

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND FISHING REGULATIONS
PART 9 COMMERCIAL USE OF FISH

19.31.9.1 ISSUING AGENCY: New Mexico Department of Game and Fish.
[19.31.9.1 NMAC – Rp, 19.31.9.1 NMAC, 11/9/2021]

19.31.9.2 SCOPE: Those members of the public interested in the business of selling nongame fish.
License fees can be found in 19.30.9 NMAC
[19.31.9.2 NMAC – Rp, 19.31.9.2 NMAC, 11/9/2021]

19.31.9.3 STATUTORY AUTHORITY: 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 Sections 17-3-26 through 17-3-28 regarding minnows and non-game fish as bait.
[19.31.9.3 NMAC – Rp, 19.31.9.3 NMAC, 11/9/2021]

19.31.9.4 DURATION: Permanent.
[19.31.9.4 NMAC – Rp, 19.31.9.4 NMAC, 11/9/2021]

19.31.9.5 EFFECTIVE DATE: February 15, 1996
[19.31.9.5 NMAC – Rp, 19.31.9.5 NMAC, 11/9/2021]

19.31.9.6 OBJECTIVE: To establish rules pertaining to management and harvest of commercial fish resources of New Mexico.
[19.31.9.6 NMAC – Rp, 19.31.9.6 NMAC, 11/9/2021]

19.31.9.7 DEFINITIONS:

- A. "Commercial fish"** shall mean gizzard shad, whitesucker, carpsucker, flannelmouth sucker, smallmouth buffalo, carp, gar, yellow perch and all species of bullheads.
- B. "Commercial fisherman"** shall mean a person who makes or intends to make income by taking and selling commercial fish.
- C. "Commercial fishing permit"** shall mean a permit issued by the director of the department of game and fish to authorize a commercial fisherman and their named employees to take commercial fish from specified waters by specified means.
- D. "Commercial fishing water"** shall mean a water that the director of the department of game and fish has designated as one for which commercial fishing permits will be available.
- E. "Minnow"** shall mean all non-game fish sold as bait, regardless of taxonomic classification.
- F. "Bait dealers license"** shall mean a license issued by the director of the department of game and fish to authorize a vendor and their named employees to sell minnows, amphibians, and crayfish for use as bait.
[19.31.9.7 NMAC – Rp, 19.31.9.7 NMAC, 11/9/2021]

19.31.9.8 AVAILABILITY OF COMMERCIAL FISHING PERMITS:

- A.** The director may designate the commercial waters for the following calendar year during December.
- B.** When the director designates commercial fishing waters, they may also designate the numbers of permits available for each water.
- C.** The director may also designate the number of employees that each commercial fisherman may include in the activities authorized by their commercial fishing permit.
[19.31.9.8 NMAC – Rp, 19.31.9.8 NMAC, 11/9/2021]

19.31.9.9 ISSUANCE OF COMMERCIAL PERMITS:

- A.** Individuals desiring commercial fishing permits shall apply on the application form provided by the department of game and fish.
- B.** If more applications are received than there are permits available for any water, the available permits will be allotted by public drawing.

- C. No one may hold more than one commercial fishing permit during any one calendar year.
- D. Applicants must include payment in accordance with 19.30.9 NMAC with completed application.

License fee is nonrefundable.

[19.31.9.9 NMAC – Rp, 19.31.9.9 NMAC, 11/9/2021]

19.31.9.10 CONDITIONS OF COMMERCIAL FISHING PERMITS:

A. Each commercial fishing permit shall be valid from the date of issue to December 31 of the year in which it was issued.

B. Each permit shall state the name and address of the permittee and of all employees who may assist the permittee.

C. Each permit shall authorize the taking of commercial fish from only two waters.

D. Each permit shall specify the methods by which commercial fish may be taken.

E. A commercial fishing permittee shall report each month's catch to the department of game and fish, no later than the 20th of the following month, on forms provided by the department.

F. A commercial fishing permittee and their employees shall permit inspection of their catch upon request by any commissioned department of game and fish officer.

