns firing shot, shotguns shall not be capable of holding more than three shells except while hunting light geese during the light goose conservation order hunt dates, as defined in 19.31.6 NMAC;
  - (b) bows; and
  - (c) crossbows.

**P. Areas closed to migratory game bird hunting:** It shall be unlawful to hunt migratory game birds in that portion of the stilling basin below Navajo dam lying within a line starting from N.M. 511 at the crest of the bluff west of the Navajo dam spillway and running west along the fence approximately one-quarter mile downstream, southwest along the fence to N.M. 511 to the Navajo dam spillway, across the spillway, and to the crest of the bluff.

**Q. Collars or tracking devices:** It is unlawful for any person to attach any collar or electronic tracking device to any migratory game bird or upland game except as specifically authorized by the department.

**R. Use of traps and snares:** It is unlawful for any person to intentionally set any trap, snare, cage, box or other device to capture or attempt to capture any migratory game bird or upland game or for any person to intentionally capture or attempt to capture any migratory game bird or upland game unless specifically allowed by license or permit.

[19.31.10.14 NMAC - Rp, 19.31.10.14 NMAC, 4-1-2019]

#### **19.31.10.14 FISHING:**

- A. Angling:** Game fish may be taken by angling in all waters that are open for fishing.
- B. Season and hours:** It is unlawful to fish in any water during a closed season or to fish in any water outside of the legal fishing hours as prescribed in 19.31.4 NMAC.
- C. Closed waters:** It is unlawful to fish in any water closed by state game commission rule.
- D. Ice fishing:** It is unlawful to take fish from or through the ice on the following waters: Santa Cruz lake, Bonito lake, and Springer lake. Ice fishing is legal on all other waters unless otherwise prohibited.
- E. Hatchery waters:** It is unlawful to take or attempt to take fish from the waters of any fish hatchery or rearing ponds owned or operated by state or federal agencies. Exception: During open season, angling for trout shall be permitted in the Glenwood pond at the Glenwood state fish hatchery, Red River hatchery pond at the Red River state fish hatchery, Brood pond at Seven Springs state fish hatchery, and Laguna del Campo at Los Ojos state fish hatchery. Additionally, the director may expressly authorize other limited fishing at the state's fish hatcheries based on management needs.
- F. Trotlines:** Game fish may be taken by use of trotlines in any water except those listed below, however:
  - (1) It is unlawful for any person to set more than one trotline at a time.
  - (2) It is unlawful to tie or join together trotlines belonging to two or more persons.
  - (3) It is unlawful for any trotline to have more than 25 angling hooks.
  - (4) It is unlawful for a person who has set or maintained a trotline to not personally visit and inspect it at least once every calendar day and remove or release all game fish which are caught.
  - (5) It is unlawful for anyone to check, pull up or otherwise tamper with another's trotline.
  - (6) It is unlawful for anyone to set, check or maintain a trotline which is not tagged or marked as follows:

(a) A person fishing with a trotline shall attach to it an identification tag that is visible above the water line. The identification tag shall bear the angler's department issued customer identification number (CIN).

(b) An unlicensed angler 11 years of age and younger shall list their department issued customer identification number (CIN) or their name and date of birth.

(7) It is unlawful to set or use a trotline in any water listed in 19.31.4 NMAC which has a reduced bag limit on catfish or in any trout water, with the following exceptions: Abiquiu lake, Chama river downstream from the northern boundary of the Monastery of Christ in the Desert, Gila river downstream from its junction with its east fork, Navajo lake and the Rio Grande downstream from its junction with the Chama river.

(8) Any officer authorized to enforce Chapter 17 NMSA 1978 and state game commission rules may seize and destroy any trotlines not set or checked in accordance with this subsection.

**G. Spearfishing and bow fishing:**

(1) Game fish may be taken by spearfishing and bow fishing only in lakes and reservoirs open to fishing. It is unlawful to spearfish or bow fish in any special trout water as designated in 19.31.4 NMAC or in any river or stream.

(2) It is unlawful to take any largemouth bass by spearfishing or bow fishing in the following waters: Bill Evans lake, Clayton lake, and lake Roberts.

**H. Noodling or hand fishing:** It is unlawful to catch any game fish by hand without the use of angling equipment.

**I. Use of nets:** It is unlawful to use cast nets, dip nets, seines or gill nets to capture and retain any protected species of fish from any water unless specifically allowed by permit or state game commission rule. Dip nets may be used to assist in landing fish taken by legal angling methods.

**J. Illegal device or substance:** It is unlawful to use any device or substance capable of catching, stupefying or killing fish except as permitted by state game commission rule.

**K. Bait:**

(1) It is unlawful to use protected game fish or the parts thereof as live or dead bait, except the genus *Lepomis* (sunfish), taken by legal means may be used as live or dead bait in the water from which they were taken, and the roe, viscera and eyes of any legally taken game fish may be used.

(2) It is unlawful to use bullfrogs or bullfrog tadpoles as bait, or to possess any live bullfrogs or live bullfrog tadpoles while fishing.

**L. Use of bait fish:** It is unlawful to use or possess any baitfish while angling except as follows:

(1) The following baitfish species can be used live or dead unless otherwise prohibited:

Water:	Approved bait fish species:
Rio Grande drainage	Fathead minnow, red shiner and shad
Elephant Butte and Caballo reservoirs	Fathead minnow, red shiner, shad and golden shiner
Pecos river drainage except for Bitter lake national wildlife refuge and Bottomless lakes state park	Fathead minnow and red shiner
Canadian river drainage	Fathead minnow, red shiner, white sucker and shad
San Juan river drainage	Fathead minnow and red shiner
Gila river and San Francisco river drainages	Fathead minnow

(2) The following bait fish species can only be used as dead bait unless otherwise prohibited:

Water:	Approved dead baitfish species:
Statewide	Common carp
Heron reservoir	White sucker

(3) Commercially packaged and processed species of fish which are dead or products thereof are not considered bait fish and are legal in all regular waters.

**M. Methods for taking bait fish for personal use:** Licensed anglers and children 11 years of age and younger may take bait fish for personal use only in waters containing game fish by angling, nets, traps, spears, arrows and seines. All protected species of fish taken in seines, nets and traps shall be immediately returned to the water.

**N. Illegal taking of bait fish:**

(1) It is unlawful for any person, except children 11 years of age and younger, to take bait fish from any water without having a valid fishing license.

(2) It is unlawful for any person to take bait fish from any water for commercial use without a permit issued from the department.

(3) It is unlawful for licensed minnow dealers to violate any of the provisions of their license or permit.

**O. Permits for taking bait fish:** The director may issue permits for the use of nets, seines, traps or cast nets in taking bait fish in waters containing protected species of fish. The permit shall specify methods of taking, places for taking and duration of the permit. The permittee shall report monthly, to the department, the species, numbers and poundage of bait fish taken during the preceding month.

**P. Eradication of fish:** In waters where fish are being eradicated or where water shortage warrants reduction of fish numbers the director may permit licensed anglers and children 11 years of age and younger to take and possess game fish in numbers exceeding current bag and possession limits. In granting such permission the director may specify bag and possession limits and manner and method of taking for such waters.

**Q. Possession and release of live game fish:**

(1) It is unlawful to release any live game fish into any water in the state, except for fish which were legally caught from that water, without a permit issued by the department.

(2) It is unlawful to possess or transport any live game fish away from the water from which they were caught without a permit issued by the department.

(3) Exception: Department employees or federal employees while performing their official duties or those individuals working on behalf of the department when directed by a department employee.

**R. Possession of undersized fish:** It is unlawful for any person to have game fish in their possession which do not meet the minimum length requirements as specified in 19.31.4 NMAC.

**S. Number of fishing poles or lines:** It is unlawful to angle with more than one pole or line without having purchased a current two rod validation during the current license year. It is unlawful under any circumstance to angle with more than two poles or lines. A trotline shall not count toward an anglers limit on fishing poles or lines.

**T. Exceeding daily bag limit:** It is unlawful to exceed the daily bag limit of any protected fish species, as specified in 19.31.4 NMAC.

**U. Exceeding possession limit:** It is unlawful to exceed the possession limit of any protected fish species, as specified in 19.31.4 NMAC.

**V. Exceeding daily bag limit or possession limit - Penalty Assessment:** Any person exceeding the daily bag limit or the possession limit by two fish or less shall be offered a penalty assessment.

**W. Snagging game fish:** It is unlawful to snag game fish or to keep any snagged game fish except Kokanee salmon during the special Kokanee salmon season as specified in 19.31.4 NMAC.

**X. Special trout waters:** Only barbless lures or flies may be used in the special trout waters designated in 19.31.4 NMAC, except in the following waters any legal angling gear and legal bait may be used: the Vermejo river system within Vermejo Park ranch boundaries, Gilita, Little Turkey, and Willow creeks, Mineral creek, Red River from its confluence with the Rio Grande upstream to the lower walking bridge at Red River state fish hatchery, Rio Chama from the river crossing bridge on U.S. 84 at Abiquiu upstream 7.0 miles to the base of Abiquiu dam, Rio Grande, Rio Ruidoso, and Whitewater creek from Catwalk National Recreation Trail parking area upstream to headwaters. It is unlawful to use tackle which does not meet these restrictions in the designated special trout waters.

**Y. Attracting or concentrating fish:**

(1) **Artificial lights:** Use of artificial lights is permitted for attracting game fish.

(2) **Disturbing the bottom:** It is unlawful in all special trout waters defined in Subsection A. of 19.31.4.11 NMAC, to disturb or dislodge aquatic plant growth, sediment, or rocks for the purpose of attracting or concentrating fish. It shall also be unlawful to angle in the immediate vicinity where such disturbance has occurred.

(3) **Chumming:** Chumming is legal in all waters which have no tackle restrictions.

**Z. Violation of age or disability restrictions:** It is unlawful for any person to fish in any water with age or disability restrictions when that person does not meet the requirements as specified in 19.31.4 NMAC. [19.31.10.14 NMAC - Rp, 19.31.10.14 NMAC, 4-1-2019]

#### **19.31.10.15 LANDS AND WATERS OWNED, ADMINISTERED, CONTROLLED, OR MANAGED BY THE STATE GAME COMMISSION:**

**A. Posting of signs:** The state game commission may prohibit, modify, condition or otherwise control the use of areas under its control by posting of signs as may be required in any particular area.

**B. Violating provisions of posted signs:** It is unlawful to violate the provisions of posted signs on areas under the control of, leased by or managed by the state game commission.

**C. Trespass on state game commission owned lands:** It is unlawful to enter upon state game commission owned lands unless licensed or as otherwise allowed by state game commission rule or as posted by the department.  
[19.31.10.15 NMAC - Rp, 19.31.10.15 NMAC, 4-1-2019]

**19.31.10.16 BOATS, OTHER FLOATING DEVICES, AND MOTORS:** It is unlawful to operate, control or ride in any boat or other floating device contrary to sections A-D below.

**A. Electric or gas motors allowed:** On the following lakes controlled by the department, boats and other floating devices with electric or gas motors shall be permitted only during the season and hours when fishing is permitted. Boats or floating devices on these lakes shall not be operated at greater than normal trolling speed: Clayton lake WMA, and McAllister lake WMA

**B. Electric motors only:** On the following lakes controlled by the department, only boats and other floating devices using electric motors or with gas motors that are not in use shall be permitted: Bear canyon lake WMA, Bill Evans lake WMA, Green Meadow, Fenton lake WMA, Hopewell, Lake Roberts WMA, Morphy, Quemado, Snow, Conoco lakes and Tucumcari lake WMA.

**C. No motors allowed:** On the following lakes controlled by the department, only boats and other floating devices using no motors shall be permitted: Bernardo WMA, La Joya WMA, Jackson lake WMA, McGaffey, San Gregorio, Shuree ponds and Wagon Mound WMA.

**D. No boats or floating devices allowed:** On the following lakes controlled by the department, no boats or other floating devices shall be permitted: Bonito lake, Monastery lake, and Red River hatchery pond.

**E.** Department personnel or persons authorized by the director may use gasoline powered motors on all waters in the state while performing official duties.

[19.31.10.17 NMAC - Rp, 19.31.10.17 NMAC, 4-1-2019]

**19.31.10.17 HUNTING ON PRIVATE LAND WITHOUT WRITTEN PERMISSION AND SEIZURE OF GAME ANIMALS, FURBEARERS, GAME BIRDS, OR SHED ANTLERS:**

**A.** It is unlawful to knowingly enter upon any private property to take or attempt to take any game animal, furbearer, game bird or game fish without possessing written permission from the landowner or person in control of the land or trespass rights unless otherwise permitted in rule or statute.

**B.** Any game animal, furbearer or game bird taken in violation of this section or section 30-14-1 NMSA 1978 is unlawfully taken and shall be subject to seizure.

**C.** All shed antlers collected in violation of any New Mexico state game commission, state or federal land closure, in violation of section 30-14-1 NMSA 1978 or in violation of any of the provisions of Chapter 17 NMSA 1978 or state game commission rule remain property of the State of New Mexico and shall be seized.

**D. Exception:** Written permission is not required on any property which is participating in a unitization, receives compensation for allowing public access, receives unit-wide authorizations or has agreed to a ranch-wide agreement when species being harvested is part of any of these agreements.

[19.31.10.18 NMAC - Rp, 19.31.10.18 NMAC, 4-1-2019]

**19.31.10.18 MANNER AND METHOD PENALTY ASSESSMENTS:** Individuals who commit the following violations shall be offered penalty assessments:

**A.** No habitat management and access validation stamp (HMAV), contrary to 17-4-34 NMSA 1978;

**B.** No habitat stamp (Sikes Act), contrary to 19.31.10 NMAC;

**C.** Size limit violations on fish, contrary to 19.31.10 NMAC;

**D.** Trotline violations, contrary to 19.31.10 NMAC;

**E.** Use of bait or prohibited lure or fly in a special trout water or noodling, contrary to 19.31.10 NMAC;

**F.** Disturbing the bottom "shuffling" in a special trout water, contrary to 19.31.10 NMAC;

**G.** Use of bait fish, contrary to 19.31.10 NMAC;

**H.** Release of bait fish, contrary to 17-3-28 NMSA 1978;

**I.** More than two lines or two lines without stamp, contrary to 19.31.10 NMAC;

**J.** Exceeding the daily bag limit or the possession limit of fish by two fish or less, contrary to 19.31.10 NMAC;

**K.** Snagging or keeping snagged game fish, contrary to 19.31.10 NMAC;

**L.** Spearfishing and bow fishing violations, contrary to 19.31.10 NMAC;



- M. Unlawfully fishing in waters with age or individuals with disabilities use restrictions, contrary to 19.31.10 NMAC;
  - N. Boat or other floating device violation, contrary to 19.31.10 NMAC;
  - O. Use of live protected species as a decoy, contrary to 19.31.10 NMAC;
  - P. Use of an electronic calling device, contrary to 19.31.10 NMAC;
  - Q. Use of unapproved shot or shotgun capable of holding more than three shells while hunting migratory game birds, contrary to 19.31.10 NMAC;
  - R. Unlawful ammunition/ bullet/ shot or unlawful caliber, contrary to 19.31.10 NMAC;
  - S. Hunting hours violations, contrary to 19.31.10 NMAC;
  - T. Possession of game animal parts found in field, contrary to 19.31.10 NMAC;
  - U. Shooting at artificial wildlife from the road, contrary to 19.31.10 NMAC;
  - V. Harassing protected species, contrary to 19.31.10 NMAC;
  - W. Driving off road or on a closed road, contrary to 19.31.10 NMAC;
  - X. Violation of posted signs, contrary to 19.31.10 NMAC;
  - Y. Unlawful use of dogs, contrary to 19.31.10 NMAC; or
  - Z. Unlawful use of cellular, Wi-Fi or satellite camera, contrary to 19.31.10 NMAC.
- [19.31.10.20 NMAC - Rp, 19.31.10.20 NMAC, 4-1-2019]

**19.31.10.19 SEIZURE:**

Any officer authorized to enforce Chapter 17 NMSA 1978 and state game commission rules shall seize unlawfully possessed or imported species, or any protected species or the carcass or parts of any protected species that is taken or possessed contrary to Chapter 17 NMSA 1978 or state game commission rule.

[19.31.10.20 NMAC - N, 4-1-2019]

**19.31.10.20 DIRECTOR'S AUTHORITY TO ACCOMMODATE DISABILITY OR MEDICAL IMPAIRMENT:** The director may authorize reasonable modifications to the manner and method of take for any licensee who has a verifiable medical condition that, in the director's sole discretion, necessitates such accommodation. In order to apply for such accommodation, the licensee shall complete and submit any form, information and records required by the director. Any licensee granted an accommodation must adhere to all other state game commission rules as to manner and method of take that are not specifically waived by such accommodation; and shall adhere to any restrictions imposed by the director and shall carry a copy of any director granted accommodations on their person while hunting, fishing or trapping.

[19.31.10.21 NMAC - Rp, 19.31.10.21 NMAC, 4-1-2019]

**HISTORY OF 19.31.10 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously file with the Commission of Public Records - State Records Center and Archives:

DFR 67-5 Basic Regulation No. 500, Concerning Method and Manner of Hunting, Taking, Possessing, Disposing, and Transporting of Game Animals, Birds, Fish or Bullfrogs, or parts thereof, Taken in New Mexico, Use and Occupancy of Lands and Waters Administered, Owned, Controlled or Managed by the State Game Commission, 5-25-67.

DGF 68-11 Basic Regulation No. 525, Concerning Method and Manner of Hunting, Taking, Possessing, Disposing, and Transporting of Game Animals, Game Birds, Game Fish or Bullfrogs, or parts thereof, Taken in New Mexico, the Use and Occupancy of Lands and Waters Administered, Owned, Controlled or Managed by the State Game Commission, 8-21-68.

DGF 72-6 Basic Regulation 550 Governing Water Pollution, Water Diversion, Animal Releases, Possession of Game, Manner of Hunting and Fishing, and Use of Department Lands, 5-31-72.

Regulation No. 612 Basic Regulation Governing Water Pollution, Water Diversion, Animal Releases, Possession of Game, Manner of Hunting and Fishing, Use of Department Lands, Retention of Protected Species, Permits and Licenses Issued, and the Hunter Safety Certificate Requirement, 3-2-82.

Regulation No. 677 Basic Regulation Governing Water Pollution, Possession of Game, Permits and Licenses Issued, Retention and Importation of Protected Species, Manner of Hunting and Fishing, Use of Department Lands, Hunter Training Course Required, Hunting License Revocation, Camping Near a Water Hole, 6-25-90.

Order No. 5-91 Requiring that Live-Firing Courses by Taught only by Department of Game and Fish and Volunteer Hunter Education Instructors Certified in Live-Firing Instruction, 10-3-91.

**NMAC History:**

19 NMAC 31.1, Hunting and Fishing - Manner and Method of Taking, 3-1-95.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Amended 4-1-2018.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Replaced 4-1-2019.

**History of Repealed Material:**

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 4-1-2007.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 11-7-2016.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 4-1-2019.

## Initial Proposed Rule

**TITLE 19      NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 31   HUNTING AND FISHING**  
**PART 10       HUNTING AND FISHING - MANNER AND METHOD OF TAKING**

**19.31.10.1      ISSUING AGENCY:** New Mexico ~~D~~department of ~~G~~game and ~~F~~fish.  
[19.31.10.1 NMAC - Rp, 19.31.10.1 NMAC, 4-1-2019]

**19.31.10.2      SCOPE:** Hunters, anglers, trappers and the general public. Additional requirements may be found in Chapter 17 NMSA 1978 and ~~Chapters 31, 32, and 33 of Title 19~~ NMAC.  
[19.31.10.2 NMAC - Rp, 19.31.10.2 NMAC, 4-1-2019]

**19.31.10.3      STATUTORY AUTHORITY:** Sections ~~17-1-14, and Section 17-1-26, 17-2-1, 17-2-2, 17-2-2.1, 17-2-4.2, 17-2-6, 17-2-10.1, 17-2-13, 17-2-14, 17-2-20, 17-2-32, 17-2-43, 17-3-2, 17-3-29, 17-2A-3, 17-3-32, 17-3-33, 17-3-42, 17-4-33, 17-5-4 and 17-6-3~~ NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species.  
[19.31.10.3 NMAC - Rp, 19.31.10.3 NMAC, 4-1-2019]

**19.31.10.4      DURATION:** Permanent.  
[19.31.10.4 NMAC - Rp, 19.31.10.4 NMAC, 4-1-2019]

**19.31.10.5      EFFECTIVE DATE:** ~~December 15, 2016~~ April 1, 2019, unless a later date is cited at the end of a section.  
[19.31.10.5 NMAC - Rp, 19.31.10.5 NMAC, 4-1-2019]

**19.31.10.6      OBJECTIVE:** To establish general rules, restrictions, requirements, definitions, and regulations governing lawful hunting, fishing, or trapping and the lawful taking or killing of game animals, furbearers, game birds, and game fish, water pollution, possession of wildlife, permits and licenses issued, importation, intrastate transportation, release of wildlife, ~~restrictive devices for fish~~, manner and methods of hunting and fishing and use of department lands.  
[19.31.10.6 NMAC - Rp, 19.31.10.6 NMAC, 4-1-2019]

**19.31.10.7      DEFINITIONS:**

**A.**      “**Angling**” shall mean taking or attempting to take fish by angling hook and line, with the line held in the hand or attached to a pole or rod or other device that is held in the hand or closely attended.

**B.**      “**Angling hook**” shall mean a single, double, or treble (triple) point attached to a single shank.

**C.**      “**Any sporting arm**” shall mean any firearm, muzzle-loader, compressed air gun, shotgun, bow or crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.

**C,D.**    “**Arrows**” or “**Bolt**” shall mean only those arrows or bolts having broadheads with steel cutting edges except that “judo”, “blunt” or similar small game points may be used for upland game and migratory game bird hunting and arrows for bow fishing must have barbs to prevent the loss of fish.

**D,E.**    “**Bag limit**” shall mean the protected ~~animals~~species, qualified by species, number, sex, age, antler/horn requirement, or size allowed by state game commission rule that a legally licensed hunter~~person~~ may attempt to take or ~~harvest~~take.

**F.**      “**Bait**” shall mean any salt, mineral, grain, scent or other feed, commercially produced game attractant or any other organic material which is attractive to wildlife.

**G.**      “**Baiting**” shall mean the placing, exposing, depositing, distributing, or scattering of any bait on or over areas where any person is attempting to take protected game mammals or game birds as defined in 17-2-3 NMSA 1978.

**E,H.**    “**Bait fish**” is defined as those nongame fish which are not otherwise protected by statute or regulation.

**F.**      “**Baiting**” shall mean the placing, exposing, depositing, distributing, or scattering of any salt, grain, scent or other feed on or over areas where hunters are attempting to take protected game mammals or game birds.

**G,I.**    “**Barbless lure or fly**” shall mean an artificial lure made of wood, metal, or hard plastic or an artificial fly made from fur, feathers, other animal or man-made materials tied onto an angling hook to resemble or

simulate insects, bait fish, or other foods. A barbless fly or lure may only bear a single hook, from which any or all barbs must be removed or bent completely closed, or which are manufactured without barbs. Living or dead arthropods and annelids, ~~or rubber or plastic moldings of these~~ or other foods are not ~~included~~ considered barbless lures or flies.

**HJ.** “Big game species” shall mean deer, bear, cougar, elk, pronghorn ~~antelope (American pronghorn)~~, Barbary sheep, bighorn sheep, javelina, oryx, and Persian ibex.

**K.** “Big game sporting arms” shall mean any centerfire firearm at least .22 caliber or larger, any muzzle-loading firearm at least .45 caliber or larger, any shotgun .410 caliber or larger firing a single slug (including muzzle-loading shotguns), any bow or any crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.

**IL.** “Bow” shall mean compound, recurve, or long bow, which is not equipped with a mechanical device (draw lock) which locks the bow string at full draw. Sights on bows shall not project light, however, illuminated pins/reticles and scopes of any magnification are allowed.

**JM.** “Bow fishing” shall mean taking or attempting to take game fish with arrows/bolts with barbs that are discharged above the surface of the water by a bow or crossbow. Arrows/bolts must be attached by string, line, or rope to facilitate fish retrieval.

**N.** “Bullet” shall mean a single projectile fired from a firearm which is designed to expand or fragment upon impact. Tracer or full metal jacket ammunition is not legal for the take or attempted take of any big game species.

**O.** “Cellular”, “Wi-Fi” or “satellite camera” shall mean any remote camera which transmits or is capable of transmitting images or video wirelessly via a cellular, Wi-Fi or satellite connection.

**KP.** “Chumming” is defined as a means of attracting fish by placing organic materials, non-injurious to aquatic life, into the water.

**Q.** “Compressed air gun” shall mean any kind of gun that launches a single non-spherical projectile, pneumatically with compressed air or other gases that are pressurized mechanically without involving any chemical reaction.

**LR.** “Crossbow” shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light, however, illuminated pins/reticles and scopes of any magnification are allowed. ~~This definition shall apply to hunting for all species.~~

**S.** “Department” shall mean the New Mexico department of game and fish.

**MT.** “Director” shall mean the director of the New Mexico department of game and fish.

**NU.** “Drone” is defined as any device used or designed for navigation or flight in the air that is unmanned and guided remotely or by an onboard computer or onboard control system. Drones may also be referred to as “unmanned aerial vehicle (UAV)” or “unmanned aerial vehicle systems (UAVS)”.

**OV.** “Established road” is defined as follows:

(1) a road, built or maintained by equipment, which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures; or

(2) a two-track road which shows use prior to hunting seasons for other purposes such as recreation, mining, logging, and ranching and which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures.

**W.** “Game management unit” or “GMU” shall mean those areas as described in 19.30.4 NMAC, Boundary Descriptions for Game Management Units.

**X.** “License year” shall mean the period from April 1 through March 31.

**Y.** “Locate” shall mean any act or activity, in which any person is searching for, spotting or otherwise finding a protected species from or with the aid of any aircraft or drone.

**Z.** “Migratory game bird” shall mean band-tailed pigeon, mourning dove, white-winged dove, sandhill crane, American coot, common moorhen, common snipe, ducks, geese, sora and Virginia rail.

**P.** “Modern firearms” shall mean center-fire firearms, not to include any fully automatic firearms. Legal shotguns shall be only those shotguns capable of being fired from the shoulder.

**QAA.** “Muzzle-loader” or “muzzle-loading firearms” shall mean those rifles and shotguns sporting arms in which the charge and projectile(s) are loaded through the muzzle. Only blackpowder, Pyrodex or equivalent blackpowder substitute may be used. Use of smokeless powder is prohibited. Legal muzzle loader shotguns shall be only those shotguns capable of being fired from the shoulder.

**RBB.** "Nets" shall mean cast nets, dip nets, and seines which shall not be longer than 20 feet and shall not have a mesh larger than three-eighths of an inch.

**SCC.** "Non-toxic shot" shall mean that non-toxic shot approved for use by the U. S. fish and wildlife service.

**FDD.** "Protected species" shall mean any of the following animals:

(1) all animals defined as protected wildlife species and game fish under Section 17-2-3 NMSA 1978;

(2) all animals defined as furbearing animals under Section 17-5-2 NMSA 1978;

(3) all animals listed as endangered or threatened species or subspecies as stated in regulation(s) 19.33.6 NMAC; and set by the state game commission.

(4) all animals listed under Sections 17-2-13, 17-2-14 or 17-2-4.2 NMSA 1978.

**UEE.** "Retention" or "retain" shall mean the holding of live protected species in captivity.

**VFF.** "Restricted muzzle-loading rifle" shall mean any muzzle-loading rifle using open sights, black powder or equivalent propellant and firing a traditional-lead full bore diameter bullet or patched round ball. The use of in-line ignition, scopes, pelleted powder, and smokeless powder and sabots, including powerbelt-type projectiles, are prohibited.

**GG.** "Shotgun" shall mean any centerfire shotgun or muzzle-loading shotgun not larger than 10 gauge.

**HH.** "Snagging" is the repeated or exaggerated jerking or pulling of the fishing line or angling hooks in any attempt to impale fish, whether or not it results in physically snagging a fish.

**WII.** "Spear fishing" shall mean taking or attempting to take game fish with spears, gigs, and arrows with barbs that are discharged under the surface of the water.

**XJJ.** "Sporting arms or weapon types" shall be designated in the hunt code as follows unless further restricted or allowed by state game commission rule:

(1) all hunt codes denoted with -0- shall authorize use of any shotgun firing shot (ex. SCR-0-XXX);

(12) all hunt codes denoted with -1- shall authorize use of any legal big game sporting arm weapon (ex. ELK-1-XXX);

(23) all hunt codes denoted with -2- shall authorize use of bows only (ex. ELK-2-XXX);

(34) all hunt codes denoted with -3- shall authorize use of bows, crossbows and muzzle-loading firearms, except that bows and crossbows shall not be allowed during restricted muzzle-loading hunts (ex. ELK-3-XXX).

**KK.** "Take" shall mean to hunt, fish, kill or capture any protected species or parts thereof.

**YLL.** "Trotline" shall be synonymous with "set line" or "throw line" or "jug", "Yo-Yo line" or "limb line", and shall mean a fishing line that is used without rod or reel and that need not be held in the hand or closely attended.

**MM.** "Upland game" shall mean dusky grouse, Eurasian collared-dove, all protected squirrel species, all quail species, chukar and pheasant.

**NN.** "Wildlife management area" or "WMA" shall mean those areas as described in 19.34.5 NMAC.

**ZOO.** "Written permission" shall mean a document (which may include a valid hunting, trapping, or fishing license) that asserts the holder has permission from the private land owner or his/her designee to hunt, fish, or trap or drive off road on the landowner's property. The information on the document must be verifiable and include the name of the person(s) receiving permission, activity permitted, property's location and name (if applicable), name of person granting permission, date and length of time the permission is granted, and phone number or e-mail of the person granting the permission. Licenses issued for private land which have the ranch name printed on them constitute written permission for that property and no other permission is required except for private land elk licenses in the secondary management zone pursuant to 19.30.5 and 19.31.14 NMAC.

**PP.** "Zone" shall mean those bear or cougar hunt areas, consisting of one or more GMUs, as described in 19.31.11 NMAC.  
[19.31.10.7 NMAC - Rp, 19.31.10.7 NMAC, 4-1-2019]

**19.31.10.8 UNLAWFUL SUBSTANCE IN PUBLIC WATERS:** It shall be unlawful for any person, firm, corporation or municipality to introduce, directly or indirectly, into any public water of this state any substance that may stupefy, injure, destroy, or drive away from such water any protected species or may be detrimental to the growth and reproduction of those protected species except as exempted in Section 17-2-20 NMSA 1978.  
[19.31.10.8 NMAC - Rp, 19.31.10.8 NMAC, 4-1-2019]

19.31.10.9 **POSSESSION OR SALE OF PROTECTED SPECIES:** It shall be unlawful to possess, sell, or offer for sale all or part of any protected species except as provided below:

A. **License or permit:** A person may possess protected species or parts thereof that they have lawfully taken (killed) under a license or permit, in any jurisdiction, or for which they possess a valid possession certificate, permit or invoice from the department or department permitted facility.

B. **Game taken by another "Possession certificate":** It is unlawful for any person to possess any protected species, or parts thereof, taken by another person except as follows: Any person may have in their possession or under their control any protected species or parts thereof that have been lawfully taken by another person, if they possess a written statement possession certificate which shall be provided by the donor lawful possessor of the protected species, or parts thereof, to the person receiving the animal or parts and which shall contain the following:

- (1) the first and last name of the person receiving the protected species or parts;
- (2) the kind and number of game or furbearer parts donated or provided to a taxidermist, meat processor or any other similar business;
- (3) the date and county/GMU where the game or furbearer was lawfully taken;
- (4) the donor's lawful possessor's name, phone number, address, and the number of the hunting, or fishing or trapping license number, or the permit, certificate or invoice number under which the game or furbearer protected species was lawfully taken; and
- (5) the date and place of the donation or transaction;
- (6) the reason the lawful possessor transferred the animal or parts to the receiver (i.e. donation, transportation, taxidermy, meat processing etc). Any possession certificate which only authorizes temporary possession (i.e. taxidermist or meat processor) shall have a date of estimated return to the original lawful possessor; and
- (7) the signature of both the person receiving and the person transferring the animal or parts.

C. **Retention of live animals:** It shall be unlawful to retain protected species in a live condition except under permit or license issued by the director. It shall be unlawful to sell, attempt to sell or possess live protected species in New Mexico, including captive raised animals, except as allowed by permit issued by the director for the following purposes: or

- (1) zoos open for public display;
- (2) in class A parks;
- (3) in projects for scientific research and propagation;
- (4) a rehabilitation permit;
- (5) under a falconry permit, only those birds listed on the permit;
- (6) under a protected mammal permit, only those mammals listed on the permit;
- (7) under a scientific collection permit, one may collect and possess only those species listed on the permit; or
- (8) while in transit through New Mexico when the transporter can demonstrate proof of legal possession of the protected animal being transported.

D. **Sale of game animal protected species parts:** Only skins, heads, antlers, horns, rendered fat, teeth or claws of legally taken or possessed protected species, all parts of furbearers, and feathers from non-migratory game birds may be bartered or sold. (Internal organs of protected big game species may not be sold). The disposer must supply to the recipient a written statement which shall contain the following:

- (1) the first and last name of the person receiving the protected species or parts;
- (2) description of the skin, head, antlers, horns or claws, or feathers parts involved;
- (3) the date and county/GMU where the game was taken;
- (4) the disposer's name, phone number, address, and the number of either the hunting license, number permit, certificate or invoice under which the game was taken; and
- (5) the date and place of the transaction or sale; and
- (6) the signature of both the person selling and the person purchasing the parts.

E. **Possession of game animal parts found in the field:** It shall be unlawful to possess heads, horns, or antlers, or other parts of protected species found in the field without an invoice or permit from the department of game and fish, with the exception of obviously shed antlers. All shed antlers collected in violation of any state or federal land closure, in violation of criminal trespass, in violation of the habitat protection act, while

driving off road on public land or on a closed road on public land remain property of the State of New Mexico and shall be seized.

**F. — Possession and sale of live wild turkey prohibited:** It shall be unlawful to sell, attempt to sell or possess wild turkey (*Meleagris gallopavo* ssp.) in New Mexico, including captive raised birds, except as by permit issued by the director for verifiable scientific, education, and temporary purposes or for commercial sales to entities outside of the state of New Mexico.

**G. — Tagging of harvested game:** Licensed hunters of any big game species or turkey, upon harvesting an animal, shall immediately and completely notch out the appropriate month and day on the carcass tag. Prior to moving any part of the carcass from the kill site, the licensed hunter shall remove the entire backing material from the carcass and antler tag and adhere them to the appropriate locations on the carcass, antlers or horns leaving the entire face of the tags visible. The carcass and antler tag shall remain attached to the carcass, antlers or horns until it is delivered to a meat processing facility, taxidermist, placed in final cold storage or if required, is inspected and documented or pelt tagged by a department official. The antler tag is not required to be attached or used on antlerless/hornless animals.

(1) — The proper location to attach the carcass tag on any game species when the carcass or quarters are removed from the field is to attach it conspicuously on either hock tendon on the hind legs.

(2) — The proper technique to attach the carcass tag in situations where a game species is boned out or for javelina when nothing is removed or only the skull is taken is for the licensee to notch the date of kill then fold and adhere the carcass tag to itself leaving the entire face of the carcass tag visible. The adhered carcass tag must physically remain with the parts of the game species that are removed and possessed.

(3) — The proper location to attach the carcass tag on a bear or cougar that has been skinned out is to adhere the carcass tag around the ankle area of the hide above the foot. Bear and cougar carcass tags authorize possession of those animals until pelt tagged in accordance with NMAC 19.31.11 or for 5 days from date of kill, whichever comes first.

(4) — The proper location to attach the carcass tag on a turkey is to adhere the carcass tag around the leg above the foot and below the feathers on the thigh.

**H. — It shall be unlawful:**

(1) — for any licensed hunter to fail to properly tag their big game species or turkey with the carcass and antler tag as prescribed;

(2) — to possess any portion of a big game or turkey carcass that does not have a properly notched carcass tag attached to it or for boned out meat to have the notched carcass tag physically present, except lawfully taken game that is accompanied by a valid donation certificate or department invoice;

(3) — to possess any bear or cougar or parts thereof which has not been pelt tagged within 5 days of kill or in accordance with the requirements of NMAC 19.31.11;

(4) — for any person to transport or possess the carcass of any big game species or turkey without proof of sex naturally attached or legal bag limit until the carcass arrives at a residence, taxidermist, meat processing facility, place of final storage or if required, is inspected and documented or pelt tagged by a department official, except lawfully taken game that is accompanied by a valid donation certificate or department invoice;

(5) — to use a carcass or antler tag that is cut, torn, notched or mutilated. Cut, torn, notched or mutilated tags are no longer valid for the take of a big game species or turkey; or

(6) — to use a previous carcass or antler tag once a duplicate has been purchased or to use the carcass or antler tag of any other person. Any previous carcass or antler tag assigned to a license which is replaced by a duplicate is void and no longer valid for the take of a big game species or turkey.

**I. — Seizure:** Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcass of any protected species that is possessed contrary to this section.

[19.31.10.9 NMAC - Rp, 19.31.10.9 NMAC, 4-1-2019]

**19.31.10.10 PERMITS AND LICENSES ISSUED:**

**A. — Proof of license:** Each licensee or permittee must have a copy of their hunting, fishing or trapping license or their department issued collection permit in their possession while hunting, fishing, trapping or collecting protected species in New Mexico. Licenses or permits may be in electronic or paper format. The authorization number for fishing or game hunting is also valid pursuant to Section 17-3-5(C) NMSA 1978. The license, authorization or permit must be produced upon request by any law enforcement officer authorized to enforce Chapter 17 NMSA 1978.

**B.** Permits and licenses, other than hunting, fishing or trapping licenses, which authorize the holder to import, collect, handle, purchase, possess, barter, transfer, transport, sell or offer to sell species listed as group II, III or IV on the directors "species importation list" or any protected species may only be issued by the director or his/her designee as follows authorized by Chapter 17 NMSA 1978 and 19.35 NMAC.:

**A. Uses of wildlife:**

- (1) importation;
- (2) depredation;
- (3) scientific collection;
- (4) possession;
- (5) propagation;
- (6) sale;
- (7) commercial hunting or fishing;
- (8) release;
- (9) falconry;
- (10) rehabilitation; or
- (11) zoo.

**BC.** Permit or license provisions: Specific provisions for applications, conditions, reporting; and other stipulations for permits or licenses will be provided by the department of game and fish with each permit and license.

**CD.** Violation of permit or license provisions or importation/possession of un-permitted wildlife:

(1) It is unlawful for any person receiving any permit or license provided in pursuant to state game commission rule Subsection A of 19.31.1.10 NMAC to violate any provision of this section state game commission rule or any provision listed on the permit or license.

(2) Any violation of Chapter 17 NMSA 1978, state game commission rule or any permit provision shall render that permit or license invalid. If such an invalidated permit or license authorized possession of wildlife any species listed as group II, III or IV on the directors "species importation list" or any protected species, the wildlife animals shall be subject to seizure by any officer authorized to enforce the provisions of Chapter 17 NMSA 1978.

(3) It shall be unlawful to import, collect, handle, purchase, possess, barter, transfer, transport, sell; or offer to sell any imported live wildlife animal listed as group II, III or IV on the directors "species importation list" or any protected species without a department issued permit or license or contrary to the provisions of any import Chapter 17 NMSA 1978, state game commission rule or any department issued permit.

(4) Any animal possessed contrary to this section shall be subject to seizure by any officer authorized to enforce the provisions of Chapter 17 NMSA 1978. Any dangerous, venomous, invasive species or any diseased animals may be destroyed to protect human safety, native wildlife populations or livestock.

(5) Any person who has had an animal seized from them shall have no more than 30 days to arrange for the illegal animal to be transported out of New Mexico and pay for the care and transportation rendered. Failure to make these arrangements within 30 days will result in the animal being considered abandoned. Abandoned animals will be disposed of at the discretion of the department.

**19.31.10.11E. RELEASE OF WILDLIFE. Release of wildlife:** It shall be unlawful for any person or persons to release, intentionally or otherwise, or cause to be released in this state any mammal, bird, fish, reptile or amphibian, except domestic mammals, domestic fowl, or fish from government hatcheries, without first obtaining a permit from the department of game and fish except department employees while performing their official duties or those individuals working on behalf of the department when directed by a department employee.  
[19.31.10.11 NMAC - Rp, 19.31.10.11 NMAC, 4-1-2019]

**19.31.10.12. RESTRICTIVE DEVICES FOR FISH:** The director may require that a screen, paddle wheel, or other device to prevent passage of fish be installed by the owner of any canal or ditch into which waters containing protected fish are diverted. The director may also require that the owner maintain the device during periods when waters are being diverted.  
[19.31.10.12 NMAC - Rp, 19.31.10.12 NMAC, 4-1-2019]

**19.31.10.1311 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**

**A. Shooting from the road/Roads:** It shall be unlawful to shoot at, wound, take, or attempt to take, or kill any protected species on, from, or across or from within the right-of-way fences of any graded, paved, or maintained public road. In the absence of a right-of-way fence it is unlawful to shoot at, wound, take or attempt to



take any protected species from any part of the graded, paved or maintained surface of the public road, and including the areas lying within right-of-way fences or 40 feet from the edge of the pavement or maintained surface, in absence of right-of-way fences, "Public road" as used herein shall mean any road, street or thoroughfare which is open to the public or which the public has a right of access and which has been paved, graded, maintained or any road, street or thoroughfare which has been paved, graded or maintained using public funds.

**B. Shooting at Roads, artificial wildlife from the road:** It shall be unlawful to shoot at artificial wildlife on, from, or across or from within the right-of-way fences of any graded, paved, or maintained-public road. In the absence of a right-of-way fence it is unlawful to shoot at any artificial wildlife from any part of the graded, paved or maintained surface of the public road, and including the areas lying within right-of-way fences or 40 feet from the edge of the pavement or maintained surface, or in absence of right-of-way fences "Public road" as used herein shall mean any road, street or thoroughfare which is open to the public or which the public has a right of access and which has been paved, graded, maintained or any road, street or thoroughfare which has been paved, graded or maintained using public funds.

**C. Shooting from within or upon a vehicle, boats, or aircraft:** It shall be unlawful to shoot at any protected species from within or upon a motor vehicle, power motor-driven boat, sailboat, or aircraft except as allowed by a department issued permit. **EXCEPTION** — A person may shoot from any motor-driven boat when the motor has been completely shut off and its progress therefrom has ceased. Migratory birds may be taken from a motor driven boat (or other craft with attached motor) or sailboat when resting at anchor or fastened within or immediately alongside a fixed hunting blind or is used solely as a means of picking up dead birds.

**D. Harassing protected wildlifpecies:** It shall be unlawful, at any time, to pursue, harass, harr, drive, or rally any protected species by any means except as allowed while legally hunting, or as otherwise allowed by Chapter 17 NMSA or state game commission rule, by use of or from a motor driven vehicle, powerboat, sailboat, drone, or aircraft.

**E. Hunting after air travel:** It shall be unlawful for anyone to hunt for or take any protected species until after the start of legal hunting hours on the day following any air travel except by regularly scheduled commercial airline flights or legitimate direct flight to the final destination.

**E. Using aircraft to locate wildlife:**

(1) For the purpose of hunting it is unlawful for any individual to locate or assist in locating a protected species from or with the aid of an aircraft or drone, or to relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action, or to use information pertaining to the location of a protected species gained from the aid of an aircraft or drone during the period beginning on August 1 and ending on January 31 of each license year.

(2) This section shall not apply to regularly scheduled commercial airline flights, direct flights or to any individual acting within the scope of their official duties as an employee or authorized agent of the state of New Mexico or the United States federal government.

**F. Use of aircraft for spotting game:** It shall be unlawful to use aircraft or drone to spot or locate and relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action.

**G. Using information gained from air flight:**

(1) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any aircraft until 48 hours after such aircraft use.

(2) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any drone at any time.

**F. Aircraft, drone and vehicle exemptions to this rule:** The Director may exempt a person from the prohibition of utilizing an aircraft, drone or vehicle for management purposes.

**HG. Vehicle off of established road or driving on a closed road:**

(1) During the seasons established for any protected species, it shall be unlawful to drive or ride in a motor vehicle which is driven off an established road on public land or to drive or ride in a motor vehicle on a closed road on public land, when the vehicle bears a licensed hunter, fishermanangler or trapper.

(2) During the seasons established for any protected species, it is unlawful to drive or ride in a motor vehicle which is driven off an established road on private land without written permission, when the vehicle bears a licensed hunter, angler or trapper.

(3) It is unlawful to drive or ride in a motor vehicle which is being driven off an established road when gathering or searching for shed antlers on public land or to drive or ride in a motor vehicle on a closed road when gathering or searching for shed antlers on public land.

(4) EXCEPTION: 1) Snowmobiles; 2) and 4) to retrieve lawfully taken game not in an area not closed to vehicular traffic. 3) All landowners, lessees or their employees, while on their owned or leased lands in connection with legitimate agricultural activities.

(5) Public land as used in this section shall mean any federally owned or managed property, any state owned or managed property, any private property which is part of a unitization hunting agreement, ranch wide agreement or unit wide agreement for the species being hunted, any private property which the department has paid for public access for the species being hunted or any New Mexico state game commission owned or managed property.

J. Closed roads: During the seasons established for any protected species, it shall be unlawful to knowingly occupy, drive, or cause to be driven any motor vehicle on a closed road when the vehicle bears a licensed hunter, angler or trapper.

**JH. Handicapped-license Mobility Impaired (MI) hunters:**

(1) Shooting from a vehicle: The holder of a handicapped MI card license is authorized to shoot at, take or attempt to take and kill protected species during their respective open seasons, with the appropriate license, from a stationary motor-driven vehicle only if the vehicle has been parked completely off of the that is not on a public road or highway established road's surface and only when the established road has no right-of-way fence. The holder of a MI card may not shoot at, take or attempt to take any protected species from within the right-of-way fence on any established road. The director may issue permits to shoot from a stationary vehicle to applicants who provide certification that the applicant is permanently disabled in accordance with the American Disability Act. Such certification shall be signed by an M.D. or O.D. licensed to practice in the applicant's state of residence.

(2) Driving off established roads: Holders of a handicapped license may, with permission of the landowner, lessee, or land management agency, drive off established roads to hunt for or take squirrels or game birds, excluding turkey, during open seasons.

(2) Crossbow use: The holder of a MI card may use a crossbow during any bow hunt.

(3) Assistance for handicapped MI hunters: The holder of a handicapped license MI card may be accompanied by another person, who is designated in writing, to assist in reducing to possession taking or attempting to take any big game animal which has clearly been wounded by the licensed handicapped MI hunter. The person so designated must carry that written authorization from the MI hunter at all times while in the field in order to act as their assistant. A MI hunter may only designate one person at a time to assist them. Any person assisting a MI hunter must follow the sporting arm type designated for that hunt and all other laws and rules which apply to a licensed hunter.

K. Aircraft, drone and vehicle exemptions to this rule: The Director may exempt a person from the prohibition of utilizing an aircraft, drone or vehicle for management purposes.

[19.31.10.13 NMAC - Rp, 19.31.10.13 NMAC, 4-1-2019]

**19.31.10.12 BIG GAME AND TURKEY:**

A. Legal hunting hours: A person may only take or attempt to take any big game species or turkey during the period from one-half hour before sunrise to one-half hour after sunset. It is unlawful to take or attempt to take big game or turkey outside of legal hunting hours.

B. Killing out of season: It is unlawful to take or attempt to take any big game species or turkey outside of the established hunting season.

C. Bag limit: It is unlawful for any person to take any big game species or turkey other than the legal bag limit as specified on their big game or turkey license or as indicated by the hunt code, or for any bear hunter to take a sow with cub(s), or any cub less than one year old, or for any cougar hunter to take a spotted cougar kitten or any female accompanied by spotted kitten(s).

**D. Exceeding the bag limit on big game:**

(1) It is unlawful for any person to hunt for or take more than one animal of any big game species per year unless otherwise allowed by state game commission rule.

(2) It is unlawful for any person to hunt for or take more than two cougars per year unless otherwise allowed by state game commission rule.

E. Exceeding the bag limit on turkey: It is unlawful for any person to hunt for or take more than two bearded turkeys during the spring turkey season or more than one turkey during the fall turkey season unless otherwise specifically allowed by 19.31.16 NMAC.

**F. Proof of sex or bag limit:** It is unlawful for anyone to transport or possess the carcass of any big game species or turkey without proof of sex or bag limit (except donated parts when accompanied by a proper possession certificate). Proof of sex or bag limit shall be:

(1) Bear and cougar– External genitalia of any bear or cougar killed shall remain naturally attached to the pelt and be readily visible until the pelt has been inspected and pelt-tagged by a department official.

(2) Barbary sheep and oryx – The horns of any Barbary sheep or oryx taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(3) Deer – The antlers of any buck deer taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage. The scalp and both ears of any antlerless deer or the naturally attached female genitalia shall accompany the carcass in the same manner.

(4) Elk – The antlers of any bull elk taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage. The scalp and both ears of any antlerless elk or the naturally attached female genitalia shall accompany the carcass in the same manner.

(5) Pronghorn - The horns, scalp and both ears of any pronghorn taken shall remain naturally attached to the skull or skull plate and must accompany the carcass until arriving at a residence, taxidermist, meat processing facility or place of final storage. If the horns of a female pronghorn are longer than its ears, and the bag limit is F/IM, the external genitalia must remain naturally attached to the hide/carcass, as appropriate, and be visible to provide proof of legal bag limit until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(6) Bighorn sheep - The horns of any ram shall remain naturally attached to the skull or skull plate and the external genitalia of any ewe taken shall remain naturally attached to the hide/carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(7) Persian ibex - The horns of any ibex shall remain naturally attached to the skull or skull plate. If the horns of any female ibex are 15 inches or longer the external genitalia shall remain naturally attached to the hide/carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(8) Turkey – When the bag limit is a bearded turkey, the beard and a small patch of feathers surrounding the beard shall remain with the carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(9) Javelina – The skull of each javelina shall be proof of bag limit and must be retained until arriving at a residence, taxidermist, meat processing facility or place of final storage.

**G. Tagging of harvested game:**

(1) **Physical Tagging of harvested game:** Licensed hunters of any big game species or turkey, who have chosen to receive a department issued tag at application or purchase, upon harvesting an animal, shall immediately and completely notch out the appropriate month and day on the carcass tag. Prior to moving any part of the carcass from the kill site, the licensed hunter shall remove the entire backing material from the carcass tag and adhere it to the appropriate location on the carcass leaving the entire face of the tag visible. If the species or sex harvested requires the use of an antler or horn tag the licensed hunter shall, prior to moving any part of the carcass from the kill site, remove the entire backing material from the antler/horn tag and adhere it to the appropriate location on the antler or horn leaving the entire face of the tag visible. All tags shall remain attached to the carcass, antlers or horns until it is delivered to a meat processing facility, taxidermist, placed in final cold storage or if required, is inspected and documented or pelt tagged by a department official. The antler/horn tag is not required to be attached or used on antlerless/hornless animals.

(2) **Electronic Tagging of harvested game:** Licensed hunters of any big game species or turkey, who have chosen to electronically tag their game at application or purchase, upon harvesting an animal, shall immediately access the department's electronic tagging application to receive an e-tag number specific to the license. The licensed hunter will legibly write the e-tag number, customer identification number, and the date of harvest on any durable material using permanent ink and shall attach one piece to the big game species or turkey on the appropriate location on the carcass and another piece to the antler or horns as required prior to moving any part of the carcass from the kill site. All e-tag pieces shall remain attached to the carcass, antlers or horns until it is delivered to a meat processing facility, taxidermist, placed in final cold storage or if required, is inspected and documented or pelt tagged by a department official. An antler/horn e-tag is not required to be attached or used on antlerless/hornless animals.

(3) **The proper location to attach all carcass tags and e-tags:**

(a) The proper location to attach the carcass tag or e-tag on any game species is to attach it conspicuously on the hock tendon on either hind leg.

(b) The proper location to attach the carcass tag or e-tag on javelina is to adhere it to the head/skull around the nose.

(d) The proper location to attach the carcass tag or e-tag on a turkey is to adhere it around the leg above the foot and below the feathers on the thigh.

(e) The proper location to attach the carcass tag or e-tag on a bear or cougar is to adhere it around the ankle area of the hide above the foot. Bear and cougar carcass tags authorize possession of those animals until pelt tagged in accordance with state game commission rule or for 5 days from date of kill, whichever comes first.

(i) Any bear or cougar killed shall be tagged with a pelt tag furnished free of charge by the department.

(ii) The hunter who kills the bear or cougar or the hunter's designee must present the unfrozen skull and pelt to a department official for tooth removal and pelt tagging within five calendar days from the date of harvest, before the pelt can be frozen, processed, tanned or salted by a taxidermist, or before taking the pelt out of New Mexico, whichever comes first.

(iii) Any hunter who appoints a designee to present the skull and pelt for pelt tagging is required to contact a conservation officer prior to having the pelt inspected and tagged.

(iv) The pelt tag shall remain attached until the pelt is tanned.

(v) Skulls with mouths closed may not be accepted until the mouth is opened by the hunter or designee.

(vi) Licensed bear or cougar hunters or their designees who provide false or fraudulent information regarding the required information including, but not limited to, sex, date or location of harvest shall be assessed 20 revocation points pursuant to 19.31.2 NMAC.

(f) The proper location to attach an antler tag or e-tag is to adhere the tag around the main beam of the antler between any of the points or tines as close to the base as possible to prevent the tag from coming off.

(g) The proper location to attach a horn tag or e-tag is to adhere the tag around the horn as close to the base as possible to prevent the tag from coming off.

#### H. It is unlawful:

(1) for any licensed hunter to fail to properly tag their big game species or turkey with the carcass and antler tag or e-tag as prescribed;

(2) to possess any portion of a big game or turkey carcass that does not have a properly notched carcass tag attached to it or a completed e-tag attached to it, except lawfully taken game that is accompanied by a proper possession certificate or department invoice;

(3) to possess any bear or cougar or parts thereof which has not been pelt tagged within 5 days of kill, has been taken out of state prior to pelt tagging or has not otherwise been pelt tagged in accordance with state game commission rule;

(4) for any person to transport or possess the carcass of any big game species or turkey without proof of sex naturally attached or proof of legal bag limit until the carcass arrives at a residence, taxidermist, meat processing facility, place of final storage or if required, is inspected and documented or pelt tagged by a department official, except lawfully taken game that is accompanied by a proper possession certificate or department invoice;

(5) to use a carcass or antler tag that is cut, torn, notched or mutilated. Cut, torn, notched or mutilated tags are no longer valid for the take of a big game species or turkey; or

(6) to use a previously issued carcass or antler tag once a duplicate has been obtained or to use the carcass, antler tag or e-tag of any other person. Any previous carcass or antler tag assigned to a license which is replaced by a duplicate is void and no longer valid for the take of a big game species or turkey.

I. **Once-in-a lifetime hunts:** It is unlawful for any person to apply for, receive or use any once-in-a lifetime license if they have ever held a once-in-a lifetime license for that species which has the same bag limit or eligibility requirements.

**J. Youth only (YO), mobility impaired (MI), Iraq/Afghanistan veterans (I/A) and military only (MO) hunts or military discounted licenses:** It is unlawful for anyone to apply for or receive or use any YO, MI, I/A or MO license or any military discounted license except as allowed by state game commission rule.

**K. License sale:** It is unlawful for anyone to sell or offer for sale any hunting, fishing or trapping license, permit or tag which has been issued by the department, or to sell or offer for sale any commercial collection permit or scientific collection permit.

**L. Use of dogs in hunting:**

(1) It is unlawful to use dogs to hunt or pursue big game species or turkey, except for bear and cougar.

(2) Dogs may be used only to hunt bear and cougar during open seasons unless otherwise restricted. It is unlawful to:

(a) hunt for or pursue bear or cougar with dog(s) on the Valle Vidal except holders of bear entry permits for the hunting of bear only;

(b) hunt for or pursue bear or cougar with dog(s) during any September big game bow season statewide except as otherwise allowed by state game commission rule;

(c) release dog(s) to pursue or hold bear or cougar outside of legal hunting hours or during closed season or in a closed area or zone;

(d) to pursue bear or cougar with dog(s) without the licensed hunter, who intends to kill or who kills the bear or cougar, present continuously from the initial release of any dog(s).

(3) It is unlawful to use dog(s) to assist in the recovery of wounded or dead big game or turkey except as follows:

(a) Dog(s) may be used to assist in the recovery of wounded game provided that no more than two dogs may be used at any one time to locate a wounded or dead deer, elk, pronghorn, bighorn sheep, Barbary sheep, oryx, Persian ibex, javelina or turkey.

(b) Dog(s) used to assist in the recovery of deer, elk, pronghorn, bighorn sheep, Barbary sheep, oryx, Persian ibex, javelina or turkey shall be leashed and under the control of the handler at all times and cannot be used to pursue or harass wildlife. No person assisting in the recovery of a wounded animal may shoot or kill the animal being tracked unless they are a licensed hunter for that species, season and area and they intend to tag the animal as their own.

**M. Use of bait:** It is unlawful for any person to take or attempt to take any big game species or turkey by use of baiting or for any person to take or attempt to take big game or turkey from an area which has not been completely free of bait (including in feeders) for at least 10 days. Preexisting legitimate livestock salt and mineral and natural attractants such as cultivated fields, water, orchards, natural kills, carrion or offal are not considered bait unless they have been moved or placed there from another location. It is unlawful to create, maintain or use any bait station in hunting bear or cougar. It is unlawful to use any scent attractant in hunting bears.

**N. Live animals:** It is unlawful to use live protected species as a decoy in taking or attempting to take any big game species or turkey.

**O. Hunting captive big game species:** It is unlawful to take or attempt to take any big game species within any fence or enclosure, or by use of any fence or enclosure, which significantly restricts or limits the free ingress or egress of that big game species except as allowed by permit from the department. Any fence which is 7.5 feet tall or taller shall be considered game proof and hunting within any such enclosure, even if there are open gate(s), is unlawful. **Exception:** Net wire fencing commonly used as sheep or goat fencing which is not taller than 4 feet is not considered to significantly restrict or limit the free ingress or egress of any protected species.

**P. Use of calling devices:** It is unlawful to use any electronically or mechanically recorded calling device in taking or attempting to take any big game species or turkey, except javelina, bear and cougar.

**Q. Automatic firearms:** It is unlawful to take or attempt to take any big game species or turkey with a fully automatic firearm.

**R. Bullets:** It is unlawful to take or attempt to take any big game species or turkey by the use of a prohibited bullet.

**S. Drugs and explosives:** It is unlawful to use any form of drug to capture, take or attempt to take any big game species or turkey unless specifically authorized by the department, or to use arrows driven by explosives, gunpowder or compressed air.

**T. Legal sporting arm types:**

(1) It is unlawful to use any sporting arm type for big game species other than those defined under big game sporting arms except for cougar and javelina which may be taken with those defined under any

sporting arm. For cougar and javelina, compressed air guns must be .22 caliber or larger and shotguns must fire a single slug or #4 buckshot or larger.

(2) It is unlawful to use any sporting arm type for a big game species which does not correspond with the hunt code authorized sporting arm type.

(3) It is unlawful to use sporting arms for turkey other than a shotgun firing shot, bow or crossbow.

**U. Hunting on the wrong ranch, in the wrong area or in the wrong GMU:** It is unlawful for any person to hunt in any location, GMU or ranch other than that area specified on their license or permit unless otherwise allowed by state game commission rule.

(1) A landowner whose contiguous deeded property extends into an adjacent GMU(s) may enter into a written agreement with the department to hunt big game on the contiguous deeded property of the ranch. This permission shall be requested annually, at the local department office, in person or in writing by the landowner at least one week prior to the desired hunt dates. The landowner must show proof of ownership and property location. The season dates, bag limit and sporting arm type will be determined by the GMU where the majority of the deeded property lies. Landowners who enter into this agreement may not hunt the GMU where the minority of the contiguous property lies during that minority GMU's season dates if different from the majority dates. Unit-wide and ranch-wide properties are not eligible for this agreement for those species for which the unit-wide or ranch-wide agreement applies.

(2) A licensed big game hunter may hunt a landowner's contiguous private property which extends into an adjoining GMU(s) only when a department agreement exists and must adhere to the department issued agreement unless otherwise restricted by state game commission rule.

**V. Restricted areas on White Sands missile range:**

(1) It is unlawful to drive or ride in a motor vehicle into an area signed "no hunting" or otherwise restricting hunting or as documented on a map or as presented during the hunt's briefing, except if the hunter or driver is escorted by official personnel;

(2) It is unlawful for a licensed hunter to enter an area signed "no hunting" or otherwise restricting hunting except if the hunter is escorted by official personnel; and

(3) It is unlawful for a licensed security badged hunter to hunt or take any oryx in an area other than their "to be assigned" area.

**W. Validity of licenses and unitizations:** All big game and turkey licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit, and area specified by the hunt code printed on the license including those areas designated as public or private land per a current unitization agreement between the department and U. S. bureau of land management, state land office or other public land holding entity.

**X. Hunting on public land with a private land only license:** It is unlawful to hunt big game on any public land with a private land only license. Public land as used in this section shall mean any federally owned or managed property, any state owned or managed property, or any private property which is part of a unitization hunting agreement, ranch wide agreement or unit wide agreement for the species being hunted, any private property which the department has paid for public access for the species being hunted or any New Mexico state game commission owned or managed property.

**Y. Collars or tracking devices:** It is unlawful to attach any collar or electronic tracking device to any big game species or turkey except as specifically authorized by the department.

**Z. License purchase:** Bear or cougar hunters must purchase their bear or cougar license at least two calendar days prior to taking or attempting to take any bear or cougar. It is unlawful for any bear or cougar hunter to take or attempt to take a bear or cougar within two calendar days of purchasing their license.

**AA. Zones:** It is unlawful to pursue, take or attempt to take a bear or cougar in a closed zone. Zones will close pursuant to 19.31.11 NMAC.

**BB. Valle Vidal:** It is unlawful to hunt bear or cougar on the Valle Vidal except for properly licensed bear or cougar hunters that also possess a Valle Vidal elk hunting license (only during the dates and with the sporting arm type specified on their elk license) and holders of a Valle Vidal bear entry permit (only during their entry permit hunt dates).

**CC. Cougar ID:** It is unlawful for any person to hunt for cougar without having completed the department's cougar ID course and having the verification code printed on their license.

**DD. Cougar trapping season:** It is unlawful to trap or foot snare cougar outside of the season established for furbearer trapping or to kill any cougar which has been trapped or foot snared in a cougar zone which is closed.

**EE. Use of traps and foot snares for cougar:** Licensed trappers who also hold a valid cougar license may use traps or foot snares to harvest cougars on state trust land, or private land with written permission from the landowner or person authorized to grant permission. Neck snares are not permitted. Restrictions for cougar take using traps or foot snares shall follow the regulations on methods, trap specification, trap inspection, wildlife removal as defined in 19.32.2 NMAC. No trap with a jaw spread of larger than 6.5 inches or 7 inches if outside laminated shall be allowed.

(1) It is unlawful to set a foot snare for cougar in GMU 27 and those portions of GMU 26 designated by the United States fish and wildlife service as critical habitat for jaguar.

(2) It is unlawful to kill any cougar captured on BLM or US Forest Service land by the use of traps or foot snares unless authorized by the director.

(3) It is unlawful to take any cougar with a neck snare or prohibited trap.

**FF. Use of cellular, Wi-Fi or satellite cameras:** It is unlawful for any person to use any cellular, Wi-Fi or satellite camera for the purpose of hunting or scouting for any big game animal. Exception: This section does not apply to cellular or satellite phones which are kept on one's person and not used remotely or department employees and their designees while performing their official duties.

[19.31.10.13 NMAC - Rp, 19.31.10.13 NMAC, 4-1-2019]

### **19.31.10.13 UPLAND GAME AND MIGRATORY GAME BIRDS:**

**A. Upland game hunting hours:** Upland game species may be hunted or taken only during the period from one-half hour before sunrise to one-half hour after sunset. It is unlawful to take or attempt to take upland game outside of legal hunting hours.

**B. Killing out of season:** It is unlawful to kill any migratory game bird or upland game out of season.

**C. Exceeding the bag limit:** It is unlawful for any person to take or attempt to take more than one daily bag limit of any migratory game bird species or upland game species allowed by state game commission rule. There shall be no daily bag or possession limit for light geese during the light goose conservation order hunt dates.

**D. Possession limit:** It is unlawful for any person to possess more than one possession limit of any migratory game bird or upland game species.

**E. Proof of species or sex:** It is unlawful for any person to possess any migratory bird or upland game without proof of species or sex as required below:

(1) One foot shall remain attached to each quail taken until the bird has arrived at a residence, taxidermist, meat processing facility or place of final cold storage.

(2) The head or one leg of each pheasant taken must remain attached to the bird until the bird arrived at a residence, taxidermist, meat processing facility or place of final cold storage.

(3) One fully feathered wing must remain attached to all migratory game birds, except dove and band-tailed pigeon, until the bird has arrived at a residence, taxidermist, meat processing facility, or place of final cold storage.

**F. Youth only (YO), mobility impaired (MI), Iraq/Afghanistan veterans (I/A) and military only (MO) hunts or military discounted licenses:** It is unlawful for anyone to apply for or receive or use any YO, MI, I/A or MO license or any military discounted license except as allowed by state game commission rule.

**G. License sale:** It is unlawful for anyone to sell or offer for sale any hunting, fishing or trapping license, permit or tag which has been issued by the department, or to sell or offer for sale any commercial collection permit or scientific collection permit.

**H. Use of dogs in hunting:** Dog(s) may be used to hunt migratory game bird species and upland game. It is unlawful to pursue migratory game birds or upland game with dog(s) outside of the hunting seasons established except in conjunction with a permitted event.

**I. Use of bait:** It is unlawful for any person to take or attempt to take any migratory game bird species or upland game by use of baiting or for any person to take or attempt to take migratory game birds or upland game from an area which has not been completely free of bait (including in feeders) for at least 10 days. Preexisting legitimate livestock salt and mineral and natural attractants such as cultivated fields, water, orchards, carrion or offal are not considered bait unless they have been moved there from another location.

**J. Live animals:** It is unlawful to use live protected species as a decoy in taking or attempting to take any migratory game bird species or upland game species.

**K. Use of calling devices:** It is unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any migratory game bird or upland game species. During the light goose conservation order hunt dates, electronic calling devices are allowed for the take of light geese.

**L. Automatic firearms:** It is unlawful to take or attempt to take any migratory game bird or upland game species with a fully automatic firearm.

**M. Non-toxic shot:** It is unlawful for any person to use or possess any shotgun shell loaded with anything other than non-toxic shot or for any person using a muzzle-loading shotgun to possess anything other than non-toxic shot while hunting for any migratory game bird species, except when hunting dove, band-tailed pigeon or eastern sandhill crane. Non-toxic shot is required for all migratory game birds and upland game species on Bernardo WMA, La Jova WMA and Huey WMA.

**N. Drugs and explosives:** It is unlawful to use any form of drug to capture, take or attempt to take any migratory game bird or upland game species unless specifically authorized by the department, or to use arrows driven by explosives, gunpowder or compressed air.

**O. Legal sporting arms and ammunition:** It is unlawful to use sporting arms other than those listed below to take or attempt to take of any migratory game bird or upland game species.

(1) The following are legal sporting arms for pheasants and quail:

(a) shotguns firing shot;

(b) bows; and

(c) crossbows.

(2) The following are legal sporting arms for dusky grouse, chukar, Eurasian collared-dove, Abert's squirrels, Arizona gray squirrels, fox squirrels, eastern gray squirrels and red squirrels:

(a) shotguns firing shot;

(b) rimfire firearms;

(c) muzzle-loading firearms;

(d) bows;

(e) crossbows; and

(f) compressed air guns, .177 caliber or larger.

(3) The following are legal sporting arms for migratory game birds:

(a) shotguns firing shot, shotguns shall not be capable of holding more than three shells except while hunting light geese during the light goose conservation order hunt dates, as defined in 19.31.6 NMAC;

(b) bows; and

(c) crossbows.

**P. Areas closed to migratory game bird hunting:** It shall be unlawful to hunt migratory game birds in that portion of the stilling basin below Navajo dam lying within a line starting from N.M. 511 at the crest of the bluff west of the Navajo dam spillway and running west along the fence approximately one-quarter mile downstream, southwest along the fence to N.M. 511 to the Navajo dam spillway, across the spillway, and to the crest of the bluff.

**Q. Collars or tracking devices:** It is unlawful for any person to attach any collar or electronic tracking device to any migratory game bird or upland game except as specifically authorized by the department.

**R. Use of traps and snares:** It is unlawful for any person to intentionally set any trap, snare, cage, box or other device to capture or attempt to capture any migratory game bird or upland game or for any person to intentionally capture or attempt to capture any migratory game bird or upland game unless specifically allowed by license or permit.

[19.31.10.14 NMAC - Rp, 19.31.10.14 NMAC, 4-1-2019]

#### 19.31.10.14 FISHING:

**A. Angling:** Game fish may be taken by angling in all waters that are open for fishing.

**B. Season and hours:** It is unlawful to fish in any water during a closed season or to fish in any water outside of the legal fishing hours as prescribed in 19.31.4 NMAC.

**C. Closed waters:** It is unlawful to fish in any water closed by state game commission rule.

**D. Ice fishing:** It is unlawful to take fish from or through the ice on the following waters: Santa Cruz lake, Bonito lake, and Springer lake. Ice fishing is legal on all other waters unless otherwise prohibited.

**E. Hatchery waters:** It is unlawful to take or attempt to take fish from the waters of any fish hatchery or rearing ponds owned or operated by state or federal agencies. **Exception:** During open season, angling for trout shall be permitted in the Glenwood pond at the Glenwood state fish hatchery, Red River hatchery pond at the Red River state fish hatchery, Brood pond at Seven Springs state fish hatchery, and Laguna del Campo at Los Ojos state fish hatchery. Additionally, the director may expressly authorize other limited fishing at the state's fish hatcheries based on management needs.



**BF. Trotlines:** Game fish may be taken by use of trotlines in any water except those listed below, however:

- (1) It is unlawful for any person to set more than one trotline at a time.
- (2) It is unlawful to tie or join together trotlines belonging to two or more persons.
- (23) It is unlawful for any trotlines to have more than 25 angling hooks.
- (34) It is unlawful for a person who has set or maintained a trotline to not personally visit and inspect it at least once every calendar day and remove or release all game fish which are caught. A person fishing with a trotline shall personally visit and inspect the trotline at least once every calendar day. Failure to check a trotline every calendar day is unlawful.
- (45) It is unlawful for anyone to check, pull up or otherwise tamper with another's trotline.
- (56) It is unlawful for anyone to set, check or maintain a trotline which is not tagged or marked as follows:

(a) A person fishing with a trotline shall attach to it an identification tag that is visible above the water line. The identification tag shall bear the angler's fisherman's name, address, fishing license number, and the date the trotline was set department issued customer identification number (CIN).

(b) An unlicensed fisherman angler 11 years of age and younger shall list their department issued customer identification number (CIN) or also list their name and date of birth. Failure to meet trotline tagging requirements as described is unlawful.

(67) It is unlawful to set or use a trotline in any water listed in 19.31.4 NMAC which has a reduced bag limit on catfish or in any trout waters, with the following exceptions: Abiquiu lake, Chama river downstream from the northern boundary of the Monastery of Christ in the Desert, Gila river downstream from its junction with its east fork, Navajo lake and the Rio Grande downstream from its junction with the Chama river.

(78) Any conservation officer or other officer authorized to enforce the game laws Chapter 17 NMSA 1978 and state game commission rules may seize and confiscate destroy any trotlines not set or checked in accordance with this subsection.

**G. Spearfishing and bow fishing:**

(1) Game fish may be taken by spearfishing and bow fishing only in lakes and reservoirs open to fishing. It is unlawful to spearfish or bow fish in any special trout water as designated in 19.31.4 NMAC or in any river or stream.

(2) It is unlawful to take any largemouth bass by spearfishing or bow fishing in the following waters: Bill Evans lake, Clayton lake, and lake Roberts.

**H. Noodling or hand fishing:** It is unlawful to catch any game fish by hand without the use of angling equipment.

**I. Use of nets:** It is unlawful to use cast nets, dip nets, seines or gill nets to capture and retain any protected species of fish from any water unless specifically allowed by permit or state game commission rule. Dip nets may be used to assist in landing fish taken by legal angling methods.

**GJ. Illegal device or substance:** It is unlawful to use any device or substance capable of catching, stupefying or killing fish except as permitted by state game commission rule.

