

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

The New Mexico State Game Commission (“Commission”) has scheduled a regular meeting and rule hearing for Thursday January 17, 2020, beginning at 9:00 a.m. at the Farm and Ranch Heritage Museum, 4100 Dripping Springs Rd, Las Cruces, NM, 88011 to hear and consider action as appropriate on the following: 1) presentation of proposed new Fair Chase rule.

Synopsis:

The proposal is to adopt a new Fair Chase rule, 19.30.18 NMAC, which will become effective February 11, 2020.

The proposed new Fair Chase rule will allow the Department to withhold data that could be used to locate a wild animal or be used contrary to the principles of fair chase. This includes location information from: 1) any live animal with a transmitter; 2) animals included in an ongoing study; 3) animals that may have limited distribution; 4) animals that could encourage illegal take or compromise a population’s viability; 5) studies conducted by other agencies or researchers; and 6) VHF frequencies of the aforementioned animals. Any location that is disclosed may be buffered so that the information will not compromise the individual or population. Location data may be provided if an agreement is entered into for scientific, management, conservation, or educational purposes.

A full text of changes will be available on the Department’s website at: www.wildlife.state.nm.us. Interested persons may submit comments on the proposed changes to the Fair Chase rule at: Elise.Goldstein@state.nm.us, or individuals may submit written comments to the physical address below. Comments are due by 9:00 a.m. on January 16, 2020. The final proposed rule will be voted on by the Commission during a public meeting on January 17, 2020. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearing to be held on January 17, 2020.

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.



Initial Proposed Rule

TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 30 WILDLIFE ADMINISTRATION PART 18 FAIR CHASE

19.30.18.1 ISSUING AGENCY: New Mexico department of game and fish.
[19.30.18.1 NMAC – N, 2/11/2020]

19.30.18.2 SCOPE: Distribution and use of wildlife location data collected by the department of game and fish or its contractors.
[19.30.18.2 NMAC – N, 2/11/2020]

19.30.18.3 STATUTORY AUTHORITY: Section 17-2-1 NMSA 1978 provides that the New Mexico state game commission may prescribe rules that embody the principles of fair chase, including prohibitions on the use of specific wildlife location data. Sections 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 species.
[19.30.18.3 NMAC – N, 2/11/2020]

19.30.18.4 DURATION: Permanent.
[19.30.18.4 NMAC – N, 2/11/2020]

19.30.18.5 EFFECTIVE DATE: December 17, 2019,(whatever the next posting date after Jan 17) unless a later date is cited in the history note at the end of a section.
[19.30.18.5 NMAC – N, 2/11/2020]

19.30.18.6 OBJECTIVE: To prevent the inappropriate distribution and use of wildlife location data collected by the department or its contractors that could be used to locate or assist in locating an individual animal or population.
[19.30.18.6 NMAC – N, 2/11/2020]

19.30.18.7 DEFINITIONS:

- A. **“Department”** shall mean the New Mexico department of game and fish.
 - B. **“Director”** shall mean the director of the New Mexico department of game and fish
 - C. **“Fair chase”** shall mean the ethical, sportsmanlike, and lawful pursuit and taking of any free-ranging wildlife species in a manner that does not give an individual an improper advantage over such animals.
 - D. **“Location information”** shall mean any data or information derived from methods including but not limited to Global Positioning System (GPS), radio telemetry, photographs, aerial and ground surveys, and visual or aural observation. Such data includes, but is not limited to, coordinates, location description, and similar information.
- [19.30.18.7 NMAC – N, 2/11/2020]

19.30.18.8 LOCATION INFORMATION TO BE WITHHELD:

EXHIBIT

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- A.** The department shall withhold location information:
- (1) that could be used to locate an animal(s) or be used contrary to the principles of fair chase;
 - (2) as long as a transmitter is active;
 - (3) until the transmitted animal is known, or can be reasonably be assumed, to be dead;
 - (4) during an ongoing study;
 - (5) if it could compromise the viability of a population where there is a known demand to visit, take, or disturb the species;
 - (6) if it could encourage illegal take;
 - (7) if the species has a limited distribution either continuously or at specific times;
 - (8) that has been provided to the department from other agencies, universities, or other researchers; and
 - (9) as provided in 19.33.4 NMAC.

B. The department shall withhold individual active radio frequencies.
[19.30.18.8 NMAC – N, 2/11/2020]

19.30.18.9 EXEMPTIONS FROM WITHHOLDING LOCATION INFORMATION:

The department may release location information and radio frequencies if:

- A.** entering into agreements for scientific, management, conservation, or educational purposes.
- B.** determined that the individual or population is not at risk of being compromised by releasing the location data.
- C.** buffered such that the location information would not compromise the individual or population.

[19.30.18.9 NMAC – N, 2/11/2020]

HISTORY OF 19.30.18 NMAC: [RESERVED]

Final Adopted Rule

2020 JAN 24 AM 10: 39

TITLE 19 **NATURAL RESOURCES AND WILDLIFE**
CHAPTER 30 **WILDLIFE ADMINISTRATION**
PART 18 **FAIR CHASE**

19.30.18.1 **ISSUING AGENCY:** New Mexico department of game and fish.
[19.30.18.1 NMAC – N, 2/11/2020]

19.30.18.2 **SCOPE:** Distribution and use of wildlife location data collected by the department of game and fish or its contractors.
[19.30.18.2 NMAC – N, 2/11/2020]

19.30.18.3 **STATUTORY AUTHORITY:** Section 17-2-1 NMSA 1978 provides that the New Mexico state game commission may prescribe rules that embody the principles of fair chase, including prohibitions on the use of specific wildlife location data. Sections 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 species.
[19.30.18.3 NMAC – N, 2/11/2020]

19.30.18.4 **DURATION:** Permanent.
[19.30.18.4 NMAC – N, 2/11/2020]

19.30.18.5 **EFFECTIVE DATE:** February 11, 2020, unless a later date is cited in the history note at the end of a section.
[19.30.18.5 NMAC – N, 2/11/2020]

19.30.18.6 **OBJECTIVE:** To prevent the inappropriate distribution and use of wildlife location data collected by the department or its contractors that could be used to locate or assist in locating an individual animal or population.
[19.30.18.6 NMAC – N, 2/11/2020]

19.30.18.7 **DEFINITIONS:**

- A.** **“Department”** shall mean the New Mexico department of game and fish.
- B.** **“Director”** shall mean the director of the New Mexico department of game and fish.
- C.** **“Fair chase”** shall mean the ethical, sportsmanlike, and lawful pursuit and taking of any free-ranging wildlife species in a manner that does not give an individual an improper advantage over such animals.
- D.** **“Location information”** shall mean any data or information derived from methods including but not limited to Global Positioning System (GPS), radio telemetry, photographs, aerial and ground surveys, and visual or aural observation. Such data includes, but is not limited to, coordinates, location description, and similar information.

[19.30.18.7 NMAC – N, 2/11/2020]

19.30.18.8 **LOCATION INFORMATION TO BE WITHHELD:**

- A.** The department shall withhold location information:
 - (1) that could be used to locate an animal(s) or be used contrary to the principles of fair chase;
 - (2) as long as a transmitter is active;
 - (3) until the transmitted animal is known, or can be reasonably be assumed, to be dead;
 - (4) during an ongoing study;
 - (5) if it could compromise the viability of a population where there is a known demand to visit, take, or disturb the species;
 - (6) if it could encourage illegal take;
 - (7) if the species has a limited distribution either continuously or at specific times;
 - (8) that has been provided to the department from other agencies, universities, or other researchers; and
 - (9) as provided in 19.33.4 NMAC.
- B.** The department shall withhold individual active radio frequencies.

[19.30.18.8 NMAC – N, 2/11/2020]

19.30.19 EXEMPTIONS FROM WITHHOLDING LOCATION INFORMATION: The department may release location information and radio frequencies if:

- A.** entering into agreements for scientific, management, conservation, or educational purposes.
- B.** determined that the individual or population is not at risk of being compromised by releasing the location data.
- C.** buffered such that the location information would not compromise the individual or population.

[19.30.18.9 NMAC – N, 2/11/2020]

HISTORY OF 19.30.18 NMAC: [RESERVED]

NMAC Transmittal Form

NEW MEXICO 
Commission of Public Records
at the State Records Center and Archives
Your Access to Public Information

2020 JAN 24 AM 10:38

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 Emergency Renumber (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

Specific statutory or other authority authorizing rulemaking:

Notice date(s):

Hearing date(s):

Rule adoption date:

Rule effective date:

2020 JAN 24 AM 10: 39

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

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

The rulemaking was undertaken to adopt a new Fair Chase rule, 19.30.18 NMAC, which will become effective February 11, 2020. This is a new rule.

This rule was created as directed by HB 383 which was signed by the Governor in 2019. The rule allows the Department to withhold data that could be used to locate a wild animal or be used contrary to the principles of fair chase. This includes location information from: 1) any live animal with a transmitter, regardless of if the transmitter is active; 2) animals included in an ongoing study; 3) animals that may have limited distribution; 4) animals that could encourage illegal take or compromise a population's viability; 5) studies conducted by other agencies or researchers; and 6) VHF frequencies of the aforementioned animals. Any location that is disclosed may be buffered so that the information will not compromise the individual or population. Location data may be provided if an agreement is entered into for scientific, management, conservation, or educational purposes.

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/ 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

Signature: (BLACK ink only)



Date signed:

1/21/2020

Fair Chase Rule Development



January 17, 2020
New Mexico State Game Commission Meeting
Las Cruces, NM

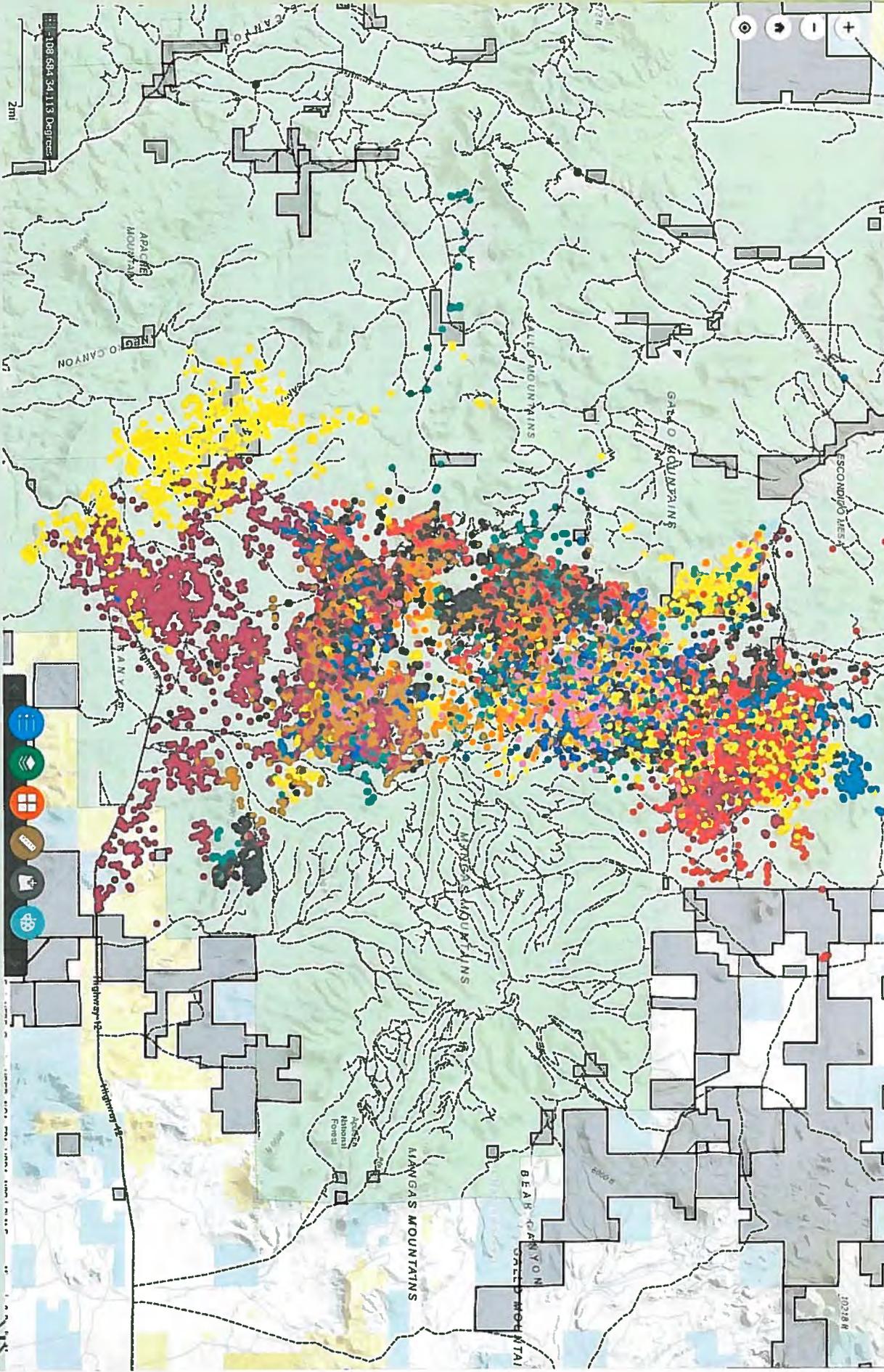
Wildlife Management Division

EXHIBIT

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Senate Bill 383

- Authorizes the Commission to prescribe rules that embody the principals of fair chase.
- Prohibits distribution of wildlife location data collected by the Department



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Proposed Rule

Withhold location data as long as

- a transmitter is active
- the animal is alive
- there is an ongoing study
- the data could reasonably predict the animal's current or future location
- the data would provide a hunter with an advantage contrary to fair chase principals

Proposed Rule

Withhold location data

- from aerial and ground surveys
- that could compromise the viability of a population
- that could encourage illegal take
- when the species has a very limited distribution either continuously or at specific times
- provided to the Department from other researchers

Proposed Rule

- Withhold radio frequencies of active transmitters
- Buffer location data to a polygon applicable to the species
- Allow data to be shared with university researchers and wildlife management agencies

Public Comments

- 2 comments were made at previous Commission meetings
 - One in support of the new rule
 - One offering additional information on concept of fair chase

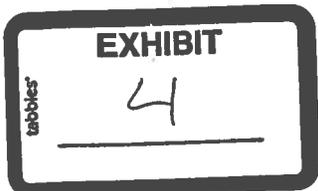


Questions



NEW FAIR CHASE RULE PROPOSAL SUMMARY 2020
Updated December 2, 2019

This rule is being created as directed by HB 383 which was signed by the Governor in 2019. The rule will allow the Department to withhold data that could be used to locate a wild animal or be used contrary to the principles of fair chase. This includes location information from: 1) any live animal with a transmitter, regardless of if the transmitter is active; 2) animals included in an ongoing study; 3) animals that may have limited distribution; 4) animals that could encourage illegal take or compromise a population's viability; 5) studies conducted by other agencies or researchers; and 6) VHF frequencies of the aforementioned animals. Any location that is disclosed may be buffered so that the information will not compromise the individual or population. Location data may be provided if an agreement is entered into for scientific, management, conservation, or educational purposes.



