

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 30 WILDLIFE ADMINISTRATION
PART 5 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, 10-17-2005]

19.30.5.2 SCOPE: Landowners who provide meaningful benefit to elk and accept elk on their properties and all elk hunters who wish to recreate on deeded lands or public lands 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.
[19.30.5.2 NMAC - Rp, 19.30.5.2 NMAC, 10-17-2005]

19.30.5.3 STATUTORY AUTHORITY: 17-1-14 and 17-1-26 NMSA 1978 provide the New Mexico game commission with 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, 10-17-2005]

19.30.5.4 DURATION: Permanent.
[19.30.5.4 NMAC - Rp, 19.30.5.4 NMAC, 10-17-2005]

19.30.5.5 EFFECTIVE DATE: October 17, 2005, unless a later date is cited at the end of a section.
[19.30.5.5 NMAC - Rp, 19.30.5.5 NMAC, 10-17-2005]

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 for economic benefit and an appropriate, biologically sound, and effective harvest through sport hunting.
[19.30.5.6 NMAC - Rp, 19.30.5.6 NMAC, 10-17-2005]

19.30.5.7 DEFINITIONS:

A. "Review" is a period of time during which an applicant, or active ranch, may be suspended from participation until the department review concludes that all participation requirements have been met.

B. "Authorized ranch contact" is the person designated by the landowner to be responsible for following procedures including forwarding documents, making changes and updates to the property.

C. "Inactivation" is the New Mexico department of game and fish (department) procedure that immediately stops all issuance of authorizations and eligibility for participation in the program.

D. "Core occupied elk range" shall mean the portion of land within the boundaries of a game management unit (GMU) that is designated by the department as containing the majority of routine and substantial elk use. This shall be the area that elk management goals and subsequent harvest objectives are based on.

E. "Occupied deeded acres" will mean privately owned acres that are within the designated core occupied elk range and occupied by elk.

F. "Private weighted acres" will mean the product of a specific property's occupied deeded acres multiplied by the elk contribution rating assigned to that specific property.

G. "Percent occupied weighted acres" will mean the quotient of a specific property's private weighted acres divided by the total private weighted acres.

H. "Private land authorization certificate" will mean the document generated by the department and issued to a private landowner that authorizes the holder to purchase a specified license to hunt elk.

I. "Percent public land" will mean the percentage of the area within a game management unit designated as core occupied elk range that is public land.

J. "Public land elk opportunity" will mean the portion of the unit's harvest objective translated to public draw licenses.

K. "Percent private land" will mean the percentage of the area within a game management unit designated as core occupied elk range that is private land.

L. "Private land elk opportunity" will mean the portion of the unit's harvest objective translated to private land authorizations.

M. "Elk harvest success rate" will mean the success rate of elk hunters who hunted pursuant to licenses issued through the conversion of private land authorizations and public draw licenses in each game management unit as determined by hunter harvest surveys.

N. "Public land" will mean those lands held by state or public land use agencies.

O. "Ranch" will mean those deeded lands as enrolled in the program.

P. "Ranch-only authorization certificate" will mean a type of private land authorization that allows a person to purchase a license to hunt those deeded lands within the designated ranch exterior boundaries.

Q. "Unit-wide authorization certificate" will mean a type of private land authorization that allows a person to purchase a license to hunt legally accessible public lands and "unit-wide ranches" within the unit.

R. "Unit-wide ranch" will mean a ranch whose owner has selected the unit-wide hunting option on their hunting agreement with the department.

S. "Ranch only ranch" will mean a ranch whose owner has selected the ranch only hunting option on their agreement with the department or whose ranch is located in a unit designated as ranch only.

T. "Elk contribution rating (ECR)" will mean the rating assigned to each ranch based on the contribution a ranch is making to elk as determined by the level and frequency of elk presence on the ranch. The district officer or area game manager shall assign each ranch an "Elk Contribution Rating" based on the following: "occasional elk presence" – ECR of 1, "frequent elk presence" – ECR of 1.25, "continuous elk presence" – ECR of 1.5.

U. "Small contributing property" will mean those ranches that meet the minimum qualifications to participate, but are unable to qualify for authorizations pursuant to the allocation formula based on weighted acreage alone.

V. "Game management unit or GMU" shall mean those areas as described in the state game commission's rule **19.30.4 NMAC Boundary Descriptions for Wildlife Management Areas.**

W. "Meaningful benefit to elk" shall mean properties that lie within the area designated as a core occupied elk range and contain various elk habitat components that are known to be beneficial to elk during some time of the year. Properties that provide "meaningful benefit" to elk must also exhibit physical evidence that elk are present at least occasionally throughout one or more seasons of the year.