**DK. Bait:**

(1) It is unlawful to use protected game fish or the parts thereof as live or dead bait, except the genus *Lepomis* (sunfish), taken by legal means may be used as live or dead bait in the water from which they were taken, and the roe, viscera and eyes of any legally taken game fish may be used.

(2) It is unlawful to use live bullfrogs, or live bullfrog tadpoles as bait, or to possess any live bullfrogs or live bullfrog tadpoles while fishing, in any waters containing protected species. EXCEPTION: the genus *Lepomis* taken by legal means of angling may be used as live bait in the water from which they were taken only in the following waters: Abiquiu reservoir, Cochiti lake, Elephant Butte reservoir, Caballo reservoir, Stubblefield lake, Maxwell lakes, Clayton lake, Conchas lake, Ute lake, Santa Rosa lake, Lake Sumner, Brantley reservoir, and Navajo reservoir. *Lepomis* may be used as dead bait; roe, viscera, and eyes of legally taken game fish may be used as bait; and bullfrogs and bullfrog tadpoles may be used as dead bait. Live bullfrogs or live bullfrog tadpoles may not be in possession while fishing.

**E. Use of bait fish:**

(1) It is unlawful to use gar (*Lepisosteus* spp.) and goldfish (*Carassius auratus*) as bait in all waters.

(2) It is unlawful to use live common carp (*Cyprinus carpio*), river carpsucker (*Carpoides carpio*), and smallmouth buffalo (*Ictiobus bubalus*) in all waters. However, these species may be used as dead bait in any water where bait may be used.

(3) It is unlawful to use bait fish in all trout waters except fathead minnows and red shiners may be used in the following trout waters: Abiquiu, Clayton lake, Jackson lake, Lake 13 (Maxwell refuge), Navajo lake, the Rio Grande downstream of the Taos junction bridge (excluding the special trout water described in 19.31.4.11 NMAC), and the Animas river.

(4) It is unlawful to use any bait fish in Bitter lake national wildlife refuge and Bottomless lakes state park.

- (5) Bait fish may be used in all other waters with the following restrictions:
- (a) In the Gila river and San Francisco river drainages only fathead minnows may be used.
  - (b) In the Pecos river drainage only fathead minnows and red shiners may be used.
  - (c) In the Rio Grande drainage only fathead minnows, red shiners, and shad may be used except in Elephant Butte and Caballo where golden shiners are also allowed
  - (d) In the Canadian river drainage only fathead minnows, red shiners, and shad may be used.
  - (e) In the San Juan river drainage only fathead minnows and red shiners may be used.
  - (f) In Eagle Nest and Heron lakes only dead bait fish may be used. No live bait fish may be in possession.

**L. Use of bait fish:** It is unlawful to use or possess any baitfish while angling except as follows:

(1) The following baitfish species can be used live or dead unless otherwise prohibited:

Water:	Approved bait fish species:
Rio Grande drainage	Fathead minnow, red shiner and shad
Elephant Butte and Caballo reservoirs	Fathead minnow, red shiner, shad and golden shiner
Pecos river drainage except for Bitter lake national wildlife refuge and Bottomless lakes state park	Fathead minnow and red shiner
Canadian river drainage	Fathead minnow, red shiner, white sucker and shad
San Juan river drainage	Fathead minnow and red shiner
Gila river and San Francisco river drainages	Fathead minnow

(2) The following bait fish species can only be used as dead bait unless otherwise prohibited:

Water:	Approved dead baitfish species:
Statewide	Common carp
Heron reservoir	White sucker

(3) Commercially packaged and processed species of fish which are dead or products thereof are not considered bait fish and are legal in all regular waters.

**M. Methods for taking bait fish for personal use:** Licensed anglers and children 11 years of age and younger may take bait fish for personal use only in waters containing game fish by angling, nets, traps, spears, arrows and seines. All protected species of fish taken in seines, nets, and traps shall be immediately returned to the water.

**F. Release of bait fish:** It is unlawful to release any bait fish into any water containing game fish.

**G. Eradication of fish:** In waters where fish are being eradicated or where water shortage warrants reduction of fish numbers, the director may permit licensed fishermen and unlicensed persons 11 years of age and younger to take and possess game fish in numbers exceeding current bag and possession limits. In granting such permission, the director may specify bag and possession limits and manner and method of taking for such waters.

**H. Methods for taking bait fish for personal use:** Licensed fishermen and unlicensed persons 11 years of age and younger may take bait fish for personal use only in waters containing game fish by angling, nets, traps, spears, arrows, and seines. All protected species of fish taken in seines, nets, and traps shall be immediately returned to the water.

**N. Illegal taking of bait fish:**

(1) It is unlawful for any person, except children 11 years of age and younger, to take bait fish from any water without having a valid fishing license.

(2) It is unlawful for any person to take bait fish from any water for commercial use without a permit issued from the department.

(3) It is unlawful for licensed minnow dealers to violate any of the provisions of their license or permit, take bait fish for sale from waters not specified on their licenses. They may take these fish only by use of

traps, seines, or cast nets, as specified on their licenses. All protected species of fish taken in such traps, seines, or nets shall be immediately returned to the water from which they were taken.

**JO. Permits for taking bait fish:** The director may issue permits for the use of nets, seines, traps, or cast nets in taking bait fish in waters containing protected species of fish. The permit shall specify methods of taking, places for taking, and duration of the permit. The permittee shall report monthly, to the department, the species, numbers and poundage of bait fish taken during the preceding month.

**K. Limit on angling hooks:** It is unlawful to angle with more than two barbless lures or flies with single point angling hooks on a single line when fishing the special trout water on the San Juan river designated in Subsection A. of 19.31.4.11 NMAC.

**P. Eradication of fish:** In waters where fish are being eradicated or where water shortage warrants reduction of fish numbers the director may permit licensed anglers and children 11 years of age and younger to take and possess game fish in numbers exceeding current bag and possession limits. In granting such permission the director may specify bag and possession limits and manner and method of taking for such waters.

**Q. Possession and release of live game fish:**

(1) It is unlawful to release any live game fish into any water in the state, except for fish which were legally caught from that water, without a permit issued by the department.

(2) It is unlawful to possess or transport any live game fish away from the water from which they were caught without a permit issued by the department.

(3) Exception: Department employees or federal employees while performing their official duties or those individuals working on behalf of the department when directed by a department employee.

**LR. Possession of undersized fish:** It is unlawful for any person to have game fish in their possession which do not meet the minimum length requirements as specified in 19.31.4 NMAC.

**MS. Number of fishing poles or lines:** It is unlawful to angle with more than one pole or line without having purchased a current two rod validation or stamp affixed on during the current license year. It is unlawful under any circumstance to angle with more than two poles or lines. A trotline shall not count toward an anglers limit on fishing poles or lines.

**NT. Exceeding daily bag limit:** It is unlawful to exceed the daily bag limit or possession limit of any protected fish species, as specified in 19.31.4.11 NMAC.

**U. Exceeding possession limit:** It is unlawful to exceed the possession limit of any protected fish species, as specified in 19.31.4 NMAC.

**OV. Exceeding daily bag limit or possession limit - Penalty Assessment:** For those fish species or waters where the daily bag limit or possession limit is more than two fish as specified in 19.31.4.11 NMAC, violators that exceed Any person exceeding the daily bag limit or the possession limit by four two fish or less shall be offered a penalty assessment. For those fish species or waters with special, reduced or restricted bag limits or possession limits of two or less as specified in 19.31.4.11 NMAC, violators that exceed the bag limit or possession limit by one fish shall be offered a penalty assessment.

**PW. Snagging game fish:** It is unlawful to snag game fish or to keep any snagged game fish except Kokanee salmon during the special Kokanee salmon season as specified in 19.31.4.9 NMAC.

**Q. Chumming:** It is unlawful to "CHUM" except in the following waters: All waters designated as warm waters; Gila river downstream from its junction with its east fork; Rio Grande downstream from its junction with the Chama river.

**R. Special trout waters:** Only barbless lures or flies may be used in the special trout waters designated in Subsection A. of 19.31.4.11 NMAC, except in the following waters any legal angling gear and legal bait for trout waters may be used: the Vermejo river system within Vermejo Park ranch boundaries, Gilita, Little Turkey, and Willow creeks, Mineral creek, Red River from its confluence with the Rio Grande upstream to the lower walking bridge at Red River state fish hatchery, Rio Chama from the river crossing bridge on U.S. 84 at Abiquiu upstream 7.0 miles to the base of Abiquiu dam, Rio Grande, Rio Ruidoso, and Whitewater creek from Catwalk National Recreation Trail parking area upstream to headwaters. It is unlawful to use tackle which does not meet these restrictions in the designated special trout waters.

**X. Special trout waters:** Only barbless lures or flies may be used in the special trout waters designated in 19.31.4 NMAC, except in the following waters any legal angling gear and legal bait may be used: the Vermejo river system within Vermejo Park ranch boundaries, Gilita, Little Turkey, and Willow creeks, Mineral creek, Red River from its confluence with the Rio Grande upstream to the lower walking bridge at Red River state fish hatchery, Rio Chama from the river crossing bridge on U.S. 84 at Abiquiu upstream 7.0 miles to the base of Abiquiu dam, Rio Grande, Rio Ruidoso, and Whitewater creek from Catwalk National Recreation Trail parking area

upstream to headwaters. It is unlawful to use tackle which does not meet these restrictions in the designated special trout waters.

**SY. Attracting or concentrating fish:**

- (1) **Artificial lights:** Use of artificial lights is permitted for attracting game fish.
- (2) **Disturbing the bottom:** It is unlawful in all special trout waters defined in Subsection A. of 19.31.4.11 NMAC, to disturb or dislodge aquatic plant growth, sediment, or rocks for the purpose of attracting or concentrating fish. It shall also be unlawful to angle in the immediate vicinity where such disturbance has occurred.
- (3) **Chumming:** Chumming is legal in all waters which have no tackle restrictions.

**T. Spearfishing and bow fishing:**

- (1) Game fish may be taken by spearfishing and bow fishing only in lakes and reservoirs open to fishing. It is unlawful to spearfish or bow fish in any special trout water as designated in 19.31.4 NMAC and in any river or stream. It is unlawful to take largemouth bass by spearfishing or bow fishing in the following waters: Bill Evans lake, Clayton lake, and lake Roberts.
- (2) In addition, during the season established by Subsection B. of 19.31.4.9 NMAC, Kokanee salmon may be taken by the use of spears, gigs, and arrows with barbs that are discharged above or below the water and not driven by explosives, gas, air, or crossbow, except in the Pine river where spears, gigs, and arrows are prohibited.

**U. Use of nets:** It is unlawful to use cast nets, dip nets, seines or gill nets to capture and retain any protected species of fish from any water unless specifically allowed by permit or rule. Dip nets may be used to assist in landing fish taken by legal angling methods.

**VZ. Violation of age or disability restrictions:** It is unlawful for any person to fish in any water with age or disability restrictions when that person does not meet the requirements as specified in 19.31.4 NMAC. [19.31.10.14 NMAC - Rp, 19.31.10.14 NMAC, 4-1-2019]

**19.31.10.15 LANDS AND WATERS OWNED, ADMINISTERED, CONTROLLED, OR MANAGED BY THE STATE GAME COMMISSION:**

- A. **Posting of signs:** The state game commission may prohibit, modify, condition, or otherwise control the use of areas under its control by posting of signs as may be required in any particular area.
- B. **Violating provisions of posted signs:** It shall be unlawful to violate the provisions of posted signs on areas under the control of, leased by or managed by the state game commission.
- C. **Trespass on state game commission owned lands:** It shall be unlawful to hunt, fish, camp, or trespasser upon state game commission owned lands unless licensed or as otherwise allowed under regulation by state game commission rule or provided for under Subsection A as posted by the department. [19.31.10.15 NMAC - Rp, 19.31.10.15 NMAC, 4-1-2019]

**19.31.10.16 AREAS CLOSED TO HUNTING, FISHING AND TRAPPING:** The following areas shall remain closed to hunting, fishing, and trapping, except as permitted by regulation:

- A. Sugarite canyon state park.
- B. Portion of the Wild Rivers recreation area: an area bounded on the north by the power line from Bear Crossing to Red River hatchery, south along the Red River to the confluence of the Rio Grande, and north along the Rio Grande to the power lines at Bear Crossing is closed to all hunting; Taos valley overlook.
- C. All wildlife management areas (except non game hunting shall be allowed on the Water Canyon WMA January 1 through March 31 annually).
- D. Valle Vidal area.
- E. Sub Unit 6B (Valles Caldera national preserve)

[19.31.10.16 NMAC - Rp, 19.31.10.16 NMAC, 12-15-2016]

**19.31.10.17 REGULATIONS PERTAINING TO BOATS, OTHER FLOATING DEVICES, AND MOTORS:** It is unlawful to operate, control or ride in any boat or other floating device contrary to sections A-D below.

- A. **Electric or gas motors allowed:** Charette, Clayton, and McAllister lakes: On the following lakes controlled by the department of game and fish, boats and other floating devices with or without electric or gas motors shall be permitted only during the season and hours when fishing is permitted. Boats or floating devices on these lakes shall not be operated at greater than normal trolling speed: Charette, Clayton lake WMA, and McAllister lakes WMA

**B.** On Springer lake, boats and other floating devices with or without motors shall be permitted; provided, however, that boats or floating devices shall not be operated at greater than normal trolling speed when water storage is less than 1,000 acre feet.

**C.** On Ramah lake, boats and floating devices shall not be operated at greater than normal trolling speed.

**DB.** **Electric motors only:** On the following lakes controlled by the department of game and fish, only boats and other floating devices using electric motors or with gas motors that are not in use shall be permitted: Bear canyon lake WMA, Bill Evans lake WMA, Green Meadow, Fenton lake WMA, Hopewell, Jackson, ILake Roberts WMA, Morphy, Quemado, Snow, Conoco lakes, and waters located on the Ladd S. Gordon wildlife area Tucumcari lake WMA.

**EC.** **No motors allowed:** On the following lakes controlled by the department of game and fish, only boats and other floating devices using no motors shall be permitted: Bernardo waterfowl management area WMA, La Joya waterfowl management area WMA, Jackson lake WMA, McGaffey, San Gregorio, Shurree ponds and Wagon Mound WMA.

**FD.** **No boats or floating devices allowed:** On the following lakes controlled by the department of game and fish, no boats or other floating devices shall be permitted: Bonito lake, Laguna del Campo lake at Los Ojos state fish hatchery, Monastery lake, Power dam, and Red River hatchery pond.

**GE.** Department of game and fish personnel or persons authorized by the director of the department of game and fish may use gasoline powered outboard motors on all lakes/waters in the state mentioned in this chapter while performing official duties.

[19.31.10.17 NMAC - Rp, 19.31.10.17 NMAC, 4-1-2019]

**19.31.10.1817 UNLAWFUL TAKING OR KILLING HUNTING ON PRIVATE LAND WITHOUT WRITTEN PERMISSION AND SEIZURE OF GAME ANIMALS, FURBEARERS, GAME BIRDS, OR SHED ANTLERS - GAME FISH ON PRIVATE LAND:**

**A.** It shall be unlawful to hunt, capture, take, attempt to take, or kill any game animal, furbearer, game bird, or game fish on any private property that is in compliance with Section 30-14-1 and Section 30-14-6 NMSA 1978 posting requirements without possessing written permission from the landowner or person in control of the land or trespass rights, unless otherwise permitted in rule or statute.

**B.** It shall be unlawful to hunt, capture, take, attempt to take, or kill any game animal, furbearer, game bird, or game fish on private property if the consent to enter or remain has been denied or withdrawn by the owner or person in control of the land or trespass rights, per Section 30-14-1 NMSA 1978, unless otherwise permitted in rule or statute.

**CA.** It shall be unlawful to knowingly enter upon any private property to hunt, capture, take, or attempt to take, or kill any game animal, furbearer, game bird, or game fish without possessing written permission from the landowner or person in control of the land or trespass rights unless otherwise permitted in rule or statute.

**DB.** Any game animals, furbearers, or game birds, or game fish taken in violation of this section or section 30-14-1 NMSA 1978 is unlawfully taken and shall be subject to seizure.

**C.** All shed antlers collected in violation of any New Mexico state game commission, state or federal land closure, in violation of section 30-14-1 NMSA 1978 or in violation of any of the provisions of Chapter 17 NMSA 1978 or state game commission rule remain property of the State of New Mexico and shall be seized.

**D.** Exception: Written permission is not required on any property which is participating in a unitization, receives compensation for allowing public access, receives unit-wide authorizations or has agreed to a ranch-wide agreement when species being harvested is part of any of these agreements.

[19.31.10.18 NMAC - Rp, 19.31.10.18 NMAC, 4-1-2019]

**19.31.10.19 TAKING GAME ANIMALS, FURBEARERS, GAME BIRDS BY CROSSBOW:**

**A.** Crossbows may be used to take or kill any game animal, furbearer or game bird by a licensed hunter during any legal weapon type or muzzle loader hunt.

**B.** It shall be unlawful to hunt with a crossbow during a bow only hunt without a hunter possessing a MI card or reasonable accommodation from the director, or contrary to rule or hunt code.

[19.31.10.19 NMAC - Rp, 19.31.10.19 NMAC, 4-1-2019]

**19.31.10.2018 MANNER AND METHOD PENALTY ASSESSMENTS:** Individuals who commit the following violations shall be offered penalty assessments:

Size limits (fish)	Contrary to: 19.31.4; 19.31.10 NMAC
Waters with age or individuals with disabilities use restrictions	Contrary to: 19.31.4; 19.31.10 NMAC
Use of live animals	Contrary to: 19.31.5; 19.31.6; 19.31.11; 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC
Use of a calling device	Contrary to: 19.31.5; 19.31.6; 19.31.11; 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC
Unlawful ammunition weapon type	Contrary to: 19.31.5; 19.31.6; 19.31.11; 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC
Shooting hours violations	Contrary to: 19.31.5; 19.31.6 NMAC
Possession of game animal parts found in field	Contrary to: 19.31.10 NMAC
Shoot at artificial wildlife from the road	Contrary to: 19.31.10 NMAC
Harassing wildlife	Contrary to: 19.31.10 NMAC
Driving off road with licensed hunter/angler/trapper	Contrary to: 19.31.10 NMAC
Driving on a closed road	Contrary to: 19.31.10 NMAC
Trotline violations	Contrary to: 19.31.10 NMAC
Unlawful bait	Contrary to: 19.31.10 NMAC
Unlawful use of bait fish	Contrary to: 19.31.10 NMAC
Unlawful release of bait fish	Contrary to: 19.31.10 NMAC
More than two hooks on San Juan special trout water	Contrary to: 19.31.10 NMAC
More than two poles	Contrary to: 19.31.10 NMAC
Exceeding the bag or possession limit of fish as established in 19.31.4 NMAC	Contrary to: 19.31.10 NMAC
Snagging of game fish	Contrary to: 19.31.10 NMAC
Chumming	Contrary to: 19.31.10 NMAC
Bait/barbs on special trout waters	Contrary to: 19.31.10 NMAC
Disturbing the bottom "shuffling"	Contrary to: 19.31.10 NMAC
Spearfishing and bow fishing violations	Contrary to: 19.31.10 NMAC
Violation of posted signs	Contrary to: 19.31.10 NMAC
Use of dogs	Contrary to: 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC
Non-toxic shot requirement on commissioned lands	Contrary to: 19.31.5; 19.31.6; 19.31.16 NMAC
Habitat stamp (Sikes Act)	Contrary to: 19.34.6 NMAC
Two poles without validation stamp	Contrary to: 19.31.10 NMAC
Habitat management and access validation stamp (HMAV)	Contrary to: 17-4-34 NMSA

- A. No habitat management and access validation stamp (HMAV), contrary to 17-4-34 NMSA 1978
- B. No habitat stamp (Sikes Act), contrary to 19.31.10 NMAC
- C. Size limit violations on fish, contrary to 19.31.10 NMAC
- D. Trotline violations, contrary to 19.31.10 NMAC
- E. Use of bait or prohibited lure or fly in a special trout water or noodling, contrary to 19.31.10 NMAC
- F. Disturbing the bottom "shuffling" in a special trout water, contrary to 19.31.10 NMAC
- G. Use of bait fish, contrary to 19.31.10 NMAC
- H. Release of bait fish, contrary to 17-3-28 NMSA 1978
- I. More than two lines or two lines without stamp, contrary to 19.31.10 NMAC
- J. Exceeding the daily bag limit or the possession limit of fish by two fish or less, contrary to 19.31.10 NMAC
- K. Snagging or keeping snagged game fish, contrary to 19.31.10 NMAC
- L. Spearfishing and bow fishing violations, contrary to 19.31.10 NMAC
- M. Unlawfully fishing in waters with age or individuals with disabilities use restrictions, contrary to 19.31.10 NMAC

- N. Boat or other floating device violation, contrary to 19.31.10 NMAC
- O. Use of live protected species as a decoy, contrary to 19.31.10 NMAC
- P. Use of an electronic calling device, contrary to 19.31.10 NMAC
- Q. Use of unapproved shot or shotgun capable of holding more than 3 shells while hunting migratory game birds, contrary to 19.31.10 NMAC
- R. Unlawful ammunition/ bullet/ shot or unlawful caliber, contrary to 19.31.10 NMAC
- S. Hunting hours violations, contrary to 19.31.10 NMAC
- T. Possession of game animal parts found in field, contrary to 19.31.10 NMAC
- U. Shooting at artificial wildlife from the road, contrary to 19.31.10 NMAC
- V. Harassing protected species, contrary to 19.31.10 NMAC
- W. Driving off road or on a closed road, contrary to 19.31.10 NMAC
- X. Violation of posted signs, contrary to 19.31.10 NMAC
- Y. Unlawful use of dogs, contrary to 19.31.10 NMAC
- Z. Unlawful use of cellular, Wi-Fi or satellite camera, contrary to 19.31.10 NMAC

[19.31.10.20 NMAC - Rp, 19.31.10.20 NMAC, 4-1-2019]

#### **19.31.10.19 SEIZURE:**

Any officer authorized to enforce Chapter 17 NMSA 1978 and state game commission rules shall seize unlawfully possessed or imported species, or any protected species or the carcass or parts of any protected species that is taken or possessed contrary to Chapter 17 NMSA 1978 or state game commission rule.

[19.31.10.20 NMAC - N, 4-1-2019]

**19.31.10.21~~20~~ DIRECTOR'S AUTHORITY TO ACCOMMODATE DISABILITY OR MEDICAL IMPAIRMENT:** The director may authorize reasonable modifications to the manner and method of take for any licensee who has a verifiable medical condition that, in the director's sole discretion, necessitates such accommodation. In order to apply for such accommodation, the licensee shall complete and submit any form, information and records required by the director. Any licensee granted an accommodation must adhere to all other state game commission rules as to manner and method of take that are not specifically waived by such accommodation; and shall adhere to any restrictions imposed by the director and shall carry a copy of any director granted accommodations on their person while hunting, fishing or trapping.

[19.31.10.21 NMAC - Rp, 19.31.10.21 NMAC, 4-1-2019]

#### **HISTORY OF 19.31.10 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously file with the Commission of Public Records - State Records Center and Archives:

DFR 67-5 Basic Regulation No. 500, Concerning Method and Manner of Hunting, Taking, Possessing, Disposing, and Transporting of Game Animals, Birds, Fish or Bullfrogs, or parts thereof, Taken in New Mexico, Use and Occupancy of Lands and Waters Administered, Owned, Controlled or Managed by the State Game Commission, 5-25-67.

DGF 68-11 Basic Regulation No. 525, Concerning Method and Manner of Hunting, Taking, Possessing, Disposing, and Transporting of Game Animals, Game Birds, Game Fish or Bullfrogs, or parts thereof, Taken in New Mexico, the Use and Occupancy of Lands and Waters Administered, Owned, Controlled or Managed by the State Game Commission, 8-21-68.

DGF 72-6 Basic Regulation 550 Governing Water Pollution, Water Diversion, Animal Releases, Possession of Game, Manner of Hunting and Fishing, and Use of Department Lands, 5-31-72.

Regulation No. 612 Basic Regulation Governing Water Pollution, Water Diversion, Animal Releases, Possession of Game, Manner of Hunting and Fishing, Use of Department Lands, Retention of Protected Species, Permits and Licenses Issued, and the Hunter Safety Certificate Requirement, 3-2-82.

Regulation No. 677 Basic Regulation Governing Water Pollution, Possession of Game, Permits and Licenses Issued, Retention and Importation of Protected Species, Manner of Hunting and Fishing, Use of Department Lands, Hunter Training Course Required, Hunting License Revocation, Camping Near a Water Hole, 6-25-90.

Order No. 5-91 Requiring that Live-Firing Courses by Taught only by Department of Game and Fish and Volunteer Hunter Education Instructors Certified in Live-Firing Instruction, 10-3-91.

#### **NMAC History:**

19 NMAC 31.1, Hunting and Fishing - Manner and Method of Taking, 3-1-95.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Amended 4-1-2018.  
19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Replaced 4-1-2019.

**History of Repealed Material:**

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 4-1-2007.  
19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 11-7-2016.  
19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 4-1-2019.



## Copy of State Record Corrections

**TITLE 19      NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 31    HUNTING AND FISHING**  
**PART 10        HUNTING AND FISHING - MANNER AND METHOD OF TAKING**

**19.31.10.1      ISSUING AGENCY:** New Mexico department of game and fish.  
[19.31.10.1 NMAC - Rp, 19.31.10.1 NMAC, 4-1-2019]

**19.31.10.2      SCOPE:** Hunters, anglers, trappers and the general public. Additional requirements may be found in Chapter 17 NMSA 1978 and Title 19 NMAC.  
[19.31.10.2 NMAC - Rp, 19.31.10.2 NMAC, 4-1-2019]

**19.31.10.3      STATUTORY AUTHORITY:** Sections 17-1-14, 17-1-26, 17-2-1, 17-2-2, 17-2-2.1, 17-2-4.2, 17-2-6, 17-2-10.1, 17-2-13, 17-2-14, 17-2-20, 17-2-32, 17-2-43, 17-3-2, 17-3-29, 17-2A-3, 17-3-32, 17-3-33, 17-3-42, 17-4-33, 17-5-4 and 17-6-3 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species.  
[19.31.10.3 NMAC - Rp, 19.31.10.3 NMAC, 4-1-2019]

**19.31.10.4      DURATION:** Permanent.  
[19.31.10.4 NMAC - Rp, 19.31.10.4 NMAC, 4-1-2019]

**19.31.10.5      EFFECTIVE DATE:** April 1, 2019, unless a later date is cited at the end of a section.  
[19.31.10.5 NMAC - Rp, 19.31.10.5 NMAC, 4-1-2019]

**19.31.10.6      OBJECTIVE:** To establish general rules, restrictions, requirements, definitions, and regulations governing lawful hunting, fishing, or trapping and the lawful taking or killing of game animals, furbearers, game birds, and game fish, water pollution, possession of wildlife, permits and licenses issued, importation, intrastate transportation, release of wildlife, manner and methods of hunting and fishing and use of department lands.  
[19.31.10.6 NMAC - Rp, 19.31.10.6 NMAC, 4-1-2019]

**19.31.10.7      DEFINITIONS:**

**A.      “Angling”** shall mean taking or attempting to take fish by angling hook and line, with the line held in the hand or attached to a pole or rod or other device that is held in the hand or closely attended.

**B.      “Angling hook”** shall mean a single, double, or treble (triple) point attached to a single shank.

**C.      “Any sporting arm”** shall mean any firearm, muzzle-loader, compressed air gun, shotgun, bow or crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.

**D.      “Arrow” or “Bolt”** shall mean only those arrows or bolts having broadheads with cutting edges except that “judo”, “blunt” or similar small game points may be used for upland game and migratory game bird hunting and arrows for bow fishing must have barbs to prevent the loss of fish.

**E.      “Bag limit”** shall mean the protected species, qualified by species, number, sex, age, antler/horn requirement, or size allowed by state game commission rule that a legally licensed person may attempt to take or take.

**F.      “Bait”** shall mean any salt, mineral, grain, feed, commercially produced game attractant or any other organic material which is attractive to wildlife.

**G.      “Baiting”** shall mean the placing, exposing, depositing, distributing, or scattering of any bait on or over areas where any person is attempting to take protected game mammals or game birds as defined in 17-2-3 NMSA 1978.

**H.      “Bait fish”** is defined as those nongame fish which are not otherwise protected by statute or regulation.

**I.      “Barbless lure or fly”** shall mean an artificial lure made of wood, metal, or plastic or an artificial fly made from fur, feathers, other animal or man-made materials to resemble or simulate insects, bait fish, or other foods. A barbless fly or lure may only bear a single hook, from which any or all barbs must be removed or bent completely closed, or which are manufactured without barbs. Living or dead arthropods and annelids or other foods are not considered barbless lures or flies.

**J.      “Big game species”** shall mean Barbary sheep, bear, bighorn sheep, cougar, deer, elk, javelina, oryx Persian ibex, and pronghorn.

**K.** "Big game sporting arms" shall mean any centerfire firearm at least .22 caliber or larger, any muzzle-loading firearm at least .45 caliber or larger, any shotgun .410 caliber or larger firing a single slug (including muzzle-loading shotguns), any bow or any crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.

**L.** "Bow" shall mean compound, recurve, or long bow, which is not equipped with a mechanical device (draw lock) which locks the bow string at full draw. Sights on bows shall not project light, however, illuminated pins/reticles and scopes of any magnification are allowed.

**M.** "Bow fishing" shall mean taking or attempting to take game fish with arrows/bolts that are discharged above the surface of the water by a bow or crossbow. Arrows/bolts must be attached by string, line, or rope to facilitate fish retrieval.

**N.** "Bullet" shall mean a single projectile fired from a firearm which is designed to expand or fragment upon impact. Tracer or full metal jacket ammunition is not legal for the take or attempted take of any big game species.

**O.** "Cellular", "Wi-Fi" or "satellite camera" shall mean any remote camera which transmits or is capable of transmitting images or video wirelessly via a cellular, Wi-Fi or satellite connection.

**P.** "Chumming" is defined as a means of attracting fish by placing organic materials, non-injurious to aquatic life, into the water.

**Q.** "Compressed air gun" shall mean any kind of gun that launches a single non-spherical projectile, pneumatically with compressed air or other gases that are pressurized mechanically without involving any chemical reaction.

**R.** "Crossbow" shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light, however, illuminated pins/reticles and scopes of any magnification are allowed.

**S.** "Department" shall mean the New Mexico department of game and fish.

**T.** "Director" shall mean the director of the New Mexico department of game and fish.

**U.** "Drone" is defined as any device used or designed for navigation or flight in the air that is unmanned and guided remotely or by an onboard computer or onboard control system. Drones may also be referred to as "unmanned aerial vehicle (UAV)" or "unmanned aerial vehicle systems (UAVS)".

**V.** "Established road" is defined as follows:

(1) a road, built or maintained by equipment, which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures; or

(2) a two-track road which shows use prior to hunting seasons for other purposes such as recreation, mining, logging, and ranching and which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures.

**W.** "Game management unit" or "GMU" shall mean those areas as described in 19.30.4 NMAC, Boundary Descriptions for Game Management Units.

**X.** "License year" shall mean the period from April 1 through March 31.

**Y.** "Locate" shall mean any act or activity, in which any person is searching for, spotting or otherwise finding a protected species from or with the aid of any aircraft or drone.

**Z.** "Migratory game bird" shall mean band-tailed pigeon, mourning dove, white-winged dove, sandhill crane, American coot, common moorhen, common snipe, ducks, geese, sora and Virginia rail.

**AA.** "Muzzle-loader" or "muzzle-loading firearms" shall mean those sporting arms in which the charge and projectile(s) are loaded through the muzzle. Only blackpowder or equivalent blackpowder substitute may be used. Use of smokeless powder is prohibited.

**BB.** "Nets" shall mean cast nets, dip nets, and seines which shall not be longer than 20 feet and shall not have a mesh larger than three-eighths of an inch.

**CC.** "Non-toxic shot" shall mean that non-toxic shot approved for use by the U. S. fish and wildlife service.

**DD.** "Protected species" shall mean any of the following animals:

(1) all animals defined as protected wildlife species and game fish under Section 17-2-3 NMSA 1978;

(2) all animals defined as furbearing animals under Section 17-5-2 NMSA 1978;

(3) all animals listed as endangered or threatened species or subspecies as stated in 19.33.6

NMAC: and

(4) all animals listed under Sections 17-2-13, 17-2-14 or 17-2-4.2 NMSA 1978.

- EE.** “Retention” or “retain” shall mean the holding of live protected species in captivity.
- FF.** “Restricted muzzle-loading rifle” shall mean any muzzle-loading rifle using open sights, black powder or equivalent propellant and firing a full bore diameter bullet or patched round ball. The use of in-line ignition, scopes and smokeless powder are prohibited.
- GG.** “Shotgun” shall mean any centerfire shotgun or muzzle-loading shotgun not larger than 10 gauge.
- HH.** “Snagging” is the repeated or exaggerated jerking or pulling of the fishing line or angling hooks in any attempt to impale fish, whether or not it results in physically snagging a fish.
- II.** “Spear fishing” shall mean taking or attempting to take game fish with spears, gigs and arrows with barbs.
- JJ.** “Sporting arm types” shall be designated in the hunt code as follows unless further restricted or allowed by state game commission rule:
- (1) all hunt codes denoted with -0- shall authorize use of any shotgun firing shot (ex. SCR-0-XXX);
  - (2) all hunt codes denoted with -1- shall authorize use of any big game sporting arm (ex. ELK-1-XXX);
  - (3) all hunt codes denoted with -2- shall authorize use of bows only (ex. ELK-2-XXX);
  - (4) all hunt codes denoted with -3- shall authorize use of bows, crossbows and muzzle-loading firearms (ex. ELK-3-XXX).
- KK.** “Take” shall mean to hunt, fish, kill or capture any protected species or parts thereof.
- LL.** “Trotline” shall be synonymous with “set line” or “throw line” or “jug”, “Yo-Yo line” or “limb line”, and shall mean a fishing line that is used without rod or reel and that need not be held in the hand or closely attended.
- MM.** “Upland game” shall mean dusky grouse, Eurasian collared-dove, all protected squirrel species, all quail species, chukar and pheasant.
- NN.** “Wildlife management area” or “WMA” shall mean those areas as described in 19.34.5 NMAC.
- OO.** “Written permission” shall mean a document (which may include a valid hunting, trapping or fishing license) that asserts the holder has permission from the private land owner or their designee to hunt, fish, trap or drive off road on the landowner’s property. The information on the document must be verifiable and include the name of the person(s) receiving permission, activity permitted, property’s location and name (if applicable), name of person granting permission, date and length of time the permission is granted, and phone number or e-mail of the person granting the permission. Licenses issued for private land which have the ranch name printed on them constitute written permission for that property and no other permission is required except for private land elk licenses in the secondary management zone pursuant to 19.30.5 and 19.31.14 NMAC.
- PP.** “Zone” shall mean those bear or cougar hunt areas, consisting of one or more GMUs, as described in 19.31.11 NMAC.
- [19.31.10.7 NMAC - Rp, 19.31.10.7 NMAC, 4-1-2019]

**19.31.10.8 UNLAWFUL SUBSTANCE IN PUBLIC WATERS:** It is unlawful for any person, firm, corporation or municipality to introduce, directly or indirectly, into any public water of this state any substance that may stupefy, injure, destroy or drive away from such water any protected species or may be detrimental to the growth and reproduction of those protected species except as exempted in Section 17-2-20 NMSA 1978.

[19.31.10.8 NMAC - Rp, 19.31.10.8 NMAC, 4-1-2019]

**19.31.10.9 POSSESSION OR SALE OF PROTECTED SPECIES:** It is unlawful to possess, sell or offer for sale all or part of any protected species except as provided below:

**A. License or permit:** A person may possess protected species or parts thereof that they have lawfully taken under a license or permit, in any jurisdiction, or for which they possess a valid possession certificate, permit or invoice from the department or department permitted facility.

**B. Game taken by another “Possession certificate”:** It is unlawful for any person to possess any protected species, or parts thereof, taken by another person except as follows: Any person may have in their possession or under their control any protected species or parts thereof that have been lawfully taken by another person, if they possess a possession certificate which shall be provided by the lawful possessor of the protected species, or parts thereof, to the person receiving the animal or parts and which shall contain the following:

- (1) the first and last name of the person receiving the protected species or parts;

(2) the kind and number of game or furbearer parts donated or provided to a taxidermist, meat processor or any other similar business;

(3) the date and GMU where the game or furbearer was lawfully taken;

(4) the lawful possessor's name, phone number, address, and the hunting, fishing or trapping license number, or the permit, certificate or invoice number under which the protected species was lawfully taken;

(5) the date and place of the donation or transaction;

(6) the reason the lawful possessor transferred the animal or parts to the receiver (ie. donation, transportation, taxidermy, meat processing etc). Any possession certificate which only authorizes temporary possession (ie. taxidermist or meat processor) shall have a date of estimated return to the original lawful possessor; and

(7) the signature of both the person receiving and the person transferring the animal or parts.

**C. Retention of live animals:** It is unlawful to retain protected species in a live condition except under permit or license issued by the director. It is unlawful to sell, attempt to sell or possess live protected species in New Mexico, including captive raised animals, except as allowed by permit issued by the director or while in transit through New Mexico when the transporter can demonstrate proof of legal possession of the protected animal being transported.

**D. Sale of protected species parts:** Only skins, heads, antlers, horns, rendered fat, teeth or claws of legally taken or possessed protected species, all parts of furbearers, and feathers from non-migratory game birds may be bartered or sold (internal organs of big game species may not be sold). The disposer must supply to the recipient a written statement which shall contain the following:

(1) the first and last name of the person receiving the protected species or parts;

(2) description of the parts involved;

(3) the date and GMU where the game was taken;

(4) the disposer's name, phone number, address, and the number of either the hunting license, permit, certificate or invoice under which the game was taken;

(5) the date and place of the transaction or sale; and

(6) the signature of both the person selling and the person purchasing the parts.

**E. Possession of game animal parts found in the field:** It is unlawful to possess heads, horns, antlers, or other parts of protected species found in the field without an invoice or permit from the department, with the exception of obviously shed antlers. All shed antlers collected in violation of any state or federal land closure, in violation of criminal trespass, in violation of the habitat protection act, while driving off road on public land or on a closed road on public land remain property of the State of New Mexico and shall be seized.  
[19.31.10.9 NMAC - Rp, 19.31.10.9 NMAC, 4-1-2019]

#### **19.31.10.10 PERMITS AND LICENSES ISSUED:**

**A. Proof of license:** Each licensee or permittee must have a copy of their hunting, fishing or trapping license or their department issued collection permit in their possession while hunting, fishing, trapping or collecting protected species in New Mexico. Licenses or permits may be in electronic or paper format. The authorization number for fishing or game hunting is also valid pursuant to Subsection C of Section 17-3-5 NMSA 1978. The license, authorization or permit must be produced upon request by any law enforcement officer authorized to enforce Chapter 17 NMSA 1978.

**B. Permits and licenses, other than hunting, fishing or trapping licenses,** which authorize the holder to import, collect, handle, purchase, possess, barter, transfer, transport, sell or offer to sell species listed as group II, III or IV on the directors "species importation list" or any protected species may only be issued by the director or their designee as authorized by Chapter 17 NMSA 1978 and 19.35 NMAC.

**C. Permit or license provisions:** Specific provisions for applications, conditions, reporting and other stipulations for permits or licenses will be provided by the department with each permit and license.

**D. Violation of permit or license provisions or importation/possession of un-permitted wildlife:**

(1) It is unlawful for any person receiving any permit or license pursuant to state game commission rule to violate any provision of state game commission rule or any provision listed on the permit or license.

(2) Any violation of Chapter 17 NMSA 1978, state game commission rule or any permit provision shall render that permit or license invalid. If such an invalidated permit or license authorized possession of any species listed as group II, III or IV on the directors "species importation list" or any protected species, the animals shall be subject to seizure by any officer authorized to enforce the provisions of Chapter 17 NMSA 1978.

(3) It is unlawful to import, collect, handle, purchase, possess, barter, transfer, transport, sell or offer to sell any live animal listed as group II, III or IV on the directors "species importation list" or any protected species without a department issued permit or license or contrary to the provisions of Chapter 17 NMSA 1978, state game commission rule or any department issued permit.

(4) Any animal possessed contrary to this section shall be subject to seizure by any officer authorized to enforce the provisions of Chapter 17 NMSA 1978. Any dangerous, venomous, invasive species or any diseased animals may be destroyed to protect human safety, native wildlife populations or livestock.

(5) Any person who has had an animal seized from them shall have no more than 30 days to arrange for the illegal animal to be transported out of New Mexico and pay for the care and transportation rendered. Failure to make these arrangements within 30 days will result in the animal being considered abandoned. Abandoned animals will be disposed of at the discretion of the department.

**E. Release of wildlife:** It is unlawful for any person or persons to release, intentionally or otherwise; or cause to be released in this state any mammal, bird, fish, reptile or amphibian, except domestic mammals, domestic fowl, or fish from government hatcheries, without first obtaining a permit from the department except department employees while performing their official duties or those individuals working on behalf of the department when directed by a department employee.

[19.31.10.11 NMAC - Rp, 19.31.10.11 NMAC, 4-1-2019]

#### **19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**

**A. Shooting from the road:** It is unlawful to shoot at, wound, take or attempt to take any protected species on, from, across or from within the right-of-way fences of any graded, paved or maintained public road. In the absence of a right-of-way fence it is unlawful to shoot at, wound, take or attempt to take any protected species from any part of the graded, paved or maintained surface of the public road. "Public road" as used herein shall mean any road, street or thoroughfare which is open to the public or which the public has a right of access and which has been paved, graded, maintained or any road, street or thoroughfare which has been paved, graded or maintained using public funds.

**B. Shooting at artificial wildlife from the road:** It is unlawful to shoot at artificial wildlife on, from, across or from within the right-of-way fences of any graded, paved or maintained-public road. In the absence of a right-of-way fence it is unlawful to shoot at any artificial wildlife from any part of the graded, paved or maintained surface of the public road. "Public road" as used herein shall mean any road, street or thoroughfare which is open to the public or which the public has a right of access and which has been paved, graded, maintained or any road, street or thoroughfare which has been paved, graded or maintained using public funds.

**C. Shooting from within or upon a vehicle, boat or aircraft:** It is unlawful to shoot at any protected species from within or upon a motor vehicle, motor-driven boat, sailboat or aircraft except as allowed by a department issued permit. A person may shoot from any motor-driven boat when, the motor has been completely shut off and its progress therefrom has ceased.

**D. Harassing protected species:** It is unlawful, at any time, to pursue, harass, harr, drive or rally any protected species by any means except as allowed while legally hunting, or as otherwise allowed by Chapter 17 NMSA or state game commission rule.

**E. Hunting after air travel:** It shall be unlawful for anyone to hunt for or take any protected species until after the start of legal hunting hours on the day following any air travel except by regularly scheduled commercial airline flights or legitimate direct flight to the final destination.

**F. Use of aircraft for spotting game:** It shall be unlawful to use aircraft or drone to spot or locate and relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action.

**G. Using information gained from air flight:**

(1) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any aircraft until 48 hours after such aircraft use.

(2) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any drone at any time.

**H. Aircraft, drone and vehicle exemptions to this rule:** The Director may exempt a person from the prohibition of utilizing an aircraft, drone or vehicle for management purposes.

**I. Vehicle off of established road or driving on a closed road:**

(1) During the seasons established for any protected species, it is unlawful to drive or ride in a motor vehicle which is driven off an established road on public land or to drive or ride in a motor vehicle on a closed road on public land, when the vehicle bears a licensed hunter, angler or trapper.

(2) During the seasons established for any protected species, it is unlawful to drive or ride in a motor vehicle which is driven off an established road on private land without written permission, when the vehicle bears a licensed hunter, angler or trapper.

(3) It is unlawful to drive or ride in a motor vehicle which is being driven off an established road when gathering or searching for shed antlers on public land or to drive or ride in a motor vehicle on a closed road when gathering or searching for shed antlers on public land.

(4) **Exception:** Snowmobiles and to retrieve lawfully taken game in an area not closed to vehicular traffic.

(5) Public land as used in this section shall mean any federally owned or managed property, any state owned or managed property, any private property which is part of a unitization hunting agreement, ranch wide agreement or unit wide agreement for the species being hunted, any private property which the department has paid for public access for the species being hunted or any New Mexico state game commission owned or managed property.

**J. Mobility Impaired (MI) hunters:**

(1) **Shooting from a vehicle:** The holder of a MI card is authorized to shoot at, take or attempt to take protected species during their respective open seasons, with the appropriate license, from a stationary motor-driven vehicle only if the vehicle has been parked completely off of the established road's surface and only when the established road has no right-of-way fence. The holder of a MI card may not shoot at, take or attempt to take any protected species from within the right-of-way fence on any established road.

(2) **Crossbow use:** The holder of a MI card may use a crossbow during any bow hunt.

(3) **Assistance for MI hunters:** The holder of a MI card may be accompanied by another person, who is designated in writing, to assist in taking or attempting to take any big game animal which has clearly been wounded by the licensed MI hunter. The person so designated must carry that written authorization from the MI hunter at all times while in the field in order to act as their assistant. A MI hunter may only designate one person at a time to assist them. Any person assisting a MI hunter must follow the sporting arm type designated for that hunt and all other laws and rules which apply to a licensed hunter.

[19.31.10.13 NMAC - Rp, 19.31.10.13 NMAC, 4-1-2019]

**19.31.10.12 BIG GAME AND TURKEY:**

**A. Legal hunting hours:** A person may only take or attempt to take any big game species or turkey during the period from one-half hour before sunrise to one-half hour after sunset. It is unlawful to take or attempt to take big game or turkey outside of legal hunting hours.

**B. Killing out of season:** It is unlawful to take or attempt to take any big game species or turkey outside of the established hunting season.

**C. Bag limit:** It is unlawful for any person to take any big game species or turkey other than the legal bag limit as specified on their big game or turkey license or as indicated by the hunt code, or for any bear hunter to take a sow with cub(s), or any cub less than one year old, or for any cougar hunter to take a spotted cougar kitten or any female accompanied by spotted kitten(s).

**D. Exceeding the bag limit on big game:**

(1) It is unlawful for any person to hunt for or take more than one animal of any big game species per year unless otherwise allowed by state game commission rule.

(2) It is unlawful for any person to hunt for or take more than two cougars per year unless otherwise allowed by state game commission rule.

**E. Exceeding the bag limit on turkey:** It is unlawful for any person to hunt for or take more than two bearded turkeys during the spring turkey season or more than one turkey during the fall turkey season unless otherwise specifically allowed by 19.31.16 NMAC.

**F. Proof of sex or bag limit:** It is unlawful for anyone to transport or possess the carcass of any big game species or turkey without proof of sex or bag limit (except donated parts when accompanied by a proper possession certificate). Proof of sex or bag limit shall be:

(1) **Bear and cougar – External genitalia** of any bear or cougar killed shall remain naturally attached to the pelt and be readily visible until the pelt has been inspected and pelt-tagged by a department official.

(2) **Barbary sheep and oryx** – The horns of any Barbary sheep or oryx taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(3) **Deer** – The antlers of any buck deer taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage. The scalp and both ears of any antlerless deer or the naturally attached female genitalia shall accompany the carcass in the same manner.

(4) **Elk** – The antlers of any bull elk taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage. The scalp and both ears of any antlerless elk or the naturally attached female genitalia shall accompany the carcass in the same manner.

(5) **Pronghorn** - The horns, scalp and both ears of any pronghorn taken shall remain naturally attached to the skull or skull plate and must accompany the carcass until arriving at a residence, taxidermist, meat processing facility or place of final storage. If the horns of a female pronghorn are longer than its ears, and the bag limit is F/IM, the external genitalia must remain naturally attached to the hide/carcass, as appropriate, and be visible to provide proof of legal bag limit until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(6) **Bighorn sheep** - The horns of any ram shall remain naturally attached to the skull or skull plate and the external genitalia of any ewe taken shall remain naturally attached to the hide/carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(7) **Persian ibex** - The horns of any ibex shall remain naturally attached to the skull or skull plate. If the horns of any female ibex are 15 inches or longer the external genitalia shall remain naturally attached to the hide/carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(8) **Turkey** – When the bag limit is a bearded turkey, the beard and a small patch of feathers surrounding the beard shall remain with the carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(9) **Javelina** – The skull of each javelina shall be proof of bag limit and must be retained until arriving at a residence, taxidermist, meat processing facility or place of final storage.

**G. Tagging of harvested game:**

(1) **Physical Tagging of harvested game:** Licensed hunters of any big game species or turkey, who have chosen to receive a department issued tag at application or purchase, upon harvesting an animal, shall immediately and completely notch out the appropriate month and day on the carcass tag. Prior to moving any part of the carcass from the kill site, the licensed hunter shall remove the entire backing material from the carcass tag and adhere it to the appropriate location on the carcass leaving the entire face of the tag visible. If the species or sex harvested requires the use of an antler or horn tag the licensed hunter shall, prior to moving any part of the carcass from the kill site, remove the entire backing material from the antler/horn tag and adhere it to the appropriate location on the antler or horn leaving the entire face of the tag visible. All tags shall remain attached to the carcass, antlers or horns until it is delivered to a meat processing facility, taxidermist, placed in final cold storage or if required, is inspected and documented or pelt tagged by a department official. The antler/horn tag is not required to be attached or used on antlerless/hornless animals.

(2) **Electronic Tagging of harvested game:** Licensed hunters of any big game species or turkey, who have chosen to electronically tag their game at application or purchase, upon harvesting an animal, shall immediately access the department's electronic tagging (e-tag) application to receive an e-tag number specific to the license. The licensed hunter will legibly write the e-tag number, customer identification number, and the date of harvest on any durable material using permanent ink and shall attach one piece to the big game species or turkey on the appropriate location on the carcass and another piece to the antler or horns as required prior to moving any part of the carcass from the kill site. All e-tag pieces shall remain attached to the carcass, antlers or horns until it is delivered to a meat processing facility, taxidermist, placed in final cold storage or if required, is inspected and documented or pelt tagged by a department official. An antler/horn e-tag is not required to be attached or used on antlerless/hornless animals.

(3) **The proper location to attach all carcass tags and e-tags:**

(a) The proper location to attach the carcass tag or e-tag on any game species is to attach it conspicuously on the hock tendon on either hind leg.

(b) The proper location to attach the carcass tag or e-tag on javelina is to adhere it to the head/skull around the nose.

(c) The proper location to attach the carcass tag or e-tag on a turkey is to adhere it around the leg above the foot and below the feathers on the thigh.

(d) The proper location to attach the carcass tag or e-tag on a bear or cougar is to adhere it around the ankle area of the hide above the foot. Bear and cougar carcass tags authorize possession of those animals until pelt tagged in accordance with state game commission rule or for five days from date of kill, whichever comes first.

(i) Any bear or cougar killed shall be tagged with a pelt tag furnished free of charge by the department.

(ii) The hunter who kills the bear or cougar or the hunter's designee must present the unfrozen skull and pelt to a department official for tooth removal and pelt tagging within five calendar days from the date of harvest, before the pelt can be frozen, processed, tanned or salted by a taxidermist, or before taking the pelt out of New Mexico, whichever comes first.

(iii) Any hunter who appoints a designee to present the skull and pelt for pelt tagging is required to contact a conservation officer prior to having the pelt inspected and tagged.

(iv) The pelt tag shall remain attached until the pelt is tanned.

(v) Skulls with mouths closed may not be accepted until the mouth is opened by the hunter or designee.

(vi) Licensed bear or cougar hunters or their designees who provide false or fraudulent information regarding the required information including, but not limited to, sex, date or location of harvest shall be assessed 20 revocation points pursuant to 19.31.2 NMAC.

(e) The proper location to attach an antler tag or e-tag is to adhere the tag around the main beam of the antler between any of the points or tines as close to the base as possible to prevent the tag from coming off.

(f) The proper location to attach a horn tag or e-tag is to adhere the tag around the horn as close to the base as possible to prevent the tag from coming off.

**H. It is unlawful:**

(1) for any licensed hunter to fail to properly tag their big game species or turkey with the carcass and antler tag or e-tag as prescribed;

(2) to possess any portion of a big game or turkey carcass that does not have a properly notched carcass tag attached to it or a completed e-tag attached to it, except lawfully taken game that is accompanied by a proper possession certificate or department invoice;

(3) to possess any bear or cougar or parts thereof which has not been pelt tagged within five days of kill, has been taken out of state prior to pelt tagging or has not otherwise been pelt tagged in accordance with state game commission rule;

(4) for any person to transport or possess the carcass of any big game species or turkey without proof of sex naturally attached or proof of legal bag limit until the carcass arrives at a residence, taxidermist, meat processing facility, place of final storage or if required, is inspected and documented or pelt tagged by a department official, except lawfully taken game that is accompanied by a proper possession certificate or department invoice;

(5) to use a carcass or antler tag that is cut, torn, notched or mutilated. Cut, torn, notched or mutilated tags are no longer valid for the take of a big game species or turkey; or

(6) to use a previously issued carcass or antler tag once a duplicate has been obtained or to use the carcass, antler tag or e-tag of any other person. Any previous carcass or antler tag assigned to a license which is replaced by a duplicate is void and no longer valid for the take of a big game species or turkey.

**I. Once-in-a lifetime hunts:** It is unlawful for any person to apply for, receive or use any once-in-a lifetime license if they have ever held a once-in-a lifetime license for that species which has the same bag limit or eligibility requirements.

**J. Youth only (YO), mobility impaired (MI), Iraq/Afghanistan veterans (I/A) and military only (MO) hunts or military discounted licenses:** It is unlawful for anyone to apply for or receive or use any YO, MI, I/A or MO license or any military discounted license except as allowed by state game commission rule.

**K. License sale:** It is unlawful for anyone to sell or offer for sale any hunting, fishing or trapping license, permit or tag which has been issued by the department, or to sell or offer for sale any commercial collection permit or scientific collection permit.



- L. Use of dogs in hunting:**
- (1) It is unlawful to use dogs to hunt or pursue big game species or turkey, except for bear and cougar.
  - (2) Dogs may be used only to hunt bear and cougar during open seasons unless otherwise restricted. It is unlawful to:
    - (a) hunt for or pursue bear or cougar with dog(s) on the Valle Vidal except holders of bear entry permits for the hunting of bear only;
    - (b) hunt for or pursue bear or cougar with dog(s) during any September big game bow season statewide except as otherwise allowed by state game commission rule;
    - (c) release dog(s) to pursue or hold bear or cougar outside of legal hunting hours or during closed season or in a closed area or zone;
    - (d) to pursue bear or cougar with dog(s) without the licensed hunter, who intends to kill or who kills the bear or cougar, present continuously from the initial release of any dog(s).
  - (3) It is unlawful to use dog(s) to assist in the recovery of wounded or dead big game or turkey except as follows:
    - (a) Dog(s) may be used to assist in the recovery of wounded game provided that no more than two dogs may be used at any one time to locate a wounded or dead deer, elk, pronghorn, bighorn sheep, Barbary sheep, oryx, Persian ibex, javelina or turkey.
    - (b) Dog(s) used to assist in the recovery of deer, elk, pronghorn, bighorn sheep, Barbary sheep, oryx, Persian ibex, javelina or turkey shall be leashed and under the control of the handler at all times and cannot be used to pursue or harass wildlife. No person assisting in the recovery of a wounded animal may shoot or kill the animal being tracked unless they are a licensed hunter for that species, season and area and they intend to tag the animal as their own.
- M. Use of bait:** It is unlawful for any person to take or attempt to take any big game species or turkey by use of baiting or for any person to take or attempt to take big game or turkey from an area which has not been completely free of bait (including in feeders) for at least 10 days. Preexisting legitimate livestock salt and mineral and natural attractants such as cultivated fields, water, orchards, natural kills, carrion or offal are not considered bait unless they have been moved or placed there from another location. It is unlawful to create, maintain or use any bait station in hunting bear or cougar. It is unlawful to use any scent attractant in hunting bears.
- N. Live animals:** It is unlawful to use live protected species as a decoy in taking or attempting to take any big game species or turkey.
- O. Hunting captive big game species:** It is unlawful to take or attempt to take any big game species within any fence or enclosure, or by use of any fence or enclosure, which significantly restricts or limits the free ingress or egress of that big game species except as allowed by permit from the department. Any fence which is 7.5 feet tall or taller shall be considered game proof and hunting within any such enclosure, even if there are open gate(s), is unlawful. Exception: Net wire fencing commonly used as sheep or goat fencing which is not taller than four feet is not considered to significantly restrict or limit the free ingress or egress of any protected species.
- P. Use of calling devices:** It is unlawful to use any electronically or mechanically recorded calling device in taking or attempting to take any big game species or turkey, except javelina, bear and cougar.
- Q. Automatic firearms:** It is unlawful to take or attempt to take any big game species or turkey with a fully automatic firearm.
- R. Bullets:** It is unlawful to take or attempt to take any big game species or turkey by the use of a prohibited bullet.
- S. Drugs and explosives:** It is unlawful to use any form of drug to capture, take or attempt to take any big game species or turkey unless specifically authorized by the department, or to use arrows driven by explosives, gunpowder or compressed air.
- T. Legal sporting arm types:**
- (1) It is unlawful to use any sporting arm type for big game species other than those defined under big game sporting arms except for cougar and javelina which may be taken with those defined under any sporting arm. For cougar and javelina, compressed air guns must be .22 caliber or larger and shotguns must fire a single slug or #4 buckshot or larger.
  - (2) It is unlawful to use any sporting arm type for a big game species which does not correspond with the hunt code authorized sporting arm type.
  - (3) It is unlawful to use sporting arms for turkey other than a shotgun firing shot, bow or crossbow.

**U. Hunting on the wrong ranch, in the wrong area or in the wrong GMU:** It is unlawful for any person to hunt in any location, GMU or ranch other than that area specified on their license or permit unless otherwise allowed by state game commission rule.

(1) A landowner whose contiguous deeded property extends into an adjacent GMU(s) may enter into a written agreement with the department to hunt big game on the contiguous deeded property of the ranch. This permission shall be requested annually, at the local department office, in person or in writing by the landowner at least one week prior to the desired hunt dates. The landowner must show proof of ownership and property location. The season dates, bag limit and sporting arm type will be determined by the GMU where the majority of the deeded property lies. Landowners who enter into this agreement may not hunt the GMU where the minority of the contiguous property lies during that minority GMU's season dates if different from the majority dates. Unit-wide and ranch-wide properties are not eligible for this agreement for those species for which the unit-wide or ranch-wide agreement applies.

(2) A licensed big game hunter may hunt a landowner's contiguous private property which extends into an adjoining GMU(s) only when a department agreement exists and must adhere to the department issued agreement unless otherwise restricted by state game commission rule.

**V. Restricted areas on White Sands missile range:**

(1) It is unlawful to drive or ride in a motor vehicle into an area signed "no hunting" or otherwise restricting hunting or as documented on a map or as presented during the hunt's briefing, except if the hunter or driver is escorted by official personnel;

(2) It is unlawful for a licensed hunter to enter an area signed "no hunting" or otherwise restricting hunting except if the hunter is escorted by official personnel; and

(3) It is unlawful for a licensed security badged hunter to hunt or take any oryx in an area other than their "to be assigned" area.

**W. Validity of licenses and unitizations:** All big game and turkey licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit, and area specified by the hunt code printed on the license including those areas designated as public or private land per a current unitization agreement between the department and U. S. bureau of land management, state land office or other public land holding entity.

**X. Hunting on public land with a private land only license:** It is unlawful to hunt big game on any public land with a private land only license. Public land as used in this section shall mean any federally owned or managed property, any state owned or managed property, or any private property which is part of a unitization hunting agreement, ranch wide agreement or unit wide agreement for the species being hunted, any private property which the department has paid for public access for the species being hunted or any New Mexico state game commission owned or managed property.

**Y. Collars or tracking devices:** It is unlawful to attach any collar or electronic tracking device to any big game species or turkey except as specifically authorized by the department.

**Z. License purchase:** Bear or cougar hunters must purchase their bear or cougar license at least two calendar days prior to taking or attempting to take any bear or cougar. It is unlawful for any bear or cougar hunter to take or attempt to take a bear or cougar within two calendar days of purchasing their license.

**AA. Zones:** It is unlawful to pursue, take or attempt to take a bear or cougar in a closed zone. Zones will close pursuant to 19.31.11 NMAC.

**BB. Valle Vidal:** It is unlawful to hunt bear or cougar on the Valle Vidal except for properly licensed bear or cougar hunters that also possess a Valle Vidal elk hunting license (only during the dates and with the sporting arm type specified on their elk license) and holders of a Valle Vidal bear entry permit (only during their entry permit hunt dates).

**CC. Cougar ID:** It is unlawful for any person to hunt for cougar without having completed the department's cougar ID course and having the verification code printed on their license.

**DD. Cougar trapping season:** It is unlawful to trap or foot snare cougar outside of the season established for furbearer trapping or to kill any cougar which has been trapped or foot snared in a cougar zone which is closed.

**EE. Use of traps and foot snares for cougar:** Licensed trappers who also hold a valid cougar license may use traps or foot snares to harvest cougars on state trust land, or private land with written permission from the landowner or person authorized to grant permission. Neck snares are not permitted. Restrictions for cougar take using traps or foot snares shall follow the regulations on methods, trap specification, trap inspection, wildlife removal as defined in 19.32.2 NMAC. No trap with a jaw spread of larger than 6.5 inches or 7 inches if outside laminated shall be allowed.

(1) It is unlawful to set a foot snare for cougar in GMU 27 and those portions of GMU 26 designated by the United States fish and wildlife service as critical habitat for jaguar.

(2) It is unlawful to kill any cougar captured on BLM or US Forest Service land by the use of traps or foot snares unless authorized by the director.

(3) It is unlawful to take any cougar with a neck snare or prohibited trap.

**FF. Use of cellular, Wi-Fi or satellite cameras:** It is unlawful for any person to use any cellular, Wi-Fi or satellite camera for the purpose of hunting or scouting for any big game animal. Exception: This section does not apply to cellular or satellite phones which are kept on one's person and not used remotely or department employees and their designees while performing their official duties.

[19.31.10.13 NMAC - Rp, 19.31.10.13 NMAC, 4-1-2019]

### **19.31.10.13 UPLAND GAME AND MIGRATORY GAME BIRDS:**

**A. Upland game hunting hours:** Upland game species may be hunted or taken only during the period from one-half hour before sunrise to one-half hour after sunset. It is unlawful to take or attempt to take upland game outside of legal hunting hours.

**B. Killing out of season:** It is unlawful to kill any migratory game bird or upland game out of season.

**C. Exceeding the bag limit:** It is unlawful for any person to take or attempt to take more than one daily bag limit of any migratory game bird species or upland game species allowed by state game commission rule. There shall be no daily bag or possession limit for light geese during the light goose conservation order hunt dates.

**D. Possession limit:** It is unlawful for any person to possess more than one possession limit of any migratory game bird or upland game species.

**E. Proof of species or sex:** It is unlawful for any person to possess any migratory bird or upland game without proof of species or sex as required below:

(1) One foot shall remain attached to each quail taken until the bird has arrived at a residence, taxidermist, meat processing facility or place of final cold storage.

(2) The head or one leg of each pheasant taken must remain attached to the bird until the bird arrived at a residence, taxidermist, meat processing facility or place of final cold storage.

(3) One fully feathered wing must remain attached to all migratory game birds, except dove and band-tailed pigeon, until the bird has arrived at a residence, taxidermist, meat processing facility or place of final cold storage.

**F. Youth only (YO), mobility impaired (MI), Iraq/Afghanistan veterans (I/A) and military only (MO) hunts or military discounted licenses:** It is unlawful for anyone to apply for or receive or use any YO, MI, I/A or MO license or any military discounted license except as allowed by state game commission rule.

**G. License sale:** It is unlawful for anyone to sell or offer for sale any hunting, fishing or trapping license, permit or tag which has been issued by the department, or to sell or offer for sale any commercial collection permit or scientific collection permit.

**H. Use of dogs in hunting:** Dog(s) may be used to hunt migratory game bird species and upland game. It is unlawful to pursue migratory game birds or upland game with dog(s) outside of the hunting seasons established except in conjunction with a permitted event.

**I. Use of bait:** It is unlawful for any person to take or attempt to take any migratory game bird species or upland game by use of baiting or for any person to take or attempt to take migratory game birds or upland game from an area which has not been completely free of bait (including in feeders) for at least 10 days. Preexisting legitimate livestock salt and mineral and natural attractants such as cultivated fields, water, orchards, carrion or offal are not considered bait unless they have been moved there from another location.

**J. Live animals:** It is unlawful to use live protected species as a decoy in taking or attempting to take any migratory game bird species or upland game species.

**K. Use of calling devices:** It is unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any migratory game bird or upland game species. During the light goose conservation order hunt dates, electronic calling devices are allowed for the take of light geese.

**L. Automatic firearms:** It is unlawful to take or attempt to take any migratory game bird or upland game species with a fully automatic firearm.

**M. Non-toxic shot:** It is unlawful for any person to use or possess any shotgun shell loaded with anything other than non-toxic shot or for any person using a muzzle-loading shotgun to possess anything other than non-toxic shot while hunting for any migratory game bird species, except when hunting dove, band-tailed pigeon or

eastern sandhill crane. Non-toxic shot is required for all migratory game birds and upland game species on Bernardo WMA, La Joya WMA, and Huey WMA.

**N. Drugs and explosives:** It is unlawful to use any form of drug to capture, take or attempt to take any migratory game bird or upland game species unless specifically authorized by the department, or to use arrows driven by explosives, gunpowder or compressed air.

**O. Legal sporting arms and ammunition:** It is unlawful to use sporting arms other than those listed below to take or attempt to take of any migratory game bird or upland game species.

(1) The following are legal sporting arms for pheasants and quail:

- (a) shotguns firing shot;
- (b) bows; and
- (c) crossbows.

(2) The following are legal sporting arms for dusky grouse, chukar, Eurasian collared-dove, Abert's squirrels, Arizona gray squirrels, fox squirrels, eastern gray squirrels and red squirrels:

- (a) shotguns firing shot;
- (b) rimfire firearms;
- (c) muzzle-loading firearms;
- (d) bows;
- (e) crossbows; and
- (f) compressed air guns, .177 caliber or larger.

(3) The following are legal sporting arms for migratory game birds:

(a) shotguns firing shot, shotguns shall not be capable of holding more than three shells except while hunting light geese during the light goose conservation order hunt dates, as defined in 19.31.6 NMAC;

- (b) bows; and
- (c) crossbows.

**P. Areas closed to migratory game bird hunting:** It shall be unlawful to hunt migratory game birds in that portion of the stilling basin below Navajo dam lying within a line starting from N.M. 511 at the crest of the bluff west of the Navajo dam spillway and running west along the fence approximately one-quarter mile downstream, southwest along the fence to N.M. 511 to the Navajo dam spillway, across the spillway, and to the crest of the bluff.

**Q. Collars or tracking devices:** It is unlawful for any person to attach any collar or electronic tracking device to any migratory game bird or upland game except as specifically authorized by the department.

**R. Use of traps and snares:** It is unlawful for any person to intentionally set any trap, snare, cage, box or other device to capture or attempt to capture any migratory game bird or upland game or for any person to intentionally capture or attempt to capture any migratory game bird or upland game unless specifically allowed by license or permit.

[19.31.10.14 NMAC - Rp, 19.31.10.14 NMAC, 4-1-2019]

#### 19.31.10.14 FISHING:

**A. Angling:** Game fish may be taken by angling in all waters that are open for fishing.

**B. Season and hours:** It is unlawful to fish in any water during a closed season or to fish in any water outside of the legal fishing hours as prescribed in 19.31.4 NMAC.

**C. Closed waters:** It is unlawful to fish in any water closed by state game commission rule.

**D. Ice fishing:** It is unlawful to take fish from or through the ice on the following waters: Santa Cruz lake, Bonito lake, and Springer lake. Ice fishing is legal on all other waters unless otherwise prohibited.

**E. Hatchery waters:** It is unlawful to take or attempt to take fish from the waters of any fish hatchery or rearing ponds owned or operated by state or federal agencies. Exception: During open season, angling for trout shall be permitted in the Glenwood pond at the Glenwood state fish hatchery, Red River hatchery pond at the Red River state fish hatchery, Brood pond at Seven Springs state fish hatchery, and Laguna del Campo at Los Ojos state fish hatchery. Additionally, the director may expressly authorize other limited fishing at the state's fish hatcheries based on management needs.

**F. Trotlines:** Game fish may be taken by use of trotlines in any water except those listed below, however:

- (1) It is unlawful for any person to set more than one trotline at a time.
- (2) It is unlawful to tie or join together trotlines belonging to two or more persons.
- (3) It is unlawful for any trotline to have more than 25 angling hooks.

(4) It is unlawful for a person who has set or maintained a trotline to not personally visit and inspect it at least once every calendar day and remove or release all game fish which are caught.

(5) It is unlawful for anyone to check, pull up or otherwise tamper with another's trotline.

(6) It is unlawful for anyone to set, check or maintain a trotline which is not tagged or marked as follows:

(a) A person fishing with a trotline shall attach to it an identification tag that is visible above the water line. The identification tag shall bear the angler's department issued customer identification number (CIN).

(b) An unlicensed angler 11 years of age and younger shall list their department issued customer identification number (CIN) or their name and date of birth.

(7) It is unlawful to set or use a trotline in any water listed in 19.31.4 NMAC which has a reduced bag limit on catfish or in any trout water, with the following exceptions: Abiquiu lake, Chama river downstream from the northern boundary of the Monastery of Christ in the Desert, Gila river downstream from its junction with its east fork, Navajo lake and the Rio Grande downstream from its junction with the Chama river.

(8) Any officer authorized to enforce Chapter 17 NMSA 1978 and state game commission rules may seize and destroy any trotlines not set or checked in accordance with this subsection.

**G. Spearfishing and bow fishing:**

(1) Game fish may be taken by spearfishing and bow fishing only in lakes and reservoirs open to fishing. It is unlawful to spearfish or bow fish in any special trout water as designated in 19.31.4 NMAC or in any river or stream.

(2) It is unlawful to take any largemouth bass by spearfishing or bow fishing in the following waters: Bill Evans lake, Clayton lake, and lake Roberts.

**H. Noodling or hand fishing:** It is unlawful to catch any game fish by hand without the use of angling equipment.

**I. Use of nets:** It is unlawful to use cast nets, dip nets, seines or gill nets to capture and retain any protected species of fish from any water unless specifically allowed by permit or state game commission rule. Dip nets may be used to assist in landing fish taken by legal angling methods.

**J. Illegal device or substance:** It is unlawful to use any device or substance capable of catching, stupefying or killing fish except as permitted by state game commission rule.

**K. Bait:**

(1) It is unlawful to use protected game fish or the parts thereof as live or dead bait, except the genus Lepomis (sunfish), taken by legal means may be used as live or dead bait in the water from which they were taken, and the roe, viscera and eyes of any legally taken game fish may be used.

(2) It is unlawful to use bullfrogs or bullfrog tadpoles as bait, or to possess any live bullfrogs or live bullfrog tadpoles while fishing.

**L. Use of bait fish:** It is unlawful to use or possess any baitfish while angling except as follows:

(1) The following baitfish species can be used live or dead unless otherwise prohibited:

<b>Water:</b>	<b>Approved bait fish species:</b>
Rio Grande drainage	Fathead minnow, red shiner and shad
Elephant Butte and Caballo reservoirs	Fathead minnow, red shiner, shad and golden shiner
Pecos river drainage except for Bitter lake national wildlife refuge and Bottomless lakes state park	Fathead minnow and red shiner
Canadian river drainage	Fathead minnow, red shiner, white sucker and shad
San Juan river drainage	Fathead minnow and red shiner
Gila river and San Francisco river drainages	Fathead minnow

(2) The following bait fish species can only be used as dead bait unless otherwise prohibited:

<b>Water:</b>	<b>Approved dead baitfish species:</b>
Statewide	Common carp
Heron reservoir	White sucker

(3) Commercially packaged and processed species of fish which are dead or products thereof are not considered bait fish and are legal in all regular waters.

**M. Methods for taking bait fish for personal use:** Licensed anglers and children 11 years of age and younger may take bait fish for personal use only in waters containing game fish by angling, nets, traps, spears, arrows and seines. All protected species of fish taken in seines, nets and traps shall be immediately returned to the water.

