

New Mexico Register / Volume XXXI, Issue 22 / November 24, 2020

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

The New Mexico State Game Commission (“Commission”) will be hosting a virtual meeting and rule hearing on Friday, January 15, 2021 beginning at 9:00 a.m. For instructions on how to virtually attend this meeting, visit the Department’s website at <http://www.wildlife.state.nm.us/commission/webcast/>. The purpose of this meeting is to hear and consider action as appropriate on the following: presentation of proposed changes to the Importation Rule.

Synopsis:

The proposal is to amend the Importation rule, 19.35.7 NMAC, which will become effective February 9, 2021.

The proposed amendments will provide consistency in the level of review of importation applications for all taxa, including carnivores, remove the requirement for fish hatchery renovation and depopulation if a facility tests positive for *Renibacterium salmoninarum*, the causative agent of bacterial kidney disease, clarify testing requirements for the whirling disease pathogen in hatcheries, and minor formatting and clerical changes.

A full text of changes is available on the Department’s website at: www.wildlife.state.nm.us.

Interested persons may submit comments on the proposed changes to the Importation rule at dgf-importation.rule@state.nm.us; or individuals may submit written comments to the physical address below. Comments are due by 5:00 p.m. on January 14, 2021. The final proposed rule will be voted on by the Commission during a virtual public meeting on January 15, 2021. Interested persons may also provide data, views or arguments, orally or in writing, at the virtual public rule hearing to be held on January 15, 2021.

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/. 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 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.

Exhibit 2

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 35 CAPTIVE WILDLIFE USES
PART 7 IMPORTATION OF LIVE NON-DOMESTIC ANIMALS, BIRDS AND FISH

19.35.7.1 ISSUING AGENCY: New Mexico Department of Game and Fish.
[19.35.7.1 NMAC - Rp, 19.35.7.1 NMAC, 1/31/2014]

19.35.7.2 SCOPE: Persons who desire to bring wildlife species into the state of New Mexico. It may include the general public, pet importers, holders of Class “A” park licenses, department permittees and others.
[19.35.7.2 NMAC - Rp, 19.35.7.2 NMAC, 1/31/2014; A, 1/15/2021]

19.35.7.3 STATUTORY AUTHORITY: 17-1-14, 17-1-26 and 17-3-32.
[19.35.7.3 NMAC - Rp, 19.35.7.3 NMAC, 1/31/2014]

19.35.7.4 DURATION: Permanent.
[19.35.7.4 NMAC - Rp, 19.35.7.4 NMAC, 1/31/2014]

19.35.7.5 EFFECTIVE DATE: January 31, 2014, unless a later date is cited at the end of a section.
[19.35.7.5 NMAC - Rp, 19.35.7.5 NMAC, 1/31/2014]

19.35.7.6 OBJECTIVE: To provide consistent criteria for the importation of live non-domesticated animals into New Mexico and to protect native wildlife against the introduction of contagious or infectious diseases, undesirable species and address human health and safety issues.
[19.35.7.6 NMAC - Rp, 19.35.7.6 NMAC, 1/31/2014]

19.35.7.7 DEFINITIONS:

- A. “Accredited laboratory”** A lab recognized for CWD testing by the New Mexico department of game and fish.
- B. “Animal health emergency”** A situation in which people or animals are at risk of exposure to infectious or contagious diseases as determined by the director.
- C. “APHIS”** Animal and plant health inspection service, United States department of agriculture.
- D. “Applicant”** Any person or entity that causes or submits a department application for importation.
- E. “Certificate of compliance”** An official department document declaring an applicant’s ability to resume importation application eligibility.
- F. “Certified Herd”** A herd that has attained certified status as defined in the current USDA chronic wasting disease program standards.
- G. “Closed herd sales”** Sales of animals from a herd directly to the buyer in a manner that allows the buyer to transport the animals from the producer's premises directly to the buyer's premises without contact with animals from another herd, and without contact with other pens or transport facilities used by any other herd.
- H. “Chronic Wasting Disease” or “CWD”** is a transmissible spongiform encephalopathy of cervids.
- I. “CWD-Exposed Animal”** is an animal that is part of a CWD-positive herd, or that has been exposed to a CWD-positive animal or contaminated premises within the previous 60 months.
- J. “CWD-Exposed herd”** is a herd in which a CWD-positive animal resided within 60 months prior to that animal’s diagnosis as CWD-positive.
- K. “CWD-Positive herd”** is a herd in which a CWD-positive animal resided at the time it was diagnosed and which has not been released from quarantine.
- L. “CWD-Suspect animal”** is an animal for which unofficial CWD test results, laboratory evidence, or clinical signs suggest a diagnosis of CWD, but for which laboratory results have been inconclusive or not yet conducted.
- M. “CWD-Suspect herd”** is a herd for which laboratory evidence or clinical signs suggest a diagnosis of CWD, but for which laboratory results have been inconclusive or not yet conducted.
- N. “CWD-Trace-Back herd”** is an exposed herd in which a CWD-positive animal has resided during the 60 months prior to the diagnosis.
- O. “CWD-Trace-Forward herd”** is a CWD-exposed herd that has received CWD-exposed animals from a CWD-positive herd during the 60 months prior to the diagnosis of CWD in the CWD-positive herd.

P. “Dangerous animal” An animal that due to its nature, biology or its behavior, including predatory or venomous animals, that may present a risk to the health, safety or well-being of the public or other animals including native wildlife, domestic pets or livestock.

Q. “Department” Shall mean New Mexico department of game and fish.

R. “Director” Shall mean the director of the department of game and fish.

S. “Importer” Any person or entity that causes an animal to be brought, transported or shipped into New Mexico with the exception of common mail carriers and delivery service providers during the course of their regular duties.

T. “Invasive animal” Any non-native animal, except protected wildlife, including any aquatic invasive species (AIS), whose introduction into New Mexico may cause or is likely to cause harm to the economy, environment, protected wildlife, human health or safety.

U. “Isolation” A period of time imported animals are separated and observed. The observation pen must have fences at least eight feet high. The isolation pen must prevent nose-to-nose contact with all wild ungulates during the observation period.

V. “Mixed herd” A herd comprised of animals from different sources and held to allow contact or commingling.

W. “Mixed herd sales” Sales from sale barns, auctions, private arrangements, or other facilities that allow joint penning or adjacent penning of animals from more than one closed herd, or otherwise facilitate or permit commingling, direct contact, or holding, boarding, or sharing the premises by more than one herd simultaneous or successively in time.

X. “Non-domesticated animal” For the purposes of this rule, any animal species that is wild by nature not listed as semi-domesticated or protected under chapter 17 NMSA, 1978.

Y. “NPIP” National poultry improvement program.

Z. “Official Animal Identification” A device or means of animal identification approved by USDA to uniquely identify individual animals nationally. The animal identification must include a nationally unique identification number that adheres to one of the following:

(1) national uniform ear tagging system.

(2) animal identification number (AIN)

(3) premises-based number system using a premises identification number (PIN) in conjunction with a livestock production numbering system

(4) any other numbering system approved by USDA for the identification of animals in commerce.

AA. “Protected wildlife” Shall mean those taxonomic groups of mammals, birds and fish listed in Chapter 17 NMSA, 1978, including any species that are listed as either state or federally threatened or endangered.

BB. “Release from captivity” For the purpose of this rule, the act of removing from confinement, letting go, liberating or setting free any imported, live non-domesticated animal into the wild.

CC. “Semi-domesticated animal” For the purpose of this rule, the director may designate an animal species as semi-domesticated in those instances where individual members of such species are commonly tamed, raised, bred or sold in captivity.

DD. “Species importation list” A list containing protected, non-game and semi-domesticated animal species established, maintained, updated or amended by the director of the New Mexico department of game and fish. The species importation list may contain importation requirements, restrictions and conditions for each animal species listed.

EE. “Qualified expert” Only a person officially designated by the director to import a specific non-domesticated animal.

FF. “Undesirable animal” An animal that may have adverse impacts to health, management or safety.

GG. “USDA” United States department of agriculture.
[19.35.7.7 NMAC - Rp, 19.35.7.7 NMAC, 1/31/2014; A, 1/15/2021]

19.35.7.8 IMPORTATION OF LIVE NON-DOMESTICATED ANIMALS: It shall be unlawful to import any live non-domesticated animal into New Mexico without first obtaining appropriate permit(s) issued by the director except those animals identified within the species importation list group I. Permits will only be issued when all application requirements and provisions have been met. Failure to adhere to or violation of permit provisions may result in the applicant/importer becoming ineligible for importation(s). The pendency or

determination of any administrative action or the pendency or determination of a criminal prosecution for the same is not a bar to the other.

[19.35.7.8 NMAC – Rp, 19.35.7.8 NMAC, 1/31/2014; A, 1/15/2021]

19.35.7.9 [Reserved]

19.35.7.10 DIRECTOR’S AUTHORITY:

A. Species importation list: The director of the New Mexico department of game and fish shall develop a species importation list. The species importation list shall be established, maintained, updated or amended by the director as species information and concerns become available and are identified. The species importation list shall be grouped into the following minimum importation “groups” based on the following criteria.

(1) Species importation list group I are designated semi-domesticated animals and do not require an importation permit.

(2) Species importation list group II may be for live non-domesticated animals that are not known to be either invasive or dangerous and do not present a known risk to the health, safety or well-being of the public, domestic livestock or to native wildlife and their habitats.

(3) Species importation list group III may be for live non-domesticated animals that present minimal or manageable concerns that will require specific provisions that must be met prior to issuing an importation permit to address health, safety or well-being of the public, domestic livestock or to native wildlife and their habitats.

(4) Species importation list group IV may be for live non-domesticated animals that are considered dangerous, invasive, undesirable, state or federal listed threatened, endangered, a furbearer or any other species of concern as identified by the director. The importation of these species are prohibited for the general public but may be allowed for, scientific study, department approved restoration and recovery plans, zoological display, temporary events/entertainment, use as service animal or by a qualified expert.

(5) Any species of live non-domesticated animal not currently on the species importation list will be designated group IV until such time as another determination is made by the director.

B. Non-domesticated animal importation: The director may, in times of animal health emergency, suspend all importation activities or suspend importation of selected taxa for indefinite periods of time to protect wild and domestic animals from infectious disease epidemics and to protect the people of New Mexico from zoonoses.

C. Non-domesticated animal intrastate movement: the director may suspend intrastate movement in an animal health emergency.

D. Eligibility requirements for importation (cooperative compliance): The director may declare any applicant or importer who fails to comply with any importation conditions or provisions as ineligible for future importation permits or ability to supply animals into New Mexico until all permit violations are corrected and the appropriate certificate of compliance fees are paid in full.

(1) The director may require an applicant to obtain a certificate of compliance prior to becoming eligible to import any live non-domesticated animals and may impose additional corrective measures in those instances where violations of this provision have been identified.

(2) The director may impose a cease-and-desist order that makes an applicant ineligible to apply for an importation permit for up to a year in those instances where corrective measures have not been implemented or repeated violations have occurred.

E. Certificate of compliance fee: The director shall determine the appropriate certificate of compliance fee per violation not to exceed \$500.00 based on the following criteria:

(1) department expenses including manpower, travel, inspection and compliance monitoring;

(2) department office expenses including mailing, shipping, certificate issuance;

(3) animal care, treatment, housing and feeding;

(4) other miscellaneous expenses.

F. Qualified expert: the director shall determine the process and the requirements for a person to be designated a qualified expert for each applicable species.

(1) The director may require an applicant to provide specific qualifications including, but not limited to the following: professional references, experience, training, education and facility specifications.

(2) The determination to approve or deny a qualified expert designation by the director is final and is not subject to appeal.

G. Application notices and documents.

- (1) The director shall determine required forms, applications and documents to carry out the provisions of this rule.
 - (2) The director shall determine noticing and posting provisions to carry out the provisions of this rule.
 - (3) The director shall determine the permit and application conditions and requirements to carry out the provisions of this rule.
 - H. The director shall determine the process and requirements for re-entry into the state.
 - I. The director shall determine the process for expediting applications and permits including an additional application fee of \$25.00.
- [19.35.7.10 NMAC - Rp, 19.35.7.10 NMAC, 1/31/2014]

19.35.7.11 [Reserved]

19.35.7.12 APPLICATION FOR IMPORTATION:

- A. Any applicant requesting an importation permit for non-domesticated animals must submit the following information with the application:
 - (1) a containment or confinement plan indicating where and how the species will be maintained;
 - (2) a current and valid certificate from an accredited veterinarian certifying that each animal or rearing facility of origin has been inspected and is in good general health, disease free or that each animal or rearing facility of origin tests disease free for any specific disease(s) following the testing requirements and procedures as identified by the department during the application process, except;
 - (a) the department may approve an animal supplier that is currently enrolled in an accredited animal breeding program or facility health monitoring standards such as NPIP, AZA, or other government sanctioned program;
 - (b) the department may approve detailed and verifiable facility of origin health monitoring plans and records to be submitted by an organization(s) in lieu of a health or rearing facility inspection certificate from an accredited veterinarian;
 - (3) proof from the county and city into which the animal will be imported and held that possession of the animal is allowed;
 - (4) proof that all necessary federal permits have been obtained;
 - (5) proof that the requested species does not possess or have the immediate potential to carry infectious or contagious diseases; and
 - (6) confirmation by the applicant or person in authority representing the applicant agreeing to any conditions and provisions listed on the respective permit; and
 - (7) any importing person or entity must notify the department of game and fish within 24 hours of any disease indications or symptoms that manifest themselves among the imported animals.
 - B. Additional conditions for the importation of a dangerous animal; applicant shall agree to the following provisions before an importation permit is approved:
 - (1) enter into a department approved written agreement releasing the department from liability;
 - (2) agree to meet all department approved posted warning requirements;
 - (3) agree to provide a department approved written warning to any person receiving such animal;
 - (4) government agencies or other entities as designated by the director may be exempted from the liability or warning requirements in this subsection.
 - C. All application fees are non-refundable.
- [19.35.7.12 NMAC - Rp, 19.35.7.12 NMAC, 1/31/2014]

19.35.7.13 TEMPORARY IMPORTATION: Importation into the state for exhibition, advertising, movies etc. may be approved on an expedited basis provided that the animal will not be in the state for a period of more than 30 days. Specific requirements for the animals will be listed on the application and permit. Specific requirements for importation may be listed on the application. The department will have the final authority to list all conditions on the permit that will be required prior to final approval.

[19.35.7.13 NMAC - Rp, 19.35.7.13 NMAC, 1/31/2014]

19.35.7.14 IMPORTATION OF CERTAIN FISH OR FISH EGGS INTO NEW MEXICO: All fish species or eggs of the families salmonidae, esocidae, moronidae, ictaluridae, centrarchidae, percidae, and the genus oreochromis may be imported into the state provided that all conditions stated on the application and permit are met, including the following:

- A. the name of department approved supplier pursuant to this regulation;
- B. description of water into which fish will be released is provided; description must include: legal owner of water; legal description of location (township, range, section); county; name of water; size of water (surface acres-lake; miles-stream); source and discharge of water; major use of water; a map of sufficient size and detail to allow the water to be located by someone unfamiliar with the area shall be included;
- C. species, size, pounds, and number of fish to be imported will be specified;
- D. purpose of importation will be specified;
- E. full description of person or persons requesting importation, to include: name, address, telephone number, name of contact person;
- F. GPS coordinates (latitude and longitude in degree decimal minutes (DDM) using WGS 84 datum for each location where fish are stocked.
- G. Oreochromis niloticus and oreochromis mossambicus may be imported into the state provided that:

- (1) all requirements set forth in the application and on the permit are met
- (2) all other regulatory requirements, including those set forth herein, are met

[19.35.7.14 NMAC - Rp, 19.35.7.14 NMAC, 1/31/2014; A, 1/15/2021]

19.35.7.15 APPROVED SUPPLIERS OF FISH OR FISH EGGS FOR IMPORTATION INTO NEW MEXICO:

- A. The department will maintain a listing of approved fish suppliers.
- B. All approved fish suppliers or their agent must carry a department-issued copy of the importation permit while transporting fish to the approved release site in New Mexico.
- C. Approved supplier or their agent must notify the department of intended port of entry for importation of fish or fish eggs into New Mexico.
- D. Approved supplier may be required to provide a presence/absence disease history (e.g., furunculosis bacterium, enteric redmouth bacterium, proliferative kidney disease, ceratomyxosis of salmonids, etc.) of the hatchery facility if requested by the New Mexico department of game and fish.
- E. Approved suppliers shall meet the criteria and provide pathogen-free certification as specified herein.
- F. **Salmonids:**
 - (1) For the infectious hematopoietic necrosis virus (IHNV), infectious pancreatic necrosis virus (IPNV), viral hemorrhagic septicemia (VHS), and bacterial kidney disease (BKD).
 - (a) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.
 - (b) Disease testing of fish must use American fisheries society (AFS) blue book or meet OIE (office international des epizooties) standards.
 - (c) Disease testing will be conducted on an annual basis; annual inspection must have occurred within the previous 12 months of application date.
 - (d) 60 fish per lot will be sampled.
 - (e) For all lots of fish not originating on facility, supplier must provide a historical account documenting fish were reared only at New Mexico department of game and fish approved aquaculture facilities.
 - (2) For the whirling disease pathogen.
 - (a) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.
 - (b) 60 fish per lot will be sampled.
 - (c) Inspection will include at least one lot of susceptible salmonids (rainbow trout, cutthroat trout, rainbow-cutthroat hybrids) which has been on the hatchery's water source for at least 10 months. If no lot of susceptible salmonids has been on the hatchery's water source for at least 10 months, then inspection shall include at least one lot of susceptible salmonid at least six months of age or older.

(d) Disease testing will be conducted on an annual basis. Annual inspection must have occurred within the previous 12 months of application date.

(e) Positive findings of whirling disease by pepsin-trypsin digestion shall be considered presumptive; positive findings of whirling disease by histology shall be considered confirmatory.

(f) For all lots of fish not originating on facility, supplier must provide a historical account documenting fish were reared only at New Mexico department of game and fish approved aquaculture facilities.

(g) Supplier may be required to provide a whirling disease history of the hatchery facility if requested by the New Mexico department of game and fish.

(h) Presumptive findings: Any presumptive findings of disease with no confirmatory testing shall be deemed a positive finding of the disease.

(i) Positive findings of disease: Any facility deemed to have tested positive, by confirmatory findings or presumptive findings without confirmatory testing, under this rule shall be barred from importation into the state of New Mexico until the facility is shown to be pathogen free for a minimum of two consecutive years and has met all other requirements.

(j) Renovated facilities: A facility that has been deemed positive under this rule and has undergone complete renovation may apply for importation privileges as a new facility once it has had at least one annual inspection and has met all other requirements. Complete renovation for the purposes of this rule shall be defined as a facility that has: 1) closed, secured, and sanitized all water sources, 2) confined all water conveyance to closed sealed pipes, and 3) constructed all rearing spaces out of hard surfaced materials. Proof of renovation must be provided with the application for importation privileges. On-site inspection of the facility after renovation may be required prior to authorization to import.

G. Warm water fish:

(1) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.

(2) Disease testing of fish must use American Fisheries Society (AFS) blue book procedures or meet OIE standards.

(3) Disease testing will be conducted on an annual basis. Annual inspection must have occurred within the previous 12 months of application date.

(4) 60 warm water fish per lot shall be tested for viruses and bacteria.

(5) Approved supplier will document whether fish on the facility have ever been diagnosed with channel catfish virus.

H. Oreochromis niloticus and oreochromis mossambicus shall be certified as to species and as either all male or otherwise sterile by a qualified independent laboratory or by other means approved by the director. Oreochromis niloticus and oreochromis mossambicus capable of reproduction and certified as to species by a qualified, independent laboratory or by other means approved by the director may be approved for import only to a qualified expert.

I. Triploid grass carp: A notarized certificate of triploidy issued by another state wildlife agency, United States fish and wildlife service, USDA certified source or other source approved by the New Mexico department of game and fish must be provided for all grass carp imported into New Mexico.

J. Approved suppliers shall provide signed written assurance to the department that the fish rearing facilities are free of aquatic nuisance species (ANS) and aquatic invasive species (AIS). Failure to provide this assurance shall be reason to deny importation privileges. Approved suppliers shall be liable for any introduction of ANS or AIS caused by their actions.

[19.35.7.15 NMAC - Rp, 19.35.7.15 NMAC, 1/31/2014; A, 1/15/2021]

19.35.7.16 [Reserved]

19.35.7.17 IMPORTATION CONDITIONS FOR THE FAMILIES BOVIDAE, ANTILOCAPRIDAE AND CERVIDAE: All live protected wildlife species of the families bovidae, antilocapridae, and cervidae imported in the state of New Mexico shall meet the following criteria.

A. Be permanently identified with any 2 of the following devices, one of which must be an official animal identification. All identification data shall be registered with the department:

(1) implanted electronic identification device.

(2) ear tag with park identification number.

(3) tamper-proof ear tag with imprinted national identification number.

- (4) USDA metal ear tags.
- B.** Be examined by an accredited veterinarian prior to importation. Each animal shall be accompanied by a pre-approved health certificate, certifying a disease-free status.
- C.** Test negative for brucellosis. Serum testing shall be done not more than 30 days prior to importation. All serum samples shall be tested by a cooperative state federal brucellosis laboratory.
- D.** Test negative for bovine tuberculosis not more than 90 days prior to importation. Animals to be imported must originate from a herd that had a negative whole-herd tuberculosis test not more than 12 months prior to importation or have a current "tuberculosis free herd" certificate issued from the state of origin through a USDA accreditation program. Bovine tuberculosis testing must be performed with the current USDA approved method and be conducted by a federally accredited veterinarian. Exception: Wild sheep are exempt from this testing requirement.
- E.** Only cervids enrolled and in the state CWD herd certification program and from a herd that has achieved certified status, and that does not show clinical signs associated with CWD may be imported into New Mexico.
 - (1) No cervid shall be allowed to enter the state if it has had any contact with a CWD suspect, exposed, positive, trace-forward or trace-back animal within 60 months prior to time of importation.
 - (2) No cervid coming through mixed herd sales or auctions shall be allowed to enter the state. Only animals from closed sales may be imported.
 - (3) No cervid shall enter the state in a conveyance that has held CWD suspect, exposed, positive, trace-forward or trace-back animals.
- F.** All elk to be imported into the state of New Mexico shall be tested for genetic purity. Only Rocky Mountain elk (*Cervus elaphus nelsoni*) will be allowed to be imported into the state of New Mexico. Any elk showing red deer hybridization or hybridization of other elk subspecies will not be allowed into the state. All testing shall be done ONLY by a New Mexico department of game and fish approved laboratory.
- G.** All progeny from female elk impregnated prior to importation into New Mexico shall be tested for hybridization of red deer and other elk subspecies.
- H.** White-tailed deer subspecies to be imported into the state of New Mexico must have originated and must exist west of the 100th meridian and test negative for meningeal worm.
- I.** Be permitted in compliance with Subsection A of 19.31.1.10 NMAC.
 - (1) Cost of testing: All testing will be at owner's expense.
 - (2) After entering the state, all animals shall be held in a separate facility by the owner and/or importer. All imported animals, prior to release, may be inspected at any time by a department of game and fish official or designee.
 - (3) Owners/importers must notify the department of game and fish within 24 hours of any disease indications or symptoms that manifest themselves among the imported animals prior to final inspection.
 - (4) Animals shall be held in isolation in the event of an animal health emergency as declared by the director.
 - (5) Final inspection / permit validation: No animals may be released from the separate facility into the class A park or other enclosure until the owner has received a release approval signed by a department of game and fish official.

[19.35.7.17 NMAC - Rp, 19.35.7.17 NMAC, 1/31/2014]

19.35.7.18 INTRASTATE TRANSPORTATION FOR THE FAMILIES BOVIDAE, ANTILOCAPRIDAE AND CERVIDAE:

- A.** Transporting requirements: All live cervids transported within the state of New Mexico shall be legally possessed and permanently identified with any 2 of the following devices, one of which must be an official animal identification. All identification data shall be registered with the department:
 - (1) implanted electronic identification device.
 - (2) ear tag with park identification number.
 - (3) tamper-proof ear tag with imprinted national identification number.
 - (4) USDA metal ear tags.
- B.** The director may suspend intrastate movement in an animal health emergency.

[19.35.7.18 NMAC- Rp, 19.35.7.18 NMAC, 1/31/2014]

19.35.7.19 RELEASE FROM CAPTIVITY FOR IMPORTED ANIMALS: No person shall release from captivity an imported animal into New Mexico except by obtaining a release permit from the director. The transfer of an imported animal from one person to another person does not constitute a release from captivity.

