

STATE GAME COMMISSION RULE HEARING

Agenda Item 7

October 14, 2022

Held at

NEW MEXICO FARM AND RANCH HERITAGE MUSEUM

4100 DRIPPING SPRINGS ROAD

LAS CRUCES, NEW MEXICO 88011

PRESENT:

Sharon Salazar-Hickey, Chairwoman

Deanna Archuleta, Vice-Chairwoman

Gregg Fulfer, Commissioner

Tirzio Lopez, Commissioner

Roberta Salazar-Henry, Commissioner

Michael Sloane, Director

Valerie Joe, Assistant Attorney General

Stewart Liley, Wildlife Management Division Chief

Jesse Deubel, Executive Director, New Mexico Wildlife
Federation

Ryan Darr, Assistant Chief of Information



PRESENT (CONTINUED) :

Brandon Wynn (virtual)

Katie DeLorenzo, Western Regional Manager, Backcountry
Hunters and Anglers (virtual)

Joel Gothard (virtual)



1 MS. SALAZAR-HICKEY: Let's move on to Agenda Item
2 Number 7. This is the Rule Hearing Commission Deliberation
3 on Decision 19.31.3 of the NMAC, Manner and Method and
4 Licensing Application Rule. It is an action item. So let
5 us begin.

6 This hearing will please come to order. My name is
7 Sharon Salazar-Hickey, chair to the commission. I will be
8 serving as the hearing officer and be advised by the
9 commission's counsel from the Office of Attorney General.
10 The purpose of this hearing is for the commission to
11 receive public comment on repealing and replacing the
12 Manner and Method Rule, Title 19, Chapter 31, Part 10, and
13 Licensing and Application Rule, Title 19, Chapter 31, Part
14 3, New Mexico Administrative Code, which will become
15 effective on April 1st, 2023.

16 These hearings are being conducted in accordance with
17 the provisions of the Game & Fish Act and the New Mexico
18 State Rules Act. These rules (sic) are being audiotaped
19 and videorecorded. Anyone interested in a copy of the
20 audio tape or video recording should contact Ryan Darr with
21 the Game & Fish Department.

22 Public notice of this hearing was advertised in the
23 New Mexico Register, the New Mexico Sunshine Portal, and on
24 the department's website. Copies of the proposed
25 amendments have been available on the department's website.



1 Those wishing to comment here today must have registered to
2 submit public comments.

3 The rule hearing will be conducted in the following
4 manner. Staff will present pre-filed exhibits. Exhibits
5 admitted into evidence are available for review by the
6 public on the department's website. After all exhibits are
7 entered, we will proceed to the presentation of the
8 proposed rule, after which testimony will be taken from the
9 audience.

10 Participants are asked to wait until they are called
11 upon to speak. In order to ensure that the hearing is
12 accurately recorded, only one person at a time shall be
13 allowed to speak. Any person recognized to speak is asked
14 to first, identify yourself by name and who you are
15 affiliated with for the record each time you are
16 recognized, and two, speak loud and clear to accurately
17 record your comments.

18 After a person has offered comments, they will stand
19 for questions from the hearing officer. The audience may
20 also ask questions of anyone offering comments, after being
21 recognized by me. These hearings are not subject to
22 judicial rules of evidence. However, in the interest of
23 efficiency, I reserve the right to limit any testimony
24 deemed irrelevant, redundant, or unduly repetitious.

25 The commission may discuss the proposed new rule after



1 the public comment portion of the hearing. Final
2 commission action, including adoption of the rule, may
3 occur after the conclusion of the presentation and public
4 comment period of each hearing.

5 So the hearing is now open. Hearing item number 7,
6 rulemaking hearing on the Manner and Method Rule, 19.31.10,
7 and Licensing and Application, 19.31.3 NMAC.

8 Are there any exhibits for the proposed amendments to
9 19.31.10 and 19.31.3 NMAC, for the record?

10 MR. LILEY: Madam Chair, I wish to enter four exhibits
11 into the record. Exhibit Number 1, the notice of the
12 rulemaking; Exhibit Number 2, the initial proposed rules
13 posted on the department's website; Exhibit Number 3, the
14 presentation that I'll be giving today; Exhibit 4, the
15 seven public comments that were received specifically for
16 these two rules.

17 MS. SALAZAR-HICKEY: Exhibits 1 through 4, as
18 described, are hereby admitted into the record.

19 Stewart, can you please introduce the proposed
20 amendments to 19.31.10 and 19.31.3, please?

21 MR. LILEY: Madam Chair, members of the commission,
22 these two rules are rules -- amendments to rules that are
23 to conform the changes that were made throughout the
24 species rules over the course of the last approximately
25 eight months starting in March. So some of these changes



1 were, again, because we had adopted some of the species
2 rule that required changes in the manner and method in
3 which we harvest animals.

