

# NMAC

## Transmittal Form

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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:  New  Amendment  Repeal  Repeal/Replace  Renumber  Emergency  (ALD Use Only) 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

### Concise Explanatory Statement for rulemaking adoption:

Notice date(s):  Hearing date(s):  Rule Adoption date:  Rule Effective date:

Specific statutory or other authority authorizing rulemaking:

Findings required for rulemaking adoption. Please attach and sign additional page(s) if necessary.

Issuing authority (If delegated, authority letter must be on file with ALD):  
Name:  Check if authority has been delegated

Title:

Signature: (BLACK ink only)  Date signed:

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**TITLE 19      NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 30    WILDLIFE ADMINISTRATION**  
**PART 17       PROCEDURAL RULE FOR PUBLIC RULE HEARINGS**

**19.30.17.1      ISSUING DEPARTMENT:** New Mexico Department of Game and Fish.  
[19.30.17.1 NMAC - N, 01/30/2018]

**19.30.17.2      SCOPE:** The state game commission and the department of game and fish.  
[19.30.17.2 NMAC - N, 01/30/2018]

**19.30.17.3      STATUTORY AUTHORITY:** Section 14-4-5.8 NMSA 1978, Sections 17-1-14 and 17-1-26  
NMSA 1978.  
[19.30.17.3 NMAC - N, 01/30/2018]

**19.30.17.4      DURATION:** Permanent.  
[19.30.17.4 NMAC - N, 01/30/2018]

**19.30.17.5      EFFECTIVE DATE:** January 30, 2018, unless a later date is cited in the history note at the end  
of a section.  
[19.30.17.5 NMAC - N, 01/30/2018]

**19.30.17.6      OBJECTIVE:** To provide procedural rules for public rule hearings for use by the state game  
commission and the department of game and fish consistent with the State Rules Act, and to facilitate public  
engagement with the administrative rulemaking process in a transparent, organized, and fair manner.  
[19.30.17.6 NMAC - N, 01/30/2018]

**19.30.17.7      DEFINITIONS:** This rule adopts the definitions found in Section 14-4-2 NMSA 1978 and the  
listing in this section.  
**A.      “Commission”** shall mean the New Mexico state game commission.  
**B.      “Department”** shall mean the New Mexico department of game and fish.  
[19.30.17.7 NMAC - N, 01/30/2018]

**19.30.17.8      INITIATION OF THE RULEMAKING PROCESS:** The rulemaking process for purposes of  
this rule is initiated when the department publicly posts a notice for a rule hearing pursuant to Section 14-4-5.2  
NMSA 1978.  
[19.30.17.8 NMAC - N, 01/30/2018]

**19.30.17.9      RULEMAKING NOTICE:**  
**A.      The department** shall provide to the public notice of the proposed rulemaking as required by  
Section 14-4-5.2 NMSA 1978.  
**B.      If the commission** changes the date of the public rule hearing or shortens the deadline for  
submitting comments as stated in the notice, the department shall provide notice to the public of the change as  
provided above.  
[19.30.17.9 NMAC - N, 01/30/2018]

**19.30.17.10     WRITTEN COMMENT PERIOD:**  
**A.      The commission** shall allow for public comment on the proposed rule as defined by Section 14-4-  
5.3 NMSA 1978.  
**B.      The commission** may decide before, during, or after the public rule hearing to extend the comment  
period by providing public notice, to include:  
**(1)      posting** on the department website;  
**(2)      making** it available by posting notice in a publicly visible location in department’s  
headquarters and regional offices;  
**(3)      sending** notice by electronic mail to persons who have participated in the rulemaking  
proceeding or made a written request for notice of rulemaking proceedings and provided an electronic mail address  
to the department; and

(4) sending notice by regular mail to persons who have participated in the rulemaking proceeding or made a written request for notice of rulemaking proceeding and provided a postal address and specifically requested notice by regular mail.  
[19.30.17.10 NMAC - N, 01/30/2018]

**19.30.17.11 PUBLIC HEARING:**

A. Prior to adopting a proposed rule, the commission must hold a public rule hearing. The purpose of the public rule hearing is to provide all interested persons a reasonable opportunity to submit data, views or arguments orally or in writing on the proposed rule. The commission, at its sole discretion, may determine whether more than one hearing is necessary.

B. The chair of the commission may act as the hearing officer or designate a representative or hearing officer to preside over its public rule hearing. The hearing officer may ask questions and provide comments for clarification purposes only.

C. At the start of the hearing, any pre-filed exhibits should be introduced and admitted into the rulemaking record. Pre-filed exhibits should include: copies of the public notices of the rulemaking, including any lists of individuals to whom notice was mailed or sent electronically; copies of the proposed rule in underline and strikethrough format; and copies of any written comment submitted during the comment period prior to the rule hearing. Any written comments or other documents introduced during the hearing should be admitted into the record after being marked as an exhibit.

D. Individuals from the public wishing to provide comment or submit information at the rule hearing must state their name and any relevant affiliation for the record and be recognized before presenting by the individual presiding over the hearing. Any individual who provides information or public comment at the hearing may be questioned by the hearing officer, or other members of the commission.

E. The rule hearing shall be conducted in a fair and equitable manner. The hearing officer may determine the manner in which the hearing is conducted, but the hearing should be conducted in a simple and organized manner that facilitates public comment and a clear rulemaking record. The rules of evidence do not apply to public rule hearings and the hearing officer may, in the interest of efficiency, exclude or limit comment that is deemed irrelevant, redundant, or unduly repetitious.

F. The commission must hold the hearing in a venue that reasonably accommodates all interested persons who wish to participate or observe, and appropriate audio equipment should be secured to ensure all persons in attendance can hear the proceeding and be heard when presenting comment. Reasonable efforts shall be made to accommodate the use of audio and video recording devices.

[19.30.17.11 NMAC - N, 01/30/2018]

**19.30.17.12 RULEMAKING RECORD AND ADOPTION OF RULE:**

A. Once the rulemaking process has been initiated, the department shall maintain a record of the rulemaking proceeding as required in Section 14-4-5.4 NMSA 1978, and any written comment, document, or other exhibit entered into the record during the rule hearing shall be labeled clearly.

B. The adoption of the proposed rule shall occur during a public meeting. The adoption date of the proposed rule shall be the date of the public meeting at which the vote occurred, unless the commission directs that a written order be issued, in which case the adoption date shall be the date the written order is signed. The commission may provide reasoning for the adopted rule through comments or discussion during its meeting, or by providing a statement of reasons in a written order.

C. The commission, through the department, shall provide a concise explanatory statement per Section 14-4-5.5 within 15 days after the date of adoption.

[19.30.17.12 NMAC - N, 01/30/2018]

**19.30.17.13 FILING AND PUBLICATION; EFFECTIVE DATE:** Once the commission has adopted a rule(s), the department shall follow the procedures for final adoption as defined in Section 14-4-5 NMSA 1978.

[19.30.17.13 NMAC - N, 01/30/2018]

**19.30.17.14 EMERGENCY RULES:** The commission and department shall comply with the rulemaking procedures herein and the State Rules Act unless the commission or department finds that an emergency situation exists. The commission and the department shall adhere to Section 14-4-5.6 NMSA 1978, if the need for an emergency rule is determined.

[19.30.17.14 NMAC - N, 01/30/2018]

HISTORY OF 19.30.17 NMAC: [RESERVED]