[19.30.5.7 NMAC - Rp, 19.30.5.7 NMAC, 10-17-2005]

19.30.5.8 PARTICIPATION REQUIREMENTS:

A. Minimum qualifications:

(1) Private lands that lie within core occupied elk range.

(2) Private lands that provide meaningful benefits to elk, at least occasionally, as determined by the appropriate district officer or game manager.

(3) Only landowners or lessees who agree in writing to accept elk on their property will be considered. Any landowner that files a depredation complaint regarding elk or takes action pursuant to Section 17-2-7.2 NMSA 1978 shall have automatically elected to become ineligible for continued participation in this program. Exceptions to this may be allowed when short-term or unusual circumstances that are typically not associated with the normal presence of elk using land and forage on the property exist. In these instances, if the landowner desires to continue contributing to elk, the department may allow the landowner to continue participating in this system while seeking resolution to the short-term or unusual damage pursuant to the depredation program. Evidence of depredation may be used as documentation of elk presence to ensure the appropriate ECR has been assigned.

(4) Landowner must agree that participation is voluntary, is based on annual variation in habitat and elk populations, and there is no guarantee of a specific number of authorizations issued each year.

(5) All participating properties annually will be subject to the requirements found in this Section.

(6) Private lands that lie within villages, towns or recorded subdivisions with covenants or ordinances that prohibit hunting and/or the discharge of firearms will be ineligible to participate unless part of a combined property choice under Paragraph (8) of Subsection E of 19.30.5.9 NMAC.

(7) Private lands that if hunted, would result in safety concerns as determined by the district officer will be ineligible to participate unless allowed pursuant to a specific agreement containing provisions for minimizing safety concerns.

B. Enrollment process:

(1) Initial application:

(a) Landowners who choose to enroll in the system must submit a completed application form approved by the department. Application must include all documentation requested on application form.

(b) Application must be submitted to the department, hand delivered or post marked, no later than February 1 of each year. Applications received without all required documentation or hand delivered or post marked after February 1 shall be rejected. Rejected applications may be corrected and resubmitted through March 1 to be included that year if the original application was submitted by the February 1 deadline but the applicant mistakenly omitted necessary documentation or a documented family emergency, sickness or death resulted in the application deadline being missed.

(c) Accepted applications will be forwarded by the department to the appropriate area game manager and district officer so that a determination can be made as to the application satisfying the requirements set forth in Subsection A, 19.30.5.8 NMAC.

(d) Properties meeting the requirements set forth in Subsection A, 19.30.5.8 NMAC will be assigned an elk contribution rating and be eligible for authorization certificates pursuant to the processes set forth in Sections 9 and 12 of 19.30.5 NMAC.

(e) Landowners with properties that do not meet the requirements set forth in Subsection A, 19.30.5.8 NMAC will be advised and provided options and alternatives including the right to appeal the department's decision with regard to meeting the minimum requirements for participation.

(f) Area game managers and district officers may place newly enrolling properties on review for a period of time not to exceed 12 months to allow sufficient time to determine if the minimum requirements have been met and assign the proper elk contribution rating.

(2) Participating ranches:

(a) All authorized ranch contacts for participating ranches will receive an agreement and affidavit of ownership form annually.

(b) The agreement and affidavit of ownership form will list the name, address, and phone number of the authorized ranch contact, the number of deeded acres considered, and the elk contribution rating assigned. It will provide the opportunity to appeal the listed acreage and the assigned elk contribution rating and allow for the authorized ranch contact to notify the department of appropriate changes. If changes include the addition or reduction of deeded acreage, a new property boundary map must be submitted with the form. The agreement portion of the form will set out the terms for participation and provide the ability to elect the "ranch only" option.

(c) The agreement and affidavit of ownership form must be signed and initialed where designated and returned to the department via hand delivery or post marked no later than February 1 each year. Failure to meet these requirements will result in the ranch being placed on review until the following year when the process begins again. If circumstances beyond the control of the authorized ranch contact or a documented family emergency, sickness or death, resulted in this deadline being missed, the department may accept completed agreement and affidavit of ownership forms through March 1.

(d) If the department determines there has been a breach of the terms set forth in the agreement, false representation of a property's deeded acreage, rightful ownership, or legal representation of a property, the department shall immediately inactivate the property, void all unconverted authorizations issued to the ranch and the owner or authorized ranch contact will be subject to the processes set forth in 19.31.2 NMAC.

