

## Final Adopted Rule

**TITLE 19  
CHAPTER 30  
PART 5**

**NATURAL RESOURCES AND WILDLIFE  
WILDLIFE ADMINISTRATION  
PRIVATE LAND ELK LICENSE ALLOCATION**

**19.30.5.1**      **ISSUING AGENCY:** New Mexico department of game and fish.  
[19.30.5.1 NMAC - Rp, 19.30.5.1 NMAC, 4-1-2019]

**19.30.5.2**      **SCOPE:** To acknowledge landowners who provide meaningful benefit to elk and accept elk on their properties and to provide hunting opportunities on private and public land to all elk hunters who wish to recreate within New Mexico's exterior boundaries. Additional requirements may be found in Chapter 17 NMSA 1978 and Chapters 30, 31, 32 and 33 of Title 19 NMAC.  
[19.30.5.2 NMAC - Rp, 19.30.5.2 NMAC, 4-1-2019]

**19.30.5.3**      **STATUTORY AUTHORITY:** Section 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds and fish. Statute 17-3-14.1 NMSA 1978 authorizes the director to issue landowner permits for the lawful taking of elk.  
[19.30.5.3 NMAC - Rp, 19.30.5.3 NMAC, 4-1-2019]

**19.30.5.4**      **DURATION:** Permanent.  
[19.30.5.4 NMAC - Rp, 19.30.5.4 NMAC, 4-1-2019]

**19.30.5.5**      **EFFECTIVE DATE:** April 1, 2019, unless a later date is cited at the end of a section.  
[19.30.5.5 NMAC - Rp, 19.30.5.5 NMAC, 4-1-2019]

**19.30.5.6**      **OBJECTIVE:** Establish an equitable and flexible system that recognizes the contributions of private lands and landowners to the management of elk and their habitats, while providing hunting opportunities on private lands, and to support appropriate, biologically sound, and effective harvest goals set by the department for elk.  
[19.30.5.6 NMAC - Rp, 19.30.5.6 NMAC, 4-1-2019]

**19.30.5.7**      **DEFINITIONS:**

**A.**      **"Annual agreement" or "Agreement"** shall mean the document that contains the specific ranch information, sets forth the terms and conditions of the agreement, special instructions, requirements and regulations concerning participation in this program and affirms a signatory understanding of such.

**B.**      **"Authorization number" or "Authorization"** shall mean a multi-digit number which allows the holder to purchase a private land elk license specifying sex and sporting arm type. May also collectively refer to types and numbers of private land elk hunting opportunities available in a game management unit or assigned to a recipient pool of elk hunting opportunities.

**C.**      **"Authorization statement"** shall mean the document generated by the department and issued to an authorized ranch contact that contains the authorization numbers, which allows the holder to purchase a specified license to hunt elk.

**D.**      **"Authorized Ranch Contact" or "ARC"** shall mean the person designated in writing by the landowner(s) to act as the liaison between the ranch and the department. ARC is responsible for acting in the landowner(s) best interest and has the authority to sign an elk private lands use system agreement and receive authorization statements. All persons listed on the recorded deed(s) must sign and notarize an authorization of ranch contact form provided by the department authorizing the same individual as the authorized ranch contact.

**E.**      **"Base allocation"** shall mean the number and authorization types issued to base ranches through the allocation formula.

**F.**      **"Base ranch"** shall mean a ranch in the primary management zone able to receive at least one whole authorization through the allocation formula based on weighted acreage and ranch score.

**G.**      **"Bonus allocation"** shall mean the number and authorization types represented by private lands not participating in the elk private lands use system in the primary management zone, through the allocation formula.

**H.**      **"Co-op"** shall mean more than one ranch enrolled by separate landowners and combined together to form a single ranch and naming a single ARC.