- N. Illegal taking of bait fish:**
- (1) It is unlawful for any person, except children 11 years of age and younger, to take bait fish from any water without having a valid fishing license.
  - (2) It is unlawful for any person to take bait fish from any water for commercial use without a permit issued from the department.
  - (3) It is unlawful for licensed minnow dealers to violate any of the provisions of their license or permit.
- O. Permits for taking bait fish:** The director may issue permits for the use of nets, seines, traps or cast nets in taking bait fish in waters containing protected species of fish. The permit shall specify methods of taking, places for taking and duration of the permit. The permittee shall report monthly, to the department, the species, numbers and poundage of bait fish taken during the preceding month.
- P. Limit on angling hooks:** It is unlawful to angle with more than two barbless lures or flies with single point angling hooks on a single line when fishing the special trout water on the San Juan river designated in Subsection A of 19.31.4.11 NMAC.
- Q. Eradication of fish:** In waters where fish are being eradicated or where water shortage warrants reduction of fish numbers the director may permit licensed anglers and children 11 years of age and younger to take and possess game fish in numbers exceeding current bag and possession limits. In granting such permission the director may specify bag and possession limits and manner and method of taking for such waters.
- R. Possession and release of live game fish:**
- (1) It is unlawful to release any live game fish into any water in the state, except for fish which were legally caught from that water, without a permit issued by the department.
  - (2) It is unlawful to possess or transport any live game fish away from the water from which they were caught without a permit issued by the department.
  - (3) Exception: Department employees or federal employees while performing their official duties or those individuals working on behalf of the department when directed by a department employee.
- S. Possession of undersized fish:** It is unlawful for any person to have game fish in their possession which do not meet the minimum length requirements as specified in 19.31.4 NMAC.
- T. Number of fishing poles or lines:** It is unlawful to angle with more than one pole or line without having purchased a current two rod validation during the current license year. It is unlawful under any circumstance to angle with more than two poles or lines. A trotline shall not count toward an anglers limit on fishing poles or lines.
- U. Exceeding daily bag limit:** It is unlawful to exceed the daily bag limit of any protected fish species, as specified in 19.31.4 NMAC.
- V. Exceeding possession limit:** It is unlawful to exceed the possession limit of any protected fish species, as specified in 19.31.4 NMAC.
- W. Exceeding daily bag limit or possession limit - Penalty Assessment:** Any person exceeding the daily bag limit or the possession limit by two fish or less shall be offered a penalty assessment.
- X. Snagging game fish:** It is unlawful to snag game fish or to keep any snagged game fish except Kokanee salmon during the special Kokanee salmon season as specified in 19.31.4 NMAC.
- Y. Special trout waters:** Only barbless lures or flies may be used in the special trout waters designated in 19.31.4 NMAC, except in the following waters any legal angling gear and legal bait may be used: the Vermejo river system within Vermejo Park ranch boundaries, Gilita, Little Turkey, and Willow creeks, Mineral creek, Red River from its confluence with the Rio Grande upstream to the lower walking bridge at Red River state fish hatchery, Rio Chama from the river crossing bridge on U.S. 84 at Abiquiu upstream 7.0 miles to the base of Abiquiu dam, Rio Grande, Rio Ruidoso, and Whitewater creek from Catwalk National Recreation Trail parking area upstream to headwaters. It is unlawful to use tackle which does not meet these restrictions in the designated special trout waters.
- Z. Attracting or concentrating fish:**
- (1) **Artificial lights:** Use of artificial lights is permitted for attracting game fish.
  - (2) **Disturbing the bottom:** It is unlawful in all special trout waters defined in Subsection A of 19.31.4.11 NMAC, to disturb or dislodge aquatic plant growth, sediment, or rocks for the purpose of attracting or concentrating fish. It shall also be unlawful to angle in the immediate vicinity where such disturbance has occurred.
  - (3) **Chumming:** Chumming is legal in all waters which have no tackle restrictions.
- AA. Violation of age or disability restrictions:** It is unlawful for any person to fish in any water with age or disability restrictions when that person does not meet the requirements as specified in 19.31.4 NMAC. [19.31.10.14 NMAC - Rp, 19.31.10.14 NMAC, 4-1-2019]

**19.31.10.15 LANDS AND WATERS OWNED, ADMINISTERED, CONTROLLED, OR MANAGED BY THE STATE GAME COMMISSION:**

- A. **Posting of signs:** The state game commission may prohibit, modify, condition or otherwise control the use of areas under its control by posting of signs as may be required in any particular area.
- B. **Violating provisions of posted signs:** It is unlawful to violate the provisions of posted signs on areas under the control of, leased by or managed by the state game commission.
- C. **Trespass on state game commission owned lands:** It is unlawful to enter upon state game commission owned lands unless licensed or as otherwise allowed by state game commission rule or as posted by the department.

[19.31.10.15 NMAC - Rp, 19.31.10.15 NMAC, 4-1-2019]

**19.31.10.16 BOATS, OTHER FLOATING DEVICES, AND MOTORS:** It is unlawful to operate, control or ride in any boat or other floating device contrary to sections A-D below.

- A. **Electric or gas motors allowed:** On the following lakes controlled by the department, boats and other floating devices with electric or gas motors shall be permitted only during the season and hours when fishing is permitted. Boats or floating devices on these lakes shall not be operated at greater than normal trolling speed:

**Clayton lake WMA, and McAllister lake WMA**

- B. **Electric motors only:** On the following lakes controlled by the department, only boats and other floating devices using electric motors or with gas motors that are not in use shall be permitted: **Bear canyon lake WMA, Bill Evans lake WMA, Green Meadow, Fenton lake WMA, Hopewell, Lake Roberts WMA, Morphy, Quemado, Snow, Conoco lakes and Tucumcari lake WMA.**

- C. **No motors allowed:** On the following lakes controlled by the department, only boats and other floating devices using no motors shall be permitted: **Bernardo WMA, La Joya WMA, Jackson lake WMA, McGaffey, San Gregorio, Shuree ponds and Wagon Mound WMA.**

- D. **No boats or floating devices allowed:** On the following lakes controlled by the department, no boats or other floating devices shall be permitted: **Bonito lake, Monastery lake, and Red River hatchery pond.**

- E. Department personnel or persons authorized by the director may use gasoline powered motors on all waters in the state while performing official duties.

[19.31.10.17 NMAC - Rp, 19.31.10.17 NMAC, 4-1-2019]

**19.31.10.17 HUNTING ON PRIVATE LAND WITHOUT WRITTEN PERMISSION AND SEIZURE OF GAME ANIMALS, FURBEARERS, GAME BIRDS, OR SHED ANTLERS:**

- A. It is unlawful to knowingly enter upon any private property to take or attempt to take any game animal, furbearer, game bird or game fish without possessing written permission from the landowner or person in control of the land or trespass rights unless otherwise permitted in rule or statute.

- B. Any game animal, furbearer or game bird taken in violation of this section or Section 30-14-1 NMSA 1978 is unlawfully taken and shall be subject to seizure.

- C. All shed antlers collected in violation of any New Mexico state game commission, state or federal land closure, in violation of Section 30-14-1 NMSA 1978 or in violation of any of the provisions of Chapter 17 NMSA 1978 or state game commission rule remain property of the State of New Mexico and shall be seized.

- D. **Exception:** Written permission is not required on any property which is participating in a unitization, receives compensation for allowing public access, receives unit-wide authorizations or has agreed to a ranch-wide agreement when species being harvested is part of any of these agreements.

[19.31.10.18 NMAC - Rp, 19.31.10.18 NMAC, 4-1-2019]

**19.31.10.18 MANNER AND METHOD PENALTY ASSESSMENTS:** Individuals who commit the following violations shall be offered penalty assessments:

- A. No habitat management and access validation stamp (HMAV), contrary to Section 17-4-34 NMSA 1978;

- B. No habitat stamp (Sikes Act), contrary to 19.31.10 NMAC;

- C. Size limit violations on fish, contrary to 19.31.10 NMAC;

- D. Trotline violations, contrary to 19.31.10 NMAC;

- E. Use of bait or prohibited lure or fly in a special trout water or noodling, contrary to 19.31.10 NMAC;

- F. Disturbing the bottom "shuffling" in a special trout water, contrary to 19.31.10 NMAC;

- G. Use of bait fish, contrary to 19.31.10 NMAC;
  - H. Release of bait fish, contrary to Section 17-3-28 NMSA 1978;
  - I. More than two lines or two lines without stamp, contrary to 19.31.10 NMAC;
  - J. Exceeding the daily bag limit or the possession limit of fish by two fish or less, contrary to 19.31.10 NMAC;
  - K. Snagging or keeping snagged game fish, contrary to 19.31.10 NMAC;
  - L. Spearfishing and bow fishing violations, contrary to 19.31.10 NMAC;
  - M. Unlawfully fishing in waters with age or individuals with disabilities use restrictions, contrary to 19.31.10 NMAC;
  - N. Boat or other floating device violation, contrary to 19.31.10 NMAC;
  - O. Use of live protected species as a decoy, contrary to 19.31.10 NMAC;
  - P. Use of an electronic calling device, contrary to 19.31.10 NMAC;
  - Q. Use of unapproved shot or shotgun capable of holding more than three shells while hunting migratory game birds, contrary to 19.31.10 NMAC;
  - R. Unlawful ammunition/ bullet/ shot or unlawful caliber, contrary to 19.31.10 NMAC;
  - S. Hunting hours violations, contrary to 19.31.10 NMAC;
  - T. Possession of game animal parts found in field, contrary to 19.31.10 NMAC;
  - U. Shooting at artificial wildlife from the road, contrary to 19.31.10 NMAC;
  - V. Harassing protected species, contrary to 19.31.10 NMAC;
  - W. Driving off road or on a closed road, contrary to 19.31.10 NMAC;
  - X. Violation of posted signs, contrary to 19.31.10 NMAC;
  - Y. Unlawful use of dogs, contrary to 19.31.10 NMAC;
  - Z. Unlawful use of cellular, Wi-Fi or satellite camera, contrary to 19.31.10 NMAC; or
  - AA. Angling with more than two flies in the San Juan, contrary to 19.31.10 NMAC.
- [19.31.10.20 NMAC - Rp, 19.31.10.20 NMAC, 4-1-2019]

**19.31.10.19 SEIZURE:**

Any officer authorized to enforce Chapter 17 NMSA 1978 and state game commission rules shall seize unlawfully possessed or imported species, or any protected species or the carcass or parts of any protected species that is taken or possessed contrary to Chapter 17 NMSA 1978 or state game commission rule.  
[19.31.10.20 NMAC - N, 4-1-2019]

**19.31.10.20 DIRECTOR'S AUTHORITY TO ACCOMMODATE DISABILITY OR MEDICAL IMPAIRMENT:** The director may authorize reasonable modifications to the manner and method of take for any licensee who has a verifiable medical condition that, in the director's sole discretion, necessitates such accommodation. In order to apply for such accommodation, the licensee shall complete and submit any form, information and records required by the director. Any licensee granted an accommodation must adhere to all other state game commission rules as to manner and method of take that are not specifically waived by such accommodation; and shall adhere to any restrictions imposed by the director and shall carry a copy of any director granted accommodations on their person while hunting, fishing or trapping.  
[19.31.10.21 NMAC - Rp, 19.31.10.21 NMAC, 4-1-2019]

**HISTORY OF 19.31.10 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously file with the Commission of Public Records - State Records Center and Archives:

DFR 67-5 Basic Regulation No. 500, Concerning Method and Manner of Hunting, Taking, Possessing, Disposing, and Transporting of Game Animals, Birds, Fish or Bullfrogs, or parts thereof, Taken in New Mexico, Use and Occupancy of Lands and Waters Administered, Owned, Controlled or Managed by the State Game Commission, 5-25-67.

DGF 68-11 Basic Regulation No. 525, Concerning Method and Manner of Hunting, Taking, Possessing, Disposing, and Transporting of Game Animals, Game Birds, Game Fish or Bullfrogs, or parts thereof, Taken in New Mexico, the Use and Occupancy of Lands and Waters Administered, Owned, Controlled or Managed by the State Game Commission, 8-21-68.

DGF 72-6 Basic Regulation 550 Governing Water Pollution, Water Diversion, Animal Releases, Possession of Game, Manner of Hunting and Fishing, and Use of Department Lands, 5-31-72.



Regulation No. 612 Basic Regulation Governing Water Pollution, Water Diversion, Animal Releases, Possession of Game, Manner of Hunting and Fishing, Use of Department Lands, Retention of Protected Species, Permits and Licenses Issued, and the Hunter Safety Certificate Requirement, 3-2-82.

Regulation No. 677 Basic Regulation Governing Water Pollution, Possession of Game, Permits and Licenses Issued, Retention and Importation of Protected Species, Manner of Hunting and Fishing, Use of Department Lands, Hunter Training Course Required, Hunting License Revocation, Camping Near a Water Hole, 6-25-90.

Order No. 5-91 Requiring that Live-Firing Courses be Taught only by Department of Game and Fish and Volunteer Hunter Education Instructors Certified in Live-Firing Instruction, 10-3-91.

**NMAC History:**

19 NMAC 31.1, Hunting and Fishing - Manner and Method of Taking, 3-1-95.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Amended 4-1-2018.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Replaced 4-1-2019.

**History of Repealed Material:**

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 4-1-2007.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 11-7-2016.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 4-1-2019.

## Final Adopted Rule

**TITLE 19**      **NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 31**   **HUNTING AND FISHING**  
**PART 10**        **HUNTING AND FISHING - MANNER AND METHOD OF TAKING**

**19.31.10.1**      **ISSUING AGENCY:** New Mexico department of game and fish.  
[19.31.10.1 NMAC - Rp. 19.31.10.1 NMAC, 4-1-2019]

**19.31.10.2**      **SCOPE:** Hunters, anglers, trappers and the general public. Additional requirements may be found in Chapter 17 NMSA 1978 and Title 19 NMAC.  
[19.31.10.2 NMAC - Rp. 19.31.10.2 NMAC, 4-1-2019]

**19.31.10.3**      **STATUTORY AUTHORITY:** Sections 17-1-14, 17-1-26, 17-2-1, 17-2-2, 17-2-2.1, 17-2-4.2, 17-2-6, 17-2-10.1, 17-2-13, 17-2-14, 17-2-20, 17-2-32, 17-2-43, 17-3-2, 17-3-29, 17-2A-3, 17-3-32, 17-3-33, 17-3-42, 17-4-33, 17-5-4 and 17-6-3 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species.  
[19.31.10.3 NMAC - Rp. 19.31.10.3 NMAC, 4-1-2019]

**19.31.10.4**      **DURATION:** Permanent.  
[19.31.10.4 NMAC - Rp. 19.31.10.4 NMAC, 4-1-2019]

**19.31.10.5**      **EFFECTIVE DATE:** April 1, 2019, unless a later date is cited at the end of a section.  
[19.31.10.5 NMAC - Rp. 19.31.10.5 NMAC, 4-1-2019]

**19.31.10.6**      **OBJECTIVE:** To establish general rules, restrictions, requirements, definitions, and regulations governing lawful hunting, fishing, or trapping and the lawful taking or killing of game animals, furbearers, game birds, and game fish, water pollution, possession of wildlife, permits and licenses issued, importation, intrastate transportation, release of wildlife, manner and methods of hunting and fishing and use of department lands.  
[19.31.10.6 NMAC - Rp. 19.31.10.6 NMAC, 4-1-2019]

**19.31.10.7**      **DEFINITIONS:**

A.      **"Angling"** shall mean taking or attempting to take fish by angling hook and line, with the line held in the hand or attached to a pole or rod or other device that is held in the hand or closely attended.

B.      **"Angling hook"** shall mean a single, double, or treble (triple) point attached to a single shank.

C.      **"Any sporting arm"** shall mean any firearm, muzzle-loader, compressed air gun, shotgun, bow or crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.

D.      **"Arrow" or "Bolt"** shall mean only those arrows or bolts having broadheads with cutting edges except that "judo", "blunt" or similar small game points may be used for upland game and migratory game bird hunting and arrows for bow fishing must have barbs to prevent the loss of fish.

E.      **"Bag limit"** shall mean the protected species, qualified by species, number, sex, age, antler/horn requirement, or size allowed by state game commission rule that a legally licensed person may attempt to take or take.

F.      **"Bait"** shall mean any salt, mineral, grain, feed, commercially produced game attractant or any other organic material which is attractive to wildlife.

G.      **"Baiting"** shall mean the placing, exposing, depositing, distributing, or scattering of any bait on or over areas where any person is attempting to take protected game mammals or game birds as defined in 17-2-3 NMSA 1978.

H.      **"Bait fish"** is defined as those nongame fish which are not otherwise protected by statute or regulation.

I.      **"Barbless lure or fly"** shall mean an artificial lure made of wood, metal, or plastic or an artificial fly made from fur, feathers, other animal or man-made materials to resemble or simulate insects, bait fish, or other foods. A barbless fly or lure may only bear a single hook, from which any or all barbs must be removed or bent completely closed, or which are manufactured without barbs. Living or dead arthropods and annelids or other foods are not considered barbless lures or flies.

J.      **"Big game species"** shall mean Barbary sheep, bear, bighorn sheep, cougar, deer, elk, javelina, oryx Persian ibex, and pronghorn.

**K.** “**Big game sporting arms**” shall mean any centerfire firearm at least .22 caliber or larger, any muzzle-loading firearm at least .45 caliber or larger, any shotgun .410 caliber or larger firing a single slug (including muzzle-loading shotguns), any bow or any crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.

**L.** “**Bow**” shall mean compound, recurve, or long bow, which is not equipped with a mechanical device (draw lock) which locks the bow string at full draw. Sights on bows shall not project light, however, illuminated pins/reticles and scopes of any magnification are allowed.

**M.** “**Bow fishing**” shall mean taking or attempting to take game fish with arrows/bolts that are discharged above the surface of the water by a bow or crossbow. Arrows/bolts must be attached by string, line, or rope to facilitate fish retrieval.

**N.** “**Bullet**” shall mean a single projectile fired from a firearm which is designed to expand or fragment upon impact. Tracer or full metal jacket ammunition is not legal for the take or attempted take of any big game species.

**O.** “**Cellular**”, “**Wi-Fi**” or “**satellite camera**” shall mean any remote camera which transmits or is capable of transmitting images or video wirelessly via a cellular, Wi-Fi or satellite connection.

**P.** “**Chumming**” is defined as a means of attracting fish by placing organic materials, non-injurious to aquatic life, into the water.

**Q.** “**Compressed air gun**” shall mean any kind of gun that launches a single non-spherical projectile, pneumatically with compressed air or other gases that are pressurized mechanically without involving any chemical reaction.

**R.** “**Crossbow**” shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights on crossbows shall not project light, however, illuminated pins/reticles and scopes of any magnification are allowed.

**S.** “**Department**” shall mean the New Mexico department of game and fish.

**T.** “**Director**” shall mean the director of the New Mexico department of game and fish.

**U.** “**Drone**” is defined as any device used or designed for navigation or flight in the air that is unmanned and guided remotely or by an onboard computer or onboard control system. Drones may also be referred to as “unmanned aerial vehicle (UAV)” or “unmanned aerial vehicle systems (UAVS)”.

**V.** “**Established road**” is defined as follows:

(1) a road, built or maintained by equipment, which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures; or

(2) a two-track road which shows use prior to hunting seasons for other purposes such as recreation, mining, logging, and ranching and which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures.

**W.** “**Game management unit**” or “**GMU**” shall mean those areas as described in 19.30.4 NMAC, Boundary Descriptions for Game Management Units.

**X.** “**License year**” shall mean the period from April 1 through March 31.

**Y.** “**Locate**” shall mean any act or activity, in which any person is searching for, spotting or otherwise finding a protected species from or with the aid of any aircraft or drone.

**Z.** “**Migratory game bird**” shall mean band-tailed pigeon, mourning dove, white-winged dove, sandhill crane, American coot, common moorhen, common snipe, ducks, geese, sora and Virginia rail.

**AA.** “**Muzzle-loader**” or “**muzzle-loading firearms**” shall mean those sporting arms in which the charge and projectile(s) are loaded through the muzzle. Only blackpowder or equivalent blackpowder substitute may be used. Use of smokeless powder is prohibited.

**BB.** “**Nets**” shall mean cast nets, dip nets, and seines which shall not be longer than 20 feet and shall not have a mesh larger than three-eighths of an inch.

**CC.** “**Non-toxic shot**” shall mean that non-toxic shot approved for use by the U. S. fish and wildlife service.

**DD.** “**Protected species**” shall mean any of the following animals:

(1) all animals defined as protected wildlife species and game fish under Section 17-2-3 NMSA 1978;

(2) all animals defined as furbearing animals under Section 17-5-2 NMSA 1978;

(3) all animals listed as endangered or threatened species or subspecies as stated in 19.33.6 NMAC; and

(4) all animals listed under Sections 17-2-13, 17-2-14 or 17-2-4.2 NMSA 1978.

- EE.** “Retention” or “retain” shall mean the holding of live protected species in captivity.
- FF.** “Restricted muzzle-loading rifle” shall mean any muzzle-loading rifle using open sights, black powder or equivalent propellant and firing a full bore diameter bullet or patched round ball. The use of in-line ignition, scopes and smokeless powder are prohibited.
- GG.** “Shotgun” shall mean any centerfire shotgun or muzzle-loading shotgun not larger than 10 gauge.
- HH.** “Snagging” is the repeated or exaggerated jerking or pulling of the fishing line or angling hooks in any attempt to impale fish, whether or not it results in physically snagging a fish.
- II.** “Spear fishing” shall mean taking or attempting to take game fish with spears, gigs and arrows with barbs.
- JJ.** “Sporting arm types” shall be designated in the hunt code as follows unless further restricted or allowed by state game commission rule:
- (1) all hunt codes denoted with -0- shall authorize use of any shotgun firing shot (ex. SCR-0-XXX );
  - (2) all hunt codes denoted with -1- shall authorize use of any big game sporting arm (ex. ELK-1-XXX);
  - (3) all hunt codes denoted with -2- shall authorize use of bows only (ex. ELK-2-XXX);
  - (4) all hunt codes denoted with -3- shall authorize use of bows, crossbows and muzzle-loading firearms (ex. ELK-3-XXX).
- KK.** “Take” shall mean to hunt, fish, kill or capture any protected species or parts thereof.
- LL.** “Trotline” shall be synonymous with “set line” or “throw line” or “jug”, “Yo-Yo line” or “limb line”, and shall mean a fishing line that is used without rod or reel and that need not be held in the hand or closely attended.
- MM.** “Upland game” shall mean dusky grouse, Eurasian collared-dove, all protected squirrel species, all quail species, chukar and pheasant.
- NN.** “Wildlife management area” or “WMA” shall mean those areas as described in 19.34.5 NMAC.
- OO.** “Written permission” shall mean a document (which may include a valid hunting, trapping or fishing license) that asserts the holder has permission from the private land owner or their designee to hunt, fish, trap or drive off road on the landowner’s property. The information on the document must be verifiable and include the name of the person(s) receiving permission, activity permitted, property’s location and name (if applicable), name of person granting permission, date and length of time the permission is granted, and phone number or e-mail of the person granting the permission. Licenses issued for private land which have the ranch name printed on them constitute written permission for that property and no other permission is required except for private land elk licenses in the secondary management zone pursuant to 19.30.5 and 19.31.14 NMAC.
- PP.** “Zone” shall mean those bear or cougar hunt areas, consisting of one or more GMUs, as described in 19.31.11 NMAC.  
[19.31.10.7 NMAC - Rp. 19.31.10.7 NMAC, 4-1-2019]

**19.31.10.8 UNLAWFUL SUBSTANCE IN PUBLIC WATERS:** It is unlawful for any person, firm, corporation or municipality to introduce, directly or indirectly, into any public water of this state any substance that may stupefy, injure, destroy or drive away from such water any protected species or may be detrimental to the growth and reproduction of those protected species except as exempted in Section 17-2-20 NMSA 1978.  
[19.31.10.8 NMAC - Rp. 19.31.10.8 NMAC, 4-1-2019]

**19.31.10.9 POSSESSION OR SALE OF PROTECTED SPECIES:** It is unlawful to possess, sell or offer for sale all or part of any protected species except as provided below:

**A. License or permit:** A person may possess protected species or parts thereof that they have lawfully taken under a license or permit, in any jurisdiction, or for which they possess a valid possession certificate, permit or invoice from the department or department permitted facility.

**B. Game taken by another “Possession certificate”:** It is unlawful for any person to possess any protected species, or parts thereof, taken by another person except as follows: Any person may have in their possession or under their control any protected species or parts thereof that have been lawfully taken by another person, if they possess a possession certificate which shall be provided by the lawful possessor of the protected species, or parts thereof, to the person receiving the animal or parts and which shall contain the following:

- (1) the first and last name of the person receiving the protected species or parts;

(2) the kind and number of game or furbearer parts donated or provided to a taxidermist, meat processor or any other similar business;

(3) the date and GMU where the game or furbearer was lawfully taken;

(4) the lawful possessor's name, phone number, address, and the hunting, fishing or trapping license number, or the permit, certificate or invoice number under which the protected species was lawfully taken;

(5) the date and place of the donation or transaction;

(6) the reason the lawful possessor transferred the animal or parts to the receiver (ie. donation, transportation, taxidermy, meat processing etc). Any possession certificate which only authorizes temporary possession (ie. taxidermist or meat processor) shall have a date of estimated return to the original lawful possessor; and

(7) the signature of both the person receiving and the person transferring the animal or parts.

**C. Retention of live animals:** It is unlawful to retain protected species in a live condition except under permit or license issued by the director. It is unlawful to sell, attempt to sell or possess live protected species in New Mexico, including captive raised animals, except as allowed by permit issued by the director or while in transit through New Mexico when the transporter can demonstrate proof of legal possession of the protected animal being transported.

**D. Sale of protected species parts:** Only skins, heads, antlers, horns, rendered fat, teeth or claws of legally taken or possessed protected species, all parts of furbearers, and feathers from non-migratory game birds may be bartered or sold (internal organs of big game species may not be sold). The disposer must supply to the recipient a written statement which shall contain the following:

(1) the first and last name of the person receiving the protected species or parts;

(2) description of the parts involved;

(3) the date and GMU where the game was taken;

(4) the disposer's name, phone number, address, and the number of either the hunting license, permit, certificate or invoice under which the game was taken;

(5) the date and place of the transaction or sale; and

(6) the signature of both the person selling and the person purchasing the parts.

**E. Possession of game animal parts found in the field:** It is unlawful to possess heads, horns, antlers, or other parts of protected species found in the field without an invoice or permit from the department, with the exception of obviously shed antlers. All shed antlers collected in violation of any state or federal land closure, in violation of criminal trespass, in violation of the habitat protection act, while driving off road on public land or on a closed road on public land remain property of the State of New Mexico and shall be seized.

[19.31.10.9 NMAC - Rp. 19.31.10.9 NMAC, 4-1-2019]

#### **19.31.10.10 PERMITS AND LICENSES ISSUED:**

**A. Proof of license:** Each licensee or permittee must have a copy of their hunting, fishing or trapping license or their department issued collection permit in their possession while hunting, fishing, trapping or collecting protected species in New Mexico. Licenses or permits may be in electronic or paper format. The authorization number for fishing or game hunting is also valid pursuant to Subsection C of Section 17-3-5 NMSA 1978. The license, authorization or permit must be produced upon request by any law enforcement officer authorized to enforce Chapter 17 NMSA 1978.

**B.** Permits and licenses, other than hunting, fishing or trapping licenses, which authorize the holder to import, collect, handle, purchase, possess, barter, transfer, transport, sell or offer to sell species listed as group II, III or IV on the directors "species importation list" or any protected species may only be issued by the director or their designee as authorized by Chapter 17 NMSA 1978 and 19.35 NMAC.

**C. Permit or license provisions:** Specific provisions for applications, conditions, reporting and other stipulations for permits or licenses will be provided by the department with each permit and license.

**D. Violation of permit or license provisions or importation/possession of un-permitted wildlife:**

(1) It is unlawful for any person receiving any permit or license pursuant to state game commission rule to violate any provision of state game commission rule or any provision listed on the permit or license.

(2) Any violation of Chapter 17 NMSA 1978, state game commission rule or any permit provision shall render that permit or license invalid. If such an invalidated permit or license authorized possession of any species listed as group II, III or IV on the directors "species importation list" or any protected species, the animals shall be subject to seizure by any officer authorized to enforce the provisions of Chapter 17 NMSA 1978.

(3) It is unlawful to import, collect, handle, purchase, possess, barter, transfer, transport, sell or offer to sell any live animal listed as group II, III or IV on the directors "species importation list" or any protected species without a department issued permit or license or contrary to the provisions of Chapter 17 NMSA 1978, state game commission rule or any department issued permit.

(4) Any animal possessed contrary to this section shall be subject to seizure by any officer authorized to enforce the provisions of Chapter 17 NMSA 1978. Any dangerous, venomous, invasive species or any diseased animals may be destroyed to protect human safety, native wildlife populations or livestock.

(5) Any person who has had an animal seized from them shall have no more than 30 days to arrange for the illegal animal to be transported out of New Mexico and pay for the care and transportation rendered. Failure to make these arrangements within 30 days will result in the animal being considered abandoned. Abandoned animals will be disposed of at the discretion of the department.

**E. Release of wildlife:** It is unlawful for any person or persons to release, intentionally or otherwise; or cause to be released in this state any mammal, bird, fish, reptile or amphibian, except domestic mammals, domestic fowl, or fish from government hatcheries, without first obtaining a permit from the department except department employees while performing their official duties or those individuals working on behalf of the department when directed by a department employee.

[19.31.10.11 NMAC - Rp, 19.31.10.11 NMAC, 4-1-2019]

### **19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**

**A. Shooting from the road:** It is unlawful to shoot at, wound, take or attempt to take any protected species on, from, across or from within the right-of-way fences of any graded, paved or maintained public road. In the absence of a right-of-way fence it is unlawful to shoot at, wound, take or attempt to take any protected species from any part of the graded, paved or maintained surface of the public road. "Public road" as used herein shall mean any road, street or thoroughfare which is open to the public or which the public has a right of access and which has been paved, graded, maintained or any road, street or thoroughfare which has been paved, graded or maintained using public funds.

**B. Shooting at artificial wildlife from the road:** It is unlawful to shoot at artificial wildlife on, from, across or from within the right-of-way fences of any graded, paved or maintained-public road. In the absence of a right-of-way fence it is unlawful to shoot at any artificial wildlife from any part of the graded, paved or maintained surface of the public road. "Public road" as used herein shall mean any road, street or thoroughfare which is open to the public or which the public has a right of access and which has been paved, graded, maintained or any road, street or thoroughfare which has been paved, graded or maintained using public funds.

**C. Shooting from within or upon a vehicle, boat or aircraft:** It is unlawful to shoot at any protected species from within or upon a motor vehicle, motor-driven boat, sailboat or aircraft except as allowed by a department issued permit. A person may shoot from any motor-driven boat when, the motor has been completely shut off and its progress therefrom has ceased.

**D. Harassing protected species:** It is unlawful, at any time, to pursue, harass, harr, drive or rally any protected species by any means except as allowed while legally hunting, or as otherwise allowed by Chapter 17 NMSA or state game commission rule.

**E. Hunting after air travel:** It shall be unlawful for anyone to hunt for or take any protected species until after the start of legal hunting hours on the day following any air travel except by regularly scheduled commercial airline flights or legitimate direct flight to the final destination.

**F. Use of aircraft for spotting game:** It shall be unlawful to use aircraft or drone to spot or locate and relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action.

#### **G. Using information gained from air flight:**

(1) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any aircraft until 48 hours after such aircraft use.

(2) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any drone at any time.

**H. Aircraft, drone and vehicle exemptions to this rule:** The Director may exempt a person from the prohibition of utilizing an aircraft, drone or vehicle for management purposes.

#### **I. Vehicle off of established road or driving on a closed road:**

(1) During the seasons established for any protected species, it is unlawful to drive or ride in a motor vehicle which is driven off an established road on public land or to drive or ride in a motor vehicle on a closed road on public land, when the vehicle bears a licensed hunter, angler or trapper.

(2) During the seasons established for any protected species, it is unlawful to drive or ride in a motor vehicle which is driven off an established road on private land without written permission, when the vehicle bears a licensed hunter, angler or trapper.

(3) It is unlawful to drive or ride in a motor vehicle which is being driven off an established road when gathering or searching for shed antlers on public land or to drive or ride in a motor vehicle on a closed road when gathering or searching for shed antlers on public land.

(4) **Exception:** Snowmobiles and to retrieve lawfully taken game in an area not closed to vehicular traffic.

(5) Public land as used in this section shall mean any federally owned or managed property, any state owned or managed property, any private property which is part of a unitization hunting agreement, ranch wide agreement or unit wide agreement for the species being hunted, any private property which the department has paid for public access for the species being hunted or any New Mexico state game commission owned or managed property.

**J. Mobility Impaired (MI) hunters:**

(1) **Shooting from a vehicle:** The holder of a MI card is authorized to shoot at, take or attempt to take protected species during their respective open seasons, with the appropriate license, from a stationary motor-driven vehicle only if the vehicle has been parked completely off of the established road's surface and only when the established road has no right-of-way fence. The holder of a MI card may not shoot at, take or attempt to take any protected species from within the right-of-way fence on any established road.

(2) **Crossbow use:** The holder of a MI card may use a crossbow during any bow hunt.

(3) **Assistance for MI hunters:** The holder of a MI card may be accompanied by another person, who is designated in writing, to assist in taking or attempting to take any big game animal which has clearly been wounded by the licensed MI hunter. The person so designated must carry that written authorization from the MI hunter at all times while in the field in order to act as their assistant. A MI hunter may only designate one person at a time to assist them. Any person assisting a MI hunter must follow the sporting arm type designated for that hunt and all other laws and rules which apply to a licensed hunter.

[19.31.10.13 NMAC - Rp, 19.31.10.13 NMAC, 4-1-2019]

**19.31.10.12 BIG GAME AND TURKEY:**

**A. Legal hunting hours:** A person may only take or attempt to take any big game species or turkey during the period from one-half hour before sunrise to one-half hour after sunset. It is unlawful to take or attempt to take big game or turkey outside of legal hunting hours.

**B. Killing out of season:** It is unlawful to take or attempt to take any big game species or turkey outside of the established hunting season.

**C. Bag limit:** It is unlawful for any person to take any big game species or turkey other than the legal bag limit as specified on their big game or turkey license or as indicated by the hunt code, or for any bear hunter to take a sow with cub(s), or any cub less than one year old, or for any cougar hunter to take a spotted cougar kitten or any female accompanied by spotted kitten(s).

**D. Exceeding the bag limit on big game:**

(1) It is unlawful for any person to hunt for or take more than one animal of any big game species per year unless otherwise allowed by state game commission rule.

(2) It is unlawful for any person to hunt for or take more than two cougars per year unless otherwise allowed by state game commission rule.

**E. Exceeding the bag limit on turkey:** It is unlawful for any person to hunt for or take more than two bearded turkeys during the spring turkey season or more than one turkey during the fall turkey season unless otherwise specifically allowed by 19.31.16 NMAC.

**F. Proof of sex or bag limit:** It is unlawful for anyone to transport or possess the carcass of any big game species or turkey without proof of sex or bag limit (except donated parts when accompanied by a proper possession certificate). Proof of sex or bag limit shall be:

(1) Bear and cougar – External genitalia of any bear or cougar killed shall remain naturally attached to the pelt and be readily visible until the pelt has been inspected and pelt-tagged by a department official.

(2) Barbary sheep and oryx – The horns of any Barbary sheep or oryx taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(3) Deer – The antlers of any buck deer taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage. The scalp and both ears of any antlerless deer or the naturally attached female genitalia shall accompany the carcass in the same manner.

(4) Elk – The antlers of any bull elk taken shall remain naturally attached to the skull or skull plate until arriving at a residence, taxidermist, meat processing facility or place of final storage. The scalp and both ears of any antlerless elk or the naturally attached female genitalia shall accompany the carcass in the same manner.

(5) Pronghorn - The horns, scalp and both ears of any pronghorn taken shall remain naturally attached to the skull or skull plate and must accompany the carcass until arriving at a residence, taxidermist, meat processing facility or place of final storage. If the horns of a female pronghorn are longer than its ears, and the bag limit is F/IM, the external genitalia must remain naturally attached to the hide/carcass, as appropriate, and be visible to provide proof of legal bag limit until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(6) Bighorn sheep - The horns of any ram shall remain naturally attached to the skull or skull plate and the external genitalia of any ewe taken shall remain naturally attached to the hide/carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(7) Persian ibex - The horns of any ibex shall remain naturally attached to the skull or skull plate. If the horns of any female ibex are 15 inches or longer the external genitalia shall remain naturally attached to the hide/carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(8) Turkey – When the bag limit is a bearded turkey, the beard and a small patch of feathers surrounding the beard shall remain with the carcass, and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage.

(9) Javelina – The skull of each javelina shall be proof of bag limit and must be retained until arriving at a residence, taxidermist, meat processing facility or place of final storage.

**G. Tagging of harvested game:**

(1) **Physical Tagging of harvested game:** Licensed hunters of any big game species or turkey, who have chosen to receive a department issued tag at application or purchase, upon harvesting an animal, shall immediately and completely notch out the appropriate month and day on the carcass tag. Prior to moving any part of the carcass from the kill site, the licensed hunter shall remove the entire backing material from the carcass tag and adhere it to the appropriate location on the carcass leaving the entire face of the tag visible. If the species or sex harvested requires the use of an antler or horn tag the licensed hunter shall, prior to moving any part of the carcass from the kill site, remove the entire backing material from the antler/horn tag and adhere it to the appropriate location on the antler or horn leaving the entire face of the tag visible. All tags shall remain attached to the carcass, antlers or horns until it is delivered to a meat processing facility, taxidermist, placed in final cold storage or if required, is inspected and documented or pelt tagged by a department official. The antler/horn tag is not required to be attached or used on antlerless/hornless animals.

(2) **Electronic Tagging of harvested game:** Licensed hunters of any big game species or turkey, who have chosen to electronically tag their game at application or purchase, upon harvesting an animal, shall immediately access the department's electronic tagging (e-tag) application to receive an e-tag number specific to the license. The licensed hunter will legibly write the e-tag number, customer identification number, and the date of harvest on any durable material using permanent ink and shall attach one piece to the big game species or turkey on the appropriate location on the carcass and another piece to the antler or horns as required prior to moving any part of the carcass from the kill site. All e-tag pieces shall remain attached to the carcass, antlers or horns until it is delivered to a meat processing facility, taxidermist, placed in final cold storage or if required, is inspected and documented or pelt tagged by a department official. An antler/horn e-tag is not required to be attached or used on antlerless/hornless animals.

(3) **The proper location to attach all carcass tags and e-tags:**

(a) The proper location to attach the carcass tag or e-tag on any game species is to attach it conspicuously on the hock tendon on either hind leg.

(b) The proper location to attach the carcass tag or e-tag on javelina is to adhere it to the head/skull around the nose.



(c) The proper location to attach the carcass tag or e-tag on a turkey is to adhere it around the leg above the foot and below the feathers on the thigh.

(d) The proper location to attach the carcass tag or e-tag on a bear or cougar is to adhere it around the ankle area of the hide above the foot. Bear and cougar carcass tags authorize possession of those animals until pelt tagged in accordance with state game commission rule or for five days from date of kill, whichever comes first.

(i) Any bear or cougar killed shall be tagged with a pelt tag furnished free of charge by the department.

(ii) The hunter who kills the bear or cougar or the hunter's designee must present the unfrozen skull and pelt to a department official for tooth removal and pelt tagging within five calendar days from the date of harvest, before the pelt can be frozen, processed, tanned or salted by a taxidermist, or before taking the pelt out of New Mexico, whichever comes first.

(iii) Any hunter who appoints a designee to present the skull and pelt for pelt tagging is required to contact a conservation officer prior to having the pelt inspected and tagged.

(iv) The pelt tag shall remain attached until the pelt is tanned.

(v) Skulls with mouths closed may not be accepted until the mouth is opened by the hunter or designee.

(vi) Licensed bear or cougar hunters or their designees who provide false or fraudulent information regarding the required information including, but not limited to, sex, date or location of harvest shall be assessed 20 revocation points pursuant to 19.31.2 NMAC.

(e) The proper location to attach an antler tag or e-tag is to adhere the tag around the main beam of the antler between any of the points or tines as close to the base as possible to prevent the tag from coming off.

(f) The proper location to attach a horn tag or e-tag is to adhere the tag around the horn as close to the base as possible to prevent the tag from coming off.

**H. It is unlawful:**

(1) for any licensed hunter to fail to properly tag their big game species or turkey with the carcass and antler tag or e-tag as prescribed;

(2) to possess any portion of a big game or turkey carcass that does not have a properly notched carcass tag attached to it or a completed e-tag attached to it, except lawfully taken game that is accompanied by a proper possession certificate or department invoice;

(3) to possess any bear or cougar or parts thereof which has not been pelt tagged within five days of kill, has been taken out of state prior to pelt tagging or has not otherwise been pelt tagged in accordance with state game commission rule;

(4) for any person to transport or possess the carcass of any big game species or turkey without proof of sex naturally attached or proof of legal bag limit until the carcass arrives at a residence, taxidermist, meat processing facility, place of final storage or if required, is inspected and documented or pelt tagged by a department official, except lawfully taken game that is accompanied by a proper possession certificate or department invoice;

(5) to use a carcass or antler tag that is cut, torn, notched or mutilated. Cut, torn, notched or mutilated tags are no longer valid for the take of a big game species or turkey; or

(6) to use a previously issued carcass or antler tag once a duplicate has been obtained or to use the carcass, antler tag or e-tag of any other person. Any previous carcass or antler tag assigned to a license which is replaced by a duplicate is void and no longer valid for the take of a big game species or turkey.

**I. Once-in-a-lifetime hunts:** It is unlawful for any person to apply for, receive or use any once-in-a-lifetime license if they have ever held a once-in-a-lifetime license for that species which has the same bag limit or eligibility requirements.

**J. Youth only (YO), mobility impaired (MI), Iraq/Afghanistan veterans (I/A) and military only (MO) hunts or military discounted licenses:** It is unlawful for anyone to apply for or receive or use any YO, MI, I/A or MO license or any military discounted license except as allowed by state game commission rule.

**K. License sale:** It is unlawful for anyone to sell or offer for sale any hunting, fishing or trapping license, permit or tag which has been issued by the department, or to sell or offer for sale any commercial collection permit or scientific collection permit.

**L. Use of dogs in hunting:**

- (1) It is unlawful to use dogs to hunt or pursue big game species or turkey, except for bear and cougar.
- (2) Dogs may be used only to hunt bear and cougar during open seasons unless otherwise restricted. It is unlawful to:
- (a) hunt for or pursue bear or cougar with dog(s) on the Valle Vidal except holders of bear entry permits for the hunting of bear only;
  - (b) hunt for or pursue bear or cougar with dog(s) during any September big game bow season statewide except as otherwise allowed by state game commission rule;
  - (c) release dog(s) to pursue or hold bear or cougar outside of legal hunting hours or during closed season or in a closed area or zone;
  - (d) to pursue bear or cougar with dog(s) without the licensed hunter, who intends to kill or who kills the bear or cougar, present continuously from the initial release of any dog(s).
- (3) It is unlawful to use dog(s) to assist in the recovery of wounded or dead big game or turkey except as follows:
- (a) Dog(s) may be used to assist in the recovery of wounded game provided that no more than two dogs may be used at any one time to locate a wounded or dead deer, elk, pronghorn, bighorn sheep, Barbary sheep, oryx, Persian ibex, javelina or turkey.
  - (b) Dog(s) used to assist in the recovery of deer, elk, pronghorn, bighorn sheep, Barbary sheep, oryx, Persian ibex, javelina or turkey shall be leashed and under the control of the handler at all times and cannot be used to pursue or harass wildlife. No person assisting in the recovery of a wounded animal may shoot or kill the animal being tracked unless they are a licensed hunter for that species, season and area and they intend to tag the animal as their own.

**M. Use of bait:** It is unlawful for any person to take or attempt to take any big game species or turkey by use of baiting or for any person to take or attempt to take big game or turkey from an area which has not been completely free of bait (including in feeders) for at least 10 days. Preexisting legitimate livestock salt and mineral and natural attractants such as cultivated fields, water, orchards, natural kills, carrion or offal are not considered bait unless they have been moved or placed there from another location. It is unlawful to create, maintain or use any bait station in hunting bear or cougar. It is unlawful to use any scent attractant in hunting bears.

**N. Live animals:** It is unlawful to use live protected species as a decoy in taking or attempting to take any big game species or turkey.

**O. Hunting captive big game species:** It is unlawful to take or attempt to take any big game species within any fence or enclosure, or by use of any fence or enclosure, which significantly restricts or limits the free ingress or egress of that big game species except as allowed by permit from the department. Any fence which is 7.5 feet tall or taller shall be considered game proof and hunting within any such enclosure, even if there are open gate(s), is unlawful. Exception: Net wire fencing commonly used as sheep or goat fencing which is not taller than four feet is not considered to significantly restrict or limit the free ingress or egress of any protected species.

**P. Use of calling devices:** It is unlawful to use any electronically or mechanically recorded calling device in taking or attempting to take any big game species or turkey, except javelina, bear and cougar.

**Q. Automatic firearms:** It is unlawful to take or attempt to take any big game species or turkey with a fully automatic firearm.

**R. Bullets:** It is unlawful to take or attempt to take any big game species or turkey by the use of a prohibited bullet.

**S. Drugs and explosives:** It is unlawful to use any form of drug to capture, take or attempt to take any big game species or turkey unless specifically authorized by the department, or to use arrows driven by explosives, gunpowder or compressed air.

**T. Legal sporting arm types:**

(1) It is unlawful to use any sporting arm type for big game species other than those defined under big game sporting arms except for cougar and javelina which may be taken with those defined under any sporting arm. For cougar and javelina, compressed air guns must be .22 caliber or larger and shotguns must fire a single slug or #4 buckshot or larger.

(2) It is unlawful to use any sporting arm type for a big game species which does not correspond with the hunt code authorized sporting arm type.

(3) It is unlawful to use sporting arms for turkey other than a shotgun firing shot, bow or crossbow.

**U. Hunting on the wrong ranch, in the wrong area or in the wrong GMU:** It is unlawful for any person to hunt in any location, GMU or ranch other than that area specified on their license or permit unless otherwise allowed by state game commission rule.

(1) A landowner whose contiguous deeded property extends into an adjacent GMU(s) may enter into a written agreement with the department to hunt big game on the contiguous deeded property of the ranch. This permission shall be requested annually, at the local department office, in person or in writing by the landowner at least one week prior to the desired hunt dates. The landowner must show proof of ownership and property location. The season dates, bag limit and sporting arm type will be determined by the GMU where the majority of the deeded property lies. Landowners who enter into this agreement may not hunt the GMU where the minority of the contiguous property lies during that minority GMU's season dates if different from the majority dates. Unit-wide and ranch-wide properties are not eligible for this agreement for those species for which the unit-wide or ranch-wide agreement applies.

(2) A licensed big game hunter may hunt a landowner's contiguous private property which extends into an adjoining GMU(s) only when a department agreement exists and must adhere to the department issued agreement unless otherwise restricted by state game commission rule.

**V. Restricted areas on White Sands missile range:**

(1) It is unlawful to drive or ride in a motor vehicle into an area signed "no hunting" or otherwise restricting hunting or as documented on a map or as presented during the hunt's briefing, except if the hunter or driver is escorted by official personnel:

(2) It is unlawful for a licensed hunter to enter an area signed "no hunting" or otherwise restricting hunting except if the hunter is escorted by official personnel; and

(3) It is unlawful for a licensed security badged hunter to hunt or take any oryx in an area other than their "to be assigned" area.

**W. Validity of licenses and unitizations:** All big game and turkey licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit, and area specified by the hunt code printed on the license including those areas designated as public or private land per a current unitization agreement between the department and U. S. bureau of land management, state land office or other public land holding entity.

**X. Hunting on public land with a private land only license:** It is unlawful to hunt big game on any public land with a private land only license. Public land as used in this section shall mean any federally owned or managed property, any state owned or managed property, or any private property which is part of a unitization hunting agreement, ranch wide agreement or unit wide agreement for the species being hunted, any private property which the department has paid for public access for the species being hunted or any New Mexico state game commission owned or managed property.

**Y. Collars or tracking devices:** It is unlawful to attach any collar or electronic tracking device to any big game species or turkey except as specifically authorized by the department.

**Z. License purchase:** Bear or cougar hunters must purchase their bear or cougar license at least two calendar days prior to taking or attempting to take any bear or cougar. It is unlawful for any bear or cougar hunter to take or attempt to take a bear or cougar within two calendar days of purchasing their license.

**AA. Zones:** It is unlawful to pursue, take or attempt to take a bear or cougar in a closed zone. Zones will close pursuant to 19.31.11 NMAC.

**BB. Valle Vidal:** It is unlawful to hunt bear or cougar on the Valle Vidal except for properly licensed bear or cougar hunters that also possess a Valle Vidal elk hunting license (only during the dates and with the sporting arm type specified on their elk license) and holders of a Valle Vidal bear entry permit (only during their entry permit hunt dates).

**CC. Cougar ID:** It is unlawful for any person to hunt for cougar without having completed the department's cougar ID course and having the verification code printed on their license.

**DD. Cougar trapping season:** It is unlawful to trap or foot snare cougar outside of the season established for furbearer trapping or to kill any cougar which has been trapped or foot snared in a cougar zone which is closed.

**EE. Use of traps and foot snares for cougar:** Licensed trappers who also hold a valid cougar license may use traps or foot snares to harvest cougars on state trust land, or private land with written permission from the landowner or person authorized to grant permission. Neck snares are not permitted. Restrictions for cougar take using traps or foot snares shall follow the regulations on methods, trap specification, trap inspection, wildlife removal as defined in 19.32.2 NMAC. No trap with a jaw spread of larger than 6.5 inches or 7 inches if outside laminated shall be allowed.

- (1) It is unlawful to set a foot snare for cougar in GMU 27 and those portions of GMU 26 designated by the United States fish and wildlife service as critical habitat for jaguar.
- (2) It is unlawful to kill any cougar captured on BLM or US Forest Service land by the use of traps or foot snares unless authorized by the director.

(3) It is unlawful to take any cougar with a neck snare or prohibited trap.

**FF. Use of cellular, Wi-Fi or satellite cameras:** It is unlawful for any person to use any cellular, Wi-Fi or satellite camera for the purpose of hunting or scouting for any big game animal. Exception: This section does not apply to cellular or satellite phones which are kept on one's person and not used remotely or department employees and their designees while performing their official duties.

[19.31.10.13 NMAC - Rp. 19.31.10.13 NMAC, 4-1-2019]

### **19.31.10.13 UPLAND GAME AND MIGRATORY GAME BIRDS:**

**A. Upland game hunting hours:** Upland game species may be hunted or taken only during the period from one-half hour before sunrise to one-half hour after sunset. It is unlawful to take or attempt to take upland game outside of legal hunting hours.

**B. Killing out of season:** It is unlawful to kill any migratory game bird or upland game out of season.

**C. Exceeding the bag limit:** It is unlawful for any person to take or attempt to take more than one daily bag limit of any migratory game bird species or upland game species allowed by state game commission rule. There shall be no daily bag or possession limit for light geese during the light goose conservation order hunt dates.

**D. Possession limit:** It is unlawful for any person to possess more than one possession limit of any migratory game bird or upland game species.

**E. Proof of species or sex:** It is unlawful for any person to possess any migratory bird or upland game without proof of species or sex as required below:

(1) One foot shall remain attached to each quail taken until the bird has arrived at a residence, taxidermist, meat processing facility or place of final cold storage.

(2) The head or one leg of each pheasant taken must remain attached to the bird until the bird arrived at a residence, taxidermist, meat processing facility or place of final cold storage.

(3) One fully feathered wing must remain attached to all migratory game birds, except dove and band-tailed pigeon, until the bird has arrived at a residence, taxidermist, meat processing facility or place of final cold storage.

**F. Youth only (YO), mobility impaired (MI), Iraq/Afghanistan veterans (I/A) and military only (MO) hunts or military discounted licenses:** It is unlawful for anyone to apply for or receive or use any YO, MI, I/A or MO license or any military discounted license except as allowed by state game commission rule.

**G. License sale:** It is unlawful for anyone to sell or offer for sale any hunting, fishing or trapping license, permit or tag which has been issued by the department, or to sell or offer for sale any commercial collection permit or scientific collection permit.

**H. Use of dogs in hunting:** Dog(s) may be used to hunt migratory game bird species and upland game. It is unlawful to pursue migratory game birds or upland game with dog(s) outside of the hunting seasons established except in conjunction with a permitted event.

**I. Use of bait:** It is unlawful for any person to take or attempt to take any migratory game bird species or upland game by use of baiting or for any person to take or attempt to take migratory game birds or upland game from an area which has not been completely free of bait (including in feeders) for at least 10 days. Preexisting legitimate livestock salt and mineral and natural attractants such as cultivated fields, water, orchards, carrion or offal are not considered bait unless they have been moved there from another location.

**J. Live animals:** It is unlawful to use live protected species as a decoy in taking or attempting to take any migratory game bird species or upland game species.

**K. Use of calling devices:** It is unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any migratory game bird or upland game species. During the light goose conservation order hunt dates, electronic calling devices are allowed for the take of light geese.

**L. Automatic firearms:** It is unlawful to take or attempt to take any migratory game bird or upland game species with a fully automatic firearm.

**M. Non-toxic shot:** It is unlawful for any person to use or possess any shotgun shell loaded with anything other than non-toxic shot or for any person using a muzzle-loading shotgun to possess anything other than non-toxic shot while hunting for any migratory game bird species, except when hunting dove, band-tailed pigeon or

eastern sandhill crane. Non-toxic shot is required for all migratory game birds and upland game species on Bernardo WMA, La Joya WMA, and Huey WMA.

**N. Drugs and explosives:** It is unlawful to use any form of drug to capture, take or attempt to take any migratory game bird or upland game species unless specifically authorized by the department, or to use arrows driven by explosives, gunpowder or compressed air.

**O. Legal sporting arms and ammunition:** It is unlawful to use sporting arms other than those listed below to take or attempt to take of any migratory game bird or upland game species.

- (1) The following are legal sporting arms for pheasants and quail:
  - (a) shotguns firing shot;
  - (b) bows; and
  - (c) crossbows.
- (2) The following are legal sporting arms for dusky grouse, chukar, Eurasian collared-dove, Abert's squirrels, Arizona gray squirrels, fox squirrels, eastern gray squirrels and red squirrels:
  - (a) shotguns firing shot;
  - (b) rimfire firearms;
  - (c) muzzle-loading firearms;
  - (d) bows;
  - (e) crossbows; and
  - (f) compressed air guns, .177 caliber or larger.
- (3) The following are legal sporting arms for migratory game birds:
  - (a) shotguns firing shot, shotguns shall not be capable of holding more than three shells except while hunting light geese during the light goose conservation order hunt dates, as defined in 19.31.6 NMAC;
  - (b) bows; and
  - (c) crossbows.

**P. Areas closed to migratory game bird hunting:** It shall be unlawful to hunt migratory game birds in that portion of the stilling basin below Navajo dam lying within a line starting from N.M. 511 at the crest of the bluff west of the Navajo dam spillway and running west along the fence approximately one-quarter mile downstream, southwest along the fence to N.M. 511 to the Navajo dam spillway, across the spillway, and to the crest of the bluff.

**Q. Collars or tracking devices:** It is unlawful for any person to attach any collar or electronic tracking device to any migratory game bird or upland game except as specifically authorized by the department.

**R. Use of traps and snares:** It is unlawful for any person to intentionally set any trap, snare, cage, box or other device to capture or attempt to capture any migratory game bird or upland game or for any person to intentionally capture or attempt to capture any migratory game bird or upland game unless specifically allowed by license or permit.

[19.31.10.14 NMAC - Rp. 19.31.10.14 NMAC, 4-1-2019]

#### 19.31.10.14 FISHING:

- A. **Angling:** Game fish may be taken by angling in all waters that are open for fishing.
- B. **Season and hours:** It is unlawful to fish in any water during a closed season or to fish in any water outside of the legal fishing hours as prescribed in 19.31.4 NMAC.
- C. **Closed waters:** It is unlawful to fish in any water closed by state game commission rule.
- D. **Ice fishing:** It is unlawful to take fish from or through the ice on the following waters: Santa Cruz lake, Bonito lake, and Springer lake. Ice fishing is legal on all other waters unless otherwise prohibited.
- E. **Hatchery waters:** It is unlawful to take or attempt to take fish from the waters of any fish hatchery or rearing ponds owned or operated by state or federal agencies. Exception: During open season, angling for trout shall be permitted in the Glenwood pond at the Glenwood state fish hatchery, Red River hatchery pond at the Red River state fish hatchery, Brood pond at Seven Springs state fish hatchery, and Laguna del Campo at Los Ojos state fish hatchery. Additionally, the director may expressly authorize other limited fishing at the state's fish hatcheries based on management needs.
- F. **Trotlines:** Game fish may be taken by use of trotlines in any water except those listed below, however:
  - (1) It is unlawful for any person to set more than one trotline at a time.
  - (2) It is unlawful to tie or join together trotlines belonging to two or more persons.
  - (3) It is unlawful for any trotline to have more than 25 angling hooks.

(4) It is unlawful for a person who has set or maintained a trotline to not personally visit and inspect it at least once every calendar day and remove or release all game fish which are caught.

(5) It is unlawful for anyone to check, pull up or otherwise tamper with another's trotline.

(6) It is unlawful for anyone to set, check or maintain a trotline which is not tagged or marked as follows:

(a) A person fishing with a trotline shall attach to it an identification tag that is visible above the water line. The identification tag shall bear the angler's department issued customer identification number (CIN).

(b) An unlicensed angler 11 years of age and younger shall list their department issued customer identification number (CIN) or their name and date of birth.

(7) It is unlawful to set or use a trotline in any water listed in 19.31.4 NMAC which has a reduced bag limit on catfish or in any trout water, with the following exceptions: Abiquiu lake, Chama river downstream from the northern boundary of the Monastery of Christ in the Desert, Gila river downstream from its junction with its east fork, Navajo lake and the Rio Grande downstream from its junction with the Chama river.

(8) Any officer authorized to enforce Chapter 17 NMSA 1978 and state game commission rules may seize and destroy any trotlines not set or checked in accordance with this subsection.

**G. Spearfishing and bow fishing:**

(1) Game fish may be taken by spearfishing and bow fishing only in lakes and reservoirs open to fishing. It is unlawful to spearfish or bow fish in any special trout water as designated in 19.31.4 NMAC or in any river or stream.

(2) It is unlawful to take any largemouth bass by spearfishing or bow fishing in the following waters: Bill Evans lake, Clayton lake, and lake Roberts.

**H. Noodling or hand fishing:** It is unlawful to catch any game fish by hand without the use of angling equipment.

**I. Use of nets:** It is unlawful to use cast nets, dip nets, seines or gill nets to capture and retain any protected species of fish from any water unless specifically allowed by permit or state game commission rule. Dip nets may be used to assist in landing fish taken by legal angling methods.

**J. Illegal device or substance:** It is unlawful to use any device or substance capable of catching, stupefying or killing fish except as permitted by state game commission rule.

**K. Bait:**

(1) It is unlawful to use protected game fish or the parts thereof as live or dead bait, except the genus *Lepomis* (sunfish), taken by legal means may be used as live or dead bait in the water from which they were taken, and the roe, viscera and eyes of any legally taken game fish may be used.

(2) It is unlawful to use bullfrogs or bullfrog tadpoles as bait, or to possess any live bullfrogs or live bullfrog tadpoles while fishing.

**L. Use of bait fish:** It is unlawful to use or possess any baitfish while angling except as follows:

(1) The following baitfish species can be used live or dead unless otherwise prohibited:

<b>Water:</b>	<b>Approved bait fish species:</b>
Rio Grande drainage	Fathead minnow, red shiner and shad
Elephant Butte and Caballo reservoirs	Fathead minnow, red shiner, shad and golden shiner
Pecos river drainage except for Bitter lake national wildlife refuge and Bottomless lakes state park	Fathead minnow and red shiner
Canadian river drainage	Fathead minnow, red shiner, white sucker and shad
San Juan river drainage	Fathead minnow and red shiner
Gila river and San Francisco river drainages	Fathead minnow

(2) The following bait fish species can only be used as dead bait unless otherwise prohibited:

<b>Water:</b>	<b>Approved dead baitfish species:</b>
Statewide	Common carp
Heron reservoir	White sucker

(3) Commercially packaged and processed species of fish which are dead or products thereof are not considered bait fish and are legal in all regular waters.

**M. Methods for taking bait fish for personal use:** Licensed anglers and children 11 years of age and younger may take bait fish for personal use only in waters containing game fish by angling, nets, traps, spears, arrows and seines. All protected species of fish taken in seines, nets and traps shall be immediately returned to the water.

- N. Illegal taking of bait fish:**
- (1) It is unlawful for any person, except children 11 years of age and younger, to take bait fish from any water without having a valid fishing license.
  - (2) It is unlawful for any person to take bait fish from any water for commercial use without a permit issued from the department.
  - (3) It is unlawful for licensed minnow dealers to violate any of the provisions of their license or permit.
- O. Permits for taking bait fish:** The director may issue permits for the use of nets, seines, traps or cast nets in taking bait fish in waters containing protected species of fish. The permit shall specify methods of taking, places for taking and duration of the permit. The permittee shall report monthly, to the department, the species, numbers and poundage of bait fish taken during the preceding month.
- P. Limit on angling hooks:** It is unlawful to angle with more than two barbless lures or flies with single point angling hooks on a single line when fishing the special trout water on the San Juan river designated in Subsection A of 19.31.4.11 NMAC.
- Q. Eradication of fish:** In waters where fish are being eradicated or where water shortage warrants reduction of fish numbers the director may permit licensed anglers and children 11 years of age and younger to take and possess game fish in numbers exceeding current bag and possession limits. In granting such permission the director may specify bag and possession limits and manner and method of taking for such waters.
- R. Possession and release of live game fish:**
- (1) It is unlawful to release any live game fish into any water in the state, except for fish which were legally caught from that water, without a permit issued by the department.
  - (2) It is unlawful to possess or transport any live game fish away from the water from which they were caught without a permit issued by the department.
  - (3) Exception: Department employees or federal employees while performing their official duties or those individuals working on behalf of the department when directed by a department employee.
- S. Possession of undersized fish:** It is unlawful for any person to have game fish in their possession which do not meet the minimum length requirements as specified in 19.31.4 NMAC.
- T. Number of fishing poles or lines:** It is unlawful to angle with more than one pole or line without having purchased a current two rod validation during the current license year. It is unlawful under any circumstance to angle with more than two poles or lines. A trotline shall not count toward an anglers limit on fishing poles or lines.
- U. Exceeding daily bag limit:** It is unlawful to exceed the daily bag limit of any protected fish species, as specified in 19.31.4 NMAC.
- V. Exceeding possession limit:** It is unlawful to exceed the possession limit of any protected fish species, as specified in 19.31.4 NMAC.
- W. Exceeding daily bag limit or possession limit - Penalty Assessment:** Any person exceeding the daily bag limit or the possession limit by two fish or less shall be offered a penalty assessment.
- X. Snagging game fish:** It is unlawful to snag game fish or to keep any snagged game fish except Kokanee salmon during the special Kokanee salmon season as specified in 19.31.4 NMAC.
- Y. Special trout waters:** Only barbless lures or flies may be used in the special trout waters designated in 19.31.4 NMAC, except in the following waters any legal angling gear and legal bait may be used: the Vermejo river system within Vermejo Park ranch boundaries, Gilita, Little Turkey, and Willow creeks, Mineral creek, Red River from its confluence with the Rio Grande upstream to the lower walking bridge at Red River state fish hatchery, Rio Chama from the river crossing bridge on U.S. 84 at Abiquiu upstream 7.0 miles to the base of Abiquiu dam, Rio Grande, Rio Ruidoso, and Whitewater creek from Catwalk National Recreation Trail parking area upstream to headwaters. It is unlawful to use tackle which does not meet these restrictions in the designated special trout waters.
- Z. Attracting or concentrating fish:**
- (1) **Artificial lights:** Use of artificial lights is permitted for attracting game fish.
  - (2) **Disturbing the bottom:** It is unlawful in all special trout waters defined in Subsection A of 19.31.4.11 NMAC, to disturb or dislodge aquatic plant growth, sediment, or rocks for the purpose of attracting or concentrating fish. It shall also be unlawful to angle in the immediate vicinity where such disturbance has occurred.
  - (3) **Chumming:** Chumming is legal in all waters which have no tackle restrictions.
- AA. Violation of age or disability restrictions:** It is unlawful for any person to fish in any water with age or disability restrictions when that person does not meet the requirements as specified in 19.31.4 NMAC. [19.31.10.14 NMAC - Rp, 19.31.10.14 NMAC, 4-1-2019]

**19.31.10.15 LANDS AND WATERS OWNED, ADMINISTERED, CONTROLLED, OR MANAGED BY THE STATE GAME COMMISSION:**

- A. **Posting of signs:** The state game commission may prohibit, modify, condition or otherwise control the use of areas under its control by posting of signs as may be required in any particular area.
- B. **Violating provisions of posted signs:** It is unlawful to violate the provisions of posted signs on areas under the control of, leased by or managed by the state game commission.
- C. **Trespass on state game commission owned lands:** It is unlawful to enter upon state game commission owned lands unless licensed or as otherwise allowed by state game commission rule or as posted by the department.

[19.31.10.15 NMAC - Rp. 19.31.10.15 NMAC. 4-1-2019]

**19.31.10.16 BOATS, OTHER FLOATING DEVICES, AND MOTORS:** It is unlawful to operate, control or ride in any boat or other floating device contrary to sections A-D below.

- A. **Electric or gas motors allowed:** On the following lakes controlled by the department, boats and other floating devices with electric or gas motors shall be permitted only during the season and hours when fishing is permitted. Boats or floating devices on these lakes shall not be operated at greater than normal trolling speed: **Clayton lake WMA, and McAllister lake WMA**

- B. **Electric motors only:** On the following lakes controlled by the department, only boats and other floating devices using electric motors or with gas motors that are not in use shall be permitted: **Bear canyon lake WMA, Bill Evans lake WMA, Green Meadow, Fenton lake WMA, Hopewell, Lake Roberts WMA, Morphy, Quemado, Snow, Conoco lakes and Tucumcari lake WMA.**

- C. **No motors allowed:** On the following lakes controlled by the department, only boats and other floating devices using no motors shall be permitted: **Bernardo WMA, La Joya WMA, Jackson lake WMA, McGaffey, San Gregorio, Shuree ponds and Wagon Mound WMA.**

- D. **No boats or floating devices allowed:** On the following lakes controlled by the department, no boats or other floating devices shall be permitted: **Bonito lake, Monastery lake, and Red River hatchery pond.**

- E. Department personnel or persons authorized by the director may use gasoline powered motors on all waters in the state while performing official duties.

[19.31.10.17 NMAC - Rp. 19.31.10.17 NMAC. 4-1-2019]

**19.31.10.17 HUNTING ON PRIVATE LAND WITHOUT WRITTEN PERMISSION AND SEIZURE OF GAME ANIMALS, FURBEARERS, GAME BIRDS, OR SHED ANTLERS:**

- A. It is unlawful to knowingly enter upon any private property to take or attempt to take any game animal, furbearer, game bird or game fish without possessing written permission from the landowner or person in control of the land or trespass rights unless otherwise permitted in rule or statute.

- B. Any game animal, furbearer or game bird taken in violation of this section or Section 30-14-1 NMSA 1978 is unlawfully taken and shall be subject to seizure.

- C. All shed antlers collected in violation of any New Mexico state game commission, state or federal land closure, in violation of Section 30-14-1 NMSA 1978 or in violation of any of the provisions of Chapter 17 NMSA 1978 or state game commission rule remain property of the State of New Mexico and shall be seized.

- D. Exception: Written permission is not required on any property which is participating in a unitization, receives compensation for allowing public access, receives unit-wide authorizations or has agreed to a ranch-wide agreement when species being harvested is part of any of these agreements.

[19.31.10.18 NMAC - Rp. 19.31.10.18 NMAC. 4-1-2019]

**19.31.10.18 MANNER AND METHOD PENALTY ASSESSMENTS:** Individuals who commit the following violations shall be offered penalty assessments:

- A. No habitat management and access validation stamp (HMAV), contrary to Section 17-4-34 NMSA 1978:

- B. No habitat stamp (Sikes Act), contrary to 19.31.10 NMAC;

- C. Size limit violations on fish, contrary to 19.31.10 NMAC;

- D. Trotline violations, contrary to 19.31.10 NMAC;

- E. Use of bait or prohibited lure or fly in a special trout water or noodling, contrary to 19.31.10

NMAC;

- F. Disturbing the bottom "shuffling" in a special trout water, contrary to 19.31.10 NMAC;



- G. Use of bait fish, contrary to 19.31.10 NMAC;
  - H. Release of bait fish, contrary to Section 17-3-28 NMSA 1978;
  - I. More than two lines or two lines without stamp, contrary to 19.31.10 NMAC;
  - J. Exceeding the daily bag limit or the possession limit of fish by two fish or less, contrary to 19.31.10 NMAC;
  - K. Snagging or keeping snagged game fish, contrary to 19.31.10 NMAC;
  - L. Spearfishing and bow fishing violations, contrary to 19.31.10 NMAC;
  - M. Unlawfully fishing in waters with age or individuals with disabilities use restrictions, contrary to 19.31.10 NMAC;
  - N. Boat or other floating device violation, contrary to 19.31.10 NMAC;
  - O. Use of live protected species as a decoy, contrary to 19.31.10 NMAC;
  - P. Use of an electronic calling device, contrary to 19.31.10 NMAC;
  - Q. Use of unapproved shot or shotgun capable of holding more than three shells while hunting migratory game birds, contrary to 19.31.10 NMAC;
  - R. Unlawful ammunition/ bullet/ shot or unlawful caliber, contrary to 19.31.10 NMAC;
  - S. Hunting hours violations, contrary to 19.31.10 NMAC;
  - T. Possession of game animal parts found in field, contrary to 19.31.10 NMAC;
  - U. Shooting at artificial wildlife from the road, contrary to 19.31.10 NMAC;
  - V. Harassing protected species, contrary to 19.31.10 NMAC;
  - W. Driving off road or on a closed road, contrary to 19.31.10 NMAC;
  - X. Violation of posted signs, contrary to 19.31.10 NMAC;
  - Y. Unlawful use of dogs, contrary to 19.31.10 NMAC;
  - Z. Unlawful use of cellular, Wi-Fi or satellite camera, contrary to 19.31.10 NMAC; or
  - AA. Angling with more than two flies in the San Juan, contrary to 19.31.10 NMAC.
- [19.31.10.20 NMAC - Rp, 19.31.10.20 NMAC, 4-1-2019]

**19.31.10.19 SEIZURE:**

Any officer authorized to enforce Chapter 17 NMSA 1978 and state game commission rules shall seize unlawfully possessed or imported species, or any protected species or the carcass or parts of any protected species that is taken or possessed contrary to Chapter 17 NMSA 1978 or state game commission rule.  
[19.31.10.20 NMAC - N, 4-1-2019]

**19.31.10.20 DIRECTOR'S AUTHORITY TO ACCOMMODATE DISABILITY OR MEDICAL IMPAIRMENT:**

The director may authorize reasonable modifications to the manner and method of take for any licensee who has a verifiable medical condition that, in the director's sole discretion, necessitates such accommodation. In order to apply for such accommodation, the licensee shall complete and submit any form, information and records required by the director. Any licensee granted an accommodation must adhere to all other state game commission rules as to manner and method of take that are not specifically waived by such accommodation; and shall adhere to any restrictions imposed by the director and shall carry a copy of any director granted accommodations on their person while hunting, fishing or trapping.  
[19.31.10.21 NMAC - Rp, 19.31.10.21 NMAC, 4-1-2019]

**HISTORY OF 19.31.10 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously file with the Commission of Public Records - State Records Center and Archives:

DFR 67-5 Basic Regulation No. 500, Concerning Method and Manner of Hunting, Taking, Possessing, Disposing, and Transporting of Game Animals, Birds, Fish or Bullfrogs, or parts thereof, Taken in New Mexico, Use and Occupancy of Lands and Waters Administered, Owned, Controlled or Managed by the State Game Commission, 5-25-67.

DGF 68-11 Basic Regulation No. 525, Concerning Method and Manner of Hunting, Taking, Possessing, Disposing, and Transporting of Game Animals, Game Birds, Game Fish or Bullfrogs, or parts thereof, Taken in New Mexico, the Use and Occupancy of Lands and Waters Administered, Owned, Controlled or Managed by the State Game Commission, 8-21-68.

DGF 72-6 Basic Regulation 550 Governing Water Pollution, Water Diversion, Animal Releases, Possession of Game, Manner of Hunting and Fishing, and Use of Department Lands, 5-31-72.

Regulation No. 612 Basic Regulation Governing Water Pollution, Water Diversion, Animal Releases, Possession of Game, Manner of Hunting and Fishing, Use of Department Lands, Retention of Protected Species, Permits and Licenses Issued, and the Hunter Safety Certificate Requirement. 3-2-82.