4 Specifically, we did host four hybrid meetings, for
5 the species rule, so these manner and method changes and
6 licensing and application were discussed at that.
7 Specifically to these rules we received seven comments but
8 we received numerous more comments specifically in the
9 species rule. But you'll see -- or you have seen in the
10 other rules, and we'll get to later.

11 The majority of those seven that you received here in
12 this rule particular was on muzzleloader definition and
13 their removal. The proposal to remove scopes off of
14 muzzleloaders. Specifically moving on to muzzleloaders,
15 and what we were looking at, so when the Department came to
16 you all in March, we came with the proposal to look at
17 removing scopes off of muzzleloaders. And the reason to
18 that is (indiscernible), one is biological reason.
19 Overseeing biologically is that the harvest has become
20 unsustainable for some of our populations. Specially on
21 some segments of the population male segments of the
22 population for elk and some heard units for ibexes
23 unsustainable for the totality of the population and
24 others.

25 One of the things that we could've done, and we



1 could've proposed, was a reduction in total license numbers
2 to meet that harvest objective. So we are trying to reach
3 a hardest objective set forth in the next four years.
4 Again, we've seen the drought conditions the last four
5 years having probably a bigger impact on recruitment on a
6 lot of our wildlife populations. And to adjust for that,
7 we could've, again, reduced licenses. But one of the
8 things that we looked at is and one of the biggest
9 complaints that we all hear is not being able to draw a
10 license or an opportunity.

11 So one of the other options that we looked at before
12 we could make a bigger impact on reduction of harvest by
13 maybe not reducing licenses was redefining or realigning
14 what is with muzzleloaders. And the reason why we picked
15 muzzleloaders from what we see in the graphic here, is this
16 is a comparison with end-year differences of the success
17 rate of a muzzleloader versus a rifle hunt. So when we
18 first created those hunts back in the late '80s early '90s,
19 you saw a larger difference between the two of those hunts,
20 almost a seventeen percent difference on average between
21 the two of those hunts. What we see through time is
22 muzzleloaders hunts starting to conform more to the rifle
23 hunts, success rate increasing more towards rifle hunts.
24 That's been going on probably for about fifteen years or
25 more. But what we were looking at again, we were trying



1 not to reduce licenses because the biological changes that
2 were happening in our populations over the last four years,
3 especially due to drought conditions.

4 So that's why we kind of came up with a proposal on
5 taking scopes off of the muzzleloaders. By doing so if we
6 can get back to that separation or that difference in that
7 harvest, we may be anywhere from ten to twenty percent
8 reduction in overall harvest in the species therefore
9 allowing us to not have to reduce those license by up to
10 ten to twenty percent. And so that's kind of the proposal
11 that we came forth on that. We built those species rules,
12 like I said, some of the rules that you've already passed,
13 pronghorn, exotics, based on the premise that that would
14 come off. Those license numbers were based on that premise
15 as well. The rules that were noticed in the register and
16 noticed on our website, Sunshine Portal are also built off
17 of that -- those license numbers were built off that. So
18 that's the biggest change that you'll see that lives in
19 manner and method. It does not live in the species rule,
20 it does live in manner and method rule.

21 The other changes to conform the changes we've made
22 in -- or proposing to make in other ones, is prohibiting
23 the shooting of turkeys from the roost; that was a proposed
24 change that came forth. And then if you recall in the
25 exotics rule we increased the female being mature to



1 immature male portioning allowing hunters with a female
2 mature license to harvest ibex in the range of twenty
3 inches, that is to try to bring back that sex ratio in that
4 population. And then we created a new bag limit for
5 barbary sheep of female and mature, currently it's in
6 either sex, but we wanted to target the female mature
7 segment of the population in certain areas to prevent the
8 westward expansion of those species.

9 And then in licensing and application, if you all
10 recall back in the exotics rule we changed the definition
11 from Iraq/Afghan veterans to any New Mexico resident
12 veteran. We did work with the Department of Veteran
13 Affairs to figure out the best definition of it. So the
14 language in that rule would say that those individual which
15 can apply for that must provide proof of veterans through
16 their DD-214 form and honorable discharge prior to
17 application. So that's now in that rule. Again, those are
18 all to conform to changes that were made in those species
19 rules.

