

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND FISHING
PART 2 HUNTING AND FISHING LICENSE REVOCATION

19.31.2.1 ISSUING AGENCY: New Mexico department of game and fish.
[19.31.2.1 NMAC - Rp, 19.31.2.1 NMAC, 4/1/2022]

19.31.2.2 SCOPE: Anyone who violates the provisions of Chapter 17 NMSA 1978, Section 30-14-1 NMSA 1978, the Interstate Wildlife Violator Compact (Chapter 11 NMSA 1978) and the Parental Responsibility Act (Chapter 40 NMSA 1978).
[19.31.2.2 NMAC - Rp, 19.31.2.2 NMAC, 4/1/2022]

19.31.2.3 STATUTORY AUTHORITY: Sections 11-16-5, 11-16-6, 17-1-14, 17-2-10.3, 17-3-34, 30-14-1, 40-5A-3, and 40-5A-6 NMSA 1978.
[19.31.2.3 NMAC - Rp, 19.31.2.3 NMAC, 4/1/2022]

19.31.2.4 DURATION: Permanent.
[19.31.2.4 NMAC - Rp, 19.31.2.4 NMAC, 4/1/2022]

19.31.2.5 EFFECTIVE DATE: April 1, 2022 unless a later date is cited at the end of a section or paragraph.
[19.31.2.5 NMAC - Rp, 19.31.2.5 NMAC, 4/1/2022]

19.31.2.6 OBJECTIVE: To revoke, suspend or deny the privileges of any person who persistently, flagrantly or knowingly violates any of the provisions of Chapter 17 NMSA 1978, any rule adopted by the state game commission, the conditions of their agreement, license, permit or privileges, or Section 30-14-1 NMSA 1978; whose name appears on a HSD certified list of obligors not in compliance with the Parental Responsibility Act, Section 40-5A-1 NMSA 1978; who fails to pay a penalty assessment levied pursuant to Section 17-2-10.1 NMSA 1978; who fails to appear, after proper notice, for hearings as required by law or regulation pursuant to Section 17-2-10.3 NMSA 1978; who has a civil judgment assessed against them pursuant to Section 17-2-26 NMSA 1978 until those damages have been paid in full; whose privileges have been revoked by a wildlife violator compact member state or of any resident that fails to meet the terms of a citation issued from a compact member state pursuant to the Interstate Wildlife Violator Compact, Section 11-16-1 NMSA 1978; or, who does not comply with a department sponsored private lands agreement.
[19.31.2.6 NMAC - Rp, 19.31.2.6 NMAC, 4/1/2022]

19.31.2.7 DEFINITIONS:

- A. “Commission”** means the New Mexico state game commission.
- B. “Conviction”** means any adjudication of guilt; plea of guilty or nolo contendere accepted by the court; or payment of a fine, court cost, court order or penalty assessment; or forfeiture of collateral; regardless of whether sentencing or imposition of sentencing has been deferred or suspended.
- C. “Department”** means New Mexico department of game and fish.
- D. “Director”** means the director of the department of game and fish.
- E. “HSD”** means the New Mexico human services department.
- F. “Notice of contemplated action”** or **“NCA”** means a written notice that the commission is considering revoking a respondent’s privileges, the basis for the action and the manner in which they can request a hearing.
- G. “Notice of suspension”** or **“NOS”** means a written notice that the department has suspended a respondent’s privileges until they come into compliance with parental responsibility obligations to HSD, compliance with criminal obligations to a court, compliance with criminal or civil obligations to the department or that the department has suspended or revoked the respondent’s privileges in accordance with the Interstate Wildlife Violators Compact.

H. “Obligor” means a person who has been ordered to pay child or spousal support pursuant to a judgment and order for support.

I. “Privilege(s)” means the ability to purchase, receive, obtain or possess any license, permit, certificate, registration, authorization or agreement issued by the department, including but not limited to, hunting, fishing, trapping, private land hunting authorizations or permits, guiding and outfitting.

J. “Respondent” means any person who is subject to revocation or suspension.

K. “Revocation” means when a person’s privileges are withheld by the commission or department, after notice and opportunity for a hearing, for a definite period of time.