ORIGINAL HOUSE
BILL NO. HB0006

ENROLLED ACT NO. 53, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2018 BUDGET SESSION

AN ACT relating to public records; limiting public inspection of details of research projects and of sensitive wildlife location data as specified; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 16-4-203(b)(iii) and by creating a new paragraph (viii) is amended to read:

16-4-203. Right of inspection; grounds for denial; access of news media; order permitting or restricting disclosure; exceptions.

(b) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:

(iii) The specific details of bona fide research projects being conducted by a state institution, agency or any other person;

(viii) Sensitive wildlife location data in the custody of the game and fish department which could be used to determine the specific location of an individual animal or a group of animals.



ORIGINAL HOUSE
BILL NO. HB0006

ENROLLED ACT NO. 53, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2018 BUDGET SESSION

Section 2. This act is effective July 1, 2018.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk

RCW 42.56.430**Fish and wildlife. (Effective until June 30, 2022.)**

The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this information may be released to government agencies concerned with the management of fish and wildlife resources;

(2) Sensitive fish and wildlife data. Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may be released to tribal governments. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data must be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in RCW 77.12.885. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife:

(a) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(b) Radio frequencies used in, or locational data generated by, telemetry studies; or

(c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;

(ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable;

(iii) There is a known demand to visit, take, or disturb the species; or

(iv) The species has an extremely limited distribution and concentration;

(3) The following information regarding any damage prevention cooperative agreement, or nonlethal preventative measures deployed to minimize wolf interactions with pets and livestock:

(a) The name, telephone number, residential address, and other personally identifying information of any person who has a current damage prevention cooperative agreement with the department, including a pet or livestock owner, and his or her employees or immediate family members, who agrees to deploy, or is responsible for the deployment of, nonlethal, preventative measures; and

(b) The legal description or name of any residential property, ranch, or farm, that is owned, leased, or used by any person included in (a) of this subsection;

(4) The following information regarding a reported depredation by wolves on pets or livestock:

(a) The name, telephone number, residential address, and other personally identifying information of:

(i) Any person who reported the depredation;

(ii) Any pet or livestock owner, and his or her employees or immediate family members, whose pet or livestock was the subject of a reported depredation; and

(iii) Any department of fish and wildlife employee, range rider contractor, or trapper contractor who directly:

(A) Responds to a depredation; or

(B) Assists in the lethal removal of a wolf; and

(b) The legal description, location coordinates, or name that identifies any residential property, or ranch or farm that contains a residence, that is owned, leased, or used by any person included in (a) of

this subsection;

(5) The personally identifying information of persons who acquire recreational licenses under RCW **77.32.010** or commercial licenses under chapter **77.65** or **77.70** RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

- (a) Government agencies concerned with the management of fish and wildlife resources;
- (b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW **77.32.014** and **46.20.291**; and
- (c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW **9.41.040**;

(6) Information that the department of fish and wildlife has received or accessed but may not disclose due to confidentiality requirements in the Magnuson-Stevens fishery conservation and management reauthorization act of 2006 (16 U.S.C. Sec. 1861(h)(3) and (i), and Sec. 1881a(b));

(7) The following tribal fish and shellfish harvest information, shared with the department of fish and wildlife:

- (a) Fisher name;
- (b) Fisher signature;
- (c) Total harvest value per species;
- (d) Total harvest value;
- (e) Price per pound; and
- (f) Tribal tax information; and

(8) The following commercial shellfish harvest information, shared with the department of fish and wildlife:

- (a) Individual farmer name;
- (b) Individual farmer signature;
- (c) Total harvest value per species;
- (d) Total harvest value;
- (e) Price per pound; and
- (f) Tax information.

[**2018 c 214 § 1**. Prior: **2017 c 246 § 1**; **2017 c 71 § 1**; **2008 c 252 § 1**; **2007 c 293 § 1**; **2005 c 274 § 423**.]

NOTES:

Expiration date—2018 c 214 § 1: "Section 1 of this act expires June 30, 2022." [**2018 c 214 § 3**.]

Expiration date—2017 c 246: "This act expires June 30, 2022." [**2017 c 246 § 4**.]

RCW 42.56.430

Fish and wildlife. (*Effective June 30, 2022.*)

The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW **77.12.047**, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this information may be released to government agencies concerned with the management of fish and wildlife resources;

(2) Sensitive fish and wildlife data. Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may be released to tribal governments. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data must be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in RCW **77.12.885**. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife:

(a) The nesting sites or specific locations of endangered species designated under RCW **77.12.020**, or threatened or sensitive species classified by rule of the department of fish and wildlife;
 (b) Radio frequencies used in, or locational data generated by, telemetry studies; or
 (c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;
 (ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable;
 (iii) There is a known demand to visit, take, or disturb the species; or
 (iv) The species has an extremely limited distribution and concentration;

(3) The personally identifying information of persons who acquire recreational licenses under RCW **77.32.010** or commercial licenses under chapter **77.65** or **77.70** RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

(a) Government agencies concerned with the management of fish and wildlife resources;
 (b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW **77.32.014** and **46.20.291**; and
 (c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW **9.41.040**;

(4) Information that the department of fish and wildlife has received or accessed but may not disclose due to confidentiality requirements in the Magnuson-Stevens fishery conservation and management reauthorization act of 2006 (16 U.S.C. Sec. 1861(h)(3) and (i), and Sec. 1881a(b));

(5) The following tribal fish and shellfish harvest information, shared with the department of fish and wildlife:

- (a) Fisher name;
- (b) Fisher signature;
- (c) Total harvest value per species;
- (d) Total harvest value;
- (e) Price per pound; and
- (f) Tribal tax information; and

(6) The following commercial shellfish harvest information, shared with the department of fish and wildlife:

- (a) Individual farmer name;
- (b) Individual farmer signature;
- (c) Total harvest value per species;
- (d) Total harvest value;
- (e) Price per pound; and
- (f) Tax information.

[2018 c 214 § 2; 2017 c 71 § 1; 2008 c 252 § 1; 2007 c 293 § 1; 2005 c 274 § 423.]

NOTES:

Effective date—2018 c 214 § 2: "Section 2 of this act takes effect June 30, 2022." [2018 c 214 § 4.]

1 AN ACT

2 RELATING TO THE STATE GAME COMMISSION; AMENDING THE
3 COMMISSION'S POWERS TO INCLUDE RULEMAKING RELATING TO THE
4 PRINCIPLES OF FAIR CHASE.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 SECTION 1. Section 17-2-1 NMSA 1978 (being Laws 1931,
8 Chapter 117, Section 3, as amended) is amended to read:

9 "17-2-1. COMMISSION POWERS.--The state game commission,
10 in addition to the powers now vested in it and not as a
11 limitation of those powers, is expressly authorized and
12 empowered by regulation adopted and promulgated in the manner
13 provided in Chapter 17 NMSA 1978 to:

14 A. define game birds, game animals and game fish;

15 B. establish open and closed seasons for the
16 killing or taking of all kinds of game animals, game birds
17 and game fish and to change such open seasons from year to
18 year and to fix different seasons for different parts of the
19 state;

20 C. establish bag limits covering all kinds of game
21 animals, game birds and game fish and the numbers thereof
22 which may be killed or taken by any one person during any one
23 day or during any one open season;

24 D. authorize or prohibit the killing or taking of
25 any game animals, game birds or game fish of any kind or sex;

1 E. prescribe the manner, methods and devices that
2 may be used in hunting, taking or killing game animals, game
3 birds and game fish;

4 F. prescribe rules to prohibit any vehicle or
5 vehicles used in transporting persons engaged in hunting,
6 taking or killing game animals, game birds and game fish from
7 leaving established roadways;

8 G. prescribe rules that embody the principles of
9 fair chase, which rules may include prohibitions on the use
10 of certain technologies for hunting or fishing and specific
11 wildlife location data that is collected by the department of
12 game and fish or its contractors; and

13 H. appoint one or more advisory committees to
14 furnish advice, evaluations and recommendations for wildlife
15 management projects utilizing revenue derived from the sale of
16 public land management stamps. The advisory committees shall
17 be created pursuant to the procedures of Section 9-1-9 NMSA
18 1978, provided that the restrictions on the life of advisory
19 committees contained in Subsection F of that section shall not
20 apply."

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NEW MEXICO STATE GAME COMMISSION
Friday, January 17, 2020
Farm & Ranch Heritage Museum, Ventanas Room
4100 Dripping Springs Road
Las Cruces, NM 88011

APPEARANCES:

Madame Chair Sharon Salazar Hickey
Commissioner Jimmy Bates
Vice-Chair Roberta Salazar-Henry
Commissioner David Soules
Commissioner Tirzio Lopez
Commissioner Jeremy Vesbach
Commissioner Gail Cramer

1 MADAME VICE CHAIR SALAZAR-HENRY: Good
2 morning everybody, welcome to Las Cruces. For those
3 of you who went through the snow and ice to get here,
4 I appreciate you taking the time to do this and I
5 appreciate everybody who lives in Las Cruces for
6 taking the time to come to this meeting. The first
7 thing we're going to do this morning is go ahead and
8 call the roll. Mr. Secretary?

9 DIRECTOR SLOAN: Commissioner Bates?

10 COMMISSIONER BATES: Here.

11 DIRECTOR SLOAN: Commissioner Cramer?

12 COMMISSIONER CRAMER: Here.

13 DIRECTOR SLOAN: Commissioner Lopez?

14 COMMISSIONER LOPEZ: Here.

15 DIRECTOR SLOAN: Commissioner Salazar-

16 Hickey?

17 COMMISSIONER SALAZAR HICKEY: Here.

18 DIRECTOR SLOAN: Commissioner Soules?

19 COMMISSIONER SOULES: Here.

20 DIRECTOR SLOAN: Commissioner Vesbach?

21 COMMISSIONER VESBACH: Here.

22 DIRECTOR SLOAN: Ms. Salazar-Henry?

23 MADAME VICE-CHAIR SALAZAR-HENRY: Here.

24 DIRECTOR SLOAN: We have a quorum.

25 MADAME VICE CHAIR SALAZAR-HENRY: Thank

1 you. We'll move on to agenda, item number three,
2 approval of the agenda. Are there any comments, any
3 additions to listen from the commission's body?

4 COMMISSIONER VESBACH: Madame Vice Chair --

5 MADAME VICE CHAIR SALAZAR-HENRY: Yes,
6 Commissioner Vesbach?

7 COMMISSIONER VESBACH: I'd like to make a
8 motion to move one agenda item. What I would like to
9 do is move agenda item number 13, the workshop around
10 the e-plus system.

11 MADAME VICE CHAIR SALAZAR-HENRY: No.

12 COMMISSIONER VESBACH: Okay, I apologize.
13 It's actually, it's agenda number twelve, to right
14 after the lunch break. The reasoning for that is
15 that we -- you know, there's a high interest in this
16 issue and we want to -- I believe we've tried really
17 hard to be accommodating to the public and their
18 schedules and people who need to get back to work, so
19 if it's after lunch, people can know when that is and
20 know that they can go leave if they want to, after
21 they comment. So, with that, I would like to make a
22 motion to move agenda item number, the E-Plus Hearing
23 to right after the lunch break.

24 MADAME VICE CHAIR SALAZAR-HENRY: Do I have a
25 second?

1 MS. SALAZAR-HICKEY: Motion to adopt the rules.

2 UNKNOWN: Second.

3 MS. SALAZAR-HICKEY: Very good. May I have aye
4 in favor?

5 COMMISSIONERS: Aye.

6 MS. SALAZAR-HICKEY: Any nays? Motion passes.

7 Okay. Moving on -- oh, thank you. So moving
8 on to the next agenda item is the public rule. So
9 it is the hearing -- it's my responsibility to
10 protect the worker, making sure that only one
11 person speaks at a time. The record is all that
12 matters on appeal, so if something is not on record
13 then it does not exist to the judge. Make sure
14 that gestures are entered into the record. For
15 example, let the record reflect that, A, or
16 somebody nodded, and that means a yes. I think a
17 few minutes ago, I was using my head quite a bit so
18 I'm going to try and get rid of that, and just use
19 a lot of words.

20 And make sure that each person addressing the
21 Board identifies him or herself for the record each
22 time you address the Board. And getting back to
23 the spirit of this hearing, respect, listen. Let's
24 not be argumentative. Let's hear what everybody
25 has to say. Do not permit the hearing to become

1 argumentative. Okay?

2 The Board will have an opportunity to discuss
3 the entire record, including exhibits and testimony
4 during its meeting after the rule hearing is closed
5 at which time there will be no right for members of
6 the public to cross-examine or question members of
7 the Board. Statements of support, rationale, and
8 even response to negative feedback can be provided
9 by the Board while considering adoption of the
10 proposed rules during its subsequent Board meeting.

11 Okay. So with that said, this hearing will
12 please come to order.

13 Yes. My name is Sharon Salazar Hickey. I
14 will be serving as the hearing officer for this
15 portion of the meeting. And be advised by the
16 Commission's counsel from the Office of the
17 Attorney General. The purpose of this hearing is
18 for consideration of final adoption of the
19 following proposed rule by the Commission.

20 The hearing item is, one, for the Commission
21 to receive public comment on the proposed new Fair
22 Chase Rule, Title 19, Chapter 30, Part 18 of the
23 New Mexico Administrative Code. The Fair Chase
24 Rule will become effective on February 11th, 2020.

25 These hearings are being conducted in

1 accordance with the provisions of the Game & Fish
2 Act and the State Rules Act. These hearings are
3 being audiotaped, thank you, and video recorded.
4 Anyone interested in a copy of the audiotape or
5 video recording should contact Tristanna Bickford
6 with the Game & Fish Department.

7 Public notice of this hearing was advertised
8 in the New Mexico Registrar, the New Mexico
9 Sunshine Portal, and on the Department's website.
10 Copies of the proposed new rules have been
11 available on the Department's website. Those
12 wishing to comment here today, please sign the
13 attendance sheet at the back of the room, which
14 will later be entered into the record as an
15 exhibit.

16 These -- now an explanation of our hearing
17 procedures. These rule hearings will be conducted
18 in the following manner: staff will present
19 prefiled exhibits. Exhibits admitted into evidence
20 are available for review by the public but exhibits
21 may not be removed from this room. After all
22 exhibits are entered, we will proceed to the
23 presentation of the proposed rule after which
24 testimony will be taken from the audience.