20 And with that, I'll take any questions you all may
21 have.

22 MS. SALAZAR-HICKEY: Would anyone like to comment on
23 the proposed amendments to 19.31.10 and 19.31.3?

24 Commissioner Salazar-Henry?

25 MS. SALAZAR-HENRY: Thank you. Thank you, Madam



1 Chair. I guess the comments I -- I got a couple more
2 questions.

3 And so your data that you went back -- all the way
4 back to 1988, you stopped at 2000. Why did you stop at
5 2000?

6 MR. LILEY: Madam Chair, members of the commission, we
7 had three different sampling methods from 1988 to current.
8 And so trying to compare among sampling methodologies is
9 an -- and you really can't compare it. Absolute values in
10 looking at that is not comparable because of biases that
11 were introduced in different sampling methods. So we took
12 that sampling frame of early on muzzleloaders. So that
13 early on muzzleloader frame is prior to some of the Pyrodex
14 powder that were pelleted and sabots that came in. So then
15 rifling came in on barrels as well, and you had a bigger
16 change on guns and the making of a power and the charges
17 that came in. So those early on time frames are more
18 representative of a more primitive-type weapon. Since that
19 time frame and what we see on the earlier is more pelleted
20 powders, sabots, et cetera, you actually have a bolt action
21 muzzleloader now where a cap goes in so you have a tighter
22 seal for longer distance shots. So that's why that earlier
23 on was.

24 The other aspect that we were looking at, the most
25 recent one, to make sure what we're most recent even if



1 it's the last ten, five, four, three years, because what we
2 want to look at is what's going on currently with the
3 population dynamics. So what our biggest concern was is
4 not necessarily the muzzleloader, the concern is what's
5 going on with the population dynamics of the separate
6 populations. We wanted to see where we're having issues
7 and if we have to reduce licenses, where we could see the
8 biggest change. And from our perspective on a weapon type
9 change while trying to keep licenses there, have the
10 biggest potential by looking at that gap of early on
11 muzzleloaders, when they were more primitive. I've seen a
12 difference of seventeen percent success rate; if we could
13 reduce harvest by that, we wouldn't have to reduce the
14 license numbers.

15 MS. SALAZAR-HENRY: Again, so starting in 2001 to
16 2011, that's the ten-year time period, still we didn't have
17 mandatory reporting until 2012, correct?

18 MR. LILEY: Madam Chair, Commissioner Salazar-Henry,
19 in 2006.

20 MS. SALAZAR-HENRY: So if we went back to mandatory --
21 so we're not comparing apples to apples. We're taking the
22 time period that was not mandatory and we're comparing it
23 to a period that is mandatory. But I guess my question
24 still, if you will just let me -- hear me out and answer my
25 question. From the year 2001 to now, is that when



1 muzzleloaders got better and better and better, essentially
2 that big, long thing you just basically said, this was
3 really, truly a primitive weapon period and now we're not,
4 starting in 2001?

5 MR. LILEY: Madam Chair and Commissioner Salazar-
6 Henry, again so let me explain this graphic a little more.
7 What this is is looking at the within year. So within that
8 same year, because you collected harvest data from a
9 specific means, maybe it was the mandatory harvest which
10 started in 2006, it's been present since 2006. But prior
11 to that, there were years where we had voluntary -- where
12 it's purely voluntary where a hunter decided to report
13 their harvest. We no longer adhere to what we called the
14 happy hunter bias. We've backtracked that and redid some
15 statistics on it by doing a random sample of those hunters
16 and said, okay, what actually is the statistical harvest by
17 going back and doing now a random sample. We found out
18 that was biased and biased significantly high. So looking
19 at a muzzleloader success rate in 2002, it may be sixty-
20 seven percent, but we know it's biased by thirty-three
21 percent because --

22 MS. SALAZAR-HENRY: I'm just asking --

23 MR. LILEY: -- of mandatory harvest. If I can --

24 MS. SALAZAR-HENRY: I'm just asking about the
25 muzzleloader.



1 MR. LILEY: I know. If I can. What we did with this
2 graphic is within year difference, because they were
3 collected the exact same, for example, in 2000 even if
4 rifle was biased high, muzzleloader was biased high,
5 archery, we looked at the separation between the two. What
6 we saw was the conversions of the success of the rifle and
7 muzzleloader occur in more recent history. We're more
8 concerned about the bias -- how this --

9 MS. SALAZAR-HENRY: So I just want to know, do
10 muzzleloaders start getting better in 2001 compared to the
11 twenty years before. That's it.

12 MR. LILEY: It started going -- well you can see back
13 in 2000 there was still a differentiation. It probably
14 came about between 2000 and 2010 is when we started seeing
15 it. And probably more so 2010 to 2020. If you'll look at
16 the last four or five years, we have sometimes
17 (indiscernible) in success in as much as four percent
18 difference.