L. “Suspension” means a person’s privileges are withheld by the commission or department until the person comes into compliance.

[19.31.2.7 NMAC - Rp, 19.31.2.7 NMAC, 4/1/2022]

19.31.2.8 CRIMINAL REVOCATION CATEGORIES AND POINTS: Each conviction or penalty assessment for a violation of Chapter 17 NMSA 1978, Section 30-14-1 NMSA 1978 or commission rule will result in the assessment of points. Any person with 20 or more points accumulated within any consecutive three-year period shall have all of his or her privileges subject to revocation or suspension. The tolling of time for the three consecutive years shall begin from the date of conviction or the date a penalty assessment was accepted.

A. 40-point criminal violations:

- (1) hunting with the aid of an artificial light or spotlight, in violation of Section 17-2-31 NMSA 1978;
- (2) felony waste of game in violation of Section 17-2-8 NMSA 1978;
- (3) selling, offering for sale, offering to purchase or purchasing any game animal, game bird or game fish or parts thereof in violation of Section 17-2-7 NMSA 1978;
- (4) any violation of Section 17-3-45 NMSA 1978 related to shooting from an aircraft involving any game animal, game bird or any state listed threatened or endangered animal;
- (5) applying for or receiving an outfitter or guide registration while revoked;
- (6) any violation of Section 17-3-48 NMSA 1978;
- (7) any violation of Section 17-3-49 NMSA 1978;
- (8) except as otherwise provided by Sections 17-2-37 to 17-2-46, taking, possessing, transporting, exporting, processing, selling or offering for sale, or shipping any species or subspecies of wildlife listed on the state list of endangered or threatened species or the United States’ list of endangered native and foreign fish and wildlife;
- (9) knowingly or willfully introducing an aquatic invasive species, in violation of Section 17-4-35 NMSA 1978; or
- (10) accessory to any of the above violations.

B. 20-point criminal violations:

- (1) illegally taking, attempting to take, killing, capturing or possessing any big game species outside of hunting season in violation of Section 17-2-7 or 17-3-33 NMSA 1978, except for possession of head, antlers or horns found in the field penalty assessment violations;
- (2) hunting big game without a license in violation of Section 17-3-1 NMSA 1978;
- (3) misdemeanor waste of game in violation of Section 17-2-8 NMSA 1978;
- (4) hunting on public land (lands owned by the U.S. government, state of New Mexico, state land office or New Mexico game commission) with a license which was valid only on private land;
- (5) hunting in a closed area or hunting big game outside the ranch boundaries for which a ranch only license is issued or hunting big game in the wrong game management unit;
- (6) any violation of Section 17-3-45 NMSA 1978 related to shooting from an aircraft involving species other than game animals, game birds or state listed threatened or endangered animals;
- (7) exceeding the bag limit of big game;
- (8) criminal trespass, in violation of Section 30-14-1 NMSA 1978, when in connection with hunting, fishing or trapping activity; revocation to be for no less than three years;
- (9) any violation of Section 17-3-6 NMSA 1978;
- (10) any violation of Section 17-2-7.1 NMSA 1978 relating to interference with hunting, fishing or trapping;
- (11) any violation of Section 17-2-29 NMSA 1978; revocation for a period of one year as prescribed by Section 17-2-30 NMSA 1978;

- (12) outfitter allowing or using an unregistered person to perform outfitting or guiding services;
- (13) guiding or outfitting without being registered in violation of Section 17-2A-3 NMSA 1978;
- (14) using an outfitter or guide license issued to another;
- (15) hunting with a license obtained through the special drawing pool without being contracted with a New Mexico outfitter;
- (16) any violation of the provisions of any special use of wildlife permit issued by the department pursuant to Chapter 17 NMSA 1978 and its implementing rules;
- (17) procurement, possession or use of any additional big game or turkey license or tag, except as provided by rule;
- (18) any violation of Section 17-2-4.2 NMSA 1978;
- (19) selling or offering for sale any license issued to a person.
- (20) importation or possession of any species listed as group II, III or IV on the director's "species importation list" in violation of Section 17-3-32 NMSA 1978 or 19.31.10 NMAC;
- (21) any person who obtains any license, permit or stamp by falsely claiming a military discount; or
- (22) accessory to any of the above violations.