25 In order to make sure that the hearing is

1 accurately recorded, only one person at a time
2 shall be allowed to speak. Any person recognized
3 to speak is asked to, one, identify yourself by
4 name and who you are affiliated with for the record
5 each time you are recognized. And two, speak
6 loudly and clearly to accurately record your
7 comments. After a person has offered comment, they
8 will stand for questions from me, and the audience
9 may also ask questions of anyone offering comments
10 after being recognized by me. These hearings are
11 not subject to judicial rules of evidence. We're
12 not in court. However, in the interest of
13 efficiency, I reserve the right to limit any
14 testimony deemed irrelevant, redundant, or unduly
15 repetitious.

16 The Commission may discuss the proposed new
17 rules after the public comment portion of the
18 hearing. Final Commission action, including
19 adoption of the rules, may occur after the
20 conclusion of the presentation and public comment
21 period.

22 Okay. Any questions? So far so good? Okay.

23 Now moving on to item number 1A, rule making
24 hearing on Fair Chase Rule, 19.30.18 NMAC. The
25 hearing is now open.

1 Are there any exhibits for a proposed meeting
2 rule 219.30.18 for the record?

3 DIRECTOR SLOAN: Chair, I'd like to enter six
4 exhibits into the record. Exhibit 1, the notice of
5 rule making; Exhibit 2, the initial proposed rule
6 that was posted on the website; Exhibit 3, the
7 presentation that will be given today to you all;
8 Exhibit 4, the summary of the proposed rule;
9 Exhibit 5, the technical information we relied upon
10 to develop the rule; and Exhibit 6, the two public
11 comments that we received during the public comment
12 period.

13 MADAME VICE CHAIR SALAZAR-HENRY: Thank you.

14 CHIEF LILEY: So, Madame Chair, Members of the
15 Commission, for some of you this is the first time
16 you've seen this. For others of you, this is the
17 third time that we've presented this in front of
18 the Commission for final adoption. Some of the
19 background on this is in the last legislative
20 session, Senate Bill 383 authorized the Commission
21 to create rules that embody the principles of Fair
22 Chase. It's for the body -- the principles of Fair
23 Chase where it doesn't give an undue advantage to
24 sportsman and the taking of wildlife.

25 Really, what the specifics of that legislation

1 did was also prohibit the distribution of wildlife
2 location data, that we as the Department collect,
3 our contractor's collect on behalf of wildlife
4 management. Why we need that specific provision in
5 the statute was under the inspection of public
6 records acts, those are free information currently,
7 but we needed a statutory provision that would
8 allow us to prohibit the distribution of that data.

9 We went through, and a background of why we
10 want to prohibit it, some of the technology that's
11 been developed over the last five to ten years that
12 we use to get more accurate information on how
13 animals use the landscape allows us to collect
14 location data from a GPS collar placed on these
15 animals at sometimes frequencies of every 15
16 minutes and uploading to the satellites every hour
17 and then downloading to our computer. So we have
18 realtime knowledge of about how animals move across
19 the landscape, how they use it, what habitats they
20 select for, why they're avoiding certain areas, why
21 they're selecting other areas to better manage
22 those populations.

23 However, as you can see, if we were to release
24 that information to the public for a hunting
25 purpose, someone would have an unfair or undue

1 advantage over those animals in terms of a hunting
2 perspective. They'd know exactly how those animals
3 work on the landscape, where they are, et cetera,
4 and so it would increase take against their animal
5 from the harvest.

6 But not only on the legal takes, we also worry
7 about illegal take. We have species that are
8 caused by either a state threatened or endangered
9 or federally endangered or threatened that are
10 wearing these transmitters as well. Some of them
11 have collection value such as the State Gila
12 Monster, et cetera, or Tarmigan, or those kind of
13 things where we want to prohibit the use of that
14 data for illegal collection of those animals as
15 well.

16 So as we went through the rule process, we
17 went back, because with you all and the public,
18 again, we discussed we only received two public
19 comments during the rule making process. That was
20 at one of the first meetings that we had. That was
21 at the Santa Fe meeting. We didn't actually
22 receive any through the website. But one of the
23 biggest things that we came up was we would
24 prohibit the release of the data while there's an
25 active transmitter on it.

1 If the animal is alive or if there's an
2 ongoing study around those animals we'd prohibit
3 the release of that data. We would then also
4 prohibit if it reasonably can predict where the
5 animal's current or future location would be. And
6 like I said, it would be contrary to the principles
7 of Fair Chase.

8 The other thing that you'll see in the
9 proposed rule is it limits data collected from our
10 aerial or ground survey. So we do a lot of
11 population surveys either with helicopters or
12 planes or ground surveys where we're taking a GPS
13 location of where we sighted those animals. For
14 example, we've had requests that come in when we
15 land a helicopter after an elk survey to get all
16 the GPS locations as soon as we land on a specific
17 GMU for hunting purposes. So this would prohibit
18 the release of that data now, or anything that
19 could compromise the viability of a population.
20 For example, if we have known den locations for
21 bears or some of them, they den back at the same
22 location every year, we would prohibit the release
23 of some of that location, something that would
24 encourage a legal take.

25 And then it varies by species depending

1 on -- excuse me, depending on their distribution
2 across the land today. We would also prohibit the
3 release of data that we receive from either
4 contract researchers or universities that we work
5 in cooperation in so that data would stay
6 protected. We would -- we would propose keeping
7 that data while the transmitters and frequencies
8 are active.

9 But one of the things that we are proposing
10 doing, you'll see in the rule, is we could buffer
11 that data to where we don't think it would be a
12 risk. So if we went back to that first example of
13 those individual points on that map, we could
14 buffer, depending on the species, we might put a
15 five-mile buffer radius around it and say this is
16 the general distribution of where these animals
17 live but this is not the exact location where they
18 go to water or where they go to some other aspect
19 and still be able to release that data while the
20 animal is still wearing the transmitter as long as
21 we don't think it will compromise the individual
22 animal or the population.

23 And then we would enter into agreements to be
24 able to share the data with university researchers
25 or other wildlife management or land management

1 agencies to help conserve population or do habitat
2 work that would be a benefit by using that data.
3 But it would then -- those agreements would
4 prohibit them from releasing that data through
5 other means to the public.

6 So again, I mentioned there was two public
7 comments that were made at one of the previous
8 Commission meetings. One supported the new rule
9 and the other one actually didn't really pertain
10 much to Fair Chase during the time.

11 With that, I take any questions specific to
12 the proposed rule.

13 MADAME VICE CHAIR SALAZAR-HENRY: Would anyone
14 like to comment on this?

15 COMMISSIONER SOULES: Madame Chair?

16 MADAME VICE CHAIR SALAZAR-HENRY: Commissioner
17 Soules?

18 COMMISSIONER SOULES: Chief Liley, I realize
19 this is not exactly pertaining to this rule, so
20 I -- I apologize, but I think it may be relevant.
21 If in the -- your -- this rule pertains only to
22 data collected by the Department for its
23 contractors. If individuals set up things like
24 gain (inaudible) that can alert them to the
25 location of mole or some other manner had a way to

1 track animals themselves and use that in realtime,
2 are there any existing regulations that speak to
3 that and whether that's allowable or not?

4 CHIEF LILEY: Madame Chair, Commissioner
5 Soules, so we have an overarching rule or
6 Commission rule that's called the manner and method
7 of take, more or less. Manner and method of take a
8 species. So your example of realtime game cameras
9 or satellite cameras is actually prohibited by
10 Commission rule already, so you can't use those
11 satellite cameras or cell phone cameras to aid in
12 the taking of wildlife. So that's already set by
13 rule in the manner and method.

14 Some of the other principles of Fair Chase
15 would be set by manner and method rules. Why this
16 is so specific is because of the -- as it relates
17 to release of public information. And that's why
18 this rule is different from the manner and method
19 where you prescribe how animals would be taken
20 across the landscape.

21 And to another point to your question, if
22 someone has a game camera that's not a satellite,
23 they're just using it, or even someone that does
24 have a satellite that's not using it for the take
25 of animals but they're doing it for their own

1 information in their backyard or something like
2 that, nothing precludes them from releasing that
3 data to anybody else. This is just data that's
4 collected by us or our contractors.

5 COMMISSIONER CRAMER: Madame Chair, Chief
6 Liley, is -- are the radio frequencies unique where
7 a person can't scan and get those?

8 CHIEF LILEY: Madame Chair, Commissioner
9 Cramer, yes, they are all unique frequencies that
10 we would not release and someone cannot just scan
11 and pick them up.

12 MADAME VICE CHAIR SALAZAR-HENRY: Any other
13 questions? A question from the public.

14 If you would like to come to the microphone,
15 state your name.

16 DIRECTOR SLOAN: Madame Chair, we'll have to
17 have him fill out a comment card. I just want to
18 make sure he's aware of that.

19 But you can come up.

20 UNIDENTIFIED MALE: I just had a question
21 about how you (inaudible). That's all.

22 MADAME VICE CHAIR SALAZAR-HENRY: What is your
23 question? Again, in the spirit of -- I know we
24 have our rules --

25 UNIDENTIFIED MALE: There's so much cyber

1 security problems, how do we think the Gaming
2 Commission has the capability of doing it?

3 MADAME VICE CHAIR SALAZAR-HENRY: Thank you.

4 CHIEF LILEY: Madame Chair, yeah, so we have
5 firewall -- we protect a lot of information on our
6 computers, our firewall through the State,
7 et cetera. We try to -- it's no different than
8 some of the personal information people enter to
9 purchase licenses. We protect them on our
10 computers. It's not going out to personal
11 computers that we're putting the State on and lids
12 on our servers in the department. And so we hope
13 we have a really well firewall. I know there's
14 been times where people have gotten behind some,
15 but not ours. But we would hope that someone
16 doesn't hack into our systems to specifically steal
17 our wildlife rotations.

18 DIRECTOR SLOAN: Madame Chair, we do have a
19 robust cyber security effort at the agency, largely
20 due to our (inaudible) nature of our business.

21 MADAME VICE CHAIR SALAZAR-HENRY: Very good.
22 Thank you. Okay, good.

23 Are there any other exhibits anyone wants to
24 enter into the record at this time? Okay. If
25 there are no further questions, I will admit the

1 attendance sheet as Exhibit --

2 DIRECTOR SLOAN: 7.

3 MADAME VICE CHAIR SALAZAR-HENRY: -- 7, and
4 the comments submitted in testimony heard during
5 this rule hearing will be reviewed by the
6 Commission and discussed during the open session of
7 today's meeting. The Commission will vote on
8 proposed rule at this one.

9 Yes. I would like to thank everyone present
10 for their participation today. Let the record show
11 that this rule making hearing was adjourned today
12 at -- what time is it?

13 DIRECTOR SLOAN: 10 AM.

14 MADAME VICE CHAIR SALAZAR-HENRY: 10 AM. Very
15 good.

16 So moving on to rule number -- oh, excuse me.
17 Excuse me. Thank you, Vice Chair. No, no, no, no,
18 we've had plenty of discussion, so now do I have a
19 motion on the rule 1b, the Fair Chase Rule?

20 COMMISSIONER SALAZAR HICKEY: Madame Chair?

21 MADAME VICE CHAIR SALAZAR-HENRY: Yes?

22 COMMISSIONER SALAZAR HICKEY: I move to adopt
23 19.30.18 NMAC as presented by the Department and
24 allow the Department to make minor corrections to
25 comply with filing this rule with state records and

1 archives.

2 MADAME VICE CHAIR SALAZAR-HENRY: Do I have a
3 second?

4 COMMISSIONER BATES: Second.

5 MADAME VICE CHAIR SALAZAR-HENRY: Thank you,
6 Commissioner Bates?

7 Thank you, Commissioner Henry.

8 All in favor say aye.

9 ALL COMMISSIONERS: Aye.

10 MADAME VICE CHAIR SALAZAR-HENRY: All opposed
11 say nay. That rule passes.

12 Are we ready to move on to rule number 2, 2A?

13 Yes, okay. This is the rule hearing trapping and
14 furbearing rule, 19.32.2 NMAC, and hunting and
15 fishing manner and method of taking rule, 19.31.10
16 NMAC. This hearing is now open. Are there any
17 exhibits for the proposed new rule, 19.32.2 or for
18 the amendments to 19.31.10 for the record?

19 DIRECTOR SLOAN: Madame Chair, I wish to enter
20 six exhibits into the record. Exhibit Number 1,
21 the notice of the rule making that was posted on
22 our website as well as the Sunshine Portal; Exhibit
23 2, the initial proposed rules that were posted on
24 our website; Exhibit 3, the presentation that I'll
25 be giving today; Exhibit 4, the summary of the

1 proposed changes; Exhibit 5, the technical
2 information we relied upon when developing the
3 rule; and Exhibit 6, the 5,002 public comments we
4 received during the rule making process.

5 MADAME CHAIR SALAZAR HICKEY: Thank you very
6 much, Stewart. Can you continue to proceed?

7 CHIEF LILEY: Madame Chair, Members of the
8 Commission, for those of you that are new, this is
9 going to be the first time that you see it. For
10 those of you that have been around, you've seen
11 this -- it will be the fourth or fifth time I
12 believe you've seen this now. So this -- this
13 process started back in August of this year when we
14 presented initially to the Commission at the Santa
15 Fe meeting. We also presented it to the Commission
16 at the October and November meeting.

17 We put on our website back in August our
18 initial proposals on the website and built upon
19 since then. We did hold public meetings throughout
20 the state in October. And then in December we
21 posted the final rules on our website for public
22 comment. We were taking comments before those
23 public -- or before those rules were posted, but
24 again, we did post the rules as required under the
25 rule making act by the December time frame and as

1 we are here today to act on the final rules.

2 As I stated when I entered into the exhibit,
3 we received 5,002 comments for this rule. I do
4 want to state there was -- that was 2,002, or 2,024
5 unique senders, so there was multiple comments
6 sometimes from the same individual but I wanted to
7 point out there was 2,024 unique senders. There
8 was a significant amount of comments that came in
9 the form of a form letter where they just changed
10 the name on it and maybe a little bit of change at
11 the back. And most of those comments didn't really
12 deal with the -- the specific proposed changes that
13 we were proposing but it was more on the specifics
14 of eliminate trapping or support trapping or one of
15 those kind of aspects. There was -- that was the
16 majority of the comments we received was one or the
17 other on either an all-out banning on trapping or
18 not.

19 We did then get specific comments. When we
20 got specific comments they really pertained to
21 three different topics. That was our set back
22 distances that we were proposing, and the set backs
23 from trails but also the set back distance from
24 trail heads. Both in -- we had the comments that
25 favored some, very few of the favoring, but we had

1 comments that said you're going too far one way,
2 the extreme, and you're not going far enough. So
3 that was the majority by the comments we saw was
4 pro and con under the same exact issue.