(e) After 2 years of non-receipt of affidavits, the department will inactivate the respective ranch until a new initial application has been submitted by the following February 1 deadline.

(f) Requests to add occupied deeded acreage for the upcoming season must include a map showing the new property boundary and be included with the agreement and affidavit of ownership form submitted by the February 1 deadline.

(g) Properties that are sold or transferred to new ownership must re-apply as required for initial enrollment by the February 1 deadline. The previous owner must report any reduction in acreage resulting from sale or transfer, on their annual affidavit of ownership and provide an updated map documenting the acreage reduction. Properties, or portions of properties, that have been reported by the previous owner as sold or transferred will be considered un-enrolled until the new owners apply as an initial signup.

(h) The department may make reasonable accommodations in circumstances where transfer of ownership occurs after the February 1 deadline.

(i) All participating ranches that the department determines do not meet minimum requirements for participation shall be sent written notice of inactivation in the system for the following license year.

(j) District officers and game managers may adjust the elk contribution rating for any participating ranch annually. In the case an adjustment is warranted, the landowner will be contacted and notified of the rating change.

[19.30.5.8 NMAC – N, 10-17-2005]

19.30.5.9 DETERMINATION AND DISTRIBUTION OF PRIVATE LAND AUTHORIZATIONS AND PUBLIC LAND LICENSES:

A. The department will determine the area considered core occupied elk range within each GMU and will determine the number and kind of hunting opportunities by bag limit and weapon type available in each GMU based on harvest objectives and harvest success rates for that GMU.

B. Public land elk licenses will be set for each unit as follows:

(1) The elk harvest objective for the core occupied elk range of the GMU is divided by the average harvest success rate to derive the total number of elk hunting opportunities.

(2) The total number of elk hunting opportunities multiplied by the proportion of the core occupied elk range that is public land equals the number of public draw elk hunting licenses.

C. Private land elk authorization certificates will be set for each unit as follows: The total number of elk hunting opportunities multiplied by the proportion of the core occupied elk range that is private land equals the number of private land elk authorization certificates.

D. The base number and type of elk authorization certificates per ranch will be set as follows:

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

(2) A ranch's weighted acres divided by total private land weighted acres in the unit's core occupied elk range equals percent occupied ranch weighted acres.

(3) Percent occupied ranch weighted acres multiplied by the number of available private land authorization certificates of each type for the unit equal the number of authorization certificates per ranch.

E. In each GMU, a pool of authorization certificates will be identified as follows:

(1) The number and type of authorization certificates allocated to private lands not enrolled in the system.

(2) The number and type of private land authorization certificates allocated to enrolled properties but not converted to licenses (based on the previous 2 years average if permit levels were similar).

(3) The number and type of authorization certificates that result from the consolidation of the weighted acres of all small contributing properties.

(4) A portion of this pool of authorization certificates may be distributed to small contributing properties pursuant to voluntary participation in a drawing or other equitable distribution process each year.

(5) A portion of this pool of authorization certificates may be distributed to qualifying properties in the form of "bonus" authorization certificates issued pursuant to the allocation formula.

(6) A portion of this pool of authorization certificates may be distributed to specific properties in the form of "incentive" authorization certificates issued in recognition of significant habitat enhancement for elk.

(7) Small contributing ranches that are unable to compete for authorization certificates pursuant to the allocation formula in 19.30.5.9 NMAC may choose to allow their ranch to be enrolled in a drawing for "unit wide" authorization certificates available pursuant to that unit's pool of authorization certificates as described above, enroll in a drawing for "unit wide" authorization certificates from other specified GMUs when such are available, or cooperate with other properties per Paragraph (8) of Subsection E below of this section. Once a small contributing property has been successful in drawing a unit-wide mature bull/antler point restriction authorization certificate for the GMU in which the property participates, it will be ineligible to participate in subsequent drawings for unit wide mature bull/antler point restriction elk authorization certificates in that GMU until such time as all small contributing properties in that GMU have successfully drawn a unit-wide mature bull/antler point restriction elk authorization certificate.

(8) Throughout this allocation process, the department will encourage landowners to cooperate and combine acreage to the extent possible on a willing basis to help them qualify for the most beneficial or useful issuance of authorization certificates.

F. All authorization certificates issued to private lands pursuant to this section will be considered "unit wide" unless otherwise requested by the landowner.