19 MS. SALAZAR-HICKEY: Okay. We had four meetings to
20 discuss removal of muzzleloaders, scopes off of
21 muzzleloaders. You had a total of 152 people that actually
22 commented. So what was the final tally on the data where
23 they comment on the rule about muzzleloaders or is that in
24 the elk rule comments?

25 MR. LILEY: Madam Chair, Commissioner Salazar-Henry,



1 it was in the each individual species rules. And so each
2 individual species had different comments. There
3 definitely was probably more -- there was more on the
4 opposed the taking scopes off muzzleloaders. I think
5 what's to recognize, too, is we didn't reduce the rights --
6 when we first came into the discussion on the scope on
7 muzzleloaders, we said we'd keep licenses in the higher
8 number. Had we decided to continue potentially keeping
9 scopes on muzzleloaders for those species we would've
10 relouked at the license numbers and probably proposed a
11 much bigger reduction, or we would've proposed a much
12 larger reduction in overall licenses numbers. So I don't
13 know what the opposition would've been then at that time.
14 I think it was a manner and method, don't take it off.

15 MS. SALAZAR-HENRY: So I guess what I was asking is
16 from the data I got from you yesterday, we have about
17 17,000 muzzleloader hunters that apply first choice, 16,000
18 that apply second choice. You're talking 17,000 people
19 that will find out next year they can't use their scope
20 anymore because we only had 157 people attend meetings. So
21 my concern is that this is a significant change in policy
22 for muzzleloader hunters. And I recognize the need to
23 reduce harvest in certain areas where you're not meeting
24 your goals like we discussed, the unit 15 and 16, which are
25 units that are trophy units that the public has gone to and



1 they've been concerned about that; so I understand that. I
2 guess what I'm concerned about is is that something that's
3 going to affect 17,000 people we are going to move forward
4 with it without having had, I think, adequate notice to
5 those folks that you will no longer be able to use a scope.

6 I'm also concerned that were we went to the public,
7 they were never really given the option to decide which
8 hunts and which units they would have reduced licenses.
9 Right now -- or in 2014, 2018, and now 2022 when you or
10 your rules were set up, muzzleloader licenses were about
11 5,500 -- 5,600 and then came down to 5,500 or so right now.
12 And that's stayed constant each rule change. The success
13 rate has stayed the same at thirty-two percent over the
14 last probably ten years. And yet this is the year that we
15 decided that scopes and things are bad. But on the other
16 side, I'm hearing that, you know, the elk population is
17 growing all over the place.

18 So I guess my concern is that I also know that back in
19 2000 prior 2003 the harvest rate in the '80s and '90s for
20 bows was eight to ten percent, it's at twenty-five percent
21 right now. And yet we haven't -- and their technology --
22 and this is the comments I get back from people who are
23 concerned about losing their scopes, is that bow technology
24 has really increased. And yet we're not talking about
25 annually increasing bow licenses in that category. Bowing



1 and rifle licenses are being increased and muzzleloader
2 licenses are staying flat, at least in 2022.

3 And so I guess I'm wondering if you're concerned at
4 all about eventually having to reduce bows somehow or mess
5 with their weaponry in order to reduce the harvest there.
6 Because they're actually hunting in the rut and you know
7 you're taking out more big bulls with bows. I'm just
8 curious about -- I guess, is there a plan to deal with the
9 increase in bow technology and the increase in the rifle
10 scope technology also? I mean, I guess I'm -- I really --
11 in the south I understand in the southwest, like I said, I
12 talked to you. You guys did a great job going hunt by hunt
13 and unit by unit to reduce licenses in 16, take away the
14 scopes in 15 and -- but for the rest of the state, we've
15 decided every scope is off of every muzzleloader. And
16 that's the feedback I get and (indiscernible) by unit.

17 So I'm concerned that we have, one, we didn't do a
18 good job of talking to 17,000 muzzleloader hunters and we
19 only are basing our recommendations on two things we
20 originally said the harvest is too high, we're depleting
21 the elk too much. And so your options are you're going to
22 lose some licenses or you get to keep your licenses. Well,
23 it turns out in twenty percent licenses would only
24 (indiscernible). And yet we didn't ask the public
25 (indiscernible) about loader or not they wanted to lose



1 those licenses. I wonder what the comments would've come
2 back if they had an opportunity. The few that I heard
3 from, which I won't say is everybody because I don't want
4 to apply it to everybody. The few that I hear say that
5 they would rather lose a one-in-four opportunity that could
6 maybe make it a one-in-five opportunity instead of losing
7 their scope.