- I. **“Deeded acres”** shall mean privately owned acres that can be verified by the department.
- J. **“Department”** shall mean the New Mexico department of game and fish.
- K. **“Director”** shall mean the director of the New Mexico department of game and fish.
- L. **“Elk Contribution Rating” or “ECR”** shall mean the rating assigned to a ranch by appropriate department staff based on the following: occasional elk presence shall receive an ECR of 1, frequent elk presence shall receive an ECR of 1.25, continuous elk presence shall receive an ECR of 1.5.
- M. **“EPLUS”** shall mean the elk private lands use system.
- N. **“Game Management Unit” or “GMU”** shall mean those areas as described in 19.30.4 NMAC Boundary Descriptions for Game Management Units.
- O. **“Inactivation”** shall mean the procedure that immediately stops all issuance of authorizations and suspends participation in the program.
- P. **“In review”** shall mean a period of time during which an active ranch may be placed into temporary suspension, stopping agreements and authorization statements from being issued to the ARC, until the department review concludes that all participation requirements have been met.
- Q. **“Landowner”** shall mean the person(s) listed on the most current recorded deed(s) being considered as a ranch for participation, is responsible for signing the initial application, and is responsible for assigning a single authorized ranch contact.
- R. **“Meaningful benefit”** shall mean a variety of elk habitat components that are known to be beneficial to elk throughout at least one season and further determined by state game commission adopted participation guidelines.
- S. **“Participation guidelines”** shall mean the written requirements for enrollment and participation in the program that department staff use to evaluate ranches and approved by the state game commission.
- T. **“Percent weighted acres”** shall mean the quotient of a ranch’s weighted acres divided by the total private acres in the primary management zone within a GMU.
- U. **“Primary management zone”** shall mean areas of the state designated by the department upon which elk management goals and subsequent harvest objectives are based.
- V. **“Public land”** shall mean those lands held by state, federal, or public land use agencies.
- W. **“Ranch”** shall mean any deeded acres included in an agreement and treated as a single property.
- X. **“Ranch-only”** shall mean a ranch whose ARC has selected the ranch-only hunting option as defined on their agreement or whose ranch is located in a GMU designated as ranch-only.
- Y. **“Ranch-only authorization number”** shall mean a private land authorization that allows a person to purchase an elk license only valid on the designated ranch except as otherwise allowed by rule.
- Z. **“Ranch score”** shall mean the score resulting from the ranches evaluation as defined in participation guidelines.
- AA. **“Secondary management zone”** shall mean areas of the state that are not part of the primary management zone or special management zone.
- AB. **“Small Contributing Ranch” or “SCR”** shall mean those ranches that meet the minimum qualifications to participate, but are unable to receive at least one whole authorization pursuant to the allocation formula based on weighted acreage alone.
- AC. **“SCR pool”** shall mean the number and authorization types that result from the fractional consolidation of authorizations awarded to small contributing ranches through the allocation formula.
- AD. **“Special management zone”** shall mean areas of the state not within the primary management zone or secondary management zone and where private land authorization issuance includes eligibility requirements or restrictions.
- AE. **“Two year unconverted”** shall mean the number and authorization types initially allocated to participating properties but not converted to licenses averaged over the previous two license years.
- AF. **“Unit-wide”** shall mean a ranch whose ARC has selected the unit-wide hunting option as defined on their agreement and received a unit-wide authorization(s) for the current license year. The unit-wide selection allows hunters who have a unit-wide license from the ranch to hunt any legally accessible public lands, other unit-wide ranches, and other private land with written permission within the GMU as well as allows any other licensed elk hunter with either a public draw license or a unit-wide elk license access to the unit-wide ranch.
- AG. **“Unit-wide authorization number”** shall mean an authorization that allows a person to purchase an elk license valid on any legally accessible public lands, other unit-wide ranches, and other private land with written permission within the GMU.
- AH. **“Weighted acres”** shall mean the product of a ranch’s deeded acres multiplied by the elk contribution rating assigned to that ranch.

**19.30.5.8 PARTICIPATION REQUIREMENTS AND AUTHORIZATION DISTRIBUTION IN THE PRIMARY MANAGEMENT ZONE:**

A. Minimum requirements:

- (1) Private lands that lie within the primary management zone.
- (2) Private lands that demonstrate regular elk use and provide meaningful benefits to elk as determined by appropriate department staff and in accordance with commission approved guidelines.
- (3) Only landowners and ARCs who agree in writing to accept elk on their property will be considered for participation in EPLUS.
- (4) Landowner and ARC must agree that participation is voluntary. Number of authorizations may vary annually and are based on GMU harvest objectives found in 19.31.14 NMAC. There is no guarantee of a specific number of authorizations issued each year.
- (5) Any property which is part of a subdivision, village or town that does not allow hunting or restricts the discharge of all sporting arm types will be disqualified from participation in EPLUS. All other properties within a subdivision, village or town will be considered on a case-by-case basis.
- (6) The department encourages landowners whose properties do not qualify to cooperate with other landowners to create co-ops to meet minimum participation requirements.