A. Prior to approval by the director an applicant must:

- (1) submit a plat of the release area;
- (2) submit verification that landowners, tribal officials, state officials, federal officials and

county officials that may be directly affected by the release have been notified of the potential release in writing and have been given 20 days to respond to the release; responses must be submitted with the application; it is the responsibility of the applicant to notify the above and submit responses to the department; failure to notify as indicated herein or to submit responses will result in the application being rejected until this condition is met and any compliance fees are paid;

(3) demonstrate that the intended release is provided for in state or federal resource or species management plans or strategies (CWCS).

B. Any individual or group of isolated animals in which signs of infectious or contagious disease is evident will not be released, will remain in isolation, and, at the recommendation of the state veterinarian:

(1) the animals shall be treated and restored to health until they no longer pose a threat of infection to wild, free ranging wildlife or to other captive animals in the facility; or

(2) the isolated animals shall be destroyed and remains will be disposed in a manner conforming to state, federal or local rules and regulations.

C. The director shall not approve any release permit that conflicts with current conservation management.

[19.35.7.19 NMAC - Rp, 19.35.7.19 NMAC, 1/31/2014; A, 1/15/2021]

19.35.7.20 [Reserved]

19.35.7.21 DENIAL OF PERMIT APPLICATION: The appropriate department division chief shall notify the applicant of a denial to import non-domesticated animals in writing. A denied application will not be further considered unless the applicant is granted an allowance through the director's review or the commission appeal process.

[19.35.7.21 NMAC - Rp, 19.35.7.21 NMAC, 1/31/2014]

19.35.7.22 IMPORTATION PERMIT APPEAL PROCESS: The denial of an importation permit may only be set aside if each step in the application and appeal process is adhered to sequentially and the appeal is conducted in accordance with the following procedures.

A. Director's review: any applicant whose importation permit application has been denied may request a review by the director in accordance with the following procedures.

(1) The applicant must submit by certified mail a written request to the director within 30 days of denial.

(2) A request for the director's review must contain the reason for the objection.

(3) The director will consider any additional evidence and information that was not previously considered in the initial denial.

(4) The director will consider any conflicts with native wildlife, threats to human health, domestic animals or livestock and qualified expert designation when making a determination.

(5) The designation within a specified group on the director's species importation list cannot be used as the basis for review or appeal.

(6) The director shall make a determination and send the applicant his decision within 45 days.

(7) The determination to approve or deny a qualified expert designation by the director is final and is not subject to appeal.

B. Commission appeal: any applicant may appeal the decision by the director in accordance with the following procedures.

(1) The applicant must submit by certified mail a written appeal to the chairman of the state game commission within 20 days of denial by the director.

(2) The appeal to the chairman must contain the reason for the objection.

C. Basis for decision: The commission may set aside the decision of the director only if;

(1) the commission determines that the decision of the director was arbitrary or capricious;

(2) the decision of the director was not based on law or regulation;
(3) the appellant provides additional data or proves significant evidence that contradicts the data of the department;

(4) the decision of the commission shall be final.

D. An appeal filed with the commission will be heard at the next scheduled commission meeting subject to agenda item availability and related time constraints.
[19.35.7.22 NMAC- Rp, 19.35.7.22 NMAC, 1/31/2014]

19.35.7.23 EXCEPTIONS: Employees of the New Mexico department of game and fish and other state agencies acting in the course of their official duties are not required to have an importation permit. However, all disease testing requirements specified in this rule must be met prior to importation.
[19.35.7.23 NMAC- Rp, 19.35.7.23 NMAC, 1/31/2014]

HISTORY OF 19.35.7 NMAC:

NMAC History:

19 NMAC 31.1, Hunting and Fishing - Manner and Method of Taking, filed 3/1/1995.

19.35.7 NMAC, Importation of Live Non-Domesticated Animals, Birds and Fish, filed 3/17/2000.

History of Repealed Material:

19.35.7 NMAC, Importation of Live Non-Domesticated Animals, Birds and Fish, filed 3/17/2000 - Repealed effective 7/9/2010.

19.35.7 NMAC, Importation of Live Non-Domesticated Animals, Birds and Fish, filed 7/9/2010 - Repealed effective 1/31/2013.

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 35 CAPTIVE WILDLIFE USES
PART 7 IMPORTATION OF LIVE NON-DOMESTIC ANIMALS, BIRDS AND FISH

19.35.7.1 ISSUING AGENCY: New Mexico Department of Game and Fish.
[19.35.7.1 NMAC - Rp, 19.35.7.1 NMAC, 1/31/2014]

19.35.7.2 SCOPE: Persons who desire to bring wildlife species into the state of New Mexico. It may include the general public, pet importers, holders of Class “A” park licenses, department permittees and others.
[19.35.7.2 NMAC - Rp, 19.35.7.2 NMAC, 1/31/2014; A, 1/15/2021]

19.35.7.3 STATUTORY AUTHORITY: 17-1-14, 17-1-26 and 17-3-32.
[19.35.7.3 NMAC - Rp, 19.35.7.3 NMAC, 1/31/2014]

19.35.7.4 DURATION: Permanent.
[19.35.7.4 NMAC - Rp, 19.35.7.4 NMAC, 1/31/2014]

19.35.7.5 EFFECTIVE DATE: January 31, 2014, unless a later date is cited at the end of a section.
[19.35.7.5 NMAC - Rp, 19.35.7.5 NMAC, 1/31/2014]

19.35.7.6 OBJECTIVE: To provide consistent criteria for the importation of live non-domesticated animals into New Mexico and to protect native wildlife against the introduction of contagious or infectious diseases, undesirable species and address human health and safety issues.
[19.35.7.6 NMAC - Rp, 19.35.7.6 NMAC, 1/31/2014]

19.35.7.7 DEFINITIONS:

- A.** “**Accredited laboratory**” A lab recognized for CWD testing by the New Mexico department of game and fish.
- B.** “**Animal health emergency**” A situation in which people or animals are at risk of exposure to infectious or contagious diseases as determined by the director.
- C.** “**APHIS**” Animal and plant health inspection service, United States department of agriculture.
- D.** “**Applicant**” Any person or entity that causes or submits a department application for importation.
- E.** “**Carnivore**” Any animal within the order *Carnivora*.
- F.** “**Certificate of compliance**” An official department document declaring an applicant’s ability to resume importation application eligibility.
- G.** “**Certified Herd**” A herd that has attained certified status as defined in the current USDA chronic wasting disease program standards.
- H.** “**Closed herd sales**” Sales of animals from a herd directly to the buyer in a manner that allows the buyer to transport the animals from the producer's premises directly to the buyer's premises without contact with animals from another herd, and without contact with other pens or transport facilities used by any other herd.
- I.** “**Chronic Wasting Disease**” or “**CWD**” is a transmissible spongiform encephalopathy of cervids.
- J.** “**CWD-Exposed Animal**” is an animal that is part of a CWD-positive herd, or that has been exposed to a CWD-positive animal or contaminated premises within the previous 60 months.
- K.** “**CWD-Exposed herd**” is a herd in which a CWD-positive animal resided within 60 months prior to that animal’s diagnosis as CWD-positive.
- L.** “**CWD-Positive herd**” is a herd in which a CWD-positive animal resided at the time it was diagnosed and which has not been released from quarantine.
- M.** “**CWD-Suspect animal**” is an animal for which unofficial CWD test results, laboratory evidence, or clinical signs suggest a diagnosis of CWD, but for which laboratory results have been inconclusive or not yet conducted.
- N.** “**CWD-Suspect herd**” is a herd for which laboratory evidence or clinical signs suggest a diagnosis of CWD, but for which laboratory results have been inconclusive or not yet conducted.
- O.** “**CWD-Trace-Back herd**” is an exposed herd in which a CWD-positive animal has resided during the 60 months prior to the diagnosis.
- P.** “**CWD-Trace-Forward herd**” is a CWD-exposed herd that has received CWD-exposed animals from a CWD-positive herd during the 60 months prior to the diagnosis of CWD in the CWD-positive herd.

Q-P. “**Dangerous animal**” An animal that due to its nature, biology or its behavior, including predatory or venomous animals, that may present a risk to the health, safety or well-being of the public or other animals including native wildlife, domestic pets or livestock.

R-Q. “**Department**” Shall mean New Mexico department of game and fish.

S-R. “**Director**” Shall mean the director of the department of game and fish.

T-S. “**Importer**” Any person or entity that causes an animal to be brought, transported or shipped into New Mexico with the exception of common mail carriers and delivery service providers during the course of their regular duties.

U-T. “**Invasive animal**” Any non-native animal, except protected wildlife, including any aquatic invasive species (AIS), whose introduction into New Mexico may cause or is likely to cause harm to the economy, environment, protected wildlife, human health or safety.

V-U. “**Isolation**” A period of time imported animals are separated and observed. The observation pen must have fences at least eight feet high. The isolation pen must prevent nose-to-nose contact with all wild ungulates during the observation period.

W-V. “**Mixed herd**” A herd comprised of animals from different sources and held to allow contact or commingling.

X-W. “**Mixed herd sales**” Sales from sale barns, auctions, private arrangements, or other facilities that allow joint penning or adjacent penning of animals from more than one closed herd, or otherwise facilitate or permit commingling, direct contact, or holding, boarding, or sharing the premises by more than one herd simultaneous or successively in time.

Y-X. “**Non-domesticated animal**” For the purposes of this rule, any animal species that is wild by nature not listed as semi-domesticated or protected under chapter 17 NMSA, 1978.

Z-Y. “**NPIP**” National poultry improvement program.

AA-Z. “**Official Animal Identification**” A device or means of animal identification approved by USDA to uniquely identify individual animals nationally. The animal identification must include a nationally unique identification number that adheres to one of the following:

- (1) national uniform ear tagging system.
- (2) animal identification number (AIN)
- (3) premises-based number system using a premises identification number (PIN) in conjunction with a livestock production numbering system
- (4) any other numbering system approved by USDA for the identification of animals in commerce.

BB-AA. “**Protected wildlife**” Shall mean those taxonomic groups of mammals, birds and fish listed in Chapter 17 NMSA, 1978, including any species that are listed as either state or federally threatened or endangered.

CC-BB. “**Release from captivity**” For the purpose of this rule, the act of removing from confinement, letting go, liberating or setting free any imported, live non-domesticated animal into the wild.

DD-CC. “**Semi-domesticated animal**” For the purpose of this rule, the director may designate an animal species as semi-domesticated in those instances where individual members of such species are commonly tamed, raised, bred or sold in captivity.

EE-DD. “**Species importation list**” A list containing protected, non-game and semi-domesticated animal species established, maintained, updated or amended by the director of the New Mexico department of game and fish. The species importation list may contain importation requirements, restrictions and conditions for each animal species listed.

FF-EE. “**Qualified expert**” Only a person officially designated by the director to import a specific non-domesticated animal.

GG-FF. “**Undesirable animal**” An animal that may have adverse impacts to health, management or safety.

HH-GG. “**USDA**” United States department of agriculture.

[19.35.7.7 NMAC - Rp, 19.35.7.7 NMAC, 1/31/2014; A, ~~12/15/2014~~, 1/15/2021]

19.35.7.8 IMPORTATION OF LIVE NON-DOMESTICATED ANIMALS: It shall be unlawful to import any live non-domesticated animal into New Mexico without first obtaining appropriate permit(s) issued by the director except those animals identified within the species importation list group I. ~~The state game commission must review any permit application for the importation of any carnivore that will be held, possessed or released on private property for the purpose of recovery, reintroduction, conditioning, establishment or reestablishment in New Mexico. The director shall only issue a department permit in accordance with commission direction following their~~

~~review of an application submitted under this section of rule.~~ Permits will only be issued when all application requirements and provisions have been met. Failure to adhere to or violation of permit provisions may result in the applicant/importer becoming ineligible for importation(s). The pendency or determination of any administrative action or the pendency or determination of a criminal prosecution for the same is not a bar to the other. [19.35.7.8 NMAC – Rp, 19.35.7.8 NMAC, 1/31/2014; A, ~~4/15/2014~~ 1/15/2021]

19.35.7.9 [Reserved]

19.35.7.10 DIRECTOR’S AUTHORITY:

A. Species importation list: The director of the New Mexico department of game and fish shall develop a species importation list. The species importation list shall be established, maintained, updated or amended by the director as species information and concerns become available and are identified. The species importation list shall be grouped into the following minimum importation “groups” based on the following criteria.

(1) Species importation list group I are designated semi-domesticated animals and do not require an importation permit.

(2) Species importation list group II may be for live non-domesticated animals that are not known to be either invasive or dangerous and do not present a known risk to the health, safety or well-being of the public, domestic livestock or to native wildlife and their habitats.

(3) Species importation list group III may be for live non-domesticated animals that present minimal or manageable concerns that will require specific provisions that must be met prior to issuing an importation permit to address health, safety or well-being of the public, domestic livestock or to native wildlife and their habitats.

(4) Species importation list group IV may be for live non-domesticated animals that are considered dangerous, invasive, undesirable, state or federal listed threatened, endangered, a furbearer or any other species of concern as identified by the director. The importation of these species are prohibited for the general public but may be allowed for, scientific study, department approved restoration and recovery plans, zoological display, temporary events/entertainment, use as service animal or by a qualified expert.

(5) Any species of live non-domesticated animal not currently on the species importation list will be designated group IV until such time as another determination is made by the director.

B. Non-domesticated animal importation: The director may, in times of animal health emergency, suspend all importation activities or suspend importation of selected taxa for indefinite periods of time to protect wild and domestic animals from infectious disease epidemics and to protect the people of New Mexico from zoonoses.

C. Non-domesticated animal intrastate movement: the director may suspend intrastate movement in an animal health emergency.

D. Eligibility requirements for importation (cooperative compliance): The director may declare any applicant or importer who fails to comply with any importation conditions or provisions as ineligible for future importation permits or ability to supply animals into New Mexico until all permit violations are corrected and the appropriate certificate of compliance fees are paid in full.

(1) The director may require an applicant to obtain a certificate of compliance prior to becoming eligible to import any live non-domesticated animals and may impose additional corrective measures in those instances where violations of this provision have been identified.

(2) The director may impose a cease-and-desist order that makes an applicant ineligible to apply for an importation permit for up to a year in those instances where corrective measures have not been implemented or repeated violations have occurred.

E. Certificate of compliance fee: The director shall determine the appropriate certificate of compliance fee per violation not to exceed \$500.00 based on the following criteria:

(1) department expenses including manpower, travel, inspection and compliance monitoring;

(2) department office expenses including mailing, shipping, certificate issuance;

(3) animal care, treatment, housing and feeding;

(4) other miscellaneous expenses.

F. Qualified expert: the director shall determine the process and the requirements for a person to be designated a qualified expert for each applicable species.

(1) The director may require an applicant to provide specific qualifications including, but not limited to the following: professional references, experience, training, education and facility specifications.

(2) The determination to approve or deny a qualified expert designation by the director is final and is not subject to appeal.

G. Application notices and documents.

(1) The director shall determine required forms, applications and documents to carry out the provisions of this rule.

(2) The director shall determine noticing and posting provisions to carry out the provisions of this rule.

(3) The director shall determine the permit and application conditions and requirements to carry out the provisions of this rule.

H. The director shall determine the process and requirements for re-entry into the state.

I. The director shall determine the process for expediting applications and permits including an additional application fee of \$25.00.

[19.35.7.10 NMAC - Rp, 19.35.7.10 NMAC, 1/31/2014]

19.35.7.11 [Reserved]

19.35.7.12 APPLICATION FOR IMPORTATION:

A. Any applicant requesting an importation permit for non-domesticated animals must submit the following information with the application:

(1) a containment or confinement plan indicating where and how the species will be maintained;

(2) a current and valid certificate from an accredited veterinarian certifying that each animal or rearing facility of origin has been inspected and is in good general health, disease free or that each animal or rearing facility of origin tests disease free for any specific disease(s) following the testing requirements and procedures as identified by the department during the application process, except;

(a) the department may approve an animal supplier that is currently enrolled in an accredited animal breeding program or facility health monitoring standards such as NPIP, AZA, or other government sanctioned program;

(b) the department may approve detailed and verifiable facility of origin health monitoring plans and records to be submitted by an organization(s) in lieu of a health or rearing facility inspection certificate from an accredited veterinarian;

(3) proof from the county and city into which the animal will be imported and held that possession of the animal is allowed;

(4) proof that all necessary federal permits have been obtained;

(5) proof that the requested species does not possess or have the immediate potential to carry infectious or contagious diseases; and

(6) confirmation by the applicant or person in authority representing the applicant agreeing to any conditions and provisions listed on the respective permit; and

(7) any importing person or entity must notify the department of game and fish within 24 hours of any disease indications or symptoms that manifest themselves among the imported animals.

B. Additional conditions for the importation of a dangerous animal; applicant shall agree to the following provisions before an importation permit is approved:

(1) enter into a department approved written agreement releasing the department from liability;

(2) agree to meet all department approved posted warning requirements;

(3) agree to provide a department approved written warning to any person receiving such animal;

(4) government agencies or other entities as designated by the director may be exempted from the liability or warning requirements in this subsection.

C. All application fees are non-refundable.

[19.35.7.12 NMAC - Rp, 19.35.7.12 NMAC, 1/31/2014]

19.35.7.13 TEMPORARY IMPORTATION: Importation into the state for exhibition, advertising, movies etc. may be approved on an expedited basis provided that the animal will not be in the state for a period of more than 30 days. Specific requirements for the animals will be listed on the application and permit. Specific requirements

for importation may be listed on the application. The department will have the final authority to list all conditions on the permit that will be required prior to final approval.
[19.35.7.13 NMAC - Rp, 19.35.7.13 NMAC, 1/31/2014]

19.35.7.14 IMPORTATION OF CERTAIN FISH OR FISH EGGS INTO NEW MEXICO: All fish species or eggs of the families salmonidae, esocidae, ~~perichthyidae~~ moronidae, ictaluridae, centrarchidae, percidae, and the genus oreochromis may be imported into the state provided that all conditions stated on the application and permit are met, including the following:

- A. the name of department approved supplier pursuant to this regulation;
- B. description of water into which fish will be released is provided; description must include: legal owner of water; legal description of location (township, range, section); county; name of water; size of water (surface acres-lake; miles-stream); source and discharge of water; major use of water; a map of sufficient size and detail to allow the water to be located by someone unfamiliar with the area shall be included;
- C. species, size, pounds, and number of fish to be imported will be specified;
- D. purpose of importation will be specified;
- E. full description of person or persons requesting importation, to include: name, address, telephone number, name of contact person;
- F. GPS coordinates (latitude and longitude in degree decimal minutes (DDM) using WGS 84 datum for each location where fish are stocked.
- G. Oreochromis niloticus and oreochromis mossambicus may be imported into the state provided that:
 - (1) all requirements set forth in the application and on the permit are met
 - (2) all other regulatory requirements, including those set forth herein, are met

[19.35.7.14 NMAC - Rp, 19.35.7.14 NMAC, 1/31/2014; A, ~~10/15/2015~~ 1/15/2021]

19.35.7.15 APPROVED SUPPLIERS OF FISH OR FISH EGGS FOR IMPORTATION INTO NEW MEXICO:

- A. The department will maintain a listing of approved fish suppliers.
- B. All approved fish suppliers or their agent must carry a department-issued copy of the importation permit while transporting fish to the approved release site in New Mexico.
- C. Approved supplier or their agent must notify the department of intended port of entry for importation of fish or fish eggs into New Mexico.
- D. Approved supplier may be required to provide a presence/absence disease history (e.g., furunculosis bacterium, enteric redmouth bacterium, proliferative kidney disease, ceratomyxosis of salmonids, etc.) of the hatchery facility if requested by the New Mexico department of game and fish.
- E. Approved suppliers shall meet the criteria and provide pathogen-free certification as specified herein.
- F. **Salmonids:**
 - (1) For the infectious hematopoietic necrosis virus (IHNV), infectious pancreatic necrosis virus (IPNV), and viral hemorrhagic septicemia (VHS), and bacterial kidney disease (BKD).
 - (a) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.
 - (b) Disease testing of fish must use American fisheries society (AFS) blue book or meet OIE (office international des epizooties) standards.
 - (c) Disease testing will be conducted on an annual basis; annual inspection must have occurred within the previous 12 months of application date.
 - (d) 60 fish per lot will be sampled.
 - (e) For all lots of fish not originating on facility, supplier must provide a historical account documenting fish were reared only at New Mexico department of game and fish approved aquaculture facilities.
 - (2) ~~Salmonids—f~~For the whirling disease pathogen ~~and bacterial kidney disease~~.
 - (a) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.
 - (b) ~~Lots of fish older than six months will be sampled.~~

~~(e)~~(b) 60 fish per lot will be sampled.

~~(d)~~(c) Inspection will include at least one lot of susceptible salmonids (rainbow trout, cutthroat trout, rainbow-cutthroat hybrids) which has been on the hatchery's water source for at least 10 months. If no lot of susceptible salmonids has been on the hatchery's water source for at least 10 months, then inspection shall include at least one lot of susceptible salmonid at least six months of age or older.

~~(e)~~(d) Disease testing will be conducted on an annual basis. Annual inspection must have occurred within the previous 12 months of application date.

~~(f)~~(e) Positive findings of whirling disease by pepsin-trypsin digestion shall be considered presumptive; positive findings of whirling disease by histology shall be considered confirmatory.

~~(g)~~(f) For all lots of fish not originating on facility, supplier must provide a historical account documenting fish were reared only at New Mexico department of game and fish approved aquaculture facilities.

~~(h)~~(g) Supplier may be required to provide a whirling disease history of the hatchery facility if requested by the New Mexico department of game and fish.

~~(i)~~(h) Presumptive findings: Any presumptive findings of disease with no confirmatory testing shall be deemed a positive finding of the disease.

~~(j)~~(i) Positive findings of disease: Any facility deemed to have tested positive, by confirmatory findings or presumptive findings without confirmatory testing, under this rule shall be barred from importation into the state of New Mexico until the facility is shown to be pathogen free for a minimum of two consecutive years and has met all other requirements.

~~(k)~~(j) Renovated facilities: A facility that has been deemed positive under this rule and has undergone complete renovation may apply for importation privileges as a new facility once it has had at least one annual inspection and has met all other requirements. Complete renovation for the purposes of this rule shall be defined as a facility that has: 1) closed, secured, and sanitized all water sources, 2) confined all water conveyance to closed sealed pipes, and 3) constructed all rearing spaces out of hard surfaced materials. Proof of renovation must be provided with the application for importation privileges. On-site inspection of the facility after renovation may be required prior to authorization to import.

G. Warm water fish:

(1) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.

(2) Disease testing of fish must use American Fisheries Society (AFS) blue book procedures or meet OIE standards.

(3) Disease testing will be conducted on an annual basis. Annual inspection must have occurred within the previous 12 months of application date.

(4) 60 warm water fish per lot shall be tested for viruses and bacteria.

~~(5) Oreochromis niloticus and oreochromis mossambicus shall be certified as to species and as either all male or otherwise sterile by a qualified independent laboratory or by other means approved by the director.~~

~~(6) Oreochromis niloticus and oreochromis mossambicus capable of reproduction and certified as to species by a qualified, independent laboratory or by other means approved by the director may be approved for import only to a qualified expert.~~

~~(7)~~(5) Approved supplier will document whether fish on the facility have ever been diagnosed with channel catfish virus.

H. Oreochromis niloticus and oreochromis mossambicus shall be certified as to species and as either all male or otherwise sterile by a qualified independent laboratory or by other means approved by the director. Oreochromis niloticus and oreochromis mossambicus capable of reproduction and certified as to species by a qualified, independent laboratory or by other means approved by the director may be approved for import only to a qualified expert.

H.I. Triploid grass carp: A notarized certificate of triploidy issued by another state wildlife agency, United States fish and wildlife service, USDA certified source or other source approved by the New Mexico department of game and fish must be provided for all grass carp imported into New Mexico.

I.J. Approved suppliers shall provide signed written assurance to the department that the fish rearing facilities are free of aquatic nuisance species (ANS) and aquatic invasive species (AIS). Failure to provide this assurance shall be reason to deny importation privileges. Approved suppliers shall be liable for any introduction of ANS or AIS caused by their actions.

[19.35.7.15 NMAC - Rp, 19.35.7.15 NMAC, 1/31/2014; A, ~~10/15/2015~~ 1/15/2021]

19.35.7.16 [Reserved]

19.35.7.17 IMPORTATION CONDITIONS FOR THE FAMILIES BOVIDAE, ANTILOCAPRIDAE AND CERVIDAE: All live protected wildlife species of the families bovidae, antilocapridae, and cervidae imported in the state of New Mexico shall meet the following criteria.

A. Be permanently identified with any 2 of the following devices, one of which must be an official animal identification. All identification data shall be registered with the department:

- (1) implanted electronic identification device.
- (2) ear tag with park identification number.
- (3) tamper-proof ear tag with imprinted national identification number.
- (4) USDA metal ear tags.

B. Be examined by an accredited veterinarian prior to importation. Each animal shall be accompanied by a pre-approved health certificate, certifying a disease-free status.