8 So my concern is that we didn't address this issue on
9 muzzleloaders. I understand antelope and deer being, I
10 think in my mind, to me, a little more necessary to be very
11 conservative because they are not growing populations. We
12 don't have the problem that we do with the elk. But I --
13 with elk, I just don't see the need for just using this
14 prescription that will be properly valuable in certain
15 hunts and in certain units and just applying it across the
16 board.

17 That's all I have.

18 MS. SALAZAR-HICKEY: Thank you, Commissioner Salazar-
19 Henry.

20 Would anyone else like to comment on proposed
21 amendments to 19.31.10 and 19.31.3?

22 I have a card here. Please step forward and identify
23 yourself for the record, Jesse Deubel.

24 MR. DEUBEL: Thank you, Colleen (phonetic).

25 Madam Chair, members of the commission, Director



1 Sloane, Chief Liley, I'd just like to say -- and I
2 appreciate all of your comments, Commissioner Salazar-
3 Henry, because this is a very complicated issue. Oh, let
4 me introduce myself I don't think I did that.

5 Jesse Deubel on behalf of the New Mexico Wildlife
6 Federation. I've received, also, a lot of feedback from
7 our membership, but it's of course not all unanimous. The
8 New Mexico Wildlife Federation does support the removal of
9 scopes on muzzleloaders. We are an organization that
10 really prioritizes opportunity and recognize that the
11 removing of scopes increases the amount of challenge, which
12 we think contributes to a greater fair chase opportunity
13 but also doesn't limit hunting opportunity in general.

14 A lot of the comments that I've received from our
15 members have to do with individuals who have issues with
16 perhaps their eyesight and that maybe the removal of scopes
17 would affect their ability to hunt with a muzzleloader
18 going forward. So I would like to mention that the
19 director does have authority to provide reasonable
20 accommodations for some of those folks, so if they have a
21 letter from an eye doctor an optometrist, something like
22 that, then an accommodation could be made for those people.
23 Again, recognize this is a very tough issue, there's a lot
24 of different opinions and thoughts on it. But the New
25 Mexico Wildlife Federation does support the removal of the



1 optics from muzzleloaders during muzzleloader hunts. So
2 again, some of the muzzleloaders that have a scope could
3 use that weapon during an illegal weapon season, but during
4 a muzzleloader only hunt, we support the removal of the
5 optics. Thank you very much.

6 MS. SALAZAR-HICKEY: Thank you.

7 Do we have anyone else in the audience who would like
8 to ask questions?

9 Ryan or Chief?

10 MR. DARR: And we have two individuals online that
11 would like to comment. We will start with Brandon Wynn.

12 Brandon, you are allowed to talk. Please unmute your
13 mic.

14 MR. WYNN: Thank you, Madam Chair, Commissioners.
15 Yeah. So this -- I've hunted with muzzleloaders quite a
16 bit. And starting out when they were actually primitive
17 weapons, you know, and you know, even flintlocks and stuff
18 and I've also hunted with modern muzzleloaders that inline
19 with SUB-bows and the scopes and everything. And the
20 modern muzzleloader as it exists today, with the scope on
21 it, is -- it's a single-shot rifle. It's not a
22 muzzleloader. I mean, you load it from the muzzle but from
23 the hunting ethicsy (sic) standpoint, it's a single-shot
24 rifle.

25 So from a practical standpoint, non-scientific,



1 because I haven't done the studies and looked at the
2 statistics, but as a user of these weapons I can tell you
3 that what the Department is saying is that, yeah, you
4 cannot have as many people in the field with scopes on
5 muzzleloaders as you could before the evolution of
6 muzzleloader. So right out of the gate, I wholly supported
7 the Department's proposal to take the scopes off of the
8 muzzleloader because, as I mentioned in my earlier comment,
9 what New Mexicans are starved of is opportunity and so
10 anything that can provide more opportunity for not only New
11 Mexicans but for non-residents too, for all hunter, should
12 be considered. And really, we shouldn't have special
13 muzzleloader seasons under the prior thing that they were
14 primitive weapons; they're just single-shot rifles now.

15 And also most concerning about backing off in taking
16 scopes off, you know, because it's written -- as it's
17 written today, I fully support the way the manner and
18 method rule is written now as proposed because the
19 commission has already baked in the expectation. The
20 commission assured -- I was at all the meetings this year,
21 the commission assured the Department that the scopes were
22 going to come off of the muzzleloaders and the rules were
23 written like that so the numbers, the seasons, the numbers
24 of tags of rifle, bows, muzzleloader, were set under the
25 expectation and the assurance that the scopes would come



1 off.