B. Enrollment and initial application:

- (1) Landowners who wish to participate in EPLUS must submit a completed application provided by the department. Applications must include all required documentation as determined by the department and name a single ARC. Only the property owner(s) listed on the recorded deed(s) may submit an initial EPLUS application and assign an ARC. If there are multiple owners listed on the property deed(s), all co-owners must sign an affidavit authorizing one of the owners to be responsible for the initial application.
- (2) The application must include the most recent recorded property ownership records including property legal descriptions and maps or surveys sufficient to establish the legal landowner(s) and property boundaries.
- (3) Application must be submitted to the department, hand delivered or post marked, no later than January 5 of each year. Applications received without all required documentation or hand delivered or postmarked after January 5 shall be rejected. Applications rejected as a result of missing documents may be corrected and resubmitted through February 1 to be included that year if the original application was submitted by the January 5 deadline. Exceptions may be made for extenuating circumstances on a case-by-case basis.
- (4) Applications will be reviewed by appropriate department staff so a determination can be made as to the application satisfying the requirements set forth in Subsection A of 19.30.5.8 NMAC.
- (5) Ranches meeting the requirements set forth in Subsection A of 19.30.5.8 NMAC will be assigned an elk contribution rating and must meet a minimum ranch score to be eligible for authorizations pursuant to the processes set forth in Subsection D of 19.30.5.8 NMAC.
- (6) ARCs with ranches that do not meet the requirements set forth in Subsection A of 19.30.5.8 NMAC will be advised and provided options including the right to request a review of the department's decision as outlined in 19.30.5.12 NMAC.

C. Participating ranches:

- (1) All ARCs for participating ranches will receive an agreement annually.
- (2) The annual agreement will list the name, address, and phone number of the authorized ranch contact, the number of deeded acres considered, the ranch score and the elk contribution rating assigned. It will provide the opportunity to request a review of the listed acreage, the ranch score and the assigned elk contribution rating. The agreement will set out the terms for participation and provide the ability to elect the ranch-only option. The annual agreement will require the ARC to notify the department of any changes affecting the ranch's enrollment or participation eligibility. The annual agreement must be signed and initialed by the ARC where designated and returned to the department via hand delivery or post marked no later than January 5 each year. Failure to meet these requirements will result in the agreement not being activated for the current license year. Exceptions may be made for extenuating circumstances on a case-by-case basis.
- (3) Any ranch for which rightful ownership or legal representation cannot be determined shall be placed in review until such time as rightful ownership or legal representation is verified. If after one year, adequate documentation of ownership is not provided, the ranch will be inactivated.

(4) Landowners requesting to split their separately deeded properties currently under one ranch into separate ranches shall be required to submit a new application for each property. Ranches whose property is entirely contained on one deed may not be split.

(5) Upon the second consecutive year of non-receipt of the annual agreement, the department will inactivate the respective ranch until a new initial application has been submitted.

(6) Ranches that are sold or transferred to new ownership must apply as required for initial participation. The department may make reasonable accommodations in circumstances where transfer of ownership occurs after the January 5 deadline.

(7) Participating ranches that the department determines no longer qualify for participation shall be sent written notice of inactivation for the following license year.

(8) Appropriate department staff may adjust the elk contribution rating or ranch score for any participating ranch annually. In the case an adjustment is warranted, the ARC will be contacted and notified of the rating change.

(9) Any landowner who requests interventions to eliminate the presence of elk on their participating acreage in accordance with 19.30.2 NMAC shall be placed in review. If the depredation only applies to a portion of the ranch and the remaining acreage continues to provide meaningful benefit to elk, only the acreage where depredation response actions are to occur will be inactivated. Exceptions to this may be considered by appropriate department staff on a case-by-case basis.

(10) Should any landowner or ARC take action pursuant to Section 17-2-7.2 NMSA 1978 the ranch upon which the action occurred shall immediately be inactivated from EPLUS for a period of three years and all unconverted authorizations may be voided.

(11) All participating ranches will be subject to the requirements found in this section on an annual basis. Any change affecting a ranches qualifications for this program will result in that ranch being re-evaluated to determine if the ranch meets the minimum requirements.

D. Determination of authorizations:

(1) In each GMU, the pool of private land elk authorizations shall be comprised of the base allocation, bonus allocation, two year unconverted and SCR pool.