C. Test negative for brucellosis. Serum testing shall be done not more than 30 days prior to importation. All serum samples shall be tested by a cooperative state federal brucellosis laboratory.

D. Test negative for bovine tuberculosis not more than 90 days prior to importation. Animals to be imported must originate from a herd that had a negative whole-herd tuberculosis test not more than 12 months prior to importation or have a current "tuberculosis free herd" certificate issued from the state of origin through a USDA accreditation program. Bovine tuberculosis testing must be performed with the current USDA approved method and be conducted by a federally accredited veterinarian. Exception: Wild sheep are exempt from this testing requirement.

E. Only cervids enrolled and in the state CWD herd certification program and from a herd that has achieved certified status, and that does not show clinical signs associated with CWD may be imported into New Mexico.

(1) No cervid shall be allowed to enter the state if it has had any contact with a CWD suspect, exposed, positive, trace-forward or trace-back animal within 60 months prior to time of importation.

(2) No cervid coming through mixed herd sales or auctions shall be allowed to enter the state. Only animals from closed sales may be imported.

(3) No cervid shall enter the state in a conveyance that has held CWD suspect, exposed, positive, trace-forward or trace-back animals.

F. All elk to be imported into the state of New Mexico shall be tested for genetic purity. Only Rocky Mountain elk (*Cervus elaphus nelsoni*) will be allowed to be imported into the state of New Mexico. Any elk showing red deer hybridization or hybridization of other elk subspecies will not be allowed into the state. All testing shall be done ONLY by a New Mexico department of game and fish approved laboratory.

G. All progeny from female elk impregnated prior to importation into New Mexico shall be tested for hybridization of red deer and other elk subspecies.

H. White-tailed deer subspecies to be imported into the state of New Mexico must have originated and must exist west of the 100th meridian and test negative for meningeal worm.

I. Be permitted in compliance with Subsection A of 19.31.1.10 NMAC.

(1) Cost of testing: All testing will be at owner's expense.

(2) After entering the state, all animals shall be held in a separate facility by the owner and/or importer. All imported animals, prior to release, may be inspected at any time by a department of game and fish official or designee.

(3) Owners/importers must notify the department of game and fish within 24 hours of any disease indications or symptoms that manifest themselves among the imported animals prior to final inspection.

(4) Animals shall be held in isolation in the event of an animal health emergency as declared by the director.

(5) Final inspection / permit validation: No animals may be released from the separate facility into the class A park or other enclosure until the owner has received a release approval signed by a department of game and fish official.

[19.35.7.17 NMAC - Rp, 19.35.7.17 NMAC, 1/31/2014]

19.35.7.18 INTRASTATE TRANSPORTATION FOR THE FAMILIES BOVIDAE, ANTILOCAPRIDAE AND CERVIDAE:

A. Transporting requirements: All live cervids transported within the state of New Mexico shall be legally possessed and permanently identified with any 2 of the following devices, one of which must be an official animal identification. All identification data shall be registered with the department:

- (1) implanted electronic identification device.
- (2) ear tag with park identification number.
- (3) tamper-proof ear tag with imprinted national identification number.
- (4) USDA metal ear tags.

B. The director may suspend intrastate movement in an animal health emergency.
[19.35.7.18 NMAC- Rp, 19.35.7.18 NMAC, 1/31/2014]

19.35.7.19 RELEASE FROM CAPTIVITY FOR IMPORTED ANIMALS: No person shall release from captivity an imported animal into New Mexico except by obtaining a release permit from the director. The transfer of an imported animal from one person to another person does not constitute a release from captivity.

A. Prior to approval by the director an applicant must:

(1) submit a plat of the release area;
(2) submit verification that landowners, tribal officials, state officials, federal officials and county officials that may be directly affected by the release have been notified of the potential release in writing and have been given 20 days to respond to the release; responses must be submitted with the application; it is the responsibility of the applicant to notify the above and submit responses to the department; failure to notify as indicated herein or to submit responses will result in the application being rejected until this condition is met and any compliance fees are paid;

(3) demonstrate that the intended release is provided for in state or federal resource or species management plans or strategies (CWCS).

B. Any individual or group of isolated animals in which signs of infectious or contagious disease is evident will not be released, will remain in isolation, and, at the recommendation of the state veterinarian:

(1) the animals shall be treated and restored to health until they no longer pose a threat of infection to wild, free ranging wildlife or to other captive animals in the facility; or

(2) the isolated animals shall be destroyed and remains will be disposed in a manner conforming to state, federal or local rules and regulations.

C. The director shall not approve any release permit that conflicts with current conservation management.

~~**D.** The state game commission must review any permit application for any carnivore that will be held, possessed or released on private land for the purpose of recovery, reintroduction, conditioning, establishment or reestablishment in New Mexico. The director shall only issue a department permit in accordance with commission direction following their review of an application submitted under this section of rule.~~

[19.35.7.19 NMAC - Rp, 19.35.7.19 NMAC, 1/31/2014; A, ~~12/15/2014~~ 1/15/2021]

19.35.7.20 [Reserved]

19.35.7.21 DENIAL OF PERMIT APPLICATION: The appropriate department division chief shall notify the applicant of a denial to import non-domesticated animals in writing. A denied application will not be further considered unless the applicant is granted an allowance through the director's review or the commission appeal process.

[19.35.7.21 NMAC - Rp, 19.35.7.21 NMAC, 1/31/2014]

19.35.7.22 IMPORTATION PERMIT APPEAL PROCESS: The denial of an importation permit may only be set aside if each step in the application and appeal process is adhered to sequentially and the appeal is conducted in accordance with the following procedures.

A. Director's review: any applicant whose importation permit application has been denied may request a review by the director in accordance with the following procedures.

(1) The applicant must submit by certified mail a written request to the director within 30 days of denial.

(2) A request for the director's review must contain the reason for the objection.

(3) The director will consider any additional evidence and information that was not previously considered in the initial denial.

(4) The director will consider any conflicts with native wildlife, threats to human health, domestic animals or livestock and qualified expert designation when making a determination.

(5) The designation within a specified group on the director's species importation list cannot be used as the basis for review or appeal.

(6) The director shall make a determination and send the applicant his decision within 45 days.

(7) The determination to approve or deny a qualified expert designation by the director is final and is not subject to appeal.

B. Commission appeal: any applicant may appeal the decision by the director in accordance with the following procedures.

(1) The applicant must submit by certified mail a written appeal to the chairman of the state game commission within 20 days of denial by the director.

(2) The appeal to the chairman must contain the reason for the objection.

C. Basis for decision: The commission may set aside the decision of the director only if;

(1) the commission determines that the decision of the director was arbitrary or capricious;

(2) the decision of the director was not based on law or regulation;

(3) the appellant provides additional data or proves significant evidence that contradicts the data of the department;

(4) the decision of the commission shall be final.

D. An appeal filed with the commission will be heard at the next scheduled commission meeting subject to agenda item availability and related time constraints.

[19.35.7.22 NMAC- Rp, 19.35.7.22 NMAC, 1/31/2014]

19.35.7.23 EXCEPTIONS: Employees of the New Mexico department of game and fish and other state agencies acting in the course of their official duties are not required to have an importation permit. However, all disease testing requirements specified in this rule must be met prior to importation.

[19.35.7.23 NMAC- Rp, 19.35.7.23 NMAC, 1/31/2014]

HISTORY OF 19.35.7 NMAC:

NMAC History:

19 NMAC 31.1, Hunting and Fishing - Manner and Method of Taking, filed 3/1/1995.

19.35.7 NMAC, Importation of Live Non-Domesticated Animals, Birds and Fish, filed 3/17/2000.

History of Repealed Material:

19.35.7 NMAC, Importation of Live Non-Domesticated Animals, Birds and Fish, filed 3/17/2000 - Repealed effective 7/9/2010.

19.35.7 NMAC, Importation of Live Non-Domesticated Animals, Birds and Fish, filed 7/9/2010 - Repealed effective 1/31/2013.

NMAC

Transmittal Form


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 2021 JAN 26 PM 3: 56

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)
 New Amendment Repeal Emergency Renumber Most recent filing date:

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

Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

Concise Explanatory Statement For Rulemaking Adoption:

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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 amendments to the Importation of Live Non-Domestic Animals Rule. The amendments include:

- Provide consistency in the level of review of importation applications for all taxa, including carnivores.
- Remove the requirement for fish hatchery renovation and depopulation if a facility tests positive for Renibacterium salmoninarum, the causative agent of bacterial kidney disease.
- Clarify testing requirements for the whirling disease pathogen in hatcheries.
- Minor formatting and clerical changes.

What Changed:

- The Director of the Department of Game and Fish has authority to review and approve importation applications for all taxa. This will enhance the efficiency of conservation efforts for carnivores.
- The requirement for complete renovation of a fish hatchery raising salmonids (trout or salmon) which has tested positive for bacterial kidney disease has been removed. A fish hatchery which tests positive for bacterial kidney disease could still be barred from importing fish or fish eggs into New Mexico but would have greater flexibility in steps taken to attain disease free certification.
- Age specific testing requirements for the whirling disease pathogen have been clarified reducing confusion regarding testing requirements for young fish.

Substantive comments were received from the public both in support and opposition to the change of authority for approval of importation applications from the Game Commission to the Director. The Commission considered the comments and ultimately adopted the amendments. To view public comments please visit <http://www.wildlife.state.nm.us/commission/meeting-agendas/> and click on the hearing archive tab.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Michael B. Sloane

Check if authority has been delegated

Title:

Director, New Mexico Department of Game and Fish

Signature: (BLACK ink only)

Date signed:

Michael B. Sloane

Digitally signed by Michael B. Sloane
Date: 2021.01.25 12:02:48 -07'00'

1/25/2021

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This as an amendment to 19.35.7 NMAC, Sections 2, 7, 8, 14, 15 and 19, effective 2/9/2021.

19.35.7.2 SCOPE: Persons who desire to bring wildlife species into the state of New Mexico. It may include the general public, pet importers, holders of Class “A” park licenses, department [~~permitees~~] permittees and others.

[19.35.7.2 NMAC - Rp, 19.35.7.2 NMAC, 1/31/2014; A, 2/9/2021]

19.35.7.7 DEFINITIONS:

- A. “Accredited laboratory”** A lab recognized for CWD testing by the New Mexico department of game and fish.
- B. “Animal health emergency”** A situation in which people or animals are at risk of exposure to infectious or contagious diseases as determined by the director.
- C. “APHIS”** Animal and plant health inspection service, United States department of agriculture.
- D. “Applicant”** Any person or entity that causes or submits a department application for importation.
- ~~[E.]~~ **E. “Certificate of compliance”** An official department document declaring an applicant’s ability to resume importation application eligibility.
- ~~[G.]~~ **F. “Certified Herd”** A herd that has attained certified status as defined in the current USDA chronic wasting disease program standards.
- ~~[H.]~~ **G. “Closed herd sales”** Sales of animals from a herd directly to the buyer in a manner that allows the buyer to transport the animals from the producer's premises directly to the buyer's premises without contact with animals from another herd, and without contact with other pens or transport facilities used by any other herd.
- ~~[I.]~~ **H. “Chronic Wasting Disease” or “CWD”** is a transmissible spongiform encephalopathy of cervids.
- ~~[J.]~~ **I. “CWD-Exposed Animal”** is an animal that is part of a CWD-positive herd, or that has been exposed to a CWD-positive animal or contaminated premises within the previous 60 months.
- ~~[K.]~~ **J. “CWD-Exposed herd”** is a herd in which a CWD-positive animal resided within 60 months prior to that animal’s diagnosis as CWD-positive.
- ~~[L.]~~ **K. “CWD-Positive herd”** is a herd in which a CWD-positive animal resided at the time it was diagnosed and which has not been released from quarantine.
- ~~[M.]~~ **L. “CWD-Suspect animal”** is an animal for which unofficial CWD test results, laboratory evidence, or clinical signs suggest a diagnosis of CWD, but for which laboratory results have been inconclusive or not yet conducted.
- ~~[N.]~~ **M. “CWD-Suspect herd”** is a herd for which laboratory evidence or clinical signs suggest a diagnosis of CWD, but for which laboratory results have been inconclusive or not yet conducted.
- ~~[O.]~~ **N. “CWD-Trace-Back herd”** is an exposed herd in which a CWD-positive animal has resided during the 60 months prior to the diagnosis.
- ~~[P.]~~ **O. “CWD-Trace-Forward herd”** is a CWD-exposed herd that has received CWD-exposed animals from a CWD-positive herd during the 60 months prior to the diagnosis of CWD in the CWD-positive herd.
- ~~[Q.]~~ **P. “Dangerous animal”** An animal that due to its nature, biology or its behavior, including predatory or venomous animals, that may present a risk to the health, safety or well-being of the public or other animals including native wildlife, domestic pets or livestock.
- ~~[R.]~~ **Q. “Department”** Shall mean New Mexico department of game and fish.
- ~~[S.]~~ **R. “Director”** Shall mean the director of the department of game and fish.
- ~~[T.]~~ **S. “Importer”** Any person or entity that causes an animal to be brought, transported or shipped into New Mexico with the exception of common mail carriers and delivery service providers during the course of their regular duties.
- ~~[U.]~~ **T. “Invasive animal”** Any non-native animal, except protected wildlife, including any aquatic invasive species (AIS), whose introduction into New Mexico may cause or is likely to cause harm to the economy, environment, protected wildlife, human health or safety.
- ~~[V.]~~ **U. “Isolation”** A period of time imported animals are separated and observed. The observation pen must have fences at least eight feet high. The isolation pen must prevent nose-to-nose contact with all wild ungulates during the observation period.

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~~[W.]~~ V. **“Mixed herd”** A herd comprised of animals from different sources and held to allow contact or commingling.

~~[X.]~~ W. **“Mixed herd sales”** Sales from sale barns, auctions, private arrangements, or other facilities that allow joint penning or adjacent penning of animals from more than one closed herd, or otherwise facilitate or permit commingling, direct contact, or holding, boarding, or sharing the premises by more than one herd simultaneous or successively in time.

~~[Y.]~~ X. **“Non-domesticated animal”** For the purposes of this rule, any animal species that is wild by nature not listed as semi-domesticated or protected under chapter 17 NMSA, 1978.

~~[Z.]~~ Y. **“NPIP”** National poultry improvement program.

~~[AA.]~~ Z. **“Official Animal Identification”** A device or means of animal identification approved by USDA to uniquely identify individual animals nationally. The animal identification must include a nationally unique identification number that adheres to one of the following:

- (1) national uniform ear tagging system;
- (2) animal identification number (AIN);
- (3) premises-based number system using a premises identification number (PIN) in conjunction with a livestock production numbering system; or
- (4) any other numbering system approved by USDA for the identification of animals in commerce.

~~[BB.]~~ AA. **“Protected wildlife”** Shall mean those taxonomic groups of mammals, birds and fish listed in Chapter 17 NMSA, 1978, including any species that are listed as either state or federally threatened or endangered.

~~[CC.]~~ BB. **“Release from captivity”** For the purpose of this rule, the act of removing from confinement, letting go, liberating or setting free any imported, live non-domesticated animal into the wild.

~~[DD.]~~ CC. **“Semi-domesticated animal”** For the purpose of this rule, the director may designate an animal species as semi-domesticated in those instances where individual members of such species are commonly tamed, raised, bred or sold in captivity.

~~[EE.]~~ DD. **“Species importation list”** A list containing protected, non-game and semi-domesticated animal species established, maintained, updated or amended by the director of the New Mexico department of game and fish. The species importation list may contain importation requirements, restrictions and conditions for each animal species listed.

~~[FF.]~~ EE. **“Qualified expert”** Only a person officially designated by the director to import a specific non-domesticated animal.

~~[GG.]~~ FF. **“Undesirable animal”** An animal that may have adverse impacts to health, management or safety.

~~[HH.]~~ GG. **“USDA”** United States department of agriculture.
[19.35.7.7 NMAC - Rp, 19.35.7.7 NMAC, 1/31/2014; A, 12/15/2014; A, 2/9/2021]

19.35.7.8 IMPORTATION OF LIVE NON-DOMESTICATED ANIMALS: It shall be unlawful to import any live non-domesticated animal into New Mexico without first obtaining appropriate permit(s) issued by the director except those animals identified within the species importation list group I. ~~[The state game commission must review any permit application for the importation of any carnivore that will be held, possessed or released on private property for the purpose of recovery, reintroduction, conditioning, establishment or reestablishment in New Mexico. The director shall only issue a department permit in accordance with commission direction following their review of an application submitted under this section of rule.]~~ Permits will only be issued when all application requirements and provisions have been met. Failure to adhere to or violation of permit provisions may result in the applicant/importer becoming ineligible for importation(s). The pendency or determination of any administrative action or the pendency or determination of a criminal prosecution for the same is not a bar to the other.
[19.35.7.8 NMAC – Rp, 19.35.7.8 NMAC, 1/31/2014; A, 12/15/2014; A, 2/9/2021]

19.35.7.14 IMPORTATION OF CERTAIN FISH OR FISH EGGS INTO NEW MEXICO: All fish species or eggs of the families salmonidae, esocidae, ~~[pereithyidae]~~ moronidae, ictaluridae, centrarchidae, percidae, and the genus oreochromis may be imported into the state provided that all conditions stated on the application and permit are met, including the following:

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- A. the name of department approved supplier pursuant to this regulation;
- B. description of water into which fish will be released; description must include: legal owner of water; legal description of location (township, range, section); county; name of water; size of water (surface acres-lake; miles-stream); source and discharge of water; major use of water; a map of sufficient size and detail to allow the water to be located by someone unfamiliar with the area shall be included;
- C. species, size, pounds, and number of fish to be imported will be specified;
- D. purpose of importation will be specified;
- E. full description of person or persons requesting importation, to include: name, address, telephone number, name of contact person;
- F. GPS coordinates (latitude and longitude in degree decimal minutes (DDM) using WGS 84 datum for each location where fish are stocked.
- G. *Oreochromis niloticus* and *Oreochromis mossambicus* may be imported into the state provided that:

- (1) All requirements set forth in the application and on the permit are met.
- (2) All other regulatory requirements, including those set forth herein, are met.

[19.35.7.14 NMAC - Rp, 19.35.7.14 NMAC, 1/31/2014; A, 10/15/2015; A, 2/9/2021]

19.35.7.15 APPROVED SUPPLIERS OF FISH OR FISH EGGS FOR IMPORTATION INTO NEW MEXICO:

- A. The department will maintain a listing of approved fish suppliers.
- B. All approved fish suppliers or their agent must carry a department-issued copy of the importation permit while transporting fish to the approved release site in New Mexico.
- C. Approved supplier or their agent must notify the department of intended port of entry for importation of fish or fish eggs into New Mexico.
- D. Approved supplier may be required to provide a presence/absence disease history (e.g., furunculosis bacterium, enteric redmouth bacterium, proliferative kidney disease, ceratomyxosis of salmonids, etc.) of the hatchery facility if requested by the New Mexico department of game and fish.
- E. Approved suppliers shall meet the criteria and provide pathogen-free certification as specified herein.
- F. **Salmonids:**
 - (1) For the infectious hematopoietic necrosis virus (IHNV), infectious pancreatic necrosis virus (IPNV), ~~and~~ viral hemorrhagic septicemia (VHS), ~~and bacterial kidney disease (BKD)~~.
 - (a) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.
 - (b) Disease testing of fish must use American fisheries society (AFS) blue book or meet OIE (office international des epizooties) standards.
 - (c) Disease testing will be conducted on an annual basis; annual inspection must have occurred within the previous 12 months of application date.
 - (d) ~~[60]~~ Sixty fish per lot will be sampled.
 - (e) For all lots of fish not originating on facility, supplier must provide a historical account documenting fish were reared only at New Mexico department of game and fish approved aquaculture facilities.
 - (2) ~~[Salmonids— for]~~ For the whirling disease pathogen ~~[and bacterial kidney disease]~~.
 - (a) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.
 - ~~(b)~~ (b) ~~Lots of fish older than six months will be sampled.]~~
 - ~~(c)~~ (b) [60] Sixty fish per lot will be sampled.
 - ~~(d)~~ (c) Inspection will include at least one lot of susceptible salmonids (rainbow trout, cutthroat trout, rainbow-cutthroat hybrids) which has been on the hatchery's water source for at least 10 months. If no lot of susceptible salmonids has been on the hatchery's water source for at least 10 months, then inspection shall include at least one lot of susceptible salmonid at least six months of age or older.

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~~[(e)]~~ (d) Disease testing will be conducted on an annual basis. Annual inspection must have occurred within the previous 12 months of application date.

~~[(f)]~~ (e) Positive findings of whirling disease by pepsin-trypsin digestion shall be considered presumptive; positive findings of whirling disease by histology shall be considered confirmatory.

~~[(g)]~~ (f) For all lots of fish not originating on facility, supplier must provide a historical account documenting fish were reared only at New Mexico department of game and fish approved aquaculture facilities.

~~[(h)]~~ (g) Supplier may be required to provide a whirling disease history of the hatchery facility if requested by the New Mexico department of game and fish.

~~[(i)]~~ (h) Presumptive findings: Any presumptive findings of disease with no confirmatory testing shall be deemed a positive finding of the disease.

~~[(j)]~~ (i) Positive findings of disease: Any facility deemed to have tested positive, by confirmatory findings or presumptive findings without confirmatory testing, under this rule shall be barred from importation into the state of New Mexico until the facility is shown to be pathogen free for a minimum of two consecutive years and has met all other requirements.

~~[(k)]~~ (j) Renovated facilities: A facility that has been deemed positive under this rule and has undergone complete renovation may apply for importation privileges as a new facility once it has had at least one annual inspection and has met all other requirements. Complete renovation for the purposes of this rule shall be defined as a facility that has: ~~1) closed, secured, and sanitized all water sources, 2) confined all water conveyance to closed sealed pipes, and 3) constructed all rearing spaces out of hard surfaced materials. Proof of renovation must be provided with the application for importation privileges. On-site inspection of the facility after renovation may be required prior to authorization to import.]~~

~~(i) closed, secured, and sanitized all water sources;~~

~~(ii) confined all water conveyance to closed sealed pipes; and~~

~~(iii) constructed all rearing spaces out of hard surfaced materials. Proof of~~

~~renovation must be provided with the application for importation privileges. On-site inspection of the facility after renovation may be required prior to authorization to import.~~

G. Warm water fish:

(1) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.

(2) Disease testing of fish must use American Fisheries Society (AFS) blue book procedures or meet OIE standards.

(3) Disease testing will be conducted on an annual basis. Annual inspection must have occurred within the previous 12 months of application date.

(4) ~~[60]~~ Sixty warm water fish per lot shall be tested for viruses and bacteria.

~~[(5)] Oreochromis niloticus and oreochromis mossambicus shall be certified as to species and as either all male or otherwise sterile by a qualified independent laboratory or by other means approved by the director.~~

~~[(6)] Oreochromis niloticus and oreochromis mossambicus capable of reproduction and certified as to species by a qualified, independent laboratory or by other means approved by the director may be approved for import only to a qualified expert.]~~

~~[(7)]~~ (5) Approved supplier will document whether fish on the facility have ever been diagnosed with channel catfish virus.

H. Oreochromis niloticus and oreochromis mossambicus shall be certified as to species and as either all male or otherwise sterile by a qualified independent laboratory or by other means approved by the director. Oreochromis niloticus and oreochromis mossambicus capable of reproduction and certified as to species by a qualified, independent laboratory or by other means approved by the director may be approved for import only to a qualified expert.

~~[(H.)~~ I. Triploid grass carp: A notarized certificate of triploidy issued by another state wildlife agency, United States fish and wildlife service, USDA certified source or other source approved by the New Mexico department of game and fish must be provided for all grass carp imported into New Mexico.

~~[(I.)~~ J. Approved suppliers shall provide signed written assurance to the department that the fish rearing facilities are free of aquatic nuisance species (ANS) and aquatic invasive species (AIS). Failure to provide this

assurance shall be reason to deny importation privileges. Approved suppliers shall be liable for any introduction of ANS or AIS caused by their actions.

[19.35.7.15 NMAC - Rp, 19.35.7.15 NMAC, 1/31/2014; A, 10/15/2015; A, 2/9/2021]

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19.35.7.19 RELEASE FROM CAPTIVITY FOR IMPORTED ANIMALS: No person shall release from captivity an imported animal into New Mexico except by obtaining a release permit from the director. The transfer of an imported animal from one person to another person does not constitute a release from captivity.

A. Prior to approval by the director an applicant must:

(1) submit a plat of the release area;

(2) submit verification that landowners, tribal officials, state officials, federal officials and county officials that may be directly affected by the release have been notified of the potential release in writing and have been given 20 days to respond to the release; responses must be submitted with the application; it is the responsibility of the applicant to notify the above and submit responses to the department; failure to notify as indicated herein or to submit responses will result in the application being rejected until this condition is met and any compliance fees are paid;

(3) demonstrate that the intended release is provided for in state or federal resource or species management plans or strategies (CWCS).

