

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]