(2) A portion of the bonus allocations or two year unconverted, should they be available, may be distributed to specific ranches in the form of incentive authorizations issued in recognition of significant contributions to elk management.

(3) The base allocation per ranch will be set as follows:

(a) A ranch's deeded acres multiplied by that ranch's elk contribution rating equals ranch weighted acres.

(b) A ranch's weighted acres divided by the total private deeded acres in the GMUs primary management zone equals that ranches percent ranch weighted acres.

(c) Percent ranch weighted acres multiplied by the number of available private land elk authorizations for the GMU equals the number of authorizations per ranch.

(d) All ranches receiving at least one whole authorization through the allocation formula will be considered a base ranch and will receive a base allocation.

(e) When a ranch is unable to receive at least one whole authorization through the allocation formula, the ranch will become a SCR.

(f) The combined fractional authorizations from SCRs will comprise the allocations available in the SCR pool.

(4) Distribution of the SCR pool will be as follows:

(a) SCRs will compete in a yearly, random, drawing weighted on the ranches ranch score for authorizations.

(b) SCRs may receive not more than one authorization through the yearly, random drawing.

(c) Bonus allocations and two year unconverted authorizations remaining after the issuance of incentive authorizations will be added into the pool for the SCR drawing.

(5) Authorizations not distributed in the SCR draw will be redistributed to base ranches pursuant to the allocation formula.

(6) All authorizations issued to a ranch pursuant to this section will be:

(a) Considered unit-wide unless otherwise requested by the ARC, or

(b) In GMUs 4 and 5A, authorizations will be ranch-only but transferrable to other private lands within the specific GMU with written landowner permission.

- E. Inactivation:
- (1) A landowner or ARC, along with the ranch shall be inactivated for:
    - (a) providing or permitting misrepresentation of the ranch's participating deeded acreage, ranch ownership or designated ARC;
    - (b) prohibiting access to other unit-wide license holders or public draw hunting license holders; or
    - (c) the landowner or ARC violating Chapter 17 NMSA 1978 or state game commission rules involving licenses converted with the ranches' authorization(s), or being an accessory to the same, regardless of whether the violation occurred on or off the ranch, resulting in a violation(s) that accumulates 20 or more revocation points pursuant to 19.31.2 NMAC on any single individual.
  - (2) A landowner or ARC, along with the ranch may be inactivated for breaching or violating any other condition of the EPLUS agreement.
  - (3) Upon determination that a violation or breach of Paragraph 1 or Paragraph 2 of this Subsection or any other inactivation provision in 19.30.5.8 NMAC has occurred, the landowner and ARC shall be notified explaining the determination for the inactivation.
  - (4) Should the landowner or ARC have multiple properties in EPLUS, all properties may be inactivated from EPLUS and disqualified from participation in department sponsored programs.
  - (5) If a ranch is signed up in a co-op, inactivation action(s) may be taken against the co-op in its entirety or individual properties participating that form the co-op and will be considered on a case-by-case basis.
  - (6) If the inactivated ranch(s) changes ownership during the disqualification period, the department may consider the ranch for future participation.
  - (7) Inactivation from EPLUS and disqualification from department sponsored programs may be for a period up to three years.
  - (8) The landowner may request a review that shall be held in accordance with the processes set forth in 19.30.5.12 NMAC. The standard of proof in cases where no conviction is involved shall be the preponderance of evidence. If a conviction has been rendered, a certified copy or a filed copy of the conviction from any court of competent jurisdiction shall be conclusive evidence of a violation.
- [19.30.5.8 NMAC - Rp, 19.30.5.8 NMAC, 4-1-2019]