2 So you just can't change them unless you want to go
3 back and rewrite -- have the Department re-write all the
4 rules, go through the hearings again, and modify
5 everything. It just would be really a bad idea to -- to
6 not take the scopes off at this point. And you know, this
7 17,000 muzzleloader hunters are -- there's not 17,000
8 muzzleloader hunters that are going to be impacted
9 negatively and not like this. Every muzzleloader hunter --
10 and I talked to a lot of hardcore hunters and, you know,
11 more hobby hunters, and everyone I talked to wants these
12 scopes off with very few exceptions.

13 We're really excited about this and we thought this
14 was a long time coming. What the Department said makes
15 sense, and I'm glad that they're going to take them off,
16 and it needs to stay as written.

17 Thank you.

18 MS. SALAZAR-HICKEY: Thank you, sir. Thank you.

19 Okay. Do we have anyone else who would like to make a
20 comment?

21 MR. DARR: Madam Chair, we have two additional
22 individuals. Next we have Katie DeLorenzo.

23 Katie, you are open to speak.

24 MS. SALAZAR-HICKEY: Identify yourself for the record
25 please and who you represent.



1 MS. DELORENZO: Thanks so much. Good morning, Madam
2 Chair and Commissioners. My name is Katie DeLorenzo. I am
3 the Western Regional Manager for Backcountry Hunters and
4 Anglers.

5 And Jesse, you kind of mentioned this, is an issue
6 that at least with the New Mexico hunting public took up a
7 lot of time and conversation. After the Department's
8 extensive work on this issue throughout this rulemaking
9 process, we fully support their recommendation to modify
10 the definition of muzzleloaders across all species.

11 We feel like we are also in favor of retaining
12 opportunity and of course the Department is saying that if
13 scopes were left on, it would significantly decrease
14 opportunity across the board for big-game species. So we
15 support this biological recommendation and want to see
16 sustainable harvest continue into the future and the most
17 hunts for the most New Mexicans.

18 Thanks so much.

19 MS. SALAZAR-HICKEY: Thank you.

20 Do we have the other speaker?

21 MR. DARR: Madam Chair, we do have one final speaker.

22 Joel, you are able to speak.

23 MS. SALAZAR-HICKEY: Thank you. Please identify
24 yourself for the record and who you represent.

25 MR. GOTHARD: Yes. My name is Joel Gothard. I



1 represent the hunting public. I am a member of the New
2 Mexico Backcountry Hunters and Anglers.

3 But regarding the -- the changes that the Department
4 proposed, I fully support the changes to the -- the rule
5 about the scopes. I've been hunting with primitive weapons
6 since I was old enough to legally hunt. And I hunt for
7 that reason with those weapons, because primitive weapons
8 for the extra challenge and the opportunity. And with the
9 new technology, it's pretty much, in my opinion, ruined
10 that whole -- the mystique I guess of being able to hunt
11 with a primitive weapon. And so I support anything that
12 upholds our ability to have access to hunting all species
13 with a -- an actual primitive weapon because the new
14 muzzleloader rifles, they are not primitive. They are,
15 like the previous gentleman said, they are modern single-
16 shot rifles.

17 And so I support the change and all of the people that
18 I hunt with that -- family and friends, who hunt with
19 primitive weapons, we all share the same sentiment. So
20 thank you for hearing me out.

21 MS. SALAZAR-HICKEY: Thank you.

22 Are there any other comments or questions?

23 MS. SALAZAR-HENRY: I have a question.

24 MS. SALAZAR-HICKEY: Thank you, Commissioner, speak --

25 MS. SALAZAR-HENRY: Stewart, is -- what will the



1 definition be? Will this be now called primitive weapon
2 hunt? Is that what -- is there going to be a definition
3 change or it's just a muzzleloader without scope primitive
4 weapon?

5 MR. LILEY: Madam Chair, Commissioner Salazar-Henry,
6 there will not be a definition change. It will just remove
7 scopes and it will say that in order to be legal, the hunt
8 during a muzzleloader only season you may not use scope it
9 must be iron sights.

10 MS. SALAZAR-HENRY: Thank you.

11 MR. LILEY: Madam Chair?

12 MS. SALAZAR-HICKEY: Commissioner, can you state your
13 name please?

14 Mr. Lopez: So what -- Davy Crockett hunted with a
15 muzzleloader that shot in Tennessee. What is the crimping
16 loss of scopes and not scopes with muzzleloaders?