B. Any individual or group of isolated animals in which signs of infectious or contagious disease is evident will not be released, will remain in isolation, and, at the recommendation of the state veterinarian:

(1) the animals shall be treated and restored to health until they no longer pose a threat of infection to wild, free ranging wildlife or to other captive animals in the facility; or

(2) the isolated animals shall be destroyed and remains will be disposed in a manner conforming to state, federal or local rules and regulations.

C. The director shall not approve any release permit that conflicts with current conservation management.

~~[D. — The state game commission must review any permit application for any carnivore that will be held, possessed or released on private land for the purpose of recovery, reintroduction, conditioning, establishment or reestablishment in New Mexico. The director shall only issue a department permit in accordance with commission direction following their review of an application submitted under this section of rule.]~~

[19.35.7.19 NMAC - Rp, 19.35.7.19 NMAC, 1/31/2014; A, 12/15/2014; A, 2/9/2021]

Amendments to Importation of Live Non-Domestic Animals Rule 19.35.7 NMAC

Agenda Item 12
January 15, 2021



Statutory Authority

- 17-3-32 NMSA (1978) - In order to protect game animals, birds and fish against importation of undesirable species and introduction of infectious or contagious diseases, it is a misdemeanor to import any live animals, birds or fish into this state, except domesticated animals or domesticated fowl or fish from government hatcheries, without first obtaining a permit from the department of game and fish.



Importation Rule

- 19.35.7.8 NMAC - It shall be unlawful to import any live non-domesticated animal into New Mexico without first obtaining appropriate permit(s) issued by the director except those animals identified within the species importation list group I.



Importation Rule

- 19.35.7.10 NMAC – Director’s List of Species
 - Group I – Semi-domesticated animals, do not require importation permit
 - Group II – Non-domesticated animals, not invasive or dangerous, do not pose risk to health, safety, domestic livestock, native wildlife
 - Group III – Non-domesticated animals, manageable concern, conditions for approval to address health, safety, domestic livestock, native wildlife
 - Group IV – Non-domesticated animals considered dangerous, invasive, T&E. Generally prohibited for general public importation.



Importation Rule

- Application Information
- Temporary Importation
- Importation and Approved Suppliers of Fish
- Importation Conditions for Pronghorn, Bovids, and Cervids
- Appeal Process



Proposed Changes

- Provide consistency in review of importation permits for all species
- Remove requirement for hatchery renovation and/or depopulation if positive for bacterial kidney disease
- Clarify ages of fish required for whirling disease testing
- Minor formatting changes



Public Outreach and Comments

- Press Release for Meetings – Sept. 2
- Virtual Public Meetings – Sept. 23 and 30
 - Total of 40 participants
- Notice of Hearing – Nov. 24
 - Emailed to interested parties – Nov. 24
- 22 Written Comments



Questions?

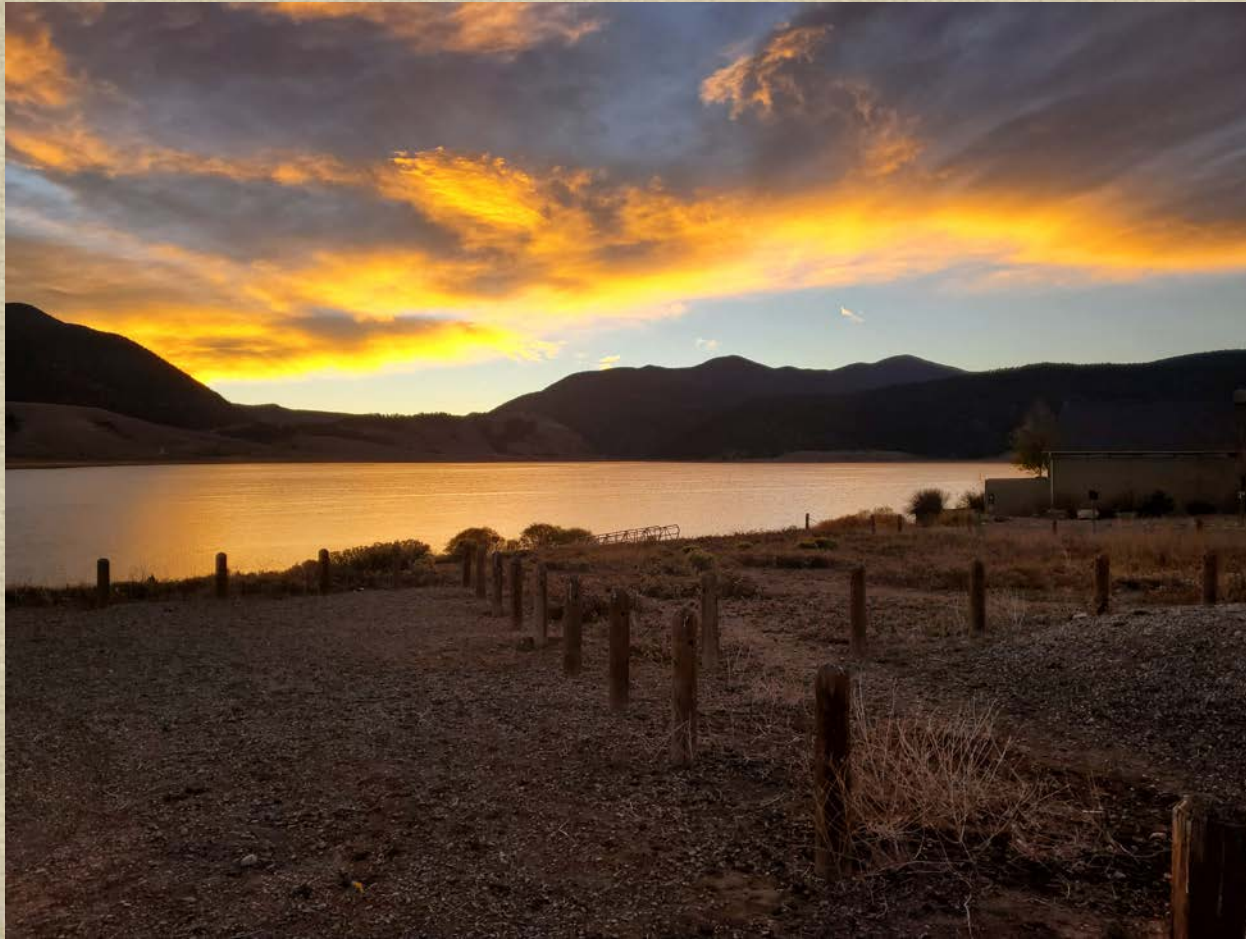


Exhibit 4

Proposed Changes to the Importation Rule (19.35.7 NMAC)

The Department proposes amendments to the Importation of Live Non-Domestic Animals Rule. The proposed amendments include:

- Provide consistency in the level of review of importation applications for all taxa, including carnivores.
- Remove the requirement for fish hatchery renovation and depopulation if a facility tests positive for *Renibacterium salmoninarum*, the causative agent of bacterial kidney disease.
- Clarify testing requirements for the whirling disease pathogen in hatcheries.
- Minor formatting and clerical changes.

What Would Change:

- The Director of the Department of Game and Fish would have authority to review and approve importation applications for all taxa.

- The requirement for complete renovation of a fish hatchery raising salmonids (trout or salmon) which has tested positive for bacterial kidney disease would be removed. A fish hatchery which tests positive for bacterial kidney disease could still be barred from importing fish or fish eggs into New Mexico but would have greater flexibility in steps taken to attain disease free certification.

- Age specific testing requirements for the whirling disease pathogen will be clarified. Current rule requires all lots of fish greater than six months of age to be sampled for the whirling disease pathogen. The current rule also requires testing for at least one lot (group) of susceptible salmonids which has been exposed to the hatchery's water source for at least 10 months. If a hatchery does not rear salmonids for at least 10 months, they would still be required to test one lot greater than six months of age for whirling disease.

Colorado River Fish and Wildlife Council
(Recommended modification to *R. salmoninarum* management)

- Testing will comply with the AFS Fish Health Blue Book standards
- If *Renibacterium salmoninarum*, causative agent of BKD, is detected, management will include:
 1. Lot classification – only lot(s) testing positive will receive BKD designation
 2. If no other regulated/prohibited pathogens are detected, the hatchery will retain Fish Health Approved status, despite BKD positive lot(s). In the comments section of the Fish Health Inspection report, the BKD finding will be explained including the final outcome of the testing and disposition of the fish.
 3. Annual inspection report will show complete status of hatchery including the positive lot(s)
- Select one of the following actions to eliminate the BKD designation
 - I. Retain Infected Population**
 - a. Develop and implement biosecurity/management plan to reduce further spread (treatment, disinfection, quarantine, etc.)
 - b. Retain infected population on the culture facility and retest infected lot(s) 3 months following implementation of biosecurity plan. *Note:* If the follow-up test is negative, the lot(s) will obtain a negative status.
 - II. Depopulate Infected Population**
 - c. Develop and implement biosecurity/management plan to reduce further spread (treatment, disinfection, quarantine, etc.)
 - d. Depopulate all infected lot(s) or lose Fish Health Approved status.

Exhibit 6

From: [Erin Hunt](#)
To: [DGF-importation.rule](#)
Subject: [EXT] comment on proposal to amend the Importation Rule 19.35.7 NMAC
Date: Thursday, October 15, 2020 8:09:31 PM

Dear State Game Commissioners,

Please accept the following comments on the proposed amendments to the Importation Rule 19.35.7 NMAC.

I would like to thank the New Mexico State Game Commission and the New Mexico Department of Game and Fish for considering these important changes. I support the proposed amendments to the Importation Rule for the benefit of all wildlife in New Mexico.

Delays in review and approval of import permits harm wildlife, including endangered species like the Mexican gray wolf. Restoring the authority to review import permits to the Director of the Department will ensure that permits are reviewed in a timely manner, allowing conservation partners within the Mexican Wolf Species Survival Plan, the captive breeding program for Mexican gray wolves, to do their work aiding the recovery of an animal native to New Mexico.

The New Mexico Department of Game and Fish has the expertise and experience to perform these reviews, conserving and protecting New Mexico's wildlife. As a cooperating agency working with the US Fish and Wildlife Service, they have intimate, on-the-ground knowledge of what it takes to recover endangered species. I ask the Commission to support the Department and trust in their knowledge, commitment, and professionalism.

Additionally, I am in favor of removing language that treats carnivores differently than other species. Using Mexican gray wolves as an example, they have not, to my knowledge, been imported into New Mexico other than directly to secure enclosures at Mexican Wolf Species Survival Plan facilities, such as the Albuquerque BioPark, Alameda Park Zoo, and Ladder Ranch Wolf Management Facility.

These institutions are performing a service to the state of New Mexico, helping conserve many species of wildlife. They are subject to inspection and oversight at the federal, state, and local level. They work hard to ensure the animals in their care are given the best quality of life possible, that their health and welfare always come first, and that endangered species are given the resources they need to survive and thrive. Having worked with this community of conservationists for 14 years, I ask the Commission to support these partners in protecting New Mexico's native species, ensuring that they have access to fair and timely review of import permit applications, treated consistently along with all other types of species, through the Department.

I know that I and other members of the public will continue to have input into how wildlife is managed and how endangered species are recovered in the wild. There are several processes that allow for this kind of input, whether through formal public comments or informal communication to agency staff, commissioners, and elected officials. I am in no way concerned about the proposed changes to the Importation Rule diminishing my ability to be heard on the issues that matter to me.

I also know that the New Mexico Department of Game and Fish works hard to develop and maintain relationships with local governments and private landowners. The proposed changes to the Importation Rule will not change the Department's ability or commitment to keeping communities in New Mexico informed.

I thank you all for your willingness to receive public input on the proposed changes to the Importation Rule and for your commitment to the people and wildlife of New Mexico. The proposed changes have so many benefits, and I hope the Commission will adopt them.

Erin Hunt

From: [Mike Phillips \(TESF-Bozeman\)](#)
To: [DGF-importation.rule](#)
Cc: [Soules, David, DGF](#); [Cassidi Cobos \(TESF-Ladder Ranch\)](#)
Subject: [EXT] comments on important rules
Date: Wednesday, September 30, 2020 3:15:51 PM
Attachments: [TESF comments on importation rule change 093020.pdf](#)

To Whom It Will Concern,

Please note the attached comments concerning changes to importation rules being considered by the Fish and Game Commission.

Thank you for considering our comments.

Mike Phillips
Executive Director
Turner Endangered Species Fund
901 Technology Blvd.
Bozeman, Montana 59718



TURNER
ENDANGERED
SPECIES
FUND

*Conserving biological
diversity by ensuring the
persistence of imperiled
species and their habitats
with an emphasis on
private lands.*

September 30, 2020

New Mexico Fish and Game Commission,

The Turner Endangered Species Fund fully supports the proposed changes to the Importation Rule.

The changes would streamline administrative aspects of permit compliance and thus improve our ability to contribute to Mexican wolf recovery, an objective that we know you share.

We appreciate the chance to comment on the proposed changes.

Sincerely,

Mike Phillips
Executive Director

From: [Valerie Huerta](#)
To: [DGF-importation.rule](#)
Subject: [EXT] Comments on importation rule
Date: Thursday, October 15, 2020 3:47:04 PM
Attachments: [NMF&LB Comments on Importation Rule .pdf](#)
Importance: High

Good afternoon,

Attached you will find NM Farm and Livestock Bureau's Comments on the importation rule. Thank you for the opportunity to comment on the proposed rule change.

Thank you,
Valerie

Valerie A. Huerta
Director of Organization
NM Farm and Livestock Bureau
T 505-690-5797
valerieh@nmflb.org
www.nmflb.org

“Agriculture is our wisest pursuit because it will in the end contribute most to real wealth, good morals and happiness.”
-Thomas Jefferson

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NEW MEXICO FARM & LIVESTOCK BUREAU

2220 N. Telshor Blvd • Las Cruces, New Mexico 88011 • (575) 532-4700 • Fax (575) 532-4710

October 9, 2020

New Mexico Department of Game and Fish
Attn: Importation Rule Amendments
PO Box 25112
Santa Fe, NM 87504

Re: Comments on The NMDGF Proposed Amendments to the Importation Rule 19.35.7 NMAC

NM Game and Fish Commission,

New Mexico Farm & Livestock Bureau (NMF&LB) is New Mexico's largest agriculture organization, representing members involved in all aspects of agriculture. Our mission is to promote and protect agriculture in the great State of New Mexico. We are charged with the important task of representing our members' interests, while advocating on the behalf of agriculture. NMF&LB respectfully submits the following comments on behalf of our 20,000 member-families.

The departments proposed rule change would remove the term "carnivore" from 19.35.7.7 NMAC. We believe permit consideration for carnivores and other species which are "dangerous" or "invasive" should be held to higher review standards and be open to public comment, debate, and notification. Removing the term carnivore from the rule would further prevent a thorough review on their permit applications while removing all opportunities for public discussion and observation of dialogue at game and fish commission meetings. Should the proposed rule be adopted, we would like to know what communication mechanism would be utilized to inform neighboring private property owners as well as the public what importation activities are taking place near private property and the state in general. Further, we would also like to know how much notice will be given to the prior to the importation and release.

Removing the authority of the commission to review permit applications under section 19.35.7.8 NMAC and 19.35.7.19 NMAC not only takes away the intent of the power granted to the commission, it contradicts the main goal of commission; transparency. NMF&LB proposes there be no changes to the language in the current rule in sections 19.35.7.8 NMAC and 19.35.7.19 NMAC.

“The state game commission must review any permit application for any carnivore that will be held, possessed or released on private land for the purpose of recover, reintroduction, conditioning, establishment, or reestablishment in New Mexico. The director shall only issue a department permit in accordance with the commission direction following their review of an application submitted under this section of the rule,”

NMF&LB requests that the commission continues to retain the power and authority to review permits in an open and transparent process.

In addition to the recommendation above, NMF&LB opposes the release of any wildlife species (on any land tenure and by any individual, group, or agency) in New Mexico that may be considered dangerous or invasive, by their nature or expansion, and that have the potential to affect the health, safety or well-being of the public, domestic livestock, or native wildlife and their habitats.

NMF&LB appreciates the opportunity to comment on the NMDGF Proposed Amendments to the Importation Rule 19.35.7 NMAC. We encourage the department and the commission to consider these comments during the rule change process.

Respectfully,

A handwritten signature in black ink, appearing to read "C. Smith". The signature is fluid and cursive, with a large initial "C" and a stylized "S" for "Smith".

Chad Smith
CEO
NMF&LB

From: [Maria Perino](#)
To: [DGF-importation.rule](#)
Subject: [EXT] Importation Rule 19.35.7
Date: Monday, October 12, 2020 5:28:44 PM

Hello,

I would like to show my support for the new Importation Rule 19.35.7 proposed by NMAC.

I love the wolves and want to see them treated fairly and equally.

Many thank yous for the proposed changes!

Sincerely

Maria Perino
Gainesville FL

[Sent from Yahoo Mail on Android](#)

From: [Michael Dax](#)
To: [DGF-importation.rule](#)
Subject: [EXT] Importation Rule Amendment comments
Date: Thursday, September 24, 2020 8:41:45 AM
Attachments: [Defenders of Wildlife importation rule change.pdf](#)

Attached, please find comments on the importation rule amendments from Defenders of Wildlife.

Thank you,

Michael Dax



Michael Dax

New Mexico Representative

[DEFENDERS OF WILDLIFE](#)

1130 17th Street NW, Washington, DC 20036

TEL: 505.395.7334

[Facebook](#) | [Twitter](#) | [Instagram](#) | [Medium](#)



Southwest Program Office

210 Montezuma Avenue, Suite 210 | Santa Fe, New Mexico 87501 | tel 505.395.7330
www.defenders.org

September 23, 2020

New Mexico Department of Game and Fish
Attn: Importation Rule Amendments
PO Box 25112
Santa Fe, NM 87504

Dear State Game Commissioners,

Please accept the following comments on behalf of Defenders of Wildlife regarding amendments to the importation rule. Defenders is a non-profit, 501(c)3 organization that works to ensure the protection of native plants and animals and their habitats throughout North America. Defenders has more than 1.8 million members, supporters and online activists nationwide, including more than 7,800 in New Mexico.

We appreciate this opportunity to comment and thank the State Game Commission and the New Mexico Department of Game and Fish for taking up this issue. We support the proposed amendments to the rule, especially returning authority to the director of the Department to review and approve applications for importation.

This was the case until 2015 when the State Game Commission granted itself this authority. Since then, there have been multiple occasions where the importation of species have either been delayed or have become overly politicized. Instead of science, conservation need, and the merits of an individual application dictating the review process, larger political considerations became the focus of these decisions. Returning this authority to the director will minimize any outside influence and allow the director to determine on his or her own if a permit is in the best interests of the conservation of New Mexico's wildlife.

Additionally, requiring approval from the State Game Commission has the potential to create delays that could render the importation difficult or impossible to occur. Often, when animals are trapped for the purposes of importation and release, there is a limited window in which they can be held in captivity before being released. The State Game Commission only meets roughly 7 times a year, and although it is possible to hold special meetings, even those can take longer to convene than the window of release would allow. This makes it so that opportunities to import and release species that have conservation value for New Mexico's wildlife populations often go unrealized. In these situations, no one benefits, especially not our wildlife.

Thank you again for considering these amendments to the state importation rule. We encourage the commission to accept the changes as proposed.

Thank you,

A handwritten signature in black ink, appearing to read "Michael Dax". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Dax".

Michael Dax
New Mexico Representative
Defenders of Wildlife

From: [Judy Bensinger](#)
To: [DGF-importation.rule](#)
Subject: [EXT] Importation Rule, 19.35.7 NMAC proposed changes
Date: Wednesday, October 14, 2020 5:45:21 PM

The proposed changes would be highly beneficial.

Managing the captive breeding population for genetic diversity and the health and welfare of the wolves involved requires the ability to transfer wolves from one partner institution to another when that is recommended by scientists, government officials, and animal care staff.

These experts need to be able to obtain the appropriate state import permits when wolves need to be moved into captive facilities in New Mexico. Delays in the review and approval of import permits are harmful to individual wolves and to recovery efforts.

Thank you,
Judy Bensinger

From: [Brad Norman](#)
To: [DGF-importation.rule](#)
Subject: [EXT] Need for carnivore import review
Date: Monday, January 4, 2021 6:57:04 PM

Dear Commissioners,

I just read the livestock importation rules. All of the rules related to carnivores was strikes out in the text. I'm sure that it has to do with the desire to import wolves by people like Ted Turner. This rule change is short sighted because landowners would be allowed to import and release big cats the way I'm reading the rules or any other carnivore.

I would really like for you to reconsider the need for the NMDGF to require to be informed, if not approve, importing carnivores prior to release on private land.

Sincerely,

Brad Norman
505-319-3990
11101 Jordan Ave NE
Albuquerque, NM 87122

From: [Jonas Moya](#)
To: [DGF-importation.rule](#)
Cc: [Randell Major](#)
Subject: [EXT] New Mexico Cattle Growers Association Comments on Importation of Live Non-Domestic Animals, Birds, and Fish Rule 19.35.7 NMAC
Date: Friday, October 16, 2020 12:38:08 PM
Attachments: [image003.png](#)
[NMCGA Comments on the Nm Game Fish Importation Rule \(002\).pdf](#)

Hello,

Attached are comments from our association regarding the proposed rule change regarding the Importation of Live Non-Domestic Animals, Birds, and Fish Rule 19.35.7 NMAC.

Thank you for the opportunity to provide comments on this significant rule change.

Best,

Jonas Moya
Executive Director
New Mexico Cattle Growers Assn.



nmagriculture.org

jonas@nmagriculture.org

505-803-0807

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October 15, 2020

**RE: Importation of Live Non-Domestic Animals, Birds, and Fish Rule 19.35.7
NMAC**

Dear Commissioners,

The New Mexico Cattle Growers' Association (NMCGA) appreciates the opportunity to comment on a proposal by the New Mexico Game & Fish Department to change the rule on the Importation of Live Non-Domestic Animals, Birds and Fish Rule 19.35.7 NMAC. The NMCGA is a trade association whose singular focus is to represent the interests of cattle producers in New Mexico. Our Members are actively engaged in the management of terrestrial and aquatic ecosystems that provide space, protection, and food for thousands of species, some of those are endangered and others with more robust populations. The comments I am bringing forth offer a targeted perspective regarding the change to removing the requirement for Game Commission review of any permit application for the importation of any carnivore that will be held, possessed, or released on private property for the purpose of recovery, reintroduction, conditioning, establishment or reestablishment in New Mexico.

Cattle producers are the original conservationists and are expert protectors of the land, water, and environmental resources. However, the lack of commission overview of any permit application for importation of any carnivore that will be held, possessed or released on private property for the purpose of recovery, reintroduction, conditioning, establishment, or reestablishment in New Mexico can have a negative impact on cattle producers and the communities which they live in. Under today's depressed commodity markets, the American cattle producer needs every tool available to remain environmentally and economically sustainable. This rule change could result in the introduction of diseases or further stress on the environment that we raise cattle on.

Thank you for the opportunity to provide comments on this issue. The New Mexico Cattle Growers' Association encourages you to consider these comments as you move forward with the implementation these proposed rule changes to protect our family cattle operations, rural communities, and the economic engine that is American agriculture.

Sincerely,
Randell Major
NMCGA President

From: [Jean Ossorio](#)
To: [DGF-importation.rule](#)
Subject: [EXT] Public Comments on Draft Importation Rule 19.35.7
Date: Wednesday, October 14, 2020 9:14:11 AM

Comments on Draft Importation Rule 19.35.7, specifically, on the deletion of material relating to separate treatment of carnivores.

Submitted by Jean C. Ossorio and Peter M. Ossorio, 5525 Lost Padre Mine Road, Las Cruces, NM 88011

The following comments are based on over 20 years of experience camping in a tent in the home ranges of Mexican gray wolves (*Canis lupus baileyi*), advocating for their recovery, supporting the work of several captive breeding facilities that are part of the Species Survival Plan (SSP), pen-sitting the Coronado pack of Mexican gray wolves in their pre-release pen for eleven days in 2013, and making public comments on every major action by the USFWS and the New Mexico and Arizona state game and fish departments from 2000 to the present.

The removal of the special status of carnivores in the importation rule is long overdue. Requiring the Game Commission to approve any importation of Mexican gray wolves onto private land in New Mexico throws an unnecessary roadblock into the operation of the Ladder Ranch, one of only two pre-release facilities in the current recovery area for the critically endangered species. (The other is the Sevilleta National Wildlife Refuge, which is on federal public land.) In addition to accepting wolves that are needed for possible release into the wild or for breeding, the Ladder Ranch can accept wolves removed from the wild in either Arizona or New Mexico for reasons including injury, illness, or conflicts with humans. The need to have a vote of the Commission could seriously impede these time sensitive removals.