**19.30.5.9 PARTICIPATION REQUIREMENTS AND AUTHORIZATION DISTRIBUTION IN THE SPECIAL MANAGEMENT ZONE:**

- A. Minimum requirements:
- (1) Private lands that lie within the special management zone.
  - (2) Private lands must provide demonstrated occasional elk use to be eligible.
  - (3) Only landowners and ARCs who agree in writing to accept elk on their property will be considered for participation in EPLUS.
  - (4) Landowner and ARC must agree that participation is voluntary. Number of authorizations may vary annually and are based on elk management objectives found in 19.31.14 NMAC. There is no guarantee of a specific number of authorizations issued each year.
  - (5) Any property which is part of a subdivision, village or town that does not allow hunting or restricts the discharge of all sporting arm types will be disqualified from participation in EPLUS. All other properties within a subdivision, village or town will be considered on a case-by-case basis.
- B. Enrollment and initial application:
- (1) Landowners who wish to participate in EPLUS must submit a completed application provided by the department. Applications must include all required documentation as determined by the department and name a single ARC. Only the property owner(s) listed on the recorded deed(s) may submit an initial EPLUS application and assign an ARC. If there are multiple owners listed on the property deed(s), all co-owners must sign an affidavit authorizing one of the owners to be responsible for the initial application.
  - (2) The application must include the most recent recorded property ownership records including property legal descriptions and maps or surveys sufficient to establish the legal landowner(s) and property boundaries.
  - (3) Applications may be submitted at any time.
  - (4) Applications will be reviewed by appropriate department staff so a determination can be made as to the application satisfying the requirements set forth in Subsection A of 19.30.5.9 NMAC. Applications received without all required documentation shall be rejected. Rejected applications may be corrected and resubmitted.

C. Participating ranches:

- (1) All ARCs for participating ranches will receive an agreement annually.
- (2) The annual agreement will list the name, address and phone number of the ARC and the number of deeded acres considered. It will provide the opportunity to request a review of the listed acreage. The agreement will set out the terms for participation. The annual agreement will require the ARC to notify the department of any changes affecting the ranch's enrollment or participation eligibility. The annual agreement must be signed and initialed by the ARC where designated and returned to the department each year. Failure to return the agreement will result in the agreement not being activated for the current license year.
- (3) Any ranch for which rightful ownership or legal representation cannot be determined shall be placed in review until such time as rightful ownership or legal representation is verified. If after one year, adequate documentation of ownership is not provided the ranch will be inactivated.
- (4) Ranches that are sold or transferred to new ownership must apply as required for initial participation.
- (5) Any landowner who requests interventions to eliminate the presence of elk on their participating acreage in accordance with 19.30.2 NMAC shall be placed in review. Should the landowner enter into a depredation agreement with the department, the acreage where depredation response actions are to occur will be inactivated from EPLUS. Exceptions to this may be considered by appropriate department staff on a case-by-case basis.
- (6) Should any landowner or ARC take action pursuant to Section 17-2-7.2 NMSA 1978 the ranch upon which the action occurred shall immediately be inactivated from EPLUS for a period of three years and all unconverted authorizations may be voided.
- (7) All participating ranches will be subject to the requirements found in this section on an annual basis. Any change affecting a ranches qualifications for this program will result in that ranch being re-evaluated to determine if the ranch meets the minimum requirements.

D. Determination of authorizations:

- (1) Authorizations within the special management zone will be determined on a ranch-by-ranch basis and negotiated between the department and the ARC.
- (2) Bag limits, sporting arm type, and season dates will follow the provisions found in 19.31.14 NMAC in the special management zone. Season dates requested outside those found in 19.31.14 NMAC shall be considered on a ranch-by-ranch basis and not conflict with department management goals.
- (3) All authorizations shall be ranch-only and transferrable to other private lands within the specified GMU with written landowner permission. Written permission requirements for access on private property will follow the provisions found in 19.31.10 NMAC.

E. Inactivation:

- (1) A landowner or ARC, along with the ranch shall be inactivated for:
  - (a) providing or permitting misrepresentation of the ranch's participating deeded acreage, ranch ownership or designated ARC; or
  - (b) the landowner or ARC violating Chapter 17 NMSA 1978 or state game commission rules involving licenses converted with the ranch's authorization(s), or being an accessory to the same, regardless of whether the violation occurred on or off the ranch, resulting in a violation(s) that accumulates 20 or more revocation points pursuant to 19.31.2 NMAC on any single individual.
- (2) A landowner or ARC, along with the ranch may be inactivated for breaching or violating any other condition of the EPLUS agreement.
- (3) Upon determination that a violation or breach of Paragraph 1 or Paragraph 2 of this Subsection or any other inactivation provision in 19.30.5.9 NMAC has occurred, the landowner and ARC shall be notified explaining the determination for the inactivation.
- (4) Should the landowner or ARC have multiple properties in EPLUS, all properties may be inactivated from EPLUS and disqualified from participation in department sponsored programs.
- (5) If a ranch is signed up in a co-op, inactivation action(s) may be taken against the co-op in its entirety or individual properties participating that form the co-op and will be considered on a case-by-case basis.
- (6) If the inactivated ranch(s) changes ownership during the disqualification period, the department may consider the ranch for future participation.
- (7) Inactivation from EPLUS and disqualification from department sponsored programs may be for a period up to three years.
- (8) The landowner may request a review that shall be held in accordance with the processes set forth in 19.30.5.12 NMAC. The standard of proof in cases where no conviction is involved shall be the

preponderance of the evidence. If a conviction has been rendered, a certified copy or a filed copy of the conviction from any court of competent jurisdiction shall be conclusive evidence of a violation.