Regulation No. 677 Basic Regulation Governing Water Pollution, Possession of Game, Permits and Licenses Issued, Retention and Importation of Protected Species, Manner of Hunting and Fishing, Use of Department Lands, Hunter Training Course Required, Hunting License Revocation, Camping Near a Water Hole. 6-25-90.

Order No. 5-91 Requiring that Live-Firing Courses be Taught only by Department of Game and Fish and Volunteer Hunter Education Instructors Certified in Live-Firing Instruction. 10-3-91.

**NMAC History:**

19 NMAC 31.1, Hunting and Fishing - Manner and Method of Taking, 3-1-95.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Amended 4-1-2018.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Replaced 4-1-2019.

**History of Repealed Material:**

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 4-1-2007.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 11-7-2016.

19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking - Repealed 4-1-2019.



## Transmittal Form

Year Added to Public Information: 2011

Volume:  Issue:  Publication date:  Number of pages:  (ALD Use Only) Sequence No.

Issuing agency name and address:  Agency DFA code:

Contact person's name:  Phone number:  E-mail address:

Type of rule action: (ALD Use Only) Most recent filing date:   
New  Amendment  Repeal  Emergency  Renumber

Title number:  Title name:

Chapter number:  Chapter name:

Part number:  Part name:

Amendment description (If filing an amendment):  Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes  No  Please list attachments or Internet sites if applicable:

If materials are attached, has copyright permission been received? Yes  No  Public domain

### Concise Explanatory Statement For Rulemaking Adoption:

#### Specific statutory or other authority authorizing rulemaking:

Authority for this rulemaking process is found in: Sections 17-1-14, 17-1-26, 17-2-1, 17-2-2, 17-2-2.1, 17-2-4.2, 17-2-6, 17-2-10.1, 17-2-13, 17-2-14, 17-2-20, 17-2-32, 17-2-43, 17-3-2, 17-3-29, 17-2A-3, 17-3-32, 17-3-33, 17-3-42, 17-4-33, 17-5-4 and 17-6-3 NMSA 1978

Notice date(s):  Hearing date(s):  Rule adoption date:  Rule effective date:

#### Findings required for rulemaking adoption:

- Findings MUST include:
- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
  - Reasons for any change between the published proposed rule and the final rule; and
  - Reasons for not accepting substantive arguments made through public comment.

The rulemaking was undertaken to replace rule 19.31.10 NMAC - Manner and Method of Taking. There were two amendments to the published proposed rule in the final rule. This replacement is occurring in conjunction with the repeal of the old rule for Manner and Method of Taking 19.31.10 NMAC and the new language supersedes that rule. On October 30th, 2018 the New Mexico State Game Commission (Department of Game and Fish) provided notice of rule making by publishing the proposed rule in

Continued on next page

**Findings required for rulemaking adoption:**

continued

the state register. The New Mexico State Game Commission approved, at its November 30th, 2018 hearing, the new rule 19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking, effective April 1, 2019. A wide array of public comments were submitted. To view these comments please visit [www.wildlife.state.nm.us/commission/meeting-agendas/](http://www.wildlife.state.nm.us/commission/meeting-agendas/) and click on the Hearing Archive tab. It was not possible to incorporate all of the comments into the final rule as many of the comments were mutually exclusive. The resulting rule was based on what was best for the resource, citizens of NM and overall hunter, angler or trapper satisfaction.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

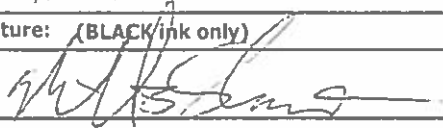
Michael Sloane

Check if authority has been delegated

Title:

Director, NMDGF

Signature: (BLACK ink only)



Date signed:

12/6/18

# NMAC Transmittal Form

Volume:  Issue:  Publication date:  Number of pages:  (ALD Use Only) Sequence No.

Issuing agency name and address:  Agency DFA code:

Contact person's name:  Phone number:  E-mail address:

Type of rule action: (ALD Use Only) Most recent filing date:   
New  Amendment  Repeal  Emergency  Renumber

Title number:  Title name:

Chapter number:  Chapter name:

Part number:  Part name:

Amendment description (If filing an amendment):  Amendment's NMAC citation (If filing an amendment):

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Notice date(s):  Hearing date(s):  Rule adoption date:  Rule effective date:

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- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

The rulemaking was undertaken to repeal rule 19.31.10 NMAC - Manner and Method of Taking. There were two amendments to the published proposed rule in the final rule. This repeal is occurring in conjunction with the filing of a new rule for Manner and Method of Taking 19.31.10 NMAC and the new language supersedes this rule. On October 30th, 2018 the New Mexico State Game Commission (Department of Game and Fish) provided notice of rule making by publishing the proposed rule in the state

Continued on next page

**Findings required for rulemaking adoption:**

continued

register. The New Mexico State Game Commission approved, at its November 30th, 2018 hearing, the repeal of its rule 19.31.10 NMAC, Hunting and Fishing - Manner and Method of Taking, filed October 12, 2017, effective April 1, 2019. A wide array of public comments were submitted. To view these comments please visit [www.wildlife.state.nm.us/commission/meeting-agendas/](http://www.wildlife.state.nm.us/commission/meeting-agendas/) and click on the Hearing Archive tab. It was not possible to incorporate all of the comments into the final rule as many of the comments were mutually exclusive. The resulting rule was based on what was best for the resource, citizens of NM and overall hunter, angler or trapper satisfaction.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Michael Sloane

Check if authority has been delegated

Title:

Director, NMDGF

Signature: (BLACK ink only)



Date signed:

12/6/18

2018-11-30 11:15

The New Mexico State Game Commission (Department of Game and Fish) approved, at its 11/30/2018 hearing, to repeal its rule 19.31.10 NMAC, Hunting and Fishing – Manner and Method of Taking, filed 11/21/2016, and to replace it with a new rule 19.31.10 NMAC, Hunting and Fishing – Manner and Method of Taking, of the same name. On November 30, 2018, the Secretary of the Game and Fish Department adopted the new 19.31.10 NMAC, effective April 1, 2019.



# Agenda Item 2a

## Manner & Method 19.31.10 NMAC



## **Manner and Method 19.31.10 NMAC**

- Removed Manner and Method (M&M) from species rules
- M&M will be in one Chapter and Part 31.10
- Six month process and review



# **Public Discussion**

- Public meetings were hosted by Dept.
  - Las Cruces, August 30
  - Albuquerque September 4
  - Roswell September 5
  - Raton September 11
- Submit rule to Registrar on October 18 for publishing on October 30
- Final rule scheduled for November 30 GCM in Roswell



# Definitions

Amended, or newly defined terms in M&M rule.

- “Any sporting arm”
- “Arrows” or “Bolt”
- “Bait”
- “Baiting”
- “Big game sporting arms”
- “Bow”
- “Cellular, cell or satellite camera”
- “Compressed air gun”
- “Locate”
- “Snagging”
- “Written permission”



# Possession or Sale of Protected Sp.

- **License or permit:** additional ways to possess protected sp. other than license or permit such as possession certificate and invoice from the department or department permitted facility.
- **Game taken by another:** changed donation certificate to a possession certificate to cover temporary legal possession by meat processors, taxidermist and individuals transporting legally harvested wildlife.
- **Sale of game animal parts:** added rendered bear fat, teeth, all furbearer parts to list of items that can be legally sold.
- **Possession of game animal parts found in the field:** allows the seizure of shed antlers collected in violation of closures, trespass and driving off road on public land.



# Importation or Possession of un-permitted wildlife

- Violation of permit or license provisions or importation/possession of un-permitted wildlife:
  - Currently all wildlife is required to have an importation permit and health certificate to come into NM.
  - This rule will require that any wildlife imported and sold must be accompanied by copy of original importation permit or it could be seized.
  - Individual who has wildlife seized will have 30 days to arrange for illegal wildlife to be transported out of NM.



# Use of Roads and Hunting

## Shooting from the road:

- Still unlawful to take or attempt to take a protected sp. from or across a road.
- Would allow an individual to shoot from the un-maintained portion away from the surface of the road if no right of way fence exists.
- If a right of way fence is present, the individual must be on the other side of the fence.



# Use of Aircraft

## Using aircraft to locate wildlife:

- Makes it unlawful “for the purpose of hunting” to locate a protected species with the aid of an aircraft or drone during the period of August 1<sup>st</sup> to January 31<sup>st</sup> of each license year.
- Does not apply to commercial or direct flights or any other flight that is not for the purpose of hunting.





# Driving Off Road

## **Vehicle off of established road:**

- Currently unlawful to drive or ride in a motor vehicle off road.
- Would allow a private landowner to give written permission to drive off road on their private property.
- Cannot give written permission if private property is part of a unitization, ranch wide or unit wide agreement or property that the department is paying for public access.
- Unlawful to drive off road while shed hunting.
- Same applies for closed roads



# Mobility Impaired

## Mobility Impaired (MI) cards:

- Handicap licenses vs. Mobility Impaired card holders
- MI hunter can designate one person in writing to assist them.
- MI designee must follow sporting arm type



## **Proof of sex or bag limit**

- Gave the option of keeping the genitalia naturally attached or the scalp and both ears on female only hunts.
- Female Ibex with horns longer than 15 inches can leave genitalia naturally attached.
- Javelina hunters must keep the skull as proof of bag limit.



# Tagging

## **Electronic Tagging:**

- Licensed hunters upon harvest must immediately access electronic tagging app.
- App will provide an e-tag number, CIN, and date of kill
- Hunter will write info on durable material with permanent ink
- Hunter will attach tag with info in proper locations

## **Department issued carcass tag:**

- Tagging process will remain same and consistent with e-tag option.



# Contiguous Deeded Property

- A Landowner can hunt on contiguous deeded property that extends into adjacent GMU's
- Permission will be granted annually at an area office at least one week prior to hunt
- LO must show proof of ownership
- Dates, bag limit and sporting arms determined by GMU with majority of property
- Can choose contiguous or individual GMU but not both
- Unit Wide or Ranch Wide properties are not eligible



# **Misc. Manner and Method**

## **Use of dogs:**

- Up to two dogs that are kept on a leash can be used to track wounded game.

## **Use of bait:**

- Bait must be completely removed to include feeders for at least 10 days.

## **Hunting captive big game species:**

- Unlawful to take Big Game (BG) within any game proof fence or enclosure.

## **Collars or tracking devices:**

- Unlawful to attach tracking device on any BG or Turkey

## **Use of cellular, cell or satellite cameras:**

- Unlawful to use cellular or satellite cameras for purpose of hunting any BG

## **Use of bait for Migratory or Upland Game:**

- Unlawful to use bait to take migratory or upland game



# Fishing

## **Trotlines:**

- Allow the use of CIN
- Simplified the language in bait fish
- Simplified the language in use of boats and motors



# Penalty Assessments

- Clarified the language and specific violations for M&M Penalty Assessment Misdemeanors





# Public Participation

- Public discussion during public meetings
- Have had approximately 155 public comments
- 68 against / 9 in favor of aircraft rule
- 6 against electronic tagging
- 8 against draw lock rule
- 2 against shooting from road rule
- 1 against broadhead rule change
- 3 against weapon type / caliber restriction changes
- 1 against / 1 in favor of cell camera rule
- 1 against / 2 in favor of Javelina head tagging
- 42 against / 1 in favor of Two flies on SJ quality area
- 1 in favor of tracking dog use





## 2018 Manner and Method - Summary of proposed changes

(Updated 10/10/18)

The Manner and Method Rule 19.31.10 NMAC contains the majority of the laws which regulate when, where and how game animals, game birds and game fish can be taken legally. The overall goal during the revision of current manner and method rules for the take of game animals was to simplify the game laws wherever possible without negatively impacting the New Mexico's wildlife resources.

Many of the laws we propose eliminating have no effect on protecting the resource. Some are meant to increase revenue, some are the result of one group of sportsmen trying to keep other sportsmen from using their water (or season or sporting arm or GMU) and some are misguided attempts to prohibit perceived or real threats to wildlife.

This all undermines the legitimate purpose of game laws and the department's ability to manage New Mexico's wildlife. We believe that the way we get this deterrent back is to minimize the number of "trivial" violations while concentrating on serious offenses by strengthening certain laws. We have tried to take a fresh look at every rule in this regulation and make a determination of whether it should stay or go based on the following criteria:

1. Does this law protect the resource from over-harvest?
2. Does this law help the department manage our wildlife to ensure they are here for future generations?
3. Does this law ensure public safety?
4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?
5. Is this law necessary to address a social issue?

### What's changed (at a glance):

- The "manner and method" portion of every big game species, upland game, migratory game bird, fisheries and turkey rules has been removed from each of the species rules and put into 19.31.10 NMAC. Several definitions have been amended or added. Clarified and simplified language throughout. Removed a number of laws from the regulation.

### Summary of changes:

- **Sporting arms** – Remove caliber restrictions from elk, bighorn and oryx. Make any centerfire .22 caliber or larger legal for all big game. Allow any sporting arm for cougar and javelina. When used for cougar or javelina, compressed air guns must be .22 caliber or larger and shotguns must fire a single slug or use shot no smaller than #4 buckshot.
- **Arrows/Bolts** – allow small game hunters to use more appropriate points for their game. Remove the steel requirement from broadheads.
- **Bow** – eliminate the use of draw locks on bows.
- **Bait** – allow the use of scents except for bear hunting.
- **Barbless lures or fly** – Allow the use of soft plastic as an "artificial" component in making lures and flies for fishing in special trout waters.

EXHIBIT

4

tabbles

- **Cell or satellite camera-** would make remote cameras that can transmit images via satellite, Wi-Fi or cellular signal unlawful for use in conjunction with hunting purposes. Exempts cell phones.
- **Restricted muzzleloaders** – Allow any full bore diameter bullet or patched round ball. Allow any black powder or equivalent propellant regardless of whether it is loose or pelleted.
- **Snagging** – Changed to prohibit the action of snagging vs. the accidental hooking of a fish anywhere other than the mouth.
- **Spear fishing** – Allow spear fishing from above the surface of the water on waters where it is allowed (lakes and reservoirs).
- **Game taken by another** – Allow for the temporary transfer of game parts for the purpose of transportation and/or processing.
- **Sale of parts** – Allow the sale of additional legally harvested parts (primarily rendered bear fat and furbearer parts).
- **Shed antlers** – All shed antlers collected in violation of criminal trespass, any closure or while driving off road on public land shall be seized.
- **Possession of wild turkey** – Remove this paragraph. Already prohibited under retention of live protected species and will remain illegal.
- **Captive wildlife permits** – Imported wildlife which is listed on the directors “species importation list” as group 2 (wild species generally ok to import with permit), 3 (restricted or invasive species, allowed but more restrictions) or 4 (dangerous or highly invasive, generally not allowed in) must have proof of legal importation regardless of who now owns it.
- **Shooting from the road** – Allow hunters to shoot from just off of the road surface when no right of way fence exists. If a right of way fence exists they must get beyond that fence before shooting.
- **Harassing wildlife** – Make it illegal to harass protected species except while legally hunting or in depredation situations.
- **Use of aircraft** – Make it illegal, for the purpose of hunting, to scout or locate game from the air Aug 1 – Jan 31 annually. This will not impact any other activity, such as recreational flying, flying for agricultural purposes, commercial flights or flying for real estate purposes.
- **Driving off road & closed road** – Allow driving off-road on private land with written permission.
- **Mobility Impaired** – Clarification of language. In the current rule a “handicapped” license is used when it is actually a mobility impaired license. Also requires the MI hunter to designate who their assistant will be for the hunt if they have one. No change to the hunts/licenses offered.
- **Proof of sex and/or bag limit** – Allow hunters to keep either the head or the external genitalia attached to most female animals they harvest as proof of sex. Would also require javelina hunters to take the head of their javelina from the field as proof of harvest.
- **E-Tagging** – Hunters will have to immediately access department’s e-tagging app after killing their animal. App will provide an e-tag number, CIN and date of kill. Hunter will have to

write all of this info on durable material (flagging or tape) with permanent ink and attach this durable material to the carcass and antlers/horns.

- **Physical tag** - Require javelina hunters to tag the head of their kill. No other changes.
- **Sale of licenses** – Prohibit the sale of draw or over the counter licenses.
- **Dogs** – Allow hunters to use up to 2 leashed dogs to help blood trail wounded big game. Eliminate the requirement that they be registered with the department.
- **Use of bait** – An area must be free of bait for at least 10 days prior to hunting. Prohibit bait stations as starting points for releasing bear or cougar dogs on a track.
- **Hunting captive big game** – Prohibit hunting within game proof fences except when licensed as a Class A park.
- **Contiguous deeded land** – Allow a landowner who wants to hunt their entire deeded property (as long as it is all contiguous) for most big game to do so despite the fact that their property extends into adjacent GMU's where the season dates, bag limit or sporting arm are different. Landowner must show proof of ownership and request this permission annually from the local department office. Unit wide, ranch wide or unitized properties are not eligible.
- **Collars on game animals** – Prohibit anyone from putting a collar or electronic tracking device on any game animal.
- **Use of traps or snares on upland game or migratory birds** – Prohibit the capture of upland game (squirrels, grouse, quail etc) and migratory birds (ducks, geese etc).
- **Trotlines** – Allow anglers to mark their trotlines using only their CIN.
- **Written permission**- Add driving off road on private property as an activity allowed with written permission. Amend what is required to include: Name of person granting permission, location of property, name of property, name of person(s) receiving permission, permitted activity, date, phone number or email of person granting permission and length of time permission is granted.
- **Bullfrogs** – Prohibit the possession of and use of bullfrogs while fishing.
- **Baitfish** – Allow commercially packaged and processed dead fish to be used as bait in any regular water in the state. Clarified what is allowed.
- **Limit on angling hooks** – Remove this law.
- **Possession of live fish** – Prohibit the moving of live fish from one water to another.
- **Chumming** – Allow chumming in all regular waters statewide. Still illegal in a special trout water.
- **Closed areas** – Remove this section. Contradicts what is open.
- **Boats and other floating devices** – Simplified, standardized and consolidated.
- **Crossbows** – Remove this section. This was repetitive. Crossbows are legal for all muzzleloader and rifle hunts and are legal during bow hunts by an MI card holder.
- **Penalty Assessments** – Removed those listed for violations which are proposed to no longer be illegal, added illegal use of cell, satellite or Wi-Fi game cameras.
- **Seizure** – Relocated this paragraph to a single location at the end of the rule.

- **Special Accommodations** – Require hunters who have a director approved accommodation to carry a copy of this in the field.

Exhibit 5

EXHIBIT

5

Labels

Manner & Method Rule  
Public Comments  
Dec 2018

## Manner Method Public Comments via e-mail

#	First Name	Last Name	Email Address
1	William	Abshagen	
2	Robert	Adams	
3	Aaron	Adriero	
4	Amanda	Alton	
5	Jacobo	Baca	
6	Jerrold	Baca	
7	Ranada	Baca	
8	Bart	Barrack	
9	Robert	Benavidez	
10	Brock	Benjamin	
11	Phyllis	Bonner	
12	Scott	Burnett	
13	Jason	Bushey	
14	Richard	Byerly	
15	Mark	Call	
16	Aaron	Carithers	
17	Craig	Cathey	
18	Cleo	Chamberlain	
19	Tom	Chandler	
138	Tom	Chandler	
20	Tami	Clark	
21	R.A.	Cloud	
22	Keith	Coleman	
23	Jim	Crawford	
24	John	Crenshaw	
25	Brandon	DenHartog	
26	Elisabeth	Dicharry	
27	Guy	Dicharry	
28	Gregg	Dickson	
29	Rebecca	Dow	
30	Jack	Dyson	
31	John	Elling	
32	Wesley	Elliot	
33	Kent	Elverum	
34	Carl	Fischer	
35	Stephen	Fleming	
36	John	Flick	
37	Joel	Gay	
38	Kent	Gierke	
39	Terri Anne	Groover	
40	Chris	Grotbeck	
41	Buzz	Hale	
42	Casey	Harthorn	
43	Wes	Hartman	
44	Philip	Hartman	
45	Mark	Haynes	



## Manner Method Public Comments via e-mail

46	Robert	Heavirland		
47	Steve	Higgs		
48	Michael	Holcomb		
49	Melissa	Holguin		
50	J	Jeff		
51	Ron	Kellar		
139	Ron	Keller		
52	Michael	Kent		
53	Michael	Kent		
54	David	Kirk		
55	Lance	Kloefkorn		
56	Tom	Knopick		
57	David	Krall		
58	Steve	La Falce		
59	Rhonda	Lackey		
60	Alva	Lackey		
61	Joe	Lamb		
62	Chet	Leach		
63	Christopher	Lee		
64	Michael	LeFevre		
65	Thomas	Leva		
66	Richard	Ley		
67	Travis	Matthew		
68	Steve	Maus		
69	Richard	McClellan		
70	Logan	McGarrah		
71	Bill	McGlynn		
72	Alan	Monk		
73	Richard	Montrose		
74	Dan	Moran		
75		Mortensen		
76	William	Murrish <sup>1</sup>		
77	Raymond	Nagashima		
78	Sheri	Nance		
79	Joseph	Newman		
80	David	Nickum		
81	Brad	Norman		
82	Brad	Norman		
83	Mark	Norton		
84	Thomas	Norton		
85	Tim	O'Connor		
86	Robert	Offutt		
87	Tom	O'Neill		
88	Ron	Orozco		
89	William	Owen		
90	Andres	Paglayan		
91	Daniel	Pope		

## Manner Method Public Comments via e-mail

92	William	Post
93	Mike	Purpura
94	John	Ranweiler
95	Reavis	Rice
96	Frankie	Ridolfi
97	Richard	Rivera
98	Ed	Robinson
99	Charles	Rodriguez
100	Kerrie	Romero
101	edward	Schaub
102	William	Schmidt
103	Arlan	Schmitz
104	Lee	Scholes
105	Gary	Scholton
106	Bill	Shuert
107	Frank	Skillen
108	Fred	Smith
109	Francis	Soltis
110	Greg	Spradling
111	Charles	Swanberg
112	Chuck	Swanberg
113	Candie	Sweetser
114	Brent	Taft
115	James	Thompson
116	Dave	Trautmann
117	Gary	Treat
118	Douglas	Turnbull
119	Jack	Tyler
120	Don	Urbielwicz
121	Charles	Vangelder
122	Manuel	Vasquez
123	Art	Vollmer
124	Andrew	Walker
125	Doug	Wallis
126	Scott	Waltemeyer
127	Bill	Weddle
140	Bill	Weddle
128	Paul	West
129	Erin	White
130	Daniel	Wild
131	Chris	Wilson
132	Joyce	Woods
133	Bill	Zenger
134	Cody	
135		
136	NMPA	

## Manner Method Public Comments via e-mail

137	William		

*Manner & Method Public Comments Road Letters/Cards*

First Name	Last Name	Address 1	Address 2	City	State	Zip	Phone	Email	
Bill	McGlynn	1711 West College St.							
Dave	Jesurun								
Rol	Murrow								
Clayton	Stansell								
Ron	Orozco								
Ron	Keller								
Stephen	Fleming								
Joel	Gay								Backcountry Hunters and Anglers

First Name	Last Name	Address 1	Address 2	City	State	Zip	Phone	Email
John	Crenshaw							

*Revocation Rule Public Comment Revd Letter.*

*Revocation Rule Public Comment Received via Email*

First Name	Last Name	Address 1	Address 2	City	State	Zip	Phone	Email
Brad	Norman							
John	Crenshaw							











# SPEAKER'S CARD

New Mexico State Game Commission Meeting

(Please Place Form in Appropriate Agenda Slot)

AGENDA ITEM

10

PLEASE PRINT

Name: RON OROZCO

Address:

City: \_\_\_\_\_ Stat: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Officially Representing: \_\_\_\_\_  
(Organization(s))

Your Title: PILOT & HUNTER

Do you wish to be heard?  Yes  No

**WRITTEN COMMENT (Below or Attached)**

I OPPOSE CHANGES TO THE 48-HOUR RULE REGARDING USE OF AIRCRAFT IN HUNT-RELATED ACTIVITIES



# SPEAKER'S CARD

New Mexico State Game Commission Meeting

(Please Place Form in Appropriate Agenda Slot)

AGENDA ITEM

10

PLEASE PRINT

Name: Ron Keller

Address:

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Officially Representing: New Mexico Airstrife  
(Organization(s)) Network

Your Title: Founding member

Do you wish to be heard?  Yes  No

**WRITTEN COMMENT (Below or Attached)**





# MEETING SIGN-IN SHEET

New Mexico State Game Commission

(Sign-in to be in the official record as having attended this meeting. Mark the box if you wish to be added to the meeting notifications mailing list.)

**PLEASE PRINT**

NAME	ADDRESS CITY, STATE, ZIP	E-MAIL ADDRESS	PHONE	ADD TO MAILING LIST
Steve Summers	[REDACTED]	[REDACTED]	[REDACTED]	<input type="checkbox"/>
JOE NEWMAN	[REDACTED]	[REDACTED]	[REDACTED]	<input checked="" type="checkbox"/>
ELISABETH DICHARY	[REDACTED]	[REDACTED]	[REDACTED]	<input type="checkbox"/>
RICHARD WIND	[REDACTED]	[REDACTED]	( ) -	<input type="checkbox"/>
Joseph Luna	[REDACTED]	[REDACTED]	( ) -	<input checked="" type="checkbox"/>
Gerald Ch...	[REDACTED]	[REDACTED]	( ) -	<input type="checkbox"/>
Joe Guy	[REDACTED]	[REDACTED]	( ) -	<input type="checkbox"/>
Ronald Schubert	[REDACTED]	[REDACTED]	( ) -	<input type="checkbox"/>
David Bradley	[REDACTED]	[REDACTED]	( ) -	<input type="checkbox"/>
Jessica Johnson	[REDACTED]	[REDACTED]	( ) -	<input checked="" type="checkbox"/>
Christopher Smith	[REDACTED]	[REDACTED]	( ) -	<input type="checkbox"/>
Mary Roy	[REDACTED]	[REDACTED]	( ) -	<input type="checkbox"/>
	[REDACTED]	[REDACTED]	( ) -	<input type="checkbox"/>



# MEETING SIGN-IN SHEET

New Mexico State Game Commission

(Sign-in to be in the official record as having attended this meeting. Mark the box if you wish to be added to the meeting notifications mailing list.)

**PLEASE PRINT**

NAME	ADDRESS CITY, STATE, ZIP	E-MAIL ADDRESS	PHONE	ADD TO MAILING LIST
ROL MURROW				<input checked="" type="checkbox"/>
Dustin Traffantodt				<input checked="" type="checkbox"/>
RON OROZCO				<input checked="" type="checkbox"/>
Lee Sauters				<input type="checkbox"/>
Clayton Stansell				<input type="checkbox"/>
Ron Keller				<input type="checkbox"/>
Joyce Woods				<input type="checkbox"/>
Bob Nondspum				<input type="checkbox"/>
Dave JESURUN				<input checked="" type="checkbox"/>
GREG GRIFFITH				<input type="checkbox"/>
STEWART KEMING			( ) -	<input type="checkbox"/>
Lowell Whitten				<input type="checkbox"/>
Wesley BARRIS		@		<input type="checkbox"/>



# MEETING SIGN-IN SHEET

New Mexico State Game Commission

(Sign-in to be in the official record as having attended this meeting. Mark the box if you wish to be added to the meeting notifications mailing list.)

PLEASE PRINT

NAME	ADDRESS CITY, STATE, ZIP	E-MAIL ADDRESS	PHONE	ADD TO MAILING LIST
Amanda Razi				<input type="checkbox"/>
Esther Nelsoh				<input type="checkbox"/>
Suzie Torres			( ) -	<input type="checkbox"/>
EHREN BAUA			( ) -	<input type="checkbox"/>
Holly Hayden				<input type="checkbox"/>
Todd Nims				<input type="checkbox"/>
William Schneidk				<input type="checkbox"/>
Jamie R Dawson				<input type="checkbox"/>
Jane M Dawson			( ) -	<input type="checkbox"/>
Michael Dar			( ) -	<input type="checkbox"/>
Rita Daniels				<input type="checkbox"/>
Katie DeLorenzo			( ) -	<input type="checkbox"/>
John Crenshaw			( ) -	<input type="checkbox"/>



# MEETING SIGN-IN SHEET

New Mexico State Game Commission

(Sign-in to be in the official record as having attended this meeting. Mark the box if you wish to be added to the meeting notifications mailing list.)

**PLEASE PRINT**

NAME	ADDRESS CITY, STATE, ZIP	E-MAIL ADDRESS	PHONE	ADD TO MAILING LIST
Kerai Romero	Nirtco	@	( ) -	<input type="checkbox"/>
TANNER ANDERSON	NMFLD	@	( ) -	<input type="checkbox"/>
Colleen Payne	MDA	[REDACTED]	[REDACTED]	<input type="checkbox"/>
		@	( ) -	<input type="checkbox"/>
		@	( ) -	<input type="checkbox"/>
		@	( ) -	<input type="checkbox"/>
		@	( ) -	<input type="checkbox"/>
		@	( ) -	<input type="checkbox"/>
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		@	( ) -	<input type="checkbox"/>
		@	( ) -	<input type="checkbox"/>

# Manner & Method Public Meeting

8/30/18

Please Print Your Name

+

Where You are From

WINDA KNIGHT

HATCH, NM

Lynae Knight

Hatch, NMA

Wes Baker

Los Cruces

Jill BASS

Las Cruces

Carthage

LAS CRUCES

R. L. Basso

Las Cruces

Cheri Dennyson

Las Cruces

Lurtis Davidson

LAS CRUCES



# Sign-In

9-4-18

<u>Name</u>	<u>City</u>
1. Joyce Wood's	Albuquerque
2. Gabe Sanchez	Intermountain
3. Ron Keller	Resque Farms
4. STEPHEN FLEMING	LOS LUNAS
5. A. Paul Miller	Capitan
6. Larry FLEENER	ALBUQUERQUE
7. C. McColl	Alb.
8. Leon Regelman	RHX
9. Clayton Stansell	IL
10. Kite DeLorenzo	ABQ.
11. Kerue Komie	NMCOG Stanley
12. BMO Norman	Albuquerque
13. CHRIS GROTSCH	Albuquerque

September 11, 2018

Manner & method Public Meeting

Sign in Guests:

NAME

WHERE ARE you FROM

9/5/18 Manner & Method Rule Meeting Sign In

9-3-18 Joe Earl Bell

9-5-18 Billy Bell

Trey Omboss

Rob Krosiak

Mark Pantuso

Logan McGarrach

Scott Burnett

**Cole, Darrell R., DGF**

---

**From:** jimcrawford01 <[REDACTED]>  
**Sent:** Tuesday, September 18, 2018 9:06 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Aerial Game Scouting Rule Change

Sir

With regard to the above referenced rule change, I would ask that you recognize that the FAA has jurisdiction over the airspace of this country. If not, then each town, city and state would be able to make up its own rules and result in chaos.

Also, if it isn't broke .... Sounds like you have a solution looking for a problem.

Regards

Jim Crawford

--  
Jim Crawford  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Cole, Darrell R., DGF**

---

**From:** John Elling <[REDACTED]>  
**Sent:** Thursday, September 27, 2018 9:55 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Manner and Method Rule change 19.31.10

Sirs,

I am concerned about the Manner and Method Rule change 19.31.10

I am a private pilot based in Santa Fe and I am also an avid hunter when I am lucky enough to draw a hunt.

I primarily fly in Northern New Mexico in order to enjoy our beautiful scenery. For example, this weekend I will be flying low over the mountains while my friends and I enjoy the turning aspens.

When I draw a hunt in a new area, I will always scout the area from the air. I am looking for roads, camp sites, and hunting areas. I never look for animals and I never do any flying over my hunt area 48 hours before the start of the hunt so that my flights cannot be mistaken for attempts at spotting game.

If this rule change were to go forward, it would significantly increase the risk that the intent of my flying could be mistaken as trying to locate protected species. I do not think that it is a worthwhile risk.

Further, I question the need for this rule change for pilots who are trying to locate animals from the air. From my experience, even animal locations that are 48 hours old would be of little use in hunting.

I oppose the proposed rule change for these reasons

John Elling  
Santa Fe NM

--

John Elling  
US: +001 ([REDACTED])  
[REDACTED]

**Cole, Darrell R., DGF**

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**From:** Gregg Dickson <[REDACTED]>  
**Sent:** Wednesday, October 03, 2018 9:16 AM  
**To:** DGF-FieldOpsComments  
**Cc:** Gregg Dickson  
**Subject:** [EXT] Proposed Manner and Method Rule change 19.31.10

Dear New Mexico Department of Game and Fish,

Please accept this email into the official records for comments associated with the Proposed Manner and Method Rule Change 19.31.10.

I am a private pilot and own a small classic 1952 general aviation airplane. I am not a hunter but I do enjoy backpacking and fly fishing, especially in the backcountry of New Mexico.

I fly out of the Grant County airport (KSVC) and routinely fly over the Gila Wilderness and State lands throughout Southwestern New Mexico. My airplane is a small classic (old) airplane, it is not capable of flying at high altitudes, thus, I fly low and slow.

I support the comments and recommendations you have received from many organizations, including these listed below:

- Federal law establishes the Federal Aviation Administration with the responsibility to administer aviation airspace - for public safety and interstate commerce. A no-fly-zone can be established for safety and national security but must be administered by the FAA. Even the military must abide by the rules set forth by the FAA.
- This rule is a restraint of not only commercial aviation, (overseen by the Interstate Commerce Commission), but on a pilot's fundamental rights to pass without fear of restraint or reprisal, when no crime has been committed, nor probable cause for enforcement has been demonstrated.
- Commercial pilots who fly hunters or guides to remote airstrips or support scouting will be put out of business. New Mexico will lose significant revenue from Governor's tag sales and hunting tourism.
- Under the proposed rule, general aviation pilots can expect to be questioned and potentially cited for flights over areas that may be used for hunting. As a pilot, I adhere to FAA regulations. However, as a none hunter, I am not familiar with nor should I be required to understand hunting seasons or game unit boundaries.
- Retain the current 48 hour rule and actively partner with the United States Forest Service, New Mexico Pilots Association and other aviation organizations to utilize our aviation network to aid enforcement. NMPA members have suggested technology approaches, a hot-line for reporting aerial violations, and awareness communications throughout the aviation and hunting communities.
- Utilize aviation organizations to help educate sportsmen on the USFS and BLM recognized use of backcountry airstrips for access to public lands and recreational purposes, and that circling an airstrip is typical to assure a safe landing.
- I have not found any documented evidence that aviation has a significant negative impact on New Mexico's wildlife resource or the opportunity for a fair chase.

- The current 48 hour rule has been on the books for a long time, is widely understood, accepted, and followed.
- Pilots of aircraft are being singled out where other means of scouting are not addressed.
- Aircraft landing at a backcountry airstrip are no more distraction to a hunter than an OHV driving by on a road. As the only transportation mode requiring no road, backcountry aircraft have a relatively low impact on the land.
- It's inappropriate to address drone operations and aircraft operations with the same language.
- We in aviation community shares common ideals with NMDGF regarding fair access to public lands and recreational opportunities.

Thank you for the opportunity to share my comments.

Sincerely,

Gregg Dickson

**Cole, Darrell R., DGF**

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**From:** r [REDACTED]  
**Sent:** Wednesday, October 03, 2018 8:15 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Proposed Changes to Manner and Means Rule  
**Attachments:** New Mexico State Game Commission Letter.docx

New Mexico State Game Commission,

Thank you for the opportunity to comment on proposed changes to the Manner and Means Rule as presented by the NMDGF.

As a resident of Animas, Hidalgo County, New Mexico and hunter, pilot, and law-abiding citizen, I am very concerned and oppose any changes to the hunting regulations regarding the 48-hour rule for use of aircraft in support of hunting activities.

Please allow a few points for your consideration:

1) I am not aware of a single prosecuted violation of the current 48-hour rule. This leads me to the conclusion that either there is no problem, or that enforcement efforts have been unfruitful. In either case, extending the 48-hour rule to a 6-month rule makes absolutely no sense! If the rules can not be enforced over a 48-hour period, how on earth does extending it to 6 months make any sense?

2) In the NMDGF regulations, under "fair chase", you refer to "technological advances" presenting "difficult" new decisions for hunters. I have operated my 1956 model airplane under the 48-hour rule for decades. There is no "new technology" here and I face no "difficult" decisions. I am only asking that you either show good cause for change or leave the 48-hour rule as it has been.

3) I admit that an airplane flying overhead will create a brief audible event to hunters and possibly game. However, this brief encounter is nowhere near the disturbance I observe when an ATV, UTV, dirt bike, or even a truck, passes nearby during a hunt.

4) In speaking with my fellow southwestern NM pilots and hunters, I could cite numerous examples of aerial support for hunting operations that clearly fall within the "fair chase" guidelines and that would be jeopardized by the proposed rule changes. For example, Mr. Bob Benavidez, owner/operator of Desert Aviation Services based in Deming, says that he operates several dozen flights per year in support of hunting operations as part of his business. Prohibiting, or even restricting current rules, would have a direct negative impact on his small business. (Mr. Benavidez is currently out of the country and unable to submit his comments directly.) I would gladly review comments from other neighbors at your request and convenience.

5) I personally plan a scouting flight in Unit 14 prior to my muzzleloader hunt this month. As in the past, I will strictly obey all Federal Aviation Administration regulations pertaining to this flight as well as the NMDGF's 48-hour rule. Though I have never done so in the past, I intend to voluntarily call the NMDGF and provide details of time and location of my flight in a good-faith effort to avoid any unwarranted reporting and burdensome follow-up. Perhaps we could work together to get other pilots to similarly participate on a voluntary basis.



6) Most pilots and hunters play by the rules. Your Operation Game Thief program, along with your hard-working game wardens and office staff, provide excellent channels of communication for hunters and pilots to report violations of those rules.

7) Let's work together - pilots, hunters, and NMDGF - to find better ways to identify and prosecute any violations to the current 48-hour rule. But to extend it to 6-months when no demonstrated problem exists just does not make any sense.

8) I am aware and support all recommendations submitted by the NM Pilots Association.

In conclusion, I trust the Commission will reject all proposed changes related to the 48-hour rule. "It ain't broke so don't fix it!" Furthermore, I ask the Commission to encourage the NMDGF to work more closely with pilot community in addressing their aviation related concerns.

Respectfully submitted,

Ron Orzco, P.E. (ret.)

[Redacted Signature]

Airport Support Network Volunteer for Lordsburg Airport Member – Aircraft Owners and Pilots Association (AOPA)

Member – New Mexico Pilots Association

Member – Recreational Aircraft Foundation

Member – Rocky Mountain Elk Foundation

New Mexico State Game Commission,

Thank you for the opportunity to comment on proposed changes to the Manner and Means Rule as presented by the NMDGF.

As a resident of Animas, Hidalgo County, New Mexico and hunter, pilot, and law-abiding citizen, I am very concerned and oppose any changes to the hunting regulations regarding the 48-hour rule for use of aircraft in support of hunting activities.

Please allow a few points for your consideration:

- 1) I am not aware of a single prosecuted violation of the current 48-hour rule. This leads me to the conclusion that either there is no problem, or that enforcement efforts have been unfruitful. In either case, extending the 48-hour rule to a 6-month rule makes absolutely no sense! If the rules can not be enforced over a 48-hour period, how on earth does extending it to 6 months make any sense?
- 2) In the NMDGF regulations, under "fair chase", you refer to "technological advances" presenting "difficult" new decisions for hunters. I have operated my 1956 model airplane under the 48-hour rule for decades. There is no "new technology" here and I face no "difficult" decisions. I am only asking that you either show good cause for change or leave the 48-hour rule as it has been.
- 3) I admit that an airplane flying overhead will create a brief audible event to hunters and possibly game. However, this brief encounter is nowhere near the disturbance I observe when an ATV, UTV, dirt bike, or even a truck, passes nearby during a hunt.
- 4) In speaking with my fellow southwestern NM pilots and hunters, I could cite numerous examples of aerial support for hunting operations that clearly fall within the "fair chase" guidelines and that would be jeopardized by the proposed rule changes. For example, Mr. Bob Benavidez, owner/operator of Desert Aviation Services based in Deming, says that he operates several dozen flights per year in support of hunting operations as part of his business. Prohibiting, or even restricting current rules, would have a direct negative impact on his small business. (Mr. Benavidez is currently out of the country and unable to submit his comments directly.) I would gladly review comments from other neighbors at your request and convenience.
- 5) I personally plan a scouting flight in Unit 14 prior to my muzzleloader hunt this month. As in the past, I will strictly obey all Federal Aviation Administration regulations pertaining to this flight as well as the NMDGF's 48-hour rule. Though I have never done so in the past, I intend to voluntarily call the NMDGF and provide details of time and location of my flight in a good-faith effort to avoid any unwarranted reporting and burdensome follow-up. Perhaps we could work together to get other pilots to similarly participate on a voluntary basis.
- 6) Most pilots and hunters play by the rules. Your Operation Game Thief program, along with your hard-working game wardens and office staff, provide excellent channels of communication for hunters and pilots to report violations of those rules.
- 7) Let's work together - pilots, hunters, and NMDGF - to find better ways to identify and prosecute any violations to the current 48-hour rule. But to extend it to 6-months when no demonstrated problem exists just does not make any sense.
- 8) I am aware and support all recommendations submitted by the NM Pilots Association.

In conclusion, I trust the Commission will reject all proposed changes related to the 48-hour rule. "It ain't broke so don't fix it!" Furthermore, I ask the Commission to encourage the NMDGF to work more closely with pilot community in addressing their aviation related concerns.

Respectfully submitted,

Ron Orozco, P.E. (ret.)

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Airport Support Network Volunteer for Lordsburg Airport Member – Aircraft Owners and Pilots Association (AOPA)

Member – New Mexico Pilots Association

Member – Recreational Aircraft Foundation

Member – Rocky Mountain Elk Foundation

**Cole, Darrell R., DGF**

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**From:** christopher lee <[REDACTED]@state.nm.us>  
**Sent:** Wednesday, September 19, 2018 9:01 AM  
**To:** DGF-FieldOpsComments; ISPA, DGF; Bickford, Tristanna, DGF; dgf-director@state.nm.us  
**Subject:** Fwd: Proposed NMG&F Rulemaking involving General Aviation

Dear Members of the New Mexico Game & Fish Department, New Mexico State Game Commissioners, Director Sloane, and Whomever it May Concern:

I am a New Mexico resident, an engineer with the University of New Mexico, and a General Aviation (GA) pilot.

I am a member of several state and national aviation organizations and communities, including the Experimental Aircraft Association (EAA), Aircraft Owner's and Pilot's Association (AOPA), New Mexico Pilots Association (NMPA and NMPA Backcountry), Sandia Soaring Association (SSA), Angel Flight (AFW and AFSC), Flights for Life (FFL), the Recreational Aviation Foundation (RAF), the United States Hang Gliding and Paragliding Association (USHPA), and others. As such, I fly various different aircraft for many different kinds of flights and missions, ranging from multi-passenger, non-emergency medical transport, to blood and organ transport, to cross-country hang-gliding and backcountry camping excursions.

My flights take me and my passengers all over the state, crossing thousands of miles every year over land that I am sure includes many designated hunting grounds. I often fly low and slowly, and frequently land at unimproved, backcountry airstrips or even in empty fields. I always fly within the legal boundaries that are extensively defined in section 14 of the Code of Federal Regulations (CFR) - laws which govern all use of United States airspace and are strictly administered and enforced by the Federal Aviation Administration (FAA).

Although I have never been a hunter myself, I have no objections to hunting for food, and some of the passengers that I have carried have mentioned to me that they are hunters. On many occasions, I have heard passengers remark, while looking out of the airplane, that they thought an area generally looked good for hunting, or that the water ponds were full and likely to attract game, but it is honestly pretty difficult and rare for a passenger to spot game animals from a moving airplane. In the last ten years of flying in New Mexico, I have only seen game animals from the air twice - a herd of antelope running across a plain from 2000' AGL and some deer grazing on a runway on which I was attempting to land. In both cases, I was able to locate those protected species for a few seconds, but my guess is that they were miles away from that location by the time I was able to make a few turns in the air and return to the ground. I'm not sure how effective game scouting from an airplane is, but could not the same things be seen, and observed for much longer and in much more detail, from the ground or from a nearby mountaintop?

My primary objection to the New Mexico Game & Fish rule, as it is currently written and as it is proposed, is that it is not within my control, as a pilot, to prevent a passenger from scouting or subsequently hunting, but that I could face misdemeanor charges simply for carrying passengers in my airplane, as has been done commonly and lawfully by pilots for the last century.

The proposed rule states, in part, that it is illegal (with penalties up to \$1000 fine and 364 days in jail):

*"...for any individual, for the purpose of hunting, to locate or assist in locating a protected species from or with the aid of an aircraft or drone. . . during the period beginning on August 1 and ending on January 31 of each license year."*

As this is written, if one of my passengers were a hunter (potentially not even known as such to me) and were to see an elk, or a deer path, or a pond out of the window of the airplane and use that information for the purpose of hunting, I could conceivably be guilty of assisting that person in locating protected species and be subject to misdemeanor charges, fines and jail time (a conviction of which could have a ruinous effect on my engineering and flying careers and my family life).

Even the part of the rule stating, "... for the purposes of hunting..." is poorly defined, could be interpreted very broadly, and is effectively impossible to prove or enforce. Is making a mental note of a pond's water level considered an activity "to locate species... for the purpose of hunting"? Is the mere act of being an airplane passenger (or pilot) while flying over an area, prior to hunting in that area, sufficient to prove that protected species were located, and that it was done for hunting purposes? If so, then I am unduly at risk of being charged as an unwitting accomplice. If not, then the rule is not enforceable. Either way, the fallacy of the proposed rule is apparent.

That there has not been a single conviction under the current rule, in the fifteen years or so that it has been in place, attests to its inefficacy. It is not enforceable precisely because it is practically impossible to prove a connection between riding in an airplane and locating protected species for the purpose of hunting.

If the rule were enforceable, then the only way for a pilot to be safe from prosecution would be not to fly, for six months of the year, over any hunting areas with anyone on board who could potentially be a hunter (including the pilot). That would put an end to air travel in the state and is obviously not a reasonable expectation.

So, the rule is ineffectual, unenforceable, ill-defined and fallacious - more than enough reasons to strike it from the rule book.

Please remove any existing and proposed rules that involve air travel or that could conflict with the federal regulations that govern air travel, or that could implicate unwitting individuals in crimes by association with people whose actions they have no control over, and please do not associate your good name or your position with the creation or implementation of such poorly-conceived rules.

Thank you.

Very Respectfully,

Chris Grotbeck



**Cole, Darrell R., DGF**

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**From:** Chandler, Tom  
**Sent:** Tuesday, September 25, 2018 10:22 PM  
**To:** DGF-FieldOpsComments: r

**Cc:** Coon, Jim; Ginter, Mike; Williams, Adam  
**Subject:** [EXT] Comments on Manner and Method Rule Change 19.31.10  
**Attachments:** NMGF Manner and Method Comments 09252018.pdf

New Mexico Department of Game and Fish Commission –

Please find the attached comments regarding the “Manner and Method” Rule Change 19.31.10 as currently proposed by the commission.

Feel free to contact me with any questions or concerns.

Sincerely,

**TOM CHANDLER**  
Regional Manager – Central Southwest, AOPA

c: 535

[www.aopa.org](http://www.aopa.org)





[www.aopa.org](http://www.aopa.org)

September 25, 2018

New Mexico Department of Game and Fish  
Attn: Field Operations Rule Development  
P.O. Box 25112  
Santa Fe, NM 87504

**Re: Comments on Proposed Changes to Manner & Method Rule, 19.31.10 NMAC**

Dear Field Operations Rule Development:

The Aircraft Owners and Pilots Association (AOPA) is the world's largest aviation organization representing the General Aviation interests of pilots and aircraft owners, including over 2,600 members in New Mexico. We are writing to provide comments on the proposed changes to the Manner and Method Rule 19.31.10 NMAC. Specifically, proposed rule 91.31.10.11(E), *Using Aircraft to Locate Wildlife*. We are concerned that if this rule is adopted as proposed, its unintended consequences could harm anyone using a General Aviation aircraft in New Mexico for business, recreation, or personal transportation.

Since the proposed rule is largely premised upon the "purpose" of an individual's flight in an aircraft, it could unreasonably call into question the flight activities of almost any aircraft owner or pilot who operates an aircraft in the navigable airspace in New Mexico. The proposed rule states, in part, that "It is unlawful for any individual, *for the purpose of hunting*, to locate or assist in locating a protected species from . . . an aircraft."

As the purpose of an aircraft flight cannot be readily determined by a casual observer or even law enforcement, almost any flight - but particularly those in areas where hunting is permitted - could easily become the subject of a complaint or an investigation concerning this rule, even when the flight is conducted in compliance with the Federal Aviation Regulations (FARs). The FARs are the result of Congress vesting the Federal Aviation Administration with authority to regulate the areas of airspace use, management and efficiency, air traffic control, safety, navigational facilities, and aircraft noise at its source. 49 U.S.C. §§ 40103, 44502, and 44701-44735.

Pilots are accustomed to operating in accordance with the FARs, which permit many operations that could otherwise appear to be the type of conduct that is targeted by this proposed rule. As a result, law-abiding aircraft owners and pilots who are conducting flights in compliance with the FARs may be erroneously accused of violating this proposed rule, unreasonably questioned by law enforcement, or wrongfully cited with criminal complaints.

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

For example, the FARs specifically permit aircraft to be operated at altitudes of less than 500 feet above the surface in sparsely populated areas (14 C.F.R. § 91.119), and place limited constraint on an aircraft's ability to maneuver freely in uncontrolled airspace or land at suitable off-airport locations. These legal flight activities regularly occur in New Mexico for business purposes like commercial air tours or aerial surveying, recreational purposes such as pleasure or training flights, or for personal transportation purposes. Under this proposed rule, however, these aircraft owners and pilots may be called upon to explain the "purpose" of these flights.

The potential overreach of this proposed rule is readily demonstrated by its need to contain an exception explicitly stating that the rule does not apply to certain types of flights. However, this very narrow exclusion only recognizes "commercial airline," "direct," and state or federal government flights. This limited exception states as follows:

This section shall not apply to regularly scheduled commercial airline flights, direct flights or to any individual acting within the scope of their official duties as an employee or authorized agent of the state of New Mexico or the United States federal government.

This exception does not readily account for General Aviation, which includes all civilian flying except scheduled passenger airline service. More than 90% of the roughly 220,000 civil aircraft registered in the United States are general aviation aircraft. And of the nation's approximately 600,000 pilots, an estimated 500,000+ fly General Aviation aircraft, including 5500 pilots operating over 3400 General Aviation aircraft based in New Mexico.

Given these concerns regarding the significant adverse impact that this proposed rule may have on General Aviation in New Mexico, AOPA submits that existing rules 91.31.10.11 (F) *Use of aircraft for spotting game*, and (G) *Using information gained from air flight* already provide the requisite legal mechanism to regulate the type of conduct targeted by this proposed rule.

If there is substantial evidence that the existing rules concerning use of aircraft must be changed, AOPA recommends that the New Mexico Department of Game and Fish work with local aviation groups, such as the New Mexico Pilots Association, to craft a rule with a suitable exception for General Aviation.

I would be happy to discuss this issue with you at any time. Please do not hesitate to contact me at [REDACTED] or [REDACTED].

Very truly yours,



Tom Chandler  
Regional Manager – Central Southwest



**Cole, Darrell R., DGF**

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**From:** Stephen N Maus <[REDACTED]>  
**Sent:** Monday, November 19, 2018 9:36 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] "48 Hour Rule"

Sirs: I am in support of the white paper issued by The New Mexico Pilots Association regarding the above referenced proposed rule. Overflights of 'hunting areas' have been successfully addressed in other mountain states that don't put non-hunting pilots in jeopardy. As both a hunter and a pilot, I understand the issues at hand. Penalties imposed on the non hunting private, commercial and military aircraft operators are not the likely targets of this rule. The FAA has well defined flight rules for airspace and does not restrict any of the above referenced classes to flying over and around wildlife habitat. Thank you for your consideration.

Steve Maus

*I think you will find our new Nautilus Group flash video outlining our new and interesting capabilities informative. For a 90 second overview, please click on the safe-link below.*

<http://www.newyorklife.com/tng>

Stephen N. Maus, CLU, MSFS  
The Nautilus Group

[REDACTED]  
[REDACTED]  
[REDACTED]@com

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[REDACTED]

**Cole, Darrell R., DGF**

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**From:** Philip Hartmann <[REDACTED]@[REDACTED].n>  
**Sent:** Saturday, November 17, 2018 10:12 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Eliminating aerial game scouting, the long standing "48 hour rule."

- This proposed rule is a restraint of a pilot's fundamental rights to pass without fear of restraint or reprisal, when no crime has been committed, nor probable cause for enforcement has been demonstrated.
- Commercial pilots who fly hunters or guides will be put out of business. New Mexico will lose significant revenue from tag sales and hunting tourism.
- It's the FAA's responsibility to administer aviation airspace. No-fly zones must be administered by the FAA. Even the military must abide by FAA rules.
- GA pilots can expect to be questioned and potentially cited for flights over areas that may be used for hunting. Pilots adhere to FAA regulations but may not be familiar with hunting seasons or game unit boundaries.

**Cole, Darrell R., DGF**

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**From:** Aerial Archaeology <[REDACTED]>  
**Sent:** Saturday, November 17, 2018 7:11 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT]

I fly thru new mexico regularly. I have a small bush plane. I oppose the restrictions proposed on hunting & flying. Daniel wild

**Cole, Darrell R., DGF**

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**From:** Murrish <[REDACTED]>  
**Sent:** Friday, November 16, 2018 6:44 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 19.31.10 NMAC Proposal (Comments)

Dear Sir or Madam,

I was recently made aware of a proposed rule making effort 19.31.10 NMAC addressing the manner and method regarding hunting.

I'm a pilot from your neighboring state of Colorado. I do not hunt in New Mexico, nor do I intent too. I do however fly in your state. That being said, after reading your proposal, I'm almost terrified to even consider flying in New Mexico during the period of Aug-Dec. I do not use my aircraft to spot animals or fly hunters in your state, but the fact that I could be accused of doing so just because I'm flying near a hunting area is ridiculous. As a pilot I rely on the FAA to issue Notice to Airmen (NOTAMs) or Temporary Flight Restrictions (TFRs) to inform me of areas I am not allowed to fly in. You're proposal, if passed, will put a huge burden on an already overworked FAA. More work from the FAA equals more tax payer money.

Concerning tax money, your proposal will probably have other pilots like myself avoiding your state during this 5 month period. States receive money from taxes placed on aviation fuel to help fund airports. It would be unfortunate for the state of New Mexico to miss out on this income.

I feel strongly that New Mexico should retain their current 48 hour period rule of not hunting after a flight to spot game. This is already double of what most states require, which is only 24 hours.

Sincerely,

William Murrish, Colorado State Ambassador Recreational Aviation Foundation

**Cole, Darrell R., DGF**

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**From:** Don Urbielewicz <[REDACTED]>  
**Sent:** Friday, November 16, 2018 10:13 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 19.31.10

I know it's after Oct. 18<sup>th</sup>, but I just got to read this proposal. Sorry but it's way too vague, the way it reads any pilot can get in trouble for just flying in that time period. I'm not a pilot but have friends that are. I feel the 48 hour rule should stand.

Thanks,  
Don Urbielewicz

**Cole, Darrell R., DGF**

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**From:** [REDACTED]  
**Sent:** Friday, November 16, 2018 4:27 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 48 hour hunting rule

Please leave hunting regulations regarding aircraft unchanged. They have been working fine for decades. Also leave airspace administration to the FAA. Thank you for your attention in this important matter and please keep me informed of your progress.

Sincerely,

David J Krall CFII

Sent from my iPhone

**Cole, Darrell R., DGF**

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**From:** Erin White <[REDACTED]>  
**Sent:** Wednesday, October 03, 2018 5:56 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 48 Hour Rule comment

To Whom it May Concern:

I would like to respectfully request that you retain the long-standing "48 hour rule" as it is written. Thank you for your consideration.

Sincerely,

Erin White

**Cole, Darrell R., DGF**

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**From:** [REDACTED]  
**Sent:** Wednesday, October 17, 2018 3:55 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 48 rule change

To NMGF and Commissioners,  
I against the rule change regarding aircraft rules.

There also should be a few months time extension for public comment.  
No one I know, knew this was coming up.

Bill Weddle  
[REDACTED]



**Cole, Darrell R., DGF**

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**From:** Kent Gierke [mailto:kent.gierke@arizona.gov]  
**Sent:** Thursday, November 15, 2018 8:17 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 48 vs 6

I am an Arizona resident who occasionally hunts NM.

I find the wording and the grammar of this proposal to be lacking. There must be 17 or's in that one sentence.

If you can't monitor hunting aircraft in the 48 hours before a hunt, how will 6 months be more applicable?

I have always found that the best way to handle a problem is to let those effected by it lead the way. Why don't you put together a committee of volunteers who can make a better recommendation than this proposal. I vote no.

**Cole, Darrell R., DGF**

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**From:** Leach, Chet <[REDACTED]>  
**Sent:** Tuesday, October 02, 2018 12:05 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Aerial game scouting rule change

Department of Game and Fish,

I wish to respectfully express my sincere objections to the proposed rules regarding piloting an aircraft during hunting seasons.

I object to the new rule based on the following:

1. This rule is a restraint of not only commercial aviation, but on a pilot's fundamental rights to pass without fear of restraint or reprisal, when no crime has been committed, nor probable cause for enforcement has been demonstrated.
2. Commercial pilots who fly hunters or guides or support scouting will be put out of business. New Mexico will lose significant revenue from tag sales and hunting tourism.
3. GA pilots can expect to be questioned and potentially cited for flights over areas that may be used for hunting. Pilots adhere to FAA regulations but may not be familiar with hunting seasons or game unit boundaries.
4. **It's the FAA's responsibility to administer aviation airspace. No-fly zones must be administered by the FAA. Even the military must abide by FAA rules. Please respect the Federal laws of the United States.**

Respectfully,

Chet Leach  
[REDACTED]

Pilot for 43 years  
1400 hours of flying  
Ownership of three aircraft

Flying related memberships: AOPA, EAA, RAF, NMPA, SWSPA,

## Cole, Darrell R., DGF

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**From:** robert heavirland <[REDACTED]>  
**Sent:** Saturday, November 17, 2018 4:47 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Airspace over hunting areas

To DGF

While I understand the desire to stop aerial game spotting I think you can find a better way to reduce the practice. See the points below as they pertain to the proposal.

- This proposed rule is a restraint of a pilot's fundamental rights to pass without fear of restraint or reprisal, when no crime has been committed, nor probable cause for enforcement has been demonstrated.
- Commercial pilots who fly hunters or guides will be put out of business. New Mexico will lose significant revenue from tag sales and hunting tourism.
- It's the FAA's responsibility to administer aviation airspace. No-fly zones must be administered by the FAA. Even the military must abide by FAA rules.

I feel that working with the local hunting guides and lodges you can better self regulate to reduce the problems. If the local guides can't work to self regulate then working with the FAA to setup a plan to allow local air traffic to and from the lodges can be addressed.

Best regards,  
Bob Heavirland

Sent from [Mail](#) for Windows 10

**Cole, Darrell R., DGF**

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**From:** Rhonda Lackey <[REDACTED]>  
**Sent:** Wednesday, November 14, 2018 9:05 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Airspace

I believe that we should keep airspace open for public access!!! Every day that goes by we see more and more of our privileges being taken away. It is getting to be ridiculous!! Please Take this into consideration.

Thank you,  
Rhonda Lackey

Sent from my iPhone

**Cole, Darrell R., DGF**

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**From:** Michael Holcomb <[REDACTED]>  
**Sent:** Tuesday, October 16, 2018 12:25 PM  
**To:** DGF-FieldOpsComments; MICHAEL HOLCOMB  
**Subject:** [EXT] comment on rule to ban low flying airplanes for 6 months a year

Madams and sirs:

Please consider the case of non-hunters like myself who do not own and gun and have never owned a gun and have never hunted. But as a small plane owner, everytime i get in my plane in the period under consideration for banning flights that aid hunters, i am at risk for being falsly accused of using my plane to aid hunters.

perhaps you could maintain a volutary list of pilots who are not hunters who would never fly to aid hunting. that way, no one on this list would be falsly accused of aiding hunters.

And/or you could allow non hunters to file a flight plan when they fly so that you know they are not aiding hunters.

also you could designate a minimum altitude for all planes, such as 1000 feet abouve the ground so that all who abide by this are not falsly accused.

general aviation contributes a lot of economic benefit to the state of new mexico. since we are the next to last poorest state, beating out only mississippi, please note that every rule you pass has an economic impact, which i am sure you do not want to be negative.

as you see, i oppose this rule.

sincerely  
michael holcomb  
member: new mexico pilots association

**Cole, Darrell R., DGF**

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**From:** Jack & Patricia <j [REDACTED] 1>  
**Sent:** Friday, November 16, 2018 8:07 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Comment re: Aerial Game Hunting

I am writing to strongly object to the New Mexico Department of Game & Fish presuming to act as though it is the Federal Aviation Administration.

CFR Title 14 assigns control of all national airspace and responsibility for all airspace regulations to the Federal Aviation Administration. This is recognized by all government agencies, including the State of New Mexico, and by the U. S. military. There are no unique circumstances or special arrangements authorizing non-FAA entities to make independent airspace regulations for any purpose. If NM Game & Fish believes it needs special authorization related to airspace control, it is eligible to pursue that request with the appropriate FAA Aviation District Office (ADO).

No matter how reasonable or necessary the NM Game & Fish staff feel this proposed airspace regulation is, this is what government overreach looks like. And to my New Mexico friends and colleagues, it is also embarrassing, as though local NM officials don't know the law. I urge you to withdraw your proposal and make your case to the appropriate FAA authority.

Respectfully,

Jack Tyler  
: [REDACTED]

**Cole, Darrell R., DGF**

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**From:** Rebecca Dow <[REDACTED]>  
**Sent:** Thursday, October 18, 2018 11:12 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Comment regarding aircraft rules

Dear NMGF and Commissioners,

Please accept this email as my comments regarding the proposed rule change regarding aircraft rules.

District 38 is home to world class hunting which represents a critical industry for our area. Our outfitters and guides access all legal means to attract clients and assure a successful hunt. One effort is the current 48 hour flyovers. Most outfitters follow the rules. It appears that the committee may be implementing a new rule that will impact all, based on the bad actions of a few. I strongly urge you to fully implement the consequences currently in the law for those who disregard the rules before simply adding more restrictions to all.

Considering that the hearing and rule change will take place during peak hunting seasons, at the very least, there should be additional notification to the folks impacted and additional public input before implementing an additional rule change.

Sincerely,

Rebecca Dow  
House of Representatives District 38

**Cole, Darrell R., DGF**

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**From:** Ron Keller <[REDACTED]>  
**Sent:** Monday, November 19, 2018 5:56 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Comments on Method and Manner Proposed Rule Change  
**Attachments:** Commission letter.docx

Please see attachment with comments.

Thanks,  
Ron Keller



November 19, 2018

Dear Commissioners & Director Sloane,

As a pilot and a hunter, I would like to comment on the proposed rule changes regarding use of aircraft.

For many years the 48 hour rule has been a highly recognized standard with respect to fair chase. But because of the perceived or actual illegal activity of a very few pilots, some within the NMDGF and on the commission feel the need to cast a wide net that will compromise the flying activities of law abiding pilots who enjoy the scenery of the New Mexico backcountry. In the summary comments regarding the rule change, a statement is made that indicates recreational and other legitimate forms of flying will not be impacted. However, these exemptions are not included in the proposed rule. My concern is that innocent pilots flying in the backcountry will be cited for illegal activities and not even realize it. A case in point from recent history was a pilot who was cited, and did not even know about it until he was contacted by his local magistrate court to appear. Fortunately, his case was dismissed as a result of a "no show" by NMDGF. Still, he bore the cost of an attorney. Many pilots, including myself, fly in the backcountry to USFS airstrips and private airstrips. In fact, the USFS (Gila National Forest) fully supports our flying activities and quite frankly, thinks the proposed rule change is misguided. You see, the USFS is a national and local partner with multiple aviation organizations to utilize, maintain and reopen airstrips. This partnership has the support of the Secretary of Agriculture. Additionally, the BLM is also a partner and fully supports the aviation activities. The Secretary of Interior is aware of and fully supports this partnership. Considering the NMDGF receives substantial federal funding through Pittman-Robertson, it would seem very prudent that the commission consider this particular rule change carefully, and review the access requirements for such federal funding.

As a person who organizes backcountry fly-ins in the Gila and other areas of New Mexico, I fear a reversal of the growth we have had in the recreational aviation activities over the past 10 years. Having such a wide window of time as proposed

could very well have a detrimental impact on pilots' freedom of flight during the many months of the proposed rule. Our best flying weather in New Mexico very closely coincides with the time frame of the proposal. If only a few innocent pilots are cited under the proposal, it will cause many pilots to cease flying in the backcountry during the entire time frame.

Nevada and Wyoming are being held up as a template for New Mexico to follow. NMDGF has not shown any interest in looking at the rules regarding aircraft in Idaho. Why is that? Because Idaho has an even more aviation friendly rule than the current 48 hour rule in New Mexico. I can assure you that Idaho has their act together much better than Nevada. But that doesn't fit the narrative for New Mexico.

There are better ways to catch the few pilots who are acting illegally than the proposal to curtail all flying August-January. Some of these have been addressed in the public meetings that NMDGF has held. Did they pay attention? I doubt it. They seem determined to eliminate all outfitter generated flying, and innocent recreational pilots are collateral damage. NMDGF said so in a public meeting.

If this is a matter of "Fair Chase", as some have suggested, then why not ban the use of fish finders during the prime fishing season April-October? Fish finders offer an unfair advantage to those who have a boat and can afford them. Where is the fair chase in that? I see very close parallels between fish finders and the use of aircraft.

In closing, I strongly urge the commission to retain the 48 hour rule, and work with the various aviation groups to employ methods to catch the very few offenders.

Regards,

Ron Keller

**Cole, Darrell R., DGF**

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**From:** Ron Keller <[REDACTED]>  
**Sent:** Sunday, October 07, 2018 10:19 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Comments on proposed rule change-Use of Aircraft  
**Attachments:** Commission letter.docx

NMDGF,

Please see attachment.

Thanks,  
Ron Keller

October 1, 2018

Dear Commissioner,

As a pilot and a hunter, I would like to comment on the proposed rule changes regarding use of aircraft.

For many years the 48 hour rule has been a highly recognized standard with respect to fair chase. But because of the perceived or actual illegal activity of a very few pilots, some within the NMDGF and on the commission feel the need to cast a wide net that will compromise the flying activities of law abiding pilots who enjoy the scenery of the New Mexico backcountry. In the summary comments regarding the rule change, a statement is made that indicates recreational and other legitimate forms of flying will not be impacted. However, these exemptions are not included in the proposed rule. My concern is that innocent pilots flying in the backcountry will be cited for illegal activities and not even realize it. A case in point from recent history was a pilot who was cited, and did not even know about it until he was contacted by his local magistrate court to appear. Fortunately, his case was dismissed as a result of a "no show" by NMDGF. Still, he bore the cost of an attorney. Many pilots, including myself, fly in the backcountry to USFS airstrips and private airstrips. In fact, the USFS (Gila National Forest) fully supports our flying activities and quite frankly, thinks the proposed rule change is misguided. You see, the USFS is a national and local partner with multiple aviation organizations to utilize, maintain and reopen airstrips. This partnership has the support of the Secretary of Agriculture. Additionally, the BLM is also a partner and fully supports the aviation activities. The Secretary of Interior is aware of and fully supports this partnership. Considering the NMDGF receives substantial federal funding through Pittman-Robertson, it would seem very prudent that the commission consider this particular rule change carefully, and review the access requirements for such federal funding.

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In closing, I strongly urge the commission to retain the 48 hour rule, and work with the various aviation groups to employ methods to catch the very few offenders.

Regards,

Ron Keller

**Cole, Darrell R., DGF**

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**From:** Stephen Fleming <[REDACTED]>  
**Sent:** Thursday, October 04, 2018 11:57 PM  
**To:**  
**Cc:** Sandoval, Alexandra J., DGF; Griego, Robert, DGF; Jackson, Ty J., DGF; Duggan, James, DGF; Payne, Jacob, DGF; Thomas, Michael, DGF; DGF-FieldOpsComments; Brancard, Bill, EMNRD,  
**Subject:** [EXT] Comments regarding proposed changes to the manner and method rule 19.31.10 NMAC, as they affect the operation of aircraft.  
**Attachments:** 20181004 letter to g&f commission.pdf

To the New Mexico Game Commission members, and other recipients of this message:

Please see my attached PDF letter commenting upon the proposed changes to the manner and method rule 19.31.10 NMAC, as they affect the operation of aircraft.

Thank you.

Stephen Fleming  
Mid Valley Air Park

October 4, 2018  
(via email)

Stephen Fleming

Chairman Paul Kienzle III  
New Mexico Game and Fish Commission  
PO BOX 25112  
Santa Fe, NM 87504

Dear Commissioner Kienzle (and members):

I am writing to comment upon the proposed changes to the manner and method rule 19.31.10 NMAC, as they affect the operation of aircraft.

First, I acknowledge there always are bad actors in any endeavor, which require reasonable, and lawful, efforts to minimize. I further acknowledge that law enforcement officers of the New Mexico Game & Fish Department have a difficult job apprehending and prosecuting violators who illegally harvest game resources protected by the Department.

With the above in mind, the proposed changes to the "manner and method rule in 19.31.10 NMAC not only do not achieve the intended purpose, but attempt to regulate matters beyond the authority of the Commission and Department and, in this attempt, gravely and unlawfully upend the justice principle of "innocent until proven guilty."

The proposed changes appear to be a solution in search of a problem. I have a single question for the Commission and Department: have these rules been reviewed by internal legal counsel? It very much appears these proposed regulations were developed in the absence of any review by G&F legal counsel. Had this been accomplished, the issues I comment upon below likely would not have arisen. I urge the Commission and Department to table action on the aircraft portion of the proposed changes until such review occurs.

I have the following concerns:

- a) The language of the proposed rule is excessive in scope and application.
- b) The rule attempts to regulate matters not under the Commission's nor Department's authority.
- c) Arbitrary and capricious enforcement is made more, not less, likely.
- d) Constitutional requirements for probable cause are ignored.
- e) Inclusion of drone regulations as part of aircraft operation.
- f) Failure to use the proven Operation Game Thief program in lieu of onerous aviation restrictions.

The Department opines the current 48-hour rule is inadequate to investigate violations and a six-month time frame will somehow enhance enforcement. The Department provides no factual data to support this contention. An Inspection of Public Records Act (IPRA) request in 2017 sought "Copies of the Departments citations and actions relating to violation by aircraft, due to enforcement of time of use.

(i.e. the 48 hour rule).” The reply (copy attached) stated “After a thorough search, we have determined that we do not have the records you have requested.”

Since the Department has been unable to demonstrate either need or efficacy of the rule, there only are two possibilities. Either the number of violations are so minimal as to be statistically insignificant, or the Department is unable to make a case using sound investigative practices.

Regardless of reason, expanding the prohibition to six months does not solve any problem, but unacceptably exposes innocent behavior to criminal prosecution.

At the September 4 public meeting in Albuquerque, Col. Griego was asked why the Department was unable to prove violations under the current 48-hour rule. He explained the only way they can prove information is transferred is to observe it themselves with undercover agents, flying with guides. This is how all crimes are solved; not by criminalizing the mere appearance of an aircraft on the *assumption* something nefarious is afoot.

The US and NM Constitutions require a showing of probable cause, yet nothing in the proposed rule addresses nor demonstrates how a six-month (or even a 48-hour) aircraft restriction does anything to aid in the establishment of such probable cause.

At the September 28, 2017 Commission meeting, Col. Griego stated the following (from the meeting transcript):

“Mr. Chairman, Commissioner Ramos there is a lot of that and it is a difficult to make it rule. I think we can strengthen our rule to assist law enforcement and a little easier, making it a little easier to make a case. With our current rule where it says, you have to prove that they used information gained. That’s a very difficult burden to prove that even though that I know that you were in the plane, I’ve got to prove that you told this other individual who is now your guide and that’s a hunter. I’ve got to prove that element where with variations of these others, you know, if you can’t fly for hunting purposes, what we’ve got at that point is we got to prove are they a hunter? Are they in the hunt area? Do they have a GPS? Is there waypoints specific to these hunt locations, the pattern in which they were flying. It would be a totality of it but it would be a little more beneficial to us in the field to be able to prove those cases. Still significant case. Still, we’re pretty high burden. Across the west there’s only a handful of cases made every year but with a lot of these states it has kept the honest guy a little more honest where they’re not having as significant of these violations as they did prior to but like you saw, most of these states are just really making two to five cases a year out of their multiple investigations that they do. I know in the south in the Gila, the Sacramento’s, the Carson National Forest into the San Mateo’s and the Madeleine’s, you know we probably have 30 plus reports a year of investigations that where we’re working on these cases. We had one in (Indiscernible) just recently. We were able to find out who was in the plane but could not, they didn’t have hunters coming in for a week. So was there legal activity and that was all based on the investigation.”