C. 10-point criminal violations:

- (1) illegally taking, attempting to take, killing, capturing or possession of any big game species during hunting season;
- (2) illegally taking, attempting to take, killing, capturing or possessing any turkey or small game in violation of Section 17-2-7 or 17-3-33 NMSA 1978;
- (3) hunting, taking or attempting to take any protected game animal, game bird, game fish or furbearer on private land without written permission, in violation of 19.31.10 NMAC;
- (4) harassing a game animal;
- (5) use of an aircraft or drone to locate, harass, drive or rally a game animal;
- (6) fail to properly tag big game species or turkey as prescribed;
- (7) using an invalid or voided tag or using a tag of any other person;
- (8) fishing without a license or hunting small game or turkey without a license;
- (9) exceeding the bag limit of small game or turkey;
- (10) retention of live game animal or game bird;
- (11) refusing or failing to produce an outfitter contract or not having a signed contract prior to hunting;
- (12) applying or allowing someone to apply in the special drawing pool without a contract;
- (13) hunting or collecting non-game without a license or permit;
- (14) applying or aiding any person in applying in the special drawing pool with an unregistered or unqualified outfitter number;
- (15) hunting with a license obtained through the special drawing pool without being accompanied by a New Mexico outfitter or their guide; or
- (16) accessory to any of the above violations.

D. five-point criminal violations:

- (1) illegal possession of any head, horns or antlers of a game animal found in the field;
- (2) any provision of Chapter 17 NMSA 1978 and its implementing rules not specifically listed herein.

E. three-point criminal violations:

- (1) hunting, fishing or trapping without proper stamp(s); or
 - (2) using any department issued permit without possessing the proper stamp(s).
- [19.31.2.8 NMAC - Rp, 19.31.2.8 NMAC, 4/1/2022]

19.31.2.9 ADMINISTRATIVE REVOCATION CATEGORIES AND POINTS: Any person may be assessed administrative revocation points for violations as provided below. Any person with 20 or more points accumulated within any consecutive three-year period shall have all of his or her privileges subject to revocation or suspension. An outfitter, guide or applicant's administrative revocation points shall only be against their outfitting or guiding registration unless they have accumulated 20 or more criminal revocation points. Administrative

revocation points for landowners or their authorized ranch contact shall only be for the revocation or suspension of their private land program participation privileges unless they have accumulated 20 or more criminal revocation points.

A. 20 points:

- (1) outfitter or guide failure to comply with registration audit or conditions;
- (2) outfitter or guide misrepresentation;
- (3) outfitter or guide failure to disclose;
- (4) landowner's or authorized ranch contact's misrepresentation or violation of the conditions of a contract, application or agreement with the department;
- (5) any person submitting, or allowing to be submitted for them, false or fraudulent harvest reporting or pelt tagging information as required by rule; or
- (6) any person purchasing a license, permit, certificate or registration without sufficient funds to pay or who stops payment for same.

B. 10 points:

- (1) outfitting on state or federal lands without a proper permit or authorization;
- (2) outfitter breach of contract; or
- (3) outfitter, guide, landowner or authorized ranch contact failure to report illegal activity.

C. five points:

- (1) outfitter or guide violation of any conditions of a state or federal permit or authorization;
- (2) outfitter or guide failure to comply with any local, state or federal laws other than outfitting on state or federal lands without a proper permit or authorization;
- (3) outfitter failure to supervise guides; or
- (4) any outfitter or guide misconduct not otherwise specifically listed herein.

D. outfitters, guides and landowners or their authorized ranch contact shall be notified when points are assessed.

[19.31.2.9 NMAC - Rp, 19.31.2.9 NMAC, 4/1/2022]

19.31.2.10 TIMEFRAMES: Any person found to have accumulated 20 or more points within any consecutive three-year period in violation of Chapter 17 NMSA 1978, Section 30-14-1 NMSA 1978 or commission rule, after notice and opportunity to be heard by a hearing officer, shall have their privileges revoked for a definite period of time in accordance with Section 17-1-14 NMSA 1978.