In the Zoom meeting of September 30, the presenter confirmed that no Mexican wolves have been imported onto private land in New Mexico **other than** into SSP facilities like the Ladder Ranch, where they are housed in **secure enclosures**. Thus worries that wolves imported onto private land will represent a threat to nearby landowners are unfounded.

Making the proposed changes will both help recover the critically endangered Mexican gray wolf and make the U. S. Fish and Wildlife Service more likely to comply with state regulations.

Thank you for this opportunity to comment.

Sincerely,

Jean C. Ossorio

Peter M. Ossorio

5525 Lost Padre Mine Road
Las Cruces, NM 88011

(575) 522-3112

From: [Orion Weihe](#)
To: [DGF-importation.rule](#)
Subject: [EXT] Purposed NMDGF rule change webinar emails
Date: Thursday, September 3, 2020 6:30:47 PM

Hi,

Re. the 2 emails that were just sent out by your dept., why isn't there a quick summary of the rule (or hyperlink to it) along with the purposed changes to the rule?

NMDGF should include these details to all of these webinar invites so that the public can determine if they'd be affected and wish to have their input heard. This should be easy and would be helpful to the public.

-Orion Weihe

Sent from my iPhone

From: [Brook Knotts](#)
To: [Patten, Kirk, DGF](#)
Subject: [EXT] Re: Importation Rule
Date: Wednesday, September 9, 2020 10:08:27 PM

Kirk,

Thank you,

Brook Knotts
Sunfish

801-376-3571
bkn6769826@aol.com

-----Original Message-----

From: Patten, Kirk, DGF <kirk.patten@state.nm.us>
To: Patten, Kirk, DGF <kirk.patten@state.nm.us>
Cc: Ortiz, Marco, DGF <marco.ortiz@state.nm.us>
Sent: Wed, Sep 9, 2020 11:43 am
Subject: Importation Rule

All,

The Department has proposed changes to the Importation Rule which is under consideration by the State Game Commission. As approved suppliers of fish and fish eggs, I am sending this email to ensure you are aware of the proposal. Below is a link to the proposal on the Department website which includes a summary of the proposed changes, the proposed language in the rule, and notice of two public meetings that have been scheduled. Finally, the Department has established a special email address to send your comments for the Importation Rule amendment process.

<http://www.wildlife.state.nm.us/commission/proposals-under-consideration/>

Email address- dgf-importation.rule@state.nm.us

Thank you.

Kirk

Kirk Patten
Chief of Fisheries
NM Dept. of Game and Fish
1 Wildlife Way

Santa Fe, NM 87507
505-476-8055 (Office)
505-231-5137 (Cell)

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From: [Jonas Moya](#)
To: [DGF-importation.rule](#)
Subject: [EXT] Verbal Comment Approval Letter
Date: Friday, October 16, 2020 12:45:17 PM
Attachments: [image003.png](#)
[NMCGA approval for JM to comment on NM Game & Fish Importation Rule.pdf](#)

Hello,

Attached is a letter from my President Randell Major permitting me to submit verbal comments on behalf of our association.

Let me know if I need to send this to another email address.

Thank you,

Jonas Moya
Executive Director

New Mexico Cattle Growers Assn.



nmagriculture.org

jonas@nmagriculture.org

505-803-0807

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October 16, 2020

**RE: Importation of Live Non-Domestic Animals, Birds, and Fish Rule 19.35.7
NMAC**

Dear Commissioners,

The New Mexico Cattle Growers Association (NMCGA) is a trade association that represents over 1200 plus members. NMCGA's singular focus is to represent the interests of cattle producers in New Mexico. Our Members are actively engaged in the management of terrestrial and aquatic ecosystems that provide space, protection, and food for thousands of species, some of those are endangered and others with more robust populations. Our association meets throughout the year with four large member meetings and monthly with smaller committee meetings.

This letter is to approve Jonas Moya, Executive Director, to speak on behalf of our association regarding the proposed changes to the Importation of Live Non-Domestic Animals, Birds, and Fish Rule 19.35.7 NMAC.

Thank you for the opportunity to provide comments on this issue.

Sincerely,
Randell Major
Randell Major
NMCGA President

From: [Marilu Craig](#)
To: [DGF-importation.rule](#)
Subject: [EXT] Wolves
Date: Wednesday, October 14, 2020 8:34:52 PM

I write this as a person who is deeply involved with the care, keeping and welfare of the wolf and their family structure.

I can not remember a time when I didn't read a book about wolves, watch films, later videos and You Tube that had anything to do with following the lives of wolves in the environment.

Some of the most prominent have stayed with me for their precise dialogue and researched presentations:

How wolves change rivers, How wolves saved Yellowstone, and how the wolves are responsible for bringing back the balance of the land where ever they are.

These programs are a fraction of their responsible works for the environment.

I am asking for you to seriously consider implementing changes in allowing the wolves to inhabit territory in New Mexico.

It is with all sincerity that I state that it is time for the wolves to take their place .

I thank you for your time, and consideration.

Sincerely

Jobekah Trotta
402 Figueroa Street
Folsom, California

Sent from [Mail](#) for Windows 10

From: [travel](#)
To: [DGF-importation.rule](#)
Subject: [EXT]
Date: Tuesday, September 8, 2020 8:17:12 PM

Please send me new information on new proposed rule:

Christine Mann Douglas
31 Cedar Lane
Mimbres, NM 88049

From: [Swenger903](#)
To: [DGF-importation.rule](#)
Subject: [EXT]
Date: Wednesday, October 14, 2020 3:02:55 PM

Wolves are an important part of the eco-system. Changing the rules in order to eliminate them from the earth is wrong. They were here before we were and before the local farmers. Leave them be. They are important.

Sheree Wenger
Laytonsville, MD

From: [Sloane, Michael B., DGF](#)
To: [Patten, Kirk, DGF](#); [Liley, Stewart, DGF](#)
Subject: FW: [EXT] Proposal for The New Mexico State Game Commission to Relinquish Authority Over Importation of Carnivores
Date: Friday, October 2, 2020 11:59:00 AM

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](#)

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From: Hickey, Sharon, DGF
Sent: Friday, October 2, 2020 11:09 AM
To: Ernie Torrez <erniet18@gmail.com>
Cc: Soules, David, DGF <David.Soules@state.nm.us>; Sloane, Michael B., DGF <michael.sloane@state.nm.us>; Cramer, Gail, DGF <Gail.Cramer@state.nm.us>
Subject: RE: [EXT] Proposal for The New Mexico State Game Commission to Relinquish Authority Over Importation of Carnivores

Dear Mr. Torrez:

Thank you for your email as we are always interested in receiving information and feedback from our fellow New Mexicans. I am copying New Mexico State Game Commission Committee Chairs David Soules and Gail Cramer, and Director of Department of Game and Fish Mike Sloane as FYI.

Have a good day,

Sharon

Sharon Salazar Hickey, J.D.
New Mexico State Game Commissioner, Chair
sharon.hickey@state.nm.us

From: Ernie Torrez <erniet18@gmail.com>

Sent: Wednesday, September 30, 2020 2:26 PM

To: Hickey, Sharon, DGF <Sharon.Hickey@state.nm.us>

Subject: [EXT] Proposal for The New Mexico State Game Commission to Relinquish Authority Over Importation of Carnivores

Commissioner Hickey:

I am fascinated by the money and effort expended for the reintroduction of wolves into New Mexico. Over the years, the genetic integrity of the creatures has been compromised, yet these hybrids have the same status as the originals. How can that be acceptable to the game and fish commission? Trout species with status as endangered or threatened cease to be protected once hybridized. Why not these creatures? This wolf program is now creating a need to change the rules of the game and continue to spend money and effort for a creature that no longer exists.

I am opposed to the New Mexico State Game Commission relinquishing their authority over the importation of carnivores, including wolves, into the state to the Director of the New Mexico Department of Game and Fish.

Ernest R. Torrez
P.O. Box 4
La Jara, NM 87027

From: [White, Monique, DGF](#) on behalf of [Permits, DGF, DGF](#)
To: [Patten, Kirk, DGF](#)
Subject: FW: Importation Rule
Date: Thursday, September 24, 2020 9:57:59 AM
Attachments: [image001.png](#)
Importance: High

See below.

Thanks,

Monique White

Special Use Permits Manager

New Mexico Department of Game and Fish

Law Enforcement Field Operations Division

1 Wildlife Way, Santa Fe, NM 87507

Office: 505.476.8064

Cell: 505-500-2212

Monique.white@state.nm.us

DGF.Permits@state.nm.us

<http://www.wildlife.state.nm.us/enforcement/special-use-permits/>

From: Brejcha, Lisa, DGF **On Behalf Of** ISPA, DGF
Sent: Wednesday, September 23, 2020 4:51 PM
To: Permits, DGF, DGF <DGF.Permits@state.nm.us>
Subject: FW: Importation Rule
Importance: High

Good afternoon Monique –

Forwarding. Thank you and have a great day!

Lisa Brejcha

Special Hunts Supervisor

New Mexico Department of Game and Fish

P.O. Box 25112

Santa Fe, NM 87504

Office: 505-476-8093

Mobile: 505-288-0157

Email: lisa.brejcha@state.nm.us



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From: Michelle Frost-Maynard <nmwgi@nmagriculture.org>
Sent: Wednesday, September 23, 2020 4:20 PM
To: ISPA, DGF <dgfinformationspecia@state.nm.us>
Subject: [EXT] Importation Rule
Importance: High

Dear Sirs,

I am trying to find the deadline for the importation rule. It just states where to send the comments not the dues date.

Please advise. Thank you

Michelle Frost-Maynard

Michelle Frost-Maynard
New Mexico Cattle Growers Association
PO Box 7517
Albuquerque, NM 87194
Office: 505-247-0584
Cell: 505-250-1165



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From: [Pitman, James, DGF](#)
To: [Patten, Kirk, DGF](#)
Subject: FW: Importation Rule
Date: Thursday, September 24, 2020 9:00:00 AM
Attachments: [image002.png](#)
Importance: High

Kirk,

Please see below regarding a question on the importation rule. Thanks.

James W. Pitman

Assistant Chief of Information
New Mexico Department of Game and Fish
One Wildlife Way
Santa Fe, NM 87507
Work Phone: 505-476-8004
james.pitman@state.nm.us

Conserving New Mexico's Wildlife for Future Generations

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From: "Brejcha, Lisa, DGF" <Lisa.Brejcha@state.nm.us> on behalf of "ISPA, DGF" <dgfinformationspecia@state.nm.us>
Date: Wednesday, September 23, 2020 at 5:40 PM
To: "Pitman, James, DGF" <James.Pitman@state.nm.us>
Subject: FW: Importation Rule

Good afternoon James –

Forwarding. Thank you for your help and have a great day!

Lisa Brejcha
Special Hunts Supervisor
New Mexico Department of Game and Fish
P.O. Box 25112
Santa Fe, NM 87504
Office: 505-476-8093
Mobile: 505-288-0157
Email: lisa.brejcha@state.nm.us



Conserving New Mexico's Wildlife for Future Generations

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From: Michelle Frost-Maynard <nmwgi@nmagriculture.org>

Sent: Wednesday, September 23, 2020 4:20 PM

To: ISPA, DGF <dgfinformationspecia@state.nm.us>

Subject: [EXT] Importation Rule

Importance: High

Dear Sirs,

I am trying to find the deadline for the importation rule. It just states where to send the comments not the dues date.

Please advise. Thank you

Michelle Frost-Maynard

Michelle Frost-Maynard
New Mexico Cattle Growers Association
PO Box 7517
Albuquerque, NM 87194
Office: 505-247-0584
Cell: 505-250-1165



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From: [Patten, Kirk, DGF](#)
To: "nmwgi@nmagriculture.org"
Subject: FW: Importation Rule
Date: Thursday, September 24, 2020 12:05:00 PM
Attachments: [image001.png](#)
Importance: High

Michelle,

At this time, there is no deadline for comments. We anticipate updating the Commission on the proposal during its October meeting which will include a summary of public outreach and comments received. We anticipate that a formal rule-making hearing could be held by the Commission in January 2021. A deadline for comments will be set prior to that hearing in accordance with the State Rules Act. If you have any other questions, please let me know.

Kirk

Kirk Patten
Chief of Fisheries
NM Dept. of Game and Fish
1 Wildlife Way
Santa Fe, NM 87507
505-476-8055 (Office)
505-231-5137 (Cell)

CONSERVING NEW MEXICO'S WILDLIFE FOR FUTURE GENERATIONS

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From: White, Monique, DGF **On Behalf Of** Permits, DGF, DGF
Sent: Thursday, September 24, 2020 9:58 AM
To: Patten, Kirk, DGF <kirk.patten@state.nm.us>
Subject: FW: Importation Rule
Importance: High

See below.

Thanks,

Monique White

Special Use Permits Manager
New Mexico Department of Game and Fish
Law Enforcement Field Operations Division
1 Wildlife Way, Santa Fe, NM 87507
Office: 505.476.8064

Cell: 505-500-2212

Monique.white@state.nm.us

DGF.Permits@state.nm.us

<http://www.wildlife.state.nm.us/enforcement/special-use-permits/>

From: Brejcha, Lisa, DGF **On Behalf Of** ISPA, DGF
Sent: Wednesday, September 23, 2020 4:51 PM
To: Permits, DGF, DGF <DGF.Permits@state.nm.us>
Subject: FW: Importation Rule
Importance: High

Good afternoon Monique –

Forwarding. Thank you and have a great day!

Lisa Brejcha
Special Hunts Supervisor
New Mexico Department of Game and Fish
P.O. Box 25112
Santa Fe, NM 87504
Office: 505-476-8093
Mobile: 505-288-0157
Email: lisa.brejcha@state.nm.us



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From: Michelle Frost-Maynard <nmwgi@nmagriculture.org>
Sent: Wednesday, September 23, 2020 4:20 PM
To: ISPA, DGF <dgfinformationspecia@state.nm.us>
Subject: [EXT] Importation Rule
Importance: High

Dear Sirs,

I am trying to find the deadline for the importation rule. It just states where to send the comments not the dues date.

Please advise. Thank you

Michelle Frost-Maynard

Michelle Frost-Maynard
New Mexico Cattle Growers Association
PO Box 7517
Albuquerque, NM 87194
Office: 505-247-0584
Cell: 505-250-1165



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From: [Patten, Kirk, DGF](#)
To: [Patten, Kirk, DGF](#)
Bcc: "[lindanddave@aol.com](#)"; "[frankpaulchacon@gmail.com](#)"; "[valerieh@nmflb.org](#)"; "[surfjunk2000@yahoo.com](#)"; "[anita.hand@catroncountynm.org](#)"; "[sefoutz@constructco.com](#)"; "[m.horton2430@gmail.com](#)"; "[cowtraxjoe@gilanet.com](#)"; "[kitty.solomon@hotmail.com](#)"; "[cassidi.cobos@retranches.com](#)"; "[nashcrof@nmsu.edu](#)"; "[lawdog1300@msn.com](#)"; "[xmodriver@icloud.com](#)"; "[chads@nmflb.org](#)"; "[speters@peterscorp.com](#)"; "[erinhunt81@gmail.com](#)"; "[caren@aaalivestock.com](#)"; "[egreenwood4@gmail.com](#)"; "[b.green@catroncountynm.gov](#)"; "[sigie505@gmail.com](#)"; "[rmwebster337@gmail.com](#)"; [Bickford, Tristanna, DGF](#)
Subject: Public Meeting Follow-up
Date: Monday, September 28, 2020 10:04:00 AM
Attachments: [2019 FINAL MOU SIGNED.pdf](#)

All,

Again, thank you for attending the virtual public meeting last week to discuss the proposed changes to the Importation Rule. During the meeting, participants requested that we distribute the Mexican Wolf MOU to attendees as well as share alternative language proposed by a participant. I have attached the MOU to this email and also pasted the proposed language below.

“The state game commission must review any permit application for the importation of any carnivore that will be held, possessed or released on private property for the purpose of recovery, reintroduction, conditioning, establishment or reestablishment in New Mexico. The director shall only issue a department permit in accordance with commission direction following their review of an application submitted under this section of rule.”

This language would maintain the current state of 19.35.7.8 NMAC.

Kirk

Kirk Patten
Chief of Fisheries
NM Dept. of Game and Fish
1 Wildlife Way
Santa Fe, NM 87507
505-476-8055 (Office)
505-231-5137 (Cell)

CONSERVING NEW MEXICO'S WILDLIFE FOR FUTURE GENERATIONS

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From: [Bickford, Tristanna, DGF](#)
To: [Patten, Kirk, DGF](#)
Subject: FW: [EXT] Questions on changes in importation rule
Date: Wednesday, September 23, 2020 5:58:17 PM

Tristanna Bickford

Communications Director, Information and Education Division
New Mexico Department of Game and Fish
1 Wildlife Way, Santa Fe, NM 87507
Phone: (505) 476-8027
Mobile: (505) 309-2085
Fax: (505) 476-8116



Conserving New Mexico's Wildlife for Future Generations

To report a wildlife-law violation, please call the toll-free Operation Game Thief hotline at (800) 432-GAME (4263) or click in the logo here. Callers can remain anonymous and earn rewards for information leading to charges being filed.



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From: Caren Cowan <caren.cowan1@gmail.com>
Date: Wednesday, September 23, 2020 at 5:57 PM
To: "Bickford, Tristanna, DGF" <Tristanna.Bickford@state.nm.us>
Subject: [EXT] Questions on changes in importation rule

1. What is the rationale for removing carnivores from the rule?
2. Will there be a process that the Director must follow to inform the public about carnivore imports?
3. Will the public be allowed to provide input on carnivore imports?

--
Caren Cowan
Publisher

New Mexico Stockman
Livestock Market Digest
505.243.9515 x 21
careen@aaallivestock.com
www.aaallivestock.com

From: [Maggie Howell](#)
To: [DGF-importation.rule](#)
Subject: [EXT] Comments on Draft Importation Rule 19.35.7
Date: Thursday, January 14, 2021 4:40:42 PM
Attachments: [image003.png](#)

Comments on Draft Importation Rule 19.35.7

The current Importation Rule treats carnivores differently from other species and gives the Commission the responsibility to review importation permit applications, which often results in a lengthy process before a decision is reached.

Mexican wolf recovery depends on many partners, including the Mexican Wolf Species Survival Plan (SSP), the captive breeding program for Mexican wolves. Managing the captive breeding population for genetic diversity and the wolves' health and welfare requires the ability to transfer wolves from one partner institution to another when that is recommended by scientists, government officials, and animal care staff. These experts need to be able to obtain the appropriate state import permits when wolves need to be moved into captive facilities in New Mexico. Delays in the review and approval of import permits are harmful to individual wolves and to recovery efforts.

New Mexico Department of Game and Fish (NMDGF) is a cooperating agency working with the Mexican Wolf Recovery Program. Department staff is working closely with the US Fish and Wildlife Service (USFWS) and has the expertise and on-the-ground experience to review importation permit applications effectively.

As an SSP facility that breeds endangered Mexican gray wolves in captivity to help re-establish this unique subspecies of the gray wolf in the wild, **the Wolf Conservation Center supports removing the special status of carnivores in the importation rule** and consistency in decision-making for importation permits.

The removal of the special status of carnivores in the importation rule is long overdue.

Thank you for this opportunity to comment.

Respectfully submitted,

Maggie Howell



Maggie Howell

Executive Director

WOLF CONSERVATION CENTER

P: 914-763-2373 x200

[Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)

From: [Jean Ossorio](#)
To: [DGF-importation.rule](#)
Subject: [EXT] Comments on proposed importation rule
Date: Tuesday, January 12, 2021 11:03:39 AM
Attachments: [Comments on Draft Importation Rule 10.16.2020 saved for revision.docx](#)

Please accept the attached comments on the proposed importation rule as it applies to the Mexican gray wolf.

My husband, Peter M. Ossorio, and I appreciate this opportunity to comment.

Jean C. Ossorio and Peter M. Ossorio

5525 Lost Padre Mine Road

Las Cruces, NM 88011

Comments on Draft Importation Rule 19.35.7, specifically, on the deletion of material relating to separate treatment of carnivores.

Submitted by Jean C. Ossorio and Peter M. Ossorio, 5525 Lost Padre Mine Road, Las Cruces, NM 88011

The following comments are based on over 20 years of experience camping in a tent in the home ranges of Mexican gray wolves (*Canis lupus baileyi*), advocating for their recovery, supporting the work of several captive breeding facilities that are part of the Species Survival Plan (SSP), pen-sitting the Coronado pack of Mexican gray wolves in their pre-release pen for eleven days in 2013, and making public comments on every major action by the USFWS and the New Mexico and Arizona state game and fish departments from 2000 to the present.

We congratulate the New Mexico Department of Game and Fish, supported by the current Game Commissioners, for rejoining the Interagency Field Team and taking a more active role in management of this critically endangered species.

The removal of the special status of carnivores in the importation rule is long overdue. Requiring the Game Commission to approve any importation of Mexican gray wolves onto private land in New Mexico throws an unnecessary roadblock into the operation of the Ladder Ranch, one of only two pre-release facilities in the current recovery area for the critically endangered species. (The other is the Sevilleta National Wildlife Refuge, which is on federal public land.) In addition to accepting wolves that are needed for possible release into the wild or for breeding, the Ladder Ranch can accept wolves removed from the wild in either Arizona or New Mexico for reasons including injury, illness, or conflicts with humans. The need to have a vote of the Commission could seriously impede these time sensitive removals.

In the Zoom meeting of September 30, the presenter confirmed that no Mexican wolves have been imported onto private land in New Mexico **other than** into SSP facilities like the Ladder Ranch, where they are housed in **secure enclosures**. Concerns about wolves being imported and released on the Ladder Ranch without state involvement and oversight should be alleviated by the following language in the *2015 Revision to the Regulations for the Nonessential Experimental Population of the Mexican Wolf* includes the following language:

On private and tribal land in Zone 2, Mexican wolves of any age, including adults, can also be initially released under a Service- and State-approved management agreement with private landowners or a Service approved management agreement with tribal agencies. Translocations in Zone 2 will be focused on suitable Mexican wolf habitat that is contiguous to occupied Mexican wolf range. Zone 3 is where neither initial releases nor translocations will occur, but Mexican wolves will be allowed to disperse into and occupy. Zone 3 is an area of less suitable Mexican wolf habitat where Mexican wolves will be more actively managed under the authorities of this rule to reduce conflict with the potentially affected public.

Clearly, the state of U. S. Fish and Wildlife Service is expected to work cooperatively with the state of New Mexico in managing any releases on private land in the state. The Commission can and should delegate specific management decisions governing releases on private land to the Director, with oversight by the Commission, just as it does the bulk of other wildlife management decisions.

Making the proposed changes will help recover the critically endangered Mexican gray wolf, recognize the role that private landowners play in conserving wildlife, and foster a cooperative relationship with the USFWS

Thank you for this opportunity to comment.

From: [Valerie Huerta](#)
To: [DGF-importation.rule](#)
Cc: [DGF-importation.rule](#)
Subject: [EXT] Comments for importation rule
Date: Thursday, January 14, 2021 12:14:07 PM
Attachments: [NMF&LB Comments on Importation Rule .pdf](#)

Good afternoon,

I am again submitting our comments for the Importation Rule that will be heard this Friday.

Thank you,
Valerie

Valerie A. Huerta
Director of Organization
NM Farm and Livestock Bureau
T 505-690-5797
valerieh@nmflb.org
www.nmflb.org

“Agriculture is our wisest pursuit because it will in the end contribute most to real wealth, good morals and happiness.”

-Thomas Jefferson

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NEW MEXICO FARM & LIVESTOCK BUREAU

2220 N. Telshor Blvd • Las Cruces, New Mexico 88011 • (575) 532-4700 • Fax (575) 532-4710

October 9, 2020

New Mexico Department of Game and Fish
Attn: Importation Rule Amendments
PO Box 25112
Santa Fe, NM 87504

Re: Comments on The NMDGF Proposed Amendments to the Importation Rule 19.35.7 NMAC

NM Game and Fish Commission,

New Mexico Farm & Livestock Bureau (NMF&LB) is New Mexico's largest agriculture organization, representing members involved in all aspects of agriculture. Our mission is to promote and protect agriculture in the great State of New Mexico. We are charged with the important task of representing our members' interests, while advocating on the behalf of agriculture. NMF&LB respectfully submits the following comments on behalf of our 20,000 member-families.

