

This as an amendment to 19.35.7 NMAC, Sections 2, 7, 8, 14, 15 and 19, effective 2/9/2021.

19.35.7.2 SCOPE: Persons who desire to bring wildlife species into the state of New Mexico. It may include the general public, pet importers, holders of Class “A” park licenses, department ~~[permittees]~~ permittees and others.

[19.35.7.2 NMAC - Rp, 19.35.7.2 NMAC, 1/31/2014; A, 2/9/2021]

19.35.7.7 DEFINITIONS:

A. “Accredited laboratory” A lab recognized for CWD testing by the New Mexico department of game and fish.

B. “Animal health emergency” A situation in which people or animals are at risk of exposure to infectious or contagious diseases as determined by the director.

C. “APHIS” Animal and plant health inspection service, United States department of agriculture.

D. “Applicant” Any person or entity that causes or submits a department application for importation.

~~[E. “Carnivore” Any animal within the order carnivora.]~~

~~[F.]~~ **E. “Certificate of compliance”** An official department document declaring an applicant’s ability to resume importation application eligibility.

~~[G.]~~ **F. “Certified Herd”** A herd that has attained certified status as defined in the current USDA chronic wasting disease program standards.

~~[H.]~~ **G. “Closed herd sales”** Sales of animals from a herd directly to the buyer in a manner that allows the buyer to transport the animals from the producer's premises directly to the buyer's premises without contact with animals from another herd, and without contact with other pens or transport facilities used by any other herd.

~~[I.]~~ **H. “Chronic Wasting Disease” or “CWD”** is a transmissible spongiform encephalopathy of cervids.

~~[J.]~~ **I. “CWD-Exposed Animal”** is an animal that is part of a CWD-positive herd, or that has been exposed to a CWD-positive animal or contaminated premises within the previous 60 months.

~~[K.]~~ **J. “CWD-Exposed herd”** is a herd in which a CWD-positive animal resided within 60 months prior to that animal’s diagnosis as CWD-positive.

~~[L.]~~ **K. “CWD-Positive herd”** is a herd in which a CWD-positive animal resided at the time it was diagnosed and which has not been released from quarantine.

~~[M.]~~ **L. “CWD-Suspect animal”** is an animal for which unofficial CWD test results, laboratory evidence, or clinical signs suggest a diagnosis of CWD, but for which laboratory results have been inconclusive or not yet conducted.

~~[N.]~~ **M. “CWD-Suspect herd”** is a herd for which laboratory evidence or clinical signs suggest a diagnosis of CWD, but for which laboratory results have been inconclusive or not yet conducted.

~~[O.]~~ **N. “CWD-Trace-Back herd”** is an exposed herd in which a CWD-positive animal has resided during the 60 months prior to the diagnosis.

~~[P.]~~ **O. “CWD-Trace-Forward herd”** is a CWD-exposed herd that has received CWD-exposed animals from a CWD-positive herd during the 60 months prior to the diagnosis of CWD in the CWD-positive herd.

~~[Q.]~~ **P. “Dangerous animal”** An animal that due to its nature, biology or its behavior, including predatory or venomous animals, that may present a risk to the health, safety or well-being of the public or other animals including native wildlife, domestic pets or livestock.

~~[R.]~~ **Q. “Department”** Shall mean New Mexico department of game and fish.

~~[S.]~~ **R. “Director”** Shall mean the director of the department of game and fish.

~~[T.]~~ **S. “Importer”** Any person or entity that causes an animal to be brought, transported or shipped into New Mexico with the exception of common mail carriers and delivery service providers during the course of their regular duties.

~~[U.]~~ **T. “Invasive animal”** Any non-native animal, except protected wildlife, including any aquatic invasive species (AIS), whose introduction into New Mexico may cause or is likely to cause harm to the economy, environment, protected wildlife, human health or safety.

~~[V.]~~ U. **“Isolation”** A period of time imported animals are separated and observed. The observation pen must have fences at least eight feet high. The isolation pen must prevent nose-to-nose contact with all wild ungulates during the observation period.

~~[W.]~~ V. **“Mixed herd”** A herd comprised of animals from different sources and held to allow contact or commingling.