A. First revocation: Any person subject to revocation for the first time may be revoked for up to three years or as provided for in statute. Stipulated agreements may only be used for first time revocations and any stipulated agreement shall be considered a first revocation for the purpose of calculating second or subsequent revocation timeframes.

B. Second revocation: Any person, who is subject to a second revocation may be revoked for up to five years.

C. Third revocation: Any person, who is subject to a third revocation, shall be revoked for no less than ten years.

D. Felony conviction: Any person convicted of a felony waste of game violation for the first time shall have their privileges revoked for no less than seven years and no more than ten years. Any person convicted of a felony waste of game violation for a second or subsequent time shall have their privileges revoked for no less than 10 years and no more than 99 years.

E. Enhancement: The department may recommend any period of revocation longer than those set in Sections A through C of this section to a hearing officer during a hearing requested by a respondent or to the commission, if no hearing was requested by the respondent, when a respondent has accrued 40 or more revocation points within a three year period or when a respondent has accrued 20 or more revocation points and is subject to civil restitution for any animal designated as a trophy animal under 19.30.11 NMAC in connection with these points or for any person who accrues additional violation points while on revocation for a separate offense. Any such recommendation shall be supported with written justification detailing the recommendation and the egregious circumstances. Neither the hearing officer nor the commission shall be bound by the department's recommendation but shall consider it in determining the appropriate time period for a respondent's revocation.

F. Mitigation: The department may recommend any period of revocation shorter than those set in Sections A through C of this section to a hearing officer during a hearing requested by a respondent or to the commission, if no hearing was requested by the respondent, when the department believes mitigating circumstances exist. Any such recommendation shall be supported with written justification detailing the recommendation and the

mitigating circumstances. Neither the hearing officer nor the commission shall be bound by the department's recommendation but shall consider it in determining the appropriate time period for a respondent's revocation.

G. Private land program violations: Any person, corporation or management authority found not complying with a department sponsored private lands agreement shall have all of their private lands program privileges revoked for up to three years for a first offense, no less than five years for a second offense and no less than 10 years for a third or subsequent offense. Such a revocation shall attach to the property associated with the violations and no change of ownership, change of authorized ranch contact nor any other change in management shall not reinstate a property which was associated with this type of revocation. The property shall remain inactive and the department shall not issue any private land authorizations for any species to any property or any portion of any property involved in a private land program revocation for the duration of the revocation time period even if the property is sold, changes management, is subdivided or otherwise altered.

H. PRA, IWVC violators and penalty assessments: Any person not in compliance with the Parental Responsibility Act (PRA) Section 40-5A-1 NMSA 1978, the Interstate Wildlife Violator Compact (IWVC) Section 11-16-1 NMSA 1978 or who has failed to pay a penalty assessment citation to the department within the amount of time allowed shall have their privileges revoked or suspended until in compliance (PRA) or for the time period designated by the original revoking state (IWVC) or until the penalty assessment citation has been paid in full.

I. Revocations shall be consecutive: All revocations shall commence consecutively to any current revocation or suspension.

J. Timeline to begin revocation process: If the department fails to initiate (initiation shall be calculated based on the post mark on the NCA or NOS letter) a revocation or suspension action against an individual within one year of the date that the individual is either convicted of an act or accepts a penalty assessment misdemeanor, or a person is issued an administrative citation and assessed administrative points, which results in the accumulation of 20 or more points, the department shall not bring a revocation or suspension action against that individual unless and until that individual is either convicted of an additional violation or accepts an additional penalty assessment misdemeanor of any point value within three years of the most recent point accrual originally equaling or exceeding 20 points.