5 So there was -- the only one where we had
6 almost total support for it from all of our
7 commenters was a mandatory trapper education. That
8 was supported across on both sides of that.

9 There was -- on our additional closures that
10 we'll get to in a minute, there was people opposed
11 to us closing any more areas and people that would
12 wish that we present more closures to the areas.
13 So again, like I said, there was comments on both
14 sides of the aisle on the trap -- on the topic, and
15 a lot of that was, like I said, more of a form
16 letter on just in opposition to a support of rather
17 than specific to the proposed changes.

18 For the interest of the Commission, and since
19 we're in a new area of the state, I'm going to go
20 through the kind of presentation you all have seen
21 before. But kind of going back through the history
22 of trapping a little bit, how trapping fits in the
23 North American model and some of the other stuff
24 that we've gone through, but really trapping is the
25 most effective and efficient method for managing

1 furbearers. And when I say managing furbearers,
2 some of that is for sustainable harvest of
3 furbearers, some of that is managing wildlife
4 conflict. And when I say conflict, livestock
5 conflict on some of the damage that we do deal
6 with. It is the most effective way. Trapping is
7 the most effective way to manage those furbearer
8 populations.

9 We, ourselves, use trapping as a tool to radio
10 mark our bobcats, for example, or other species
11 that we do use. It's highly regulated. As you'll
12 see, it's fairly complex in terms of our manner and
13 method. If you look at the manner and method
14 sections for some of our rifle hunts it prescribes
15 maybe a caliber, but this really goes into detail
16 on how a person has to set a trap, what kind of
17 trap they can set, how far back it has to be set.
18 So it's more regulated than some of our rules and
19 more -- we are only proposing more additional
20 proposed regulations as you'll see through time.

21 And it's guided by international standards.
22 And when I say guided international standards, I'll
23 get to it in a few slides. It discusses a minute
24 that was signed with the European Union with the
25 United States that kind of described on how we'll

1 try to deal with humane standards when it deals
2 with trapping and best management practices.

3 One of the things that you sometimes will hear
4 as trapping is brought up is how does trapping fit
5 into the North American model of wildlife or it
6 doesn't fit into the North American model of
7 wildlife management. I think the guiding
8 principles of the North American model, again, came
9 off of this principle of wildlife is held in the
10 public trust in North American, or specifically in
11 Canada and the United States. It is a public trust
12 species.

13 We, as the Department, are managers of that
14 public trust resource. You, as the Commission, set
15 the policies and the rules that surround how you
16 manage that public trust resource. One of the
17 other tenants of that model talk about
18 unreg -- elimination of unregulated markets and
19 over exploitation of the species. This is where
20 some people sometimes refer to this as the
21 commercial taking of a species.

22 When they're referring to that as the tenant
23 it's not necessarily that that person can sell it.
24 It's more of if you go back to the days of the
25 bison and when it was sold on the rail on the

1 markets for market hunting that was not regulated,
2 an unregulated take that was in the commercial
3 process. That's more of where that tenant came
4 from rather than a commercial take.

5 For example, we have commercial take of salmon
6 from the fisheries across our Western Coast, all
7 across. If you harvested, legally harvest, an elk,
8 you can sell the hide, the antlers, those kind of
9 things. So it really points to the unregulated
10 commercial take of the species and the sell of
11 that.

12 Strict enforcement of the regulations and the
13 laws is one of the other tenants of the North
14 American model. As you all are aware, we have a
15 lot of law enforcement officers or game wardens
16 across the state that enforce these regulations.
17 You all just revoked the individuals that violated
18 those regulations. That took away their hunting
19 and privileges. So there is that tenant that's
20 very well followed.

21 The democracy of law of what we're doing today
22 is just that. You all are the body that will
23 decide the laws that govern how we manage
24 furbearers and how trapping is done. So that's
25 another big tenant of the North American model and

1 the scientific management goes into our
2 recommendations. We, as the Department, try to
3 make the most robust scientific decision that
4 we -- or recommendation to you all that we can make
5 when proposing rules to ensure a sustainable
6 population moving forward.

7 So one of the things that's really important
8 is we only harvest those populations where
9 abundant. If you look at the statutes that are of
10 the protected furbearer species in 17-5, or in our
11 statutes, we only -- we do not allow harvest, legal
12 harvest, of over 30 percent of the species that are
13 protected. For example, we do not allow harvest
14 right now of coatimundis or otters or those kind of
15 species where we do not think the population is
16 large enough to sustain a take. So we regulate
17 those animals through rule, which ones are actually
18 available to take by the legal means.

19 We also regulate the seasons in which these
20 animals may be harvested. For example, it's the
21 trapping season starts in November and ends
22 majority of the time on March 31st for some of
23 these species. Some are shorter seasons to mirror
24 on a sustainable take on how we regulate the
25 harvest to ensure that we have populations moving

1 in the future.

2 We also require recording requirements. We
3 have mandatory trapping recording for all of our
4 trappers to ensure that we can know what the take
5 on the landscape is to see how that aligns with
6 what we feel is sustainable and what we detect is
7 sustainable. We regulate, and you all will see
8 some of the proposed changes to that, the types and
9 size and the designs of traps that we allow on the
10 landscape for taking.

11 And then we also regulate how often the trap
12 has to be checked. For example, we are proposing
13 and continuing to propose currently under the rule
14 a date check. Every date you have to check your
15 traps visually. So that requires that there's not
16 these long lines that were previously up on some of
17 the previous -- days of old of trapping where you
18 had people set up 200 traps, move 200 miles away
19 and set 200 traps and come back on a circuit to
20 take furbearers out of traps. We do not permit
21 that. So it requires a person to be physically
22 there with the traps. It prevents long lining of
23 traps set across multiple areas in this state. So
24 it limits the take just by having that daily check
25 as it is.

1 I mentioned earlier the international
2 standards that are guiding. What it is, is that in
3 1997 the United States signed an agreed minute and
4 the agreed minute concerned humane trapping of
5 furbearers and the ability of the U.S. to sell fur
6 in the European Union, was that we would look at
7 humane practices or look at methods, what has been
8 determined as the best management practices for
9 humane traps. Every trap is evaluated based on
10 animal welfare, the efficiency in catching the
11 selectivity. So are you trapping the species that
12 you're going out for, the practicality of setting
13 that trap, and the safety both to the animal and to
14 the human.

15 So since 1997, approximately 40 million
16 dollars has been sent on trap development to try to
17 get at more humane trapping standards or fall into
18 those five criteria that they select. An important
19 thing to note is trapping is the only activity
20 where there is a humaneness standard set to it of
21 all our takes. So if it's with firearm or bow,
22 there's not been a humane standard that we try to
23 look at or best management practices where it's
24 been developed. This is specific to trapping.

25 So a little bit -- that's a little bit of the

1 background behind where we are or how we got to
2 where we are today and then some of the proposed
3 changes that we're proposing to you all for
4 consideration today. One of the things is the
5 current rule is a four-year rule. We're proposing
6 to make -- or excuse me, the current rule is a
7 permanent rule and we're proposing to make this a
8 four-year rule through you every four years. The
9 trapping rule in its entirety has not been reviewed
10 in almost 10 years as a fold. We're proposing
11 making this a four-year rule.

12 One of the other proposals we're doing, like
13 we did with all the rest of our big game rules is
14 putting manner and method in the manner and method
15 rule where it belongs. So it will remove the
16 manner and methods sections out of this rule like
17 we've done in elk or we've done in deer and put it
18 in manner and method. And trapping will
19 really -- the trapping and furbearer rule will
20 really revolve around season dates, bag limits, and
21 areas that are open or closed and will be renewed
22 every four years to ensure that the bag limits or
23 the seasons or the areas are still relevant.

24 One of the other proposals that we are putting
25 in front of you is requiring a mandatory trapper

1 education. So we require every trapper that
2 purchases a furbearer license be required to pass a
3 trapper education course. We would do that in a
4 manner of three different ways. If you -- if an
5 individual does not have a trapper ed from anywhere
6 in the nation that we recognize in another state,
7 we would require them to take what we consider a
8 full course, a course that talks about all trapping
9 regulation -- the furbearer trapping and trapping
10 education but a New Mexico specific education
11 course, too, that talks specifically to our rules
12 and regulations and our species identification
13 because it varies from state to state across the
14 country.

15 Individuals that are coming into our state
16 from outside that would have a trapper education
17 from a different entity that we recognize, we would
18 allow that but they would still have to take the
19 New Mexico regulation specific portion of the
20 course and the New Mexico species specific
21 regulation of the course.

22 Those individuals that don't wish to trap but
23 still, because it's a trapping or furbearer license
24 that doesn't require trapping and -- but those that
25 would like to call furbearers and shoot, we would

1 still require them to take, not the trapper
2 portion, but the New Mexico rules and species
3 identifications as well. So that, as you'll see in
4 the proposed rules, we have those different tiers
5 for different individuals on how they're planning
6 on taking furbearer species.

7 One of the big things that we are proposing,
8 the specific area closures to trapping to try to
9 minimize or reduce the potential conflict between
10 recreationists and trappers. Those specific areas,
11 we do know of a fairly high traffic use. That's
12 the Sandia -- Sandia ranger district of the
13 forest -- forest service portion, the Sandia ranger
14 district right outside of Albuquerque just to
15 the -- to the east of Albuquerque there. We've
16 proposed closing that to (inaudible) within those
17 lands.

18 Another one is just basically right outside
19 our window here is that Eastern portion of the
20 Oregon Mountains, Desert Peaks National Monument, a
21 lot of recreation throughout that we're proposing
22 closing that to land sets. And then two different
23 closures along a highway within a half a mile. On
24 both sides of that highway would be closed, and
25 those are those Highway 475 and Highway 150. Those

1 are the highways leading up to the Santa Fe Ski
2 Basin and the Taos Ski Basin. Those are the
3 two -- two highway forest service roads that we
4 propose closing.

5 I think one of the biggest proposed changes
6 that we are making in terms of setbacks is we are
7 proposing making a half a mile radius closure
8 around any designated trailhead, public designated
9 trailhead. In effect, this closes the area where
10 you have a high access point for recreationists
11 into a forest or into BLM, et cetera. So within a
12 half mile radius no traps can be set within
13 that -- that closure.

14 In effect, it's closing a lot of that area
15 down because, again, a day check is going to
16 require a trapper to get at least a half mile back
17 in before they could even set their equipment, and
18 it really effectively closes those areas down. So
19 we think that is our biggest of our setbacks that
20 we thought could kind of try to minimize some of
21 that potential conflict between recreationists and
22 trappers.

23 Some of these other ones were previously set
24 backs that we had in the old rule, but we've
25 increased the distance on setbacks for road rest

1 areas and picnic areas and occupied dwellings. One
2 of the things that we discussed at the last
3 Commission meeting was if the occupant of that
4 dwelling is fine with someone trapping within a
5 half mile, they can allow that. If you recall, we
6 wanted to make sure there was clarity in there if
7 that private landowner has an occupied dwelling,
8 doesn't mind someone setting in there, they can
9 permit it, the dwelling, the occupant. And the
10 rest of those half mile closures were previously
11 there.

12 Some of these proposed changes are clarities
13 in the rule that weren't as clear as before but
14 some of them are actual changes. This is a clarity
15 issue right now. In the rule it says that every
16 trap must be permanently marked. We're still
17 requiring a permanently marked with the information
18 that could allow us to identify the trapper but
19 we're also allowing a secured tag that might go in
20 the chain or on the trap that give that identifier
21 of that individual. We've allowed that, but it's
22 just a clarity in the rule that doesn't have to be
23 stamped to the metal of the trap, for example.

24 One of the actual -- this was a proposed
25 change from the -- we would require that any water

1 set or those sets that are set in water
2 specifically for body traps that are in the spread
3 from eight to 12 inches, we do not allow larger
4 than 12 inches and we don't allow anything larger
5 than seven to be set on land. Only eight to 12
6 could be set on water, and if it's set on water it
7 has to be submerged at least past the pivot point
8 in the jaw. That's a new -- new proposed change,
9 and then also on footholds with an inside spread,
10 no greater than seven and a half inches set in
11 water have to be fully submerged. Those are
12 specifically kill traps and those are not meant to
13 hold a furbearer for release. They are
14 specifically to be a kill trap. We are proposing
15 limiting to that every other day check on those
16 instead of the daily check as well.

17 We would make it, and this is a change, a
18 legal asset any lands that within 30 feet of bait,
19 which is less than two ounces. We changed the bait
20 previously. Some of the rules on bait was not very
21 clear. It says you can't have visible bait to
22 airborne raptors, so you're not trying -- it
23 doesn't catch a hawk or an eagle. And what this
24 is, previously it said you couldn't have visible
25 bait at a certain height where you can see it.

1 We're just saying you can't have bait more than two
2 ounces, period. So if it's in a hole it's not
3 going to attract airborne raptors, and you have to
4 be at least 30 feet or more away from a carcass if
5 you're going to be trapping, et cetera.

6 This is clarifications in the rule. It
7 clarifies that anyone trapping cannot have a trap
8 on a land set with a jaw spread that's greater than
9 or equal to six and a half inches. We do encourage
10 trappers to have lamination on that. What is
11 lamination is, it's welding on another piece of
12 metal on to the outside of the trap to increase the
13 surface area so it increases the area at which the
14 trap closes on the -- on the leg. That increases
15 or decreases the pinch point, allows better
16 circulation of blood. But that lamination, we're
17 saying, can't extend the trap to be larger than
18 seven inches when the lamination is on. Again,
19 it's a clarification point. We still want people
20 to have laminate traps when they're -- but a
21 clarification.

22 Any trap that is, though, greater than five
23 and a half inches must be offset. And so an offset
24 jaw requires a catch that is a deeper catch when
25 the animal steps on it, and it's been found to be

1 these two issues that I just discussed are best
2 management practices of furbearers, reduce injuries
3 to furbearers, increase the likelihood of wind and
4 furbearers re -- release those less injury
5 potential as they've put it.

6 Some of the new proposed changes that we have
7 is requiring a breakaway device on all (inaudible)
8 that's on land. Previous -- or currently we do not
9 require a breakaway. This breakaway would be
10 required for any allow it to fail or break at 350
11 pounds of pressure or greater. So if someone were
12 to catch an elk or something like that it would
13 break away if the animal stepped into it.

14 Another change that we're proposing
15 requirement is requiring a two -- every trap must
16 have greater than or equal to two separate swivel
17 points on the trap and that one of those swivel
18 points must be within six inches. What that does
19 is permit binding and less injury. Again, a lot of
20 these changes that I'm describing here are best
21 management practices as found through those
22 research that I was describing earlier that we can
23 implement through a rule process specifically
24 across the whole trapping. So we're putting those
25 standards into our regulations.