In neither the above, nor the earlier cited comments from the Sept 4, 2018 meeting, did Col. Griego explain exactly how an expanded time frame was going to aid in any investigation. The comment immediately above indicates Col. Griego is immensely frustrated by a perceived inability to make a case (rare, by his own admission) using aforementioned sound investigatory practices.



Therefore, it is clear the proposed rule really is intended to eliminate aircraft usage during hunting seasons (essentially prohibiting flight over the entire state).

The problems with this approach are manifold.

First and foremost, it exposes the entire pilot population to specious allegations of violating a G&F rule. At the September 4, 2018 meeting, Col. Griego and Captain Jackson went to some length to assure that the broad and indefinite language would not be misused against pilots who were not engaging in activities related to hunting. They were unable to explain how such a determination of applicability or violation would be sustained in the complete lack of any information/evidence supporting an allegation an aircraft had engaged in some activity other than harmless flight.

Loitering and repeated low passes are examples of suspicious but also equally harmless activities that easily could be misconstrued as violations (e.g. passes to assess and clear backcountry strips before committing to landing), but which in fact are typical of safe flight practices.

Lacking investigative effort, the Department could only surmise suspicious activities are occurring. Such subjective determinations do not meet any standard of evidence for enforcement.

Col. Griego and Captain Jackson say pilots may be questioned but insist pilots won't be inadvertently cited. Indeed, the assurance that such error will not occur, and the rule change will not affect pilots engaged in flight not related to hunting, already has been shown to be hollow.

The person receiving the attached IPRA response was cited solely on the basis of aerial activity. This individual had to retain legal counsel even though the citation was dismissed. That episode directly refutes the contention pilots will not be incorrectly charged and that they will not be affected. The impact to this individual was lost time and money to defend a spurious charge and secure justice.

Additionally, the assurances expressed by Col. Griego and Captain Jackson are mentioned in the rule summary but, very importantly, are nowhere to be found in the proposed rule language.

Lacking proper investigative techniques, how does a ground observer correlate overflying aircraft with violation of game law? Simply put, the officer cannot. These changes to the law have a low probability of enforcement success and a much greater probability of erroneous application.

The goal of G&F to eliminate overflights for six months every year posits a belief and course of action that ALL aviation activities in the vicinity of hunts are conducted for illegal purposes.

Second, and as important as the first item, above, is involvement of the Commission and Department in matters well beyond their jurisdiction and authority. The proposed rule seeks to regulate the use of federal airspace. The Federal Aviation Administration (FAA) has sole authority over all aviation activities while airborne.

The Commission and Department cannot make rules affecting the public's right to transit navigable airspace (see 49 U.S. Code § 40103 - Sovereignty and use of airspace). Had the Commission and Department undertaken adequate legal review of their proposal, such restrictions would have been

understood much earlier than now. There are a number of other federal laws regarding commerce and flight operations, and no authority is provided to state or local governmental entities to restrict or modify such rights as they relate to aviation.

On the issue of drones, I have but one comment. Whatever rule is approved for drone operation should be separated from any aircraft rule. Drones are a completely unrelated form of aerial operation and the FAA specifically regulates such equipment separately from manned aircraft.

Drone technology unquestionably represents a much greater and genuine issue of deliberate game violations as they can be directly used, in real time, by hunters inclined to such behavior. Drones require no communication with a third party, no obvious loitering, and effectively are silent and invisible from even a short distance.

This is the real problem the Commission and Department should be focusing on, not harmless overflights by manned aircraft. Instead, the Commission and Department prefer onerous prohibitions on aircraft usage, even as the Department has been completely unable to substantiate manned aircraft as an enforcement issue. This intense interest in manned aircraft belies a personal agenda, rather than a legitimate enforcement concern.

Regarding Operation Game Thief (OGT): I am left wondering why this extraordinarily successful program has not been used to solve suspected aviation violations, rather than the perplexing attempt to regulate and criminalize aviation activities.

The OGT program has no time limits, as is evidenced by poaching charges months after a violation. In many regards, poaching is a difficult crime to solve; requiring good police work involving evidence and interviews. It should be no different for pursuing a suspected aerial violation. Such a process would remove the potential that now exists for erroneous enforcement under current and proposed aircraft rules. I suggest the effective OGT program should be used in lieu of the aircraft sections.

Operation Game Thief does not attempt to ban the use of motor vehicles and other methods of poaching game; instead, it relies upon evidence and investigation. This exactly is how violations involving aircraft (undoubtedly far fewer in occurrence than believed by the agency or commission, since prosecutions are nil) should be handled as they are no different. Targeting aircraft reveals the agenda of affecting a relatively small user group, when a similar mindset regarding ground vehicles never would be tolerated by the public.

In closing, I refer you to how the State of Idaho handles aviation matters related to hunting, and suggest New Mexico would benefit greatly from adopting their example:

It is Unlawful To:

- To use aircraft, including unmanned aircraft, to locate game or furbearing animals and communicate location to persons on the ground, or to use any helicopter to transport hunters, gear, or game except at established landing fields.
- Make use of any aircraft, including unmanned aircraft, to locate any big game animals for purpose of hunting those animals during the same calendar day those animals were located from the air. (Emphasis added)

The above is the ENTIRE aviation regulation; there is no other mention of aircraft in their hunting regulations. Idaho has no time limit on investigation or prosecution and limits information obtained from aerial observation only to the same day. This is a recognition of practicality; such information rapidly becomes stale and unusable.

The Idaho regulation is effective and refreshingly simple in scope. New Mexico can do better by emulating Idaho's lead on this issue.

Thank you.

Sincerely,



Stephen Fleming  
Mid Valley Air Park

Member – Aircraft Owners and Pilots Association (AOPA)  
Member – Experimental Aircraft Association (EAA)  
Member – New Mexico Pilots Association (NMPA)  
Member – Recreational Aircraft Foundation (RAF)

cc:

Commissioner Ralph Ramos -  
Commissioner Bob Ricklefs  
Commissioner Thomas Salopek -  
Commissioner Bill Montoya  
Commissioner Craig Peterson -  
Commissioner Elizabeth Atkinson Ryan -  
Game & Fish Director Alexa Sandoval - alexandra.sandoval@state.nm.us  
G&F Officer Col. Robert Griego - robert.griego@state.nm.us  
G&F Officer Ty Jackson - ty.jackson@state.nm.us  
G&F Pilot James Duggan - james.duggan@state.nm.us  
G&F General Counsel Jacob Payne - jacob.payne@state.nm.us  
G&F Deputy General Counsel Michael Thomas - michael.thomas@state.nm.us  
G&F Department Comments - DGF-fieldopscomments@state.nm.us  
EMNRD General Counsel Bill Brancard - bill.brancard@state.nm.us  
AOPA Contracted Attorney Gary Risley  
FAA (ABQ FSDO) John Wensel - john.wensel@faa.gov  
FAA (ABQ FSDO) John DeWitt - John.R.DeWitt@faa.gov

GOVERNOR  
Susana Martinez



DIRECTOR AND SECRETARY  
TO THE COMMISSION  
Alexandra Sandoval  
  
DEPUTY DIRECTOR  
Donald L. Jaramillo

STATE OF NEW MEXICO  
DEPARTMENT OF GAME & FISH

One Wildlife Way, Santa Fe, NM 87507  
Post Office Box 25112, Santa Fe, NM 87504  
Tel (505) 476-8000 | Fax: (505) 476-8123  
For information call: (888) 248-6866

[www.wildlife.state.nm.us](http://www.wildlife.state.nm.us)

STATE GAME COMMISSION

PAUL M. KIENZLE III  
Chairman  
Albuquerque  
BILL MONTOYA  
Vice-Chairman  
Alto  
ROBERT ESPINOZA, SR.  
Farmington  
RALPH RAMOS  
Las Cruces  
BOB RICKLEFS  
Cimarron  
ELIZABETH A. RYAN  
Roswell  
THOMAS "DICK" SALOPEK  
Las Cruces

July 27, 2017

Lee Scholes  
[REDACTED]

RE: Request for Inspection of Records

Dear Mr. Scholes

On July 25, 2017, the New Mexico Department of Game and Fish received your request to inspect public records pursuant to the New Mexico Inspection of Public Records Act, NMSA 1978 14-2-1 et seq. concerning

Copies of the Departments citations and actions relating to violation by aircraft, due to enforcement of time of use. (i.e. the 48 hour rule)

After a thorough search, we have determined that we do not have the records you have requested.

Having provided this response, the Department will close its file on your July 25, 2017 request.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer C. Montoya".

Jennifer C. Montoya  
Records Custodian

**Cole, Darrell R., DGF**

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**From:** NMPA <r [REDACTED]>  
**Sent:** Tuesday, October 16, 2018 1:31 PM  
**To:** DGF-FieldOpsComments;

**Subject:** Sloane, Michael B., DGF  
[EXT] Final Comments Per Manner & Method Rule, 19.31.10 NMAC  
**Attachments:** NMPA\_Comments -NMDGF MannerAndMethodRule\_Oct\_15\_2018.pdf

Chairman Kienzle  
Director Sloane  
Commissioners Ramos, Ricklefs, Salopek, Montoya, Peterson, Chase  
Colonel Griego

Attached are our final comments regarding proposed changes to 19.31.10 NMAC Manner and Method rule, regarding Use of Aircraft.

We urge you to retain the 48 hour rule and delay making the proposed changes at this time. We suggest language which allows you to retain the current and well understood 48 hour rule.

We appreciate the opportunity to provide input.

Joyce Woods  
President  
New Mexico Pilots Association  
[REDACTED]

PS Please forward to Commissioner Chase, I did not have his email address. Thank you.



October 15, 2018

TO: NMDGF Field Operations Rule Development  
P.O. Box 25112, Santa Fe, NM 87504

RE: Proposed Changes: Manner & Method Rule, 19.31.10 NMAC, regarding use of aircraft

This letter confirms our continued opposition to the “use of aircraft” language in the 10/10/18 update of the proposed Manner and Method Rule, 19.31.10.11, Sections E and F. We appreciate the willingness of Director Sloane to review this update with us, but our concerns remain.

We urge you to delay changes regarding use of aircraft in this round of rulemaking and retain current language. The 48 hour rule is long standing and well understood. It should be carried over to this new Manner & Method rule, rather than restrict aircraft use for an excessive 6 month timeframe which won’t improve enforcement, adds confusion, infringes on the rights of pilots, and threatens the business of currently legal commercial operations.

Separating the “use of aircraft” issue from this rule change will allow more time for NMDGF to engage aviation experts within the Federal Aviation Administration, NMDOT Aviation Division and local aviation groups, as well as hunters.

**OUR RECOMMENDATION:** Retain current rule language in new Manner & Method Rule, as highlighted, deleting proposed language (red strikeouts) as follows:

19.31.10.7

~~7. “Locate” shall mean any act or activity, in which any person is searching for, spotting or otherwise finding a protected species from or with the aid of any aircraft or drone.~~

19.31.10.11

<reinstate from current rule>

**E. Hunting after air travel:**

It shall be unlawful for anyone to hunt for or take any protected species until after the start of legal hunting hours on the day following any air travel except by regularly scheduled commercial airline flights or legitimate direct flight to the final destination.

~~E. Using aircraft to locate wildlife:~~

~~(1) It is unlawful for any individual, for the purpose of hunting, to locate or assist in locating a protected species from or with the aid of an aircraft or drone or to relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action or to use information pertaining to the location of a protected species gained from the aid of an aircraft or drone during the period beginning on August 1 and ending on January 31 of each license year.~~

~~(2) This section shall not apply to regularly scheduled commercial airline flights, direct flights, or to any individual acting within the scope of their official duties as an employee or authorized agent of the state of New Mexico or the United States federal government.~~

*<reinstate from current rule>*

**F. Use of aircraft for spotting game:**

It shall be unlawful to use aircraft or drone to spot or locate and relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action.

*<reinstate from current rule>*

**G. Using information gained from air flight:**

(1) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any aircraft until 48 hours after such aircraft use.

(2) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any drone at any time.

~~*F. Aircraft, drone and vehicle exemptions to this rule: The Director may exempt a person from the prohibition of utilizing an aircraft, drone or vehicle for management purposes.*~~

We submit this recommendation in a spirit of cooperation, convinced there is a win-win solution not yet realized. Along with the 12 nonprofit and governmental organizations who partnered to form the New Mexico Airstrip Network, we share common goals with NMDGF supporting fair access to recreational opportunities on public lands and conservation for future generations.

Respectfully submitted,

*Joyce M Woods*

**Joyce Woods, President  
New Mexico Pilots Association**

†

Website: [www.nmpilots.org](http://www.nmpilots.org)

Email: [REDACTED]

*The New Mexico Pilots Association (NMPA) is a non-profit organization representing 4294 pilots statewide and an aviation industry accounting for more than \$2.3 Billion in annual economic impact. NMPA members share common goals and ideals with NMDGF regarding enjoying the great outdoors and preserving personal freedoms for access to recreational opportunities.*

**Cole, Darrell R., DGF**

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**From:** Brock Benjamin <[REDACTED]@[REDACTED].n>  
**Sent:** Wednesday, October 17, 2018 7:07 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Fwd: LAST CALL - G&F Comment Deadline Oct 18  
**Attachments:** NMPA\_Comments -NMDGF MannerAndMethodRule\_Oct\_15\_2018.pdf

I am a hunter and a pilot and believe that the proposed changes to the regulations are an overreach. Please stop to think about how a 6 month ban prior to hunting effectively eliminates the ability to travel by air should someone decide to enforce that particular statute. By way of example I can point you to a fly in that I participate in occasionally at Negrito. This airstrip is located in the Gila Wilderness. Assuming I participate in this fly in that is held in May and October. I would certainly overfly hunting grounds for fall game and spring turkey hunting each within the proposed 6 month timeframe. I would therefore run the risk of being accused of improperly using my aircraft to spot game. This is an absurd example to an absurd proposal.

v/r

Brock





October 15, 2018

**TO: NMDGF Field Operations Rule Development**  
P.O. Box 25112, Santa Fe, NM 87504

**RE: Proposed Changes: Manner & Method Rule, 19.31.10 NMAC, regarding use of aircraft**

This letter confirms our continued opposition to the “use of aircraft” language in the 10/10/18 update of the proposed **Manner and Method Rule, 19.31.10.11, Sections E and F**. We appreciate the willingness of Director Sloane to review this update with us, but our concerns remain.

We urge you to delay changes regarding use of aircraft in this round of rulemaking and retain current language. The 48 hour rule is long standing and well understood. It should be carried over to this new Manner & Method rule, rather than restrict aircraft use for an excessive 6 month timeframe which won’t improve enforcement, adds confusion, infringes on the rights of pilots, and threatens the business of currently legal commercial operations.

Separating the “use of aircraft” issue from this rule change will allow more time for NMDGF to engage aviation experts within the Federal Aviation Administration, NMDOT Aviation Division and local aviation groups, as well as hunters.

**OUR RECOMMENDATION:** Retain current rule language in new Manner & Method Rule, as highlighted, deleting proposed language (red strikeouts) as follows:

*19.31.10.7*

*~~F. “Locate” shall mean any act or activity, in which any person is searching for, spotting or otherwise finding a protected species from or with the aid of any aircraft or drone.~~*

*19.31.10.11*

*<reinstate from current rule>*

**E. Hunting after air travel:**

It shall be unlawful for anyone to hunt for or take any protected species until after the start of legal hunting hours on the day following any air travel except by regularly scheduled commercial airline flights or legitimate direct flight to the final destination.

*~~E. Using aircraft to locate wildlife:~~*

*~~(1) It is unlawful for any individual for the purpose of hunting, to locate or assist in locating a protected species from or with the aid of an aircraft or drone or to relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action or to use information pertaining to the location of a protected species gained from the aid of an aircraft or drone during the period beginning on August 1 and ending on January 31 of each license year.~~*

*~~(2) This section shall not apply to regularly scheduled commercial airline flights, direct flights or to any individual acting within the scope of their official duties as an employee or authorized agent of the state of New Mexico or the United States federal government.~~*

*<reinstate from current rule>*

**F. Use of aircraft for spotting game:**

It shall be unlawful to use aircraft or drone to spot or locate and relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action.

*<reinstate from current rule>*

**G. Using information gained from air flight:**

(1) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any aircraft until 48 hours after such aircraft use.

(2) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any drone at any time.

~~*F. Aircraft, drone and vehicle exemptions to this rule: The Director may exempt a person from the prohibition of utilizing an aircraft, drone or vehicle for management purposes.*~~

We submit this recommendation in a spirit of cooperation, convinced there is a win-win solution not yet realized. Along with the 12 nonprofit and governmental organizations who partnered to form the New Mexico Airstrip Network, we share common goals with NMDGF supporting fair access to recreational opportunities on public lands and conservation for future generations.

Respectfully submitted,

*Joyce M Woods*

**Joyce Woods, President  
New Mexico Pilots Association**

Website: [www.nmpilots.org](http://www.nmpilots.org)

Email: [REDACTED]

*The New Mexico Pilots Association (NMPA) is a non-profit organization representing 4294 pilots statewide and an aviation industry accounting for more than \$2.3 Billion in annual economic impact. NMPA members share common goals and ideals with NMDGF regarding enjoying the great outdoors and preserving personal freedoms for access to recreational opportunities.*

**Cole, Darrell R., DGF**

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**From:** Charles S <[REDACTED]>  
**Sent:** Thursday, November 15, 2018 7:29 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Game & Fish Proposed Rule as published Oct 30: E. Using aircraft to locate wildlife:

Why is the DGF so interested in criminalizing recreational aviation in NM.

The DGF rule as written makes it illegal to fly for photography, sightseeing, or back country camping for six months of the year.

The state of N.M. is making efforts to promote recreational aviation and the DGF is attempting to criminalize anything but commercial or scheduled flights. There is a conflict here and DGF wants to prosecute innocent flyers!

There are adequate rules in place for dealing with illegal spotting of game. DGF needs to properly investigate and prosecute under these rules. Prohibiting recreational and other non commercial flight is a gross overreach of the DGF into the authority of the Federal Aviation Administration. DGF is not in charge of the airspace!

Chuck Swanberg  
[REDACTED]

**Cole, Darrell R., DGF**

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**From:** Sweetser, Candie <[REDACTED]>  
**Sent:** Wednesday, October 17, 2018 11:09 AM  
**To:** DGF-FieldOpsComments; [REDACTED]; Sloane, Michael B., DGF  
**Subject:** [EXT] Input on proposed Means and Method rule change

New Mexico State Game Commissioners and New Mexico Game and Fish Director Michael Sloane--

I have heard from several constituents concerned about the proposed changes to the state's Means and Method rule which would extend the control and regulation of airspace and aircraft operations from 48 hours to six months.

Among the valid concerns shared with me is the real possibility of creating an unenforceable and burdensome rule. Also, the extension will adversely impact the livelihood of pilots who supplement their income by taking hunters on flights.

I understand the delicate balance of meeting the needs of hunters and sportsmen in the state while at the same time providing fair hunts. Not unlike many of the balances I face as a State Representative, the most important component is making certain all stakeholders have provided input on a solution.

While I recognize that you have received some input from stakeholders, I feel more can be done to craft a compromise that takes into consideration technological advances in hunting and other factors which prompted the department's proposed change, along with the concerns of pilots directly affected by the lengthy extension.

I urge you to postpone a decision until further input can be considered from representatives of the NM Pilots Association and other organizations who have offered to work with department officials to improve enforcement of the current 48-hour rule.

Thank you for your consideration, and for all you do for New Mexico.

--Candie

*Candie G. Sweetser*  
*NM State Representative-District 32*  
*Luna, Hidalgo and Grant counties*

[REDACTED]

[REDACTED]

**Cole, Darrell R., DGF**

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**From:** Arlan Schmitz DVM <[REDACTED]@[REDACTED].m>  
**Sent:** Wednesday, November 14, 2018 6:31 PM  
**To:** DGF-FieldOpsComments  
**Cc:**

**Subject:** [EXT] NM Game and Fish Manner & Method rule regarding use of aircraft  
loane, Michael B., DGF

Dear Commissioners,

Please seriously consider what is being proposed. Having just returned from a Colorado elk hunt, I am appalled by the current proposal here in NM. I lawfully flew my friend and myself to Meeker, CO for the hunt. I regularly use the plane for work, travel and recreation. I am active in both the NM and AZ pilots associations, both of which work to help maintain Forest Service airstrips. Most of my backcountry flights Do not involve hunting trips and are done legally during the proposed times. Given my work schedule, flying Does allow me access to hunting locations I would otherwise not have the time to get to and return to work. The 48 hour rule is well known and easy to follow. During hunting season, I am simply trying to get to a location and wouldn't have time scout by air even if it were an option. Also, I do not want to be harrassed for safe, legal low level flight over remote areas enjoying scenery or accessing the backcountry to camp.

I support NMPA proposed amendments as follows:

- a. **Keep the current 48 hour rule.** It is widely understood, accepted, and followed.
- b. Extending the period from 48 hours to 6 months represents *excessive overreach without justification*.
- c. The proposed rule makes it illegal for law abiding pilot/hunters to fly, barring access to public lands for 6 months of the year.
- d. The ambiguous proposal could ensnare the general aviation community in legal proceedings for simply sightseeing.
- e. The phrase, *For the purpose of hunting* is not defined and implies that all hunting related flights are illegal (transporting supplies, hunters, etc.).
- f. Aircraft are no more distraction to a hunter than an OHV driving

Thank you,

Arlan Schmitz DVM

Bovine Veterinary Alliance, SC

**Cole, Darrell R., DGF**

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**From:** Bill Shuert <[REDACTED]>  
**Sent:** Monday, October 15, 2018 10:09 AM  
**To:** DGF-FieldOpsComments  
**Cc:** Lowell Whitten; Marshall Puckett; Cekala, John; BALLARD, AMY; BlueHive; Tom Littleford  
**Subject:** [EXT] NMAAA Letter  
**Attachments:** New Mexico Aviation Aerospace Association NMDGF letter.pdf

Please see attached



Albuquerque, NM 87110

**TO: NMDGF Field Operations Rule Development**  
P.O. Box 25112, Santa Fe, NM 87504

**RE: Proposed Changes: Manner & Method Rule, 19.31.10 NMAC, regarding use of aircraft**  
This letter is regarding the proposed rule change.

While the members of NMAAA understand the need to protect game from unscrupulous scouting and stalking activities, we feel that the proposed changes relating to the use of aircraft during the hunting season will have very little effect on those who choose to circumvent the law. They also seem to be no more enforceable than the current rule. They could serve to cause those who travel from other states to rethink their plans, and possibly bypass New Mexico during their hunting season. Hunting trophy game in New Mexico is big business and business will be hurt.

Hunters will not want to fly anywhere near a possible hunt area for fear of being targeted, fined, and possibly have enforcement action taken by NMGF or the FAA against their flying privileges. Flying into remote areas close to the planned hunt location could result in false claims of illegal activity.

Unknowing recreational flyers may be targeted by hunters who see them flying over a hunt area and report them for enforcement when they had nothing to do with hunting.

**Proposed language will eliminate legal flights and curtail aviation tourism driving negative economic impact.** This includes guides and any pilots that are also hunters. This comes at a time when national aviation groups and New Mexico's recreational aviation community are diligently working with federal agencies (USFS and BLM) to invigorate aviation tourism including backcountry and recreational flying, recognizing potential for significant favorable economic impact on New Mexico's rural communities.

We suggest that you give careful attention to the recommendations already provided by the New Mexico Pilots Association. We strongly agree with their proposed suggestions.

Thank You

William P. Shuert  
President  
New Mexico Aviation Aerospace Association

**Cole, Darrell R., DGF**

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**From:** NMPA <[REDACTED]>  
**Sent:** Wednesday, October 03, 2018 3:53 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Comments Per Manner & Method Rule, 19.31.10 NMAC regarding use of aircraft  
**Attachments:** NMPA\_Comments -NMDGF MannerAndMethodRule\_Oct\_3\_2018.pdf; NMPA Letter G&FCommissioner - Sept 2017.pdf

TO: NMDGF Field Operations Rule Development

FROM: The New Mexico Pilots Association

Please see attached letter regarding proposed changes regarding use of aircraft in the Manner & Method Rule, 19.31.10 NMAC and attachment (previous letter sent to the Commission in 2017).

We appreciate your consideration of our comments and welcome any discussion.

Regards,

Joyce Woods, President  
New Mexico Pilots Association





October 3, 2018

**TO: NMDGF Field Operations Rule Development**  
P.O. Box 25112, Santa Fe, NM 87504

**RE: Proposed Changes: Manner & Method Rule, 19.31.10 NMAC, regarding use of aircraft**

This letter is in addition to comments submitted Sept 3, 2018 regarding the proposed rule change and reflects what we've learned since the Public Meetings. Our letters and suggestions are intended to continue the conversation initiated with our letter sent to Commissioners Sept 26, 2017 (attached) in response to initial discussions regarding use of aircraft.

We urge you to retain the long standing and well understood "48 hour rule" in this initial Manner & Method rule and allow more time to explore options and identify effective solutions to issues raised. We offer the expertise of our aviation network to help address any issues of illegal use of aircraft for hunting and address hunter concerns about use of aircraft over hunting areas.

**OUR KEY CONCERNS:**

1. **Proposed language targets aircraft pilots and passengers rather than hunters, is no more enforceable than the current rule, and represents excessive overreach.** It opens pilots to inappropriate citations for flights over areas that may be used for hunting, with pilots bearing the burden of proof. Pilots use aircraft for sightseeing or to access recreational areas, including travel to an airport or airstrip for a hunt, which may be considered "locating" game. Pilots operate aircraft in compliance with the Federal Aviation Administration (FAA) regulations and are not expected to know or be held accountable for state hunting rules.
2. **Proposed language is intended to eliminate legal flights and curtail aviation tourism driving negative economic impact.** This includes guides and any pilots that are also hunters. This comes at a time when national aviation groups and New Mexico's recreational aviation community are diligently working with federal agencies (USFS and BLM) to invigorate aviation tourism including backcountry and recreational flying, recognizing potential for significant favorable economic impact on New Mexico's rural communities.
3. **New Mexico Department of Game & Fish appears unwilling to align with outdoor recreation organizations in support of recreational aviation.** Following national and local partnerships with the Recreational Aviation Foundation and NMPA, defined through corresponding memorandums of understanding, the Forest Service's Land Management Plan for the Gila National Forest recognizes the importance of aviation access under "Management Approaches:  
  
*"Airstrips: Consider recreational aviation activities and access to airstrips and Forest Service lands for recreational purposes when developing projects for recreation and infrastructure. Encourage volunteers and partners such as the New Mexico Pilots Association and Recreational Aviation Foundation to assist with the maintenance of backcountry airstrips where appropriate."*
4. **Use of aircraft is not new technology.** We understand the desire to define limits of rapidly advancing technology to define a fair chase. Manned aircraft have been widely used since the 1930s and the 48 hour rule after flight has been long accepted. The average general aviation aircraft is now 48 years old, as most were built between 1940 - 1985.
5. **Use of aircraft for scouting is not as inaccessible as perceived.** As noted in the Albuquerque Public meeting, scouting flights with a commercial pilot are available for as little as \$200. Considering costs of today's hunting equipment, technology, and transportation expenses, flight is not out of reach for most hunters.

**RECOMMENDATIONS:**

Considering these and concerns previously expressed, we submit the following language. Note that what we suggest for paragraph "E" comes directly from the Idaho hunting rule, with the exception of retaining New Mexico's current 48 hour rule. Idaho uses "same calendar day" for communicating game location.

*19.31.10.7*

*Y. "Locate" shall mean any act or activity, in which any person is searching for, spotting or otherwise finding a protected species. ~~from or with the aid of any aircraft or drone.~~*

*19.31.10.11*

*E. Using aircraft to locate wildlife:*

*(1) It is unlawful to use aircraft, including unmanned aircraft to locate or assist in locating a protected species and communicate location to persons on the ground, or to use any helicopter to transport hunters, gear or game except at established landing fields.*

*(2) It is unlawful to make use of any aircraft, including unmanned aircraft, to locate any protected species for the purpose of hunting those species within 48 hours of locating those species from the air.*

*(3) This section shall not apply to any flights for purposes other than locating game for hunting purposes, or flights relating to any individuals acting within the scope of their official duties as employees or authorized agents of the state of New Mexico or the United States federal government.*

We acknowledge the challenges of advanced technologies and enforcing rules to ensure a fair chase, and when it comes to use of aircraft, we wish to partner with NMDGF to address such problems. As previously noted, our key strength is networking and communications within the aviation community. Like the Arizona Pilot's Association has helped hold pilots accountable to respect designated eagle nesting areas/seasons, we believe we could similarly help NMDGF.

Our members and partner aviation organizations have brainstormed ideas which may support your enforcement activity. Initial ideas include utilization of new communications and tracking technology, a web based or hotline reporting system for pilots when legally scouting, and perhaps establishing an agreement with organizations such as the Civil Air Patrol or LightHawk for support under NMDGF direction. We welcome an invitation to help NMDGF explore potential solutions.

We submit these comments and recommendations in a spirit of cooperation and collaboration. Along with the 12 nonprofit and governmental organizations who partnered to form the New Mexico Airstrip Network, we share common goals with NMDGF supporting fair access to recreational opportunities on public lands and conservation for future generations. Please feel free to contact us.

Respectfully submitted,

*Joyce M Woods*

**Joyce Woods, President**

**New Mexico Pilots Association**

[www.nmpilots.org](http://www.nmpilots.org)

*The New Mexico Pilots Association (NMPA) is a non-profit organization representing 4294 pilots statewide and an aviation industry accounting for more than \$2.3 Billion in annual economic impact. NMPA members share common goals and ideals with NMDGF regarding enjoying the great outdoors and preserving personal freedoms for access to recreational opportunities.*



September 26, 2017

TO: New Mexico Game Commissioners

RE: 19.31.10 NMAC, Use of Aircraft for Locating Protected Wildlife for Hunting Purposes

Hello Commissioners,

Our organization has been monitoring your 2017 Commission meeting discussions regarding the use of aircraft over hunting areas. Those discussions have generated serious concerns within our statewide pilot population.

First, we believe NMPA shares common goals and ideals with NMDGF regarding enjoying the great outdoors and preserving personal freedoms for access to recreational opportunities in New Mexico. We have an active backcountry pilot group, and these recreational pilots typically enjoy fishing, hiking, hunting, or just seeing the countryside and wild animals (horses, burrows, game) -- just as back road enthusiasts and hunters do.

We acknowledge the challenge you face with enforcing rules to ensure a fair hunt, and when it comes to aircraft, we hope you will see us as a group to partner with to help address your problems. Besides our commitment to proactive, constructive partnerships, one of our main strengths is communications within the aviation community.

Recent commissioner comments imply a desire to restrict any flying over hunting areas during hunting seasons. To pilots, these sound like encroachments on the Federal Aviation Administration (FAA)'s responsibility. Any flight restrictions are formalized and communicated to pilots through the FAA airspace system. We utilize detailed FAA charts (maps) and check for updates via Notices to Airmen, to be aware of hazards and to comply with airspace regulations (where we can fly). FAA experts regularly work with various groups to define restrictions for airspace including overflying environmentally sensitive lands.

As in any population (hunters or pilots) there may be those few who do not respect regulations and are difficult to manage. However, we do not see why pilots should be held guilty until proven innocent with regard to spotting game, when we're most likely just enjoying the scenery or scoping out a runway for a safe landing.

Our recreational aviation community is diligently working to invigorate aviation, tourism, and economic impact on New Mexico's rural communities. With support of private landowners and the US Forest Service, we host Fly-Ins/campouts annually. Events this year included airstrips near Taos, Ramah, Lindrith, at USFS's Negrito, and our recent "Gila Fly-In" based at the Reserve Airport. For an idea of impact, this year's Reserve event attracted 23 aircraft and added over \$3000 in direct spending to the local economy including camping supplies, motels, car rental, and restaurants. Pilots participated from Texas, California, Arizona, and New Mexico.

Because we believe NMPA and NMDGF share common recreational goals, since 2014, we invited NMDGF to join the New Mexico Airstrip Network. Our efforts doubled down in 2016 as we formalized our commitment through a Memorandum of Understanding signed by the USFS Region 3 Director, BLM state director, NMDOT Aviation, NM Economic Development Dept, NM Tourism, and non-governmental groups including the national Recreational Aviation Foundation and Aircraft Owners and Pilots Association, and state groups including NM Pilots Association, NM Aviation and Aerospace Association, and the NM Council of Outfitters and Guides. Although we had NMDGF participation in the network, we were unable to secure the hoped for agreement to work together as Idaho has succeeded to do.

We urge you *not to take action* which makes pilots guilty until proven innocent. We hope you will work with us as you tackle the issue at hand. Even as this issue of spotting game from aircraft has surfaced, we urge you to accept our invitation to join our multi-agency partnership and sign onto the New Mexico Airstrip Network MOU. We believe the Network provides a forum to proactively and constructively solve issues, and generally work towards shared goals for New Mexico's benefit.

**Joyce Woods**  
**Vice President**  
**New Mexico Pilots Association**

[www.nmpilots.org](http://www.nmpilots.org)

**Cole, Darrell R., DGF**

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**From:** Doctor Z [REDACTED] n>  
**Sent:** Thursday, October 18, 2018 8:33 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] opposed to 19.31.10 NMAC

I believe the proposed rule (19.31.10 NMAC) is ambiguous and unnecessarily restrictive of legitimate every-day flights of general aviation aircraft in New Mexico. All rules regarding flight are governed by the Federal Aviation Administration and should remain so.

William Schmidt, pilot, flight instructor, avionics engineer  
[REDACTED]

**Cole, Darrell R., DGF**

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**From:** Paul M West <[REDACTED]>  
**Sent:** Thursday, October 18, 2018 11:05 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Opposition to Game and Fish rule criminalizing flight over hunting areas

The southern route from California across Arizona and New Mexico is a preferred route used by pilots of GA aircraft not capable of high altitude mountain crossings and for its better weather. The proposed rule criminalizing inadvertent flight over hunting areas not marked on aeronautical charts would have the effect of cutting off the Midwest from flights by West Coast Pilots not equipped with turbocharged or turbine aircraft. If this egregious rule is adopted, I will contact my Congresswoman requesting a bill to require that all FAA funds previously provided to facilities in New Mexico be revoked and repayment required by the state.

Paul West  
Prvt ASEL, Inst, Glider

Sent from my iPad

**Cole, Darrell R., DGF**

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**From:** Richard McClellan [REDACTED]  
**Sent:** Monday, November 19, 2018 7:52 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] pilot's fundamental rights to pass without fear of restraint or reprisal

**Relevant points:**

- This proposed rule is a restraint of a pilot's fundamental rights to pass without fear of restraint or reprisal, when no crime has been committed, nor probable cause for enforcement has been demonstrated.
- Commercial pilots who fly hunters or guides will be put out of business. New Mexico will lose significant revenue from tag sales and hunting tourism.
- It's the FAA's responsibility to administer aviation airspace. No-fly zones must be administered by the FAA. Even the military must abide by FAA rules.
- GA pilots can expect to be questioned and potentially cited for flights over areas that may be used for hunting. Pilots adhere to FAA regulations but may not be familiar with hunting seasons or game unit boundaries.

Richard G. McClellan, AIA, LEED AP, NCARB

[REDACTED]  
email: [REDACTED]

**Cole, Darrell R., DGF**

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**From:** mpvasquez17 <[REDACTED]>  
**Sent:** Thursday, October 18, 2018 9:27 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Proposed Changes: Manner & Method Rule, 19.31.10 NMAC, regarding use of aircraft

Good evening,

I am emailing to express my opposition to the proposed changes to the NM Game and Fish regulations regarding the change to the current no-fly scouting period from 48-hours before the hunt to six months out of year. Thank you for your time and consideration in opposing these proposed regulations.

Regards,

Manuel Vasquez



**Cole, Darrell R., DGF**

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**From:** Cleo Chamberlain <[REDACTED]>  
**Sent:** Tuesday, October 16, 2018 3:41 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Proposed Changes to 19.31.10.11

NMDGF Field Operations Rule Development  
PO Box 25112  
Santa Fe, NM 897504

I oppose the proposed changes to the Manner & Method Rule, 19.31.10 NMAC, regarding the use of aircraft.

The 48 hour rule is reasonable, but the proposed 6 month rule is excessive and unreasonable.

Please retain the current language as it applies to the use of aircraft.

Thank you,

Cleo Chamberlain  
[REDACTED]  
[REDACTED]

**Cole, Darrell R., DGF**

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**From:** Ron Orozco <[REDACTED]>  
**Sent:** Tuesday, October 16, 2018 7:35 AM  
**To:** DGF-FieldOpsComments  
**Cc:** Sweetser, Candie G.  
**Subject:** [EXT] Proposed Changes to the Manner and Method Rule

Director Sloane,

Thank you for the opportunity to again comment on your Department's proposed changes to the Means and Method rule. I submitted a letter prior to the October 5<sup>th</sup> Commission as well as speaking in opposition to the proposed changes at that meeting.

After listening carefully to comments by you, your staff including Col Griego, and Commissioners, I remain unconvinced that extending control and regulation of airspace and aircraft operations from 48 hours to six months will in any way improve enforcement. To the contrary, I contend that such action will further stretch the limited resources of your department with no significant impact and impose undue and unenforceable regulation on general aviation.

As previously presented, please consider working with the NM Pilots Association and other organizations who have offered to work with NMDG&F to improve enforcement of the current 48-hour rule. I am confident this effort can result in successful strategies to improve enforcement and the hunting experience for all under the current regulation.

Thank you for the consideration.

Respectfully submitted,

*Ron Orozco*

[REDACTED]

**Cole, Darrell R., DGF**

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**From:** Gregg Dickson < >  
**Sent:** Wednesday, October 03, 2018 9:16 AM  
**To:** DGF-FieldOpsComments  
**Cc:** Gregg Dickson  
**Subject:** [EXT] Proposed Manner and Method Rule change 19.31.10

Dear New Mexico Department of Game and Fish,

Please accept this email into the official records for comments associated with the Proposed Manner and Method Rule Change 19.31.10.

I am a private pilot and own a small classic 1952 general aviation airplane. I am not a hunter but I do enjoy backpacking and fly fishing, especially in the backcountry of New Mexico.

I fly out of the Grant County airport (KSVC) and routinely fly over the Gila Wilderness and State lands throughout Southwestern New Mexico. My airplane is a small classic (old) airplane, it is not capable of flying at high altitudes, thus, I fly low and slow.

I support the comments and recommendations you have received from many organizations, including these listed below:

- Federal law establishes the Federal Aviation Administration with the responsibility to administer aviation airspace - for public safety and interstate commerce. A no-fly-zone can be established for safety and national security but must be administered by the FAA. Even the military must abide by the rules set forth by the FAA.

- This rule is a restraint of not only commercial aviation, (overseen by the Interstate Commerce Commission), but on a pilot's fundamental rights to pass without fear of restraint or reprisal, when no crime has been committed, nor probable cause for enforcement has been demonstrated.

- Commercial pilots who fly hunters or guides to remote airstrips or support scouting will be put out of business. New Mexico will lose significant revenue from Governor's tag sales and hunting tourism.

- Under the proposed rule, general aviation pilots can expect to be questioned and potentially cited for flights over areas that may be used for hunting. As a pilot, I adhere to FAA regulations. However, as a none hunter, I am not familiar with nor should I be required to understand hunting seasons or game unit boundaries.

- Retain the current 48 hour rule and actively partner with the United States Forest Service, New Mexico Pilots Association and other aviation organizations to utilize our aviation network to aid enforcement. NMPA members have suggested technology approaches, a hot-line for reporting aerial violations, and awareness communications throughout the aviation and hunting communities.

- Utilize aviation organizations to help educate sportsmen on the USFS and BLM recognized use of backcountry airstrips for access to public lands and recreational purposes, and that circling an airstrip is typical to assure a safe landing.

- I have not found any documented evidence that aviation has a significant negative impact on New

Mexico's wildlife resource or the opportunity for a fair chase.

- The current 48 hour rule has been on the books for a long time, is widely understood, accepted, and followed.

- Pilots of aircraft are being singled out where other means of scouting are not addressed.

- Aircraft landing at a backcountry airstrip are no more distraction to a hunter than an OHV driving by on a road. As the only transportation mode requiring no road, backcountry aircraft have a relatively low impact on the land.

- It's inappropriate to address drone operations and aircraft operations with the same language.

- We in aviation community shares common ideals with NMDGF regarding fair access to public lands and recreational opportunities.

Thank you for the opportunity to share my comments.

Sincerely,

Gregg Dickson

**Cole, Darrell R., DGF**

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**From:** W.E. Post  
**Sent:** Wednesday, November 14, 2018 11:09 PM  
**To:**

**Subject:** Sloane, Michael B., DGF; DGF-FieldOpsComments  
[EXT] Proposed NM Game & Fish Manner and Method Rule

Gentlemen;

I totally support the New Mexico Pilots Associations efforts in requesting changes to the proposed NM Game & Fish Manner and Method Rule regarding the use of aircraft.

Points to consider:

- 1) The current 45-hour rule is understood, accepted and followed.
- 2) Extending the period from 48 hours to 6 months represents excessive overreach without any justification whatever.
- 3) The proposed rule make law-abiding pilots and hunters suspect of illegal spotting of game for 6 months out of the year.
- 4) The ambiguous proposal could ensnare virtually any pilot in the general aviation community, whether they be a New Mexico resident or resident of any other state or country, in legal proceedings for simply sightseeing, which could certainly be viewed as presumed guilt with the pilot becoming responsible for proof of innocence.
- 5) The phrase "For the purpose of hunting" is not defined and implies that all hunting-related flights are illegal, including transporting hunters, supplies, etc.
- 6) Aircraft flying over are no more of a distraction to hunters than an OHV driving by on the road.

For additional information and recommendations, please NMPA's special page on the subject at [http://www.nmpilots.org/documents/Aviation\\_Issues/NMPA\\_Comments%20-NMDGF%20MannerAndMethodRule\\_Oct\\_15\\_2018.pdf](http://www.nmpilots.org/documents/Aviation_Issues/NMPA_Comments%20-NMDGF%20MannerAndMethodRule_Oct_15_2018.pdf)

Please know that NMPA continues their desire to partner with NMDGF, as we share common ideals regarding fair access to public lands and recreational opportunities.

Sincerely,

Dr. William E Post

[Redacted Signature]

**Cole, Darrell R., DGF**

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**From:** Andrew Walker <[REDACTED]>  
**Sent:** Saturday, October 13, 2018 11:24 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Proposed Rules Regarding Aircraft Operations

Hello,

I would like to state my disagreement with the proposed rule that states: "It is unlawful for any individual for the purpose of hunting, to locate or assist in locating a protected species from...an aircraft."

I agree and support the letter sent by AOPA to the department addressing its concerns about the negative effects this rule would have on all aspects of GA in the state, including training flights, commercial air tours, aerial surveying, and personal or recreational travel whose activities could be called into question

Sincerely,

Andrew Walker  
Commercial Pilot  
Flight Instructor  
Resident of Bernalillo County  
[REDACTED]

**Cole, Darrell R., DGF**

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**From:** Chris Wilson <[REDACTED]>  
**Sent:** Thursday, October 18, 2018 5:13 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] RE: Proposed Changes: Manner & Method Rule, 19.31.10 NMAC , regarding use of aircraft

To whom it may concern

I am both a hunter and a pilot. Over the years I have had many conversations with other hunters and pilots concerning the restrictions on use of aircraft for spotting game. Pilots are aware of the current rules and all I have talked to respect that rule both in spirit and letter. I have never witnessed anyone using aircraft for spotting while I have been hunting. The proposed new rules seems to me to be akin to trying to kill a fly with a sledge hammer. It penalizes or puts at risk all the law abiding hunter/pilots participation in a recognized legitimate use (flying and accessing) of public lands if they want to hunt in NM. If there is a problem of misusing aircraft to spot game for hunting purposes there has to be a better way of penalizing the small number of violators than the proposed rule. I support the NMPA position of retaining the previous 48 hour rule and working towards a less draconian solution.

Respectfully

Christopher W Wilson

Edgewood, NM

## Cole, Darrell R., DGF

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**From:** christopher lee <  
**Sent:** Wednesday, November 14, 2018 7:32 PM  
**To:** DGF-FieldOpsComments; ISPA, DGF; Bickford, Tristanna, DGF; dgf-director@state.nm.us;  
**Cc:** J Woods; Sloane, Michael B., DGF  
**Subject:** [EXT] Re: Proposed NMG&F Rulemaking involving General Aviation

Dear Members of the New Mexico Game & Fish Department, New Mexico State Game Commissioners, Director Sloane, and Whomever it May Concern:

I am a New Mexico resident, an engineer with the University of New Mexico, and a General Aviation (GA) pilot.

I am a member of several state and national aviation organizations and communities, including the Experimental Aircraft Association (EAA), Aircraft Owner's and Pilot's Association (AOPA), New Mexico Pilots Association (NMPA and NMPA Backcountry), Sandia Soaring Association (SSA), Angel Flight (AFW and AFSC), Flights for Life (FFL), the Recreational Aviation Foundation (RAF), the United States Hang Gliding and Paragliding Association (USHPA), and others. As such, I fly various different aircraft for many different kinds of flights and missions, ranging from multi-passenger, non-emergency medical transport, to blood and organ transport, to cross-country hang-gliding and backcountry camping excursions.

My flights take me and my passengers all over the state, crossing thousands of miles every year over land that I am sure includes many designated hunting grounds. I often fly low and slowly, and frequently land at unimproved, backcountry airstrips or even in empty fields. I always fly within the legal boundaries that are extensively defined in section 14 of the Code of Federal Regulations (CFR) - laws which govern all use of United States airspace and are strictly administered and enforced by the Federal Aviation Administration (FAA).

Although I have never been a hunter myself, I have no objections to hunting for food, and some of the passengers that I have carried have mentioned to me that they are hunters. On many occasions, I have heard passengers remark, while looking out of the airplane, that they thought an area generally looked good for hunting, or that the water ponds were full and likely to attract game, but it is honestly pretty difficult and rare for a passenger to spot game animals from a moving airplane. In the last ten years of flying in New Mexico, I have only seen game animals from the air twice - a herd of antelope running across a plain from 2000' AGL and some deer grazing on a runway on which I was attempting to land. In both cases, I was able to locate those protected species for a few seconds, but my guess is that they were miles away from that location by the time I was able to make a few turns in the air and return to the ground. I'm not sure how effective game scouting from an airplane is, but could not the same things be seen, and observed for much longer and in much more detail, from the ground or from a nearby mountaintop?

My primary objection to the New Mexico Game & Fish rule, as it is currently written and as it is proposed, is that it is not within my control, as a pilot, to prevent a passenger from scouting or subsequently hunting, but



that I could face misdemeanor charges simply for carrying passengers in my airplane, as has been done commonly and lawfully by pilots for the last century.

The proposed rule states, in part, that it is illegal (with penalties up to \$1000 fine and 364 days in jail):

*"...for any individual, for the purpose of hunting, to locate or assist in locating a protected species from or with the aid of an aircraft or drone. . . during the period beginning on August 1 and ending on January 31 of each license year."*

As this is written, if one of my passengers were a hunter (potentially not even known as such to me) and were to see an elk, or a deer path, or a pond out of the window of the airplane and use that information for the purpose of hunting, I could conceivably be guilty of assisting that person in locating protected species and be subject to misdemeanor charges, fines and jail time (a conviction of which could have a ruinous effect on my engineering and flying careers and my family life).

Even the part of the rule stating, "... for the purposes of hunting..." is poorly defined, could be interpreted very broadly, and is effectively impossible to prove or enforce. Is making a mental note of a pond's water level considered an activity "to locate species... for the purpose of hunting"? Is the mere act of being an airplane passenger (or pilot) while flying over an area, prior to hunting in that area, sufficient to prove that protected species were located, and that it was done for hunting purposes? If so, then I am unduly at risk of being charged as an unwitting accomplice. If not, then the rule is not enforceable. Either way, the fallacy of the proposed rule is apparent.

That there has not been a single conviction under the current rule, in the fifteen years or so that it has been in place, attests to its inefficacy. It is not enforceable precisely because it is practically impossible to prove a connection between riding in an airplane and locating protected species for the purpose of hunting.

If the rule were enforceable, then the only way for a pilot to be safe from prosecution would be not to fly, for six months of the year, over any hunting areas with anyone on board who could potentially be a hunter (including the pilot). That would put an end to air travel in the state and is obviously not a reasonable expectation.

So, the rule is ineffectual, unenforceable, ill-defined and fallacious - more than enough reasons to strike it from the rule book.

Please remove any existing and proposed rules that involve air travel or that could conflict with the federal regulations that govern air travel, or that could implicate unwitting individuals in crimes by association with people whose actions they have no control over, and please do not associate your good name or your position with the creation or implementation of such poorly-conceived rules.

Thank you.

Very Respectfully,



**Cole, Darrell R., DGF**

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**From:** Robert Offutt  
**Sent:** Wednesday, November 14, 2018 8:37 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Re: Restricting aircraft review for the purpose of locating or observing protected game.

The existing rules for the subject are sufficient! Please do not support this revision.

Any knowledgeable person, be it hunters, wildlife viewers or photography buffs realize there are many factors that significantly alter day to day activities of game animals.

What would be next, restricting "all" access to public properties for six months.

I was born, raised and love my country. Please do not let special interest destroy our country!

Robert Offutt

Law abiding and still proud to be an AMERICAN

**Cole, Darrell R., DGF**

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**From:** Charles S <[REDACTED]>  
**Sent:** Wednesday, October 03, 2018 8:26 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Restrictions on Use of Aircraft

The proposed rule change on the use of aircraft is an overreaching assumption of authority from the Federal Aviation Administration. NMDGF does not control the airspace.

Pilots flying general aviation aircraft in N.M. for legitimate purposes have no reason to know or be held accountable for state hunting rules and regulations. Illegal use of aircraft to spot game and guide hunters should be prosecuted, but the entire aviation community should not have to pay the price for the minority of violators.

The apparent presumption of guilt is plain wrong!

Charles Swanberg

[REDACTED]  
[REDACTED]

**Cole, Darrell R., DGF**

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**From:** Frankie Ridolfi - [REDACTED]  
**Sent:** Monday, November 19, 2018 9:38 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Support for aviation freedom, opposition to proposed game scouting rule

Hello,

I am writing in OPPOSITION to the New Mexico Dept. of Game and Fish proposed rule which would eliminate aerial game scouting ("48 Hour Rule").

As a private pilot, outdoor photographer and environmentalist, I believe that protecting our wildlife and environment is not mutually exclusive of protecting our sacred freedoms to fly.

This proposed rule has seemingly good intentions, but the restrictions would do damage to the liberties and fundamental rights of all aviators regardless of whether they are engaged in game scouting. It's too blunt a tool and oversteps the FAA's oversight of airspace.

The Recreational Aviation Foundation made me aware of this opportunity for citizenship in good faith. It's a testament to the character of aviators, a care-taking and continually self-educating community. We care deeply about preserving access to our remote and wild places, and nurturing their vitality for future generations.

I sincerely request that you do not enact this rule, and instead work in partnership with the aviation community to find a more appropriate and mutually agreeable path forward.

Thank you,  
Frankie Ridolfi,

**Cole, Darrell R., DGF**

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**From:** DuCharme, Sandra, DGF  
**Sent:** Monday, October 15, 2018 8:50 AM  
**To:** DGF-FieldOpsComments  
**Cc:** Comins III, James C., DGF  
**Subject:** FW: [EXT] Contact the Governor Web Form Submission

Hello,

Good morning. Below is a comment on Manner and Method that was emailed to the Governor's office. Please save for the rule record.

Thanks.



**Sandra C. DuCharme**

Federal Aid Accountant/Auditor, ASD  
P.O. Box 25112 | Santa Fe, NM 87504  
One Wildlife Way | Santa Fe, NM 87507  
505.476.8148 Tel. | 505.476.8123 Fax



## CONSERVING NEW MEXICO'S WILDLIFE FOR FUTURE GENERATIONS

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**From:** Goldbogen, Judy, GOV  
**Sent:** Friday, October 12, 2018 12:37 PM  
**To:** DuCharme, Sandra, DGF  
**Subject:** FW: [EXT] Contact the Governor Web Form Submission

Hi Sandra: Please pass this on to whomever should see it and request that they respond to constituent...many thanks

Judy Goldbogen  
Director, Constituent Services  
Office of the Governor  
State Capitol  
Santa Fe, NM 87501  
505.476.2237

**From:**  
**Sent:** Friday, October 12, 2018 10:52 AM  
**To:** Martinez, Susana, GOV; [REDACTED]  
**Subject:** [EXT] Contact the Governor Web Form Submission

**Online Form Submitted:** *Contact the Governor*

**Message Type:** I am registering my opinion (no response needed)

**Prefix:** MS

**First Name:** Robert

**Last Name:** Benavidez

**Title:** Owners and NM pilot

**Organization:** Desert Aviation

**Address:** [REDACTED]

**Secondary Address:**

**City:**

**State:**

**Zip:** [REDACTED]

**Email Address:** [REDACTED]

**Home Number:** [REDACTED]

**Work Number:** [REDACTED]

**Cell Number:**

**Subject:** NMGF proposed rule change


**Message:** The 48 hour rule on observing game has worked well for years . We as NM pilots have been flying for outfitters and guides for over twenty years. I personally have done it twenty plus years also have used my airplane in searching for lost hikers, hunters and spotting wild fires. Flown fresh kill meat out of the forest to get on ice faster for friends. Aircraft serve many other uses besides game observation please don't let them change the current rule. I think the game commissioner has a vendetta with some pilot and is trying to make the change that will affect us all. I met you once at the Deming Airport you impressed me then and i voted for you twice can please look into the real reason someone wants to change this rule Thank you Governor Martinez

**Originating IP address:** 174.238.30.1

**Cole, Darrell R., DGF**

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**From:** ISPA, DGF  
**Sent:** Thursday, October 18, 2018 2:26 PM  
**To:** DGF-FieldOpsComments  
**Subject:** FW: [EXT] GA aircraft/hunting rules

**From:** Robert Adams [[mailto:](#)   
**Sent:** Thursday, October 18, 2018 1:52 PM  
**To:** ISPA, DGF  
**Subject:** [EXT] GA aircraft/hunting rules

Please be careful crafting rules on GA aircraft flights thru hunting areas. We often traverse what looks like good hunting areas on pleasure flights to Taos, Angel Fire, Las Vegas, NM. We also go on "color" flights when the aspen are golden. I am not a big game hunter and we do not "scout" for any one else. thank you



**Cole, Darrell R., DGF**

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**From:** [REDACTED]  
**Sent:** Wednesday, September 19, 2018 3:19 PM  
**To:** DGF-FieldOpsComments  
**Subject:** 48 hour rule

I believe the 48 hour rule should remain in effect.

Thank you,  
John Ranweiler

Sent from [Mail](#) for Windows 10

**From:** Lee Scholes <[REDACTED]>  
**Sent:** Saturday, September 01, 2018 10:18 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Restrictino Aircraft Use 8/1 - 1/31 each year

## **Use of Aircraft in Locating Protected Wildlife**

### **Key Points: Opposing Change to current NMDGF Regulation**

The change to the current rule would seem to require the Game Enforcement Officer to infer the “Purpose” of a flight by the location and elevation of any aircraft. He/she would then create a citation and the Owner of the aircraft would be forced to prove his innocence. This requires the Owner to engage legal support and in the end a real estate flight or simply a recreational flight becomes an undue burden. The Officer, in fact cannot say with certainty who owas piloting the aircraft.

The NMDGF is creating a problem where none exists. The NMDGF has no authority to restrict flight in the United States. The Department has “Never” cited anyone under the current rule.

**1.) No NMDGF action required in subject area.**

Support: In response to an IPRA on the subject of citations surrounding the current regulation, The Department Letter dated July, 27, 2017 which states: *“After a thorough search, we have determined that we do not have the records (copies of NMDGF citations and actions relating to the subject matter) you request.”*

**2.) US Government has Sovereignty and use of US Airspace**

Support: Title 49 US Code 40103 (a) Sovereignty and Public Right to Transit (1) *The United States Government has exclusive sovereignty of airspace of the United States.* (2) *A Citizen of the United States has a public right transit through the navigable airspace.*

**3.) Minimum Altitude at Pilot’s Discretion.**

Support: Title 14 Code of Federal Regulations Sub F Part 91 Sub B Section 91.119 Minimum Safe Altitude (a) *Anywhere. An altitude*

*allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.*

Thank you for your review,  
Lee Scholes

[REDACTED]

[REDACTED]

[REDACTED]

**Cole, Darrell R., DGF**

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**From:** NMPA <r [REDACTED]>  
**Sent:** Tuesday, September 04, 2018 4:09 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Manner & Method Rule, 19.31.10 NMAC, Comments regarding use of aircraft  
**Attachments:** NMPA\_Letter\_NMDGF\_MannerAndMethodRule\_Sept2018.pdf

**TO: NMDGF Field Operations Rule Development**

Thank you for the opportunity for public comment.

Attached is a letter from the New Mexico Pilots Association, providing our comments on proposed changes.

**Joyce Woods**  
**President**  
**New Mexico Pilots Association**  
**[www.nmpilots.org](http://www.nmpilots.org)**



September 3, 2018

TO: NMDGF Field Operations Rule Development  
P.O. Box 25112, Santa Fe, NM 87504

RE: Proposed Changes: Manner & Method Rule, 19.31.10 NMAC, regarding use of aircraft

We appreciate the opportunity to comment and acknowledge that our previous input has been thoughtfully considered regarding Federal Aviation Administration jurisdiction and airspace regulations. Thank you.

Still, the proposed language opens pilots to inappropriate citations for flights over areas that may be used for hunting, with pilots bearing the burden of proof. Aircraft pilots and their families routinely enjoy nature, wildlife, and aerial photography which falls within the "Locate" definition of the proposed rule. Pilots often use aircraft to access recreational areas, including to travel to an airport or airstrip for a hunt, which may be mistaken for "locating" game.

Additional comments/concerns we need addressed:

- Although noted in the summary document that recreational, agricultural, and real estate purposes for use of aircraft are excluded, such exclusions are not mentioned in the proposed rule, nor are other uses noted.
- Pilots of aircraft are singled out for locating wildlife, where other means for locating game are not included in the definition of "locate," such as game cameras, OHVs, and other modes of access.
- Aircraft pilots rely on FAA charts (maps) for airspace regulations and are not familiar with hunting seasons or game unit boundaries, and by federal regulations, are permitted to fly at low altitude over uninhabited areas.
- It is inappropriate to address drone operations and aircraft operations with the same language, since they are addressed separately by federal regulations.
- It is not clear what if any purpose is served with the broad timeframe related to the use of aircraft.

Therefore, we submit suggested revisions to the proposed rule:

*19.31.10.7*

*Y. "Locate" shall mean any act or activity, in which any person is searching for, spotting or otherwise finding a protected species ~~from or with the aid of any aircraft or drone~~, utilizing mechanical or electronic technology.*

*19.31.10.11*

*E. Using aircraft to locate wildlife:*

*(1) It is unlawful for any individual, for the purpose of hunting, to locate or assist in locating a protected species from or with the aid of an ~~aircraft or drone~~ for the purposes of hunting or to relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action or to use information gained from the aid of an ~~aircraft or drone~~ during the period beginning on August 1 and ending on January 31 of each license year.*

*(1a) It is unlawful for any individual, for the purpose of hunting, to locate or assist in locating a protected species from or with the aid of a manned aircraft for the purposes of hunting to relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action or to use information gained from the aid of a manned aircraft until 48 hours after such aircraft use.*

*(2) This section shall not apply to any flights for purposes other than locating game for hunting purposes, wherein such flights may include but are not limited to: regularly scheduled commercial airline flights; direct flights by transiting aircraft; flights for access to airports, airstrips, or other landing areas; flights for agricultural, recreational, or real estate purposes; flights transporting hunters to landing areas; flights for aerial observation or photography unrelated to hunting; or flights relating to any individuals acting within the scope of their official duties as employees or authorized agents of the state of New Mexico or the United States federal government.*

The New Mexico Pilots Association (NMPA) is a non-profit organization representing 4294 pilots statewide and an aviation industry accounting for more than \$2.3 Billion in annual economic impact. NMPA members share common goals and ideals with NMDGF regarding enjoying the great outdoors and preserving personal freedoms for access to recreational opportunities. Recreational pilots typically enjoy flying to new locations for biking, camping, fishing, hiking, hunting, photographing, picnicking, or just sightseeing (countryside and wildlife), just as back road enthusiasts and hunters do.

Our recreational aviation community is diligently working to invigorate aviation tourism including backcountry flying, recognizing its favorable economic impact on New Mexico's rural communities. With support of private landowners and the US Forest Service, we host Fly-Ins/campout weekends at private airstrips near Taos, Ramah, and Lindrith; plus Negrito (USFS) and Reserve in and near the Gila NF. Most pilots who participate are from New Mexico but others also often come from Arizona, California, Colorado, and Texas.

We acknowledge the challenges of enforcing rules to ensure a fair hunt, and when it comes to aircraft, we wish to help NMDGF address such problems. Besides our commitment to proactive, constructive multi-agency statewide partnerships as accomplished through the New Mexico Airstrip Network (NMAN), a key strength is communications within the aviation community. For example, our sister organization in Arizona helped hold pilots responsible to respect designated eagle nesting areas. We believe we could similarly help NMDGF.

We submit these comments and recommendations in a spirit of cooperation. Please feel free to contact us with any comments or questions. Meanwhile, we encourage NMDGF to accept our invitation to join the New Mexico Airstrip Network, which provides a forum to work toward common goals for New Mexico's benefit.

Respectfully submitted,



Joyce Woods, President  
New Mexico Pilots Association

[www.nmpilots.org](http://www.nmpilots.org)

## Cole, Darrell R., DGF

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**From:** Wesley Elliott <[REDACTED]>  
**Sent:** Friday, August 24, 2018 4:37 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Comments on 19.31.10.11 (1)(2)

Dear NMDGF,

I am a pilot and hunter here in SE New Mexico. I own a small bush style plane and enjoy flying from Roswell to other small towns in NM. I believe the rule change negatively affects my rights to airspace which is solely controlled by the FAA. It also restricts my access to public lands.

1. If I draw a Unit 34 or Unit 37 tag, based on the rule change proposed I would be restricted to flying up to Ruidoso for the day because I would have to fly through those units. I fly from a dirt strip at my house. It is located in Unit 32. I like to hunt 32 for deer. Based on this I wouldn't even be able to take off from my own private property because it is in the unit.
2. Public land is very "checker board" in this state. Many areas can be accessed by plane because they are land locked. This is done in many states.
3. Planes can be used to locate water sources and vegetation for feed. This should not be restricted.
4. With aerial hunting of coyotes, this would keep pilots from being able to fly in areas that they have a big game license in.

A lot of this is because of what is going on in the Gila. They have a "fly in gathering" to a remote strip where 20 or so planes meet. Hunters in the Gila area think it is people scouting for game during a hunt. When in reality it is just a group of pilots.

Jealousy is another factor driving this. If people want a plane for the many advantages of owning one they should earn their pilots license. My plane is a valid tool just like an ATV or 4 wheel drive. Are we going to restrict those as well?

I am not an advocate of having an unfair advantage over an animal. I think the 48 hour rule and only flying directly to a landing strip is fair. Please keep this rule as is.

Wesley Elliott



**Cole, Darrell R., DGF**

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**From:** Scott Burnett < >  
**Sent:** Monday, September 24, 2018 6:29 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Use of aircraft

This proposed change will place me as a certified flight instructor and my students and fellow pilots in danger of being wrongfully accused of violating the law for 7 months of the year. This could cost the accused thousands of dollars and much time to defend. This scenario has already happened under the current 48 hour rule. The FAA mandates several different ground reference maneuvers for pilot training that are done at 600-1000 feet above ground level. These are maneuvers are :

Turns around a point

Rectangular pattern,

"S" turns across a road

Figure eights on pylons

simulated emergency landings

actual landings on private and public dirt runways.

these legal activities and sight seeing could be miss identified by DGF and the public causing wrongful accusations.

This rule change will affect air charter operators because the can no longer fly paying passengers to private ranches to hunt for fear of prosecution and loss or their licences and businesses.

This rule change will negatively affect a large number of innocent persons.

I am from Montana and their law that a person can not hunt and have been airborne in the same day works well and recommend it be adopted.

Scott Burnett CFII



SEP 10 '18 RCVD

RECREATIONAL AVIATION FOUNDATION

September 3, 2018

TO: NMDGF Field Operations Rule Development  
P.O. Box 25112, Santa Fe, NM 87504

RE: Proposed Changes: Manner & Method Rule, 19.31.10 NMAC, regarding use of aircraft

Dear Representatives of the New Mexico Department of Game and Fish,

This is an update of a prior letter dated August 23, 2017 which we sent to NMDGF Chairman Kienzle and the Commissioners regarding possible rules concerning the use of aircraft for hunting or scouting for hunts. At that time we learned that recreational pilots had been inadvertently and incorrectly cited for their flights over areas that may be used for hunting. We have now learned that the New Mexico Department of Game and Fish is again proposing to change and expand the scope of your rules concerning aircraft operations. This provides us the opportunity to work with you in developing a better rule meeting the needs of all concerned.

The Recreational Aviation Foundation (RAF) is a 9000+ member national nonprofit organization dedicated to promoting backcountry and recreational flying. Along with the maintenance and preservation of existing airstrips, the RAF has engaged in building new airstrips, thus enhancing access to recreational opportunities.

We know that it is NMDGF's stated mission "To conserve, regulate, propagate, and protect the wildlife and fish within the state of New Mexico using a flexible management system that ensures sustainable use for public food supply, recreation, and safety; and to provide for off-highway motor vehicle recreation that recognizes cultural, historic, and resource values while ensuring public safety."

Just as you say you do in your mission statement, we too promote the idea that our members across the nation aren't just flying around – they are flying to access and enjoy recreational opportunities in the outdoors, such as fishing, boating, hiking, backpacking, and yes, hunting. They also enjoy photographing the splendor of our nation and its vistas and its plants and wildlife from the air as well as on the ground. The state of New Mexico has all of the above in abundance and our members come from all across the U.S. to enjoy the beauty of the state.

*The RAF Mission:  
"The Recreational Aviation Foundation preserves, maintains and creates  
airstrips for recreational access."*

As a party to the New Mexico Airstrip Network and in close association with the New Mexico Pilots Association we work with your state's tourism and economic development agencies and organizations to promote New Mexico among both our members as well as the entire nationwide aviation community.

Often pilots will fly into remote areas, and camp in groups. These gatherings are called fly-ins. Thus there may be a higher than normal number of what appears to be low flying aircraft during the times when they approach and depart a recreational airstrip. Other pilots may fly at low but legal altitudes traversing mountainous areas in order to enjoy and photograph the scenery, to land and enjoy a remote area for recreational purposes, or to fly low because of aircraft performance or weather requirements.

We understand that NMDGF staff members believe they may have situations wherein in some instances unethical or inappropriate use of aircraft may result in the harassment of wildlife, or may give an unfair advantage to the hunter who uses or hires aircraft to be used in this manner during a hunt. When these situations occur we in the aviation community support your efforts to deal appropriately with the individuals involved and we will also perform outreach to make sure the aviation community understands your concerns and rules.

At the same time we are concerned that complaints from unknowledgeable hunters, law enforcement personnel, or others on the ground may mistake valid cross country, local, or landing aircraft for those being used for illegal purposes. We believe solutions exist without unneeded or inappropriate regulations.

We support the collaboration of the New Mexico Pilots Association, the New Mexico DOT's Aviation Division, and our RAF representatives to first of all study and define any real problems, versus those that may be a matter of misperception. We further support effective solutions as opposed to inappropriate citations. We know that the vast majority of the members of the aviation community live by a strong ethical code of conduct and we are convinced that they will do the right thing. Our community of aviators wants to be a part of the solution as opposed to creating a problem.

We have reviewed suggested changes in your rules' language proposed by the New Mexico Pilot Association and believe they would likely alleviate our concerns about the current new language affecting aircraft use as proposed by NMDGF.

We hope this letter is received in the same spirit of cooperation and mutual support in which it is written, and look forward to working with NMDGF staff and the Commission regarding this issue. Please feel free to contact us at any time with any comments or questions you may have.

Sincerely yours,



Bill McGlynn, President  
Recreational Aviation Foundation (RAF)

CC: Rol Murrow, Director Emeritus; Larry Filener, New Mexico State Liaison; Ron Keller, New Mexico State Liaison, Recreational Aviation Foundation; and Joyce Woods, President, New Mexico Pilots Association

## Game Commission Public Comments

Hello, my name is Ron Keller. I am a pilot and a hunter in New Mexico.

With respect to the proposed rule change regarding use of aircraft, I would like to point out that several partnerships have been forged between aviation groups and federal, state, and private entities.

First of all, the Recreational Aviation Foundation, a 9000 member group, entered into a MOU with both the USFS and the BLM several years ago to foster a cooperative relationship to preserve, maintain and create airstrips for recreational access. This was done at the national level and has the full support of the Secretaries of Agriculture and Interior.

Additionally, the New Mexico Airstrip Network, of which I am a founding member, was formed to foster cooperative relationships at a state level. USFS, BLM, New Mexico Aviation Division, RAF, New Mexico Pilots Association, Aircraft Owners and Pilots Association, NM Economic Development, NM Tourism Department and several others were all signatories on a MOU.

Lastly, a partnership exists between RAF and NMPA to maintain the ability to access recreational areas of New Mexico by utilizing backcountry and recreational airstrips.

It is my view that changing the use of aircraft rule to lengthen the timeframe from the current 48 hour rule will have a detrimental effect on all of the progress made to date with the aforementioned partnerships. Therefore I am adamantly opposed to such a rule change.

Thank You.

October 4, 2018  
(via email)

Stephen Fleming

Chairman Paul Kienzle III  
New Mexico Game and Fish Commission  
PO BOX 25112  
Santa Fe, NM 87504

Dear Commissioner Kienzle (and members):

I am writing to comment upon the proposed changes to the manner and method rule 19.31.10 NMAC, as they affect the operation of aircraft.

First, I acknowledge there always are bad actors in any endeavor, which require reasonable, and lawful, efforts to minimize. I further acknowledge that law enforcement officers of the New Mexico Game & Fish Department have a difficult job apprehending and prosecuting violators who illegally harvest game resources protected by the Department.

With the above in mind, the proposed changes to the "manner and method rule in 19.31.10 NMAC not only do not achieve the intended purpose, but attempt to regulate matters beyond the authority of the Commission and Department and, in this attempt, gravely and unlawfully upend the justice principle of "innocent until proven guilty."

The proposed changes appear to be a solution in search of a problem. I have a single question for the Commission and Department: have these rules been reviewed by internal legal counsel? It very much appears these proposed regulations were developed in the absence of any review by G&F legal counsel. Had this been accomplished, the issues I comment upon below likely would not have arisen. I urge the Commission and Department to table action on the aircraft portion of the proposed changes until such review occurs.

I have the following concerns:

- a) The language of the proposed rule is excessive in scope and application.
- b) The rule attempts to regulate matters not under the Commission's nor Department's authority.
- c) Arbitrary and capricious enforcement is made more, not less, likely.
- d) Constitutional requirements for probable cause are ignored.
- e) Inclusion of drone regulations as part of aircraft operation.
- f) Failure to use the proven Operation Game Thief program in lieu of onerous aviation restrictions.

The Department opines the current 48-hour rule is inadequate to investigate violations and a six-month time frame will somehow enhance enforcement. The Department provides no factual data to support this contention. An Inspection of Public Records Act (IPRA) request in 2017 sought "Copies of the Departments citations and actions relating to violation by aircraft, due to enforcement of time of use.

(i.e. the 48 hour rule)." The reply (copy attached) stated "After a thorough search, we have determined that we do not have the records you have requested."

Since the Department has been unable to demonstrate either need or efficacy of the rule, there only are two possibilities. Either the number of violations are so minimal as to be statistically insignificant, or the Department is unable to make a case using sound investigative practices.

Regardless of reason, expanding the prohibition to six months does not solve any problem, but unacceptably exposes innocent behavior to criminal prosecution.