[19.31.2.10 NMAC - Rp, 19.31.2.10 NMAC, 4/1/2022]

19.31.2.11 REVOCATION AND SUSPENSION PROCEDURES:

A. Revocation: The department shall mail out a NCA when it determines that a person has accumulated 20 or more points, or when the commission is contemplating revoking a landowner's or authorized ranch contact's private land program privileges to participate in any department sponsored private land program or when the department determines that there has been a violation of the terms of a permit, license or authorization. An NCA shall clearly describe the proposed action and shall contain the following:

(1) **Accrual of points:** That the respondent has accrued 20 or more violation points within a three-year period and they are subject to having their privileges revoked.

(2) **Hearing may be requested:** That the respondent may secure a hearing before a hearing officer designated by the commission by mailing a request for a hearing letter to the department at 1 Wildlife Way, Santa Fe, NM 87507 and that a request for hearing shall only be deemed timely if it is postmarked within 20 calendar days after service of the department's NCA to the respondent.

(3) **Rights of respondent:** A person entitled to be heard under this rule shall have the right to be represented by counsel or may appear on their own behalf; to present all relevant evidence by means of witnesses, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues.

(4) **Written request:** Upon written request to another party, any party is entitled to:

- (a) Obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
- (b) Inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.
- (c) The party to whom such a request is made shall comply with the request within 20 calendar days after the delivery of the request. No such request shall be made less than 20 calendar days before the hearing.

B. Suspension: The department shall mail out a NOS when it determines that there is sufficient evidence that a person is named on the wildlife violator compact, has failed to appear in court, has failed to pay a penalty assessment citation in full within the timeframe allowed, has failed to pay a civil judgement in full, or has

entered into a voluntary suspension pursuant to a civil assessment. The NOS shall clearly describe the suspension of privileges and shall contain the remedy for the suspension.

C. Deadlines: If any deadline falls on a Saturday, Sunday, or state-recognized holiday, the deadline shall be extended to the next business day.

D. Department may initiate process: The commission grants approval to the department, through the director, to initiate the NCA or NOS process without commission consideration and to carry out suspensions associated with any NOS. The commission retains all authority for final revocation decisions.

[19.31.2.11 NMAC - Rp, 19.31.2.11 NMAC 4/1/2022]

19.31.2.12 NO HEARING REQUESTED: If a respondent does not mail a request for a hearing within the time frame and in the manner required by this rule, or the notice mailed by the department is returned as undeliverable or unclaimed at the address the department has on file, the commission may take the action contemplated in the notice and such action shall be final and not subject to judicial review.

A. The commission shall consider the department's submission of names of respondents who have not requested a hearing at a properly scheduled commission meeting and the respondent's privileges shall be automatically revoked or suspended pursuant to this rule.

B. Within 20 days after the commission's decision is rendered and signed by the chairperson of the commission, the department shall serve upon the respondent a copy of the written decision.

[19.31.2.12 NMAC - Rp, 19.31.2.12 NMAC 4/1/2022]

19.31.2.13 HEARING REQUESTED: If a respondent requests a hearing as provided by this rule, the department, within 20 calendar days of receipt of such request, shall notify the respondent of the time and place of the hearing, the name or names of the person or persons who shall conduct the hearing for the commission, and the statutes and rules authorizing the commission to take the contemplated action. The hearing shall be held not more than 90 or less than 30 days from the date of service of such notice unless a continuance is granted to either party by the hearing officer. If a continuance has been requested by the department and granted by the hearing officer the hearing shall be rescheduled within 60 days from the original hearing date. If a continuance has been requested by the violator and granted by the hearing officer all timelines are waived for the hearing. Continuances may only be granted for good cause. The decision to grant or deny a continuance is at the sole discretion of the hearing officer.

[19.31.2.13 NMAC - Rp, 19.31.2.13 NMAC, 4/1/2022]

19.31.2.14 STIPULATED AGREEMENTS: At the department's discretion, a person entitled to be heard under this rule for a first-time revocation may enter into a written stipulated agreement with the department. Signing such an agreement shall waive the person's right to a hearing and the filing of a written exception. The agreement shall be presented to the commission as the department's recommendation and the commission retains authority for the final decision.