1 It would require -- one of the other things we
2 would be requiring an anchor or drag system that
3 prevents an animal from escaping with a trap.
4 That's one of the worst things that we can have is
5 when the animal walks off with a trap you're going
6 to have a lot more potential for injury in the
7 future. Currently it's not a provision and rule.
8 This also, in the provision and rule, would require
9 that everyone setting a trap across the state, that
10 those traps must be able to hold a wolf size animal
11 or larger. These are due care provisions as it
12 relates to the U.S. Fish and Wildlife Services due
13 care under the population for Mexican wolf. These
14 are the specific things that they're saying if you
15 can -- if you're following these, you're not going
16 to be in violation of take under the endangered
17 species act. Previously we have in those
18 recommendations. Now we're proposing putting them
19 as an actual rule that we can cite upon if people
20 are not following due care provisions.

21 Again, the next one requires a trapper that
22 catches a wolf must report that us or report it to
23 the Fish and Wildlife Service. One, we want it
24 reported as quick as possible so we can get a radio
25 collar on the wolf if it's caught. And two, we

1 want to be able to know where animals are moving.
2 Right now it's not a requirement, it's a request.
3 But this would actually require it if someone were
4 to catch a wolf and did not report, it would be an
5 illegal take of that trap.

6 A clarification point, it wasn't specifically
7 in the rule. It's always been illegal, but we just
8 want to clarify in rule that it would prohibit the
9 use of any poisons for the taking of protected
10 furbearers. It's not allowed by rule as it is
11 right now but we would specifically put that in
12 the -- in the furbearer rule. It also would
13 prohibit the take, the intentional take of New
14 Mexico threatened endangered species or any
15 federal -- federal law prevents that in there. But
16 we specifically are putting this in for New Mexico
17 threatened or endangered species.

18 For example, pine martens in New Mexico,
19 threatened or endangered species. If someone has a
20 pole set up in a tree it's obvious that they're
21 putting it in front of a pine marten, we can now
22 cite them saying it was an illegal set for that.
23 And then clarifying the species in which it's
24 illegal to take, for example, mink, otter, black
25 red ferret, coatimundis, or marten. Those are

1 protected furbearer species where we do not allow
2 any take.

3 One of the proposed changes is opening the
4 raccoon season from May 16th to August 31st with
5 restricted traps. Those restricted traps are
6 specifically cage traps or what they consider dog
7 proof traps. Why we're doing this, we're seeing a
8 lot of this in the Albuquerque area where the
9 population of raccoons has grown quite a bit in the
10 last year. You saw it in our October meeting or
11 November one. It's in a depredation report.
12 Raccoons are now our highest species where we get
13 the most reports on depredation across the state.

14 We have a lot of landowners out there trapping
15 raccoons on their own without knowledge. It's
16 illegal for them right now, but this would allow
17 them to manage some of those populations, those
18 depredation animals in their backyards, et cetera.

19 The other one is allowing to take nutria year
20 round. Nutria are an invasive species. We do not
21 want them growing. We have maybe a small
22 population in the Rio Hondo. Hopefully they're
23 down to very few, if none now, but we don't want
24 any nutria expanding to the states. So if they
25 did, we want to be able to have the ability to have

1 trappers take them within any period of season.

2 One of the things that we have was changing on
3 the bag limits is allow the director with the
4 verbal concurrence of the Chair to set a bag limit
5 for any given species in a year if we see a
6 population level change that we think is necessary
7 to put this in. As we've discussed in the
8 previous, the only species, a protected furbearer,
9 we potentially would see this in the next four-year
10 rule cycle is swift fox. We'll get to that in a
11 second on some of the data of what we show on take
12 on that. Swift fox is the one we have very small
13 take as it is, but if we saw a big increase in take
14 we would maybe start proposing a bag limit to that
15 species during this four-year rule cycle. The rest
16 of the species in which you all have authority
17 over, we're not proposing any bag limits at this
18 time.

19 Some of the data that we do collect, and why I
20 point out bobcat and gray fox harvest, those are
21 two of the protected furbearers. That is those two
22 species where we take the most across the state or
23 where trappers take the most. You'll see the last
24 ten years have been fairly steady in terms of take,
25 not a lot of trim there in the take of the species.

1 We do not think anything from a biological
2 standpoint where we're having any concerns there.

3 Some of the things that we do take
4 from -- from trappers, and information we take from
5 trappers that are out there are catching these is
6 some surrogate data that we can look at to
7 correlate back what our populations are doing. So
8 that graphic on the left is the catch per night.
9 So what it's saying is how many bobcats are they
10 catching every night that they go out there. As
11 that number -- if that is an increasing trend it
12 suggests the population is decreasing. If we would
13 see a decline in trend in that we would suggest the
14 population the potentially declining. And we don't
15 see anything that would be suggestive of a decline
16 in the population right now.

17 The other one on the right is a graphic on the
18 number of trap nights, or so how many -- how
19 many -- and that's calculated by the number of
20 traps set for each night and how many trap nights
21 it takes to catch a bobcat. You'll see as that
22 decreases what it's saying is it's taking less time
23 to catch a bobcat, which could be indicative of an
24 increasing population. Some of the stuff in the
25 east is taking up to 6 to 700 trap nights per

1 bobcat. You'll see we're down in the 150 range,
2 175 range, so again, nothing that points up where
3 we have a big concern of overtake on some of those
4 species.

5 Other things that we do collect is set ratios
6 of our take on bobcats. You'll see that's remained
7 fairly consistent through time. Take of females is
8 less than males, which is good from a biological
9 sustainable population standard, is we're taking
10 fewer of the reproductive output portions of the
11 population and more of the males where it's not as
12 necessary to have as many males in the population.

13 And then some of the other trends that we
14 take, as we discuss with trappers to see if their
15 opinions correlate back with our data. Are
16 there -- our data that we collect show the same in
17 the trends of what their opinions are. And what
18 it's saying is they've -- a lot of the trappers
19 feel like populations are increasing on some of
20 these furbearers, our data from the catch bringing
21 an effort or number of trap nights is suggesting
22 increase in trends to this, so some of the
23 correlation between trapper opinion and the actual
24 data we collect.

25 Real quick, just going through some of the

1 other species, when I mentioned swift fox, you'll
2 see on that left graphic the dark green is the take
3 of swift fox. You'll see that's about 20 to 30
4 animals per year. If that were to really increase,
5 that's sort of something we would be concern about
6 it.

7 Some of the trend, downward trend, and
8 probably kit fox is function of more selectivity.
9 Kit foxes are really light animals and paying
10 attention on traps through time have improved to
11 where you can have a trap where a kit fox that's
12 (inaudible) doesn't actually set the trap. Also,
13 swift fox price -- or kit fox prices are not -- are
14 have low so take is probably less. You'll see
15 that -- and we're not talking of large numbers
16 across the state there on the kit fox. You're
17 between the high end of that. That light green bar
18 is 200 to the low end, about a hundred. So that's
19 a statewide number as well.

20 Badger harvest across the state again, the
21 species, we harvest between 100 to 150. Nothing of
22 great concern there. And some of the other species
23 that we harvest. But you'll see raccoon harvest
24 has increased a little bit, but it's still down
25 around 3 to 400 animals. In a lot of these other

1 species, the harvest on the statewide average is
2 below 200 for the majority of those.

3 So with that, I take questions.

4 MADAME CHAIR SALAZAR HICKEY: Mr. Stewart
5 Liley, thank you. That was very good.

6 Do we have any questions from the
7 Commissioners?

8 COMMISSIONER SALAZAR-HENRY: Madame Chair?

9 MADAME CHAIR SALAZAR HICKEY: Yes,
10 Commissioner Hickey?

11 COMMISSIONER SALAZAR-HENRY: Good morning,
12 Stewart.

13 CHIEF LILEY: Good morning.

14 COMMISSIONER SALAZAR-HENRY: I just have one
15 question. Because of the comment that you made
16 about the depredation report for raccoons, and we
17 did see that it's the leading depredation issue
18 right now for the Game Department, why do we have
19 such a limited season for raccoons?

20 CHIEF LILEY: Madame Chair, currently we have
21 a limited season. Again, on our proposal is to
22 open it up year round. So raccoons would open up
23 year round, but once the -- our traditional
24 trapping season ends, and I could go back to that
25 slide. Once it ends, we would then have a

1 restricted season. When I say restricted, it's
2 restricted to the traps types that would be
3 allowed. So not -- your standard foothold trap
4 would not be allowed. It has to be what's
5 considered a dog proof or a foot encapsulated trap
6 that only something with a basically thumb can
7 trigger the trap with specific catch on raccoons or
8 what would be considered a caged trap. Those are
9 the only trap types during that restricted season.
10 So again, it opens it up year round but it
11 restricts the kind of equipment that could be used.

12 COMMISSIONER SALAZAR-HENRY: And why is
13 that -- why is that specific -- why did you do the
14 restriction just for that time period?

15 CHIEF LILEY: Madame Chair, Commissioner
16 Henry, the reason that we did that is we want to
17 ensure when we get reports of trappers out there
18 that if we're getting a report of a foothold trap
19 that they're taking during the foot -- the normal
20 furbearer season that it has the chance of catching
21 a protected furbearer, we want to close during
22 those other periods of time. Because these are
23 target-specific traps, we're just allowing for that
24 depredation-type individual, that species where we
25 have a high depredation, we want to target that

1 species during those times. The other species we
2 do not want to target at that time.

3 MADAME CHAIR SALAZAR HICKEY: Thank you.

4 COMMISSIONER VESBACH: Madame Chair?

5 MADAME CHAIR SALAZAR HICKEY: Commissioner --

6 COMMISSIONER VESBACH: Vesbach.

7 Chief Liley, forgive me if you've gone through
8 this before, but on the swift fox issue, the one
9 that we, you know, may monitor -- or monitor and
10 see if we need may need a bag limit, do we have
11 catch per unit effort on that species?

12 CHIEF LILEY: Madame Chair, Commissioner
13 Vesbach, yes, we would have catch per unit effort.
14 We didn't put it up on this graphic. Catch per
15 unit effort has basically remained unchanged. We
16 haven't seen a big take. And when I say basically
17 remained unchanged, the take has varied from about
18 70 on a statewide to about 30. We haven't seen a
19 big increase or decrease in trapping during that
20 time period.

21 So even though take has remained constant and
22 trapping hasn't swung much, the catch per unit
23 effort has remained fairly constant as well. It
24 varies a little bit year to year, but we haven't
25 seen any anything that suggests that we have a big

1 decline in population.

2 COMMISSIONER VESBACH: Okay, thank you.

3 COMMISSIONER SOULES: Madame Chair?

4 MADAME CHAIR SALAZAR HICKEY: Commissioner
5 Soules?

6 COMMISSIONER SOULES: Chief Liley, you
7 commented on the fact that the Department sometimes
8 uses trapping for tagging animals. You can track
9 their activities and motions or other scientific
10 purposes. Could you elaborate a little bit on
11 cases -- not cases but examples, for example, I
12 think the wolf recovery program uses trapping to
13 make sure wolves are brought back in for the
14 required recover area. Things like the raccoons,
15 does the Department sometimes trap raccoons at the
16 request of landowners? Is the same true if you've
17 got concerns about bobcat or mountain lions, or
18 something else from a depredation standpoint rather
19 than removing the animal through lethal means, do
20 you -- could you elaborate a little on when
21 trapping is used for that kind of activity?

22 CHIEF LILEY: Yeah, Madame Chair, Commissioner
23 Soules, we use it for a variety of purposes. Some
24 is to place a radio call on a bobcat for example.
25 We've done different stuff to look at bobcat home

1 ranges across the state, look at how it works and
2 functions with -- and so we use the same traps that
3 were -- that you all are getting ready to approve
4 for the trapping manner and method for research
5 purposes. You mentioned the Mexican wolf program.
6 They do it for either depredation reasons, moving
7 animals to new areas. The last -- in fact, the
8 last Mexican wolves caught in the wild in Mexico
9 were caught with traps, the same traps that we're
10 discussing today.

11 So we use traps as a management tool, as a
12 live catch tool. That allows us to move animals
13 across the state. For example, river otters that
14 were reintroduced into the state of New Mexico were
15 trapped by employees out of Washington, Department
16 of Game & Fish that moved them into the state. We
17 also use it as a tool to manage depredation. And
18 so we do get depredation reports of a bobcat
19 killing chickens in a chicken coupe, and we'll use
20 the most effective way for us to be able to catch
21 that offending animal is with traps.

22 We make the decision at the time, do we
23 relocate the animal or do we euthanize that animal
24 at that time. So there's a case by case on all
25 those, if it's a euthanasia or a relocation. But

1 it allows us the ability, the most effective way to
2 trap a furbearer or to catch a furbearer through
3 traps and then it allows us to decide if it's going
4 to be released or euthanized.

5 MADAME CHAIR SALAZAR HICKEY: Any other
6 questions from our Commissioners?

7 Okay. Very good. It's very important that we
8 always look at everything, and we are here to
9 listen. So we would like to -- I've received
10 several speakers cards, and as I call your name,
11 please come to the microphone. Those of you wish
12 to be heard and checked the box, come forward.

13 Patience Odoud, Betty, Kevin, Catalina,
14 Wesley, Chance, and Chris. And the portion of
15 this, we would like to hear from you on your
16 comments to the rule, title 19, chapter 32, part 2
17 or the amendments to title 19, chapter 31, part 10.
18 And let's keep the comments to two minutes, please.

19 Patience, thank you very much for coming
20 forward.

21 PATIENCE ODOUD: Okay. So thank you very
22 much. I'm Patience Odoud, and I'm the board member
23 of Wildlife Protection of New Mexico, (inaudible)
24 5124. Do I understand that we're still going to
25 have recreational trappings? Or this is we can't

1 discuss because I got here a little bit late.

2 So given that, I'm assuming that we're
3 still -- we haven't voted yet, and so --

4 MADAME CHAIR SALAZAR HICKEY: So, Patience,
5 I'd like to stick to the comments strictly on what
6 was just presented. Thank you.

7 PATIENCE ODOUD: All right. One thing that I
8 didn't hear spoken was anything about climate
9 change. I heard a lot about depredation. I heard
10 a lot about moving animals or taking care of
11 animals regarding depredation. The thing is, is
12 that, and I saw the graphs of takings. We have
13 climate change. We're having species extinction
14 right now. We -- we have night -- we have 1.4
15 million cattle in this state, and I won't go
16 through the list of sheep, 90,000-whatever.

17 We have -- we're losing our wildlife left and
18 right. And we've only got 2,000 trappers and we've
19 got 2 million people. We're not being represented
20 because right now New Mexico is last on everything
21 good, first on everything bad. We're the most
22 violent state in the Union. That's our reputation.
23 Look it up. That's what we are. That's what we
24 are, and we all know since a long time ago
25 that -- and 88 percent of domestic abuse that there

1 is animal abuse. They're leaked.