[19.30.5.11 NMAC - Rp, 19.30.5.9 NMAC, 4-1-2019]

**19.30.5.10 PARTICIPATION REQUIREMENTS IN THE SECONDARY MANAGEMENT ZONE:**

- A. Minimum requirements:
  - (1) Private lands that lie within a secondary management zone.
- B. Enrollment process:
  - (1) Land ownership documentation will be required that will verify the ranch lies within a secondary management zone.
  - (2) Requests for a ranch code may be submitted to the department at any time.
  - (3) Ranch ownership must be affirmed on an annual basis.
- C. Bag limits, sporting arm type, and season dates will follow the provisions found in 19.31.14 NMAC in the secondary management zone. Season dates requested outside those found in 19.31.14 NMAC shall be considered on a ranch-by-ranch basis.
- D. Ranches within the secondary management zone will be issued a ranch code annually to identify individual ownership.
- E. A ranch code will be required to purchase a private land elk license for a specific ranch.
- F. All licenses require written permission and shall be valid only on the specified property and transferrable with written permission to other private lands within the specified GMU. Written permission requirements for access on private property will follow the provisions found in 19.31.10 NMAC.

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

**19.30.5.11 SPECIAL MANAGEMENT RANCH:**

- A. In the primary or special management zones, the department may identify unique ranches of any size as a special management ranch.
- B. A department approved conservation plan will be required and developed in conjunction with the landowner and will include habitat improvement, population management, and harvest management goals as a minimum.
  - (1) Alternative season dates, bag limits, sporting arm types, and additional authorizations may be considered for these ranches.
  - (2) Authorizations issued pursuant to these management plans:
    - (a) Shall be ranch only and not transferrable to other private lands;
    - (b) Will be considered based on documented habitat improvements or maintenance of habitat enhancement projects or existing habitat quality;
    - (c) May be as a result of working directly with the department on special projects related to population management or research needs in the GMU; and
    - (d) Shall be allocated to assure elk management goals as stated in 19.31.14 NMAC are sustainable and appropriate within the GMU and on the participating ranch.
  - (3) The conservation plan must be updated and submitted by January 5 on an annual basis to be approved by the department.

[19.30.5.12 NMAC - Rp, 19.30.5.11 NMAC, 4-1-2019]

**19.30.5.12 LANDOWNER RIGHT TO REVIEW:**

- A. Landowners or ARCs for participating ranches shall have the right to request a review of the following:
  - (1) The number of deeded acres.
  - (2) The elk contribution rating assigned to the ranch.
  - (3) The ranch score.
  - (4) A decision by the department that a ranch does not meet the minimum requirements to participate.
  - (5) Other inactivation provisions within 19.30.5 NMAC.
- B. Requests to review deeded acres, ranch score, or the elk contribution rating shall be submitted on the annual agreement.

C. ARCs for newly applying ranches or existing ranches that the department determines do not meet the minimum requirements to participate per commission approved guidelines will be given the opportunity to request a review of the department's finding.

D. All review requests will be submitted to the EPLUS manager and handled in accordance below:

(1) All ranches that the department determines do not meet the minimum participation requirements or have been inactivated for other provisions within 19.30.5 NMAC will be sent a letter explaining the determination along with an objection form explaining documentation requirements.

(2) ARCs who wish to request a review of the department's determination must complete and return the objection form along with all requested documentation within 30 days of the date on the department's letter.

(3) Upon receipt of the requested documentation the department will assign staff to re-evaluate the ranch in question. The department shall have 45 days to complete this evaluation.

(4) If the second evaluation shows the ranch meets the minimum participation requirements or if the inactivation was not warranted the ARC will be sent a follow up letter and the ranch will be allowed to participate in the program.