[19.31.2.14 NMAC - Rp, 19.31.2.14 NMAC, 4/1/2022]

19.31.2.15 METHOD OF SERVICE:

A. Any NCA, notice of hearing or written decision by the commission shall be served by certified mail, return receipt requested, directed to the respondent, at their last known address as shown by the records of the department of game and fish. Notice by certified mail shall be deemed to have been served on the date born by the return receipt showing delivery or the last attempted delivery of the notice or decision to the respondent or refusal to accept delivery of the notice or decision.

B. Any NOS shall be given either by personal delivery to the person to be notified or by deposit in the United States mail, addressed to the person at the address as shown by the records of the department of game and fish. The giving of notice by mail is complete upon the expiration of seven days after deposit of the notice in the mail. Proof of the giving of notice in either manner may be made by the certificate of any officer or employee of the department, naming the person to whom the notice was given and specifying the time, place and manner of the giving of the notice. Notice is given when a person refuses to accept notice.

[19.31.2.15 NMAC - Rp, 19.31.2.15 NMAC, 4/1/2022]

19.31.2.16 VENUE: Hearings held under this rule shall be conducted in Santa Fe county or Bernalillo county, New Mexico. Under exigent circumstances, and at the discretion of the hearing officer, the hearing may be held in another county in New Mexico. Hearings may be conducted in person, via video conference, telephone or

other equivalent electronic method with the approval of the hearing officer. Witnesses may appear in person, via video conference, telephone or other equivalent electronic method.
[19.31.2.17 NMAC - Rp, 19.31.2.17 NMAC, 4/1/2022]

19.31.2.17 HEARING OFFICER: All hearings under this rule shall be conducted by a hearing officer who is designated by the commission. The hearing officer may be disqualified as provided for under the rules of civil procedure by filing an affidavit of disqualification with the department.
[19.31.2.18 NMAC - Rp, 19.31.2.18 NMAC, 4/1/2022]

19.31.2.18 RULES OF EVIDENCE: The hearing officer shall consider a certified copy or a filed copy of a conviction from any court of competent jurisdiction as conclusive evidence of a violation of Chapter 17 NMSA 1978, Section 30-14-1 NMSA 1978 or commission rule. In cases where court records associated with a conviction are not available, the official form of the records maintained by either the court or the department of game and fish shall be admissible. These records shall also stand as conclusive evidence of a violation of Chapter 17 NMSA 1978, Section 30-14-1 NMSA 1978 or commission rule. In the case of hearings in which a criminal conviction is not germane, the standard of proof shall be a preponderance of the evidence.

A. Admission of evidence: In proceedings held under this regulation, the hearing officer may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The hearing officer may, at their discretion, exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Documentary evidence may be received in the form of copies or excerpts. All parties appearing via telephone, videoconference, or other electronic method shall provide the department with a working email address or facsimile number for the exchange of all documentary evidence before or during the hearing.

B. Judicial notice: The hearing officer may take notice of judicially cognizable facts.

C. Rules of privilege: The rules of privilege shall be effective to the extent that they are required to be recognized in civil actions in district courts of the state of New Mexico.

D. Mitigating or aggravating circumstances: The hearing officer may consider mitigating, extenuating and aggravating circumstances surrounding the violations of game and fish laws and rules to determine the recommended period of the revocation or suspension.

[19.31.2.22 NMAC - Rp, 19.31.2.22 NMAC, 4/1/2022]

19.31.2.19 HEARING AND POST-HEARING PROCEDURES:

A. Hearing closed to the public: All hearings conducted under this rule shall be closed to the public.

B. Hearing interpreter provided: The department shall provide technology or an interpreter for individuals requesting a hearing who provide proof of hearing impairment to the extent that they cannot understand voice communications. The respondent must give written notice of this need to the department at the time they request a hearing or no less than 30 calendar days prior to their hearing.

C. Language interpreter: A party needing language interpreter services for translation of one language into another is responsible for arranging such service for the hearing. While the person serving as an interpreter need not be a court-certified interpreter in order to provide interpretation at a hearing, any person serving as an interpreter must affirm the interpreter's oath applicable in courts across this state. Any respondent who intends to bring a language interpreter shall notify the department of this at the time they request a hearing or no less than 30 calendar days prior to their hearing.