At the September 4 public meeting in Albuquerque, Col. Griego was asked why the Department was unable to prove violations under the current 48-hour rule. He explained the only way they can prove information is transferred is to observe it themselves with undercover agents, flying with guides. This is how all crimes are solved; not by criminalizing the mere appearance of an aircraft on the *assumption* something nefarious is afoot.

The US and NM Constitutions require a showing of probable cause, yet nothing in the proposed rule addresses nor demonstrates how a six-month (or even a 48-hour) aircraft restriction does anything to aid in the establishment of such probable cause.

At the September 28, 2017 Commission meeting, Col. Griego stated the following (from the meeting transcript):

"Mr. Chairman, Commissioner Ramos there is a lot of that and it is a difficult to make it rule. I think we can strengthen our rule to assist law enforcement and a little easier, making it a little easier to make a case. With our current rule where it says, you have to prove that they used information gained. That's a very difficult burden to prove that even though that I know that you were in the plane, I've got to prove that you told this other individual who is now your guide and that's a hunter. I've got to prove that element where with variations of these others, you know, if you can't fly for hunting purposes, what we've got at that point is we got to prove are they a hunter? Are they in the hunt area? Do they have a GPS? Is there waypoints specific to these hunt locations, the pattern in which they were flying. It would be a totality of it but it would be a little more beneficial to us in the field to be able to prove those cases. Still significant case. Still, we're pretty high burden. Across the west there's only a handful of cases made every year but with a lot of these states it has kept the honest guy a little more honest where they're not having as significant of these violations as they did prior to but like you saw, most of these states are just really making two to five cases a year out of their multiple investigations that they do. I know in the south in the Gila, the Sacramento's, the Carson National Forest into the San Mateo's and the Madeleine's, you know we probably have 30 plus reports a year of investigations that where we're working on these cases. We had one in (Indiscernible) just recently. We were able to find out who was in the plane but could not, they didn't have hunters coming in for a week. So was there legal activity and that was all based on the investigation."

In neither the above, nor the earlier cited comments from the Sept 4, 2018 meeting, did Col. Griego explain exactly how an expanded time frame was going to aid in any investigation. The comment immediately above indicates Col. Griego is immensely frustrated by a perceived inability to make a case (rare, by his own admission) using aforementioned sound investigatory practices.

Therefore, it is clear the proposed rule really is intended to eliminate aircraft usage during hunting seasons (essentially prohibiting flight over the entire state).

The problems with this approach are manifold.

First and foremost, it exposes the entire pilot population to specious allegations of violating a G&F rule. At the September 4, 2018 meeting, Col. Griego and Captain Jackson went to some length to assure that the broad and indefinite language would not be misused against pilots who were not engaging in activities related to hunting. They were unable to explain how such a determination of applicability or violation would be sustained in the complete lack of any information/evidence supporting an allegation an aircraft had engaged in some activity other than harmless flight.

Loitering and repeated low passes are examples of suspicious but also equally harmless activities that easily could be misconstrued as violations (e.g. passes to assess and clear backcountry strips before committing to landing), but which in fact are typical of safe flight practices.

Lacking investigative effort, the Department could only surmise suspicious activities are occurring. Such subjective determinations do not meet any standard of evidence for enforcement.

Col. Griego and Captain Jackson say pilots may be questioned but insist pilots won't be inadvertently cited. Indeed, the assurance that such error will not occur, and the rule change will not affect pilots engaged in flight not related to hunting, already has been shown to be hollow.

The person receiving the attached IPRA response was cited solely on the basis of aerial activity. This individual had to retain legal counsel even though the citation was dismissed. That episode directly refutes the contention pilots will not be incorrectly charged and that they will not be affected. The impact to this individual was lost time and money to defend a spurious charge and secure justice.

Additionally, the assurances expressed by Col. Griego and Captain Jackson are mentioned in the rule summary but, very importantly, are nowhere to be found in the proposed rule language.

Lacking proper investigative techniques, how does a ground observer correlate overflying aircraft with violation of game law? Simply put, the officer cannot. These changes to the law have a low probability of enforcement success and a much greater probability of erroneous application.

The goal of G&F to eliminate overflights for six months every year posits a belief and course of action that ALL aviation activities in the vicinity of hunts are conducted for illegal purposes.

Second, and as important as the first item, above, is involvement of the Commission and Department in matters well beyond their jurisdiction and authority. The proposed rule seeks to regulate the use of federal airspace. The Federal Aviation Administration (FAA) has sole authority over all aviation activities while airborne.

The Commission and Department cannot make rules affecting the public's right to transit navigable airspace (see 49 U.S. Code § 40103 - Sovereignty and use of airspace). Had the Commission and Department undertaken adequate legal review of their proposal, such restrictions would have been

understood much earlier than now. There are a number of other federal laws regarding commerce and flight operations, and no authority is provided to state or local governmental entities to restrict or modify such rights as they relate to aviation.

On the issue of drones, I have but one comment. Whatever rule is approved for drone operation should be separated from any aircraft rule. Drones are a completely unrelated form of aerial operation and the FAA specifically regulates such equipment separately from manned aircraft.

Drone technology unquestionably represents a much greater and genuine issue of deliberate game violations as they can be directly used, in real time, by hunters inclined to such behavior. Drones require no communication with a third party, no obvious loitering, and effectively are silent and invisible from even a short distance.

This is the real problem the Commission and Department should be focusing on, not harmless overflights by manned aircraft. Instead, the Commission and Department prefer onerous prohibitions on aircraft usage, even as the Department has been completely unable to substantiate manned aircraft as an enforcement issue. This intense interest in manned aircraft belies a personal agenda, rather than a legitimate enforcement concern.

Regarding Operation Game Thief (OGT): I am left wondering why this extraordinarily successful program has not been used to solve suspected aviation violations, rather than the perplexing attempt to regulate and criminalize aviation activities.

The OGT program has no time limits, as is evidenced by poaching charges months after a violation. In many regards, poaching is a difficult crime to solve; requiring good police work involving evidence and interviews. It should be no different for pursuing a suspected aerial violation. Such a process would remove the potential that now exists for erroneous enforcement under current and proposed aircraft rules. I suggest the effective OGT program should be used in lieu of the aircraft sections.

Operation Game Thief does not attempt to ban the use of motor vehicles and other methods of poaching game; instead, it relies upon evidence and investigation. This exactly is how violations involving aircraft (undoubtedly far fewer in occurrence than believed by the agency or commission, since prosecutions are nil) should be handled as they are no different. Targeting aircraft reveals the agenda of affecting a relatively small user group, when a similar mindset regarding ground vehicles never would be tolerated by the public.

In closing, I refer you to how the State of Idaho handles aviation matters related to hunting, and suggest New Mexico would benefit greatly from adopting their example:

It is Unlawful To:

- To use aircraft, including unmanned aircraft, to locate game or furbearing animals and communicate location to persons on the ground, or to use any helicopter to transport hunters, gear, or game except at established landing fields.
- Make use of any aircraft, including unmanned aircraft, to locate any big game animals for purpose of hunting those animals during the same calendar day those animals were located from the air. (Emphasis added)



The above is the ENTIRE aviation regulation; there is no other mention of aircraft in their hunting regulations. Idaho has no time limit on investigation or prosecution and limits information obtained from aerial observation only to the same day. This is a recognition of practicality; such information rapidly becomes stale and unusable.

The Idaho regulation is effective and refreshingly simple in scope. New Mexico can do better by emulating Idaho's lead on this issue.

Thank you.

Sincerely,



Stephen Fleming  
Mid Valley Air Park

Member – Aircraft Owners and Pilots Association (AOPA)  
Member – Experimental Aircraft Association (EAA)  
Member – New Mexico Pilots Association (NMPA)  
Member – Recreational Aircraft Foundation (RAF)

cc:

Commissioner Ralph Ramos -  
Commissioner Bob Ricklefs -  
Commissioner Thomas Salopek -  
Commissioner Bill Montoya -  
Commissioner Craig Peterson -  
Commissioner Elizabeth Atkinson Ryan -  
Game & Fish Director Alexa Sandoval - alexandra.sandoval@state.nm.us  
G&F Officer Col. Robert Griego - robert.griego@state.nm.us  
G&F Officer Ty Jackson - ty.jackson@state.nm.us  
G&F Pilot James Duggan - james.duggan@state.nm.us  
G&F General Counsel Jacob Payne - jacob.payne@state.nm.us  
G&F Deputy General Counsel Michael Thomas - michael.thomas@state.nm.us  
G&F Department Comments - DGF-fieldopscomments@state.nm.us  
EMNRD General Counsel Bill Brancard - bill.brancard@state.nm.us  
AOPA Contracted Attorney Gary Risley -  
FAA (ABQ FSDO) John Wensel -  
FAA (ABQ FSDO) John DeWitt

GOVERNOR  
Susana Martinez



DIRECTOR AND SECRETARY  
TO THE COMMISSION  
Alexandra Sandoval

DEPUTY DIRECTOR  
Donald L. Jaramila

STATE OF NEW MEXICO  
DEPARTMENT OF GAME & FISH

One Wildlife Way, Santa Fe, NM 87507  
Post Office Box 25112, Santa Fe, NM 87504  
Tel: (505) 476-8000 | Fax: (505) 476-6123  
For information call: (888) 248-6866

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Garden

ELIZABETH A. RYAN  
Roswell

THOMAS "DICK" SALOPER  
Las Cruces

July 27, 2017

Lee Scholes

Re: [REDACTED]

RE: Request for Inspection of Records

Dear Mr. Scholes:

On July 25, 2017, the New Mexico Department of Game and Fish received your request to inspect public records pursuant to the New Mexico Inspection of Public Records Act, NMSA 1978-14-2-1 et seq. concerning:

Copies of the Department's citations and actions relating to violation by aircraft, due to enforcement of time of use, i.e. the 48 hour rule;

After a thorough search, we have determined that we do not have the records you have requested. Having provided this response, the Department will close its file on your July 25, 2017 request.

Sincerely,

Jennifer C. Montoya  
Records Custodian

**Jackson, Ty J., DGF**

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**From:** Francis Soltis <[REDACTED]> m>  
**Sent:** Saturday, November 24, 2018 10:49 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] "48 HOUR RULE"

I am a ALASKA pilot member of the RAF and frequent winter snow bird. I am opposed to the N.M, DEPT. OF GAME ELIMINATING the "48" HOUR RULE. I WILL NOT FLY or DRIVE into NEW MEXICO if this rule is PASSED. Thank You, F. Soltis

## Jackson, Ty J., DGF

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**From:** John Elling <[REDACTED]>  
**Sent:** Wednesday, November 21, 2018 6:52 PM  
**To:** DGF-FieldOpsComments,

**Subject:** [EXT] Oppose rule changes to Section E, Using aircraft to locate wildlife. Sloane, Michael B., DGF

I oppose the proposed rule change E. Using aircraft to locate wildlife:

I am an enthusiastic general aviation pilot based in Santa Fe. I frequently fly 'low and slow' over the mountains in Northern New Mexico for sightseeing. I'm particularly fond of sightseeing during the Fall when the aspen and cottonwood leaves are at their finest.

I am also an avid hunter and have been fortunate enough to draw elk hunts and antelope hunts in Northern New Mexico as well. Occasionally I have flown over hunt areas in order to familiarize myself with the terrain. However I meticulously avoid doing so within 48 hours of the start of my hunt so that these flights do not infringe on the current rule.

The proposed rule change would make it easy for a misunderstanding about the purpose of my scenic flights to escalate into a legal conflict.

The proposed rule change also has no justification - In my experience as a hunter, there would be no value in aerial surveying for game weeks and months before a hunt. There certainly would be no purpose AFTER a hunt.

The proposed rule change is also unnecessarily broad. As written, if I were to fly myself to and from a hunt, for example in Southern New Mexico or even Texas, it would be considered 'for the purpose of hunting' and prohibited. Why should this be treated any differently than driving to a hunt?

The proposed rule change could cause misunderstandings for general aviation pilots, does not have a justification, and is overly broad. Please do not approve this rule change.

--

John Elling

US: + [REDACTED]  
[REDACTED]

**Jackson, Ty J., DGF**

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**From:** Michael Kent <[REDACTED]>  
**Sent:** Saturday, November 17, 2018 12:19 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Fly over hunting

I am opposed to pilots scouting game from the air.  
As a GA pilot and NRA member, our planes should be used for recreation, not killing animals.  
Thank you,  
Michael J Kent

**Jackson, Ty J., DGF**

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**From:** Charles Barrack <[REDACTED]>  
**Sent:** Friday, November 16, 2018 11:03 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Using aircraft to spot wildlife for hunting

As a pilot and member of the New Mexico Pilot Association, I urge you to adopt the most stringent rules possible to control this abhorrent behavior. My opinion is that it is ethical for hunters to use aircraft of any kind to gain an advantage over game animals for hunting purposes. I realize the NM Pilots association and the AOPA are fighting this but I want you to know that this member supports the game and fish department and it's effort to establish more rigorous rules to reign in pilots who engage in this behavior.

Best regards,

--

Bart Barrack  
Barrack Farms

*"He can who thinks he can, and he can't who thinks he can't. This is an inexorable, indisputable law. "*  
*-Pablo Picasso*

**Jackson, Ty J., DGF**

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**From:** Patten, Kirk, DGF  
**Sent:** Wednesday, November 28, 2018 12:19 PM  
**To:** Griego, Robert, DGF; Jackson, Ty J., DGF  
**Subject:** FW: [EXT] Multiple fly rule

Here is a comment on Manner and Method for your records. Doesn't look like it was sent to the field ops address.

Kirk

-----Original Message-----

**From:** William Zenger [mailto: ]  
**Sent:** Saturday, November 17, 2018 9:43 AM  
**To:** Patten, Kirk, DGF  
**Subject:** [EXT] Multiple fly rule

Hi Kirk,

Just a few lines to let you know that I'm against more flies than two on the Juan. I've caught several fish but can't claim them because I snagged them in the body. Some were in the gills that I had to help revive and blood was coming from, I guess and hope they made it. There's so many fish there that with more hooks hanging in the water its going to be bad on the fishery.

Thanks and have a nice Thanksgiving  
Bill Zenger  
[redacted]

Sent from my iPad

**Jackson, Ty J., DGF**

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**From:** Douglas Turnbull <[REDACTED]>  
**Sent:** Wednesday, November 28, 2018 10:55 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 48 Hour rule, DO NOT ELIMINATE IT!

TO whom it may concern

As a pilot:

Please do not eliminate the 48 hour rule on flying. This new proposal is unwarranted and the old 48 hour rule covers everything needed for animal safety and the safety of hunters and in truth the GA and Commercial pilots. In many states there is a 24 hour rule that makes it illegal to fly and hunt the area for a 24 hour period. You have a 48 hour rule and that does everything needed for its intentions.

NO on eliminating the 48Hour Rule.

Below: This is bad legislation and bad for the people of your state of both hunter and non-hunters alike.

E. Using aircraft to locate wildlife:

(1) For the purpose of hunting it is unlawful for any individual to locate or assist in locating a protected species from or with the aid of an aircraft or drone, or to relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action, or to use information pertaining to the location of a protected species gained from the aid of an aircraft or drone during the period beginning on August 1 and ending on January 31 of each license year.

(2) This section shall not apply to regularly scheduled commercial airline flights, direct flights or to any individual acting within the scope of their official duties as an employee or authorized agent of the state of New Mexico or the United States federal government.

Doug Turnbull

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Doug Turnbull, CEO  
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**Mee, Letitia, DGF**

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**From:** Joel Gay <[joel.gay@dnr.wa.gov](mailto:joel.gay@dnr.wa.gov)>  
**Sent:** Thursday, September 13, 2018 12:35 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Manner and method rule comments

I have a few concerns about the proposed rule, specifically some of the definitions under 19.31.10.7:

D -- I oppose changing the broadhead definition from "steel cutting edge" to simply "cutting edge." That will allow idiots to hunt with homemade arrows and flint or obsidian points. Bad idea.

K -- I oppose the use of .22-caliber centerfire for taking of large game animals such as elk, oryx, bighorn sheep and even deer. While such a small bullet could penetrate the hide of big game animals, it will ricochet around the inside and damage or destroy too much meat. Leave the current caliber restrictions in place for larger big game animals like elk, oryx and bighorn sheep.

JJ. -- I oppose the proposed change in definition of "Sporting Arms Types." The way I read it, I would no longer be able to hunt with a bow in hunts that were formerly called "any legal weapon." I think I should be able to hunt with a bow in any open season.

Thanks for passing this on to the Game Commission.

**Joel Gay**

## Mee, Letitia, DGF

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**From:** Travis <  
**Sent:** Monday, August 27, 2018 11:09 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Manner & Method public comment

Hello,  
I wanted to comment on the Manner & Method proposals.

I'm strongly opposed to updated Sporting Arms types. Allowing Elk to be shot with a 22 caliber bullet just does not make any sense to me and goes against your 4th bullet in the guidelines. In my opinion it definitely is NOT ethical. Personally I think the caliber should be higher on all Big Game to be ethical. While it might not hurt overall wildlife population, I think it's our responsibility as ethical hunters to use a caliber that will drop an animal quickly and that message should come from the Game Department.

I also am strongly against being able to use ANY sporting arm type for Javelina. Again, not ethical to allow a quail hunter with number 8 bird shot to shoot at a Javelina legally if he has a tag. Could potentially lead to more wounded animals. A 22 rimfire would also be a disaster on a Javelina unless getting really lucky.

I don't like the baiting updates, I think it should be completely illegal to bait.

I am in favor of the updated rules you have on Javelina for the tagging and skull requirements. While ultimately I think it's also unethical that Javelina aren't part of the Waste of Game Law, I know that's up to the legislature. I hope the department will push for that in the future.

I am in favor of changes to the shooting from the road, currently it's confusing.  
I am in favor to language changes for transporting game from someone else. Again this currently is confusing.

Thanks for your consideration!  
Travis

## Mee, Letitia, DGF

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**From:** Joseph Newman <  
**Sent:** Tuesday, October 16, 2018 12:35 PM  
**To:** DGF-FieldOpsComments  
**Cc:** Joseph E Newman  
**Subject:** [EXT] Comment on Summary of Changes

Thank you for this opportunity.

*Sporting arms – Remove caliber restrictions from elk, bighorn and oryx. Make any centerfire .22 caliber or larger legal for all big game. Allow any sporting arm for cougar and javelina. When used for cougar or javelina, compressed air guns must be .22 caliber or larger and shotguns must fire a single slug or use shot no smaller than #4 buckshot.*

Removing restrictions to embrace/monetize technical advancements in guns and ammunition may be perceived by the greater non-hunting public as pandering to isolated profit centers while at the same time further diminishing the fair chase ethics and encouraging target practice on wildlife. Is game "reduced to possession" using the AR platform with sophisticated optics successfully at well over 400 yards hunting or sniping? (Internet boasting of kills at 1000 yards are not uncommon.) And while shooting "just off the road surface when no right-of-way fence exists" would seem to contribute further to the hunter's significantly weighed advantage.

Shouldn't the barriers for hunters continually be raised so that only the most ethical, trained, and prepared are involved and participate?

Given the exponential increasing population of our species, despite the decline in hunting, should not all the advantages and protections favor wildlife? Game "management" is really people management. We have proven ourselves incapable of adequate restraint relative to all matters wildlife. Any lessening of regulations and expanded opportunities for "infractions" need to end.

Thank you for your consideration in this matter.

Sincerely,

J E Newman/Santa Fe

J E NEWMAN SPECIAL PROJECTS

Joseph (Joe) Newman

## Mee, Letitia, DGF

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**From:** mossy horn <[redacted]>  
**Sent:** Thursday, October 18, 2018 10:48 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Comments on 2018 Manner and Method Rule 19.31.10 NMAC proposed changes

I appreciate the opportunity to comment on the proposed changes to 2018 Manner and Method Rule. Below are my concerns regarding a few of the proposed changes.

### Comments on 2018 Manner and Method Rule 19.31.10 NMAC proposed changes.

***Change – Sporting arms – Remove caliber restrictions from elk, bighorn and oryx. Make any centerfire .22 caliber or larger legal for all big game. Allow any sporting arm for cougar and javelina. When used for cougar or javelina, compressed air guns must be .22 caliber or larger and shotguns must fire a single slug or use shot no smaller than #4 buckshot.***

**Comment – I strongly oppose this proposed change.** This would be a poor decision by the department which would result in the inhumane treatment of game animals due to increased likelihood that game animals would be wounded or require multiple shots from small caliber sporting arms. I shudder to think about a hunter legally hunting oryx or elk with a .22 Hornet or someone hunting javelina with a Gamo air rifle or a #4 duck load. You should also consider the energy created by the smaller cartridges that are being proposed as legal for big game. Most of them do not have adequate energy to humanely harvest a big game animal.

***Change – Proof of sex and/or bag limit – Allow hunters to keep either the head or the external genitalia attached to most female animals they harvest as proof of sex. Would also require javelina hunters to take the head of their javelina from the field as proof of harvest.***

**Comment – I strongly oppose this proposed change.** I don't think this should apply to cow elk or any legally harvested either sex game animal such as oryx or Barbary sheep. The current regulations indicate that the scalp with both ears is sufficient proof of sex evidence. I do not think that there is any real purpose of carrying the head of a cow elk out of the field when proof of sex can be accomplished with the scalp with both ears attached. This would create an unnecessary burden for hunters since an elk head can be extremely heavy.

***Change – E-Tagging – Hunters will have to immediately access department's e-tagging app after killing their animal. App will provide an e-tag number, CIN and date of kill. Hunter will have to write all of this info on durable material (flagging or tape) with permanent ink and attach this durable material to the carcass and antler/horns.***

**Comment – I strongly oppose this proposed change.** Most of the areas I hunt in do not have cell phone service. Plus one member of my hunting party doesn't own a cell phone so they can't use an app. I may be in the field several days after I harvest an animal so I wouldn't be able to immediately access the department's e-tagging app! I also don't like the idea of having to pack around permanent ink and durable material that is acceptable to the department for tagging purposes. I think we should have an option of tagging the old fashion way then doing a harvest report on-line after we get back from a hunt in addition to the app. Both would accomplish the same result in the end.

Best Regards,

Craig Cathey

## Mee, Letitia, DGF

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**From:** ISPA, DGF  
**Sent:** Monday, October 01, 2018 8:27 AM  
**To:** DGF-FieldOpsComments  
**Subject:** FW: Allowing 22 caliber for hunts

**From:** Kathy Elverum [mailto:\_\_\_\_\_]  
**Sent:** Saturday, September 29, 2018 2:13 PM  
**To:** ISPA, DGF  
**Subject:** [EXT] Allowing 22 caliber for hunts

First of all this is the craziest idea I have ever heard. It is bad enough to have animals hit with arrows and lose them, now you want an underpowered bullet to try and take out big game. Are you kidding me????

It seems this is a ploy to allow the use of AK's to hunt with, not only NO but HELL NO. I would not even consider hunting, and I do hunt along with my wife, with these idiot's running around the forest with multiple rounds in their clips. These firearms were meant to hunt and kill people at close range not hunt, it is not a sporting firearm.

Why are you considering changing the rules to satisfy people wanting to hunt with assault rifles. Hunting has been a centuries old tradition, first to put food on the table, then it became a sport to share with family. I am sick and tired of these ego driven people running around the forest, drunk, throwing trash even in the wilderness, and disobey the rules for ATV use.

If I need to get a petition going I would be more than happy. And thanks a lot for holding these hearings when everyone is working to earn a living so your folks don't fall into overtime.

Kent & Katharine Elverum  
,

Sent from [Mail](#) for Windows 10

**Mee, Letitia, DGF**

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**From:** Guy Dicharry <[gdicharry@delaware.gov](mailto:gdicharry@delaware.gov)>  
**Sent:** Thursday, October 18, 2018 11:04 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Comments on proposed regulations  
**Attachments:** 101818\_comments.docx

Please see attached.

Guy Dicharry, Attorney at Law

business/cell: 4

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October 18, 2018

New Mexico State Game Commission  
New Mexico Department of Game and Fish

Re: Comments on proposed regulations

**19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**  
Proposed Regulation

A. Shooting from the roadRoads: It shall be unlawful to shoot at, wound, take, attempt to take, or kill any protected species on, from, or across or from within the right-of-way fences of any graded, paved, or maintained public road. In the absence of a right of way fence it is unlawful to shoot at, wound, take, attempt to take, or kill any protected species from any part of the graded, paved or maintained surface of the public road, and including the areas lying within right-of-way fences or 40 feet from the edge of the pavement or maintained surface, in absence of right-of-way fences. "Public road" as used herein shall mean any road, street or thoroughfare which is open to the public or which the public has a right of access and which has been paved, graded, maintained or any road, street or thoroughfare which has been paved, graded or maintained using public funds.

**Answers to the Questions and Comment**

1. Does this law protect the resource from over-harvest?

ANSWER: No. As a practical matter, the proposed regulation encourages take of animals very close to one's vehicle, requiring less time for pursuit. See also, comments below.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No. See answer to No. 1 and comments below.

3. Does this law ensure public safety?

ANSWER: Absolutely not. It actively reduces public safety. See public safety comments below.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. The proposed regulation promotes questionable hunting ethics and tacitly encourages people to take game close to their vehicles and other vehicles on public roads. See detailed comments below.

5. Is this law necessary to address a social issue?

ANSWER: No. The proposed regulation creates a social and public safety problem. See detailed comments below.



### **Comments on “Shooting From the Road” proposed regulation**

This creates a greater risk to public safety along the shoulders of many busy public roads for no meaningful benefit. I hike miles to go hunting after driving many miles to get to a trail head. I don't jump out of my truck along a busy road to take game. This proposed rule seems to encourage a “drive-thru” mentality for hunting. Does someone really need to be able to pull off of a busy road, jump out of a vehicle, walk past the maintained part of a public road and shoot game? Most public road easements extend no more than 50 feet from the center of the roadway; the maintained part extends an even shorter distance.

The New Mexico Criminal Code prohibits discharge of a firearm within 150 yds (450 ft) of an occupied dwelling. *NMSA §30-7-4 Negligent use of a deadly weapon*. The proposed regulation imposes no minimum distance that a shooter should place themselves away from occupied vehicles traveling on a public road. In fact, the proposed regulation completely ignores the presence of occupied vehicles as a factor for consideration. Under this regulation the sole frame of reference is the “maintained” part of a public road as the only guide for distance. That approach is contrary to any meaningful consideration of public safety, assuming that public safety was even one of the overall factors under consideration. For purposes of public safety, there is no meaningful distinction between an occupied dwelling and an occupied vehicle traveling on a public road. The legislature chose 450 feet from an occupied dwelling for purposes of public safety, the Commission should consider that as minimum guidance for shooting distance and re-write the regulation with public safety in mind.

The Commission should be thinking in terms of creating larger zones for public safety, and not reducing them. Stop pandering to the lazy “hunters” who want to pull over to the side of the road and start blasting away. Those are the people giving the rest of us a bad name.

**19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**  
Proposed Regulation

C. Shooting from within or upon a vehicle Vehicles, boats, or aircraft: It shall be unlawful to shoot at any protected species from within or upon a motor vehicle, power motor-driven boat, sailboat, or aircraft. BOAT EXCEPTION: - A person may shoot from any motor-driven boat when the motor has been completely shut off and its progress therefrom has ceased. ~~Migratory birds may be taken from a motor-driven boat (or other craft with attached motor) or sailboat when resting at anchor or fastened within or immediately alongside a fixed hunting blind or is used solely as a means of picking up dead birds.~~

**Answers to the Questions and Comment**

1. Does this law protect the resource from over-harvest?

ANSWER: No. See comment on proposed regulation below.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No. See comment on proposed regulation below.

3. Does this law ensure public safety?

ANSWER: No. See comment on proposed regulation below.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. See comment on proposed regulation below.

5. Is this law necessary to address a social issue?

ANSWER: No. See comment on proposed regulation below.

**Comment on proposed regulation “Shooting from, within or upon at motor vehicle, boat, or aircraft”.**

The Commission needs to drop the qualifier “protected species” from this subsection. Shooting from a motor vehicle should not be allowed for the take of any species. Shooting from a motor vehicle for any reason is inherently dangerous. Every gun safety course reiterates that fact. The regulation as written allows shooting from a motor vehicle for the take of unprotected species and makes no reference to whether a vehicle can be moving or if it must be stopped. For individuals with a flexible sense of personal and hunting ethics, this section gives a green light to shoot from a vehicle and, if caught, simply claim they were not shooting at a protected species. I have personally seen someone along NM 6 west of Los Lunas parked slightly off the shoulder of the road with a rifle and scope resting on -- and protruding from -- the passenger side open front window. It happened on January 1, 2016, and the highway was busy with traffic. Multiple drivers reported to the Valencia County Sheriff's Office. I suspect the individual was able to just tell the investigating deputy, “I wasn't shooting protected species”. That needs to change.

**19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**  
Proposed Regulation

**D. Harassing protected ~~wildlife~~species:** ~~It shall be~~ unlawful, at any time, to pursue, harass, harr, drive, or rally any protected species by any means or to allow dogs to pursue, harass, harr, drive or rally any protected species in any manner except while legally hunting, or as otherwise allowed by Chapter 17 NMSA or state game commission rule. ~~by use of or from a motor-driven vehicle, powerboat, sailboat, drone, or aircraft.~~

**Answers to the Questions and Comment**

1. Does this law protect the resource from over-harvest?

ANSWER: No. See comment on proposed regulation below.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No. See comment on proposed regulation below.

3. Does this law ensure public safety?

ANSWER: No. See comment on proposed regulation below.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. See comment on proposed regulation below.

5. Is this law necessary to address a social issue?

ANSWER: No. See comment on proposed regulation below.

**Comment on “Harassing protected species”**

The Commission needs to drop the qualifier “protected species” from this subsection. Allowing harassment of unprotected species puts protected species at risk of harassment because there are no seasons for unprotected species. That means they can be harassed year-round, along with any other protected species who happen to be in the same area.

## 19.31.10.7 Definitions

### Proposed Regulation

**K. “Big game sporting arms” shall mean any centerfire firearm at least .22 caliber or larger, any muzzle-loading firearm at least .45 caliber or larger, any shotgun .410 caliber or larger firing a single slug (including muzzle-loading shotguns), any bow or any crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.**

### Answers to the Questions and Comment

1. Does this law protect the resource from over-harvest?

ANSWER: No. The proposed regulation encourages the use of a caliber inadequate to the task of taking big game. As written using the term “centerfire firearm”, the proposed regulation allows and encourages the use of small caliber handguns for the taking of big game. Who thought that was a good idea? It will lead to more wounding of animals and the necessity of multiple rounds to accomplish the task.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No.

3. Does this law ensure public safety?

ANSWER: No. As written using the term “centerfire firearm”, the proposed regulation allows and encourages the use of small caliber handguns for the taking of big game. That is a terrible idea. Coupled with the equally ill-advised regulation regarding shooting from a motor vehicle, this proposed regulation (a) increases the risk to public safety; and (b) creates a basis for tort liability on the part of the Commission in the event of a shooting on Commission-owned lands.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. The proposed regulation leads to unethical behavior to the extent an inadequate caliber is used to make the kill.

5. Is this law necessary to address a social issue?

ANSWER: No. The proposed regulation creates a social issue/problem.

## Mee, Letitia, DGF

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**From:** Travis <t  
**Sent:** Monday, August 27, 2018 11:09 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Manner & Method public comment

Hello,  
I wanted to comment on the Manner & Method proposals.

I'm strongly opposed to updated Sporting Arms types. Allowing Elk to be shot with a 22 caliber bullet just does not make any sense to me and goes against your 4th bullet in the guidelines. In my opinion it definitely is NOT ethical. Personally I think the caliber should be higher on all Big Game to be ethical. While it might not hurt overall wildlife population, I think it's our responsibility as ethical hunters to use a caliber that will drop an animal quickly and that message should come from the Game Department.

I also am strongly against being able to use ANY sporting arm type for Javelina. Again, not ethical to allow a quail hunter with number 8 bird shot to shoot at a Javelina legally if he has a tag. Could potentially lead to more wounded animals. A 22 rimfire would also be a disaster on a Javelina unless getting really lucky.

I don't like the baiting updates, I think it should be completely illegal to bait.

I am in favor of the updated rules you have on Javelina for the tagging and skull requirements. While ultimately I think it's also unethical that Javelina aren't part of the Waste of Game Law, I know that's up to the legislature. I hope the department will push for that in the future.

I am in favor of changes to the shooting from the road, currently it's confusing.  
I am in favor to language changes for transporting game from someone else. Again this currently is confusing.

Thanks for your consideration!  
Travis

**Mee, Letitia, DGF**

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**From:** Francis Soltis <[fsoltis@alaska.gov](mailto:fsoltis@alaska.gov)>  
**Sent:** Saturday, November 24, 2018 10:49 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] "48 HOUR RULE"

I am a ALASKA pilot member of the RAF and frequent winter snow bird. I am opposed to the N.M, DEPT. OF GAME ELIMINATING the "48" HOUR RULE. I WILL NOT FLY or DRIVE into NEW MEXICO if this rule is PASSED. Thank You, F. Soltis

## Mee, Letitia, DGF

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**From:** John Elling <[john.elling@dot.gov](mailto:john.elling@dot.gov)>  
**Sent:** Wednesday, November 21, 2018 6:52 PM  
**To:** DGF-FieldOpsComments; r  
**Subject:** [EXT] Oppose rule changes to Section E, Using aircraft to locate wildlife.

I oppose the proposed rule change E. Using aircraft to locate wildlife:

I am an enthusiastic general aviation pilot based in Santa Fe. I frequently fly 'low and slow' over the mountains in Northern New Mexico for sightseeing. I'm particularly fond of sightseeing during the Fall when the aspen and cottonwood leaves are at their finest.

I am also an avid hunter and have been fortunate enough to draw elk hunts and antelope hunts in Northern New Mexico as well. Occasionally I have flown over hunt areas in order to familiarize myself with the terrain. However I meticulously avoid doing so within 48 hours of the start of my hunt so that these flights do not infringe on the current rule.

The proposed rule change would make it easy for a misunderstanding about the purpose of my scenic flights to escalate into a legal conflict.

The proposed rule change also has no justification - In my experience as a hunter, there would be no value in aerial surveying for game weeks and months before a hunt. There certainly would be no purpose AFTER a hunt.

The proposed rule change is also unnecessarily broad. As written, if I were to fly myself to and from a hunt, for example in Southern New Mexico or even Texas, it would be considered 'for the purpose of hunting' and prohibited. Why should this be treated any differently than driving to a hunt?

The proposed rule change could cause misunderstandings for general aviation pilots, does not have a justification, and is overly broad. Please do not approve this rule change.

--

John Elling  
US: +

## Mee, Letitia, DGF

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**From:** Amanda Alton ·  
**Sent:** Monday, September 10, 2018 2:46 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Comments on proposed changes to the manner and method rule 19.31.10.NMAC

I am writing to submit comments on the 2018 Manner and Method - Summary of proposed changes rule 19.31.10.NMAC. As a friend of an upper limb (Right Arm) amputee who is an avid bow hunter, the change to **eliminate the use of draw locks on bows** will severely limit his and others like him, options for hunts. He will be limited to Mobility impaired hunts, with a crossbow, which He DOES NOT USE. He currently is able to apply for REGULAR bow hunts with family and friends. I feel that eliminating draw locks will hurt those that NEED draw locks. Please consider changing the rule to ALLOW for 'handicapped' hunters to use draw locks on bows during regular hunts and not limit them to MI hunts.

Sincerely,  
Amanda Alton



## Mee, Letitia, DGF

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**From:** pmonkey nm <  
**Sent:** Monday, September 10, 2018 9:58 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Comments on proposed changes to the manner and method rule 19.31.10.NMAC

I am writing to submit comments on the 2018 Manner and Method - Summary of proposed changes rule 19.31.10.NMAC. As a upper limb (Right Arm) amputee who is an avid bow hunter, the change to **eliminate the use of draw locks on bows** will severely limit my options for hunts. I will be limited to Mobility impaired hunts, with a crossbow, which I DO NOT USE. The draw lock setup I have on my current bow, allows me to apply to REGULAR draw hunts with my family and friends.

I feel that eliminating draw locks will hurt those of us that NEED draw locks. Please consider changing the rule to ALLOW for 'handicapped' hunters to use draw locks on bows during regular hunts and not limit them to MI hunts.

Sincerely

Jerrold Baca

## Mee, Letitia, DGF

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**From:** Jacobo Baca <  
**Sent:** Tuesday, September 11, 2018 5:48 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Subject: Comments on proposed changes to the manner and method rule 19.31.10.NMAC

As a father of an upper limb (Right Arm) amputee who is an avid bow hunter, the change to eliminate the use of draw locks on bows will severely limit his and others like him, options for hunts. He will be limited to Mobility impaired hunts, with a crossbow, which He DOES NOT USE. He currently is able to apply for REGULAR bow hunts with family and friends. I feel that eliminating draw locks will hurt those that NEED draw locks. Please consider changing the rule to ALLOW for 'handicapped' hunters to use draw locks on bows during regular hunts and not limit them to MI hunts.

Sincerely,  
Jacobo Baca

**Mee, Letitia, DGF**

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**From:** Ranada Baca < >  
**Sent:** Monday, September 24, 2018 8:34 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Comments on proposed changes to the manner and method rule 19.31.10.NMAC

I am writing to submit my comments on the 2018  
Manner and Method- Summary of proposed changes rule 19.31.10.NMAC

As a wife of an upper limb (Right Arm) amputee who is an avid bow hunter, the change to eliminate the use of draw locks on bows will severely limit his and others like him, options for hunts. He will be limited to Mobility Impaired hunts, with a crossbow which he DOES NOT USE. He currently is able to apply for REGULAR bow hunts with family and friends.

I know that eliminating draw locks will hurt those that NEED them, like my husband.

I am asking you to please consider changing the rule to allow for "handicapped" hunters to use draw locks on bows during regular hunts and not limit them to Mobility Impaired hunts. After my husbands accident he obviously never was the same, but bow hunting on a REGULAR hunt with his family and friends gave him the confidence he needs in his life to do NORMAL things. Please don't take that away from him. Things are already difficult for him doing normal every day tasks.

Thank you for your time,

Sincerely,

Ranada Baca

Ranada T. Baca  
Central Characterization Program(CCP)/TFE, Inc  
Contractor to Nuclear Waste Partnership LLC

(k)

**Mee, Letitia, DGF**

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**From:** Groover, Terri-Anne <  
**Sent:** Monday, September 24, 2018 8:55 AM  
**To:** DGF-FieldOpsComments

**Subject:** Comments on proposed changes to the manner and method rule 19.31.10.NMAC

I am writing to submit comments on the 2018 Manner and Method - Summary of proposed changes rule 19.31.10.NMAC

As a friend of an upper limb (Right Arm) amputee who is an avid bow hunter, the change to eliminate the use of draw locks on bows will severely limit his and others like him, options for hunts.

He will be limited to Mobility impaired hunts, with a crossbow, which He DOES NOT USE. He currently is able to apply for REGULAR bow hunts with family and friends.

I feel that eliminating draw locks will hurt those that NEED draw locks. Please consider changing the rule to ALLOW for 'handicapped' hunters to use draw locks on bows during regular hunts and not limit them to MI hunts.

Sincerely,

Terri-Anne Groover

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

**Mee, Letitia, DGF**

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**From:** Thompson, James  
**Sent:** Monday, September 24, 2018 8:56 AM  
**To:** DGF-FieldOpsComments  
**Subject:** 19.31.10.NMAC  
**Attachments:** 19.31.10.NMAC.pdf

Please see Attached.

James Thompson  
Visual Examination Expert/SME/OJT  
Central Characterization Project  
ATL Inc.  
Contractor to Nuclear Waste Partnership LLC  
Pager: 1

**Mee, Letitia, DGF**

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**From:** .  
**Sent:** Monday, September 24, 2018 8:00 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Comments on proposed changes to the manner and method rule 19.31.10.NMAC

I am writing to submit comments on the 2018 Manner and Method - Summary of proposed changes rule 19.31.10.NMAC

As a friend of an upper limb (Right Arm) amputee who is an avid bow hunter, the change to eliminate the use of draw locks on bows will severely limit his and others like him, options for hunts. He will be limited to Mobility impaired hunts, with a crossbow, which He DOES NOT USE. He currently is able to apply for REGULAR bow hunts with family and friends.

I feel that eliminating draw locks will hurt those that NEED draw locks. Please consider changing the rule to ALLOW for 'handicapped' hunters to use draw locks on bows during regular hunts and not limit them to MI hunts.

Sincerely,

Sheri Nance

**Mee, Letitia, DGF**

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**From:** Chuck Rodriguez <  
**Sent:** Monday, September 10, 2018 6:57 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Draw Locks

Subject: Comments on proposed changes to the manner and method rule 19.31.10.NMAC

I am writing to submit comments on the 2018 Manner and Method - Summary of proposed changes rule 19.31.10.NMAC. As a friend of an upper limb (Right Arm) amputee who is an avid bow hunter, the change to **eliminate the use of draw locks on bows** will severely limit his and others like him, options for hunts. He will be limited to Mobility impaired hunts, with a crossbow, which He DOES NOT USE. He currently is able to apply for REGULAR bow hunts with family and friends. I feel that eliminating draw locks will hurt those that NEED draw locks. Please consider changing the rule to ALLOW for 'handicapped' hunters to use draw locks on bows during regular hunts and not limit them to MI hunts.

Sincerely,  
Charles M. Rodriguez

**Mee, Letitia, DGF**

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**From:** Jack Dyson <  
**Sent:** Friday, August 24, 2018 3:01 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Regarding Manner and Method.

Removing a caliber minimum from elk is going to result in a lot of wounded animals.

How can the etag system work if there is no cellular service in the area?



**Mee, Letitia, DGF**

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**From:** Archery Elk Hunter <  
**Sent:** Saturday, August 25, 2018 7:24 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Rule Changes

E-tagging could cause a problem due to not everyone having appropriate cellular signal immediately!

**Mee, Letitia, DGF**

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**From:** Richard Ley <rl@dnr.wa.gov>  
**Sent:** Friday, August 24, 2018 9:59 PM  
**To:** DGF-FieldOpsComments  
**Subject:** e-tagging

This is unworkable as a high percentage of hunting areas have no cell service. This needs to not be implemented.

R Ley

## Mee, Letitia, DGF

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**From:** Brejcha, Lisa, DGF on behalf of ISPA, DGF  
**Sent:** Monday, August 27, 2018 8:59 AM  
**To:** Jackson, Ty J., DGF  
**Subject:** FW: Method Rule 19.31.10 changes

Good morning Ty –

Forwarding a comment. Thank you and have a great day!

Lisa Brejcha  
Information Center Supervisor  
New Mexico Game & Fish  
1 Wildlife Way  
Santa Fe, NM 87507  
Phone: 505-476-2558  
Mobile: 505-288-0157  
Email: [lisa.brejcha@state.nm.us](mailto:lisa.brejcha@state.nm.us)



## CONSERVING NEW MEXICO'S WILDLIFE FOR FUTURE GENERATIONS

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**From:** Lance Kloefkorn [\[mailto:\\_\\_\\_\\_\\_\]](mailto:)  
**Sent:** Friday, August 24, 2018 10:31 PM  
**To:** ISPA, DGF  
**Subject:** Method Rule 19.31.10 changes

Hello,

I'm not sure this is the correct way to comment, but I'm totally against E-Tagging. We hunt for the pleasure of connecting with wildlife and the outdoors, please don't ruin that by requiring us electronically communicate for a tag#! Besides being totally inconvenient in the field.

Sincerely,

Lance Kloefkorn

## **Mee, Letitia, DGF**

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**From:** Richard Ley <r  
**Sent:** Saturday, August 25, 2018 8:30 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Game and Fish email tagging

This makes an invalid assumption in that every one is going to have cell service and a further invalid assumption in that everyone has a smart phone and are tied to it. I have a flip phone but I only take it with me when I go to town. Whom ever came up with this idea needs to spend some time out in the country. Can't learn these things sitting at the desk

R Ley.

## Mee, Letitia, DGF

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**From:** Brent Taft < >  
**Sent:** Sunday, September 02, 2018 1:37 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Re: Manner and Method Comments

I am also against the new electronic tagging requirement if it requires information to be hand written. If the intent is to keep department issued carcass tags the electronic tagging and written info seems overly redundant. A department issued carcass tag or stand-alone electronic tag should be more than sufficient since it cannot be salvaged/reused.

Thanks,  
Brent

On Sun, Sep 2, 2018 at 1:29 PM Brent Taft < > wrote:  
Hello,

I'd like to enter the following comments regarding manner and method:

1. I am not in favor of the proposal to require javelina head tagging and transportation from the field. I don't see how this requirement is any deterrent to poachers, and it is an undue burden on those hunters that don't have a desire to remove the javelina head. I've boned out the last 4 javelina I've killed, removing the meat from the field though, not required, and leaving the head in the field.
2. Given the nationwide concern for CWD transmission I am not in favor of allowing scent to be used while hunting.

Thanks,  
Brent Taft

## Mee, Letitia, DGF

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**From:** mossy horn <  
**Sent:** Thursday, October 18, 2018 10:48 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Comments on 2018 Manner and Method Rule 19.31.10 NMAC proposed changes

I appreciate the opportunity to comment on the proposed changes to 2018 Manner and Method Rule. Below are my concerns regarding a few of the proposed changes.

### Comments on 2018 Manner and Method Rule 19.31.10 NMAC proposed changes.

***Change – Sporting arms – Remove caliber restrictions from elk, bighorn and oryx. Make any centerfire .22 caliber or larger legal for all big game. Allow any sporting arm for cougar and javelina. When used for cougar or javelina, compressed air guns must be .22 caliber or larger and shotguns must fire a single slug or use shot no smaller than #4 buckshot.***

**Comment – I strongly oppose this proposed change.** This would be a poor decision by the department which would result in the inhumane treatment of game animals due to increased likelihood that game animals would be wounded or require multiple shots from small caliber sporting arms. I shudder to think about a hunter legally hunting oryx or elk with a .22 Hornet or someone hunting javelina with a Gamo air rifle or a #4 duck load. You should also consider the energy created by the smaller cartridges that are being proposed as legal for big game. Most of them do not have adequate energy to humanely harvest a big game animal.

***Change – Proof of sex and/or bag limit – Allow hunters to keep either the head or the external genitalia attached to most female animals they harvest as proof of sex. Would also require javelina hunters to take the head of their javelina from the field as proof of harvest.***

**Comment – I strongly oppose this proposed change.** I don't think this should apply to cow elk or any legally harvested either sex game animal such as oryx or Barbary sheep. The current regulations indicate that the scalp with both ears is sufficient proof of sex evidence. I do not think that there is any real purpose of carrying the head of a cow elk out of the field when proof of sex can be accomplished with the scalp with both ears attached. This would create an unnecessary burden for hunters since an elk head can be extremely heavy.

***Change – E-Tagging – Hunters will have to immediately access department's e-tagging app after killing their animal. App will provide an e-tag number, CIN and date of kill. Hunter will have to write all of this info on durable material (flagging or tape) with permanent ink and attach this durable material to the carcass and antler/horns.***

**Comment – I strongly oppose this proposed change.** Most of the areas I hunt in do not have cell phone service. Plus one member of my hunting party doesn't own a cell phone so they can't use an app. I may be in the field several days after I harvest an animal so I wouldn't be able to immediately access the department's e-tagging app! I also don't like the idea of having to pack around permanent ink and durable material that is acceptable to the department for tagging purposes. I think we should have an option of tagging the old fashion way then doing a harvest report on-line after we get back from a hunt in addition to the app. Both would accomplish the same result in the end.

Best Regards,

Craig Cathey

## Mee, Letitia, DGF

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**From:** Elisabeth Dicharry <  
**Sent:** Monday, October 15, 2018 4:23 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 2018 Manner and Method re: Harassment

Manner and Method Proposed Rule Changes 19.31.10:

I am a licensed NM angler and a New Mexico resident.

Proposed rule change in NMDGF manner and method of take.

Harassing wildlife: Make it illegal to harass protected species except while legally hunting or in depredation situations.

**Comment: There should be no exception allowing the harassment of wildlife while legally hunting.**

Definition of Harass: **Harass** in the definition of "take" in the Act means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering (<https://www.fws.gov/ecological-services/about/glossary.html>).

Harassment violates the principles of fair chase and ethical hunting. Hunters should specifically not be allowed to harass, chase, or herd wildlife with motor vehicles, air sirens or other loud amplified noise, aircraft including drones, tannerite and other explosives, horses, and dogs.

Sincerely,  
Elisabeth Dicharry



**Mee, Letitia, DGF**

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**From:** Guy Dicharry <  
**Sent:** Thursday, October 18, 2018 11:04 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Comments on proposed regulations  
**Attachments:** 101818\_comments.docx

Please see attached.

Guy Dicharry, Attorney at Law

October 18, 2018

New Mexico State Game Commission  
New Mexico Department of Game and Fish

Re: Comments on proposed regulations

**19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**  
Proposed Regulation

A. **Shooting from the road**Roads: It shall be unlawful to shoot at, wound, take, attempt to take, or kill any protected species on, from, or across or from within the right-of-way fences of any graded, paved, or maintained public road. In the absence of a right of way fence it is unlawful to shoot at, wound, take, attempt to take, or kill any protected species from any part of the graded, paved or maintained surface of the public road, and including the areas lying within right-of-way fences or 40 feet from the edge of the pavement or maintained surface, in absence of right-of-way fences. "Public road" as used herein shall mean any road, street or thoroughfare which is open to the public or which the public has a right of access and which has been paved, graded, maintained or any road, street or thoroughfare which has been paved, graded or maintained using public funds.

**Answers to the Questions and Comment**

1. Does this law protect the resource from over-harvest?

ANSWER: No. As a practical matter, the proposed regulation encourages take of animals very close to one's vehicle, requiring less time for pursuit. See also, comments below.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No. See answer to No. 1 and comments below.

3. Does this law ensure public safety?

ANSWER: Absolutely not. It actively reduces public safety. See public safety comments below.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. The proposed regulation promotes questionable hunting ethics and tacitly encourages people to take game close to their vehicles and other vehicles on public roads. See detailed comments below.

5. Is this law necessary to address a social issue?

ANSWER: No. The proposed regulation creates a social and public safety problem. See detailed comments below.

**Comments on “Shooting From the Road” proposed regulation**

This creates a greater risk to public safety along the shoulders of many busy public roads for no meaningful benefit. I hike miles to go hunting after driving many miles to get to a trail head. I don't jump out of my truck along a busy road to take game. This proposed rule seems to encourage a “drive-thru” mentality for hunting. Does someone really need to be able to pull off of a busy road, jump out of a vehicle, walk past the maintained part of a public road and shoot game? Most public road easements extend no more than 50 feet from the center of the roadway; the maintained part extends an even shorter distance.

The New Mexico Criminal Code prohibits discharge of a firearm within 150 yds (450 ft) of an occupied dwelling. *NMSA §30-7-4 Negligent use of a deadly weapon*. The proposed regulation imposes no minimum distance that a shooter should place themselves away from occupied vehicles traveling on a public road. In fact, the proposed regulation completely ignores the presence of occupied vehicles as a factor for consideration. Under this regulation the sole frame of reference is the “maintained” part of a public road as the only guide for distance. That approach is contrary to any meaningful consideration of public safety, assuming that public safety was even one of the overall factors under consideration. For purposes of public safety, there is no meaningful distinction between an occupied dwelling and an occupied vehicle traveling on a public road. The legislature chose 450 feet from an occupied dwelling for purposes of public safety, the Commission should consider that as minimum guidance for shooting distance and re-write the regulation with public safety in mind.

The Commission should be thinking in terms of creating larger zones for public safety, and not reducing them. Stop pandering to the lazy “hunters” who want to pull over to the side of the road and start blasting away. Those are the people giving the rest of us a bad name.

## 19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING: Proposed Regulation

C. ~~Shooting from within or upon a vehicle~~Vehicles, boats, or aircraft: It shall be unlawful to shoot at any protected species from within or upon a motor vehicle, power motor-driven boat, sailboat, or aircraft. **BOAT EXCEPTION:** ~~A person may shoot from any motor-driven boat when the motor has been completely shut off and its progress therefrom has ceased.~~ ~~Migratory birds may be taken from a motor-driven boat (or other craft with attached motor) or sailboat when resting at anchor or fastened within or immediately alongside a fixed hunting blind or is used solely as a means of picking up dead birds.~~

### Answers to the Questions and Comment

1. Does this law protect the resource from over-harvest?

ANSWER: No. See comment on proposed regulation below.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No. See comment on proposed regulation below.

3. Does this law ensure public safety?

ANSWER: No. See comment on proposed regulation below.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. See comment on proposed regulation below.

5. Is this law necessary to address a social issue?

ANSWER: No. See comment on proposed regulation below.

### **Comment on proposed regulation “Shooting from, within or upon at motor vehicle, boat, or aircraft”.**

The Commission needs to drop the qualifier “protected species” from this subsection. Shooting from a motor vehicle should not be allowed for the take of any species. Shooting from a motor vehicle for any reason is inherently dangerous. Every gun safety course reiterates that fact. The regulation as written allows shooting from a motor vehicle for the take of unprotected species and makes no reference to whether a vehicle can be moving or if it must be stopped. For individuals with a flexible sense of personal and hunting ethics, this section gives a green light to shoot from a vehicle and, if caught, simply claim they were not shooting at a protected species. I have personally seen someone along NM 6 west of Los Lunas parked slightly off the shoulder of the road with a rifle and scope resting on -- and protruding from -- the passenger side open front window. It happened on January 1, 2016, and the highway was busy with traffic. Multiple drivers reported to the Valencia County Sheriff’s Office. I suspect the individual was able to just tell the investigating deputy, “I wasn’t shooting protected species”. That needs to change.

**19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**  
Proposed Regulation

**D. Harassing protected wildlifespecies:** It shall be unlawful, at any time, to pursue, harass, harr, drive, or rally any protected species by any means or to allow dogs to pursue, harass, harr, drive or rally any protected species in any manner except while legally hunting, or as otherwise allowed by Chapter 17 NMSA or state game commission rule, by use of or from a motor-driven vehicle, powerboat, sailboat, drone, or aircraft.

**Answers to the Questions and Comment**

1. Does this law protect the resource from over-harvest?

ANSWER: No. See comment on proposed regulation below.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No. See comment on proposed regulation below.

3. Does this law ensure public safety?

ANSWER: No. See comment on proposed regulation below.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. See comment on proposed regulation below.

5. Is this law necessary to address a social issue?

ANSWER: No. See comment on proposed regulation below.

**Comment on “Harassing protected species”**

The Commission needs to drop the qualifier “protected species” from this subsection. Allowing harassment of unprotected species puts protected species at risk of harassment because there are no seasons for unprotected species. That means they can be harassed year-round, along with any other protected species who happen to be in the same area.

## 19.31.10.7 Definitions

### Proposed Regulation

K. "Big game sporting arms" shall mean any centerfire firearm at least .22 caliber or larger, any muzzle-loading firearm at least .45 caliber or larger, any shotgun .410 caliber or larger firing a single slug (including muzzle-loading shotguns), any bow or any crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.

### Answers to the Questions and Comment

1. Does this law protect the resource from over-harvest?

ANSWER: No. The proposed regulation encourages the use of a caliber inadequate to the task of taking big game. As written using the term "centerfire firearm", the proposed regulation allows and encourages the use of small caliber handguns for the taking of big game. Who thought that was a good idea? It will lead to more wounding of animals and the necessity of multiple rounds to accomplish the task.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No.

3. Does this law ensure public safety?

ANSWER: No. As written using the term "centerfire firearm", the proposed regulation allows and encourages the use of small caliber handguns for the taking of big game. That is a terrible idea. Coupled with the equally ill-advised regulation regarding shooting from a motor vehicle, this proposed regulation (a) increases the risk to public safety; and (b) creates a basis for tort liability on the part of the Commission in the event of a shooting on Commission-owned lands.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. The proposed regulation leads to unethical behavior to the extent an inadequate caliber is used to make the kill.

5. Is this law necessary to address a social issue?

ANSWER: No. The proposed regulation creates a social issue/problem.

**Mee, Letitia, DGF**

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**From:** Brent Taft <  
**Sent:** Sunday, September 02, 2018 1:29 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Manner and Method Comments

Hello,

I'd like to enter the following comments regarding manner and method:

1. I am not in favor of the proposal to require javelina head tagging and transportation from the field. I don't see how this requirement is any deterrent to poachers, and it is an undue burden on those hunters that don't have a desire to remove the javelina head. I've boned out the last 4 javelina I've killed, removing the meat from the field though, not required, and leaving the head in the field.
2. Given the nationwide concern for CWD transmission I am not in favor of allowing scent to be used while hunting.

Thanks,  
Brent Taft

## Mee, Letitia, DGF

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**From:** mossy horn < >  
**Sent:** Thursday, October 18, 2018 10:48 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Comments on 2018 Manner and Method Rule 19.31.10 NMAC proposed changes

I appreciate the opportunity to comment on the proposed changes to 2018 Manner and Method Rule. Below are my concerns regarding a few of the proposed changes.

### Comments on 2018 Manner and Method Rule 19.31.10 NMAC proposed changes.

***Change*** – *Sporting arms – Remove caliber restrictions from elk, bighorn and oryx. Make any centerfire .22 caliber or larger legal for all big game. Allow any sporting arm for cougar and javelina. When used for cougar or javelina, compressed air guns must be .22 caliber or larger and shotguns must fire a single slug or use shot no smaller than #4 buckshot.*

**Comment** – **I strongly oppose this proposed change.** This would be a poor decision by the department which would result in the inhumane treatment of game animals due to increased likelihood that game animals would be wounded or require multiple shots from small caliber sporting arms. I shudder to think about a hunter legally hunting oryx or elk with a .22 Hornet or someone hunting javelina with a Gamo air rifle or a #4 duck load. You should also consider the energy created by the smaller cartridges that are being proposed as legal for big game. Most of them do not have adequate energy to humanely harvest a big game animal.

***Change*** – *Proof of sex and/or bag limit – Allow hunters to keep either the head or the external genitalia attached to most female animals they harvest as proof of sex. Would also require javelina hunters to take the head of their javelina from the field as proof of harvest.*

**Comment** – **I strongly oppose this proposed change.** I don't think this should apply to cow elk or any legally harvested either sex game animal such as oryx or Barbary sheep. The current regulations indicate that the scalp with both ears is sufficient proof of sex evidence. I do not think that there is any real purpose of carrying the head of a cow elk out of the field when proof of sex can be accomplished with the scalp with both ears attached. This would create an unnecessary burden for hunters since an elk head can be extremely heavy.

***Change*** – *E-Tagging – Hunters will have to immediately access department's e-tagging app after killing their animal. App will provide an e-tag number, CIN and date of kill. Hunter will have to write all of this info on durable material (flagging or tape) with permanent ink and attach this durable material to the carcass and antler/horns.*

**Comment** – **I strongly oppose this proposed change.** Most of the areas I hunt in do not have cell phone service. Plus one member of my hunting party doesn't own a cell phone so they can't use an app. I may be in the field several days after I harvest an animal so I wouldn't be able to immediately access the department's e-tagging app! I also don't like the idea of having to pack around permanent ink and durable material that is acceptable to the department for tagging purposes. I think we should have an option of tagging the old fashion way then doing a harvest report on-line after we get back from a hunt in addition to the app. Both would accomplish the same result in the end.



## Mee, Letitia, DGF

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**From:** Logan McGarrah <  
**Sent:** Friday, September 14, 2018 3:29 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Manner & Method Comments

September 14<sup>th</sup>, 2018

### 2018 Manner and Method Comments

Thank you for taking the time to read and consider my comments. Overall, I support the proposed changes and feel they will be a positive change for the Department and the community alike. I would like to specifically comment on the following proposals.

I feel the ban on cellular/satellite enabled game cameras while hunting has long been needed and I am hopeful the new rule will be passed. I am concerned however that this regulation will be very difficult to enforce. As I see it, the largest advantage these cameras offer is to hound hunters, specifically outfitters. I propose that as part of an outfitters license agreement with the Department they would agree to permanently mark all cellular/satellite equipped game cameras in their possession with their identifying information. I feel this would aid officers in the investigation of possible violations and also serve to deter the illicit use of the cameras.

I would also like to comment that the proposed regulation regarding shooting from a roadway is both excessively complex and, in my opinion, encourages road hunting. I would propose that the rule be written to allow for shooting just off the maintained surface if no right of way fence exists and keeping the rule as is if a right of way fence does exist (must be beyond the fence before shooting).

Thank you again for your consideration. - Logan McGarrah (

**Mee, Letitia, DGF**

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**From:** R B < >  
**Sent:** Saturday, August 25, 2018 8:54 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Proposed Rule Changes

I am in favor of prohibiting shooting from the road in or out of a vehicle. It is unsafe and not related to sport.

Richard G Byerly

**Mee, Letitia, DGF**

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**From:** Guy Dicharry < >  
**Sent:** Thursday, October 18, 2018 11:04 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Comments on proposed regulations  
**Attachments:** 101818\_comments.docx

Please see attached.

Guy Dicharry, Attorney at Law

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October 18, 2018

New Mexico State Game Commission  
New Mexico Department of Game and Fish

Re: Comments on proposed regulations

**19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**  
Proposed Regulation

A. Shooting from the road~~Roads~~: ~~It shall be~~ unlawful to shoot at, wound, take, attempt to take, or kill any protected species on, from, ~~or across or from within the right-of-way fences of any graded, paved, or maintained public road. In the absence of a right of way fence it is unlawful to shoot at, wound, take, attempt to take, or kill any protected species from any part of the graded, paved or maintained surface of the public road, and including the areas lying within right-of-way fences or 40 feet from the edge of the pavement or maintained surface, in absence of right-of-way fences. "Public road" as used herein shall mean any road, street or thoroughfare which is open to the public or which the public has a right of access and which has been paved, graded, maintained or any road, street or thoroughfare which has been paved, graded or maintained using public funds.~~

**Answers to the Questions and Comment**

1. Does this law protect the resource from over-harvest?

ANSWER: No. As a practical matter, the proposed regulation encourages take of animals very close to one's vehicle, requiring less time for pursuit. See also, comments below.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No. See answer to No. 1 and comments below.

3. Does this law ensure public safety?

ANSWER: Absolutely not. It actively reduces public safety. See public safety comments below.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. The proposed regulation promotes questionable hunting ethics and tacitly encourages people to take game close to their vehicles and other vehicles on public roads. See detailed comments below.

5. Is this law necessary to address a social issue?

ANSWER: No. The proposed regulation creates a social and public safety problem. See detailed comments below.

### **Comments on “Shooting From the Road” proposed regulation**

This creates a greater risk to public safety along the shoulders of many busy public roads for no meaningful benefit. I hike miles to go hunting after driving many miles to get to a trail head. I don't jump out of my truck along a busy road to take game. This proposed rule seems to encourage a “drive-thru” mentality for hunting. Does someone really need to be able to pull off of a busy road, jump out of a vehicle, walk past the maintained part of a public road and shoot game? Most public road easements extend no more than 50 feet from the center of the roadway; the maintained part extends an even shorter distance.

The New Mexico Criminal Code prohibits discharge of a firearm within 150 yds (450 ft) of an occupied dwelling. *NMSA §30-7-4 Negligent use of a deadly weapon*. The proposed regulation imposes no minimum distance that a shooter should place themselves away from occupied vehicles traveling on a public road. In fact, the proposed regulation completely ignores the presence of occupied vehicles as a factor for consideration. Under this regulation the sole frame of reference is the “maintained” part of a public road as the only guide for distance. That approach is contrary to any meaningful consideration of public safety, assuming that public safety was even one of the overall factors under consideration. For purposes of public safety, there is no meaningful distinction between an occupied dwelling and an occupied vehicle traveling on a public road. The legislature chose 450 feet from an occupied dwelling for purposes of public safety, the Commission should consider that as minimum guidance for shooting distance and re-write the regulation with public safety in mind.

The Commission should be thinking in terms of creating larger zones for public safety, and not reducing them. Stop pandering to the lazy “hunters” who want to pull over to the side of the road and start blasting away. Those are the people giving the rest of us a bad name.

**19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**  
Proposed Regulation

C. Shooting from within or upon a vehicle Vehicles, boats, or aircraft: It shall be unlawful to shoot at any protected species from within or upon a motor vehicle, power motor-driven boat, sailboat, or aircraft. BOAT EXCEPTION: - A person may shoot from any motor-driven boat when the motor has been completely shut off and its progress therefrom has ceased. - Migratory birds may be taken from a motor-driven boat (or other craft with attached motor) or sailboat when resting at anchor or fastened within or immediately alongside a fixed hunting blind or is used solely as a means of picking up dead birds.

**Answers to the Questions and Comment**

1. Does this law protect the resource from over-harvest?

ANSWER: No. See comment on proposed regulation below.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No. See comment on proposed regulation below.

3. Does this law ensure public safety?

ANSWER: No. See comment on proposed regulation below.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. See comment on proposed regulation below.

5. Is this law necessary to address a social issue?

ANSWER: No. See comment on proposed regulation below.

**Comment on proposed regulation “Shooting from, within or upon at motor vehicle, boat, or aircraft”.**

The Commission needs to drop the qualifier “protected species” from this subsection. Shooting from a motor vehicle should not be allowed for the take of any species. Shooting from a motor vehicle for any reason is inherently dangerous. Every gun safety course reiterates that fact. The regulation as written allows shooting from a motor vehicle for the take of unprotected species and makes no reference to whether a vehicle can be moving or if it must be stopped. For individuals with a flexible sense of personal and hunting ethics, this section gives a green light to shoot from a vehicle and, if caught, simply claim they were not shooting at a protected species. I have personally seen someone along NM 6 west of Los Lunas parked slightly off the shoulder of the road with a rifle and scope resting on -- and protruding from -- the passenger side open front window. It happened on January 1, 2016, and the highway was busy with traffic. Multiple drivers reported to the Valencia County Sheriff’s Office. I suspect the individual was able to just tell the investigating deputy, “I wasn’t shooting protected species”. That needs to change.

**19.31.10.11 USE OF VEHICLES, BOATS, AIRCRAFT AND ROADS IN HUNTING:**  
Proposed Regulation

**D. Harassing protected wildlifespecies:** ~~It shall be~~ unlawful, at any time, to pursue, harass, harry, drive, or rally any protected species by any means or to allow dogs to pursue, harass, harry, drive or rally any protected species in any manner except while legally hunting, or as otherwise allowed by Chapter 17 NMSA or state game commission rule. ~~by use of or from a motor-driven vehicle, powerboat, sailboat, drone, or aircraft.~~

**Answers to the Questions and Comment**

1. Does this law protect the resource from over-harvest?

ANSWER: No. See comment on proposed regulation below.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No. See comment on proposed regulation below.

3. Does this law ensure public safety?

ANSWER: No. See comment on proposed regulation below.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. See comment on proposed regulation below.

5. Is this law necessary to address a social issue?

ANSWER: No. See comment on proposed regulation below.

**Comment on “Harassing protected species”**

The Commission needs to drop the qualifier “protected species” from this subsection. Allowing harassment of unprotected species puts protected species at risk of harassment because there are no seasons for unprotected species. That means they can be harassed year-round, along with any other protected species who happen to be in the same area.

## 19.31.10.7 Definitions

### Proposed Regulation

**K. "Big game sporting arms" shall mean any centerfire firearm at least .22 caliber or larger, any muzzle-loading firearm at least .45 caliber or larger, any shotgun .410 caliber or larger firing a single slug (including muzzle-loading shotguns), any bow or any crossbow. All firearms, except handguns, must be designed to be fired from the shoulder.**

### Answers to the Questions and Comment

1. Does this law protect the resource from over-harvest?

ANSWER: No. The proposed regulation encourages the use of a caliber inadequate to the task of taking big game. As written using the term "centerfire firearm", the proposed regulation allows and encourages the use of small caliber handguns for the taking of big game. Who thought that was a good idea? It will lead to more wounding of animals and the necessity of multiple rounds to accomplish the task.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

ANSWER: No.

3. Does this law ensure public safety?

ANSWER: No. As written using the term "centerfire firearm", the proposed regulation allows and encourages the use of small caliber handguns for the taking of big game. That is a terrible idea. Coupled with the equally ill-advised regulation regarding shooting from a motor vehicle, this proposed regulation (a) increases the risk to public safety; and (b) creates a basis for tort liability on the part of the Commission in the event of a shooting on Commission-owned lands.

4. Is this law necessary to ensure the ethical harvest of wildlife and the continued support of the public for hunting, fishing and trapping?

ANSWER: No. The proposed regulation leads to unethical behavior to the extent an inadequate caliber is used to make the kill.

5. Is this law necessary to address a social issue?

ANSWER: No. The proposed regulation creates a social issue/problem.



**Mee, Letitia, DGF**

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**From:** Elisabeth Dicharry <[elidicharry@mississippi.gov](mailto:elidicharry@mississippi.gov)>  
**Sent:** Monday, October 15, 2018 3:43 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 2018 Manner and Method Comment  
**Attachments:** Shooting from the road.pdf

Good Afternoon,

Please read my attached PDF file in reference to 19.31.10: Shooting from the road.

Thank you.

Elisabeth Dicharry, RN, MS

I hold a NM angler's license and I am a New Mexico resident.

Re: Proposal under consideration: 2018 Manner and Method

In reference to 19.31.10: "Allow hunters to shoot from just off of the road surface when no right of way fence exists. If a right of way fence exists they must get beyond that fence before shooting."

**This regressive proposal undermines the legitimate purpose of game laws, the department's ability to manage New Mexico's wildlife, fair chase principles, and public safety.**

Per the NMDGF rule making criteria:

1. Does this law protect the resource from over-harvest?

Answer: NO.

It allows the take of wildlife from "just off of the road surface". This is vague and gives the hunter an unfair advantage. Some protected species will sometimes be unafraid of a vehicle or humans especially early in the season. I have seen young deer walk close to a stopped vehicle or stand at the roadside near the Red River area. This proposal violates the principles of "fair chase". Discharging weapons should not be allowed from or near a road, or "just off the road". Allowing "just off the road" hunting encourages poaching, not reporting, and the risk of over-harvest.

2. Does this law help the department manage our wildlife to ensure they are here for future generations?

Answer: NO. Allowing shooting "just off the road" encourages poaching and unreported take of protected species. In addition, shooting from a road should not be allowed for any wildlife including unprotected species. Making an exception to allow road shooting of unprotected wildlife makes it easier to poach protected species. How many non-target game species are taken by road-hunters? Part of hunting is learning about the animal including identifying its sex and age. How can someone road hunting adequately identify the animal especially if he is in a hurry or if vehicles are rolling by? And what if the animal is critically wounded and gets away? Will the "hunter" leave his vehicle, track the animal, or just move on down the road looking for another animal and another easy opportunity?

5. Is this law necessary to address a social issue?

Answer: No. It worsens a social issue. Allowing hunting from roads puts New Mexico in a negative light. It is not a positive image for hunting or the hunter. It gives hunters yet another reason to behave poorly and to use bad judgment. It hurts tourism. Hunting season begins in full force on September 1: many people are visiting our state, hiking the trails, and enjoying seeing living wildlife. Seeing a bow hunter or hunter using a firearm shooting from "just off the road" is not an image New Mexico wants publicized on social or news media.

Submitted by:

Elisabeth Dicharry

## Mee, Letitia, DGF

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**From:** Michael LeFevre <[REDACTED]>  
**Sent:** Wednesday, October 03, 2018 9:11 PM  
**To:** DGF-FieldOpsComments; f  
**Subject:** [EXT]

To whom it may concern and NM Game commissioners,

My letter is in response to your proposed change to disallow spearfishing for fish that have a minimum size requirement.

It is always up to the sportsman whether hunting or fishing to make sure that the animal meets the legal requirements. It is no different gauging the size of a fish than a turkey having a visible beard, an antelope having horns taller than it's ears, or a deer having a fork. I have personally spent many hours spearfishing and I know it is possible to determine if a fish meets the size requirements before it is speared. In the event that it does not, you swim by and do not disturb it.

My other argument is that a rod and reel fisherman has to hook the fish and drag him from the water. Measure and unhook it, which it sometimes can be hooked very deep and injures the fish, and then tossed back into the water. All of this reduces the fish's chances for survival. A spearfisherman has not endangered the fish in any way if the decision is made not to spear it. Since there are very many more rod and reel fisherman than spearfisherman there is much more danger of undersized fish being killed by the rod and reel method. Spear fishing is dictated by water conditions. Because of the current low level of most New Mexico lakes, spearfishing in them has been mostly non existent for a decade. One example is Elephant Butte Lake. I have numerous hours diving in that lake in the past but have not been able to spearfish due to the visibility for more than a decade.

One of my main concerns about this change is that I would not be able to spear walleye any more, which I very much enjoy, the sport and the eating of them, when water conditions allow it. Diving and spearfishing is a healthy and very physical sport. Not as unfair as some seem to think. Proof of that is by looking at your current state records. No spearfisherman holds a state record for any species of fish and god knows I tried.