(5) If, after a second evaluation, it is determined that the ranch still does not meet participation requirements the ARC will be sent a follow up letter explaining the determination.

(6) The ARC may submit a letter to the EPLUS manager requesting a division evaluation should they feel the second decision is in error. The ARC may submit any additional documents or a written statement along with the request for the evaluation. This request and any additional documents must be received by the department within 30 days of the date on the department's second evaluation letter.

(7) A division evaluation will be conducted by the division chief of the wildlife management division or his or her designee(s) and will be designed to ensure that commission approved guidelines and the intent of this rule have been appropriately applied to the ranch in question. A recommendation as to ranch's participation eligibility will be sent to the director.

(8) The ARC will be notified in writing of the determination made by the director within 45 days of the submission of the ARC letter.

(9) The ARC may submit a letter within 30 days of the date on the department's letter regarding the director's decision to the EPLUS manager requesting a commission evaluation should they feel the director's decision is in error.

(10) The commission shall review the director's determination during a scheduled commission meeting. Within 20 days after the commission's decision is rendered and signed by the chairperson of the commission, the department shall provide the ARC with the written determination which will stand as the final decision of the department.

[19.30.5.13 NMAC - Rp, 19.30.5.12 NMAC, 4-1-2019]

### **19.30.5.13 DEPARTMENT RIGHT TO REQUEST UPDATED DOCUMENTATION AND CONDUCT AUDITS:**

A. The department reserves the right to request the submission of complete ownership documentation at any time during the year should an audit determine that documents are missing or participation requirements are in question.

(1) Should necessary documentation be found missing resulting from any audit, the ranch will be placed in review and documents will be requested.

(2) The department request for updated documents may include but is not limited to the most recent recorded property ownership records showing clear ownership and include property legal descriptions and maps or surveys that will establish the legal landowner(s) and property boundaries.

B. Failure to respond to the initial document request shall result in the ranch remaining in review until:

(1) The requested documents are received and verified; and

(2) Authorizations can be issued without affecting the allocation of other participating ranches.

C. If after one year, adequate documentation of ownership is not provided, the ranch will be inactivated.

[19.30.5.14 NMAC - Rp, 19.30.5.13 NMAC, 4-1-2019]

### **HISTORY OF 19.30.5 NMAC:**



**Pre-NMAC History:**

Regulation No. 658, Establishing A System For Allocating Elk Licenses On Private And Public Lands Within Game Management Units, 6-1-88.

Regulation No. 667, Establishing A System For Allocating Elk Licenses On Private And Public Lands Within Game Management Units, 9-1-89.

**NMAC History:**

19.30.5 NMAC, Elk Private Land Use System - Replaced 4-1-2019

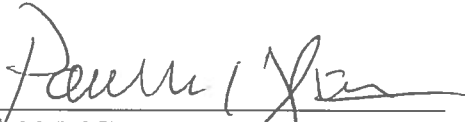
**History of Repealed Material:**

19.30.5 NMAC, Private Land Elk License Allocation, filed January 4, 2001 is hereby repealed and replaced by 19.30.5 NMAC, Private Land Elk License Allocation, effective 10-17-2005.

19.30.5 NMAC, Private Land Elk License Allocation - Repealed 4-1-2019

Dated at Roswell, this 30<sup>th</sup> day of November, 2018.

**STATE GAME COMMISSION**

  
Paul M. Kienzle III, Chairman

**ATTEST:**


  
Michael B. Sloane, Secretary

**CERTIFICATE OF AUTHENTICATION**

State of New Mexico            )  
  ) ss  
County of Chaves                )

I, Michael B. Sloane, Director of the Department of Game and Fish of the State of New Mexico, do hereby certify that the foregoing amendment or rule 19.30.5 NMAC Private Land Elk License Allocation rule is a true copy of said amendment of the State Game Commission of the State of New Mexico; that said amendment has been adopted, signed, and filed in the office of the Director in accordance with Section 17-2-5, New Mexico Statutes Annotated, 1978 Compilation, and in the office of the State Records Center of the State of New Mexico in accordance with Section 14-4-1, New Mexico Statutes Annotated, 1978 Compilation.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the seal of the Director at Roswell, New Mexico, this 30<sup>th</sup> day of November, 2018.

  
Michael B. Sloane, Director



# Transmittal Form

Your Access to Public Information

Volume:  Issue:  Publication Date:  Number of pages:  (ALD Use Only) Sequence No.