The departments proposed rule change would remove the term "carnivore" from 19.35.7.7 NMAC. We believe permit consideration for carnivores and other species which are "dangerous" or "invasive" should be held to higher review standards and be open to public comment, debate, and notification. Removing the term carnivore from the rule would further prevent a thorough review on their permit applications while removing all opportunities for public discussion and observation of dialogue at game and fish commission meetings. Should the proposed rule be adopted, we would like to know what communication mechanism would be utilized to inform neighboring private property owners as well as the public what importation activities are taking place near private property and the state in general. Further, we would also like to know how much notice will be given to the prior to the importation and release.

Removing the authority of the commission to review permit applications under section 19.35.7.8 NMAC and 19.35.7.19 NMAC not only takes away the intent of the power granted to the commission, it contradicts the main goal of commission; transparency. NMF&LB proposes there be no changes to the language in the current rule in sections 19.35.7.8 NMAC and 19.35.7.19 NMAC.

“The state game commission must review any permit application for any carnivore that will be held, possessed or released on private land for the purpose of recover, reintroduction, conditioning, establishment, or reestablishment in New Mexico. The director shall only issue a department permit in accordance with the commission direction following their review of an application submitted under this section of the rule,”

NMF&LB requests that the commission continues to retain the power and authority to review permits in an open and transparent process.

In addition to the recommendation above, NMF&LB opposes the release of any wildlife species (on any land tenure and by any individual, group, or agency) in New Mexico that may be considered dangerous or invasive, by their nature or expansion, and that have the potential to affect the health, safety or well-being of the public, domestic livestock, or native wildlife and their habitats.

NMF&LB appreciates the opportunity to comment on the NMDGF Proposed Amendments to the Importation Rule 19.35.7 NMAC. We encourage the department and the commission to consider these comments during the rule change process.

Respectfully,

A handwritten signature in black ink, appearing to read "C. Smith".

Chad Smith
CEO
NMF&LB

**New Mexico State Game Commission Meeting - January 15, 2021
Registration/Sign-In Sheet**

First	Last	Email	Address	City	State	Zip	Phone	Organization	Title	Wish to Speak	Agenda Item	Questions & Comments
Michael	Ortiz	ortiz.mike64@gmail.com	2578 Avenida de Isidro	Santa Fe	NM	87505		Property owner application for EPLUS	Scientist	Yes	E-Plus	
Ray	Trejo	ray@nmwildlife.org								Maybe		
Barbara	Snodman	doggiegames@yahoo.com								No		
Kerrie	Romero	kerriecoromeo@gmail.com	51 Bogan Rd	Stanley	NM	87056	(505) 440-5258	New Mexico Council of Outfitters and Guides	Executive Director	Maybe		
Earl	Conway	way2busy2fish@aol.com	12913 Blackstone Rd NE	Albuquerque	NM	87111	(505) 810-5156	New Mexico Bass Nation	Conservation Director	No		
Craig	Sanchez	craig_sanchez@state.nm.us	7816 Alamo Rd NW	Albuquerque	NM	87120	(505) 222-4713	New Mexico Department of Game and Fish	Assistant Chief, Education	No		
Jessan	Amaro	amaro_jason@hotmail.com	5116 Little Walnut Road	Silver City	NM	88361	(505) 235-7782	NM Outdoor Adventures	Owner	No		
Jennifer	Morgan	jennifer.morgan@state.nm.us	7816 Alamo Rd NW	Albuquerque	NM	87120	(505) 263-6551	New Mexico Department of Game and Fish	Hunter Education Program Manager	No		
Charles	Crawford	charles.crawford@state.nm.us	803 S 5th Street	Raton	NM	87740	(505) 500-6980	New Mexico Department of Game and Fish	NE Region Biologist	No		
David	Kenneke	dave.kenneke@scouting.org	22 Deer run Road, 11	Cimarron	NM	87714	(575) 447-2366	NMCGA Philmont Scout Ranch	Wildlife Committee Chair Director of Ranching and Conservation	Yes	12, 15	
Mike	Binns	mikebinns61@gmail.com	2241 Dakota Dr	Las Cruces	NM	88011	(575) 644-8331		Citizen Advisory Member Habitat Stamp Program	No		
Charles	Tripp	chtrippjr@gmail.com	7 Deborah Dr	Roswell	NM	88201	(970) 361-5554	New Mexico Backcountry Hunters and Anglers		Yes	11, 14, 15, 16	
Jennifer	D'Annibale	jennifer.dannibale@state.nm.us	1406 West Brown Rd, Apt B	Las Cruces	NM	88005	(505) 470-9712	New Mexico Department of Game and Fish	SW Habitat Biologist	No		
Stephanie	Garcia Richard	sgarcia@state.nm.us		Santa Fe	NM			New Mexico State Land Office	Commissioner of Public Lands	Yes	5	Approval of the 2021-2025 State Land Office Easement
Roger	Siegmann	rogersiegmann@msn.com	901 Gunnison Ave.	Grants	NM	87020	(505) 287-8019		Member of Citizens HSP Advisory Committee	Yes	14	
Valerie	Huerta	valerieh@nmlfb.org	2220 N Telshor Blvd	Las Cruces	NM	88011	(505) 690-5797	NM Farm and Livestock Bureau	Director of Organization	Yes	12	Rule Making Hearing on Final Rule Changes to Importation of Live Non-Domestic Animals, Birds and Fish Rule 19.35.7 NMAC
Harris	Klein	hiknm@comcast.net	712 Charles Pl NW	Los Ranchos	NM	87107	(505) 974-0232	Trout Unlimited	State Chair	Yes		
Jeffrey	Arterburn	jarterbu@nmsu.edu	105 Pecan Drive	Las Cruces	NM	88011	(575) 649-9729			No		
Colleen	Payne	colleen@muledeer.org	3823 Agua Azul Ct	Las Cruces	NM	88012	(505) 363-5241	Mule Deer Foundation	New Mexico Regional Director	Yes	15	
John	Pearce	buillette@comcast.net	11520 Ranchitos Rd NE	Albuquerque	NM	87122	(505) 975-3095			No		
Kevin	Lockhart	keylockhart@gmail.com	36 La Luz Canyon Rd	La Luz	NM	86337	(512) 869-1171	New Mexico Backcountry Hunters & Anglers	Chair	Yes		
Jeff	Taloya	metat2meat@gmail.com	31 CR 6050	Farmington	NM	87401				Yes		
Ross	Morgan	ross.morgan@state.nm.us	7816 Alamo Rd NW	Albuquerque	NM	87120	(505) 379-5017	New Mexico Department of Game and Fish	Northwest Region Public Information Officer	No		
Bob	Nordstrum	bnordstr@unm.edu	4531 Sorrell Lane, SW	Albuquerque	NM	87105	505-681-9704			No		I'm disappointed in the recommendations for the HSP program.
Jessica	Fisher	jessica.fisher@state.nm.us	1 Wildlife Way	Santa Fe	NM	87507	(505) 659-8320	New Mexico Department of Game and Fish	Shooting Program Coordinator	No		
Tristanna	Bickford	tristanna.bickford@state.nm.us	1 Wildlife Way	Santa Fe	NM	87507	(505) 476-8026	New Mexico Department of Game and Fish	Communications Director	No		
Ryan	McBee	rmbcbe@blm.gov								No		
Philip	Holmes	Philip.Holmes@state.nm.us	1 Wildlife Way	Santa Fe	NM	87507	(505) 476-8065	New Mexico Department of Game and Fish	Revocation Manager	No		
John	Crenshaw	jdcrenshaw@aol.com	1923 Hopi Road	Santa Fe	NM	87505	(505) 577-7510	New Mexico Wildlife Federation	NMWF Board of Directors	Yes	8, 15	8: Our organization & others would like to hear the department's assessment of the LFC budget narrative for the agency's FY22 appropriations request, particularly regarding hunting-fishing license and other revenue streams, and projected cash balances. 15: Discussion of HB 78, aimed at transferring Chama-area WMAs to the Tierra Amarilla Land Grant
John	Davis	jadavis343@gmail.com	1395 E 36th st	Farmington	NM	87401	(505) 330-5908			No		
Jennifer	Black	jennifer@medicinemassage.org	808 11th Ave SW	Rio Rancho	NM	87124	(505) 363-9919			No		
Ricardo	Duarte	rsjcduarte1@msn.com		Albuquerque	NM	87114	(505) 269-2794			No		

1 COMMISSIONER CRAMER: No.

2 DIRECTOR SLOANE: Commissioner Bates?

3 COMMISSIONER BATES: Yes.

4 DIRECTOR SLOANE: Commis -- Chair Salazar Hickey?

5 CHAIRWOMAN SALAZAR-HICKEY: Yes.

6 DIRECTOR SLOANE: Vice-chair Vesbach? Excuse me,

7 comma.

8 VICE-CHAIRMAN VESBACH: Ye -- yes.

9 DIRECTOR SLOANE: The motion passes with six in the
10 affirmative, one in the negative.

11 CHAIRWOMAN SALAZAR HICKEY: Thank you, sir.

12 COMMISSIONER SALAZAR-HENRY: Madam Chair?

13 CHAIRWOMAN SALAZAR HICKEY: Yes, Commissioner Roberta.

14 COMMISSIONER SALAZAR-HENRY: I just want to apologize.

15 I was going to ask a question, and the answer dawned on me
16 without having to ask the question, so I apologize for that
17 brief interruption.

18 CHAIRWOMAN SALAZAR HICKEY: Would you like to ask your
19 question? No?

20 AGENDA ITEM NO. 12: RULE MAKING HEARING ON AMENDING THE
21 IMPORTATION OF LIVE NON-DOMESTIC ANIMALS, BIRDS AND FISH RULE,

22 19.35.7

23 Starts at 1:51:56 to 3:08:37 = 77 minutes

24 CHAIRWOMAN SALAZAR HICKEY: Okay. Very good. So we
25 can now move onto our next action item Rule Making Hearing



1 on Amending the Importation of Live non-Domestic Animals,
2 Birds, and Fish Rule, 19.35.7 of the New Mexico
3 Administrative Code.

4 There is an action to this discussion. We will be
5 proceeding into rulemaking or rule hearing comments and
6 then discussion and then some action.

7 Good morning, Chief Kirk Patten. Nice to see you.

8 So give me a minute because again, as I stated
9 earlier, I had my paperwork organized in a different
10 fashion before we adjusted our --

11 Okay. We are now ready to proceed. Thank you; thank
12 you for your patience. So I am opening up the hearing.
13 This hearing will please come to order. My name is Sharon
14 Salazar Hickey, Chair to the Commission. I will be serving
15 as the hearing officer and be advised by the commission's
16 counsel from the office of attorney general.

17 The purpose of this hearing is for the commission to
18 receive public comment on amending the importation of live
19 non-domestic animals, birds, and fish rule, Title 19,
20 Chapter 35, Part 7 of the New Mexico Administrative Code,
21 which will become effective on February 9th, 2021.

22 These hearings are being conducted in accordance with
23 the provisions of the Game and Fish Act and the State Rules
24 Act.

25 These hearings are being audiotaped and video



1 recorded. Anyone interested in a copy of the audiotape or
2 video recording should contact Tristanna Brickford with the
3 New Mexico Game and Fish Department.

4 Public notice of this hearing was advertised in the
5 New Mexico Register, the New Mexico Sunshine Portal, and on
6 the department's website. Copies of the proposed
7 amendments have been available on the department's website.

8 Those wishing to comment here today must have
9 registered to submit public comments on the Zoom webinar
10 platform.

11 The rule hearing will be conducted in the following
12 manner. The staff will present pre-filed exhibits.
13 Exhibits admitted into evidence are available for review by
14 the public on the department's website. After all exhibits
15 are entered, we will proceed to the presentation of the
16 proposed rule after which testimony will be taken from the
17 audience.

18 Participants are asked to raise their hand in the Zoom
19 webinar platform and wait until they are called upon to
20 speak.

21 In order to ensure that the hearing is accurately
22 recorded, only one person at a time shall be allowed to
23 speak. Any person recognized to speak is asked to first,
24 identify yourself by name and who you are affiliated with
25 for the record each time you are recognized. And two,



1 speak loudly and clearly to accurately record your
2 comments. After a person has offered comment, they will
3 stand for questions from the hearing officer. The audience
4 may also ask questions of anyone offering comments after
5 being recognized by me.

6 These hearings are not subject to judicial rules of
7 evidence; however, in the interest of efficiency, I reserve
8 the right to limit any testimony deemed irrelevant,
9 redundant, or unduly repetitious.

10 The Commission may discuss the proposed new rule after
11 the public comment portion of the hearing.

12 Final commission action, including adoption of the
13 rule, may occur after the conclusion of the presentation
14 and public comment period of each hearing.

15 That said, let us begin the hearing. In the
16 preliminary matters of one, hearing item number on our
17 agenda, as so modified, it is informational Rule Making
18 Hearing on Amending the Importation of Live non-Domestic
19 Animals, Birds, and Fish Rule, that is 19.35.7 of the New
20 Mexico Administrative Code. This hearing is now open.

21 Are there any exhibits for the proposed amendments to
22 19.35.7 for the record?

23 CHIEF PATTEN: Good morning, Madam Chair. Yes, I have
24 six exhibits to enter into the record. Exhibit 1 is the
25 notice of proposed rulemaking. Exhibit 2 is a clean and



1 strike through copies of the proposed rule amendments.
2 Exhibit 3 is the PowerPoint presentation of the importation
3 rule that I'm going to give today. Exhibit 4 is a summary
4 of the proposed changes which has been posted on the
5 department's website. Exhibit 5 is a brief summary of some
6 technical information we relied upon. And Exhibit 6 is a
7 coalition of public comments received during the comment
8 period.

9 CHAIRWOMAN SALAZAR HICKEY: Thank you. Exhibits 1
10 through 6 as described are hereby admitted into the record.

11 Kirk, can you please introduce the proposed amendments
12 to 19.35.7?

13 CHIEF PATTEN: Madam Chair and Commissioners, yes, I
14 can. I might also add that Director Sloane has received
15 copies of all of those exhibits that I just mentioned.

16 CHAIRWOMAN SALAZAR HICKEY: Thank --

17 CHIEF PATTEN: So this --

18 CHAIRWOMAN SALAZAR HICKEY: -- you.

19 CHIEF PATTEN: -- this -- this presentation has been
20 presented to you on two previous occasions, one of those
21 was at a summer meeting to open the rule or start the
22 discussion about a proposal that would be forthcoming from
23 the department.

24 The second time that it was presented to you was, I
25 believe, at your October meeting where we reported out on



1 public involvement process and any modifications to the
2 proposal at that time.

3 So just as a little bit of background again. The --
4 the legislature granted the department and the commission
5 authority over importation of animals into the state. In
6 17-3-32, it states that it's a misdemeanor to import any
7 live animals, birds, or fish into the state without first
8 obtaining a permit from the department of game and fish.

9 Under game commission rule, and that being 19.35.7.8
10 NMAC, it states that it is unlawful to import any live non-
11 domesticated animal into the state without first obtaining
12 a permit unless that species is listed as a group I
13 species.

14 The game commission rule, I guess, defines different
15 levels of scrutiny that the director should apply to
16 different taxa within the state under 19.35.7.10 NMAC. And
17 group I species, as I previously mentioned in the previous
18 slide, are semi-non-- domesticated animals that, you know,
19 do not require a permit. These are species that do not
20 present a lot of risk if they were imported into the state
21 and somehow, you know, released into the wild or carried a
22 common disease and that sort of thing. Good examples of --
23 of these taxa are fish that are commonly traded in the pet
24 industry.

25 Group II species get a little bit more scrutiny for



1 importation. These are non-domesticated animals that are
2 not known to be invasive or dangerous, don't pose, you
3 know, safety risks or disease risks. Examples of these
4 species are reptiles and amphibians that are commonly
5 traded in the pet industry.

6 Group III receives a bit more scrutiny from the
7 department. These are non-domesticated animals where
8 the -- if they are imported in and -- and introduced into
9 the state, they have manageable concern, or we could place
10 certain conditions on the permits for importation.
11 Examples of these are protected fish species that we
12 manage, such as channel catfish, northern pike, largemouth
13 bass.

14 And -- and the final group is group IV species which
15 grew -- I guess, get the greatest scrutiny. They are non-
16 domesticated animals that are considered dangerous. They
17 could be -- if they were released into the environment,
18 they could be considered invasive or they are on threatened
19 or endangered species lists. Generally speaking, these
20 taxa are prohibited from general import -- importation by
21 the general public.

22 So this is just a quick slide summarizing some other
23 provisions in the importation rule which includes
24 application information that would be required. There are
25 provisions for temporary importation for a variety of



1 different situations. There are a couple of sections
2 regarding importation of fish species or fish eggs into the
3 state as well as out-of-state hatchery obtaining approval
4 for, I guess, the ability to import into the state.

5 There are provisions for additional requirements for
6 importation of deer, elk, or pronghorn as well as an
7 import -- an appeal process.

8 So this is a brief summary of the proposed changes
9 that -- that we are -- are providing to you today for your
10 consideration. The first of these is an attempt to, I
11 guess, settle or provide consistent review of -- of
12 importation applications for all species. Currently, if an
13 individual or an organization wanted to import carnivores
14 into the State of New Mexico for release onto private land,
15 that would be commission approval. Our proposal is to
16 return that to the director's approval and treat all
17 species or all taxa the same.

18 The second proposal is to remove the requirement that
19 bacterial kidney disease positive facility or hatchery
20 would have to depopulate or renovate their entire facility
21 if they've turned positive -- turned up positive for
22 that -- that pathogen. We would still maintain the ability
23 to deny importation for a facility that was positive for
24 that pathogen. It would just provide greater flexibility
25 for how they could address the -- the pathogen in their --



1 in their facility.

2 We're also proposing to clarify ages of fish that are
3 required for testing of whirling disease. That is a -- a
4 fish pathogen.

5 And finally, some other minor formatting changes.

6 So this is a summary of -- of public outreach since we
7 star -- opened this rule. We started off with a press
8 release announcing the public meetings on September 2nd.
9 We held two virtual public meetings, one on September 23rd
10 and another on September 30th. Had a total of forty
11 participants combined at those -- both of those meetings.

12 After your October meeting, we sent out a notice of a
13 rulemaking hearing, and that's been posted on our website.
14 We also emailed the interested parties, whether they
15 participated in the public meetings or they somehow
16 indicated that they were interested in -- in receiving more
17 information along the way on -- on November 24th.

18 And then since -- throughout this entire process, we
19 have received twenty-two written comments on the proposal.
20 The vast majority of those comments have been focused on
21 the proposal to change the importation level of review by
22 the commission versus the director. It's about an even
23 split on whether or not that proposal is -- is prudent or
24 not.

25 And so thank you for your time. And I will stand for



1 any questions.

2 CHAIRWOMAN SALAZAR HICKEY: Thank you, Chief Kirk
3 Patten.

4 Commissioners, can I hear from any of you, please?

5 COMMISSIONER CRAMER: I have a question.

6 CHAIRWOMAN SALAZAR HICKEY: Commissioner Gail.

7 COMMISSIONER CRAMER: Yes.

8 Chief Patten, so is there a system in place that will
9 notify the landowners, you know, if there's going to
10 impor -- be an importation that's going to affect them?

11 CHIEF PATTEN: Madam Chair, Commissioner Cramer, I
12 will do the best I can to answer this, and if -- if I
13 can't, I'm going to pass it over to -- to Stewart.

14 COMMISSIONER CRAMER: Okay.

15 CHIEF PATTEN: It is my understanding that there is an
16 annual, I guess, release plan that's put together by the
17 U.S. Fish and Wildlife Service for things, say, for
18 example, like with Mexico rules, and that is an
19 opportunity -- that provides an opportunity to comment on
20 it.

21 So yes, I believe there is a mechanism to provide some
22 sort of information, not necessarily about that
23 individual -- that individual application, but as, you
24 know, for example, a carnivore, a carnivore as a whole.

25 COMMISSIONER CRAMER: So if -- if -- if we go with --



1 with this -- excuse me. I'm getting paged out. If -- if
2 this goes through and the director has the opportunity to
3 okay importations, so will -- will the landowner have any
4 input into that? Will the director contact anybody that's
5 affected by that?

6 CHIEF PATTEN: Madam Chair, Commissioner Cramer, I --
7 I'm going to turn that over to -- to Director Sloane if
8 he's -- if he's okay with that?

9 DIRECTOR SLOANE: Madam Chair, Commissioner Cramer,
10 19.35.7.19, which is part of the rule that is not changing,
11 is the release from captivity for imported animals. Under
12 A. Prior to approval by the director an applicant must:
13 submit a plat of the release area; submit verification that
14 landowners, tribal officials, state officials, federal
15 officials, and county officials that may be directly
16 affected by the release have been notified of the potential
17 release in writing and have been given twenty days to
18 respond to the release; responses must be submitted with
19 the application; it is the responsibility of the applicant
20 to notify the above and submit responses to the department;
21 failure to notify as indicated herein or to submit
22 responses will result in the application being rejected
23 until this condition is met and any compliance fees are
24 paid.

25 COMMISSIONER CRAMER: So there is a mechanism for



1 public input at that point?

2 DIRECTOR SLOANE: Correct.

3 COMMISSIONER CRAMER: Okay. Thank you.

4 CHAIRWOMAN SALAZAR HICKEY: Commissioner Gail, I think
5 that's a very good question. In my experience with
6 notices, it's helpful to have the word respond and address.

7 And I take it, Director Sloane, you will be -- it's
8 not just a notification. It's how they respond and address
9 the issues that are being provided in that notification; is
10 that correct?

11 DIRECTOR SLOANE: Madam Chair, of course, anytime that
12 we receive comment about any of our permits, we --we take
13 that under consideration and -- and balance all the
14 interest that we can.

15 CHAIRWOMAN SALAZAR HICKEY: Okay.

16 DIRECTOR SLOANE: And I should also add, I apologize.
17 I -- I misspoke. 19.35.7.19 D is the subparagraph that we
18 are changing, so they are changing those. But A, B, and C
19 remain.

20 CHAIRWOMAN SALAZAR HICKEY: Okay.

21 Great question, Commissioner Gail.

22 Other commissioners?

23 Mr. Cherry, could we have some of the members of the
24 public at this time come forward and speak. I know there's
25 some chat activity going on, and it would be important to



1 have that as part of the record.

2 MR. CHERRY: Madam Chair, the first up that we have
3 here is Valerie Huerta.

4 So Valorie, you have been unmuted.

5 CHAIRWOMAN SALAZAR HICKEY: Thank you, Valerie Huerta.

6 MS. HUERTA: Good --

7 CHAIRWOMAN SALAZAR HICKEY: Good morning.

8 MS. HUERTA: Good morning, Madam Chair and Members of
9 the Commission. I'm Valerie Huerta, Director of
10 Organization for New Mexico Farm and Livestock Bureau.
11 Thank you very much for allowing me some time this morning
12 to provide comment on the proposed amendments to the
13 importation rule.

14 New Mexico Farm and Livestock Bureau is New Mexico's
15 largest and oldest agricultural organization --
16 organization representing members involved in all aspects
17 of agriculture.

18 The department's proposed rule change would remove the
19 term carnivore from 19.35.7.7, and we believe permanent
20 consideration for carnivores and other species which are
21 considered dangerous should be held to a higher review
22 standard and be open to public comment and debate and
23 notification. Removing the term carnivore from the rule
24 would further prevent a thorough review on permanent
25 applications while removing all opportunities for public



1 discussion, observation of dialogue at game and fish
2 meetings.

3 Removing the authority of the commission to review
4 permanent applications under section 19.35.7.8 and
5 19.35.7.19, not only takes away the intent of the power
6 granted to the commission, it also contradicts one of the
7 main goals of the commission which is transparency.

8 We've proposed there be no changes to the language in
9 the current rule in sections 19.35.7.8 and 19.35.7.19.

10 We also request that the commission continue to retain
11 the power and authority to review permits in an open and
12 transparent process.

13 In addition to the recommendation above, we oppose the
14 release of any wildlife species in New Mexico that may be
15 considered dangerous or invasive by their nature or
16 expansion and that have the potential to affect the health,
17 safety, or well-being of the public, domestic livestock, or
18 native wildlife in their habitats.

19 We again, graciously -- grac -- gratefully appreciate
20 the opportunity to provide these comments and appreciate
21 all the work that the commission and the department does.

22 CHAIRWOMAN SALAZAR HICKEY: Thank you; thank you,
23 Valerie Huerta.

24 Lance Cherry, do we have someone else who would like
25 to speak?



1 MR. CHERRY: Madam Chair, next up is John Crenshaw.

2 CHAIRWOMAN SALAZAR HICKEY: Good morning, John
3 Crenshaw.

4 MR. CRENSHAW: Good morning again, Madam Chair and
5 Members of the Commission. John Crenshaw with the New
6 Mexico Wildlife Federation.

7 I will, for once, be very brief. We fully support the
8 agencies' recommendation and this new rule as -- as
9 written.

10 Thank you very much.

11 CHAIRWOMAN SALAZAR HICKEY: Thank you, sir.

12 Lance Cherry, next person.

13 MR. CHERRY: Madam Chair, we have no additional
14 comments. A couple of comments there, unless you desire to
15 read one chat comment from David into the record?