D. Record of hearing: In all hearings conducted under this rule, the hearing officer shall cause a complete record to be made by audio recording and shall preserve all evidence received. The hearing officer shall observe any standards pertaining to audio recordings established for the district courts of this state.

E. Post-hearing briefs: The hearing officer may require post-hearing briefs, proposed findings of fact and conclusions of law, or both.

F. Hearing officer's report: Within 20 calendar days of any hearing, the hearing officer shall make and submit to the department a report setting forth his or her findings of fact, conclusions of law and recommended decision.

G. Report copies to parties: The department shall serve a copy of the recommended decision on the parties by email or if specifically requested by the respondent, by certified mail with return receipt requested.

H. Filing of exceptions to hearing officer's report: The parties to the proceeding may file exceptions, or supporting briefs, to a hearing officer's recommended decision within a time period set by the hearing

officer or within 30 calendar days of the hearing if not otherwise specified by the hearing officer. Exceptions shall not contain matters unrelated to or outside the scope of the hearing.
[19.31.2.23 NMAC - Rp, 19.31.2.23 NMAC, 4/1/2022]

19.31.2.20 FINAL DECISION OF THE COMMISSION:

A. Review and consideration of hearing officer's report and filed exceptions and briefs: After a hearing has been completed, the commission shall review and consider the hearing officer's report and any filed exceptions or briefs to the recommended decision.

B. No oral arguments; no new evidence: The commission shall not permit any oral arguments. The commission shall not consider any evidence outside of the hearing officer's report and filed exceptions or briefs.

C. Final decision: The commission's final decision shall be made by a quorum of the commission at a properly scheduled commission meeting.

D. Written decision served: Within 20 calendar days after the commission's decision is rendered and signed by the chairperson of the commission, the department shall serve upon the respondent a copy of the written decision.

[19.31.2.24 NMAC - Rp, 19.31.2.24 NMAC, 4/1/2022]

19.31.2.21 JUDICIAL REVIEW: In accordance with Section 17-3-34 NMSA 1978, any person whose privileges have been revoked by the commission or department, and who has requested and received a hearing, may appeal to the district court for further relief. Upon appeal, the district court shall set aside, reverse or remand the decision only if it determines:

- A.** the agency, commission or hearing officer acted fraudulently, arbitrarily or capriciously;
- B.** the final decision was not supported by substantial evidence; or
- C.** the agency did not act in accordance with law.

[19.31.2.25 NMAC - Rp, 19.31.2.25 NMAC, 4/1/2022]

19.31.2.22 INTERSTATE WILDLIFE VIOLATOR COMPACT SUSPENSION AND REVOCATION:

Any person whose name appears on the Interstate Wildlife Violator Compact (IWVC) list and whose privileges have been suspended or revoked in another state and whose convictions have been verified by the department as constituting 20 or more points if committed in New Mexico shall be reciprocally suspended or revoked immediately for the time frame indicated by the originating state. Any resident who fails to comply with the terms of a citation including failure to appear, from a member state shall have his or her privileges suspended immediately until they have complied with the court appearance or citation requirements in the other state.

A. Notice procedures: The information provided by the board of wildlife violator compact administrators or their designee shall be deemed sufficient to allow the department by and through its director to suspend the violator and send the same violator a NOS in which the department will notify the violator of their right to contest the suspension or revocation.

B. Contesting procedures: A person wishing to contest their IWVC reciprocal suspension or revocation in New Mexico must provide evidence to the department which shows:

- (1) the violation(s) leading to a revocation or suspension in another state, if committed in New Mexico, would not have accrued 20 or more points; or
- (2) the respondent is not the person whose name appears on the wildlife violator compact list as being revoked by another wildlife violator compact member state; or
- (3) the revocation or suspension in the other wildlife violator compact member state ended or has been rescinded.