~~[X.]~~ W. **“Mixed herd sales”** Sales from sale barns, auctions, private arrangements, or other facilities that allow joint penning or adjacent penning of animals from more than one closed herd, or otherwise facilitate or permit commingling, direct contact, or holding, boarding, or sharing the premises by more than one herd simultaneous or successively in time.

~~[Y.]~~ X. **“Non-domesticated animal”** For the purposes of this rule, any animal species that is wild by nature not listed as semi-domesticated or protected under chapter 17 NMSA, 1978.

~~[Z.]~~ Y. **“NPIP”** National poultry improvement program.

~~[AA.]~~ Z. **“Official Animal Identification”** A device or means of animal identification approved by USDA to uniquely identify individual animals nationally. The animal identification must include a nationally unique identification number that adheres to one of the following:

- (1) national uniform ear tagging system;
- (2) animal identification number (AIN);
- (3) premises-based number system using a premises identification number (PIN) in conjunction with a livestock production numbering system; or
- (4) any other numbering system approved by USDA for the identification of animals in commerce.

~~[BB.]~~ AA. **“Protected wildlife”** Shall mean those taxonomic groups of mammals, birds and fish listed in Chapter 17 NMSA, 1978, including any species that are listed as either state or federally threatened or endangered.

~~[CC.]~~ BB. **“Release from captivity”** For the purpose of this rule, the act of removing from confinement, letting go, liberating or setting free any imported, live non-domesticated animal into the wild.

~~[DD.]~~ CC. **“Semi-domesticated animal”** For the purpose of this rule, the director may designate an animal species as semi-domesticated in those instances where individual members of such species are commonly tamed, raised, bred or sold in captivity.

~~[EE.]~~ DD. **“Species importation list”** A list containing protected, non-game and semi-domesticated animal species established, maintained, updated or amended by the director of the New Mexico department of game and fish. The species importation list may contain importation requirements, restrictions and conditions for each animal species listed.

~~[FF.]~~ EE. **“Qualified expert”** Only a person officially designated by the director to import a specific non-domesticated animal.

~~[GG.]~~ FF. **“Undesirable animal”** An animal that may have adverse impacts to health, management or safety.

~~[HH.]~~ GG. **“USDA”** United States department of agriculture.

[19.35.7.7 NMAC - Rp, 19.35.7.7 NMAC, 1/31/2014; A, 12/15/2014; A, 2/9/2021]

19.35.7.8 IMPORTATION OF LIVE NON-DOMESTICATED ANIMALS: It shall be unlawful to import any live non-domesticated animal into New Mexico without first obtaining appropriate permit(s) issued by the director except those animals identified within the species importation list group I. ~~[The state game commission must review any permit application for the importation of any carnivore that will be held, possessed or released on private property for the purpose of recovery, reintroduction, conditioning, establishment or reestablishment in New Mexico. The director shall only issue a department permit in accordance with commission direction following their review of an application submitted under this section of rule.]~~ Permits will only be issued when all application requirements and provisions have been met. Failure to adhere to or violation of permit provisions may result in the applicant/importer becoming ineligible for importation(s). The pendency or determination of any administrative action or the pendency or determination of a criminal prosecution for the same is not a bar to the other.

[19.35.7.8 NMAC – Rp, 19.35.7.8 NMAC, 1/31/2014; A, 12/15/2014; A, 2/9/2021]

19.35.7.14 IMPORTATION OF CERTAIN FISH OR FISH EGGS INTO NEW MEXICO: All fish species or eggs of the families salmonidae, esocidae, [~~perichthyidae~~] moronidae, ictaluridae, centrarchidae, percidae, and the genus oreochromis may be imported into the state provided that all conditions stated on the application and permit are met, including the following:

- A. the name of department approved supplier pursuant to this regulation;
- B. description of water into which fish will be released is provided; description must include: legal owner of water; legal description of location (township, range, section); county; name of water; size of water (surface acres-lake; miles-stream); source and discharge of water; major use of water; a map of sufficient size and detail to allow the water to be located by someone unfamiliar with the area shall be included;
- C. species, size, pounds, and number of fish to be imported will be specified;
- D. purpose of importation will be specified;
- E. full description of person or persons requesting importation, to include: name, address, telephone number, name of contact person;
- F. GPS coordinates (latitude and longitude in degree decimal minutes (DDM) using WGS 84 datum for each location where fish are stocked.
- G. Oreochromis niloticus and oreochromis mossambicus may be imported into the state provided that:

- (1) All requirements set forth in the application and on the permit are met.
- (2) All other regulatory requirements, including those set forth herein, are met.