Please reconsider the implementation of this rule. I would very much like to see my children have the same opportunity to enjoy this activity.

Sincerely,  
Michael L LeFevre

## Mee, Letitia, DGF

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**From:** CASEY HARTHORN  
**Sent:** Thursday, October 04, 2018 1:11 PM  
**To:** DGF-FieldOpsComments; r  
**Subject:** [EXT] Changes in Spear-fishing regulation

Dear Game Commissioners of New Mexico;

The purpose of this letter is to let you know that myself and others are not in favor of the change in restricting spearfishing. I'm sorry but the argument that you can't throw it back just doesn't hold water. Can one release a beardless turkey or a spike elk or deer shot by mistake? Of course not, so why are the spear-fishermen being singled out? Is there any evidence that spear-fishermen are harvesting smaller fish? How many citations were written this year or in previous years to spear-fishermen for harvesting smaller fish? If there are not any valid enforcement reasons for the change is there a biological reason? While there is a lot of biological evidence on the harm of anglers taking bass from the beds and hooking mortality, what evidence is there that spear-fishermen are having a negative impact on any fish population? So, if there is no valid enforcement or biological reasons for changing, is this regulation being changed just because someone wants to?

There are law abiding citizens that buy New Mexico fishing licenses just, so they can go spearfishing. The sportsmen that I am familiar with, seldom take their allowed limits but enjoy the challenges of meeting their prey in a taxing environment. Believe me trying to get close enough for a shot on a big walleye is a lot more challenging than shooting an elk at 500 yards with a high-powered rifle.

We ask that you reconsider the change in this regulation and allow us the same opportunities that are given to the other sportsmen of New Mexico.

Thanks

Casey Harthorn

## Mee, Letitia, DGF

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**From:** Steve Higgs <  
**Sent:** Thursday, October 04, 2018 8:43 AM  
**To:** DGF-FieldOpsComments; I  
**Subject:** [EXT] Proposed Spearfishing Rule Change  
**Attachments:** Spear Fishing Rule.docx

To whom it may concern and NM Game commissioners:

My letter is in response to your proposed change to disallow spearfishing for fish that have a minimum size requirement.

I am assuming that the purpose of this rule is to prevent the taking of undersized fish and protect the fish population. It is always up to the sportsman, whether hunting or fishing, to make sure that the animal meets legal requirements for harvesting. It is no different gauging the size of a fish than insuring a turkey has a visible beard, an antelope has horns taller than its ears, or a deer has a fork. In the event that it does not, you swim by and do not disturb it. This causes no stress to the fish. In comparison, catch and release of undersized fish by rod and reel fishermen can be very stressful to the fish and will inevitably result in some percentage of those fish dying. With rod and reel fishing, the fisherman must hook and fight the fish before removing it from the water, measuring, unhooking and releasing the fish. Inevitably some fish are hooked very deeply, causing serious injuries to the fish before it is released. A spear fisherman has not endangered the fish in any way if the decision is made not to spear it. Since there are many more rod and reel fisherman than spear fisherman there is much more danger of undersized fish being killed by the rod and reel method.

Diving and spearfishing are healthy and physical sports and are not as unsporting as some seem to think. As proof, you only have to look at the current New Mexico state records - none of the state records are held by spear fisherman. Please reconsider the implementation of this rule. I would like very much to be able to see this sport continue in New Mexico, for myself and future generations.

Sincerely,

Steven A. Higgs

**Mee, Letitia, DGF**

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**From:** Charles Vangelder <  
**Sent:** Tuesday, October 16, 2018 11:45 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Fwd: Aircraft use for elk hunting

Sent from my iPad

Begin forwarded message:

**From:** Charles Vangelder <  
**Date:** October 16, 2018 at 11:26:56 AM MDT  
**To:** [DGFfieldopscomments@state.nm.us](mailto:DGFfieldopscomments@state.nm.us)  
**Cc:** Nmpa <  
**Subject:** Aircraft use for elk hunting

As an elk hunter I am against using airplanes to spot elk. Having hunted elk since the 1970's I have had my elk hunt ruined twice by low flying aircraft parrying elk over to private land or to the next unit. I have also seen elk hunting change from a New Mexican food gathering activity to an expensive national non-sport for wealthy guided clients. Bow and muzzle-loader seasons started as primitive alternatives to rifle hunting, but have evolved into high tech.

High-paying customers should not get special advantage, including having their elk spotted for them prior to their hunt.

As a pilot I am wary of any additional restriction, and am concerned that this rule could be improperly enforced. I support NMPA in its' effort to engage NM DGF In tackling this difficult, money driven issue. But it also has an ethical side to it that goes beyond airplanes.

Sincerely,  
Chuck VanGelder

Sent from my iPad

**Mee, Letitia, DGF**

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**From:** Charles Barrack <>  
**Sent:** Tuesday, October 16, 2018 4:02 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Game & Fish aircraft rule

Thank you for proposing to stiffen rules that limit hunting and/or spotting wildlife from aircraft. As a pilot, I fully support your efforts. Unfortunately, some people use aircraft unscrupulously to gain an unfair advantage over wildlife and other people who hunt ethically.

Good luck,

--

Bart Barrack

*"He can who thinks he can, and he can't who thinks he can't. This is an inexorable, indisputable law. "*  
*-Pablo Picasso*



Jackson, Ty J., DGF

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**From:** Brad Norman <  
**Sent:** Wednesday, October 03, 2018 5:19 PM  
**To:** DGF-FieldOpsComments  
**Cc:** ISPA, DGF  
**Subject:** [EXT] NMDGF: Methods and Manner and Penalty Feedback - Norman  
**Attachments:** NMDGF\_Methods\_And\_Manner\_Feedback\_Norman.docx; ATT00001.htm

NMDGF Commission,

Please find attached a letter that I wrote regarding the "Methods and Manners" and "Penalty" proposals under consideration. I would really like to see a rule and penalty added for landowners who post public land as private!

I sincerely appreciate NMDGF tackling the toughest issues!

Sincerely,

Brad Norman

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October 3, 2018

### Comments to "Methods & Manner" and Penalties

NMDGF Commission,

I wanted to provide feedback on the great job your team is doing in updating the Methods of Manner and Take. I especially wanted to thank the three officers that hosted in the information session in Albuquerque in September! I found their insight particularly helpful. I believe that I was the only person in the audience who is a regular hunter (not representing Guides/Outfitters, Backcountry Hunters & Anglers, or one of 10 pilots in the room)

#### Flying Ban- In Full Support

1. Until the Sept. NMDGF Meeting in Albuquerque, I was never against pilots flying "low & slow" until I heard their lack of willingness to accept responsibility for their actions and unwillingness to self-police. The meeting has turned me against pilots flying low and slow over the forest looking for animals, patrolling fence lines, or any other reason! I would be in full support of a flying ban! In addition, I had a single bad encounter with an aircraft flying 100ft above the ground on the border of a giant ranch in 16C on MonsterMuleys.com website. I received feedback that the ranch hired multiple airplanes to fly the border of the ranch to look for "trespassers."
  - a. Enforceability: The rule will not be any more enforceable than the current rule. A simple example will be a pilot says he is checking on cows, or looking for trespassers from the sky.
  - b. New Technology: Perhaps requiring all planes regardless of size to enable GPS transponders that are ADS-B compliance. (Note: I found out about this ADS-B GPS standard during the meeting in Albuquerque. The pilots were saying that all planes regardless of size are required to have the transponder installed. However, the pilots said that FAA does not require them to have it enabled when flying "low & slow" over the forest. One pilot even showed off an app on his phone that showed the ADS-B GPS Tracks. You might be at least able to correlate complaints from the ground to specific aircraft in the air or look for suspicious flying patterns.
  - c. Partnering with Other Agencies: The pilots also said that ICE/Border Patrol has significant radar coverage of NM because of the proximity to the border. It seems like this data could be used for a couple of good prosecutions & looking for people circling to find animals.
  - d. Penalty: I would add up confiscation of aircraft is found guilty of spotting animals in the air. The crime amounts to poaching and rifles/vehicles can be confiscated. Based on what I saw in Albuquerque, a points penalty is insufficient because many pilots are not hunters.

#### 2. (Not in Support)

##### Trespassing Points

A 17-point penalty for trespassing seems excessive! It seems like other laws would be broken in extreme cases of trespassing that would amount to this level of punishment. The punishment is much too severe for honest mistakes!

3. New Rule:

Landowners Posting Public as Private Land

I would like to see a significant penalty be assessed to landowners who have public land/roads posted as private. I would encourage a 17-point penalty (or equivalent to trespassing private) be established for private land owners who post public land as private! This is common sense in this day in age! There is absolutely no punishment in NM for landowner to post public land as private!

4. (Tentative Support)

Cell Camera Game Camera:

I have a single cell camera game camera. My wife calls it hanging a hundred-dollar bill on a tree. I use it to get cool pictures when I am at work in Albuquerque. Due to my personal ethics, I would never use it in real-time to hunt. I didn't realize until the ABQ meeting that people were using 20-30 cell-phone cameras to release dog on cats/bears. Based on that I'm in support of this rule! Perhaps, you want to make the rule broader and include "internet connected devices" like the new Colorado rule.

Again, I truly appreciate NMDGF being proactive in updating the rules! I especially liked the information session in Albuquerque.

I sincerely appreciate NMDGF tackling the toughest issues!

Sincerely,

Brad Norman

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**Mee, Letitia, DGF**

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**From:** Griego, Robert, DGF  
**Sent:** Thursday, October 04, 2018 1:38 PM  
**To:** Jackson, Ty J., DGF  
**Cc:** Duff, Colin, DGF; Sanchez, Rey A., DGF  
**Subject:** FW: NMGF Manners and Methods Proposal

FYI....from the Director of the NM aviation division.....145

**Robert L. Griego**  
Colonel of Field Operations  
PO Box 25112  
Santa Fe, NM 87504  
505-476-8061



## CONSERVING NEW MEXICO'S WILDLIFE FOR FUTURE GENERATIONS

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**From:** Moran, Dan, NMDOT  
**Sent:** Thursday, October 04, 2018 1:27 PM  
**To:** Sloane, Michael B., DGF  
**Cc:** Griego, Robert, DGF  
**Subject:** NMGF Manners and Methods Proposal

Director Sloane,

Please feel free to forward this letter to the State Game Commission:

It was a pleasure to meet with you last week regarding the proposed rule change to 19.31.10.13 NMAC part G, subsection 1, under the section referencing 'Manner and Method of Taking'. This letter represents our offices interpretation of the proposed rule change.

In conversations with both sides regarding this matter, it appears that the New Mexico Pilots Association (NMPA) and the aviation community is possibly being misled into believing this proposal is a direct assault on their fundamental rights. It seems NMPA believes, in an attempt by the New Mexico Game and Fish Department (NMGF) to address infringements on the concept of "Fair Chase" with the use of aircraft, they may be unfairly lumping all of general aviation in to the same pool. It appears to our office that a few bad actors running around the edges of the current rule

are giving general aviation pilots a bad name and are attempting to use the good name and good people associated with the NMPA as cover for their ethically challenged endeavors.

We would encourage the Commission to enter into the record any current information regarding the incidents of reporting, investigating and prosecution under the current rule. If this proposal is adopted our office asks that the NMGF develop some data metrics to determine the efficacy of this proposal and report back to the Commission with results at the next scheduled meeting after the completion of the first hunting season with the rule in effect. Our office's understanding of the purpose behind this proposal is that it is intended to facilitate fairness in hunting and to deter the use of aircraft in gaining an unfair advantage. We have been assured that this rule change cannot change law enforcements burden of establishing probable cause. It was explained that there will be no change to the manner and method of enforcement and administration of this rule and it was reiterated that this would only effect those actively engaged in a 'hunting purpose', as is the current standard. A pilot engaging in any other aviation pursuit should not be effected by this proposal.

Some surrounding States have implemented similar changes and we are told they have expressed success in deterring those that seek to use aviation to create an unfair advantage. We do not know what measurements were evaluated to determine success. Our office is not aware of how the aviation community's in Arizona and Utah have reacted to the implementation of these measures in their respective States. Colorado currently has a 48-hour rule similar to New Mexico's. The Colorado Department of Aeronautics is not aware of any issues or objections to the current rule. Additionally, they are not aware of any proposed changes similar to what New Mexico is proposing.

What we can all agree is that NMGF has no jurisdiction of airspace and cannot ban flying anywhere. So, a pilot not engaged in 'hunting purposes' as determined by current probable cause measures should have no fear of reprisal nor infringement on their fundamental rights. Furthermore, any potential impact on the experience of others on the ground engaging in hunting or other outdoor activities created by aviation is not and should not be a factor in determining the implementation of this rule. Everyone is entitled to use of the public space in pursuit of their sport or leisure activities.

As previously stated the methods and manners, used by law enforcement, that are currently in place will not change. Our office believes that communication with NMGF and the aviation community will go a long ways in mitigating any potential problems. The aviation community can also take the lead in promoting ethical behavior amongst their peers. Our bottom line take is that if you have not encountered NMGF in the past regarding aviation activities it is unlikely that you will have any interaction if this proposal is adopted.

Sincerely,

*Daniel R. Moran*

NMDOT Aviation Division

Office

[dan.moran@state.nm.us](mailto:dan.moran@state.nm.us)



The advantage in any arena of life, is earned far in advance of the moment one is required to perform. – Andy Andrews

**Mee, Letitia, DGF**

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**From:**  
**Sent:** Saturday, August 25, 2018 12:20 PM  
**To:** DGF-FieldOpsComments  
**Subject:** proposed revisions to the Manner and Method rule

Would you please propose a restriction of NO DRONES in the use of 'scouting' and / or taking of game animals?

Thank you.

Edward Schaub

**Mee, Letitia, DGF**

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**From:** Charles Vangelder  
**Sent:** Saturday, September 01, 2018 1:47 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Aircraft game spotting

I support the proposal. I have had hunts ruined by spotters and game harassers moving elk from public land over to private ranches. We get asked all the time by hunters to fly over their hunt area; many non-hunting pilots end up overflying wilderness areas unknowingly or unwittingly ruining someone else's hunt. If you can't find game in your hunt area without the use of an airplane, you might have to go home without an elk strapped to your fender.

Sent from my iPad

Sept 24, 1918

Michael Sloane, Director  
NM Dept. of Fish and Game  
1 Wildlife Way  
Santa Fe, NM 87507

Dear Mr. Sloane,

I would like to state some of my thoughts regarding Fish and Game.

A. No one should be grandfathered in on the new rules for the E-PLUS landowners elk permits. Everyone should have to go by the new standards.

B. Outfitters should not be allowed to fly to spot the wildlife. This is unfair to regular hunters and to the wildlife. Maybe, the number of outfitters per state should be limited.

C. Cow permits are given out as early as September when the elk calves are only 4 months old. If the mother is killed, how can the calf survive? Should we kill the mother?

D. I think the program to poison out the trout that have been here for decades is a great injustice and a waste of resources. Other living things that live in and drink the poisoned water, as well as those who eat the dead fish have to be affected. It seems there is no common sense anymore, only agendas.

Congratulations on your new position. You must be a man of integrity with the wildlife's best interests at heart or you wouldn't have the position you have.

Sincerely,  
Phyllis Boxner

email



## Mee, Letitia, DGF

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**From:** Michael Kent <  
**Sent:** Saturday, November 17, 2018 12:19 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Fly over hunting

I am opposed to pilots scouting game from the air.

As a GA pilot and NRA member, our planes should be used for recreation, not killing animals.

Thank you,

Michael J Kent

**Mee, Letitia, DGF**

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**From:** Charles Barrack  
**Sent:** Friday, November 16, 2018 11:03 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Using aircraft to spot wildlife for hunting

As a pilot and member of the New Mexico Pilot Association, I urge you to adopt the most stringent rules possible to control this abhorrent behavior. My opinion is that it is ethical for hunters to use aircraft of any kind to gain an advantage over game animals for hunting purposes. I realize the NM Pilots association and the AOPA are fighting this but I want you to know that this member supports the game and fish department and it's effort to establish more rigorous rules to reign in pilots who engage in this behavior.

Best regards,

--  
Bart Barrack

*"He can who thinks he can, and he can't who thinks he can't. This is an inexorable, indisputable law. "*  
*-Pablo Picasso*

**Mee, Letitia, DGF**

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**From:** Cody <  
**Sent:** Saturday, August 25, 2018 2:09 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Comments for rule changes.

Thank you for reading these comments.

My opinion about using dogs to retrieve wounded game is that it is a really good idea because it will lead to an increase in recovered animals. It is a really bad deal to hit an animal and not be able to recover it. Hunters that don't find their animal can then use their tag not yet filled to take another animal. Most hunting laws usually say that a hunter must make his best effort to claim an animal that has been shot. The dogs will help the hunters actually find that animal and not waste the meat/life of that animal.

In New Mexico, I have found that many trails that are supposed to be closed to motor vehicles have 4wheelers and side by sides on them all of the time. These rules are to often not followed, either due to lack of enforcement or lack of penalty. We need to find a way to enforce that rule, so that the hunters who are following the rules are not at a disadvantage.

## Mee, Letitia, DGF

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**From:** Logan McGarrah ·  
**Sent:** Friday, September 14, 2018 3:29 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Manner & Method Comments

September 14<sup>th</sup>, 2018

### 2018 Manner and Method Comments

Thank you for taking the time to read and consider my comments. Overall, I support the proposed changes and feel they will be a positive change for the Department and the community alike. I would like to specifically comment on the following proposals.

I feel the ban on cellular/satellite enabled game cameras while hunting has long been needed and I am hopeful the new rule will be passed. I am concerned however that this regulation will be very difficult to enforce. As I see it, the largest advantage these cameras offer is to hound hunters, specifically outfitters. I propose that as part of an outfitters license agreement with the Department they would agree to permanently mark all cellular/satellite equipped game cameras in their possession with their identifying information. I feel this would aid officers in the investigation of possible violations and also serve to deter the illicit use of the cameras.

I would also like to comment that the proposed regulation regarding shooting from a roadway is both excessively complex and, in my opinion, encourages road hunting. I would propose that the rule be written to allow for shooting just off the maintained surface if no right of way fence exists and keeping the rule as is if a right of way fence does exist (must be beyond the fence before shooting).

Thank you again for your consideration. - Logan McGarrah

## Mee, Letitia, DGF

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**From:** Andres Paglayan  
**Sent:** Friday, August 24, 2018 2:48 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Manner and method and revocation rule changes topic for public meetings (Comments)

submitted by Andres Paglayan, hunter

I am not able to attend in person, these are my comments on the rule changes,

Comments on:

Proposed changes to the Manner and Method rule include possession or sale of protected species, importation or possession of un-permitted wildlife, shooting from the road, use of aircraft, driving off established road, mobility impaired cards, proof of sex or bag limit, tagging, use of bait, use of dogs for tracking wounded game, weapon types for hunting and use of cellular, cell or satellite cameras.

1./ dogs for tracking wounded game

This can be too broad and applied even to the retrieval of a bird.

Also, I believe it is best to track and recover a wounded animal rather than leave the animal wounded and then go for another kill.

Tracking wounded game should be encouraged.

2./ use of cellular, cell or satellite cameras

This is extremely un-specific,

I always carry my cellular as it provides gps mapping while hiking.

What's the extent of the use that is prohibited?

3./ At the discretion of the game department

As it is extremely difficult to code every fault, there should be a catch all for "lack of sportsmanship" which it can be addressed on a per case basis by the game and fish rangers.

**Mee, Letitia, DGF**

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**From:** Brad Norman <  
**Sent:** Wednesday, October 03, 2018 5:19 PM  
**To:** DGF-FieldOpsComments  
**Cc:** ISPA, DGF  
**Subject:** [EXT] NMDGF: Methods and Manner and Penalty Feedback - Norman  
**Attachments:** NMDGF\_Methods\_And\_Manner\_Feedback\_Norman.docx; ATT00001.htm

NMDGF Commission,

Please find attached a letter that I wrote regarding the “Methods and Manners” and “Penalty” proposals under consideration. I would really like to see a rule and penalty added for landowners who post public land as private!

I sincerely appreciate NMDGF tackling the toughest issues!

Sincerely,

Brad Norman

## Mee, Letitia, DGF

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**From:** Travis  
**Sent:** Monday, August 27, 2018 11:09 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Manner & Method public comment

Hello,  
I wanted to comment on the Manner & Method proposals.

I'm strongly opposed to updated Sporting Arms types. Allowing Elk to be shot with a 22 caliber bullet just does not make any sense to me and goes against your 4th bullet in the guidelines. In my opinion it definitely is NOT ethical. Personally I think the caliber should be higher on all Big Game to be ethical. While it might not hurt overall wildlife population, I think it's our responsibility as ethical hunters to use a caliber that will drop an animal quickly and that message should come from the Game Department.

I also am strongly against being able to use ANY sporting arm type for Javelina. Again, not ethical to allow a quail hunter with number 8 bird shot to shoot at a Javelina legally if he has a tag. Could potentially lead to more wounded animals. A 22 rimfire would also be a disaster on a Javelina unless getting really lucky.

I don't like the baiting updates, I think it should be completely illegal to bait.

I am in favor of the updated rules you have on Javelina for the tagging and skull requirements. While ultimately I think it's also unethical that Javelina aren't part of the Waste of Game Law, I know that's up to the legislature. I hope the department will push for that in the future.

I am in favor of changes to the shooting from the road, currently it's confusing.  
I am in favor to language changes for transporting game from someone else. Again this currently is confusing.

Thanks for your consideration!  
Travis

## Mee, Letitia, DGF

---

**From:** Travis <  
**Sent:** Monday, August 27, 2018 11:09 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Manner & Method public comment

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I am in favor to language changes for transporting game from someone else. Again this currently is confusing.

Thanks for your consideration!  
Travis



**Mee, Letitia, DGF**

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**From:** Brejcha, Lisa, DGF on behalf of ISPA, DGF  
**Sent:** Friday, August 17, 2018 9:15 AM  
**To:** DGF-FieldOpsComments  
**Subject:** FW: Hunting Regulations

Good morning –

Forwarding for assistance. Thank you for your help and have a great day!

Lisa Brejcha  
Information Center Supervisor  
New Mexico Game & Fish  
1 Wildlife Way  
Santa Fe, NM 87507  
Phone: 505-476-2558  
Mobile: 505-288-0157  
Email: [lisa.brejcha@state.nm.us](mailto:lisa.brejcha@state.nm.us)



**CONSERVING NEW MEXICO'S WILDLIFE FOR FUTURE GENERATIONS**

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**From:** Mark Call [<mailto:mark.call@state.nm.us>]  
**Sent:** Thursday, August 16, 2018 7:46 PM  
**To:** ISPA, DGF  
**Subject:** Hunting Regulations

Hi I have a question. Why can't we use airguns to hunt quail and pheasant in New Mexico? Texas just started allowing it this year not to mention that quail and pheasant are hunted all over the world with airguns. I can't seem to think of a single valid argument against it soooo..... Why can't we hunt quail and pheasant with airguns in New Mexico???

Sincerely  
Mark Call

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The greatest enemy of knowledge is not ignorance, it is the illusion of knowledge

•

**Mee, Letitia, DGF**

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**From:** morty256  
**Sent:** Saturday, August 25, 2018 7:00 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Hunting rules

I recently became a New Mexico resident last year and I have been very disappointed in the fact that you guys do not allow night hunting with artificial light for predators including fox coyote and bobcat. I hunted for years that way in Colorado and it was a great alternative. I would like to know who to speak to to help get this changed thanks.

Sent from my iPhone

**Mee, Letitia, DGF**

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**From:**  
**Sent:** Friday, August 24, 2018 11:18 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Comment on Manner and Method Proposed Rule Changes 19.31.10 NMAC

In the proposed rule changes at 19.31.10.11 B The proposed new rule uses the term "Artificial wildlife".

Please note the term artificial wildlife is not defined in the proposed rule changes, nor is it an existing term of art within the 2018-2019 New Mexico Hunting Rules and Information booklet.

Please provide some definition or examples within the proposed rule on the meaning of artificial wildlife.

## **Mee, Letitia, DGF**

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**From:** Missy Holguin  
**Sent:** Friday, August 24, 2018 4:15 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Disability changes

I had a major back surgery in May of this year. I'm one person that will need to be able to shoot from a vehicle as well as travel to the location of my downed deer etc. This goes for every year after. I also had a failed neck surgery and will need any assistance due to my weight restrictions.

Please do not take those privileges away.

I also need the disability form. Will you please send me the proper paperwork or link associated with a disabled person??

Respectfully,

Thank you!

Melissa Holguin

## Mee, Letitia, DGF

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**From:** scott waltemeyer <  
**Sent:** Saturday, August 25, 2018 7:10 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Up Coming Meeting input:

I became handicap at 3 years old with polio walked pretty well until medical mishap in 2006. Well I went on one mobility impaired hunt on a ATV and crossbow. I was able to call in some bulls but not quite close enough. I can barely walk on flat surfaces. I know it is hard to determine the level of mobility impaired and regulate. I see this everyday by the abuse of people and the placard parking use. Anyway, I have a couple of considerations.

1. ATV use more than 100 ft from a road.
2. Wider areas of special hunts for mobility impaired.
3. Draw should NOT be required- just go try.

## Mee, Letitia, DGF

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**From:** Richard Rivera <[rivera@nmdgf.com](mailto:rivera@nmdgf.com)>  
**Sent:** Friday, August 31, 2018 2:51 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Proposed Changes to Mobility Impaired

Hi,  
I'm unable to make the meeting here in Abq, but wanted to give my comments.

I'm wondering why the proposal to remove the mobility impaired designation for the elk hunt in 6B, Valles Caldera? Then in return, increasing the amount of youth tags from 30 to 60+? Why? Isn't that discriminating according to ADA?

I was fortunate enough to draw that hunt last year, I was successful, But, we were limited to traveling 2 of the dozens of roads preventing us from being able to retrieve downed game. To add insult to injury, injuries, the forest service just so happened to decide to start a controlled burn a day or two before and ending the last day of that hunt! That cut us off from thousands (2500+) of acres of huntable public land and the designated area for camping on the preserve and we were told to go look elsewhere or hike all our equipment 400 yards from the road into the treeline. Again, we are mobility impaired and that was absurd. to find out through the grapevine that all of the roads we were prevented from traveling were opened up to the muzzleloader hunters the very next hunt!!

Does this proposal have anything to do with the lawsuit that was filed about the discrimination by the forest service and NMDGF? The article stated one of the proposals was mobility impaired 'cards', what does that mean for the mobility impaired hunter or did that basically refer to the 6B Elk hunt?

I say keep the designation hunt as that provides the opportunity for MI hunters, just as all the other designations provide for everyone. Why not make it an ES hunt to give the MI hunter an opportunity at a mature bull as well as antlerless just as it does for the any legal weapon hunts? Mobility Impaired hunters were discriminated against that hunt, we voiced our concerns with the Park Service there and a lawsuit filed, now the NMDGF wants to remove the mobility impaired designation from us as well? I'm fighting for this because I believe in having the opportunity as a mobility impaired 100% disabled veteran, just as any capable hunter does. I was unfortunate to not draw on any of the hunts that I put in for, Deer, Bear, Elk, Turkey and Barbary Sheep. I did hunt OTC Spring turkey and still keep my eyes out for lion, although it's wishful thinking, and am planning to hunt fall bear, deer, and hopefully find a landowner to allow me to hunt barbary sheep on their property. Finding landowners to hunt the private land deer and sheep has been a big pain as finding their contact info has been futile, again, it makes it very limiting for me and can be a

huge discouragement. Makes one rethink investing the time and money applying for draws or buying into the limited area tags of OTC private land only hunts.

Please reconsider this proposal, and educate me as to why this has come about, does it mean something way better for the mobility impaired hunter that wasn't listed in the proposal that I read? Thank you for your service and what you do in conserving and protecting our wonderful wildlife, as well as providing the public with the opportunity to do their part in wildlife conservation. Thank you.

V/R,

SGT Kenneth Rivera  
US ARMY Medically Retired  
OEF/KFOR7 Veteran

**Mee, Letitia, DGF**

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**From:** Mark Haynes  
**Sent:** Monday, August 27, 2018 5:01 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Future hunts

I've read the recommendations and disagree with most. First I would love to know where this biological data comes from. I am sorry I am very confused at times as an outfitter how all this takes place. I have wrote several emails and then erased them because they sound angry and that is not beneficial. As a outfitter in this state I want my grandkids to be able to hunt and fish in the future I want to take them. I was raised in the Texas Parks and wildlife system and have a great understanding of wildlife management. But after reading your proposals I do not think that the commission does. In my opinion it seems to be a money thing for the state. Again my opinion Mark Haynes Sent from my iPhone



Mee, Letitia, DGF

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**From:** Tami Clark <  
**Sent:** Friday, August 24, 2018 3:21 PM  
**To:** DGF-FieldOpsComments  
**Subject:** Proposals under Consideration

Good afternoon,

Thank you for receiving public opinion in the proposals for consideration. I will not be able to attend the Albuquerque meeting for the Manner and method and revocation rule changes since I will be hunting.

There are a few places where the acronym GMU is used. It took me reading through the context of these places several time before I came to the conclusion that "GMU" is referring to the Unit. I would recommend changing the acronym to the actual name to reduce confusion.

**B. Game taken by another (Possession Certificate):** It  
protected species, or parts thereof, taken or killed by another person exc  
their possession or under their control any protected species or parts ther  
another person, if they possess a written statement (Possession Certificat  
owner lawful possessor of the protected species, or parts thereof, to the p  
which shall contain the following:  
(1) the first and last name of the person  
(2) the kind and number of game or furt  
taxidermist, meat processor or any other similar business.  
(3) the date and county GMU where the

As a hunter and fisher-woman, I appreciate the actual changes proposed.

Kind Regards

Tami Clark

**Mee, Letitia, DGF**

---

**From:** .  
**Sent:** Saturday, September 29, 2018 1:11 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT]

I am a regular angler on the quality waters of the San Juan River. Over the past several years the river has seen a tremendous increase in angler pressure. I, for one, would like to see a greater presence of Wildlife officers on the river enforcing the current regulations. Changing the 2-barbless fly regulation will have a negative effect on the quantity and quality of fish caught by fly anglers. Using more than 2 flies would certainly increase the mortality rate and increase angler pressure in the quality water section of the river.

Regards, R. A. Cloud

Sent from Windows Mail

**Mee, Letitia, DGF**

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**From:** ISPA, DGF  
**Sent:** Wednesday, October 10, 2018 8:50 AM  
**To:** DGF-FieldOpsComments  
**Subject:** Comments: Two Fly Rule

-----Original Message-----

**From:** Joe Lamb [<mailto:>]  
**Sent:** Tuesday, October 09, 2018 4:40 PM  
**To:** ISPA, DGF  
**Subject:** [EXT] Two Fly Rule

Dear Commissioners,

Please keep the 2 fly rule on the San Jaun. Protecting the fishery protects nature and it protects jobs.

Thank you,

Joe Lamb

## Mee, Letitia, DGF

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**From:** Rice Reavis <  
**Sent:** Monday, October 01, 2018 1:51 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 2 flies per line

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by a broad consortium of Guides, and Anglers back in 2008. The 2 fly per line rule has played a major role reducing inadvertent damage and death to the fish, and improving the quality of the fishery and the angling experience. Removing the regulation is a significant step backwards in both regards.

Thank you

**Mee, Letitia, DGF**

---

**From:** [REDACTED]  
**Sent:** Monday, October 01, 2018 4:34 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 2 fly law

Subject line: Maintain limit on angling hooks on SJQW

Dear Commissioners,

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by a broad consortium of Guides, and Anglers back in 2008. The 2 fly per line rule has played a major role reducing inadvertent damage and death to the fish, and improving the quality of the fishery and the angling experience. Removing the regulation is a significant step backwards in both regards.

As an avid fisherman who frequently fishes the San Juan, I strongly urge you to consider keeping the 2 fly per line law in place as a means to effectively protect the San Juan Special Trout Waters.

**Mee, Letitia, DGF**

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**From:** Wes Hartman  
**Sent:** Monday, October 01, 2018 12:45 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] 2 fly limit

Only two flies should be the rule.

Thank you

Wes Hartman

Sent from my iPad

**Mee, Letitia, DGF**

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**From:** Daniel H. Pope, Ph.D. <[dhpope@dnr.nm.gov](mailto:dhpope@dnr.nm.gov)>  
**Sent:** Monday, October 01, 2018 12:33 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] CHANGES TO NUMBER OF FLIES REGULATION

THE SAN JUAN QUALITY WATERS ARE MAGICAL AND PRECIOUS! CHANGING THE NUMBER OF FLIES ALLOWED TO "UNLIMITED" IS WRONG AND WILL RESULT IN MORE TROUT BEING INJURED AND KILLED WHICH IS CONTRARY TO THE FUNDAMENTAL IDEA BEHIND CLASSIFYING THIS FISHERY AS GOLD MEDAL AND SPECIAL!

Sent from Daniel H. Pope, Ph.D.

**Mee, Letitia, DGF**

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**From:** John Flick -  
**Sent:** Friday, September 28, 2018 11:48 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] changing number of hooks per line on San Juan Quality Waters

Dear Sirs: I understand there is a proposal to remove the current regulation of only two hooks (flies) on a line at a time in the San Juan Quality Waters.

Personally and as a business owner I disagree with this recommendation for the following reasons:

Regulation changes in the past have been to improve the quality of the fishery and the angling experience.

Removing the regulation is a step backwards and will negatively affect the quality of the fishery and the angling experience.

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by Outfitters, Guides and Anglers. Without this support the regulation would never have been approved.

Please protect the San Juan Special Trout Waters and do not remove the 2 fly per line law.

Thank you for your time,

John Flick  
Duranglers, Inc.



**Mee, Letitia, DGF**

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**From:** Mark Norton  
**Sent:** Wednesday, October 10, 2018 12:51 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Changing the current two fly limit to unlimited on the San Juan Special trout water

The above proposed change is absurd. As history and experience prior to 2008 have shown, multiple flies result in more injuries and higher mortality among fish. The result is a degraded fishery. If any angler needs more than two flies to have a good angling experience on the San Juan below Navajo Dam, they should seriously consider another form of recreation. Keep the two fly limit!

Mark F. Norton

Sent from my iPad

**Mee, Letitia, DGF**

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**From:**  
**Sent:** Tuesday, October 30, 2018 12:30 PM  
**To:** DGF-FieldOpsComments  
**Cc:**  
**Subject:** [EXT] Fwd: San Juan River

I support a two fly max.

Thomas Leva @ Reliable Industrial Supply

-----Original Message-----

**From:**  
**To:**  
**Cc:**  
**Sent:** Tue, Oct 30, 2018 9:40 am  
**Subject:** San Juan River

Hello, It has come to my attention that the great State of New Mexico is changing the two fly max rule for the San Juan River. I firmly believe this is will hurt the river as well as the tourist dollars.

I've fished with guides in Utah and California who use this heavy, long leader several fly technique and I will not return again. It's cruel, clumsy, and breaks off constantly. It snags fish, tangles on everything and anything, and hooks in several areas of the fish during the fight. There is enough pressure with two fly's, and adding more will increase mortality rates, broken gear and trash.

It reminds me of when we fished the coast of California for bass with several hooks at a time and they would come spinning up off the bottom several fish at a time and we devastated the hatchery within just a few years. This was before we knew any better.

How in this modern world of conservation and protection of habitat can this be a good thing? Please don't endorse or pass this.

Sincerely,

Thomas Leva @ Reliable Industrial Supply

**Mee, Letitia, DGF**

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**From:** Bill O  
**Sent:** Thursday, October 04, 2018 8:57 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Maintain limit on angling hooks on SJQW

Dear Commissioners,

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by a broad consortium of Guides, and Anglers back in 2008. The 2 fly per line rule has played a major role reducing inadvertent damage and death to the fish, and improving the quality of the fishery and the angling experience. Removing the regulation is a significant step backwards in both regards.

As an avid fisherman who frequently fishes the San Juan, I strongly urge you to consider keeping the 2 fly per line law in place as a means to effectively protect the San Juan Special Trout Waters.

William Owen  
License No. - - - -

**Mee, Letitia, DGF**

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**From:** Keith Coleman < >  
**Sent:** Monday, October 01, 2018 12:03 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Maintain limit on angling hooks on SJQW

Dear Commissioners,

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by a broad consortium of Guides, and Anglers back in 2008. The 2 fly per line rule has played a major role reducing inadvertent damage and death to the fish, and improving the quality of the fishery and the angling experience. Removing the regulation is a significant step backwards in both regards.

As an avid fisherman who frequently fishes the San Juan, I strongly urge you to consider keeping the 2 fly per line law in place as a means to effectively protect the San Juan Special Trout Waters.

Thank you for respectfully considering my input.

Keith Coleman

**Summer Residence:**

n

**Primary Residence:**

n)

**Mee, Letitia, DGF**

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**From:** Brandon DenHartog < >  
**Sent:** Monday, October 01, 2018 1:21 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Maintain limit on angling hooks on SJQW

Dear Commissioners,

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by a broad consortium of Guides, and Anglers back in 2008. The 2 fly per line rule has played a major role reducing inadvertent damage and death to the fish, and improving the quality of the fishery and the angling experience. Removing the regulation is a significant step backwards in both regards.

As an avid fisherman who frequently fishes the San Juan, I strongly urge you to consider keeping the 2 fly per line law in place as a means to effectively protect the San Juan Special Trout Waters.

Brandon DenHartog

**Mee, Letitia, DGF**

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**From:** Gary Scholton <rs>  
**Sent:** Monday, October 01, 2018 2:05 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Maintain limit on angling hooks on SJQW

Dear Commissioners,

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by a broad consortium of Guides, and Anglers back in 2008. The 2 fly per line rule has played a major role reducing inadvertent damage and death to the fish, and improving the quality of the fishery and the angling experience. Removing the regulation is a significant step backwards in both regards.

As an avid fisherman who frequently fishes the San Juan, I strongly urge you to consider keeping the 2 fly per line law in place as a means to effectively protect the San Juan Special Trout Waters.

Sincerely,  
Gary Scholton  
r

**Mee, Letitia, DGF**

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**From:** Richard Montrose  
**Sent:** Monday, October 01, 2018 4:32 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Maintain limit on angling hooks on SJQW

Dear Commissioners,

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by a broad consortium of Guides, and Anglers back in 2008. The 2 fly per line rule has played a major role reducing inadvertent damage and death to the fish, and improving the quality of the fishery and the angling experience. Removing the regulation is a significant step backwards in both regards.

As an avid fisherman who frequently fishes the San Juan, I strongly urge you to consider keeping the 2 fly per line law in place as a means to effectively protect the San Juan Special Trout Waters.

Thank you,  
Richard Montrose

**Mee, Letitia, DGF**

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**From:** Bill Abshagen  
**Sent:** Monday, October 01, 2018 4:38 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Maintain limit on angling hooks on SJQW

Dear Commissioners,

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by a broad consortium of Guides, and Anglers back in 2008. The 2 fly per line rule has played a major role reducing inadvertent damage and death to the fish, and improving the quality of the fishery and the angling experience. Removing the regulation is a significant step backwards in both regards.

As an avid fisherman who frequently fishes the San Juan, I strongly urge you to consider keeping the 2 fly per line law in place as a means to effectively protect the San Juan Special Trout Waters.

Thanks,

William Abshagen

Sent from my iPad



## Mee, Letitia, DGF

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**From:** Jason Bushey <[REDACTED]>  
**Sent:** Tuesday, October 02, 2018 10:57 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Maintain limit on angling hooks on SJQW

Dear Commissioners,

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by a broad consortium of Guides, and Anglers back in 2008. The 2 fly per line rule has played a major role reducing inadvertent damage and death to the fish, and improving the quality of the fishery and the angling experience. Removing the regulation is a significant step backwards in both regards.

As an avid fisherman who frequently fishes the San Juan, I strongly urge you to consider keeping the 2 fly per line law in place as a means to effectively protect the San Juan Special Trout Waters.

**Worldpay**

**Jason Bushey**  
Integrated Payments  
Leader - Technology

[worldpay.com](http://worldpay.com)

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**Mee, Letitia, DGF**

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**From:** M M  
**Sent:** Tuesday, October 02, 2018 8:01 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Manner and methods rule changes, 48 hour prohibition on scouting flights

Good morning,

While your goal to prohibit scouting for animals may be based on sound wildlife management principals it sets up a conflict with a pilot's basic freedom to fly and use the national airspace. As long as I am at legal altitudes for the given airspace I intend to fly where I want and when I want. This means that I could potentially run afoul of state authorities if my flight is deemed a "scouting flight". I cannot comment on drones other than to say that if they are prescribed altitudes then they have the freedom to fly wherever they want.

I opposed this rule making on the grounds that the state has no authority over the movement of aircraft through the national airspace. The FAA does and they can impose TFR's for certain reasons.

There are other ways to reduce harvests of wildlife. Increase fees, restrict the number of licenses, shorten the season. For those with the means to either fly or hire aircraft they certainly have the means to pay for higher license fees.

Small drones do not have the range to scout any significant area. Any drone with a range of up to two hours would be very expensive to own and operate.

This rule is misguided and violates a fixed wing or rotary wing pilot's freedom to fly. Further more the State may try to bring a heavy hand down on a pilot because some suspicion of a scouting flight when the pilot may simply be sight seeing with no ill intent.,

Sincerely,  
Mike Purpura

**Mee, Letitia, DGF**

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**From:** Kerrie Romero <[redacted]>  
**Sent:** Monday, October 15, 2018 8:41 AM  
**To:** [redacted]  
**Cc:** DGF-FieldOpsComments; Griego, Robert, DGF; Jackson, Ty J., DGF; Sloane, Michael B., DGF  
**Subject:** [EXT] Proposed San Juan Rule Change

Good Morning Commissioners,

I just wanted to bring to your attention that the guiding community on the San Juan are in opposition to the proposed change to the Manner and Method Rule as it relates to removing the 2 hook limit. I realize that our best time to have expressed opposition has already passed but I wanted to pass along this email I received anyways.

Thanks,

**Kerrie C. Romero**  
Executive Director - New Mexico Council of Outfitters and Guides

[www.nmoutfitters.com](http://www.nmoutfitters.com)

----- Forwarded message -----  
Date: Sat, Oct 13, 2018 at 6:47 AM  
Subject: RE: Fw: Proposed San Juan Rule Change  
To: Kerrie Romero <[redacted]>

Hi Kerrie,

Sorry for the last minute response, been trying to put something together and it just hasn't happened.

I will say for what it matters, myself and the majority of the guides here on the San Juan are very opposed to this proposed rule change. While there is no evidence that three or more flies on a line causes more fatality's or more damage to a fish, I strongly disagree with this. The San Juan is a fishery with a great deal of angling pressure and allowing a person to fish with as many flies as one chooses will not be good for this river. The state has worked very hard to get this fishery back to a top shelf fishery and it makes no sense to change a rule that has been in place for a dozen years or so. More and more anglers are getting into this sport every year, so protecting this fishery is more important than ever. It's too bad that this is even a discussion, if it's not broken don't fix it. Once again, the guiding community and myself are very opposed to this rule change.

Thanks,

**From:** Kerrie Romero <[redacted]>  
**Sent:** Friday, October 12, 2018 10:57 AM  
**To:** [redacted]  
**Cc:** Jeff Massey <[redacted]>; Noah Parker <[redacted]>  
**Subject:** Re: Fw: Proposed San Juan Rule Change

Hi Toner,

Thanks for the email. Sorry it took me a couple of days to respond. I am aware of the proposed rule change regarding the hook limit. I had also heard that there had been a number of anglers who had expressed concerned with the rule. However, I have not heard any push back on the rule change from the guided fishing industry. That doesn't necessarily mean it's not there. Perhaps I just haven't heard anything about it.

I'll follow back up with you if I hear anything from the fishing side of the outfitting industry.

Thanks,

Kerrie C. Romero

Executive Director - New Mexico Council of Outfitters and Guides

[www.nmoutfitters.com](http://www.nmoutfitters.com)

On Fri, Oct 12, 2018 at 9:27 AM Info <[redacted]> wrote:

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**From:** Toner Mitchell <[redacted]>  
**Sent:** Tuesday, October 9, 2018 2:52 PM  
**To:** Info .  
**Cc:** Jeff Massey  
**Subject:** Proposed San Juan Rule Change

Hello Kerrie,

I'm writing regarding a proposed manner and method rule change on the San Juan River (page 17), which would strike the current limit of two hooks and replace it by allowing unlimited hooks. New Mexico Trout Unlimited has authorized me to formally oppose this change on the grounds that it would diminish the fishery by increasing the number of inadvertently snagged fish. Even in the hands of experts, more than two hooks (I've known anglers who think nothing of using five flies) would result in increased fish stress and mortality.

Just so you know, I consulted the guide community up there before deciding to reach out to the commission. They are majority opposed – we haven't heard of any guide support as of yet – and are trying to generate enough comments to dissuade the commission from adopting the rule change. I've been told that comments need to be in by October 18 to have the most impact. To individual commission members.

Is this something the NM Council of Outfitters and Guides would want to weigh in on? It would really be great if the angling/guiding community could be together on this.

Thanks for your time,

Toner

Toner Mitchell

New Mexico Water and Habitat Coordinator

• \_\_\_\_\_

<http://www.tu.org>

**Mee, Letitia, DGF**

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**From:** Aaron Carithers < >  
**Sent:** Monday, October 15, 2018 11:47 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Quality Water 2 fly rule

San Juan River Guide Association

October 15, 2018

New Mexico Department of Game and Fish

P.O. Box 25112

Sante Fe N.M. 87504

Attn. Field Operations Rule Development

[DGF-fieldopscomments@state.nm.us](mailto:DGF-fieldopscomments@state.nm.us)

**Subject: Comments on Proposed Manner and Method of Taking Regulations.**

The San Juan River Guide Association as well as the majority of the unaffiliated guide community is universally apposed to the repeal of the two fly limit within the Quality Water section of the San Juan River.

Fishing with more than 2 flies became popular early in the 2000s leading to higher fish mortality due to break offs, we began to see a greater number of fish entangled in multiple fly rigs stuck to debris on the river bottom. Because of the nature of the fishery, extreme cold water flowing from the bottom release Navajo Dam, the main food supply within the Q.W. are very small aquatic insects, midges and mayflies. In order to be consistently successful at hooking these often over pressured and very particular fish, small flies fished on light line is the norm. While there will always be some fish mortality due to being caught and handled there is no reason to increase the number of hooks an angler may use in the far chase pursuit in a catch and release setting.

Over ten years ago at the request of the San Juan River Guide Association, business students at New Mexico State University conducted an economic impact study focused on the Quality Water section of the San Juan. The 3.75 miles of catch and release trout fishing was shown to generate over 30 million annually in related

**Mee, Letitia, DGF**

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**From:** Art Vollmer <[avollmer@troutunlimited.com](mailto:avollmer@troutunlimited.com)>  
**Sent:** Saturday, November 10, 2018 3:35 PM  
**To:** [letitia.mee@dnr.nm.gov](mailto:letitia.mee@dnr.nm.gov); [kirk.patten@dnr.nm.gov](mailto:kirk.patten@dnr.nm.gov)  
**Cc:** Patten, Kirk, DGF; DGF-FieldOpsComments  
**Subject:** [EXT] Manner and Methods Rule Comments- San Juan Rule Change  
**Attachments:** TUNM Comments to Commission San Juan Regs Change 11-12-18-signed.pdf

Chairman and Commissioners,

Please accept these comments from Trout Unlimited New Mexico Council on the proposed change to the Manner and Methods rule regarding the two-fly rule on the San Juan River special trout water.

--

Art Vollmer

**Mee, Letitia, DGF**

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**From:** Art Vollmer <art.vollmer@dnr.state.nm.us>  
**Sent:** Sunday, October 14, 2018 5:26 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Manner and Methods Rule Comments  
**Attachments:** TUNM Comments on San Juan Regs Change 10-15-18-signed.pdf

Please accept these comments from Trout Unlimited New Mexico Council on the proposed rule changes.

--  
Art Vollmer  
TUNM Chairman



**Mee, Letitia, DGF**

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**From:** Tom Norton  
**Sent:** Wednesday, October 03, 2018 12:33 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Manner and methods on San Juan Quality Waters

Dear Commissioners:

I am strongly against this legislation. The proposed removal of the current two hook limit per line on the Quality Waters of the San Juan would negatively impact the fishing experience of almost all anglers. I fish these waters on a regular basis. Having more hooks on a line would without doubt result in the snagging of fish. This snagging will lead to unnecessary injuries to these fish, some resulting in death. Please do not pass this legislation.

Sincerely,  
Thomas Norton

Sent from my iPhone

**Mee, Letitia, DGF**

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**From:** William Zenger <...>  
**Sent:** Saturday, November 17, 2018 12:04 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Multiple flies

Hi Sir,

Just want to say a few words of objection to the multiple hooks on the San Juan. I've fish the river a few times a year and every time I go there I always seem to snag a few fish usually on the bottom fly. Some of my snagged fish are hooked in the gills, some bleeding. I don't know if the gill hooked fish made it or not. With more hooks the more snagged fish and more mortality on the fishery.

Thanks  
Bill Zenger

Sent from my iPad

**Mee, Letitia, DGF**

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**From:** Connie and Dave < >  
**Sent:** Monday, October 01, 2018 3:35 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Number of hooks used

Using more hooks than 2 will kill more fish as break-offs will be more frequent as will "foul hooking ". Few anglers can handle the casting of more than 2 hooks. Change in the rule is a bad idea.

**Mee, Letitia, DGF**

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**From:** Buck Skillen  
**Sent:** Friday, September 28, 2018 1:48 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Proposed Changes to Manner and Method Rule.

Dear NM Game and Fish; I am an avid and frequent angler on the San Juan Quality Waters and am concerned that it is being proposed to strike the following Rule.

**K. Limit on angling hooks: It is unlawful to angle with more than two barbless lures or flies with**

single point angling hooks on a single line when fishing the special trout water on the San Juan river designated in

Subsection A. of 19.31.4.11 NMAC.

Striking or eliminating this Rule is a really bad idea. I want to go on record as being opposed to striking the Rule that states one may fish the San Juan Quality Waters with NO MORE than 2 single point, barbless flies. Further:

*Regulation changes in the past have been to improve the quality of the fishery and the angling experience. Removing the regulation is a step backwards and will negatively affect the quality of the fishery and the angling experience.*

*The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by Outfitters, Guides and Anglers.*

Please protect the San Juan Special Trout Waters and do not remove the 2 fly per line law.

Respectfully submitted, Frank (Buck) Skillen,

## Mee, Letitia, DGF

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**From:** Doug Wallis  
**Sent:** Friday, September 28, 2018 2:54 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Removing the limit on hooks per line (especially in Special Trout Waters)

Gentlemen,

I am writing in response to the proposal to remove the limitations on the number of hooks on a fishing line. I urge you not to remove the limit of two hooks per line in Special Trout Waters like the San Juan. The Special Trout Waters of the San Juan, as the name states, are indeed special and represent some of the most challenging fly fishing in the Southwest.

Regulation changes have always been proposed to enhance the fishing experience in the past, but this proposed change will certainly degrade both the fishing and the fishing experience. With no limit on the number of hooks per line, it would make an already frequently crowded situation on weekends and holidays total chaos. One can envision someone standing at the top of the Upper Flats or the Cable Hole and essentially "long line fishing" like tuna fishermen, paying out a hundred feet of line with as many hooks as possible attached. Of course, that would foreclose anyone fishing across the current who happened to be standing downstream of the long line fisherman.

The Special Trout Waters are about the thrill of fooling wary trout with a dry fly, nymph or streamer, not about meat fishing like deep sea commercial fishing. The current, two hook limit allows the fishing of a dry fly with a dropper or a nymph with a smaller midge behind it. Foul hooking of fish is relatively rare and usually the result of a fish striking at the first fly and being foul hooked by the second fly. A line with multiple hooks will result in numerous foul hooked fish and will promote snagging of fish. As anyone who has fished the San Juan knows, fish gather downstream of wading fishermen and are not particularly "spooky". The opportunity to snag fish with a line full of hooks will be obvious to those who seek only to bring in a fish for a picture by any means. The number of injured fish can be expected to increase and ultimately lead to a decline of trophy size fish, decreasing the fishing experience.

As evidenced by the number of Colorado, Texas, and Arizona residents encountered regularly on the San Juan, the Special Trout Waters are a source of revenue for the state of New Mexico. The many anglers from out of state buy non-resident permits to fish, park, and camp there. The attraction is the challenge of catching a large trout on a tiny hook and light tippet. Degrading that experience by making it less challenging and ultimately depleting the resource will result in a loss of revenue for the State, as those anglers choose a more sporting venue.

Finally, I urge you to add an additional meeting to take comments in northern New Mexico in either Aztec or Farmington, the two locations closest to the San Juan. That would provide an opportunity for those closest to the resource to share their views and experiences personally.

Thank you for the opportunity to comment on the proposal.

Doug Wallis

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Doug Wallis

## Mee, Letitia, DGF

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**From:** Alan Monk  
**Sent:** Monday, October 01, 2018 2:42 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Revocation of the 2 fly limit on San Juan

As a regular fisherman of the Quality Waters of the San Juan, I strongly oppose the revocation of the existing 2 fly limit. I believe this would open the way for some anglers to use so many flies that their fishing would amount to nothing more than "snagging" of fish and cause tremendous damage to the fish on this stretch. Please do not approve the revocation!!

Alan Monk

Sent from [Mail](#) for Windows 10

**Mee, Letitia, DGF**

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**From:** Tom O'Neill  
**Sent:** Monday, October 01, 2018 4:01 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Rules

Dear Sir or Madam,

Please leave the existing rules on the San Juan Fisheries. The San Juan River habitat is doing very well and so I ask you to leave the current rules as they are. It is important to me and my family to enjoy fishing the San Juan as it currently is.

Sincerely,  
Tom O'Neill

**Mee, Letitia, DGF**

---

**From:** Steve La Falce  
**Sent:** Saturday, October 27, 2018 6:48 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] San Juan River

Gentlemen:

As a visiting angler I travel at least twice each year to Navajo Dam to fly fish your fabulous San Juan River. I usually stay at Fisheads, a destination I share with a dozen or so of my fellow Flyfishers from our Grand Canyon Trout Unlimited and Northern Arizona Flycasters clubs. Each of us Arizonans, and there are several other groups of us, spends close to \$1000 on each of these trips. I think I can echo the sentiments of all of us in stating unequivocally that we firmly oppose any change in the "two hook rule" for this wonderful fishery. The incidence of accidental foul hooking, and the potential for illegal snagging of fish, would certainly be much higher, resulting in seriously increasing the possibility for the injuring of trout. Anything even remotely injurious to the fish there, fish that are already highly stressed by the pressure they're under by great number of anglers who daily tempt them, is certainly something the Commission should strive to avoid, even if it means that this unique fishery needs unique regulations to protect it.

Steve La Falce  
Past Chair, Arizona Council, Trout Unlimited Sent from my iPad



**Mee, Letitia, DGF**

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**From:** Raymond Nagashima  
**Sent:** Thursday, November 15, 2018 11:21 AM  
**To:** DGF-FieldOpsComments  
**Cc:**  
**Subject:** [EXT] San Juan river hook limit

I recently fished the San Juan below Navajo dam, license # 2946022, and heard that the Game Commission is considering removal of the two hook limit on this section of river. I strongly oppose this rule change. As a board member of my local Trout Unlimited chapter, I am concerned that we are literally loving our sport to death. The number of people fishing was shocking enough and increasing the number of hooks in the water will be detrimental. In fact, I would advocate a two fly limit on all waters, not just the San Juan to protect these threatened resources.

Sincerely, Raymond Nagashima

**Mee, Letitia, DGF**

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**From:** Gary Treat  
**Sent:** Monday, October 01, 2018 2:02 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] San Juan river two fly rule.

Please keep the two fly rule in effect for the San Juan river.

Sent from Mail for Windows 10

## Mee, Letitia, DGF

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**From:** Steve La Falce  
**Sent:** Saturday, October 27, 2018 6:48 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] San Juan River

Gentlemen:

As a visiting angler I travel at least twice each year to Navajo Dam to fly fish your fabulous San Juan River. I usually stay at Fisheads, a destination I share with a dozen or so of my fellow Flyfishers from our Grand Canyon Trout Unlimited and Northern Arizona Flycasters clubs. Each of us Arizonans, and there are several other groups of us, spends close to \$1000 on each of these trips. I think I can echo the sentiments of all of us in stating unequivocally that we firmly oppose any change in the "two hook rule" for this wonderful fishery. The incidence of accidental foul hooking, and the potential for illegal snagging of fish, would certainly be much higher, resulting in seriously increasing the possibility for the injuring of trout. Anything even remotely injurious to the fish there, fish that are already highly stressed by the pressure they're under by great number of anglers who daily tempt them, is certainly something the Commission should strive to avoid, even if it means that this unique fishery needs unique regulations to protect it.

Steve La Falce  
Past Chair, Arizona Council, Trout Unlimited Sent from my iPad

**Mee, Letitia, DGF**

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**From:** David Nickum <  
**Sent:** Tuesday, November 20, 2018 12:52 PM  
**To:** [REDACTED]  
**Subject:** [EXT] San Juan Special Trout Waters regulation  
**Attachments:** San Juan quality waters november 2018.pdf

Attached please find our letter of comment on the proposed regulation changes for the San Juan River tailwater. Thank you for your consideration of our members' concerns as frequent visitors to your state's most renowned trout fishery.

\*\*\*\*\*

David Nickum  
Executive Director  
Colorado Trout Unlimited

**Mee, Letitia, DGF**

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**From:** Carl Fischer <...>  
**Sent:** Tuesday, October 02, 2018 5:41 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] SJQW regulations

*As a frequent visitor to the quality waters would like to voice my support for maintaining the current two fly regulations to reduce injury and mortality. Carl Fischer*

**Mee, Letitia, DGF**

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**From:** GREG SPRADLING  
**Sent:** Wednesday, October 03, 2018 3:06 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Subject line: Maintain limit on angling hooks on SJQW

Dear Commissioners,

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by a broad consortium of Guides, and Anglers back in 2008. The 2 fly per line rule has played a major role reducing inadvertent damage and death to the fish, and improving the quality of the fishery and the angling experience. Removing the regulation is a significant step backwards in both regards.

As an avid fisherman who frequently fishes the San Juan, I strongly urge you to consider keeping the 2 fly per line law in place as a means to effectively protect the San Juan Special Trout Waters.

Greg Spradling  

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**Mee, Letitia, DGF**

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**From:** David Kirk  
**Sent:** Monday, October 01, 2018 12:18 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Maintain limit on angling hooks on SJQW

Updated 8-29-2018: Proposed changes to the manner and method rule 19.31.10 NMAC

Dear Commissioners,

The current regulation of 2 flies per line for the Special Trout Waters below Navajo Dam was overwhelmingly supported by a broad consortium of Guides, and Anglers back in 2008. The 2 fly per line rule has played a major role reducing inadvertent damage and death to the fish, and improving the quality of the fishery and the angling experience. Removing the regulation is a significant step backwards in both regards.

As an avid fisherman who frequently fishes the San Juan, I strongly urge you to consider keeping the 2 fly per line law in place as a means to effectively protect the San Juan Special Trout Waters.

David Kirk  
LPC GIS

**Mee, Letitia, DGF**

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**From:** Patten, Kirk, DGF  
**Sent:** Thursday, November 01, 2018 6:47 PM  
**To:** Griego, Robert, DGF; Jackson, Ty J., DGF  
**Subject:** FW: [EXT] Manner and Method rule change

I'm confident TU has already commented on this but wanted to forward this email along for your records.

Kirk

**From:** Art Vollmer [[mailto:](#)]  
**Sent:** Wednesday, October 31, 2018 4:30 PM  
**To:** Patten, Kirk, DGF; Frey, Eric, DGF  
**Cc:** Toner Mitchell  
**Subject:** [EXT] Manner and Method rule change

I notice that the 10-30-2018 version of the proposed changes to the Manner and Method rule still eliminates the 2-fly limit on the San Juan Quality Waters. Per our letter of October 15, 2018 TU opposes this change as we believe it is detrimental to the health of the trout in this heavily fished area and we don't see any real benefit that would result from the rule change. Please explain your rationale for making this change.

--

Art Vollmer  
Chairperson  
Trout Unlimited New Mexico



## Mee, Letitia, DGF

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**From:** Brejcha, Lisa, DGF on behalf of ISPA, DGF  
**Sent:** Monday, November 19, 2018 2:05 PM  
**To:** DGF-FieldOpsComments; DGF-AdminPublicComment  
**Subject:** FW: [EXT] San Juan river fishing regs

Good afternoon –

Forwarding a comment. Thank you and have a great day!

Lisa Brejcha  
Information Center Supervisor  
New Mexico Game & Fish  
1 Wildlife Way  
Santa Fe, NM 87507  
Phone: 505-476-2558  
Mobile: 505-288-0157  
Email: [lisa.brejcha@state.nm.us](mailto:lisa.brejcha@state.nm.us)



### CONSERVING NEW MEXICO'S WILDLIFE FOR FUTURE GENERATIONS

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**From:** Tim O'Connor [<mailto:>]  
**Sent:** Monday, November 19, 2018 1:11 PM  
**To:** ISPA, DGF  
**Subject:** [EXT] San Juan river fishing regs

This will follow up my phone call to your office about this matter.

I support the 2 barbless hook limit per line on the San Juan River quality waters below Navaho Dam.

I oppose increasing the number of hooks permitted on a line.

I spend a week every year fishing the San Juan River quality waters below Navaho Dam.

Best regards,  
Tim O'Connor

**Mee, Letitia, DGF**

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**From:** Ed Robinson <  
**Sent:** Monday, October 01, 2018 12:01 PM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT]

I am against the proposed change of adding more flies to the line. I believe this change will be detrimental to the health and wellbeing of the fish.  
Ed Robinson

## Mee, Letitia, DGF

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**From:** Tom Knopick <  
**Sent:** Friday, September 28, 2018 10:12 AM  
**To:** DGF-FieldOpsComments  
**Subject:** [EXT] Proposed changes to the manner and method rules

Regarding the proposed change "Limit on angling hooks. Remove this law.

I began fishing the San Juan River below Navajo Dam in 1979 and have been co-owner of Duranglers a fly fishing company since 1983. Duranglers has been guiding fly anglers on the San Juan 1984 and have seen many changes in regulations over the years. All the regulation changes have been to improve the quality of the fishery and the angling experience. With that in mind it is very disappointing to see the proposed regulation change to remove the "limit on angling hooks". The current regulation that only 2 flies per line may be used on the Special Trout Waters below Navajo Dam was overwhelmingly supported by Outfitters, Guides and Anglers. Without this support the regulation would never have been approved. Removing the regulation is a step backwards and will negatively affect the quality of the fishery and the angling experience. The San Juan Special Trout Waters is a special place and one of the most heavily fished section of river in the United States. Even with the current limit of 2 flies per line there is significant hook damage with numerous fish swimming around with hooks in their mouth and other parts of the body. If the regulation is removed there will be anglers fishing with 3,4 and even 5 flies per line like we saw before the 2 fly regulations creating more damage to the fish.

Please protect the San Juan Special Trout Water and do not remove the 2 fly per line law.

Tom Knopick

President

Duranglers Inc.

Tom Knopick  
Duranglers Flies & Supplies

[www.duranglers.com](http://www.duranglers.com)

Visit Duranglers On Line Store At  
<http://duranglers.com/shop-online/>

## Mee, Letitia, DGF

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**From:** ISPA, DGF  
**Sent:** Monday, October 01, 2018 1:43 PM  
**To:** DGF-FieldOpsComments  
**Subject:** FW: [EXT] Comments Regarding 19.31.10

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**From:** Fred Smith [mailto:\_\_\_\_\_]\_\_\_\_\_  
**Sent:** Monday, October 01, 2018 12:54 PM  
**To:** ISPA, DGF  
**Subject:** [EXT] Comments Regarding 19.31.10

With respect to Proposals under Consideration and the summary that was presented, I wanted to express my opposition to removing the two hook limit when fishing the quality waters NM. I have fished the SJQW for at least 20 years. The fishing is wonderful and the State Park is run very well. There is no reason to make a change in the current regulations limiting the number of hooks to only two.

I am not a fishing guide nor have any financial interest what so ever in the fishing, or tourism activities that are associated with the activity. It is quite normal to catch and release more than a dozen fish per day, wading this fine water utilizing no more than two barbless hooks.

Even with two hooks it is not uncommon to see the primary holding hook in the lip of a trout with the second hood imbedded somewhere else in the body of the trout. Likewise, it is not unusual when using two hooks to foul hook one trout per day. I cannot imagine the number of trout snagged with three and four or more hooks in the water, given the huge density of fish we see in this special water.

What is accomplished with elimination of a two hook limit?

What possible improvement to the fishery can be expected?

Please do not move forward with this proposal.

Fred Smith

Sent from [Mail](#) for Windows 10

## Game Commission Public Comments

Hello, my name is Ron Keller. I am a pilot and a hunter in New Mexico.

With respect to the proposed rule change regarding use of aircraft, I would like to point out that several partnerships have been forged between aviation groups and federal, state, and private entities.

First of all, the Recreational Aviation Foundation, a 9000 member group, entered into a MOU with both the USFS and the BLM several years ago to foster a cooperative relationship to preserve, maintain and create airstrips for recreational access. This was done at the national level and has the full support of the Secretaries of Agriculture and Interior.

Additionally, the New Mexico Airstrip Network, of which I am a founding member, was formed to foster cooperative relationships at a state level. USFS, BLM, New Mexico Aviation Division, RAF, New Mexico Pilots Association, Aircraft Owners and Pilots Association, NM Economic Development, NM Tourism Department and several others were all signatories on a MOU.

Lastly, a partnership exists between RAF and NMPA to maintain the ability to access recreational areas of New Mexico by utilizing backcountry and recreational airstrips.

It is my view that changing the use of aircraft rule to lengthen the timeframe from the current 48 hour rule will have a detrimental effect on all of the progress made to date with the aforementioned partnerships. Therefore I am adamantly opposed to such a rule change.

Thank You.

October 4, 2018  
(via email)

Stephen Fleming

Chairman Paul Kienzle III  
New Mexico Game and Fish Commission  
PO BOX 25112  
Santa Fe, NM 87504

Dear Commissioner Kienzle (and members):

I am writing to comment upon the proposed changes to the manner and method rule 19.31.10 NMAC, as they affect the operation of aircraft.

First, I acknowledge there always are bad actors in any endeavor, which require reasonable, and lawful, efforts to minimize. I further acknowledge that law enforcement officers of the New Mexico Game & Fish Department have a difficult job apprehending and prosecuting violators who illegally harvest game resources protected by the Department.

With the above in mind, the proposed changes to the "manner and method rule in 19.31.10 NMAC not only do not achieve the intended purpose, but attempt to regulate matters beyond the authority of the Commission and Department and, in this attempt, gravely and unlawfully upend the justice principle of "innocent until proven guilty."

The proposed changes appear to be a solution in search of a problem. I have a single question for the Commission and Department: have these rules been reviewed by internal legal counsel? It very much appears these proposed regulations were developed in the absence of any review by G&F legal counsel. Had this been accomplished, the issues I comment upon below likely would not have arisen. I urge the Commission and Department to table action on the aircraft portion of the proposed changes until such review occurs.

I have the following concerns:

- a) The language of the proposed rule is excessive in scope and application.
- b) The rule attempts to regulate matters not under the Commission's nor Department's authority.
- c) Arbitrary and capricious enforcement is made more, not less, likely.
- d) Constitutional requirements for probable cause are ignored.
- e) Inclusion of drone regulations as part of aircraft operation.
- f) Failure to use the proven Operation Game Thief program in lieu of onerous aviation restrictions.

The Department opines the current 48-hour rule is inadequate to investigate violations and a six-month time frame will somehow enhance enforcement. The Department provides no factual data to support this contention. An Inspection of Public Records Act (IPRA) request in 2017 sought "Copies of the Departments citations and actions relating to violation by aircraft, due to enforcement of time of use.

(i.e. the 48 hour rule)." The reply (copy attached) stated "After a thorough search, we have determined that we do not have the records you have requested."

Since the Department has been unable to demonstrate either need or efficacy of the rule, there only are two possibilities. Either the number of violations are so minimal as to be statistically insignificant, or the Department is unable to make a case using sound investigative practices.

Regardless of reason, expanding the prohibition to six months does not solve any problem, but unacceptably exposes innocent behavior to criminal prosecution.

At the September 4 public meeting in Albuquerque, Col. Griego was asked why the Department was unable to prove violations under the current 48-hour rule. He explained the only way they can prove information is transferred is to observe it themselves with undercover agents, flying with guides. This is how all crimes are solved; not by criminalizing the mere appearance of an aircraft on the *assumption* something nefarious is afoot.

The US and NM Constitutions require a showing of probable cause, yet nothing in the proposed rule addresses nor demonstrates how a six-month (or even a 48-hour) aircraft restriction does anything to aid in the establishment of such probable cause.

At the September 28, 2017 Commission meeting, Col. Griego stated the following (from the meeting transcript):

"Mr. Chairman, Commissioner Ramos there is a lot of that and it is a difficult to make it rule. I think we can strengthen our rule to assist law enforcement and a little easier, making it a little easier to make a case. With our current rule where it says, you have to prove that they used information gained. That's a very difficult burden to prove that even though that I know that you were in the plane, I've got to prove that you told this other individual who is now your guide and that's a hunter. I've got to prove that element where with variations of these others, you know, if you can't fly for hunting purposes, what we've got at that point is we got to prove are they a hunter? Are they in the hunt area? Do they have a GPS? Is there waypoints specific to these hunt locations, the pattern in which they were flying. It would be a totality of it but it would be a little more beneficial to us in the field to be able to prove those cases. Still significant case. Still, we're pretty high burden. Across the west there's only a handful of cases made every year but with a lot of these states it has kept the honest guy a little more honest where they're not having as significant of these violations as they did prior to but like you saw, most of these states are just really making two to five cases a year out of their multiple investigations that they do. I know in the south in the Gila, the Sacramento's, the Carson National Forest into the San Mateo's and the Madeleine's, you know we probably have 30 plus reports a year of investigations that where we're working on these cases. We had one in (Indiscernible) just recently. We were able to find out who was in the plane but could not, they didn't have hunters coming in for a week. So was there legal activity and that was all based on the investigation."

In neither the above, nor the earlier cited comments from the Sept 4, 2018 meeting, did Col. Griego explain exactly how an expanded time frame was going to aid in any investigation. The comment immediately above indicates Col. Griego is immensely frustrated by a perceived inability to make a case (rare, by his own admission) using aforementioned sound investigatory practices.

Therefore, it is clear the proposed rule really is intended to eliminate aircraft usage during hunting seasons (essentially prohibiting flight over the entire state).

The problems with this approach are manifold.

First and foremost, it exposes the entire pilot population to specious allegations of violating a G&F rule. At the September 4, 2018 meeting, Col. Griego and Captain Jackson went to some length to assure that the broad and indefinite language would not be misused against pilots who were not engaging in activities related to hunting. They were unable to explain how such a determination of applicability or violation would be sustained in the complete lack of any information/evidence supporting an allegation an aircraft had engaged in some activity other than harmless flight.

Loitering and repeated low passes are examples of suspicious but also equally harmless activities that easily could be misconstrued as violations (e.g. passes to assess and clear backcountry strips before committing to landing), but which in fact are typical of safe flight practices.

Lacking investigative effort, the Department could only surmise suspicious activities are occurring. Such subjective determinations do not meet any standard of evidence for enforcement.

Col. Griego and Captain Jackson say pilots may be questioned but insist pilots won't be inadvertently cited. Indeed, the assurance that such error will not occur, and the rule change will not affect pilots engaged in flight not related to hunting, already has been shown to be hollow.

The person receiving the attached IPRA response was cited solely on the basis of aerial activity. This individual had to retain legal counsel even though the citation was dismissed. That episode directly refutes the contention pilots will not be incorrectly charged and that they will not be affected. The impact to this individual was lost time and money to defend a spurious charge and secure justice.

Additionally, the assurances expressed by Col. Griego and Captain Jackson are mentioned in the rule summary but, very importantly, are nowhere to be found in the proposed rule language.

Lacking proper investigative techniques, how does a ground observer correlate overflying aircraft with violation of game law? Simply put, the officer cannot. These changes to the law have a low probability of enforcement success and a much greater probability of erroneous application.

The goal of G&F to eliminate overflights for six months every year posits a belief and course of action that ALL aviation activities in the vicinity of hunts are conducted for illegal purposes.

Second, and as important as the first item, above, is involvement of the Commission and Department in matters well beyond their jurisdiction and authority. The proposed rule seeks to regulate the use of federal airspace. The Federal Aviation Administration (FAA) has sole authority over all aviation activities while airborne.