16 CHAIRWOMAN SALAZAR HICKEY: I am happy to do that if
17 he's not willing to come forward. The chat reads, the
18 landowners may be notified, but the wheels are in motion.
19 The burden again, put on the people affected by a twenty-
20 day window, with only a twenty-day window.

21 MALE SPEAKER: Madam Chair?

22 CHAIRWOMAN SALAZAR HICKEY: Commissioners, Chief
23 Patten, Director Sloane, do I have any other comments from
24 you before we proceed?

25 MALE SPEAKER: Madam Chair?



1 COMMISSIONER CRAMER: I have a question again. How
2 often has the emergency power been used over the years, do
3 we know, or in recent years, I guess I should say?

4 DIRECTOR SLOANE: Madam Chair, Commissioner, I'm not
5 sure what emergency power you're referring to.

6 COMMISSIONER CRAMER: I guess in regards to the --
7 we'll say the wolf and any of the other -- mainly the wolf,
8 I guess.

9 DIRECTOR SLOANE: So I guess, Madam Chair, I -- I
10 don't think we had any proposals to release wolves on
11 private land so that hasn't been an issue as of yet.

12 We have had the commission have to review the release
13 of black-footed ferrets on private land. They did approve
14 that. So it -- it's not just a wolf issue. It applies to
15 a whole array of carnivore species, even a black-footed
16 ferret. So I believe we've done that at least twice, maybe
17 once, but I think twice.

18 COMMISSIONER CRAMER: Okay. Thank you.

19 CHAIRWOMAN SALAZAR HICKEY: Okay. Commissioner Jimmy,
20 did you have something to say?

21 COMMISSIONER BATES: It looked like David Kenneke did
22 have his hand up for a bit. It looks like it no longer is,
23 so --

24 COMMISSIONER SALAZAR-HENRY: Madam Chair?

25 CHAIRWOMAN SALAZAR HICKEY: Okay.



1 MR. CHERRY: Madam Chair, he put it back up, so if
2 you'd like to take his comment, we can.

3 CHAIRWOMAN SALAZAR HICKEY: Okay. Very good. Mr.
4 David Kenneke, thank you. We -- we do look forward to
5 hearing from you as well.

6 MR. KENNEKE: Thank you, Madam Chair and
7 Commissioners. I apologize for the hand raising fiasco
8 that you had going on there. Thank you.

9 I just want to reiterate New Mexico Cattle Growers
10 opposed this -- this change in the importation rule because
11 of the inherent difficulties when -- when these decisions
12 are taken away from the commission and it goes to a sole
13 individual, that there needs to be a little more time for
14 public input. And -- and again, stressing this is not
15 directed at any individuals within the department. There
16 just should not be full authority given to a single
17 individual when it comes to matter like this.

18 Respectfully submitted and -- and appreciate the
19 opportunity and -- and all the work that you folks do to
20 help support everybody in the state. Thank you.

21 COMMISSIONER SALAZAR-HENRY: Madam Chair?

22 CHAIRWOMAN SALAZAR HICKEY: Yes, Commissioner Roberta.

23 COMMISSIONER SALAZAR-HENRY: Madam Chair, I guess I'd
24 just like to make the comment or actually ask the question
25 of Director Sloane. I -- I don't know if I'm correct or



1 not, but I believe that prior to the Martinez
2 administration, the director had this authority, and it was
3 changed by the last commission to require everything to go
4 to the commission for approval. But it used to be a
5 director decision.

6 So is that true, or -- am I -- because I'm thinking I
7 remember when this rule got changed, and everything that
8 had to do with carnivores had to go to the commission. Is
9 that true, Director Sloane?

10 DIRECTOR SLOANE: Madam Chair, Commissioner Salazar-
11 Henry, that is correct. The -- the rule, prior to the last
12 administration, was that all made the -- and we keep saying
13 the decision. I'd certainly never make a decision alone.
14 It's a team effort. I get a lot of advice from a lot of
15 very qualified folks. I'm the guy that gets to sign off on
16 the permit, but -- but that certainly -- it's not my
17 decision alone.

18 Prior to the previous administration, it was the
19 directors, sign off on the permit. Then it changed during
20 the previous administration, and now, we're proposing to
21 change it back.

22 COMMISSIONER SALAZAR-HENRY: Okay. Well, I appreciate
23 that. That makes me feel better that my history on this
24 was correct, and I support the rule change, just as my
25 final comment. Thank you.

1 CHAIRWOMAN SALAZAR HICKEY: Other commissioners?

2 Okay. Do we have any other exhibits that we want to
3 introduce at this time? Are there exhibits from the public
4 that need to be entered into the record?

5 MALE SPEAKER: Madam Chair and Commissioners, I
6 believe the only other addition is the list of attendees
7 again as in the prior --

8 CHAIRWOMAN SALAZAR HICKEY: Okay.

9 MALE SPEAKER: -- hearings.

10 CHAIRWOMAN SALAZAR HICKEY: Very good. Thank you.

11 We will close this hearing. Those that are registered
12 and participated in the hearing will be included on the
13 attendance sheet. At this time, the attendance sheet will
14 be marked as Exhibit Number 7.

15 The comments submitted and the testimony heard during
16 the rule hearing will be reviewed by the commission and
17 discussed during the open session of today's meeting.

18 The commission will vote on the proposed amendments at
19 this time.

20 I would like to thank everyone present for their
21 participation today.

22 Let the record show that this rulemaking hearing was
23 adjourned at 11:21 a.m. today on January 15th, 2021.

24 So Vice-chair, I'm going to turn this over to you.

25 VICE-CHAIRMAN VESBACH: Yes, Madam Chair.



1 I move to adopt the proposed changes to 19.35.7 NMAC
2 as presented by the department with an effective date of
3 February 9th, 2021 and allow the department to make minor
4 corrections to comply with filing this rule with state
5 records and archives.

6 CHAIRWOMAN SALAZAR HICKEY: Do I have --

7 COMMISSIONER SALAZAR-HENRY: I second that.

8 CHAIRWOMAN SALAZAR HICKEY: That was Commissioner
9 Roberta?

10 COMMISSIONER SALAZAR-HENRY: Yes, ma'am.

11 CHAIRWOMAN SALAZAR HICKEY: Thank you.

12 Director Sloane, we have a motion from the vice-chair
13 and a second from Commissioner Roberta Salazar-Henry. Can
14 we proceed with a roll call vote?

15 DIRECTOR SLOANE: Commissioner Soules?

16 COMMISSIONER SOULES: Yes.

17 DIRECTOR SLOANE: Commissioner Salazar-Henry?

18 COMMISSIONER SALAZAR-HENRY: Yes.

19 DIRECTOR SLOANE: Commissioner Lopez?

20 COMMISSIONER LOPEZ: No. And I'll explain my vote.

21 DIRECTOR SLOANE: Commissioner Cramer?

22 COMMISSIONER CRAMER: I've never waffled so much in my
23 whole life. But in the spirit of transparency, I vote no.

24 DIRECTOR SLOANE: Commissioner Bates?

25 COMMISSIONER BATES: No.



1 DIRECTOR SLOANE: Vice-Chair Vesbach?

2 VICE-CHAIRMAN VESBACH: Yes.

3 DIRECTOR SLOANE: Chair Salazar Hickey?

4 CHAIRWOMAN SALAZAR HICKEY: No.

5 DIRECTOR SLOANE: Madam Chair, the rule change
6 proposal amendment fails on a vote of four to three.

7 CHAIRWOMAN SALAZAR HICKEY: I would like to hear from
8 the commissioners that said they would like to speak,
9 Cramer and I believe Lopez.

10 First, Lopez, Commissioner Lopez.

11 COMMISSIONER LOPEZ: Madam Chair and Members of the
12 Commission, being -- I -- (audio interference) owner and
13 operating a small family farm, I must side with the
14 constituency of the agricultural community on this decision
15 based on the fact that it needs to be reviewed more. And
16 that's all I have.

17 CHAIRWOMAN SALAZAR HICKEY: Commissioner Cramer, did
18 you say you wanted to say something about your vote?

19 COMMISSIONER CRAMER: I think I said it pretty well.
20 I just -- even though there is a public comment mechanism
21 with that, I would like for the public comment to be more
22 transparent, and currently it's more transparent with the
23 commission reviewing those applications.

24 CHAIRWOMAN SALAZAR HICKEY: Thank you, Commissioner.
25 I'm also going to explain my vote. Coming to this



1 meeting today, I was prepared to say yes. I think
2 throughout the previous meetings that we have had where
3 we've had discussions about this rule, I have actually said
4 yes, I'm in support, and I've been very transparent with my
5 direction.

6 But director, today in listening to some of the
7 answers and some of the discussion what made me change my
8 vote -- and first and foremost again, I want to say thank
9 you to those that spoke today and all of those persons that
10 have spoken at the public meetings as well as those that
11 have submitted correspondence and a reach out to all of the
12 commissioners.

13 What I -- what I am concerned about, what changed my
14 mind is how the transparency -- again, using that term,
15 that value that I expressed earlier -- of how a decision
16 can be made. I -- I don't think bureaucracy and just a
17 rule -- just a process is good. I think it's very
18 important to have, again, very open discussions because as
19 we proceed with bringing in these various groups of
20 species, we have to acknowledge, with respect, all points
21 of view.

22 And I think some of the commenters said this is not
23 directed at one person on the commission or any particular
24 persons. I think having that transparency and that open
25 process, not only the notice, but the opportunity to



1 respond and to address concern.

2 COMMISSIONER SALAZAR-HENRY: Madam Chair?

3 CHAIRWOMAN SALAZAR HICKEY: Yes, Commissioner Roberta
4 Salazar-Henry.

5 COMMISSIONER SALAZAR-HENRY: Can I ask -- I just have
6 a couple of questions about -- actually, two questions for
7 sure is for the director and maybe dire --

8 How many of these permits will end up in front of the
9 commission in a year? I mean, is this, like, infrequent,
10 or will we be dealing with and trying to deal with this
11 every month?

12 And secondly, does -- is this going to affect the wolf
13 program that we just supported with increasing the number
14 of pups moving from being born and putting them into the
15 den so that we can increase the numbers out in the wild?

16 So I'm just wondering, the -- how this impacts the
17 wolf program and all the support we've been giving to those
18 changes with this rule?

19 DIRECTOR SLOANE: Madam Chair, Commissioner Salazar-
20 Henry, it -- it may well have a significant impact on our
21 ability to assist with managing, both cross fostering and
22 wolf removal and transfer to Mexico and those sorts of
23 concerns. You know, we have limited holding capacity in
24 New Mexico, one place, but we do have some is on the Ladder
25 Ranch.

1 This decision today could alter the way that operation
2 is -- occurs. It may result in us having to come before
3 you semifrequently to get approval to move wolves in and
4 out of that particular facility. So I -- you know,
5 we'll -- we'll have to sit down and -- and asses it more
6 closely, but I -- I think there's a potential that we --
7 depending on how the wolf program progresses, what happens
8 during any given year, what kind of depredation is
9 occurring out on the ground, it may or may not result in --
10 in relatively frequent presentation to you.

11 COMMISSIONER SALAZAR-HENRY: Director Sloane, will we
12 have to -- will you guys -- will be working with the
13 Arizona Game & Fish people to let them know of this
14 potential roadblock that may happen, that'll affect --
15 negatively affect the wolf program?

16 DIRECTOR SLOANE: As always, we'll -- we will be in
17 contact with both the State of Arizona and the feds about
18 how the program is proceeding and what our abilities and
19 inabilities might be.

20 COMMISSIONER SALAZAR-HENRY: Yeah. Okay. Well, I
21 just wanted to make sure that those points were really
22 clear about what happened today and just how much it's
23 going to affect the restoration in some of our extremely
24 important conservation efforts right now.

25 So that's -- thank you, Madam Chair, for allowing me



1 my comment.

2 CHAIRWOMAN SALAZAR HICKEY: Absolutely. And thank
3 you, Commissioner Roberta. Excellent questions.

4 It's --it's -- it's something --

5 VICE-CHAIRMAN VESBACH: Madam Chair, if I -- oh,
6 sorry. Go ahead. I thought you were going to move on.
7 But before you move on, I'd like to --

8 CHAIRWOMAN SALAZAR HICKEY: Let me -- let me --

9 VICE-CHAIRMAN VESBACH: -- speak, please. I didn't
10 mean to interrupt you.

11 CHAIRWOMAN SALAZAR HICKEY: No, that's okay, Vice-
12 chair.

13 I do want to address the comments because we, the
14 commission, are not roadblocks. We are not. As I stated
15 earlier, we are very transparent. We are very respectful,
16 and we are very ethical. We have integrity. And this
17 commission has a passion, and it looks at all sides.

18 So Director Michael Sloane, to emphasize that this
19 commission is very well-rounded. It's very -- it -- it
20 comes with many perspectives. What I would like you to do
21 is make sure that no one is adversely impacted at any time.
22 This commission can hold special meetings, which we will,
23 and we have done in -- in this last year, in 2020. And so
24 if a permit or an issue or a request from a private
25 landowner or any other person, it is imperative that we



1 have a special meeting so that no one is harmed and that
2 this commission is not a roadblock.

3 I would also like to say that the process through a
4 game commission versus having a director is or through
5 the -- the department, it is again, on the record, and it
6 provides a full opportunity for the stakeholders to come
7 forward.

8 So that said, Vice-Chair, did you have something to
9 say?

10 VICE-CHAIRMAN VESBACH: Yes, Madam Chair. I just -- I
11 hope we can -- I guess I would hope we can revisit this. I
12 do believe that hobbles the Mexican Wolf Recovery Program,
13 in addition to our other items -- and you know, we've gone
14 through months and months of this and you know,
15 presentation with expressing strong support into kind of
16 change now. I think, you know, it's not about public
17 input. It's about taking advantage of these prospering
18 opportunities on -- that have been hobbled. And you know,
19 this commission, we rejoined the Mexican Wolf Recovery
20 Program. And I don't -- don't think we want to hobble our
21 professionals, so I hope we can -- can revisit this topic.

22 CHAIRWOMAN SALAZAR HICKEY: And thank you, Vice-chair.

23 And any other commissioners, at any time, if we see an
24 opportunity to move quickly, let me know, and we can
25 proceed with the open meetings acts to call a special



1 meeting.

2 ASSISTANT ATTORNEY GENERAL: Madam Chair, if I may?

3 CHAIRWOMAN SALAZAR HICKEY: Yes, sir.

4 ASSISTANT ATTORNEY GENERAL: I -- I guess I -- I have
5 two questions. One, we currently have sort of ongoing
6 operations where there's a potential that a wolf or two
7 could -- would need to be brought into the Ladder Ranch to
8 be held for a variety of potential reasons. And I wondered
9 if the commission would be adverse to motion -- making a
10 motion to authorize me, as they have in the past, to
11 approve importations for the purposes of holding in
12 captivity but not released? That's my first question.

13 And then my second question is --

14 CHAIRWOMAN SALAZAR HICKEY: Good question.

15 ASSISTANT ATTORNEY GENERAL: -- is there -- is there
16 any willingness on the part of the commission to consider
17 adopting all of the other changes in the rule except the
18 carnivore change?

19 CHAIRWOMAN SALAZAR HICKEY: Hmm. Assistant attorney
20 general, I'm going to look for some guidance on that. How
21 do we respond to those two questions legally? I mean,
22 we've -- or we've already taken a vote, correct? And his
23 questions do not require a change in the way we proceeded
24 with our vote.

25 FEMALE SPEAKER: Well, you voted to disapprove the



1 whole thing. If the board wanted to -- sorry, excuse me --
2 the commission wanted to reconsider portions to include and
3 exclude and have discussion with respect to that, I think
4 you would be modifying the prior promotion, but it would
5 still be appropriate to do so.

6 Your question?

7 CHAIRWOMAN SALAZAR HICKEY: Okay. Vice-chair, did
8 you --

9 VICE-CHAIRMAN VESBACH: Valerie, could we --

10 CHAIRWOMAN SALAZAR HICKEY: -- (indiscernible) because
11 he has --

12 VICE-CHAIRMAN VESBACH: Yeah. I just --

13 CHAIRWOMAN SALAZAR HICKEY: -- two questions.

14 VICE-CHAIRMAN VESBACH: I -- I wondered too. Can
15 we -- can we re -- is it possible to revote? Can you do
16 another vote on -- on this? And then, you know, with the
17 idea that any problems we had, we could address and bring
18 back. I mean, it's -- obviously, it's not some sort of
19 emergency that we're worried Mike's phone is going to run
20 out and do something.

21 So I wonder if we could, just to be safe, move it
22 through as is, and then with -- if there's, you know,
23 modifications we'd like to make, then we'd propose those --
24 those modifications.

25 Would that -- can we do a -- a revote as well? Is



1 that another option?

2 ASSISTANT ATTORNEY GENERAL: Well, there was a motion,
3 and it was seconded, and it was voted on to -- to just
4 reject the whole thing, right?

5 So I think if you -- if the commission would like to
6 con -- after this discussion consider changing that
7 original motion or basically modifying it in some way, you
8 could.

9 Did I answer --

10 VICE-CHAIRMAN VESBACH: Okay.

11 ASSISTANT ATTORNEY GENERAL: -- your question?

12 VICE-CHAIRMAN VESBACH: (Indiscernible).

13 DIRECTOR SLOANE: Madam Chair?

14 VICE-CHAIRMAN VESBACH: Yeah. Maybe --

15 DIRECTOR SLOANE: I believe that you could bring it up

16 -

17 VICE-CHAIRMAN VESBACH: I'd like to --

18 DIRECTOR SLOANE: -- for reasons to --

19 VICE-CHAIRMAN VESBACH: Okay. Then I'd -- I'd -- I'd
20 like to make a motion, and -- and if that's appropriate,
21 Madam Chair, and -- and Valerie could tell us if that's --
22 if it's an appropriate motion.

23 CHAIRWOMAN SALAZAR HICKEY: Vice-chair, before --

24 FEMALE SPEAKER: (Indiscernible).

25 CHAIRWOMAN SALAZAR HICKEY: -- you make your motion, I



1 have another question for the attorney or for Director
2 Sloane, which is, is this part of the rule hearing? Do I
3 need to go back onto the record?

4 ASSISTANT ATTORNEY GENERAL: The rule hearing --

5 FEMALE SPEAKER: We're not.

6 ASSISTANT ATTORNEY GENERAL: -- is over. This is the
7 vote about the rule hearing itself.

8 CHAIRWOMAN SALAZAR HICKEY: So it's not part of that.
9 Okay. Go ahead.

10 ASSISTANT ATTORNEY GENERAL: So --

11 CHAIRWOMAN SALAZAR HICKEY: Go ahead. I'm with you.

12 ASSISTANT ATTORNEY GENERAL: So what you do is, the
13 whole thing was rejected, but --

14 CHAIRWOMAN SALAZAR HICKEY: Right.

15 ASSISTANT ATTORNEY GENERAL: -- at that time, there
16 was no discussion about considering certain portions as
17 accepting and rejecting other portions. It seems now
18 you're kind of having that discussion. So if you want to
19 fully develop that discussion to figure what as a
20 commission you would like to vote on so that you can know
21 what your motion is and then amend the full rejection to
22 say, we just reject part A, B but not C and D, for
23 example --

24 CHAIRWOMAN SALAZAR HICKEY: Okay.

25 ASSISTANT ATTORNEY GENERAL: -- if that makes sense.



1 CHAIRWOMAN SALAZAR HICKEY: Okay. Vice-chair, I'm
2 going to turn it over to you. Please proceed with your
3 motion --

4 COMMISSIONER SALAZAR-HENRY: Madam Chair?

5 CHAIRWOMAN SALAZAR HICKEY: -- addressing --
6 addressing --

7 COMMISSIONER SALAZAR-HENRY: Madam Chair, I have --

8 CHAIRWOMAN SALAZAR HICKEY: -- the questions that
9 Director Mike Sloane had.

10 Yes, Commissioner Roberta. Go ahead.

11 COMMISSIONER SALAZAR-HENRY: Okay. I guess I'm a
12 little confused, especially when it comes to rules and how
13 we proceed with making sure that we have public input
14 because what we're talking about right now is we've opened
15 up this one rule with all the sections and voted not to
16 deal with this. We have yet to open up this rule with only
17 those specific modifications and gotten public input on
18 that stuff. I would like to err on the side of
19 transparency and public input and see if we can start this
20 process that people know because right now, I don't know
21 what I'm voting for. I'd have to go back and read
22 everything again, and I would like to have some input from
23 some of the local people that I know that were interested
24 in this topic before we just go ahead and do this.

25 I mean, if -- if it's not a time constraint, we can



1 deal with it at special, or we -- I just feel like we've
2 mucked it up, and we didn't know we had that option before
3 and doing it after the fact is not -- was not properly
4 notice of the -- the people. They would have known this
5 was going to happen would have been here to comment. And
6 that's what I would like to err on the -- on the part of
7 transparency and public input. I'm just concerned --

8 ASSISTANT ATTORNEY GENERAL: May I just --

9 COMMISSIONER SALAZAR-HENRY: -- (indiscernible).

10 ASSISTANT ATTORNEY GENERAL: -- add -- I'm sorry. I
11 just wanted to add --

12 COMMISSIONER SALAZAR-HENRY: I'm sorry.

13 ASSISTANT ATTORNEY GENERAL: -- commissioners and the
14 game commission, just to state that if you just wanted to
15 do what you did and then direct the department of game and
16 fish for further discussion or just to bring this up again
17 at the next meeting to have more input, of course, that is
18 also an option.

19 CHAIRWOMAN SALAZAR HICKEY: Vice-chair?

20 VICE-CHAIRMAN VESBACH: I -- I guess -- I -- I have a
21 question from Commissioner Salazar-Henry's comment. Say,
22 if we were to move -- try to move this with direction to
23 the department to bring back, you know, additional
24 recommendations to address concerns from the commission,
25 but -- but go ahead and try to move this, would that be



1 amendable because I'm -- I'm worried hobbling our -- our
2 department all the way until our next meeting?

3 FEMALE SPEAKER: Um-hum.

4 COMMISSIONER SALAZAR-HENRY: Just as a -- Commissioner
5 Salazar-Henry would that be amendable? I -- I was --
6 sorry.

7 COMMISSIONER SALAZAR-HENRY: Sorry. I -- I apologize.
8 I thought you were -- I thought the hobble question, it's
9 not hobbling me, but Mike Sloane is the director is the
10 more appropriate person to find out if we did that how
11 hobbled they will be and -- because I'll do whatever works
12 best in the spirit of transparency and increase public
13 input.

14 DIRECTOR SLOANE: Madam Chair, Commissioners, I --
15 are -- are you proposing to adopt the rule as we've
16 presented it, and then we would come back and whenever the
17 next meeting is going to be and -- and modify it little bit
18 more? If that's the case, that would facilitate the --
19 the, both the cross-fostering and the potential to need to
20 bring some wolves in during the count period.

21 VICE-CHAIRMAN VESBACH: Yes, that --

22 DIRECTOR SLOANE: And (indiscernible).

23 VICE-CHAIRMAN VESBACH: -- that is what I am
24 proposing.

25 DIRECTOR SLOANE: I -- I would certainly commit to you



1 that I would not approve any release of wolves -- well,
2 except for the cross-foster wolves, any releases of wolves
3 during that period until we resolve this issue. And I
4 guess, you know, I'll throw out as a -- a potential, you
5 know, that -- that we would require that release of wolves
6 onto private land would require -- would require going
7 before the commission, but keeping them in captivity
8 holding them would not, but I could make that decision just
9 to facilitate the management of the wolf program. We
10 might -- we'll have to craft that a little bit carefully
11 given the need for cross-fostering pups and that sort of
12 stuff, but -- but I think potentially that's -- that's a
13 middle ground place to get to.

14 But yes, in fact, if we could approve the rule as it
15 was presented today, that would facilitate management over
16 the next several months. If you can't, I would -- I would
17 ask that as you would normally do during the wolf
18 presentation that we give annually where we talk about the
19 translocation plan that you provide me with the authority
20 to allow for importation during the -- the count and cross-
21 fostering efforts that will be happening this spring to
22 facilitate wolf management.

23 VICE-CHAIRMAN VESBACH: Okay. Well, with that then,
24 I -- I hope -- that -- that -- that commitment is -- is
25 satisfactory to other commissioners.



1 And Madam Chair, I would move to adopt the proposed
2 changes to 19.35.7 NMAC as presented by the department with
3 an effective date of February 9th, 2021 and allow the
4 department to make minor corrections to comply with filing
5 this rule with state records and archives and further
6 direct the department to work with commissioners and
7 concerned parties to bring back additional proposed changes
8 to the rule.