[19.35.7.14 NMAC - Rp, 19.35.7.14 NMAC, 1/31/2014; A, 10/15/2015; A, 2/9/2021]

19.35.7.15 APPROVED SUPPLIERS OF FISH OR FISH EGGS FOR IMPORTATION INTO NEW MEXICO:

- A. The department will maintain a listing of approved fish suppliers.
- B. All approved fish suppliers or their agent must carry a department-issued copy of the importation permit while transporting fish to the approved release site in New Mexico.
- C. Approved supplier or their agent must notify the department of intended port of entry for importation of fish or fish eggs into New Mexico.
- D. Approved supplier may be required to provide a presence/absence disease history (e.g., furunculosis bacterium, enteric redmouth bacterium, proliferative kidney disease, ceratomyxosis of salmonids, etc.) of the hatchery facility if requested by the New Mexico department of game and fish.
- E. Approved suppliers shall meet the criteria and provide pathogen-free certification as specified herein.

F. Salmonids:

- (1) For the infectious hematopoietic necrosis virus (IHNV), infectious pancreatic necrosis virus (IPNV), [~~and~~] viral hemorrhagic septicemia (VHS), and bacterial kidney disease (BKD).
 - (a) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.
 - (b) Disease testing of fish must use American fisheries society (AFS) blue book or meet OIE (office international des epizooties) standards.
 - (c) Disease testing will be conducted on an annual basis; annual inspection must have occurred within the previous 12 months of application date.
 - (d) [~~60~~] Sixty fish per lot will be sampled.
 - (e) For all lots of fish not originating on facility, supplier must provide a historical account documenting fish were reared only at New Mexico department of game and fish approved aquaculture facilities.
- (2) [~~Salmonids for~~] For the whirling disease pathogen [~~and bacterial kidney disease~~].
 - (a) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.

[~~(b) — Lots of fish older than six months will be sampled.~~]

[~~(e)~~] (b) [~~60~~] Sixty fish per lot will be sampled.

~~[(d)]~~ (c) Inspection will include at least one lot of susceptible salmonids (rainbow trout, cutthroat trout, rainbow-cutthroat hybrids) which has been on the hatchery's water source for at least 10 months. If no lot of susceptible salmonids has been on the hatchery's water source for at least 10 months, then inspection shall include at least one lot of susceptible salmonid at least six months of age or older.

~~[(e)]~~ (d) Disease testing will be conducted on an annual basis. Annual inspection must have occurred within the previous 12 months of application date.

~~[(f)]~~ (e) Positive findings of whirling disease by pepsin-trypsin digestion shall be considered presumptive; positive findings of whirling disease by histology shall be considered confirmatory.

~~[(g)]~~ (f) For all lots of fish not originating on facility, supplier must provide a historical account documenting fish were reared only at New Mexico department of game and fish approved aquaculture facilities.

~~[(h)]~~ (g) Supplier may be required to provide a whirling disease history of the hatchery facility if requested by the New Mexico department of game and fish.

~~[(i)]~~ (h) Presumptive findings: Any presumptive findings of disease with no confirmatory testing shall be deemed a positive finding of the disease.

~~[(j)]~~ (i) Positive findings of disease: Any facility deemed to have tested positive, by confirmatory findings or presumptive findings without confirmatory testing, under this rule shall be barred from importation into the state of New Mexico until the facility is shown to be pathogen free for a minimum of two consecutive years and has met all other requirements.