The Commission and Department cannot make rules affecting the public's right to transit navigable airspace (see 49 U.S. Code § 40103 - Sovereignty and use of airspace). Had the Commission and Department undertaken adequate legal review of their proposal, such restrictions would have been



understood much earlier than now. There are a number of other federal laws regarding commerce and flight operations, and no authority is provided to state or local governmental entities to restrict or modify such rights as they relate to aviation.

On the issue of drones, I have but one comment. Whatever rule is approved for drone operation should be separated from any aircraft rule. Drones are a completely unrelated form of aerial operation and the FAA specifically regulates such equipment separately from manned aircraft.

Drone technology unquestionably represents a much greater and genuine issue of deliberate game violations as they can be directly used, in real time, by hunters inclined to such behavior. Drones require no communication with a third party, no obvious loitering, and effectively are silent and invisible from even a short distance.

This is the real problem the Commission and Department should be focusing on, not harmless overflights by manned aircraft. Instead, the Commission and Department prefer onerous prohibitions on aircraft usage, even as the Department has been completely unable to substantiate manned aircraft as an enforcement issue. This intense interest in manned aircraft belies a personal agenda, rather than a legitimate enforcement concern.

Regarding Operation Game Thief (OGT): I am left wondering why this extraordinarily successful program has not been used to solve suspected aviation violations, rather than the perplexing attempt to regulate and criminalize aviation activities.

The OGT program has no time limits, as is evidenced by poaching charges months after a violation. In many regards, poaching is a difficult crime to solve; requiring good police work involving evidence and interviews. It should be no different for pursuing a suspected aerial violation. Such a process would remove the potential that now exists for erroneous enforcement under current and proposed aircraft rules. I suggest the effective OGT program should be used in lieu of the aircraft sections.

Operation Game Thief does not attempt to ban the use of motor vehicles and other methods of poaching game; instead, it relies upon evidence and investigation. This exactly is how violations involving aircraft (undoubtedly far fewer in occurrence than believed by the agency or commission, since prosecutions are nil) should be handled as they are no different. Targeting aircraft reveals the agenda of affecting a relatively small user group, when a similar mindset regarding ground vehicles never would be tolerated by the public.

In closing, I refer you to how the State of Idaho handles aviation matters related to hunting, and suggest New Mexico would benefit greatly from adopting their example:

It is Unlawful To:

- To use aircraft, including unmanned aircraft, to locate game or furbearing animals and communicate location to persons on the ground, or to use any helicopter to transport hunters, gear, or game except at established landing fields.
- Make use of any aircraft, including unmanned aircraft, to locate any big game animals for purpose of hunting those animals during the same calendar day those animals were located from the air.

(Emphasis added)

The above is the ENTIRE aviation regulation; there is no other mention of aircraft in their hunting regulations. Idaho has no time limit on investigation or prosecution and limits information obtained from aerial observation only to the same day. This is a recognition of practicality; such information rapidly becomes stale and unusable.

The Idaho regulation is effective and refreshingly simple in scope. New Mexico can do better by emulating Idaho's lead on this issue.

Thank you.

Sincerely,



Stephen Fleming  
Mid Valley Air Park

Member – Aircraft Owners and Pilots Association (AOPA)  
Member – Experimental Aircraft Association (EAA)  
Member – New Mexico Pilots Association (NMPA)  
Member – Recreational Aircraft Foundation (RAF)

cc:

Commissioner Ralph Ramos -  
Commissioner Bob Ricklefs -  
Commissioner Thomas Salopek -  
Commissioner Bill Montoya -  
Commissioner Craig Peterson -  
Commissioner Elizabeth Atkinson Ryan -  
Game & Fish Director Alexa Sandoval -  
G&F Officer Col. Robert Griego - robert.griego@state.nm.us  
G&F Officer Ty Jackson - ty.jackson@state.nm.us  
G&F Pilot James Duggan - james.duggan@state.nm.us  
G&F General Counsel Jacob Payne - jacob.payne@state.nm.us  
G&F Deputy General Counsel Michael Thomas - michael.thomas@state.nm.us  
G&F Department Comments - DGF-fieldopscomments@state.nm.us  
EMNRD General Counsel Bill Brancard -  
AOPA Contracted Attorney Gary Risley -  
FAA (ABQ FSDO) John Wensel -  
FAA (ABQ FSDO) John DeWitt -



## RECREATIONAL AVIATION FOUNDATION

September 3, 2018

TO: NMDGF Field Operations Rule Development  
P.O. Box 25112, Santa Fe, NM 87504

RE: Proposed Changes: Manner & Method Rule, 19.31.10 NMAC, regarding use of aircraft

Dear Representatives of the New Mexico Department of Game and Fish,

This is an update of a prior letter dated August 23, 2017 which we sent to NMDGF Chairman Kienzle and the Commissioners regarding possible rules concerning the use of aircraft for hunting or scouting for hunts. At that time we learned that recreational pilots had been inadvertently and incorrectly cited for their flights over areas that may be used for hunting. We have now learned that the New Mexico Department of Game and Fish is again proposing to change and expand the scope of your rules concerning aircraft operations. This provides us the opportunity to work with you in developing a better rule meeting the needs of all concerned.

The Recreational Aviation Foundation (RAF) is a 9000+ member national nonprofit organization dedicated to promoting backcountry and recreational flying. Along with the maintenance and preservation of existing airstrips, the RAF has engaged in building new airstrips, thus enhancing access to recreational opportunities.

We know that it is NMDGF's stated mission "To conserve, regulate, propagate, and protect the wildlife and fish within the state of New Mexico using a flexible management system that ensures sustainable use for public food supply, recreation, and safety; and to provide for off-highway motor vehicle recreation that recognizes cultural, historic, and resource values while ensuring public safety."

Just as you say you do in your mission statement, we too promote the idea that our members across the nation aren't just flying around – they are flying to access and enjoy recreational opportunities in the outdoors, such as fishing, boating, hiking, backpacking, and yes, hunting. They also enjoy photographing the splendor of our nation and its vistas and its plants and wildlife from the air as well as on the ground. The state of New Mexico has all of the above in abundance and our members come from all across the U.S. to enjoy the beauty of the state.

*The RAF Mission:  
"The Recreational Aviation Foundation preserves, maintains and creates  
airstrips for recreational access."*

As a party to the New Mexico Airstrip Network and in close association with the New Mexico Pilots Association we work with your state's tourism and economic development agencies and organizations to promote New Mexico among both our members as well as the entire nationwide aviation community.

Often pilots will fly into remote areas, and camp in groups. These gatherings are called fly-ins. Thus there may be a higher than normal number of what appears to be low flying aircraft during the times when they approach and depart a recreational airstrip. Other pilots may fly at low but legal altitudes traversing mountainous areas in order to enjoy and photograph the scenery, to land and enjoy a remote area for recreational purposes, or to fly low because of aircraft performance or weather requirements.

We understand that NMDGF staff members believe they may have situations wherein in some instances unethical or inappropriate use of aircraft may result in the harassment of wildlife, or may give an unfair advantage to the hunter who uses or hires aircraft to be used in this manner during a hunt. When these situations occur we in the aviation community support your efforts to deal appropriately with the individuals involved and we will also perform outreach to make sure the aviation community understands your concerns and rules.

At the same time we are concerned that complaints from unknowledgeable hunters, law enforcement personnel, or others on the ground may mistake valid cross country, local, or landing aircraft for those being used for illegal purposes. We believe solutions exist without unneeded or inappropriate regulations.

We support the collaboration of the New Mexico Pilots Association, the New Mexico DOT's Aviation Division, and our RAF representatives to first of all study and define any real problems, versus those that may be a matter of misperception. We further support effective solutions as opposed to inappropriate citations. We know that the vast majority of the members of the aviation community live by a strong ethical code of conduct and we are convinced that they will do the right thing. Our community of aviators wants to be a part of the solution as opposed to creating a problem.

We have reviewed suggested changes in your rules' language proposed by the New Mexico Pilot Association and believe they would likely alleviate our concerns about the current new language affecting aircraft use as proposed by NMDGF.

We hope this letter is received in the same spirit of cooperation and mutual support in which it is written, and look forward to working with NMDGF staff and the Commission regarding this issue. Please feel free to contact us at any time with any comments or questions you may have.

Sincerely yours,

Bill McGlynn, President  
Recreational Aviation Foundation (RAF)

CC: Rol Murrow, Director Emeritus; Larry Filener, New Mexico State Liaison; Ron Keller, New Mexico State Liaison, Recreational Aviation Foundation; and Joyce Woods, President, New Mexico Pilots Association



www.aopa.org

November 28, 2018

New Mexico Department of Game and Fish  
Attn: Field Operations Rule Development  
P.O. Box 25112  
Santa Fe, NM 87504

**Re: Comments on Proposed Changes to Manner & Method Rule, 19.31.10 NMAC**

Dear Commissioners:

The Aircraft Owners and Pilots Association (AOPA) is the world's largest aviation organization representing the General Aviation interests of over 300,000 pilots and aircraft owners, including over 2,600 members in New Mexico. In our previous letter dated September 25, 2018, we outlined very specific concerns with the proposed rule language (specifically rule 91.31.10.11(E)). If adopted as proposed, this rule's unintended consequences could harm anyone using a General Aviation aircraft in New Mexico for business, recreation, or personal transportation. AOPA and its members continue to be opposed to the proposed rule language and all the concerns outlined in our previous letter remain unchanged.

We are aware that other aviation groups also in opposition to the proposed changes, including the New Mexico Pilots Association and the Recreational Aviation Foundation, have suggested ways in which the organizations could assist NMDGF in achieving your goal of eliminating unfair hunting practices via an education and self-policing effort within the General Aviation community. We have seen great success in a similar effort to combat the spread of Invasive Aquatic Species via seaplane operations in Colorado and Ohio

To this end, I encourage you to consider the following webpage and the associated video as a potential format for forming a partnership with General Aviation pilots in New Mexico.

<https://www.seaplanepilotsassociation.org/invasive-species/>

In regard to the problem of Invasive Aquatic Species, there is no way to definitively prove who transferred the contaminated water from one lake to another. This is not unlike the proposed rule change in that, short of having a Game Warden in the aircraft itself, it will be nearly impossible to definitively prosecute a pilot under this rule. The most likely scenario is that an accusation would simply cost significant amounts of time and money on both the pilot's side, as well as, the State of New Mexico.

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

NMDGF Rule Change Comments  
91.31.10.11(E)  
Nov. 28, 2018

The good news is, you have a diverse group of aviation enthusiasts, many of whom are also avid outdoorsmen, who share your concerns and are willing to help form a positive, non-punitive method that could truly reduce the problem you are attempting to address. We encourage the Commission to take them up on this offer to assist in crafting a win-win solution.

I would be happy to discuss this issue with you at any time. Please do not hesitate to contact me at [redacted].

Very truly yours,



Tom Chandler  
Regional Manager – Central Southwest

**Cole, Darrell R., DGF**

---

**From:** Griego, Robert, DGF  
**Sent:** Thursday, November 29, 2018 4:23 PM  
**To:** Cole, Darrell R., DGF  
**Subject:** FW: [EXT] Against NMGF 48hr rule change

.....145

**Robert L. Griego**  
Colonel of Field Operations  
PO Box 25112  
Santa Fe, NM 87504  
505-476-8061



## CONSERVING NEW MEXICO'S WILDLIFE FOR FUTURE GENERATIONS

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---

**From:** Sloane, Michael B., DGF  
**Sent:** Thursday, November 29, 2018 8:21 AM  
**To:** Griego, Robert, DGF  
**Subject:** Fwd: [EXT] Against NMGF 48hr rule change

Michael B. Sloane

Director  
New Mexico Department of Game and Fish  
PO Box 25112  
Santa Fe, NM 87504

Ph.: 505/476-8148  
Fax: 505/476-8123

Conserving New Mexico's Wildlife for Future Generations.

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----- Original message -----

From: [REDACTED]  
Date: 11/29/18 8:11 AM (GMT-07:00)  
To: "Sloane, Michael B., DGF" <[michael.sloane@state.nm.us](mailto:michael.sloane@state.nm.us)>  
Subject: [EXT] Against NMGF 48hr rule change

Hello Mr. Sloane,

I am against the NMGF manner and taking 48 hour rule change for flying.

The current 48 rule should remain the same, or be reduced to 44 hours. Americans spend a lot of time, preparation and money to be limited to 5 days hunting. Aviation is not limited to rich or elites.

I am in favor of extending the public comment period 90 days so people can be aware of it and be able to comment. No one I know in Sierra County or at the TorC airport knew about this matter. It should of been posted at airports and other places, forums.

Also: Some commissioners emails are inop and there is no way or it is very difficult to communicate with them.

Bill Weddle





November 27, 2018

**TO: NMDGF Field Operations Rule Development**  
P.O. Box 25112, Santa Fe, NM 87504

**RE: Proposed Changes: Manner & Method Rule, 19.31.10 NMAC, regarding use of aircraft**

This letter is in response to the final proposal of the above rule, published October 30<sup>th</sup> with one correction from our October 15 submission. See the NOTE in blue below.

As before, we urge you to delay changes regarding use of aircraft in this round of rulemaking and retain current language. The 48 hour rule is long standing and well understood. It should be carried over to this new Manner & Method rule, rather than restrict aircraft use for an excessive 6 month timeframe which won't improve enforcement, creates confusion, infringes on the rights of pilots, and threatens the business of currently legal commercial operations.

Separating the "use of aircraft" issue from this rule change will allow more time for NMDGF to engage aviation experts within the Federal Aviation Administration, NMDOT Aviation Division and local aviation groups, as well as hunters. We offer the expertise of our aviation network to help address any issues of illegal use of aircraft for hunting and address hunter concerns about use of aircraft over hunting areas.

**OUR RECOMMENDATION:** Retain current rule language in new Manner & Method Rule, as highlighted, deleting proposed language (red strikeouts) as follows:

*19.31.10.7*

~~*F. "Locate" shall mean any act or activity, in which any person is searching for, spotting or otherwise finding a protected species from or with the aid of any aircraft or drone.*~~

*19.31.10.11*

~~*<reinstate from current rule>*~~

**E. Hunting after air travel:**

It shall be unlawful for anyone to hunt for or take any protected species until after the start of legal hunting hours on the day following any air travel except by regularly scheduled commercial airline flights or legitimate direct flight to the final destination.

~~*E. Using aircraft to locate wildlife:*~~

- ~~*(1) It is unlawful for any individual, for the purpose of hunting, to locate or assist in locating a protected species from or with the aid of an aircraft or drone or to relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action or to use information pertaining to the location of a protected species gained from the aid of an aircraft or drone during the period beginning on August 1 and ending on January 31 of each license year.*~~
- ~~*(2) This section shall not apply to regularly scheduled commercial airline flights, direct flights or to any individual acting within the scope of their official duties as an employee or authorized agent of the state of New Mexico or the United States federal government.*~~

~~*<reinstate from current rule>*~~

**F. Use of aircraft for spotting game:**

It shall be unlawful to use aircraft or drone to spot or locate and relay the location of any protected species to anyone on the ground by any means of communication or signaling device or action.

*<reinstate from current rule>*

**G. Using information gained from air flight:**

(1) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any aircraft until 48 hours after such aircraft use.

(2) It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of, any protected species with the use of information regarding location of any protected species gained from the use of any drone at any time.

*NOTE: the following was stricken in our previous recommendation dated 10/15/18 and should be retained. Wording is identical in both the proposed rule and the current rule. Paragraph numbering needs adjustment.*

**K. Aircraft, drone and vehicle exemptions to this rule:** The Director may exempt a person from the prohibition of utilizing an aircraft, drone or vehicle for management purposes.

We submit this recommendation in a spirit of cooperation, convinced there is a win-win solution not yet realized. Along with the 12 nonprofit and governmental organizations who partnered to form the New Mexico Airstrip Network, we share common goals with NMDGF supporting fair access to recreational opportunities on public lands and conservation for future generations.

Respectfully submitted,

*Joyce M Woods*

**Joyce Woods, President  
New Mexico Pilots Association**

r

Website: [www.nmpilots.org](http://www.nmpilots.org)

Email: \_\_\_\_\_

*The New Mexico Pilots Association (NMPA) is a non-profit organization representing 4294 pilots statewide and an aviation industry accounting for more than \$2.3 Billion in annual economic impact. NMPA members share common goals and ideals with NMDGF regarding enjoying the great outdoors and preserving personal freedoms for access to recreational opportunities.*



# MEETING SIGN-IN SHEET

New Mexico State Game Commission

(Sign-in to be in the official record as having attended this meeting. Mark the box if you wish to be added to the meeting notifications mailing list.)

PLEASE PRINT

# HEARING 2A-MANNER/METHOD

EXHIBIT

6

NAME	ADDRESS CITY, STATE, ZIP	E-MAIL ADDRESS	PHONE	ADD TO MAILING LIST
RON OROZCO				<input checked="" type="checkbox"/>
RON KELLER				<input checked="" type="checkbox"/>
TRAVIS CHILSON			( ) -	<input type="checkbox"/>
Brian MILWAGE			( ) -	<input type="checkbox"/>
BRUCE LANE				<input type="checkbox"/>
Aaron Carthers				<input checked="" type="checkbox"/>
ROB PEPPER				<input type="checkbox"/>
Martin Joyce			( ) -	<input type="checkbox"/>
Jeff Massey				<input type="checkbox"/>
Rusty Hill				<input type="checkbox"/>
Tones Mitchell				<input type="checkbox"/>
CHRIS GUICKMAN		@		<input type="checkbox"/>
Cooper O'Connor		@		<input type="checkbox"/>





# SPEAKER'S CARD

New Mexico State Game Commission Meeting

(Please Place Form in Appropriate Hearing Slot)

HEARING 2A

PLEASE PRINT

Name: KEVIN CHILSON

Address: \_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_ @ \_\_\_\_\_

Officially Representing: \_\_\_\_\_  
(Organization(s))

Your Title: WY/CCF

Do you wish to be heard?  Yes  No

**WRITTEN COMMENT (Below or Attached)**

Withdraw  
comment



# SPEAKER'S CARD

New Mexico State Game Commission Meeting

(Please Place Form in Appropriate Hearing Slot)

HEARING 2a

PLEASE PRINT

Name: RON OROZCO

Address: \_\_\_\_\_

City: \_\_\_\_\_ Stat. \_\_\_\_\_ Zip \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Officially Representing: NMPA AOPA  
(Organization(s))

Your Title: REP.

Do you wish to be heard?  Yes  No

WRITTEN COMMENT (Below or Attached)

OPPOSITION TO  
RULE CHANGE REGARDING  
AIRCRAFT.

OFFER NMPA &  
~~GATA~~ AOPA SUPPORT

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**SPEAKER'S CARD**  
New Mexico State Game Commission Meeting

(Please Place Form in Appropriate Hearing Slot)

HEARING JA

PLEASE PRINT

Name: <u>Ron Keller</u>		
Address: _____		
City: _____	State: _____	Zip: _____
Phone: _____		
Email: _____		
Officially Representing: <u>RAF, NMPA, NMAK</u> <small>(Organization(s))</small>		
Your Title: <u>NM Liaison RAF</u>		
Do you wish to be heard? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
WRITTEN COMMENT (Below or Attached)		
See Attached		

# Game Commission Public Comments

November 30th, 2018

Mr. Chairman, Commissioners, Director Sloane,

Hello, my name is Ron Keller. I am a pilot and a hunter in New Mexico.

With respect to the proposed rule change regarding use of aircraft, I would like to express my opposition to the proposal.

If this is an attempt to help enforce and apprehend violators, it will not work. I predict it will cause dozens of false reports of illegal activity that will tie up enforcement officers. The rule breakers will still break the rule, and we legitimate pilots will face unwarranted interrogations.

If this is really an issue of "Fair Chase", thinly veiled as an enforcement issue, then why stop with aircraft? I propose you make it illegal to use information derived from fish finders to locate schools of fish, for the purpose of harvesting fish. For someone relegated to fishing from the bank of a lake, a boat equipped with a fish finder provides an unfair advantage to locate fish. This is also an issue of fair chase, since the information derived can be used in real time. I would like for you to consider this concept carefully, since I see many parallels to your use of aircraft proposal.

It is my view that changing the use of aircraft rule to lengthen the timeframe from the current 48 hour rule will have a detrimental effect on the free access to airspace that is regulated by the FAA, and to unfettered access to recreational areas. Therefore I am strongly opposed to such a rule change.

Thank You.





# SPEAKER'S CARD

New Mexico State Game Commission Meeting

(Please Place Form in Appropriate Hearing Slot)

HEARING ITEM

2A

PLEASE PRINT

Name: <u>Cripes O'Connor</u>		
Address:		
City:	State:	Zip:
Phone:		
Email:		
Officially Representing: <u>WCH Outfitters</u> <small>(Organization(s))</small>		
Your Title: <u>Reservation coordinator/Guide</u>		
Do you wish to be heard? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
<b>WRITTEN COMMENT (Below or Attached)</b>		
<p>I have moved down to the San Juan to start my career. I want to see this fishing improve going forward in time. This river is one of the most unique places to fish in the nation, we as a state need to preserve this vital resource. Please hear what we have to say and think about this as a long term decision.</p>		













# SPEAKER'S CARD

New Mexico State Game Commission Meeting

(Please Place Form in Appropriate Hearing Slot)

HEARING

ZA

PLEASE PRINT

Name:

Farrell Carithers

Address:

City:

State

41

Phone:

Email:

Officially Representing:

Thursdays + single

(Organization(s))

Your Title:

Owner

Do you wish to be heard?

Yes

No

WRITTEN COMMENT (Below or Attached)

42 We are against  
the 2 fly rule  
change.



# SPEAKER'S CARD

New Mexico State Game Commission Meeting

(Please Place Form in Appropriate Hearing Slot)

HEARING

2A

PLEASE PRINT

Name: BENCE LANE

Address: \_\_\_\_\_

City: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Ema: \_\_\_\_\_

Officially Representing: Dreamcatcher's Outfitters  
(Organization(s))

Your Title: Fly Fishing Guide San Juan

Do you wish to be heard?  Yes  No

**WRITTEN COMMENT** (Below or Attached)

I believe in leaving  
the San Juan River  
River in place. To  
Fly limit to preserve  
the trout population  
River health.  
Rules show respect  
for the great  
resource we have  
~~on the~~ for the  
river.





# SPEAKER'S CARD

New Mexico State Game Commission Meeting

(Please Place Form in Appropriate Hearing Slot)

HEARING ITEM ZA

PLEASE PRINT

Name: <u>BRAD MILLER</u>		
Address:		
City:	State:	Zip:
Phone:		
Email:		
Officially Representing: <u>HEADS UP FLY FISHING</u> <small>(Organization(s))</small>		
Your Title: <u>GUIDE</u>		
Do you wish to be heard? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

**WRITTEN COMMENT (Below or Attached)**

I DONT FEEL MORE THAN 2 FLIES  
NEED TO BE FISHED AT THE  
SAME TIME - I THINK IT WILL  
BE DESTRUCTIVE TO THIS QUALITY  
FISHER. I THINK THE RESULT  
WILL END UP WITH MORE  
INJURED OR SWAGGED FISH,  
MORE TRASH IN THE WATER.

NEW MEXICO STATE GAME COMMISSION MEETING  
ROSWELL CONVENTION AND CIVIC CENTER  
EXHIBIT HALL  
912 N. MAIN ST., ROSWELL, NM 88201

PUBLIC RULE HEARING  
NOVEMBER 30, 2018

\*\* This is an expedited portion of New Mexico State Game Commission Meeting.

Public Rule Hearing 2a and 2b. Audio [2:10:23 to 3:12:00] \*\*

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APPEARANCES

Chairman Paul Kienzle  
Vice Chairman William Montoya  
Game Commissioner Thomas Salopek  
Game Commissioner Robert Ricklefs  
Game Commissioner Ralph Ramos  
Game Commissioner Craig Peterson  
Game Commissioner Chance Chase

ABSENT

None

1 CHAIRMAN KIENZLE: Hearing Item No. 2. This is the informational portion of the  
2 Rule Making Hearing on Hunting and Fishing Manner and Method Rule 19.31.10  
3 NMAC. This hearing is now open. Are there any exhibits for the New Rule 19.31.10  
4 for the record?

5 ROBERT GRIEGO: Mr. Chairman, I do have five exhibits for the informational  
6 hearing. Exhibit No. 1 is going to be the notice of rulemaking. Exhibit No. 2 is going  
7 to be the initial proposed rule and the strike through version of the rule. Exhibit No. 3  
8 is going to be the presentation I'm presenting today. Exhibit No. 4 is going to be the  
9 summary of proposed changes. And Exhibit No. 5 is going to be a CD with all of the  
10 public comments.

11 CHAIRMAN KIENZLE: Of which there were many, I think. Was it a record?

12 ROBERT GRIEGO: One or two.

13 CHAIRMAN KIENZLE: Did we break a record on the number of public comments? I  
14 wonder.

15 ROBERT GRIEGO: I've not kept a tally of all the others, but yeah, we had about a  
16 160 of them on this one.

17 CHAIRMAN KIENZLE: I will admit Exhibits 1 through 5 into the record. You can go  
18 ahead and introduce the new rule.

19 ROBERT GRIEGO: Mr. Chairman, Commissioners. This is the informational  
20 presentation akin to Item No. 2a for Manner and Method 31.10 NMAC. As you all  
21 know, we removed Manner and Method from all of the species rules and combined  
22 into one part, 31.10. This is been several months in the process, several public  
23 meetings and several Game Commission meetings in discussion with this. So we did  
24 have four different public meetings throughout the state. We had marginal  
25 attendance. When we did have large crowds it was typically pilots, a few sportsman

1 in the group. But we did have them across the state and have submitted the Rule to  
2 the register and are here in front of you today. Part of the Manner and Method  
3 proposal we adjusted many definitions amended and defined new terms. There are  
4 several of them that we have gone over in the past with each of you but made  
5 several amendments to those. One of the big ones, one of the big rules is  
6 possession or sale protected species. Basically, what we did was amend, or  
7 proposing to amend, the different ways that individuals could legally possess our  
8 protected wildlife. Obviously, they can, under license or permit, but the only other  
9 option we had was a donation certificate. So what we did is adjust that language to a  
10 possession certificate to cover temporary situations, temporary legal possession by  
11 whether it's a meat processor, a taxidermist, or an individual transporting illegally  
12 harvested game for the hunter, they will have this possession certificate rather than it  
13 being technically donated to them. Another one was sale of game animal parts.  
14 Currently, you can sell only the heads, antlers, horns, and hides, claws of protected  
15 species. We added rendered bear fat, teeth, and all fair bear parts of the items that  
16 can be legally sold. You can still not sell internal organs of big-game species. But  
17 we did add those few. And then possession of game animal parts found in the field.  
18 We amended that to add for the seizure of shed antlers if they were collected in  
19 violation of criminal trespass, a closure, or while driving off the road. Another  
20 important rule change was under the importation or possession of unpermitted  
21 wildlife. Currently, as it stands, you must -- any wildlife imported into the state must  
22 have an importation permit given by the Department and a health certificate. That's  
23 to ensure the protection of our native wildlife species, protection from disease. What  
24 we did is amend that to require that, obviously, that you must have an importation  
25 permit and health certificate, but require that wildlife sold or imported has to be

1 accompanied by that original importation document to show that paper trail that, at  
2 least initially, when it was brought in it was a healthy wildlife species. Again, that will  
3 help us with several cases that we are coming across any more where we're coming  
4 across everything from cobras to alligators being brought into the state. So this will  
5 help us pretty tremendously. If we do seize something the individual that we seize it  
6 from will have thirty days to line up a location to get it out of state. Otherwise, we will  
7 consider it abandoned and from there will deal with it, either with euthanizing the  
8 animal or working with the zoos or other areas that it might be potentially usable.

9 Use of roads and hunting. Basically, common term shooting from the road.  
10 What we did is change -- it's still unlawful to take or attempt to take a protected  
11 species from or across the road, but what we did is basically get rid of the forty-foot  
12 provision. So if there is not a right-of-way fence, an individual simply just has to step  
13 off the edge of the maintained surface and they can legally shoot at protected  
14 species. If there is a right-of-way fence, they must get on the other side of it. So  
15 again, basically what we did is get rid of the forty-foot provision to that.

16 Use of aircraft. We defined locate and basically this proposal will make it  
17 unlawful for the purpose of hunting to locate a protected species with the aid of an  
18 aircraft or drone during the periods of August 1st through January 31st of each  
19 license year. It would not apply to commercial or direct flights or any other flight that  
20 is not for the purpose of hunting.

21 Vehicles being driven off-road. Again, currently it's unlawful to drive or ride in  
22 a motor vehicle off-road if the vehicle bears a licensed hunter. What we are  
23 proposing is allowing private landowners to give written permission to an individual to  
24 drive off-road on their private property only. We do have issues with this during the  
25 antelope hunts and we are not very successful in the court system when the hunter

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1 shows up with the landowner and the landowner says, "I don't mind that he was  
2 driving off-road." So it's their property, just proposing that they have that ability. It  
3 would not apply -- they could not give written permission to drive off-road if they're  
4 involved in a unitization or ranch wide or unit wide agreement or if it's property that  
5 the Department is paying for public access and the reason for that is, we don't want  
6 certain individuals to have the ability to drive off-road and other individuals who are  
7 hunting that same piece of property to not. So we just eliminated that portion.

8 Mobility impaired. That was an important one. Currently in the rule it states  
9 the term handicapped. Basically, handicapped licenses are just a reduced fee  
10 license. The true term is mobility impaired that gives those individuals the ability to  
11 shoot from a vehicle that's pulled off side the road and that sort of activity. Those  
12 hunters are designated mobility impaired or certified by a doctor, so we propose that  
13 change, that language, again, to mobility impaired to make it more accurate and  
14 added that mobility impaired can designate one person in writing to assist them.  
15 They currently can have an individual assist them in reducing an animal that has  
16 been clearly wounded to their possession, we just added that it has to be a specific  
17 individual, in writing. If that individual has to leave, they can get another one. They  
18 can still have four or five people in the vehicle to assist them but the specific  
19 individual that would be doing the hunting for them if they wound something, would  
20 have to be in writing.

21 Proof of sex or bag limit. Basically what we did here is for all of our big-game  
22 species is just give the option of rather than the scalp and ears on our female  
23 immatures, that they could keep the genitalia naturally attached to one of the  
24 hindquarters, rather than taking the scalp and ears. So it's an either/or. If they  
25 choose to keep the scalp and ears, that's great, but they now have another option.

1 Javelina hunters. We did add -- javelina are one of those, statutorily, that you  
2 do not have to bring out any of the meat for human consumption, but we are  
3 proposing that, at least by rule, that they have to bring out the head as proof of bag  
4 limit and proof of harvest, and that's what they would be tagging. The tagging  
5 portion, electronic tagging, licensed hunters upon harvest will immediately access the  
6 electronic tagging app. The app will provide an e-tag number, their customer  
7 identification number, and the date of kill. That hunter will then write on -- that  
8 information on durable material with permanent ink and attach it to the appropriate  
9 parts on the carcass. Similar to the carcass tagging that we currently have. If it's an  
10 antlered animal, they will put it on the antler and then one on the hock. And regular  
11 carcass tag will remain the same in consistent with electronic.

12 Contiguous deeded property. This is a big one, particularly in the Southeast  
13 part of the state. What we are going to do is we wrote the rule to allow a ranch --  
14 private land area is contiguous and it overlaps into two or more game management  
15 units, regardless of the season dates, that those individuals could come to an area  
16 office and talk to one of our captains, show that they own the property, sign a yearly  
17 agreement, and then what it would do is allow them to hunt their whole ranch,  
18 contiguous deeded property, regardless of those GMU boundaries. The season  
19 dates and bag limit and weapon type would be determined on which GMU takes up  
20 the majority of that private land ranch. It would be based on that. If they do agree to  
21 sign up for this program, it's an all or none. You can't hunt the contiguous  
22 overlapping into other GMUs, and then hunt that portion of the ranch that is a specific  
23 GMU during that GMUs timeframe. It's the majority of the ranch, you would hunt  
24 based on those dates over the entire ranch. Some miscellaneous manner and  
25 method types. Use of dogs. Currently, we have individuals registered tracking dogs

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1 with the Department. We are recommending that they no longer have to register with  
2 the Department but that they could use no more than two dogs and the dogs must be  
3 under control of a leash the whole time. As we have researched a lot of it those dogs  
4 are pretty meticulous, slow-moving, they are not much of any distraction, should not  
5 affect other hunters, they are pretty quiet when they work, so it should be a pretty  
6 good deal. Use of bait. Really what we did is baiting is, obviously, still illegal, but we  
7 made it consistent with the federal rule in the ten-day limit that – but it must be  
8 completely void and eliminated ten days prior to hunting in that area, which includes  
9 feeders. Hunting captive big-game species. Basically, again, getting ahead of some  
10 of these high game proof fences that are not Class A parts. Make it where an  
11 individual could not hunt these areas, basically confined wildlife in these areas.  
12 Collars and tracking devices. Currently is unlawful to put collars on bears and lions.  
13 We're recommending to spread that across all big-game species. We are starting to  
14 see cases where we are having bighorn sheep collared and other species collared  
15 with tracking collars and they are using them to either locate that specific animal for  
16 training or herds that are running with that specific animal.

17 UNIDENTIFIED SPEAKER: This is beyond our tagging?

18 ROBERT GRIEGO: Correct. Not our collars. The use of cellular or cell or satellite  
19 cameras, game cameras, just presenting that it is unlawful to use any of the cellular  
20 or satellite trail cameras, real-time cameras. Regular trail cameras that are with SD  
21 card would still be completely legal. Just the cell cameras or satellite cameras.

22 CHAIRMAN KIENZLE: You gotta get out in the field and check your camera.

23 ROBERT GRIEGO: Correct.

24 CHAIRMAN KIENZLE: All right.

25 ROBERT GRIEGO: Some fishing proposals. Allow on trot lines, instead of writing all

1 of your information, name, date of birth, address, just allowing the customer  
2 identification number. Again, just for the protection of our sportsmen having that  
3 personal information out there. And then, obviously, we also had proposed  
4 eliminating the limit on angling hooks in the San Juan, which was a another  
5 contentious. Between that and flying, we'd probably had twenty comments instead of  
6 [indiscernible] --

7 COMMISSIONER MONTOYA: Bobby, let me ask -- Mr. Chairman. When you're  
8 talking about that specific part of it, what -- are you going page by page on yours?  
9 Could you tell us what page that's on?

10 ROBERT GRIEGO: Which portion?

11 COMMISSIONER MONTOYA: Of the --

12 CHAIRMAN KIENZLE: Hooks.

13 COMMISSIONER MONTOYA: Yeah.

14 ROBERT GRIEGO: I do not have that here, but I do have it in the rule.

15 COMMISSIONER MONTOYA: Okay.

16 DIRECTOR SLOANE: Mr. Chairman --

17 COMMISSIONER MONTOYA: That's what we have available.

18 DIRECTOR SLOANE: It's 19.31.10 14k.

19 CHAIRMAN KIENZLE: What do you know about fish?

20 ROBERT GRIEGO: Mr. Chairman, Commissioner Montoya. Director Sloane does  
21 have that specific one.

22 COMMISSIONER MONTOYA: Run that by again.

23 CHAIRMAN KIENZLE: 14 --

24 DIRECTOR SLOANE: K.

25 CHAIRMAN KIENZLE: Pardon me?

1 COMMISSIONER MONTOYA: It's 14?

2 CHAIRMAN KIENZLE: It's page 15.

3 [CROSSTALK]

4 ROBERT GRIEGO: Commissioner Montoya, are you ready?

5 COMMISSIONER MONTOYA: Yeah.

6 ROBERT GRIEGO: All right. It will be 19.31.10.14.K NMAC. 31.10.14.K.

7 DIRECTOR SLOANE: It's the original [indiscernible] --

8 ROBERT GRIEGO: Well, that's the original.

9 DIRECTOR SLOANE: That's struck through in the current proposal.

10 COMMISSIONER MONTOYA: Let's see what you just --

11 CHAIRMAN KIENZLE: Striking, limit on angling [indiscernible].

12 ROBERT GRIEGO: Correct.

13 CHAIRMAN KIENZLE: Got it. So it's the middle of the page, page 17. For those of  
14 you following along at home, it's page 17 in the middle of the page.

15 ROBERT GRIEGO: Are you ready, Mr. Chairman?

16 CHAIRMAN KIENZLE: Yeah.

17 ROBERT GRIEGO: Also simplified the language in baitfish and simplified the  
18 language on the use of boats and motors on the lakes and waters across the state.  
19 Clarified some language of and specific violations under manner and method for our  
20 quality assessment misdemeanors. Like I said, we did have lots of public  
21 participation, we had approximately 155 public comments as of last night at 5:00 p.m.  
22 As you can see, the aircraft rule and the two flies were the bulk of the public  
23 comment, but we did have lots of public participation in this process. With that, I will  
24 take questions.

25 CHAIRMAN KIENZLE: We have to stick to the script [indiscernible].

1 UNIDENTIFIED SPEAKER: Not our choice.

2 CHAIRMAN KIENZLE: Anything further from you at this time, absent any questions?

3 ROBERT GRIEGO: Mr. Chairman, I rest my case.

4 CHAIRMAN KIENZLE: All right. We will take public comment at this point in time.

5 Seeing no public comment, we'll move on. I'm just kidding. I've tried to loosely group  
6 people into the pilots, the anglers, and then the decline to state, I guess, were the  
7 final two that I've got. So let's start with Mr. Roscoe [phonetic]. And were going to  
8 stick to two minutes.

9 MR. ROSCOE: Yes, sir. I will. Thank you, Mr. Chairman, Commissioners, Director,  
10 and the staff of Fish and Game, I think you guys have done a great job, all of you,  
11 and we appreciate you. You probably recognize me, I've been speaking to you a  
12 time or two. I tried to grow a beard so I could sneak in, but obviously, that didn't  
13 work. We've talked about the enforcement issues, and I'm not going to repeat those,  
14 except to say that we feel strongly that extending the current 48-hour rule to six  
15 months does nothing to improve the enforcement effort. Secondly, the fair chase  
16 argument, which has also been brought up. We have argued that the general aviation  
17 fleet is thirty years old. My aircraft was built in 1956. There are 1,300 aircraft, total,  
18 in all of New Mexico. This is not a change, nothing's changed as far as fair chase  
19 with aircraft, as far as we are concerned. You have far bigger fish to fry in the  
20 technology field with drones and all the other issues that you are currently  
21 addressing. The last challenge that I feel we were presented with was a comment,  
22 with all due respect, Chairman, about where were the aviators during the last year of  
23 negotiations and development of this rule? And so I did a little homework, and if I  
24 may, just quickly, I found where on August 4th of 2017, Rol Murrow from the New  
25 Mexico Pilot Association spoke about concerns of the general aviation community to

1 the proposed rule. On September 20th an e-mail was sent to Chairman Kienzle by  
2 Mr. Larry Filener representing the New Mexico Pilot Association. "I would very much  
3 like to be able to work with you at your convenience to discuss these activities."

4 September 28th 2017, Red River, five members of the aviation community arrived,  
5 and I have the quotes here that I won't read, but at that time this matter was tabled  
6 seconded by -- oh, really?

7 CHAIRMAN KIENZLE: I give you ten seconds.

8 MR. ROSCOE: Okay. I have six more letters that were submitted to the  
9 Commission, none of which received a response. We were never invited to meet  
10 with the stakeholders. I was asked why I haven't spoken directly to Colonel Griego  
11 and we felt that that was not the protocol. Our responsibility is through the  
12 Commission, so --

13 CHAIRMAN KIENZLE: I'm gonna tell everybody again, this is a bottom up and not a  
14 top-down organization for the most part. And so when proposals come from the  
15 Department, it is -- that is where you need to start. And so to say that you weren't  
16 informed, couldn't participate, it just doesn't cut it with me and this has been on the  
17 table for quite some time and so you can trot those out and I will respect that, but I --  
18 to say that you were ignorant of what is going on or weren't allowed to participate, is  
19 demonstrably false. So I don't know what it is about pilots, you guys just get up here  
20 and sometimes you rub me the wrong way.

21 MR. ROSCOE: I'm sorry. And I apologize for that, sir.

22 CHAIRMAN KIENZLE: But that's your prerogative, you are welcome to do that. But  
23 to criticize the process when you are permitted to participate from the beginning, in  
24 my opinion, is not the best way to do it. No one has ever boxed you out, no one has  
25 ever said we don't want to hear you have to say. So again, I don't think that's fair.

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1 MR. ROSCOE: Please don't take it personally.

2 CHAIRMAN KIENZLE: I'm trying not to. So, enough said. Mr. Keller [phonetic].

3 RON KELLER: Mr. Chairman, Commissioners, Director Sloane. My name is Ron  
4 Keller, I'm representing the Recreational Aviation Foundation, New Mexico Pilots  
5 Association, and New Mexico Airstrip Network. I am both a pilot and a hunter in New  
6 Mexico. With respect to the proposed rule change regarding use of aircraft, I would  
7 like to express my opposition to the proposal. If this is an attempt to help enforce and  
8 apprehend violators, it will not work. I predict it will cause dozens of false reports of  
9 illegal activity that will tie up enforcement officers. The rule breakers will still break  
10 the rule and we legitimate pilots will face unwarranted interrogations. If this is really  
11 an issue of fair chase, then [indiscernible] an enforcement issue, then why stop with  
12 aircraft? I propose you make it illegal to use information derived from fish finders to  
13 locate schools of fish for the purpose of harvesting fish. For someone relegated to  
14 fishing from the bank of a lake, a boat equipped with a fish finder provides an unfair  
15 advantage to locate fish. This is also an issue of fair chase since the information  
16 derived can be used in real time. I would like for you to consider this concept  
17 carefully since I see many parallels to your use of aircraft proposal. It is my view that  
18 changing the use of the aircraft rule to lengthen the time frame from the current 48-  
19 hour rule will have a detrimental effect on the free access to airspace that is  
20 regulated by the FAA and to unfettered access to recreational areas. Therefore, I am  
21 strongly opposed to such a rule change. Thank you.

22 CHAIRMAN KIENZLE: Thank you. Moving on to what I think is the anglers or are  
23 the anglers. Cooper O'Connor [phonetic]. Before you start, Mr. O'Connor, can I see  
24 a show of hands on people that are opposed to the change in the two-fly rule?  
25 Anybody in favor of that change? Okay. You may proceed, thank you.

1 COOPER O'CONNER: Thank you, Commissioners and Chairman. I'm 18 years old,  
2 I'm trying to start my career in guiding [indiscernible] Soaring Eagle Lodge. I'm the  
3 owner of WCH outfitters. This rule change could impact my career going forward and  
4 this is the place and it's so unique to the state that I strongly believe that this rule  
5 change will very intensely impact this fishery. And I'm 100 percent against it.

6 CHAIRMAN KIENZLE: Thank you.

7 COOPER O'CONNER: Thank you.

8 CHAIRMAN KIENZLE: Chris Guikema [phonetic]. It's going to launch this time. All  
9 right.

10 CHRIS GUIKEMA: [indiscernible].

11 CHAIRMAN KIENZLE: Probably not.

12 CHRIS GUIKEMA: Okay. As a former outfitter and lodge owner on the San Juan  
13 River and as just a general sportsman, it's an irreplaceable treasure to the State of  
14 New Mexico. Anything that we can to protect it, we need to do. I'm adamantly  
15 against opening up Pandora's box and changing a rule to loosen the legalities. I  
16 think cementing the ability to restrict the river to two flies is where it needs to be.

17 CHAIRMAN KIENZLE: Thank you. Toner Mitchell. I told you to stick around, right?

18 TONER MITCHELL: Thank you, Commissioners. I'm Toner Mitchell, I represent  
19 Trout Unlimited, I'm also a former guide and fly shop owner and I've been angling on  
20 the San Juan my whole life. I went through the whole Manner and Method Rule,  
21 hunting and fishing, and every single thing in there seems to be in the interest of  
22 improving the resource or improving the activity. This thing on the San Juan does  
23 neither of those things. It makes fishing less high-quality for all the fish that are going  
24 to be snagged with the use of many hooks, and it affects -- it affects the resource that  
25 way, it affects the fishing for anglers, but it also degrades the economy generated by

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1 this fishery. I've heard throughout this meeting a lot of concern for the livelihood of  
2 guiding and outdoor pursuits. This rule change would be detrimental to that and I  
3 really hope you'll consider not eliminating the two-fly rule. Thank you, very much.

4 CHAIRMAN KIENZLE: Thank you. Rusty Hill [phonetic].

5 RUSTY HILL: My name is Rusty Hill, Red Dog Outfitter. I've been guiding on the  
6 San Juan for 21 years now and I feel greatly opposed to changing the rule. I think  
7 the rule is an important rule in keeping a quality experience as an angler, and an  
8 outdoorsman, and a resource, the quality of the resource. Thank you for the  
9 opportunity to be heard.

10 CHAIRMAN KIENZLE: Thank you. Jeff Massey [phonetic].

11 JEFF MASSEY: Hello Commissioners. I'm Jeff Massey, I'm the owner of Soaring  
12 Eagle Lodge and longtime guide on the San Juan River. About 12 years ago we  
13 were able to get this rule put in place of two flies only. We had to work really hard to  
14 get it and it would be a shame to see it just disappear. The fishery, the health of the  
15 fishery, is probably about as good as I've seen it in a very, very, long time. And just  
16 throwing the rule out and risking changing that and hurting the fishery just doesn't  
17 make sense to me. The old saying is, "if it's not broken, don't fix it" and that's kind of  
18 how I feel about it. I don't think that needs to be removed, I think it needs to stay in  
19 place and we need to continue to protect that fishery. Thank you.

20 CHAIRMAN KIENZLE: Do you know Cooper O'Connor?

21 JEFF MASSEY: Yeah.

22 CHAIRMAN KIENZLE: How's he doing?

23 JEFF MASSEY: How's he what?

24 CHAIRMAN KIENZLE: How's he doing?

25 JEFF MASSEY: Oh, he's great.



1 CHAIRMAN KIENZLE: All right. [indiscernible] a reference for you here on your  
2 resume. Thank you, I appreciate your comment. Martin Joyce [phonetic].

3 MARTIN JOYCE: Thank you for allowing me to speak. I sent e-mails to all of you  
4 voicing my opposition on abolishing the two-fly rule and I just wanted to give you – I'll  
5 try to give you a brief perspective of what I see when I go fish the San Juan. I've only  
6 fished up there the past four years and it's the most fished place I've ever seen in my  
7 life. I see more fishermen up there than I've ever seen anywhere else. There's a lot -  
8 - I can take a lot of time describing to you where I've been in the future, but just in the  
9 last four years I've been there, I see lots of fishermen there. The things -- some of  
10 the things I noted in my e-mail, I see -- and I won't say it's common, but it's not  
11 uncommon to see fish swimming around with hook scars in them. You can see some  
12 darkened areas on them that I'm told are from being snagged, not on purpose, just  
13 because they are in the water and it happens. You see fish swimming around with --  
14 you can see like egg patterns in them, some of the bigger patterns, you can see fish  
15 swimming around with stuff in them. And then lots of the fish that you catch have lots  
16 of hook scars in them. Not lots, but numerous hook scars in them. Depending on  
17 what parts of the river you fish, you see more wear and tear on fish in certain parts of  
18 the river than other parts. The real popular parts it is very common to catch fish that  
19 have numerous hook scars in them. I can't see, for the life of me, why somebody  
20 would want to get rid of the two-hook rule and let people fish with as many hooks as  
21 they want to. My idea, or my opinion, would be to go to one hook and let everybody  
22 fish with one hook. There's just so much traffic up there I think these fish could use a  
23 little relief in the pressure. Thank you for letting me speak.

24 CHAIRMAN KIENZLE: Thank you, sir. Aaron, I can't make out your last name.

25 AARON CARITHERS: [indiscernible]

1 CHAIRMAN KIENZLE: Say again.

2 AARON CARITHERS: [indiscernible].

3 CHAIRMAN KIENZLE: Carruthers?

4 AARON CARITHERS: My name is Aaron Carithers, the owner of Anasazi Angler.  
5 I've been guiding on the Juan for 26 years and it receives 250,000 angler hours a  
6 year. To add more hooks, add more material, [indiscernible] material, it's simply  
7 going to degrade our resource. It's only three and half miles of water, so it's a very  
8 narrow, small space. And I agree with Martin a hundred percent, I would rather see it  
9 limited to one hook per angler. So thank you for the opportunity.

10 CHAIRMAN KIENZLE: Is this the three and a half miles we dealt with the other -- in  
11 one of our other rules? Or is this a different area?

12 DIRECTOR SLOANE: I think you're thinking of the one below [indiscernible] but  
13 they're equally passionate about their --

14 CHAIRMAN KIENZLE: Understood. Bruce Lane [phonetic].

15 BRUCE LANE: My name is Bruce Lane, I've been guiding on the San Juan for about  
16 12 years. It's Dream Catchers Outfitters. I think the resource we have in the San  
17 Juan County for me growing up there, was really overlooked for a long time. You  
18 know, you go elsewhere we get people from all of the world coming to catch fish that  
19 are more than 17, 18 inches and that's huge. I don't know of anyone's fishing  
20 experience here, but some of the fish we catch up there are unheard of in terms of  
21 size. Right now, with the social media and the Internet, everybody trying to be a  
22 fishing hero these days, I think that having the rule in place for two flies only is really  
23 important. There is only going to be more people and like the other -- Martin and  
24 Aaron Carithers, if anything, maybe go to one fly. But to increase it, we're giving this  
25 -- for the non-guides who are on the river, we want to give those fish a chance. We

1 don't want to be able to go out there -- and not just guides, but just fishermen in  
2 general, go out there -- fly fishing is not about the number fish you catch or trying to  
3 show off to your friends. It's a whole different experience up in northern New Mexico  
4 that you really can't get anywhere else. I mean, you've got the Mesas, you've got the  
5 terrain, you've got everything else. It's really a gem in the desert. And one of the  
6 magazines kind of said and I overlooked it for a long time. I really want to preserve it,  
7 I think is a special place. It took me 23, 24 years of my life to discover and  
8 understand what it's all about. And the new signs look great, so I don't know why  
9 anyone would want to change them already. I mean, we've got the red chili  
10 designated water up there. I don't know how many other places really catch -- really,  
11 you can -- it's got such a great vibe and, you know, as outfitters and guides I take  
12 some kind of honor to be able to teach people the right way to give trout, to catch  
13 them properly, not snag them accidentally. There's kind of an etiquette that where  
14 people look to us for education and we're kind of teachers in that sense. So thank  
15 you for your time, appreciate it.

16 CHAIRMAN KIENZLE: Thank you. Brad Miller [phonetic].

17 BRAD MILLER: Thank you, guys. I'm Brad Miller with Heads Up Fly Fishing. I, as  
18 well as everybody else, am opposed to the two-fly rule. I think it's a special fishery  
19 that we need to protect. I think adding or increasing more flies is going to be  
20 detrimental to the fishery overall. I would like to see the rule stay the same. Thank  
21 you.

22 CHAIRMAN KIENZLE: Thank you. That may be the last of the anglers. The  
23 declined to state. Travis, you had withdrawn comment on here. Is Travis still here?  
24 Okay. Rob Pepper [phonetic]. I get that right or completely wrong?

25 ROB PEPPER: No, that's great.

1 CHAIRMAN KIENZLE: Okay.

2 ROB PEPPER: Thank you Chairman and Commissioners. I'm Rob Pepper with  
3 Heads Up Fly Fishing. I've been a guide on the San Juan now for seven years and I  
4 don't see why we would want to regress what took, like Jeff Massey said, what took  
5 us 12 years to get put in place – or it took us time 12 years ago to put in place, why  
6 we would now want to regress and remove that rule. So thank you for your time.

7 CHAIRMAN KIENZLE: Thank you. That is the last of the comment cards I've got.  
8 Are there any other exhibits we need to enter? I've got a few pieces of paper that are  
9 part of the comment cards, which I will enter as an exhibit. Do you have anything  
10 further?

11 ROBERT GRIEGO: Mr. Chairman, we do not.

12 CHAIRMAN KIENZLE: I'm going to enter the attendance sheet and comment cards  
13 as Exhibit 6. And with that we had everybody sign, there's no questions, I admitted 1  
14 through 6. Now, the comments submitted, and testimony heard during this rule  
15 hearing will be reviewed by the Commission and discussed during the open session  
16 of today's meeting. The Commission will vote on the proposed rule at that time.  
17 Thank you, again, for your participation. The hearing is closed at 11:34 a.m. Okay,  
18 we can go on to the action, the voting on 2a.

19 COMMISSIONER PETERSON: Mr. Chairman, Colonel Griego, can I make a  
20 proposal to amend this to keeping the limit of angling hooks?

21 CHAIRMAN KIENZLE: Say again? Amend --

22 COMMISSIONER PETERSON: Can I make amendment to keep the limit on the  
23 angling hooks to two?

24 CHAIRMAN KIENZLE: So keep that portion of the rule --

25 COMMISSIONER PETERSON: Keep that portion of the rule in place.

1 CHAIRMAN KIENZLE: You can make the amendment, yes. So if that's the  
2 amendment, then we have to have someone second your amendment and then we  
3 have to a vote on whether the amendment becomes part of the proposed rule.

4 VICE CHAIRMAN MONTROYA: Second it.

5 CHAIRMAN KIENZLE: Any discussion? On an amendment to keep the two-fly rule  
6 as is and not change it? Any discussion on that amendment to the proposed rule?

7 UNIDENTIFIED SPEAKER: Mr. Chairman, I don't have a discussion, but I do want to  
8 make a comment, and this is pretty much in general for the fishermen as well as the -  
9 - all the Pilots Association and really the process that the Department has really gone  
10 through. It's a long process but I think it's a good process. I'm all about public input  
11 but I was just extremely impressed in the professionalism that all of you, both pilots  
12 and fly fishermen, had brought to the table. I really respect your well composed e-  
13 mails that you generated. I believe I had something close to like 800 that came  
14 through and they weren't 800 rubberstamped messages as I've had from other  
15 organizations. So I really want to bring this out that your well composed, articulate  
16 message from each of one of you is will respected and valued and therefore I would  
17 have to support the amendment to keep the rule with the fly as you asked. Good job  
18 on that.

19 CHAIRMAN KIENZLE: Can I get a vote on the proposed amendment?

20 DIRECTOR SLOANE: Mr. Chairman? If I may, there's also an associated penalty  
21 assessment that would, if you wanted to keep the two-fly rule, would need to be put  
22 back in. I don't know if you want to do that separately or --

23 CHAIRMAN KIENZLE: What is that? What is that section?

24 DIRECTOR SLOANE: So it is 19.31.10 AA, it's on page 20 of 22.

25 CHAIRMAN KIENZLE: Commissioner Peterson, do you wish to draw your

1 amendment and substitute the amendment as suggested by director Sloane?

2 COMMISSIONER PETERSON: I couldn't see that. Where's that at?

3 DIRECTOR SLOANE: Title page 20 of 22. About halfway down the page it's an  
4 allowance for penalty assessment rather than having to go to court. More than two  
5 hooks on the San Juan special trout water. So the amendment I'm proposing would  
6 insert that into your motion to reinstate that.

7 CHAIRMAN KIENZLE: What is the letter section?

8 DIRECTOR SLOANE: AA.

9 CHAIRMAN KIENZLE: AA.

10 DIRECTOR SLOANE: I think. It's in the table right at the beginning of 19.31.10, I  
11 guess, 18 on page 20 of 22. It's about halfway down the page or so.

12 ROBERT GRIEGO: Mr. Chairman, you would be keeping the current rule as it is  
13 today but adding it to the penalty assessment list where it was struck from and it  
14 would be that 31.10.18 AA at that point.

15 CHAIRMAN KIENZLE: So more than two hooks on the San Juan special trout water  
16 would stay.

17 ROBERT GRIEGO: Mr. Chairman, that is correct. Otherwise, [indiscernible] --

18 [CROSSTALK]

19 ROBERT GRIEGO: It would be a mandatory court appearance [indiscernible]  
20 penalty reassessment.

21 DIRECTOR SLOANE: If it was removed.

22 UNIDENTIFIED SPEAKER: Correct.

23 DIRECTOR SLOANE: It was adopted as proposed today.

24 CHAIRMAN KIENZLE: You thought this was going to be easy, right? So your  
25 amendment is to keep the two-fly rule as is, no change, and then that is coupled with

1 19.31.10 18. It's in a table so it doesn't have a convenient reference. Right? So that  
2 would stay. So the penalty assessment in 19.31.10 18 in the table dealing with more  
3 than two hooks on the San Juan special trout water would stay as is. The Chair will  
4 entertain a motion to that effect, Commissioner Peterson, should you choose to make  
5 it. An amendment to that effect, rather.

6 COMMISSIONER PETERSON: So I propose the amendment to --

7 CHAIRMAN KIENZLE: All you need to say is so moved.

8 COMMISSIONER PETERSON: So moved.

9 CHAIRMAN KIENZLE: Thank you.

10 UNIDENTIFIED SPEAKER: Make it easier on yourself.

11 CHAIRMAN KIENZLE: We're not getting go through that again.

12 VICE CHAIRMAN MONTOYA: I'll second.

13 CHAIRMAN KIENZLE: We have a second from Vice Chairman Montoya. Any  
14 further discussion on the amendment to the proposed rule? Okay. So we will vote  
15 on amending the proposed rule. All in favor?

16 COMMISSIONERS: Aye.

17 CHAIRMAN KIENZLE: Any opposed? None opposed. Okay. So we now have first  
18 amendment to the proposed rule. Any further amendments to the proposed rule?

19 COMMISSIONER SALOPEK: I would like -- I've got some questions for Bobby.  
20 Driving off-road for the shed antlers. What -- what are we changing or what is -- for  
21 the recovery of sheds, are we making it unlawful to drive off-road; is that correct?

22 ROBERT GRIEGO: Mr. Chairman, Commissioner Salopek. As specific to shed  
23 hunting, it would be -- it would be -- it is currently unlawful to drive off-road today.  
24 What it would say is that any shed collected while driving off-road in an area that you  
25 can't drive off-road, or in a closure, or while criminal trespassing, or on a closed road,

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1 would be subject to seizure. We are not making driving off-road, in itself, unlawful if it  
2 isn't currently prohibited from driving off-road. Does that make sense?

3 COMMISSIONER SALOPEK: Yes, sir. I just wanted an explanation because I  
4 couldn't explain it that way. The other one on the carcass tags. We're going  
5 [indiscernible] the carcass tag for this next year. Is -- like this year they were all  
6 green, is there any way -- are they going to be color-coded like for elk, deer, turkey or  
7 are they all the same color?

8 ROBERT GRIEGO: Mr. Chairman, Commissioner Salopek. I believe that they're all  
9 going to be the same color this next year but different color than this year. I think  
10 with the vendor it gets pretty tough to differentiate, or cost wise, if we differentiate  
11 color for each species. But I know that the carcass tags coming out next year are  
12 going to be considerably smaller and it will have all of your license information on  
13 there also. So that carcass tag will be everything and anything that you need to carry.

14 COMMISSIONER SALOPEK: Second, you answered the second part. So then we  
15 don't have to have that piece [indiscernible] generated off the computer which is our  
16 actual license?

17 ROBERT GRIEGO: That is correct.

18 COMMISSIONER SALOPEK: Because it seems like in today's world -- we used to  
19 have carcass tags, we got away from them, now we're back on them and everybody  
20 is confused. I don't know why, but anyway.

21 ROBERT GRIEGO: You'll have one document.

22 COMMISSIONER SALOPEK: Right. Thank you. [indiscernible] you know, we've  
23 discussed this 48-hour rule, we've discussed, and I just gotta be honest, the calls that  
24 I've gotten from the Southwest -- I live in the Southwest, ranchers. I've looked at it  
25 and so, I guess, my question is if I get in a plane to go to my cousin's ranch in



1 [indiscernible] and we fly over -- I have a cabin in the Gila [phonetic], "well, let's go  
2 check my cabin" "oh wow, there's elk right above my cabin" and I have a 21 tag and I  
3 go hunt. Have I made myself illegal? When I go hunt those same elk, if they're  
4 there?

5 ROBERT GRIEGO: Mr. Chairman, Commissioner Salopek. Again, it would depend  
6 on the purpose of that flight. What we try to bring to you as a Commission was a rule  
7 that was consistent with what we're seeing being combated across the West. You  
8 know, again, the -- I understand the fear behind how is this going to be applied, you  
9 know, I think it is a good rule that we could make some cases with, the 48-hour rule  
10 works in a lot of instances, other than that transfer of knowledge is very hard to  
11 prove. I think proving for the purposes of hunting would be a lot easier. But to  
12 answer your question, technically, under the rule if it was at a certain time frame, yes.  
13 But like I've explained to others similar to our hunting with the aid of artificial lights,  
14 spotlighting rule, if you have -- you cast the rays of artificial light into an area where  
15 there's big game and you have an implement capable of killing that big game, you've  
16 made every element of spotlighting. Most of us in this room if we have a firearm in  
17 the vehicle and a big animal of some sort, bull elk, mule deer, crosses the road in  
18 front of us, we will stop and look at it. Technical meeting every element of hunting  
19 with the aid of artificial light. We do not cite those individuals. We do not talk to  
20 those individuals. So there would be an application to the way we use this rule, but I  
21 understand the concern.

22 COMMISSIONER SALOPEK: And I'm just looking at it, you know, I think six months  
23 is too long. I'm really looking at an amendment to stay at the 48 and I wish -- we've  
24 discussed this long enough, you know, years. You know, looking at it I don't know if  
25 72 96 five days a week would not have answered more of our questions than the six

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1 month rule, is the way I'm looking at it, and I just think we're going to make innocent  
2 hunters, you know, now they're going to have a stigma for after a few, I think  
3 potentially going to make a lot of hunters illegal. It scares me to make myself, much  
4 less anybody else, constituents out there, illegal. That's just how I feel right now.

5 ROBERT GRIEGO: Mr. Chairman, Commissioner Salopek. Again, my job was to  
6 bring you a rule. I don't want to stand here and act like I'm [indiscernible] --

7 COMMISSIONER SALOPEK: [indiscernible] I'm just trying to tell you how I feel.

8 ROBERT GRIEGO: It did not do away with probable cause. We cannot -- that  
9 standard is still there. There would be no innocent people being charged. But again,  
10 that was the route we thought we needed to go and to combat that issue and it is --  
11 the process has spoken. I think there's been a lot of people opposed to it.

12 COMMISSIONER MONTOYA: Mr. Chairman?

13 CHAIRMAN KIENZLE: Yes, sir.

14 COMMISSIONER MONTOYA: Bobby, I wonder where we're at today if this passes  
15 where we'll be tomorrow. And will that make the possibility of capturing the violators  
16 of this statute -- what is this going to involve law enforcement wise? Is it going to be a  
17 situation where it's one of those impossibilities to catch these people one way or the  
18 other? Are we trying to do something that we can't enforce? I've got a lot of  
19 questions on this thing.

20 ROBERT GRIEGO: Are you asking me specifically?

21 COMMISSIONER MONTOYA: Yeah. If we pass this, the way we are looking at it  
22 now, what are our benefits going to be to catch the people that were actually violating  
23 the rule and what we've got today?

24 ROBERT GRIEGO: Right. I think with the current rule, the 48-hour rule, it's well  
25 understood but it is, like I've said, almost impossible to make a case on the transfer

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1 of knowledge, that they're using information gained from that plane. We've had some  
2 cases that were solid cases that met the elements of when we had the hunter or a  
3 guide or an outfitter in that plane and we could tie it back to within 48 hours that we  
4 caught them in the field. We've had those. Whether we got a prosecution out of that  
5 are not is a different story, but we had those elements. We had the evidence. When  
6 it is not this specific hunter in the plane and I've got to prove that they are using  
7 information, it becomes almost impossible. But with those same cases, I think, with a  
8 lot of the evidence that was there, I could have easily proven that they were up there  
9 locating game for the purpose of hunting. That's where I'm going. And again, I'm  
10 trying to be careful on appearing like I'm making a stance against this. We tried to  
11 bring you the best rule we saw, we've discussed it, we've had the public comment,  
12 we've had numerous meetings over this. I think it is a good rule. I think it is -- would  
13 make it easier to enforce than the current, but there's obviously some opposition to it  
14 and --

15 COMMISSIONER MONTROYA: You know, Bobby, I'm not worried about the  
16 opposition. I'm worried about more than just the ability to do these things. Now,  
17 we've got a number of people that when they're doing their job of a flying from here to  
18 there, with no regard, looking at elk or whatever, that we're making those people  
19 guilty of what they're really not in the middle of. In other words, they're not looking --  
20 they're looking, but they're not using that information to give to guides or to hunters or  
21 to everything else. Are we going beyond what we really need to do to make this  
22 work?

23 ROBERT GRIEGO: You know, again, flying low and slow is a product of that activity  
24 but is not an element of the crime. Again, it's --

25 CHAIRMAN KIENZLE: Low and slow is a different crime, right? So if you're messing

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1 up my hunt or harassing wildlife, I mean, you've got a way –

2 ROBERT GRIEGO: Sure.

3 CHAIRMAN KIENZLE: If there's someone on the ground with binoculars --

4 ROBERT GRIEGO: If I can prove that they made protected wildlife run from that –

5 CHAIRMAN KIENZLE: Is a different case.

6 ROBERT GREIGO: Is a different case. But again, just like anything we have to have  
7 reasonable suspicion to make that stop but we have to have probable cause to bring  
8 forth charges. All of these [indiscernible] the District Attorney's Office, you know, the  
9 concern of bad citations being written I'm concerned about. Is there the potential that  
10 pilots would be contacted slightly more? Maybe. We get tail numbers constantly  
11 every year, currently. And we're not accusing, harassing, interrogating pilots today.  
12 Because there's a lot of it that goes into it, you know, I've been told by some of the  
13 Pilots Association members that my officers have contacted them while they're flying.  
14 And that they were professional and when they told them what they were doing it was  
15 a short contact, have a nice day. You know, again, I understand the other side of the  
16 what if's. I can't combat that.

17 COMMISSIONER MONTOYA: Well, you understand that our job is to try to do this  
18 the best we can, backing you guys up, but, nevertheless, not putting innocent people  
19 in jeopardy over the things that we think we're doing right. That's what's pulling me in  
20 two different directions here.

21 ROBERT GRIEGO: Mr. Chairman, Commissioner Montoya. If you feel that way, I  
22 mean, that's what you're up there for. Again, we -- I think we brought you a good  
23 rule.

24 COMMISSIONER MONTOYA: Well, it's a hard program that we're trying to put  
25 together and I want to be sure that were right on it. And I don't know if we can even

1 say that.

2 COMMISSIONER RAMOS: Chairman Kienzle, and I know I was one of the  
3 advocates for the new rule. I did see it in that way, but I got to be honest with you,  
4 the more and more we've dove into it, and again, I respect this process that we're  
5 doing. I think it also goes back into education, you know, and really advertising the  
6 importance of why not to be hunting out of the air and advertise it on our regs a little  
7 better, maybe videos that also, you know, educating people. And I would have to like  
8 to entertain an amendment to leave the rule as it currently stands here today.

9 CHAIRMAN KIENZLE: So is that a motion to amend?

10 COMMISSIONER RAMOS: Yes, sir. So therefore, I move to amend the proposed  
11 rule to leave it as it currently has been in the past.

12 CHAIRMAN KIENZLE: With regards to.

13 COMMISSIONER RAMOS: With regards to the flying that was presented today.

14 CHAIRMAN KIENZLE: With regard to the 48-hour rule.

15 COMMISSIONER RAMOS: With regard to the 48-hour rule.

16 DIRECTOR SLOANE: Mr. Chairman, I believe that would mean keeping the original  
17 19.31.10, 11, E, F, and G.

18 CHAIRMAN KIENZLE: Is that what you're saying Commissioner Ramos?

19 COMMISSIONER RAMOS: Yes sir, that's what I'm saying. So moved.

20 DIRECTOR SLOANE: Which are on page 8 of 22.

21 CHAIRMAN KIENZLE: 8, you said?

22 DIRECTOR SLOANE: 8 of 22.

23 COMMISSIONER RICKLEFS: Mr. Chairman?

24 CHAIRMAN KIENZLE: Yes, sir.

25 COMMISSIONER RICKLEFS: Reading the language that is proposed. For the life of

1 me I don't see that this stops any pilot from flying any place he feels like. The  
2 Department is not taking the role of the FAA. I don't see it stops any hunter from  
3 grabbing a plane and flying to camp. I read it over and over and over and it doesn't  
4 look like it's that dangerous to me, although I will support your amendment, Ralph.

5 UNIDENTIFIED SPEAKER: Mr. Chairman, we have a motion on the floor.

6 CHAIRMAN KIENZLE: Did we get a second?

7 UNIDENTIFIED SPEAKER: We haven't gotten a second yet.

8 CHAIRMAN KIENZLE: So I need a second on that.

9 UNIDENTIFIED SPEAKER: So was that a second, Bob?

10 COMMISSIONER RICKLEFS: I guess, yeah, I'll second.

11 CHAIRMAN KIENZLE: I do believe we now have a -- we would call that a speaking  
12 objection in court but [indiscernible]

13 [CROSSTALK]

14 COMMISSIONER RICKLEFS: I'll second it, that's fine

15 CHAIRMAN KIENZLE: Doubly seconded. Any discussion on the proposed  
16 amendment, further discussion? Okay, all in favor?

17 COMMISSIONERS: Aye.

18 CHAIRMAN KIENZLE: Any opposed? None opposed. So we have two  
19 amendments now to the proposed rule. Are there any further amendments from the  
20 Commission? Director Sloane, refresh my memory on the effective date.

21 DIRECTOR SLOANE: The effective date on this rule will be April 1st of 2019.

22 CHAIRMAN KIENZLE: So is this one of the -- do we need to move that up?

23 DIRECTOR SLOANE: No.

24 CHAIRMAN KIENZLE: We're okay on that, then?

25 DIRECTOR SLOANE: We are for this rule, yes. It's the license application rule, we'll

1 need to discuss that issue.

2 CHAIRMAN KIENZLE: The which one?

3 DIRECTOR SLOANE: License application rule.

4 CHAIRMAN KIENZLE: Okay. That one we need to move the date --

5 DIRECTOR SLOANE: Forward to January 1<sup>st</sup>.

6 CHAIRMAN KIENZLE: To January 1<sup>st</sup>. So there's no change needed on the effective  
7 date. Do you have any questions about bait?

8 COMMISSIONER MONTOYA: We've got a -- when I went through this sizable piece  
9 of literature that I got, there's a question that I ran into, Bobby, and I can't find it now.  
10 It's regarding baiting. It says you can't bait with salt and it ends there. There's other  
11 baiting besides salt, is there not? I can't find it but it's in there somewhere. I think it's  
12 part of something that was left out and it includes other things other than just salt.

13 DIRECTOR SLOANE: Mr. Chairman, at least initially, bait is defined 19.31.10 7 F on  
14 page 2 and it includes salts, minerals, grain, feed, commercially produced game  
15 attractant or any other organic material which is attractive to wildlife.

16 COMMISSIONER MONTOYA: Okay. That's fine. That's the way it ought to be and I  
17 see that. Somewhere else we talked about baiting and it just stopped right there at  
18 the comma after salt. If it's the misprint, then [indiscernible] --

19 CHAIRMAN KIENZLE: We can make a technical amendment or a technical fix if that  
20 is the case. I don't think that's going to cause any problems.

21 [CROSSTALK]

22 ROBERT GRIEGO: Mr. Chairman, we will go through this rule again. We've --

23 CHAIRMAN KIENZLE: If it's in there that's an easy fix. Okay we have the proposed  
24 rule with two amendments, two amendments with regard to the two flies on the San  
25 Juan, and then the 40-hour rule for aircraft. Are there any -- any Commissioner wish

1 to propose any further amendment to this proposed rule? Okay. I now need a motion  
2 to approve the proposed rule as amended twice.

3 COMMISSIONER RICKLEFS: Mr. Chairman, I move to adopt the proposed changes  
4 to 19.31.10 NMAC two amendments as passed and as presented by the Department  
5 and allow the Department to make minor corrections to comply with filing this rule in  
6 the state records and archives.

7 CHAIRMAN KIENZLE: Any reference to the two amendments?

8 COMMISSIONER RICKLEFS: You want me to reference [indiscernible]?

9 CHAIRMAN KIENZLE: I'm would call it the two-fly rule and the 48-hour rule.

10 COMMISSIONER RICKLEFS: The two amendments concern the 48-hour flight rule  
11 which is retained and the two hooks, barbless hooks, in the San Juan which is  
12 retained.

13 COMMISSIONER SALOPEK: Second.

14 CHAIRMAN KIENZLE: Any further discussion? Any questions or comments? All in  
15 favor?

16 COMMISSIONERS: Aye.

17 CHAIRMAN KIENZLE: Any opposed? The proposed rule as amended carries. We  
18 are going to take a break. Thank you.

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