(4) If a suspension or revocation is contested and the department determines that the person suspended or revoked should be reinstated, they will do so immediately. Any person who is not satisfied with the department's determination after contesting their IWVC suspension or revocation may appeal the department's decision in writing to the director within 20 calendar days of the department's decision. The director shall consider all evidence presented by both the department and the suspended or revoked person and shall have the final decision on whether a contested IWVC reciprocal suspension or revocation will be upheld or rescinded.

C. Notification to the commission: The department shall notify the commission of the number of individuals reciprocally revoked or suspended pursuant to this subsection at a properly scheduled commission meeting.

[19.31.2.26 NMAC - Rp, 19.31.2.26 NMAC, 4/1/2022]

19.31.2.23 PARENTAL RESPONSIBILITY ACT: Any person listed as in violation of the PRA by HSD shall have their privileges suspended until they are in compliance with the PRA and have paid the reinstatement fee to the department. In cases where the person can show the department that they were incorrectly placed on that month's list they shall not be required to pay the reinstatement fee and shall be reinstated immediately.

A. Notice procedures: When the department receives a HSD certified list of obligors not in compliance with the PRA, the department shall send a NOS to any named obligor in the department's database. The NOS shall inform the obligor that their privileges have been suspended until they are in compliance with the PRA and have paid the department reinstatement fee.

B. Notification to the commission: The department shall notify the commission of the number of individuals suspended pursuant to this section at a properly scheduled commission meeting after the director has acted to suspend such individuals.

C. Reinstatement fee: Any person whose privileges have been suspended in accordance with the PRA shall be reinstated after demonstrating proof of compliance from the HSD, and having paid the department of game and fish a reinstatement fee of \$25. The director has the authority to waive this fee in the case of unusual circumstances or clerical errors.

[19.31.2.28 NMAC - Rp, 19.31.2.28 NMAC, 4/1/2022]

19.31.2.24 FAILURE TO APPEAR, FAILURE TO PAY PENALTY ASSESSMENT OR CIVIL JUDGEMENT: In accordance with Section 17-2-10.3 NMSA 1978 the privileges of a person who fails to comply with the terms of a citation including failure to appear in court after proper notice for a hearing as required by law, a person who fails to pay a penalty assessment levied pursuant to Section 17-2-10.1 NMSA 1978, or a person who has a civil judgment assessed against them or who has entered into a voluntary civil assessment payment plan pursuant to Section 17-2-26 NMSA 1978, shall be suspended until in compliance or the amount owed to the department has been paid in full.

A. Notice procedures: The department shall send a NOS to any person who meets the criteria listed in this section. The NOS shall inform the respondent that their privileges have been suspended until they come into compliance with the law or pays the amount owed in full.

B. Notification to the commission: The department shall notify the commission of the number of individuals suspended pursuant to this section at a properly scheduled commission meeting after the director has acted to suspend such individuals.

C. Reinstatement: Any person whose privileges have been suspended in accordance with this section shall be reinstated after paying their outstanding penalty assessment(s) or civil judgement(s) in full or upon coming into compliance with any court order to appear and having any warrant issued resolved.

[19.31.2.29 NMAC - Rp, 19.31.2.29 NMAC, 4/1/2022]

HISTORY OF 19.31.2 NMAC:

NMAC History:

19.31.2 NMAC Hunting and Fishing License Revocation, filed 4/1/1995; amended 10/31/1998, 11/14/1998, 01/29/1999, 12/14/2001, 12/28/2001, 5/15/2002, 9/30/2002, 6/15/2006, 12/14/2006, 9/20/2012, 12/19/2017, Repeal and replaced 4/1/2019, Repeal and replaced 4/1/2022

History of Repealed Material:

19.31.2 NMAC, Hunting and Fishing License Revocation, filed 12/3/2001, repealed effective 9/20/2012.
19.31.2 NMAC, Hunting and Fishing License Revocation, filed 9/14/2012, repealed effective 12/19/2017.
19.31.2 NMAC, Hunting and Fishing License Revocation, filed 12/19/2017, repealed effective 4/1/2019.
19.31.2 NMAC, Hunting and Fishing License Revocation, filed 03/22/2022, repealed effective 4/1/2022.