17 MR. LILEY: Madam Chair, Commissioner Lopez, you know,
18 it kind of depends. So I think some of the differences is
19 the individual hunter. Some hunters probably have a higher
20 wounding loss than others. When you look long-distance
21 shooting right now, I think that a lot of shots are taken
22 where you can't see the reaction of the animals, and some
23 people think they missed and the animal walks off. I think
24 we see wounding loss high at that rate. When you see these
25 long-distance shots, I think we actually see a higher



1 wounding loss than we do on shorter distance.

2 When you take scopes off of muzzleloaders, you're
3 accurate range is within a hundred yards, you're going to
4 know if it hit, of course, you're going to know more or
5 less where the spot was where the animal was standing and
6 you're probably are going to have a better opportunity to
7 blood track from that point. Whereas if you're four or
8 five, six, seven, even half a mile away at eight hundred
9 yards, you aren't going to be able to see that exact spot
10 or very rarely able to. Especially when you talk about a
11 muzzleloader through a scope that has a black cloud of
12 smoke that comes out of it through the scope. You don't
13 see the impact. And so not seeing that impact is now you
14 judge animal reactions. At 800 yards the ballistic
15 coefficient of a muzzleloader is much less and you don't
16 see that impact; at 100 it's a lot different. So I think,
17 in my personal opinion, I think we're going to see wounding
18 loss maybe decrease with having scopes off muzzleloaders.

19 MR. LOPEZ: How many more licenses are going to be
20 added now?

21 MR. LILEY: Madam Chair, Commissioner Lopez, what we
22 did, we did not propose reducing licenses significantly.
23 And so we are -- there are going to be potentially
24 twenty -- ten to twenty percent more licenses in the draw
25 this next season and if we would've kept scopes on



1 muzzleloaders we would've proposed reduction in licenses.
2 For example, in the Gila units where we're really worried
3 about older-age class males, on those mature bull hunts,
4 rifle in there, on average we would drop them as much as
5 thirty percent on bull licenses to maintain that
6 sustainable harvest.

7 MR. LOPEZ: So is that ten to twenty percent per hunt
8 or is it system-wide, so to say?

9 MR. LILEY: Madam Chair, Commissioner Lopez, it would
10 be about anywhere from 6- to 700 muzzleloader licenses
11 across the state for elk alone. For ibex we would have
12 eliminated that hunt altogether. So that hunting
13 opportunity for muzzleloader on ibex we would've proposed
14 elimination to that entire hunt. On some of the pronghorn
15 hunts in the northcentral, up in 52, we are proposed
16 reducing those hunts more so it's just -- we would've had
17 to go individual based hunt and look at what our success
18 rates were, what our harvests were through time to
19 determine what numbers we would've proposed on the
20 reduction. Overall, if you would, the totality of that
21 across the state, it would've been probably between ten and
22 twenty percent. Because our projections are we'll probably
23 see a ten to twenty percent reduction in harvest over the
24 species.

25 MR. LOPEZ: That's all I have.



1 MS. SALAZAR-HICKEY: Okay. Thank you very much.

2 Well, we are ending the hearing. At this time the
3 attendance sheet shall be marked and admitted as Exhibit
4 Number 5. The comments submitted in testimony heard during
5 this rule hearing will be reviewed by the commission and
6 discussed during the open session in today's meeting. The
7 commission will vote on the proposed amendments at that
8 time. And I would like to thank everyone present for their
9 participation today.

10 Let the record show that the rulemaking hearing was
11 adjourned at 10:15 a.m.

12 So Commissioners, let us proceed with discussion in
13 our open session. I want to thank everyone, again,
14 Commissioners, those members that are present and those
15 that were online for your comments.

16 The commissioners read every single comment that is
17 emailed to us, phone calls, conversations that we have and
18 so we thank you. Thank you for your input.

19 I'm going to start off my saying Commissioner Salazar-
20 Henry raised a very important point, communication is a
21 very important value. We talked about transparency but we
22 also talked about openness and communications.

23 So I'm going to direct this, not to you, Chief; I'm
24 going to direct it to the director. Communications are
25 very important, so how does the Department plan on -- other



1 than having gone through the rule hearing, doing a fine
2 job; thank you, Chief Liley. Can you speak a little bit
3 more to Commissioner Salazar-Henry's comments?

4 MR. SLOANE: Madam Chair, yes. I mean, obviously
5 we'll put highlighted as what's new in the Rules and
6 Information booklet. We also have the capacity to send out
7 email blasts to all of our license buyers, so we can
8 included it in that as an update to the changes. As well
9 as when you're buying a license we have the ability to put
10 in a pop-up that would show up when you put in for
11 muzzleloader hunts reminder the rule changed this year kind
12 of thing. The last one, I'll have to work with IT and make
13 sure we can make that work exactly right. But I think
14 those are the mechanisms by which we can be sure that
15 whoever is putting in for a muzzleloader hunt next year
16 will know that a scope is no longer allowed.