Issuing agency name and address:  Agency DFA code:

Contact person's name:  Phone number:  E-mail address:

Type of rule action: (ALD Use Only) Most Recent Filing Date:   
New  Amendment  Repeal  Emergency  Renumber

Title number:  Title name:

Chapter number:  Chapter name:

Part number:  Part name:

Amendment Description (If filing an Amendment):  Amendment's NMAC Citation (If filing an Amendment):

Are there any materials incorporated by reference? Yes  No  Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes  No  Public domain

## Concise Explanatory Statement for rulemaking adoption:

Specific statutory or other authority authorizing rulemaking:

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

### Findings required for rulemaking adoption.

#### Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

The proposal is to adopt a new Private Land Elk License Allocation rule, 19.30.5 NMAC, which will become effective April 1, 2019. The current Private Land Elk License Allocation rule is a permanent rule.  
The new rule creates commission approved guidelines to evaluate properties currently participating in or applying for the Elk Private Land Use System (EPLUS). Properties that do not meet minimum participation requirements based on the guidelines will be removed from the EPLUS program and any property submitting acre changes will be re-evaluated by the guidelines. The new rule also changes the current distribution of private land elk authorizations by running the bonus and 2 year unconverted allocations through the small

Continued on reverse side

**Findings required for rulemaking adoption  
continued**



contributing ranch (SCR) pool first. Further rule changes include removing the draw history system for SCRs and creating a random, weighted draw. It also allows properties in the secondary management zone to purchase private land elk licenses over-the-counter with an assigned ranch code. A more detailed summary, and the full text of changes, is available on the Department's website at: [www.wildlife.state.nm.us](http://www.wildlife.state.nm.us).

There have been no changes between the published proposed rule and the final rule. A wide array of public comments were submitted. To view public comments, please visit [www.wildlife.state.nm.us/commission/meeting-agendas/](http://www.wildlife.state.nm.us/commission/meeting-agendas/) and click on the Hearing Archive tab. It was not possible to incorporate all of the comments into the final rule as many of the comments were mutually exclusive. The resulting rule was based on what was best for the resource and overall hunter satisfaction.

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

**Name:**

Michael B. Sloane

**Check if authority has been delegated**

**Title:**

Director, NMDGF

**Signature: (BLACK ink only)**

**Date signed:**

12/5/18

# NMAC Transmittal Form

Volume:  Issue:  Publication Date:  Number of pages:  (ALD Use Only) Sequence No.

Issuing agency name and address:  Agency DFA code:

Contact person's name:  Phone number:  E-mail address:

Type of rule action: (ALD Use Only) Most Recent Filing Date:   
New  Amendment  Repeal  Emergency  Renumber

Title number:  Title name:

Chapter number:  Chapter name:

Part number:  Part name:

Amendment Description (If filing an Amendment):  Amendment's NMAC Citation (If filing an Amendment):

Are there any materials incorporated by reference? Please list attachments or Internet sites if applicable.  
Yes  No

If materials are attached, has copyright permission been received? Yes  No  Public domain

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Specific statutory or other authority authorizing rulemaking:

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

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**Findings required for rulemaking adoption  
continued**

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There have been no changes between the published proposed rule and the final rule. There were no substantive arguments made through public comment that were not accepted. To view public comments, please visit [www.wildlife.state.nm.us/commission/meeting-agendas/](http://www.wildlife.state.nm.us/commission/meeting-agendas/) and click on the Hearing Archive tab. The resulting rule was based on what was best for the resource and overall hunter satisfaction.

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

**Name:**

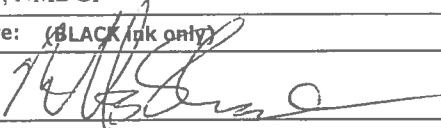
Michael B. Sloane

Check if authority has been delegated

**Title:**

Director, NMDGF

**Signature:** (BLACK ink only)



**Date signed:**

12/5/18

The New Mexico State Game Commission (Department of Game and Fish) approved, at its 11/30/2018 hearing, to repeal its rule 19.30.5 NMAC, Private Land Elk License Allocation, filed 10/3/2005, and to replace it with a new rule 19.30.5 NMAC, of the same name. On November 30, 2018, the Chairman of the State Game Commission adopted the new 19.30.5 NMAC, effective April 1, 2019.