2 Trapping is torturous. I don't care how nice
3 you make the -- the thing. It's torture. It needs
4 to end. It needs end, all of it.

5 MADAME CHAIR SALAZAR HICKEY: Thank you,
6 Patience. Your time is up. Thank you for coming
7 forward.

8 Betty, two minutes, please. And thank you for
9 coming forward with your comments regarding the
10 tracking program. Thank you.

11 BETTY PRICHETT: My name is Betty Prichett. I
12 live in Bernalillo, New Mexico. I'm an animal
13 lover. Since I retired, I'm an art teacher, I'm an
14 artist. I'm an artist. I appreciate the beauty of
15 our wildlife. I've been working for Mexican wolves
16 since they've been after these. I mean, I grew up
17 in Indiana. The only wolves were in -- in the far
18 north, not in the lower United States. I was so
19 happy when they were brought to Yellowstone. I
20 helped in that effort.

21 Right now I believe the plan is causing a mass
22 extinction. We know right now that a third of the
23 birds are gone. And I care about the next
24 generation will be -- there will be wildlife for
25 the next generation. There's a question in my

1 mind, and we have no reason to allow trapping on
2 our public land. Our public lands are for the
3 public to enjoy.

4 I have dogs. I have five dogs. I love to
5 walk them. I have to walk them on a leash because
6 if they were turned loose they would probably get
7 in a trap. I might get in a trap. I know too many
8 beautiful animals, they're like children. I'm an
9 artist. (Inaudible), and I want to ban trapping,
10 period. It's cruel. Like cock fighting. I worked
11 hard to ban cock fighting. I couldn't believe when
12 I moved from Indiana up here that cock fighting is
13 still going on.

14 And I feel the same thing about trapping. In
15 this generation, trapping is not wanted or needed.
16 And the public supports me on this.

17 MADAME CHAIR SALAZAR HICKEY: Thank you,
18 Betty. That was -- thank you for your comments.

19 Let's move to the next person, Kevin. Kevin,
20 I'm not sure if you want to -- yes?

21 KEVIN BIXBY: Do you want to call out --

22 MADAME CHAIR SALAZAR HICKEY: Oh, Kevin Bixby,
23 yes. Yeah. And again, two minutes. And if you
24 finish before the two minutes are up, that's fine.
25 But we want to hear your comments relating to this

1 rule. Thank you.

2 KEVIN BIXBY: Thank you, Madame Chair,
3 Commissioners. I'll try and be brief. I don't
4 envy you for this vote that you are about to take.
5 You're not going to please anybody. I appreciate
6 that the rule change was intended with good
7 intentions to reach a compromise and respond to
8 some public concerns. I don't think you succeeded,
9 frankly.

10 Our organization is opposed to recreational
11 trapping, commercial trapping, not necessarily
12 trapping for management purposes that are intended
13 to benefit the species, but the use of the public's
14 wildlife plan and full of trappers to make money, I
15 think that's -- that's just not something the
16 public is good with and you shouldn't be either if
17 you're being responsive to the broader public
18 interest in wildlife.

19 So, you know, our organization, the Southwest
20 Environmental Center opposes trapping because if
21 you take -- if you weigh the pros and the cons.
22 From the pros, you know, the management purposes,
23 whatever, the benefits of trappers versus all the
24 negatives, the suffering and the stress caused to
25 wide animals, the commercialization of public

1 wildlife, the danger to public land users, it just
2 doesn't make sense to continue recreational
3 commercial trapping.

4 I did want to point out that it may not have
5 been clear in Mr. Liley's presentation but the
6 European Union has banned traps. So whatever
7 communication between the U.S. and you in the past,
8 it doesn't -- that's not relevant.

9 So this is one of those issues like wildlife
10 killing contests that you're being asked to be
11 responsive to the broader public interest in
12 wildlife or dig in and face it backwards. And, you
13 know, I note there is a concern out there that as,
14 you know, any attack on trapping is an attack on
15 hunting. And I don't see that. That's not my
16 view, personally, or the view of our organization.
17 They seen completely different activities. We're
18 fine with hunting. I'm a hunter myself, but
19 trapping just seems completely different.

20 And, you know, there's this idea that wild
21 animals are strictly resources without intrinsic
22 value or lives or, you know, feelings. And that's
23 just out of step with, A, the way the public
24 increasingly used wild animals, and B, modern
25 ecological understanding that -- that says -- that

1 understands that furbearers regulate their own
2 numbers and don't need to be managed. So I
3 recommend that you do not accept the changes.
4 There are some good things, mandatory trapper
5 education, but that you start over from scratch.

6 Thank you.

7 MADAME CHAIR SALAZAR HICKEY: Thank you,
8 Kevin.

9 I have another comment from Catalina. Thank
10 you. Thank you for all these comments. It's
11 important that we hear all of the comments.

12 KATRINA CLARK: I'm Catrina Clark, and I'm
13 from the (inaudible), but you'll find out who I am.
14 Commissioners, animal activists, pet lovers, press,
15 and (inaudible). I am the proud originator of this
16 photo taken by (inaudible) near Pagosa Springs,
17 Colorado, Roxy looking right out to heaven. I fear
18 for the safety of New Mexicans, tourists, and
19 visitors alike on public lands in this state with
20 the current trapping session going on. And I call
21 it the land of entrapment.

22 I want this Game Commission to end the current
23 trapping season session by voting on this item
24 versus a few small current changes to the
25 furbearers regulation for the next four years. As

1 I represent the majority of New Mexicans and the
2 way they think and I think about trapping. End
3 trapping now. Make it illegal.

4 I want this Commission and the game wardens
5 involved never to give out a trapping permit again
6 to Maury Cordova and that he finally be convicted
7 of the misdemeanors and punished with some fine and
8 jail time just like the guy Krieb Teason who hit an
9 endangered Mexican gray wolf with a shovel in the
10 Gila National Forest and killing it. Since then,
11 that guy has denied -- has been denied a grazing
12 permit on national forest.

13 Our current governor should elect a Game
14 Commission who would end this cruel sport, a
15 barbaric, unethical killing way of killing
16 countless innocent animals starting from two or
17 three centuries ago just to sell a few pelts to the
18 Chinese.

19 MADAME CHAIR SALAZAR HICKEY: Catalina --

20 KATRINA CLARK: You are writing the year 2020,
21 and I've lived here in this state for 21 years. I
22 want us to follow Colorado and Arizona, public and
23 traps, stink traps do not mix.

24 MADAME CHAIR SALAZAR HICKEY: Thank you.

25 KATRINA CLARK: Ban these traps now,

1 (inaudible) as well.

2 MADAME CHAIR SALAZAR HICKEY: Thank you very
3 much, Catalina. Thank you for your comments.

4 KATRINA CLARK: This is what I have to walk
5 around during the trapping season so my other dogs
6 will not get caught in the trapping in this wire
7 snare to be able to cut it open.

8 MADAME CHAIR SALAZAR HICKEY: Thank you for
9 your public comment. Thank you very much.

10 I have next is Wesley. And again, two
11 minutes, please. I think as most of you should be
12 able to hear the timer that's going off. And I
13 don't mean to be rude to those of you that are
14 going past, but I'm going to try and watch the
15 going over. Okay.

16 Thank you, sir.

17 WESLEY: Madame Chair, Ladies and Gentlemen of
18 the Commission. I am Wesley (inaudible), and I'm
19 from Socorro, New Mexico. I've been trapping most
20 of my life, and I've been around several years,
21 probably more than any of you here. And I
22 understand trapping inside and out, and I would
23 like to keep the rules as they are. I don't think
24 that there's a need for other -- the changes. It
25 will handicap us in some ways.

1 The one thing that we do need is trappers
2 education. We go along with that for 100 percent.
3 We've been trying to get this for 40 years in the
4 Trappers Association.

5 Another thing that, you mentioned the kit fox,
6 and this is for your information. Most of the kit
7 fox that are caught are incidental. There's very
8 few trappers that want to take a kit fox and most
9 of us release them. We don't take them. We
10 release them.

11 So on that information, that's all I need to
12 let you know about. I have written to you. I have
13 been to two or three other meetings, and I think
14 you know where I stand. Thank you.

15 MADAME CHAIR SALAZAR HICKEY: Thank you, sir.

16 Next up is Chance. Chance, if you could
17 please come forward, and thank you, sir, for your
18 public comment. Two minutes, please.

19 CHANCE STEPFORD: Hello. My name is Chance
20 Stepford. I'm president of New Mexico Trapping
21 Association. Thank you guys for allowing us to
22 comment on this rule.

23 The North American model of wildlife has been
24 of great success in our country for many years.
25 Why? Because it's science-based. Hundreds upon

1 hundreds of hours of research done by educated
2 biologists have resulted in an abundance of
3 wildlife. As you know, the model supports for
4 (inaudible) trapping. Trapping is a large part of
5 the success of non-predatory wildlife as well as
6 the animals we trap. Wildlife Management is
7 science based. Politics has no place in wildlife
8 management.

9 The proposed setback rule is concerning for
10 few reasons. New distance proposal would -- would
11 exclude some farms and many ranch pastures. Thank
12 you for the (inaudible). Game & Fish has been
13 promoting hunting, fishing, and trapping for the
14 last few years because involvement has been
15 lacking. Reduced available land roads against
16 this.

17 The very pets that this proposal aims to
18 protect will in fact have an increased (inaudible).
19 The dogs (inaudible) are likely to be injured or
20 killed by a coyote on a trail than injured by a
21 trap. Let's not forget that the reason the leash
22 laws is to protect the public, livestock, and
23 wildlife from loose dogs.

24 Allowing the Department the ability to set
25 back limits again has no scientific basis. If you

1 consider the size of New Mexico, 77 million acres
2 versus the number of trappers and the number of
3 furbearers takings here, there's absolutely no
4 reason for this. It'll open handler (inaudible) in
5 both the Department and outdoors men and women in
6 our state.

7 The anti groups will see this as an
8 opportunity to put pressure on the Game Department
9 as well as the Commission on a yearly basis.

10 MADAME CHAIR SALAZAR HICKEY: Thank you,
11 Chance.

12 CHANCE STEPFORD: Thank you.

13 MADAME CHAIR SALAZAR HICKEY: The next speaker
14 is Chris.

15 And thank you all for being very mindful of
16 (inaudible).

17 CHRISTOPHER SMITH: (Inaudible), Members of
18 the Commission, Director Sung, thank you for taking
19 public comment, and I appreciate your efforts to
20 date on this rule. I know it's not easy. My name
21 is Christopher Smith. I'm here on behalf of
22 Wildlife Guardians. I work closely with the
23 Trapping New Mexico Coalition who has been engaged
24 in this issue for nearly a decade.

25 We sent you a comprehensive letter with

1 comments, and I'll be sure to get that to you,
2 Madame Chair, as well. I hope you've read those.

3 Frankly, we think this rule change is
4 inadequate. The new rules will not change the fact
5 that trapping is inherently indiscriminate, that
6 it's a public safety hazard. So far in this
7 trapping season we know of at least three dogs that
8 have been caught and injured in leg hold traps here
9 in New Mexico. And this rule will not stop the
10 inflictive -- infliction of horrible suffering on
11 thousands of animals every trapping season.

12 We also don't think that this rule change
13 impacts the fact that trapping is an archaic
14 inequity that New Mexico is behind in confronting.

15 I wanted to -- not to pile on Mr. Liley's
16 presentation a little bit, but I did want to note
17 that not only has the European Union banned traps
18 but over a hundred countries have banned traps. So
19 the idea that we are meeting international
20 standards, I think, is false. Mr. Liley's
21 presentation referenced trapping as an management
22 tool.

23 My understanding of management tools and
24 pertaining to wildlife is that they have specific
25 goals and they're monitored. I don't know of the

1 specific rules that recreational commercial
2 trapping are attempting to meet. I think that
3 trapping is a convenient outlier in the North
4 American model, and I don't see it as consistent
5 with the model. I also notice in the presentation
6 that we didn't see any pictures of animals in traps
7 or skinned. So I think we're trying to clean it up
8 a little bit more than it is inherently.

9 Three of the four closure areas that you're
10 proposing, we have not seen dogs trapped in those
11 areas. We think that we're leaving unprotected
12 spots in the state. 70 percent of New Mexicans
13 oppose trapping, and New Mexico deserves trap-free
14 public lands. Thank you.

15 MADAME CHAIR SALAZAR HICKEY: Thank you,
16 Chris, for your comments.

17 Joanne. I believe -- oh, my gosh, yes, this
18 is Representative Joanne Very. Thank you very
19 much. Your comments, please. Two minutes.

20 JOANNE VERY: Thank you. I'm here as a
21 citizen and concerned about wildlife protections.
22 I believe that we should ban trapping especially on
23 public lands altogether. I appreciate the
24 protections that you're trying to impose, but I
25 don't think that there's enough trail heads and

1 paths that are designated that would give the
2 protections that we need and the enforcement. You
3 know, saying the traps have to be checked every day
4 is not something that is enforceable. And that you
5 would need a lot more Game & Wildlife officers out
6 in the open and checking on that, and especially
7 making it so it expands for the water traps to be
8 only checked every two days when we know they
9 probably aren't even checked once a week.

10 So I think it's important that you maybe start
11 over, as someone suggested, Mr. Bixby, and make
12 sure that we consider also just banning trapping
13 altogether. It -- I lost two dogs in the early
14 '70s to traps, and I just -- I'm horrified to think
15 about how they suffered and that all the other
16 furbearing animals that it's open to making them
17 available to suffer, too. So I would hope that you
18 might turn this down.

19 Thank you.

20 MADAME CHAIR SALAZAR HICKEY: Thank you.

21 I think we have one last question from the
22 public, and that is -- I think this is Kurt. Kurt,
23 are you here? And again, two minutes. We're doing
24 very well. Okay. Very good.

25 KURT ANDERSON: My name is Kurt Anderson. I'm

1 on the executive committee of the Rio Grande
2 Chapter Seer Club. I also am a member of the Solid
3 Water Conservation District, Dona Ana County. And
4 I want to object or speak against item S, item S
5 exceptions. It seems very unclear to me that what
6 you're going to do with designated agencies. I
7 think you've (inaudible) of wildlife services, for
8 instance, which I supposedly controlling
9 depredating animals for law enforcement purposes,
10 I'd like to clarify, and to protect human health
11 and safety or for research or management.

12 It seems like a very broad exception to the
13 law, almost anything. In particular I'm concerned
14 about the fact that there seems to be very little
15 evidence that, for instance, rabies is controlled
16 by trapping at all. Thank you.