[19.30.5.9 NMAC – N, 10-17-2005]

19.30.5.10 PRIVATE LAND ONLY UNITS

A. In GMUs 46, 47, 54, 55A, 56A, 57, and 58, the department will use input from landowners to develop appropriate numbers and bag limits for ranch-only authorization certificates needed to achieve the desired and proper harvest within the exterior boundaries of participating ranches.

B. In GMUs 4 and 5A, the department will allocate authorizations pursuant to 19.30.5.9 NMAC.

C. All authorizations issued to private lands in GMUs 4, 5A and 46 will be transferable with written permission. Licenses resulting from converting these authorizations will be valid only on the deeded property for which the authorization was issued or other private land in the unit if the license holder has written permission from the landowner, or person in control of the land to hunt the private property except “ranch only” authorizations issued pursuant to Sections 11 and 12 of 19.30.5 NMAC below.
[19.30.5.10 NMAC - N, 10-17-2005]

19.30.5.11 LANDS OUTSIDE THE CORE OCCUPIED ELK RANGE

A. For private lands that are not within core occupied elk range or private lands that lay within GMUs with no designated core occupied elk range, the department may use input from landowners to develop appropriate numbers and bag limits for private land hunting needed to achieve the desired and proper harvest within the exterior boundaries of participating ranches.

B. For public lands in GMUs with no designated core occupied elk range, the department may determine public hunting opportunities through the processes set forth in 19.31.8 NMAC.
[19.30.5.11 NMAC - N, 10-17-2005]

19.30.5.12 SPECIAL MANAGEMENT PROPERTIES: In all GMUs, the department may treat specifically identified or unique properties of any practical size as special management areas and allocate authorization certificates to these properties based on a required elk conservation ranch management plan developed in conjunction with the landowner and approved by the department. authorization certificates issued pursuant to these management plans shall be ranch only authorization certificates, will be calculated based on habitat benefits and associated elk opportunity accrued, and will be in addition to those allocated for public and private hunters in the GMU. Deadline for management plans to be completed and approved will be April 15th each year. Properties that elect to participate pursuant to this Section shall be ineligible for any appeal process.
[19.30.5.12 NMAC - N, 10-17-2005]

19.30.5.13 LANDOWNER RIGHT TO APPEAL:

A. Landowners shall have the right to appeal only the following:
(1) The number of deeded acres of elk occupied range.
(2) The elk contribution rating assigned to the property.
(3) A decision by the department that a property does not meet the minimum requirements to participate.

B. Appeals based on deeded acres or the elk contribution rating shall be submitted with the annual affidavit.

C. Appeals for newly enrolling properties that are based on failure to meet the minimum requirements to participate shall be submitted to the department in writing and post marked no later than April 1.

D. The department may take the necessary amount of time needed to properly consider any appeals, but no more than 12 months.

E. In all cases of appeal, the landowner shall be responsible for providing the appropriate documentation, photographic or physical proof required substantiating the claim.

F. All participating ranches that the department determines do not meet minimum requirements for participation shall be sent written notice of inactivation in the system for the following license year. These ranches shall be afforded the opportunity to appeal this decision by submission of documentation, photographic or physical evidence proving the minimum requirements have been met. The department must receive these appeals post marked or hand delivered no later than August 1 each year. Properties that appeal a decision by the department that their property does not meet the minimum requirements will be afforded the necessary amount of time needed to provide the department with photographic or physical confirmation of their property’s contribution to elk, but no more than 12 months.

G. All appeals will be made to the respective area chief. If an appeal is not resolved at the area chief level, the landowner may request a hearing conducted by a panel consisting of the director and 3 game commissioners, appointed by the chairman of the state game commission. The commission representatives on the panel should reflect commissioner districts and geographic areas of elk range. Recommendations of this panel shall be provided to the director, whose decision shall be based on the panel’s recommendation. The decision of the director shall be final pursuant to 17-3-14.1 NMSA 1978. All requests for hearings must be made no later than April 1 of each year.
[19.30.5.13 NMAC - N, 10-17-2005]

19.30.5.14 DEPARTMENT RIGHT TO REQUEST UPDATED DOCUMENTATION AND CONDUCT AUDITS. The department reserves the right to request the submission of complete ownership documentation, including but not limited to deeds and tax valuation and legal description, at any time during the year. Each request shall consist of a telephone notification and a written request. Each notification shall include a reasonable deadline for compliance and any failure to comply shall result in the property being placed on review until such time as the department receives the requested documentation and the property can be issued authorizations without affecting allocations to other participating properties.
[19.30.5.14 NMAC - N, 10-17-2005]

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.

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.