~~[(k)]~~ (j) Renovated facilities: A facility that has been deemed positive under this rule and has undergone complete renovation may apply for importation privileges as a new facility once it has had at least one annual inspection and has met all other requirements. Complete renovation for the purposes of this rule shall be defined as a facility that has: ~~[1) closed, secured, and sanitized all water sources, 2) confined all water conveyance to closed sealed pipes, and 3) constructed all rearing spaces out of hard surfaced materials. Proof of renovation must be provided with the application for importation privileges. On-site inspection of the facility after renovation may be required prior to authorization to import.]~~

~~(i) closed, secured, and sanitized all water sources;~~
~~(ii) confined all water conveyance to closed sealed pipes; and~~
~~(iii) constructed all rearing spaces out of hard surfaced materials. Proof of renovation must be provided with the application for importation privileges. On-site inspection of the facility after renovation may be required prior to authorization to import.~~

G. Warm water fish:

(1) Disease testing will be conducted by another state wildlife agency, United States fish and wildlife service; USDA certified source or other source approved by the New Mexico department of game and fish.

(2) Disease testing of fish must use American Fisheries Society (AFS) blue book procedures or meet OIE standards.

(3) Disease testing will be conducted on an annual basis. Annual inspection must have occurred within the previous 12 months of application date.

(4) ~~[60]~~ Sixty warm water fish per lot shall be tested for viruses and bacteria.

~~[(5)] Oreochromis niloticus and oreochromis mossambicus shall be certified as to species and as either all male or otherwise sterile by a qualified independent laboratory or by other means approved by the director.~~

~~[(6)] Oreochromis niloticus and oreochromis mossambicus capable of reproduction and certified as to species by a qualified, independent laboratory or by other means approved by the director may be approved for import only to a qualified expert.]~~

~~[(7)]~~ (5) Approved supplier will document whether fish on the facility have ever been diagnosed with channel catfish virus.

H. Oreochromis niloticus and oreochromis mossambicus shall be certified as to species and as either all male or otherwise sterile by a qualified independent laboratory or by other means approved by the director. Oreochromis niloticus and oreochromis mossambicus capable of reproduction and certified as to species by a qualified, independent laboratory or by other means approved by the director may be approved for import only to a qualified expert.

~~[H.]~~ **I.** Triploid grass carp: A notarized certificate of triploidy issued by another state wildlife agency, United States fish and wildlife service, USDA certified source or other source approved by the New Mexico department of game and fish must be provided for all grass carp imported into New Mexico.

~~[I.]~~ **J.** Approved suppliers shall provide signed written assurance to the department that the fish rearing facilities are free of aquatic nuisance species (ANS) and aquatic invasive species (AIS). Failure to provide this assurance shall be reason to deny importation privileges. Approved suppliers shall be liable for any introduction of ANS or AIS caused by their actions.

[19.35.7.15 NMAC - Rp, 19.35.7.15 NMAC, 1/31/2014; A, 10/15/2015; A, 2/9/2021]

19.35.7.19 RELEASE FROM CAPTIVITY FOR IMPORTED ANIMALS: No person shall release from captivity an imported animal into New Mexico except by obtaining a release permit from the director. The transfer of an imported animal from one person to another person does not constitute a release from captivity.

A. Prior to approval by the director an applicant must:

(1) submit a plat of the release area;

(2) submit verification that landowners, tribal officials, state officials, federal officials and county officials that may be directly affected by the release have been notified of the potential release in writing and have been given 20 days to respond to the release; responses must be submitted with the application; it is the responsibility of the applicant to notify the above and submit responses to the department; failure to notify as indicated herein or to submit responses will result in the application being rejected until this condition is met and any compliance fees are paid;

(3) demonstrate that the intended release is provided for in state or federal resource or species management plans or strategies (CWCS).

B. Any individual or group of isolated animals in which signs of infectious or contagious disease is evident will not be released, will remain in isolation, and, at the recommendation of the state veterinarian:

(1) the animals shall be treated and restored to health until they no longer pose a threat of infection to wild, free ranging wildlife or to other captive animals in the facility; or

(2) the isolated animals shall be destroyed and remains will be disposed in a manner conforming to state, federal or local rules and regulations.

C. The director shall not approve any release permit that conflicts with current conservation management.

~~**D.** — The state game commission must review any permit application for any carnivore that will be held, possessed or released on private land for the purpose of recovery, reintroduction, conditioning, establishment or reestablishment in New Mexico. The director shall only issue a department permit in accordance with commission direction following their review of an application submitted under this section of rule.]~~

[19.35.7.19 NMAC - Rp, 19.35.7.19 NMAC, 1/31/2014; A, 12/15/2014; A, 2/9/2021]