17 MADAME CHAIR SALAZAR HICKEY: Thank you very
18 much.

19 Do we have any other comments from the public?
20 And I think we had one more. And I think this will
21 be our last one before we proceed for a vote and
22 then possibly a break, if everybody is ready for
23 one.

24 Shelly, thank you for coming forward.

25 SHELLY STUCKARD: Good morning. I'm Shelly

1 Stuckard with New Mexico Trappers Association, and
2 I just have a couple comments that I was listening
3 to people talk about that I thought I'd respond on.
4 One, they talk about New Mexico citizens and how
5 traps are dangerous and to all the citizens and the
6 population. As a trapper, I am part of the
7 population. I am part of the land user, too. So
8 to say that it should just favor one type of a
9 person, no, I am part of -- I am part of this and
10 I've grown up here my entire life.

11 Two, there are rules that protect your animals
12 if you're walking them, and you need to put them on
13 the leash, follow the leash laws, follow the laws.
14 We follow our laws. If we're following ours, you
15 follow yours, there is no reason at all why there
16 should be problems.

17 I noticed a comment saying that we're not
18 regulated and that every day checks cannot be
19 regulated. Well, bow hunters can't be regulated.
20 Fishermen cannot be regulated. They are.

21 It's a moral duty to follow a law. Game &
22 Fish does not follow around every person using the
23 outdoors. If so, we'd see a lot more tickets with
24 people with dogs in public without leashes on them
25 because Game & Fish would catch them constantly.

1 They would catch the bow hunters. They'd catch the
2 turkey hunters. They would catch everybody. It's
3 a moral obligation to follow the law on both sides
4 of the spectrum.

5 That's all I wanted to say. Thank you very
6 much.

7 MADAME CHAIR SALAZAR HICKEY: Thank you.

8 Thank you everyone for coming forward with
9 your comments. I did notice, for the record, that
10 some of you brought to the microphone things in
11 your hands. So my question here is are there any
12 other exhibits anyone would like to enter into the
13 record at this time? Okay. Very good.

14 So, Commissioners, I think we are ready for a
15 vote.

16 UNIDENTIFIED FEMALE: Ma'am, I do have one I
17 would like to enter, please.

18 MADAME CHAIR SALAZAR HICKEY: Okay, very good.
19 Will you please come forward and we will have that
20 exhibit.

21 DIRECTOR SLOAN: Madame Chair, before the vote
22 you'll need to close this section of the hearing.

23 MADAME CHAIR SALAZAR HICKEY: Oh, I'm sorry.
24 Sorry, sorry, sorry, sorry.

25 DIRECTOR SLOAN: After you enter the --

1 MADAME CHAIR SALAZAR HICKEY: Thank you.

2 Thank you. Yep, yep, yep, yep.

3 Okay. Has everyone presented, signed the
4 attendance sheet? I have the cards, but have you
5 signed the attendance sheet? Yes, I see some nods.
6 If there are no other questions, I will admit -- I
7 will admit the attendance sheet as the exhibit.

8 Yes?

9 DIRECTOR SLOAN: 7.

10 MADAME CHAIR SALAZAR HICKEY: 7. The comments
11 submitted and testimony heard during this hearing,
12 rule hearing --

13 DIRECTOR SLOAN: Madame Chair?

14 MADAME CHAIR SALAZAR HICKEY: Yes, sir?

15 DIRECTOR SLOAN: Can we mark the letter from
16 the Trappers Association as Exhibit 8 as well?

17 MADAME CHAIR SALAZAR HICKEY: Yes. Thank you,
18 Director Sloan. And that will be an exhibit. So
19 we have two exhibits; is that correct?

20 DIRECTOR SLOAN: We have a total of 8, but two
21 of them --

22 MADAME CHAIR SALAZAR HICKEY: Oh, total.

23 Okay.

24 DIRECTOR SLOAN: -- the sign-in sheet and the
25 letter.

1 MADAME CHAIR SALAZAR HICKEY: Okay, very good.

2 The comments submitted in testimony heard
3 during this rule hearing will be reviewed by the
4 Commission and discussed during the open session of
5 today's meeting. The Commission will vote on the
6 proposed rule at this time.

7 I would like to thank everyone present for
8 their participation today. We are here to listen
9 and we are here to be fair and to make a thorough
10 decision respecting all sides of the issue.

11 So let the record show that this rule making
12 hearing -- oh, wait, we have to vote.

13 Any more comments from the Commissioners? I
14 kind of looked at the faces and it was like okay.
15 So --

16 COMMISSIONER VESBACH: Madame Chair?

17 MADAME CHAIR SALAZAR HICKEY: And then I'll
18 look to this side.

19 Yes, Commissioner Vesbach?

20 COMMISSIONER VESBACH: So we've heard this
21 around the state a few times, and I think this is
22 one of those classic, you know, urban world of
23 ideas. I've read all, at least looked through all
24 2,000 or so comments we got. And a lot it, it's
25 quicker than it sounds because a lot of them were

1 identical. But the ones that were unique, I looked
2 at. And really, what has struck me through this is
3 the primary conflict on both sides, the interest is
4 around domestic animals. It's around dogs being
5 caught or protection of livestock has been, not all
6 the comments, but the bulk of the comments has been
7 around that.

8 And I think the -- the Department has done a
9 good job with this to look at and try to find
10 balance in those conflicts. I mean, people really
11 want to protect their livestock. They really want
12 to protect their dog, and this is -- we have areas,
13 closed trapping where it's high traffic. We have
14 hunter trapper education for the first time.
15 That's something I could just transform to hunting,
16 and we now have it for trapping. That's going to
17 be important.

18 And I think everybody wants to get rid of
19 illegal trapping and crack down on illegal
20 trapping. This is going to help with that. And so
21 reducing those conflicts, I think this is -- this
22 rule is aimed at reducing that conflict, and I
23 think it's -- you know, I think the Department has
24 done a nice job trying to strike that balance.
25 That's all I want to say.

1 MADAME CHAIR SALAZAR HICKEY: Very good.

2 Thank you, Commissioner.

3 Any other comments?

4 COMMISSIONER LOPEZ: Madame Chair?

5 MADAME CHAIR SALAZAR HICKEY: Yes,

6 Commissioner Lopez?

7 COMMISSIONER LOPEZ: First off, I'd like to
8 thank the Department for all the hard work they
9 have done in the last year or so dealing with the
10 trapping issue. I do echo what Commissioner
11 Vesbach says, that we do have two sides to the
12 story. I understand the grievances of the outdoor
13 recreation is how they deal with the harm that's
14 caused to the animals.

15 But I also do hear the grievances of the
16 agricultural end of the aspect where our livestock
17 can and have been damaged by predators and
18 they -- these predators need to be controlled. But
19 I believe that this is a fair set of rules for now,
20 that both sides can agree on, along with the
21 Department, and we'll learn to adapt and with these
22 adaptations we'll learn the mistakes. And if these
23 mistakes need to be corrected or anything, we still
24 have that option later on down the stream.

25 But for now, thank you to the Department and

1 thank you for both sides of the industry, the
2 outdoor recreationists, and the agricultural side
3 for your comments. And again, thank you so much.

4 MADAME CHAIR SALAZAR HICKEY: Very good.

5 Thank you, Commissioner.

6 Any other comments?

7 COMMISSIONER BATES: I guess I had a comment.

8 MADAME CHAIR SALAZAR HICKEY: Commissioner

9 Bates?

10 COMMISSIONER BATES: We have received a number
11 of emails, and (inaudible) read each and every one
12 of those, but I feel like this -- this rule does
13 place an undue burden on the trapper. You heard
14 some of them, not even a block, a mile around, you
15 know, to set a trap. And I understand why we're
16 doing it and I think probably, you know, it might
17 be necessary. I'm still not sure if I'll vote in
18 favor of this rule because of that burden.

19 These trappers don't view what they're doing
20 as recreation or a sport. You know, they see it as
21 a means of species population management, disease
22 control, heritage, a way of life, and yes, it's a
23 means of income. And I understand they're a
24 minority, but we live in the United States of
25 America. This is a country which prides itself on

1 defending rights of minorities even if it be a
2 minority of one, we fervently and passionately
3 defend those rights, as we should.

4 And yes, we have to guard against the tyranny
5 of the minority over the majority. We must also
6 protect from tyranny of the majority over the
7 minority. Yet when it comes to the trapper, it
8 seems like the majority of voices have the say,
9 trapper, get out, there's no place for you. Are we
10 going to say that for all the other minority
11 groups? I don't think so. I hope not. And so I
12 can't get my mind around that dichotomy, and
13 therefore I can't give my support.

14 Thank you.

15 MADAME CHAIR SALAZAR HICKEY: Thank you,
16 Commissioner. That was very good.

17 Any other comments from our Commissioners?

18 COMMISSIONER SALAZAR-HENRY: One other, Madame
19 Chair.

20 I would like to echo what Commissioner Bates
21 stated in that the setback rule does place an
22 extreme hardship on the trappers, that mile to
23 every trap every day is a hardship. And after
24 talking with Shane Mahoney on the trapping, he's
25 the writer of the North American model, it is an

1 extreme hardship. But one of -- trapping is one of
2 the most regulated sports, I don't know if you call
3 it a sport, whatever it is, activity in America,
4 and New Mexico has some of the most extreme
5 regulations as well. And that half mile places a
6 huge hardship on those trappers to every trap.

7 Thank you.

8 MADAME CHAIR SALAZAR HICKEY: Any other
9 comments or questions?

10 Very good. Are we ready to move to a vote? I
11 see some nods from the Commissioners. Okay. Very
12 good. So I think what we'll do is we'll take the
13 vote with ayes and nays. So all in favor --

14 DIRECTOR SLOAN: Madame Chair.

15 MADAME CHAIR SALAZAR HICKEY: Excuse me.
16 Thank you, thank you, thank you, thank you.

17 I need a motion from one of the Commissioners.

18 COMMISSIONER VESBACH: Madame Chair?

19 MADAME CHAIR SALAZAR HICKEY: Yes,
20 Commissioner Vesbach?

21 COMMISSIONER VESBACH: I move to repeal and
22 replace 19.32.2 NMAC and to amend 19.31.10 NMAC as
23 presented by the Department and allow the
24 Department to make minor corrections to comply with
25 filing this rule with the state records and

1 archives.

2 MADAME CHAIR SALAZAR HICKEY: Do I have a
3 second?

4 COMMISSIONER CRAMER: Second.

5 MADAME CHAIR SALAZAR HICKEY: Very good.

6 Commissioners, those of you in favor, please
7 say aye.

8 COMMISSIONER VESBACH: Aye.

9 COMMISSIONER SOULES: Aye.

10 COMMISSIONER SALAZAR-HENRY: Aye.

11 COMMISSIONER LOPEZ: Aye.

12 MADAME CHAIR SALAZAR HICKEY: Aye.

13 COMMISSIONER BATES: Nay.

14 COMMISSIONER CRAMER: Nay.

15 MADAME CHAIR SALAZAR HICKEY: How many was
16 that? Two.

17 Okay. I think that the ayes have it. That
18 rule passes.

19 Okay. We are on hearing item number 3A. It
20 will be presented by Chad Nelson. I believe the
21 Department will present the final changes to the
22 Game & Fish licenses permits rule, 19.30.9 NMCA.

23 And I thank everyone for listening.

24 My name is Sharon Salazar Hickey. I will be
25 serving as the hearing officer for this portion of

1 the meeting. And be advised by the Commission's
2 counsel from the Office of the Attorney General.
3 The purpose of this hearing is for consideration of
4 final adoption of the following proposed rule by
5 the Commission.

6 The hearing item is, one, for the Commission
7 to receive public comment on the proposed new Fair
8 Chase Rule, Title 19, Chapter 30, Part 18 of the
9 New Mexico Administrative Code. The Fair Chase
10 Rule will become effective on February 11th, 2020.

11 These hearings are being conducted in
12 accordance with the provisions of the Game & Fish
13 Act and the State Rules Act. These hearings are
14 being audiotaped, thank you, and video recorded.
15 Anyone interested in a copy of the audiotape or
16 video recording should contact Tristanna Bickford
17 with the Game & Fish Department.

18 Public notice of this hearing was advertised
19 in the New Mexico Registrar, the New Mexico
20 Sunshine Portal, and on the Department's website.
21 Copies of the proposed new rules have been
22 available on the Department's website. Those
23 wishing to comment here today, please sign the
24 attendance sheet at the back of the room, which
25 will later be entered into the record as an

1 exhibit.

2 These -- now an explanation of our hearing
3 procedures. These rule hearings will be conducted
4 in the following manner: staff will present
5 prefiled exhibits. Exhibits admitted into evidence
6 are available for review by the public but exhibits
7 may not be removed from this room. After all
8 exhibits are entered, we will proceed to the
9 presentation of the proposed rule after which
10 testimony will be taken from the audience.

11 In order to make sure that the hearing is
12 accurately recorded, only one person at a time
13 shall be allowed to speak. Any person recognized
14 to speak is asked to, one, identify yourself by
15 name and who you are affiliated with for the record
16 each time you are recognized. And two, speak
17 loudly and clearly to accurately record your
18 comments. After a person has offered comment, they
19 will stand for questions from me, and the audience
20 may also ask questions of anyone offering comments
21 after being recognized by me. These hearings are
22 not subject to judicial rules of evidence. We're
23 not in court. However, in the interest of
24 efficiency, I reserve the right to limit any
25 testimony deemed irrelevant, redundant, or unduly

1 repetitious. But again, we try to listen.

2 The Commission may discuss the proposed new
3 rules after the public comment portion of the
4 hearing. Final Commission action, including
5 adoption of the rules, may occur after the
6 conclusion of the presentation and public comment
7 period of each hearing.

8 We are going to begin our hearing now. This
9 hearing is now open. Are there any exhibits for
10 the proposed new rule 19.30.0 for the record?

11 DIRECTOR SLOAN: Madame Chair, I have five
12 exhibits to submit for the record. Exhibit 1 is
13 the notice of rule making; Exhibit 2 is the clean
14 copy and strike through versions of the rules that
15 were posted to the website; Exhibit 3 is the
16 presentation that will be given today; Exhibit 4 is
17 the summary of the proposed changes that was put on
18 the website; and Exhibit 5 is the six public
19 comments that we received.

20 MADAME CHAIR SALAZAR HICKEY: Very good.

21 Well, Chad, can you please proceed to
22 introduce the proposed new rule for 19.30.9? Thank
23 you.

24 MR. NELSON: Madame Chair, thank you.

25 So we are here to present final proposed

1 amendments to the perhaps misnamed Game & Fish
2 licenses and permits rule, which actually primarily
3 regulates licensed vendors. So the rule actually
4 specifies the requirements for licensed vendors and
5 also financial liability for carcass tags.