9 FEMALE SPEAKER: Second.

10 CHAIRWOMAN SALAZAR HICKEY: Okay. Commissioners, is
11 everyone very clear on what -- what the motion is and
12 how -- and what is being proposed going back to the
13 original rule?

14 DIRECTOR SLOANE: Madam -- Madam -- Madam Chair, if --
15 if I may? Would that motion include a -- a prohibition on
16 me approving importation rather than cross-fostering and
17 captive holding?

18 VICE-CHAIRMAN VESBACH: No, it does not. I was
19 looking at to be satisfactory that -- that you -- you made
20 that commitment publicly.

21 CHAIRWOMAN SALAZAR HICKEY: Commissioner David, I've
22 really not really heard from you. Thank you for the smile.

23 Because you know, behind the scenes, I have been
24 relying quite heavily on you with -- with some of this
25 discussion on the wolf program and in particular, certain

1 owners, landowners. What -- what are your thoughts on how
2 we proceed?

3 COMMISSIONER SOULES: So Madam Chair, yeah, I've been
4 thinking about what the implications of this are.

5 CHAIRWOMAN SALAZAR HICKEY: Um-hum.

6 COMMISSIONER SOULES: I certainly appreciate the
7 public comments saying that certain things should require
8 visibility and a time period for people to comment and --
9 and wanting the whole commission involved in that decision
10 rather than just the director.

11 However, my understanding is that the recent successes
12 particularly in the wolf recovery program, which is
13 something the department did reengage in, and it involves
14 U.S. Fish and Wildlife. It involves the State of Arizona.
15 And virtually all of the current efforts to -- to work on
16 that program involve cross-fostering. And I know --

17 CHAIRWOMAN SALAZAR HICKEY: Um-hum.

18 COMMISSIONER SOULES: -- this has been presented in
19 public comment. But in order to do cross-fostering, you
20 have to time litters, which are throughout the United
21 States. And when those litters are born with litters in
22 the wild, and when those litters are born, in order to move
23 those pups from wherever they were born to the wild. And
24 twenty days is way beyond the time period where that could
25 be accomplished. So if we do not give the director

1 authority to allow that to happen, it would have a dramatic
2 impact on the wolf recovery program.

3 So I, on the one hand, always want time for the public
4 to comment. On the other hand, with the specific issue of
5 cross-fostering pups, it's simply not practical, and the
6 program couldn't continue on its current path if we don't
7 find a way to endorse that with the director's approval.

8 So I would like to find a way to do that, and I don't
9 know what's required to do that in terms of our motion and
10 vote in terms of how to proceed.

11 FEMALE SPEAKER: And if I may add, Chair, Vice-chair,
12 and Members of the Commission, the motion just made by
13 vice-chair Jeremy Vesbach appears to be identical to the
14 one that was already voted on, so I don't think it is a
15 good idea to hold another vote in that way since the
16 original motion was not modified.

17 VICE-CHAIRMAN VESBACH: Lynn (phonetic), okay. I
18 mean, I did add to it a directive to bring back, but it
19 did -- I did not change additional rules.

20 Just a general, Valerie, joke. Did someone change
21 their vote then?

22 FEMALE SPEAKER: I think that vote has already
23 happened to have another identical vote would just cause
24 confusion to everyone, I mean, at this point.

25 VICE-CHAIRMAN VESBACH: All right. Well, I guess I

1 would need guidance on a -- a motion we could make then if
2 Director Sloane could help us --

3 FEMALE SPEAKER: Right. Sure.

4 VICE-CHAIRMAN VESBACH: -- see us through the
5 conundrum.

6 FEMALE SPEAKER: Um-hum.

7 DIRECTOR SLOANE: So there -- there -- a motion for
8 reconsideration could be made. I -- usually, it has to be
9 made by the -- the, I think, the group that was the
10 majority. So it would have to be a motion to reconsider,
11 would have to be made by those that voted no in this
12 instance, I believe. I'm a little confused because I
13 haven't done this very often, and because it's normally
14 something that gets passed that has to be reconsidered, so.
15 But I -- but I think that that's how that one -- one option
16 to proceed could occur.

17 CHAIRWOMAN SALAZAR HICKEY: Okay. So director and
18 vice-chair and all of the commissioners, I -- I thoroughly
19 appreciate this discussion. And I do want to get to quote,
20 yes, which means that we need to do this properly. We've
21 already had a vote. We need to empower the director so as
22 not to impede anyone any decision. We want -- we -- we
23 want to be able, as he requested, what generated all of
24 this discussion after the vote.

25 Actually, I'm going to acknowledge Commissioner



1 Roberta because -- thank you. You asked how many permits
2 would be ending up before the commission in a year. And
3 then you also asked how would it affect the wolf program
4 and our work with Arizona. So I think those were what
5 prompted this.

6 So Commissioners Lopez, Cramer, Bates, and myself, is
7 it possible to come up with a -- with a motion that is not
8 a copy of what we just voted on, but rather there is a
9 tweak.

10 And I think the director, I'm going to ask you, Mike,
11 Director Sloane. The -- the -- the -- the tweak, I think,
12 came from you, which is to allow you to pursue, authorize
13 you to go forward?

14 VICE-CHAIRMAN VESBACH: Madam Chair?

15 CHAIRWOMAN SALAZAR HICKEY: Can you continue, Mike?

16 DIRECTOR SLOANE: Madam Chair, I -- I guess I have --
17 I have two things.

18 First, is the procedural matter. It -- it might be
19 simplest to offer a motion to reconsider and vote on that
20 motion to reconsider and then sort of start fresh.

21 I -- I would also offer that Stewart Liley could come
22 in and really dig into the details of the impact of this
23 and/or have some alternative ways to -- to solve this
24 problem if the commission chooses to not adopt the rule
25 with the carnivore changing.



1 CHAIRWOMAN SALAZAR HICKEY: Okay. Commissioners
2 Lopez, Cramer, or Bates, are you willing to make a motion
3 to reconsider? One of you.

4 COMMISSIONER LOPEZ: I'll motion to reconsider.

5 CHAIRWOMAN SALAZAR HICKEY: Thank you, commissioner.
6 Do I have a second, Commissioner Gail?

7 COMMISSIONER CRAMER: Yeah, I'll second it. I think
8 we need to approve everything else, except for the
9 carnivore, and then tweak that would make it easier. I
10 don't know if we have to have two motions or one or how
11 that's going to work.

12 DIRECTOR SLOANE: Madam Chair, I think we did a vote
13 on the motion to reconsider, and then we can move to the
14 next issue.

15 CHAIRWOMAN SALAZAR HICKEY: Very good.

16 COMMISSIONER CRAMER: I'll second it, and we'll --

17 DIRECTOR SLOANE: Commissioner Soules?

18 COMMISSIONER SOULES: Yes.

19 DIRECTOR SLOANE: Commissioner Lopez?

20 COMMISSIONER LOPEZ: Pass.

21 DIRECTOR SLOANE: (Indiscernible) Commissioner
22 Salazar-Henry?

23 COMMISSIONER SALAZAR-HENRY: Yes.

24 DIRECTOR SLOANE: Commissioner Cramer?

25 COMMISSIONER CRAMER: (No audible response).



1 DIRECTOR SLOANE: Mr. (indiscernible)? Gail,
2 Commissioner Cramer?

3 COMMISSIONER CRAMER: Yes.

4 DIRECTOR SLOANE: Commissioner Bates?

5 COMMISSIONER BATES: Yes.

6 DIRECTOR SLOANE: Vice-chair Vesbach?

7 VICE-CHAIRMAN VESBACH: Yes.

8 DIRECTOR SLOANE: Chair Salazar Hickey?

9 CHAIRWOMAN SALAZAR HICKEY: Yes.

10 DIRECTOR SLOANE: Commissioner Lopez?

11 COMMISSIONER LOPEZ: Yes.

12 DIRECTOR SLOANE: Motion passes, motion to reconsider
13 passes unanimously.

14 But I think you're now back at --at square one.

15 CHAIRWOMAN SALAZAR HICKEY: Okay. Very good.

16 So it is 11:52. And our agenda included a time frame
17 for this meeting where it would end about 12:30. And out
18 of respect for others who are waiting to meet with us,
19 publicly or in executive session, I think we, on the
20 record, need to explain or describe what we plan to do.

21 Are we going to work through lunch? I'm willing to.
22 Okay. Thank you, Dave. I see number -- good thumbs-up.

23 Let's continue to proceed. No more breaks. Let's --
24 let's open up this for discussion, and then we can go for
25 another motion.



1 DIRECTOR SLOANE: Madam Chair?

2 CHAIRWOMAN SALAZAR HICKEY: (Indiscernible).

3 DIRECTOR SLOANE: Would it be helpful to have Stewart
4 Liley come in and talk a little bit about the permitting
5 process and potential impacts to the wolf program in the
6 near term?

7 CHAIRWOMAN SALAZAR HICKEY: Yes. If I would like --
8 if -- if Stewart can -- Chief Liley if he could be very
9 brief. Let's give him more than five minutes.

10 DIRECTOR SLOANE: I am confident that he can
11 accomplish it in less than that.

12 CHAIRWOMAN SALAZAR HICKEY: Okay. Very good.

13 DIRECTOR SLOANE: (Indiscernible).

14 CHAIRWOMAN SALAZAR HICKEY: Commissioner Roberta, did
15 you want to say something before we go to chief?

16 COMMISSIONER SALAZAR-HENRY: No, ma'am. Chief Liley
17 is going to explain everything I need to have clarified.

18 CHAIRWOMAN SALAZAR HICKEY: Okay.

19 Go ahead. Thank you. Chief Liley, we're looking for
20 you.

21 DIRECTOR SLOANE: It might take a (audio interference)
22 to get on, but --

23 COMMISSIONER BATES: Madam chair?

24 CHAIRWOMAN SALAZAR HICKEY: Commissioner Jimmy Bates.

25 COMMISSIONER BATES: In favor of working through



1 lunch, but while we wait on Chief Liley, could we take five
2 minutes?

3 CHAIRWOMAN SALAZAR HICKEY: Yes, we may. Thank you,
4 Commissioner. Five minutes. It's 11:54. Let's just come
5 back right at 12 o'clock. We'll see you soon. Thank you.

6 (Recess from 11:54 a.m., until 12:03 p.m.)

7 CHAIRWOMAN SALAZAR HICKEY: Thank you. It's now
8 12:03. It's Friday, the 15th of January. And let's
9 quickly proceed and get back into the issue at hand.

10 Chief Stewart Liley, we would like to hear from you,
11 and I'm going to give you three to five minutes, if you
12 could. I know you've been listening to our discussions.

13 CHIEF LILEY: Yes. Madam Chair, Members of the
14 Commission. Some of the potential ramifications for -- for
15 the vote today. As -- as you will recall at our last
16 meeting, we gave an update to the wolf management plan.
17 Historically because of the -- the -- the rule that was in
18 place, we also included multiple motions at that time that
19 would allow us to do the management actions necessary in
20 the ensuing year that we would need for importation of
21 animals into private property in New Mexico to carry out
22 those activities. Because this rule was under
23 consideration for proposed changes that did not happen
24 because there wasn't necessarily an indication that would -
25 have - that would occur.

1 What would happen if this rule is -- does -- does not
2 approve it, the -- the annual count and capture that is
3 supposed to start occurring next week and go into February,
4 one of that actions that was going to happen was potential
5 removal of some animals in the wild in Arizona, that would
6 then be imported into the Ladder Ranch, which is a private
7 holding facility. Then they would then go to Mexico to --
8 to help out Mexico's recovery efforts.

9 That would not be allowed under the current rule if
10 you do not allow that change. So that -- that -- that
11 would not get at least a pack of wolves to Mexico for
12 Mexico recovery efforts.

13 The other aspect that we do, and we've asked for in
14 the past, is depredation animals in Arizona. Arizona does
15 not have a holding facility or a captive facility like New
16 Mexico does and specifically, New Mexico on private land.

17 We do, and have in the past, Arizona has had wolf
18 removals for depredation issues that were not lethal that
19 were brought into captivity for the rest of their life.
20 But they bring them into the Ladder Ranch captive facility
21 because it is the closest nonhuman habituated one where
22 they get in that facility for a while before they maybe are
23 distributed back out to other facilities across the United
24 States.

25 So that would no longer allow that. The -- your



1 motion there would not allow those animals to be removed
2 out of the wild for depredation purposes in Arizona, so it
3 could hinder depredation response in Arizona.

4 The last thing that would -- would do is we use
5 that -- that facility potentially as moving animals closer
6 to the wild, adult captive animals to the wild, for cross-
7 fostered pups. So when those pups are born and they're
8 less than fourteen days old, they are removed from that
9 facility, not the adults, but the pups are removed from
10 that facility and placed into wild dens.

11 At the last commission meeting, you all supported
12 those actions of cross-fostering into the wild in New
13 Mexico. That would prohibit -- the -- the -- the rule that
14 you guys turned down would prohibit that from happening
15 this year at that facility, so -- so it would not allow
16 the -- the removal of pups less than fourteen days old and
17 put into wild dens in New Mexico.

18 That said, on top of all of that, I think the concern
19 really comes from release of adult naive wolves from
20 captive facilities into, either one, the wild in New Mexico
21 and federal land or two, on private land. We have not
22 released wolves from captive populations -- adult wolves
23 from captive populations onto private lands nor is there a
24 plan in the next year to do so. So that is not part of --
25 as you recall in the discussion we had at the last



1 commission meeting, there is no plan either, by New Mexico
2 Game and Fish, Arizona Game and Fish, or the U.S. Fish and
3 Wildlife Service to release any captive adults into the
4 wild in 2021. So that -- that is a big -- I think a lot of
5 concerns that some of the communities definitely have in
6 there on the checks and balances, but what we really need
7 from that perspective is the management authority to -- to
8 move pups and to move problem wolves and also move packs in
9 as a temporary hold to go into Mexico to help those
10 recovery efforts in Mexico.

11 VICE-CHAIRMAN VESBACH: It looks like we lost our
12 chair for a minute.

13 Are there any questions for Chief Liley?

14 As soon as we have our -- our chair return here.
15 There she is.

16 CHAIRWOMAN SALAZAR HICKEY: Thank you, Vice-chair.

17 VICE-CHAIRMAN VESBACH: Madam Chair, we did not -- we
18 did not have any further questions for --

19 CHAIRWOMAN SALAZAR HICKEY: Thank you.

20 VICE-CHAIRMAN VESBACH: -- Chief Liley.

21 CHAIRWOMAN SALAZAR HICKEY: Okay. Commissioner Gail,
22 Commissioner Cramer, Bates, and Lopez, do you have any
23 other thoughts that might help as we move forward with the
24 reconsideration of the initial motion?

25 COMMISSIONER LOPEZ: Madam Chair?



1 CHAIRWOMAN SALAZAR HICKEY: Yes.

2 COMMISSIONER LOPEZ: Speaking in the sense of
3 transparency -- and again, I'm not -- I'm not trying to
4 muddy up the water here or anything. But if we are going
5 to amend or tweak the rule, I believe in the sense of
6 transparency, we need to either set the hearing for a
7 different date and allow public comment to be done on
8 the -- on the tweak that, you know, we're going to consider
9 revoting on or voting anew. Just that way, we can get
10 everybody at the table to have a discussion and to make
11 sure that we are not hastily or shooting from the hip, so
12 to say, on a tweak of the rule. And again, no -- no -- no
13 disrespect meant to any of the members of the commission or
14 anything like that, but I'm just trying to make sure we --
15 we hear everybody's voice and really, really, really,
16 really, really sit down and analyze this and make sure
17 we're getting everything we possibly can straightaway. And
18 that's all I got.

19 CHAIRWOMAN SALAZAR HICKEY: Commissioner, let me
20 clarify, I think, what's happening here. We're not
21 amending the rule. There's been extensive rulemaking
22 process before today's meeting. And as we heard earlier,
23 there have been a lot of meetings, and we've got a lot of
24 input. The majority of the comments have been in favor of
25 this rule change.



1 And so what we are about to do is take another vote on
2 what was originally proposed, that's what we're trying to
3 do.

4 COMMISSIONER SOULES: Madam Chair?

5 CHAIRWOMAN SALAZAR HICKEY: Yes, commissioner.

6 COMMISSIONER SOULES: So I apologize that I didn't say
7 this immediately after Chief Liley spoke, but I guess I do
8 have a question.

9 CHAIRWOMAN SALAZAR HICKEY: Okay.

10 COMMISSIONER SOULES: It's my understanding, Chief
11 Liley, is that if there were two packs of wolves that were
12 considered problematic in Arizona on Native American lands
13 that were asked to be removed, and they were, and I believe
14 perhaps both of them were moved to the facility on the
15 Ladder Ranch. One of those packs has already been
16 transferred to Mexico. I believe the one is still waiting.

17 So two parts to the question. First, is that correct,
18 and then second, does most of the cross-fostering program
19 take place in the May, Juneish time frame? And -- and if
20 so, how critical is the timing of what we do with this rule
21 in terms of how it would affect that?

22 CHIEF LILEY: Madam Chair, Commissioner Soules, so
23 both of those -- let -- let me start off to give you the
24 idea of how that was able to happen on the reservation
25 lands in Arizona in 2020.

1 You all, in November of '19, came back into the wolf
2 program, but at that -- you -- you approved two motions.
3 One was you gave the director authority to allow
4 importation of wolves into private lands in New Mexico for
5 management purposes. That's what allowed that to happen
6 and allowed it by the current rule. We needed that motion
7 in order to let that happen last year.

8 Those wolves then were imported into private land in
9 New Mexico, and now, both packs, as of last week, have been
10 moved to Mexico. Both of those packs have went from
11 Arizona to New Mexico on private land and back out into the
12 wild in Mexico.

13 There is a situation right now on tribal land in
14 Arizona as well where they have requested removal of those
15 animals as well as a sovereign nation. The way that the
16 service is wanting to do that is to do the same as what
17 they did the last time, import those animals from Arizona
18 into the private Ladder Ranch in New Mexico, and then
19 transfer those back into the country of Mexico. Right now,
20 there is no authority that you have granted to the director
21 to allow that to happen unless you approve this rule.

22 The other aspect that would have -- the next one on
23 your -- your cross-foster question is, it typically happens
24 in April and May, but the bigger issue is the importation
25 of the captive animals have to come closer to New Mexico.



1 It's not the release of the pups. It's those animals that
2 are maybe in the Bronx Zoo or some zoo in New York. We
3 need to get them closer to the -- to the wild. They will
4 never be released, but those adults get moved to the Ladder
5 Ranch, whelp their pups before -- so right when they become
6 pregnant, in the next couple of weeks, whelp their pups in
7 captivity. Those pups are then removed from that --
8 those -- those animals and put into the wild, and a lot of
9 times, those adults go back to those facilities across the
10 country.

11 This rule when -- if you do not approve it -- because
12 we don't have a motion like you made in November of 2019 --
13 that would not be allowable. So if -- if the rule is not
14 approved, it will hinder capture operations next week and
15 the week after, and then it would also potentially hinder
16 cross-fostering efforts this -- this spring unless you have
17 a special meeting to adopt maybe a motion on something
18 specific like you did in November of '19.

19 COMMISSIONER SOULES: Thank you. So Madam Chair,
20 Chief Liley's last comment, the way this was done
21 previously in November of '19, I guess, as a matter of
22 order, I wonder what it would take if we don't approve the
23 motion as it stands today? Can we pass a motion just for
24 that same special purpose that we did previously, or is
25 that also going to require multiple public input hearings

1 such that we lose the window of time that we need in order
2 to get this accomplished?

3 CHAIRWOMAN SALAZAR HICKEY: Thank you, Commissioner
4 David. What I'd like to do is keep this simple. Okay?
5 And keep this not only simple, but I'd like to keep it in a
6 compliant manner, compliant legally with our rulemaking,
7 and again, with our transparency. So what is on the table
8 is can we reconsider and do another vote of the original
9 rulemaking or the rule that was -- that was originally
10 proposed. Okay? I think that's what the motion is.

11 And rather than have further discussion on tweaking
12 things in the spirit of keeping things simple to move
13 forward, I would like to have -- because we're already
14 considering reconsidering our vote. Can we take another
15 vote, Director Michael Sloane?

16 DIRECTOR SLOANE: Yes.

17 CHAIRWOMAN SALAZAR HICKEY: And assistant attorney
18 general, I -- I see a nod from her, and she's -- she's
19 saying yes.

20 ASSISTANT ATTORNEY GENERAL: Yes.

21 CHAIRWOMAN SALAZAR HICKEY: Based on this -- this
22 discussion that we have had, it's okay to do another vote
23 on the original proposed rule?

24 COMMISSIONER SOULES: Madam -- Madam Chair, I guess
25 my -- my question for the assistant attorney general would



1 be do -- do we need to make -- remake the motion now, or
2 can you rely on the first motion and -- and second --

3 ASSISTANT ATTORNEY GENERAL: I --

4 COMMISSIONER SOULES: -- at that point?

5 ASSISTANT ATTORNEY GENERAL: I think we should since
6 it's being reconsidered just for clarity purposes.

7 FEMALE SPEAKER: I agree.

8 ASSISTANT ATTORNEY GENERAL: It could be the same
9 people, if you like, but I would just --

10 CHAIRWOMAN SALAZAR HICKEY: So --

11 ASSISTANT ATTORNEY GENERAL: -- have them do it again.

12 CHAIRWOMAN SALAZAR HICKEY: -- it doesn't have to be
13 either, Commissioner Bates, Cramer, Lopez, or myself. We
14 can turn it back to Vice-chair Vesbach because he was the
15 one who made the original motion and then we can go with a
16 second.

17 Okay. Vice-chair, do you have that motion in front of
18 you and just read it into the record?

19 VICE-CHAIRMAN VESBACH: Yes, I do. I --

20 CHAIRWOMAN SALAZAR HICKEY: (Indiscernible).

21 VICE-CHAIRMAN VESBACH: -- move to adopt the proposed
22 changes to 19.35.7 NMAC as presented by the department with
23 an effective date of February 9th, 2021 and allow the
24 department to make minor corrections to comply with filing
25 this rule with state records and archives.

1 CHAIRWOMAN SALAZAR HICKEY: Second motion -- second?

2 COMMISSIONER SALAZAR-HENRY: Second.

3 CHAIRWOMAN SALAZAR HICKEY: Thank you, Commissioners,
4 Vice-chair, and Commissioner Salazar-Henry.

5 Director Michael Sloane, please take a vote roll call.

6 DIRECTOR SLOANE: Commissioner Soules?

7 COMMISSIONER SOULES: Yes.

8 DIRECTOR SLOANE: Commissioner Salazar-Henry?

9 COMMISSIONER SALAZAR-HENRY: Yes.

10 DIRECTOR SLOANE: Commissioner Lopez?

11 COMMISSIONER LOPEZ: Pass.

12 DIRECTOR SLOANE: Commissioner Cramer?

13 COMMISSIONER CRAMER: I'm still confused because I
14 thought that Valerie Joe told us we couldn't vote on the
15 same thing because we turned it down.

16 ASSISTANT ATTORNEY GENERAL: There was a motion. I'm
17 sorry. Madam Chair, Members of the Commission, there was a
18 reconsideration motion that was made, so they're
19 reconsidering this motion again which is why it's being put
20 to a vote again. Thank you.

21 COMMISSIONER CRAMER: I vote no.

22 DIRECTOR SLOANE: Commissioner Bates?

23 COMMISSIONER BATES: I vote no.

24 DIRECTOR SLOANE: Vice-chair Vesbach?

25 VICE-CHAIRMAN VESBACH: I vote yes.



1 DIRECTOR SLOANE: Chair Salazar Hickey?

2 CHAIRWOMAN SALAZAR HICKEY: Yes.

3 And before we hear from Commissioner Lopez, the only
4 reason I'm changing my vote from no to yes is that it
5 appears that the harm is going to outweigh the issues that
6 we had, and I had originally recognized. So that's why I'm
7 changing my vote from no to yes.

8 DIRECTOR SLOANE: Commissioner Lopez?

9 COMMISSIONER LOPEZ: Abstain.

10 DIRECTOR SLOANE: Motion passes four to two with one
11 extension.

12 CHAIRWOMAN SALAZAR HICKEY: Okay. Let us move on.
13 And thank you, commissioners. I hope that our director,
14 the department of the game and fish, and the members of the
15 public recognize that this type of discussion that we just
16 had is a very thorough and very deliberate consideration
17 because we are listening to everyone, and I've been
18 watching the chat box here. So thank you, everyone, for
19 your patience and your -- your passion on this issue. So
20 let's move forward.

21 (End of audio)

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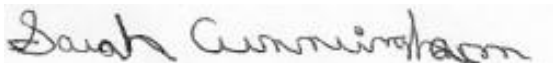
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I, Sarah Cunningham, certify that the foregoing transcript is a true and accurate record of the proceedings.



Sarah Cunningham

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Date: January 29, 2021