17 MS. SALAZAR-HICKEY: Thank you, Director.

18 Commissioners, any other comments or things you would
19 like to discuss?

20 Okay. Do I have a motion?

21 MS. ARCHULETA: Second. I'm sorry. I didn't want to
22 go through the whole --

23 MS. SALAZAR-HICKEY: You need -- thank you, Vice
24 Chair. I appreciate that.

25 MS. ARCHULETA: Motion.



1 MS. SALAZAR-HICKEY: I'll just go ahead and say --

2 MS. ARCHULETA: Okay.

3 MS. SALAZAR-HICKEY: We hereby move to repeal and
4 replace 19.31.10 NMAC as presented by the Department and
5 allow the Department to make minor corrections to comply
6 with the filing this rule with state records and archives.

7 Do I have a second?

8 MR. LILEY: Madam Chair, you might want to also add in
9 19.31.3.

10 MS. SALAZAR-HICKEY: Oh, yes. I apologize.

11 MR. LILEY: That's the license and application that
12 would be the words, veteran change.

13 MS. SALAZAR-HICKEY: Yes. Yes. Yes. So let me
14 clarify. Thank you, Chief. Because it was very clear in
15 the hearing as well as in presentation at the hearing. So
16 let me clarify my motion.

17 We hereby move to repeal and replace 19.31.10 and
18 19.31.3 NMAC as presented by the Department and allow the
19 Department to make minor corrections to comply with filing
20 this rule with state records and archives.

21 Do I have a second?

22 MR. FULFER: Second.

23 MS. SALAZAR-HICKEY: Thank you, Commissioner Fulfer.

24 Because this is a rule hearing rather than a voice-
25 call vote, Director, can we please take a roll call vote?



1 MR. SLOANE: Commissioner Salazar-Henry?

2 MS. SALAZAR-HENRY: No. And I'd like to explain my
3 vote.

4 MR. SLOANE: Commissioner Lopez?

5 MR. LOPEZ: Yes.

6 MR. SLOANE: Commissioner Fulfer?

7 MR. FULFER: Yes.

8 MR. SLOANE: Vice Chair Archuleta?

9 MS. ARCHULETA: Yes.

10 MR. SLOANE: Chair Salazar-Hickey?

11 MS. SALAZAR-HICKEY: Yes.

12 MR. SLOANE: Motion passes four to one.

13 MS. SALAZAR-HICKEY: Motion passed.

14 Thank you, Commissioner Salazar-Henry. You have the
15 floor to explain your vote.

16 MS. SALAZAR-HENRY: I guess I just want to let
17 everybody know that my concerns center around the lack of
18 public involvement to a great deal and number of people.
19 The Colorado Divisional Wildlife, who I've spent some time
20 talking to, are talking about doing some scope limitation.
21 But they're out with the public a year ahead. They want to
22 have the public's buy-in before it ever goes to their
23 commission. And that's what I believe is missing here.

24 I also believe that the Department has staff and
25 expertise to have done exactly what they did in the



1 southwest units in 15 and 16 to target the specific,
2 current codes and units to do what they need to do to bring
3 in older-age class bulls. I believe they could've done
4 that across the state with some investment in time.

5 And so I'm hoping that going forward that the
6 Department will recognize that a shift as big as this that
7 it affects the 17,000 people that will apply for a
8 muzzleloader or have in the past. That there should be
9 something a little more than the same process of going out
10 and having four months to comment and that's -- you're
11 stuck with what you're stuck. So I'm not questioning the
12 Department's professionalism as far as the biology, but
13 what I'm really disappointed in is that we went from, it's
14 the population issue, to now it's we're just trying to
15 bring back muzzleloader to primitive weapon. I don't like
16 that side hand, and so I don't want anybody to believe that
17 I'm trying to be obstinate about anything other than my
18 concerns about public involvement.

19 Thank you, Madam Chair.

20 MS. SALAZAR-HICKEY: Thank you, Commissioner. I do
21 appreciate that.

22 It is now 10:21 and what I would like to do is take a
23 few minute break. Maybe get back into session at exactly
24 10:30. I will be bringing this back in at 10:30.

25 (End of audio)



C E R T I F I C A T I O N

I, Lindsey Carlson, certify that the foregoing transcript
is a true and accurate record of the proceedings.



Lindsey Carlson

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Date: February 23, 2023