6 So I want to give you a little background on
7 this. This will be the third time that I'm
8 presenting this rule. A couple of years ago,
9 starting in 2018, we reimplemented a carcass tag
10 requirement. And as part of that process, we now
11 assign a controlled number of carcass tags to all
12 of our vendors. So we established at that time
13 financial liability for failure to return those as
14 we had specified in the rule.

15 The previous rule established those
16 liabilities as \$125 per tag for the first
17 occurrence, \$250 for the second occurrence, and
18 required the Department to suspend the vendor's
19 licensed spending privileges on a third offense.
20 So we had some trouble with that, obviously,
21 because it's unclear what happens if they, for
22 example, lose three in one month.

23 So we are proposing to do is clarify the
24 license vendor's responsibilities and reduce the
25 penalties for lost carcass tags to hopefully

1 simplify the rules. So the penalty for each
2 unusable tag and each unused blank tag would be set
3 at \$100 per tag. A little explanation of that, an
4 unusable tag, the way that this works, the way that
5 vendors issue the tags, they enter a control number
6 and then they come to a screen where we display
7 exactly how the tag is supposed to look. And they
8 are supposed to handwrite those.

9 So if they make a mistake, they designate,
10 that mark that tag as unusable. So that is what
11 we're talking about when they are financially
12 liable. If they make a mistake, they can't throw
13 that tag away. They have to return it to us.
14 Unused blank tags are tags that have not been used
15 at the end of a license year, which they are also
16 required to return those. The provision requiring
17 the Department to suspend a vendor on the third
18 occurrence is also (inaudible).

19 We received six public comments. All were
20 from licensed vendors. We actually asked them to
21 weigh in because this is a rule that affects them.
22 Most of the comments were not related to the
23 changes that we are making. One comment was
24 related to the Department's time frame for
25 collecting payments for cash sales. The rule

1 specifies that vendors have to pay the Department
2 for their cash sales every two weeks or 5,000 in
3 sales, whichever comes first.

4 So this kind of was primarily a complaint that
5 they don't sell very many licenses and yet we are
6 hassling them to pay us. So there's not much we
7 can do about that. We sort of notify all vendors,
8 regardless.

9 The other comments were not related
10 specifically to the changes we're proposing. We
11 did have four of the six that were in support of
12 increasing the vendor fee.

13 With that, I'll stand for any questions?

14 MADAME CHAIR SALAZAR HICKEY: Thank you very
15 much.

16 Any comments or questions from the
17 Commissioners?

18 COMMISSIONER LOPEZ: Yes.

19 MADAME CHAIR SALAZAR HICKEY: Yes,
20 Commissioner Lopez?

21 COMMISSIONER LOPEZ: How many tags are each
22 vendor issued?

23 MR. NELSON: Madame Chair, Commissioner Lopez,
24 that depends on their sales. We actually look at
25 the actual number of the game or turkey licenses

1 that they sell, and we can sign -- so they come in
2 bundles of 50. We can sign an extra bundle if they
3 are in the middle so that they -- we know that they
4 have enough.

5 COMMISSIONER LOPEZ: And just to clarify, so
6 if you give a vendor 50 tags. Just say Chama, and
7 none of those tags are sold, probably wouldn't
8 happen. Those 50 tags are then returned to the
9 Department and you charge them \$100 for each tag
10 they return unused, right? Or no?

11 MR. NELSON: Madame Chair, Commissioner Lopez,
12 if they return the tags we do not charge them.

13 COMMISSIONER LOPEZ: Okay.

14 MR. NELSON: We can sign them to them when
15 they return them. If they fail to return them,
16 they are penalized and what we're proposing is \$100
17 per tag as a penalty.

18 COMMISSIONER LOPEZ: Thank you.

19 MADAME CHAIR SALAZAR HICKEY: Good question.
20 Thank you.

21 COMMISSIONER SALAZAR-HENRY: Madame Chair?

22 MADAME CHAIR SALAZAR HICKEY: Commissioner
23 Henry?

24 COMMISSIONER SALAZAR-HENRY: How is that Chad?
25 It's good to see you again.

1 So can you explain to me why we removed the
2 requirement that you suspend them if they are a
3 continual I lost this or I messed this up? How
4 come that provision is being removed?

5 MR. NELSON: Madame Chair, Commissioner Henry,
6 so we thought it was sort of overly burdensome on
7 the third occurrence to suspend them. The
8 director's authority has been clarified. The
9 director has the authority to place restrictions or
10 conditions on a vendor's privileges. So if we run
11 into problems where we are having a habitual
12 offender, the director has the authority to suspend
13 their license privileges.

14 COMMISSIONER SALAZAR-HENRY: Okay. So that's
15 written somewhere else in the rule.

16 MR. NELSON: Madame Chair, Commissioner Henry,
17 that's correct.

18 COMMISSIONER SALAZAR-HENRY: Thank you.

19 MADAME CHAIR SALAZAR HICKEY: Any comments or
20 questions?

21 Would anyone in the public like to comment on
22 the new rule title 19, chapter 30, part 9? I don't
23 have any cards.

24 Very well.

25 DIRECTOR SLOAN: Madame Chair?

1 MADAME CHAIR SALAZAR HICKEY: Yes.

2 DIRECTOR SLOAN: We need to make an exhibit of
3 the blank attendance sheet.

4 MADAME CHAIR SALAZAR HICKEY: Oh, very good.
5 Okay.

6 DIRECTOR SLOAN: I believe that will be
7 Exhibit 6. Clearly this is the real --

8 MADAME CHAIR SALAZAR HICKEY: We will move
9 into Exhibit 6, I believe, a blank attendance
10 sheet. Yes?

11 DIRECTOR SLOAN: Correct.

12 MADAME CHAIR SALAZAR HICKEY: Okay. Exhibit
13 sheet.

14 Has -- if there are no other questions, I will
15 admit the attendance sheet as Exhibit 7.

16 DIRECTOR SLOAN: 6.

17 MADAME CHAIR SALAZAR HICKEY: 6. And the
18 comments submitted in testimony heard during this
19 hearing will be reviewed by the Commission and
20 discussed during the open session of today's
21 meeting. The Commission will vote on the proposed
22 rule at this time as we are closing the hearing.

23 I would like to thank everyone here present
24 for their participation today. Thank you, members
25 of the public, and thank you, Chad.

1 Let the record show that this rule making
2 hearing was adjourned -- oh, we need to vote. Do I
3 have a motion on this rule from any of the
4 Commissioners?

5 COMMISSIONER VESBACH: Madame Chair?

6 MADAME CHAIR SALAZAR HICKEY: Commissioner
7 Vesbach?

8 COMMISSIONER VESBACH: I move to adopt the
9 proposed changes to 19.3.9 NMAC as presented by the
10 Department and allow the Department to make minor
11 corrections to comply with filing this rule with
12 state records and archives.

13 MADAME CHAIR SALAZAR HICKEY: Thank you,
14 Commissioner Vesbach.

15 Do I have a second.

16 COMMISSIONER CRAMER: I'll second.

17 MADAME CHAIR SALAZAR HICKEY: I think we will
18 take Commissioner Cramer. Thank you.

19 Now for the vote, we will take ayes as a vote
20 for yes and nays as a vote for no. All in favor
21 say aye.

22 ALL COMMISSIONERS: Aye.

23 MADAME CHAIR SALAZAR HICKEY: The ayes have
24 it. Let the record show that this rule hearing was
25 adjourned at 11:31, and this rule has passed.

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Thank you.

[The recording concludes.]

TRANSCRIPTIONIST'S CERTIFICATE

I, Karen Baca, certified transcriptionist, do hereby certify that the foregoing is a true and correct transcript of the proceeding had in the within titled and numbered cause on the date herein set forth.

IT IS FURTHER CERTIFIED that Paul Baca Professional Court Reporters is neither employed by nor related to any of the parties or attorneys in this case, and that this firm has no interest whatsoever in the final disposition of this case in any court.

PAUL BACA PROFESSIONAL COURT REPORTERS

Karen Baca, Certified Stenotranscriptionist

MINUTES - NEW MEXICO STATE GAME COMMISSION
Friday, January 17, 2020
Las Cruces, NM

AGENDA ITEM NO. 1: Meeting Called to Order

Called to order by Vice Chairwoman Salazar-Henry at 9:00 AM

AGENDA ITEM NO. 2: Roll Call

All present: Vice Chairwoman Salazar-Henry, Commissioner Cramer, Commissioner Lopez, Commissioner Soules, Commissioner Vesbach, Commissioner Bates and Commissioner Salazar Hickey.

AGENDA ITEM NO. 3: Approval of Agenda

Motion by: Commissioner Vesbach moved to amend the agenda, moving item 12 to follow the lunch break.

Seconded by: Commissioner Soules

Approved: Unanimously

AGENDA ITEM NO. 4: Introduction of Guests

AGENDA ITEM NO. 5: Consent Agenda

Motion by: Commissioner Bates moved to approve the consent agenda.

Seconded by: Commissioner Vesbach

Approved: Unanimously

NEW BUSINESS:

AGENDA ITEM NO. 6: General Public Comments

AGENDA ITEM NO. 7: Election of Chair and Vice Chair of the State Game Commission

Motion by: Commissioner Vesbach moved to appoint Commissioner Salazar-Henry as vice chair of the State Game Commission.

Seconded by: Commissioner Lopez

Approved: Unanimously

Motion by: Commissioner Lopez moved to appoint Commissioner Salazar Hickey as chair of the State Game Commission.

Seconded by: Commissioner Bates

Approved: Unanimously

AGENDA ITEM NO. 8 Annual Adoption of the Open Meetings Resolution

Leif Rasmussen presented the Open Meetings Act Resolution to the State Game Commission.

Motion by: Vice Chairwoman Salazar-Henry moved to adopt the 2020 State Game Commission Open Meetings Resolution.

Seconded by: Commissioner Lopez

Approved: Unanimously

PUBLIC RULE HEARING OPEN

HEARING ITEM NO. 1a (Informational): Rule Making Hearing on a new Fair Chase Rule – 19.31.3 NMAC.

Stewart Liley, Chief of Wildlife Management Division, presented the final proposed rule that would withhold certain wildlife location data collected by the Department or its contractors from the public if the information could be used contrary to the principals of fair chase.

Action Item No. 1b: The Commission voted on the final Fair Chase Rule 19.31.3 NMAC after closing of the hearing item.

Motion by: Vice Chairwoman Salazar-Henry moved to approve the rule as presented.

Seconded by: Commissioner Bates

Approved: Unanimously

HEARING ITEM NO. 2a (Informational): Rule Making Hearing on Final Rule Changes to the Hunting and Fishing Manner and Method Rule – 19.31.10 NMAC and a new Trapping and Furbearers Rule – 19.32.2 NMAC.

Stewart Liley, Chief of Wildlife Management Division, presented the final proposed changes to the Trapping and Furbearers rule (19.32.2 NMAC), and the concurrent changes to the Manner and Method Rule (19.31.10 NMAC) based on public comment, harvest and biological data collected and information from recent literature.

Action Item No. 2b: The Commission voted on the final amendments to Hunting and Fishing Manner and Method Rule 19.31.10 NMAC and a new Trapping and Furbearers Rule 19.32.2 NMAC after closing of the hearing item

Motion by: Commissioner Vesbach moved to approve the rule as presented.

Seconded by: Vice Chairwoman Salazar-Henry

Approved: Unanimously

HEARING ITEM NO. 3a (Informational): Rule Making Hearing on Repealing and Replacing the Game and Fish Licenses/Permits Rule – 19.30.9 NMAC.

Presented by Chad Nelson – The Department presented the final changes to the Game and Fish Licenses/Permits Rule (19.30.9 NMAC).

Chad Nelson, Assistant Chief of Licensing, presented the final proposed amendments to the Game and Fish Licenses/Permits rule (19.30.9 NMAC).

Action Item No. 3b: The Commission voted on repealing and replacing the Game and Fish Licenses/Permits Rule (19.30.9 NMAC) after closing of the hearing item.

Motion by: Commissioner Vesbach moved to approve the rule as presented.

Seconded by: Commissioner Cramer

Approved: Unanimously

PUBLIC RULE HEARING CLOSED

AGENDA ITEM NO. 10: Future Meeting Schedule and Locations.

James Comins, Assistant Director, presented a meeting schedule for the 2020 calendar year and for January of 2021. Suggested meeting dates and locations are:

- March 4, 2020 - Albuquerque (Wednesday)
- April 30, 2020 - Silver City (Thursday)
- June 19, 2020 - Santa Fe (Friday)
- August 13, 2020 - Chama (Thursday)
- October 16, 2020 - Taos (Friday)
- December 3, 2020 - Roswell (Thursday)
- January 15, 2021 - Las Cruces (Friday)

Motion by: Vice Chairwoman Salazar-Henry moved to approve the rule as presented.

Seconded by: Commissioner Bates

Approved: Unanimously

AGENDA ITEM NO. 9: Fiscal Year 2019 Department Audit Results and Review

Contractor Moss Adams LLP presented the financial audit of the Department for fiscal year 2019 . The Department's Financial Statement received the highest possible opinion of "unmodified."

Motion by: Commissioner Lopez moved to approve the audit as presented.

Seconded by: Vice Chairwoman Salazar-Henry

Approved: Unanimously

LUNCH BREAK

AGENDA ITEM NO. 12: Workshop - Department's E-PLUS program

Stewart Liley, Chief of Wildlife Management Division, presented an update on the new EPLUS rule. This presentation included a brief history of the rule prior to the changes, the reasons for the changes and the anticipated improvements initiated by the new rule. Additional information was presented concerning the implementation of the new rule and improvements that could be incorporated in the future. The previous EPLUS rule had not been opened in its entirety since its inception in 2005.

AGENDA ITEM NO. 11: General Public Comments

AGENDA ITEM NO. 13: Closed Executive Session

Motion by: Vice Chairwoman Salazar-Henry moved to adjourn into Executive Session closed to the public; pursuant to 10-15-1(H)(2) NMSA 1978, to discuss limited personnel matters relating to complaints and discipline; pursuant to Section 10-15-1(H)(8) NMSA 1978, to discuss property acquisition; and pursuant to Section 10-15-1(H)(7) NMSA 1978, to discuss matters subject to attorney-client privilege relating to threatened or pending litigation.

Seconded by: Commissioner Lopez

Roll Call Vote – Approved: Unanimously; Chairwoman Salazar Hickey, Vice Chairwoman

Salazar-Henry, Commissioner Cramer, Commissioner Lopez, Commissioner Soules,
Commissioner Vesbach, Commissioner Bates.

AGENDA ITEM NO. 13: Adjourn at 3:52 PM

Motion by: Commissioner Lopez moved to adjourn.

Seconded by: Commissioner Cramer

Approved: Unanimously

DRAFT