[19.31.9.10 NMAC – Rp, 19.31.9.10 NMAC, 11/9/2021]

19.31.9.11 DISPOSITION OF GAME FISH:

A. The commercial fishing permittee shall immediately return to the water any game fish caught, if such fish are still alive.

B. Dead game fish which are edible shall be processed and given to the district wildlife officer for lawful disposition.

C. Dead and spoiled game fish shall be cut in half and returned to the water.

[19.31.9.11 NMAC – Rp, 19.31.9.11 NMAC, 11/9/2021]

19.31.9.12 REVOCATION OF COMMERCIAL FISHING PERMIT: The director may, at any time, revoke in writing, a commercial permit for any of the following:

A. Violation of this or any other regulation of the state game commission;

B. Failure to abide by the conditions of the commercial fishing permit;

C. Conflicts between permitted methods for taking commercial fish and proper management of game fish;

D. Occurrence of low water levels or other natural phenomena in a commercial fishing water that would render inadvisable continued commercial fishing in that water;

E. Requests from state or federal agencies for discontinuance of commercial fishing because of conflicts with other designated uses of the water.

[19.31.9.12 NMAC – Rp, 19.31.9.12 NMAC, 11/9/2021]

19.31.9.13 ISSUANCE OF BAIT DEALERS LICENSE:

A. Individuals desiring a bait dealers license shall apply on the application form provided by the department of game and fish.

B. Applicants must include payment in accordance with 19.30.9 NMAC with completed application.

C. Application must include all sources the bait dealer will use to obtain minnows.

[19.31.9.13 NMAC – Rp, 19.31.9.13 NMAC, 11/9/2021]

19.31.9.14 PERMISSABLE SPECIES FOR SALE AS BAIT:

A. Fish: Only fathead minnow (*pimephales promelas*), red shiner (*cyprinella lutrensis*), golden shiner (*notemigonus crysoleucas*), gizzard shad (*dorosoma cepedianum*), and threadfin shad (*dorosoma petenense*) may be sold as bait fish.

B. Amphibians: Only tiger salamander larvae (*ambystoma tigrinum*), or “waterdogs”, may be sold as bait.

C. Crayfish: Only native species (*orconectes deaneam*, *orconectes virilis*, *orconectes causeyi* and *procambarus simulans*) may be sold as bait.

[19.31.9.14 NMAC – Rp, 19.31.9.14 NMAC, 11/9/2021]

19.31.9.15 CONDITIONS OF BAIT DEALER LICENSES:

A. Each bait dealers license shall be valid from April 1 of the year in which it was issued until March 31 of the following year.

B. Each permit shall state the name and address of the permittee and of all employees who may assist the permittee.

C. Each permit shall authorize the taking of bait fish using only those methods specified in 19.31.10 NMAC.

(1) It shall be unlawful to collect bait fish from the mainstem Pecos river, with the exceptions of Santa Rosa, Sumner, and Brantley lakes.

(2) It shall be unlawful to collect bait fish from the mainstem Rio Grande with the exceptions of Abiquiu, Cochiti, Elephant Butte, and Caballo lakes.

(3) It shall be unlawful to collect bait fish from the mainstem Canadian river with the exceptions of Conchas and Ute lakes.

(4) It shall be unlawful to collect bait fish west of the continental divide, with the exception of Navajo lake.

E. A licensed bait dealer must comply with 19.35.7 NMAC when purchasing live bait obtained from an out-of-state source.

F. A licensed bait dealer and his employees shall permit inspection of their inventory upon request by any commissioned department of game and fish officer.

G. It is unlawful to release live fish or bait into the waters of New Mexico without first obtaining a permit from the department of game and fish (19.35.7 NMAC).

[19.31.9.15 NMAC – Rp, 19.31.9.15 NMAC, 11/9/2021]

History of 19.31.9 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DGF 76-10, Regulation No. 581, Establishing Rules Pertaining to Management and Harvest of Commercial Fish Resources of New Mexico, 12/20/1976.

DGF 77-5, Regulation No. 586, Establishing Rules Pertaining to Management and Harvest of Commercial Fish Resources of New Mexico, 5/24/1977.

History of Repealed Material:

19.31.9 NMAC, Commerical Use of Fish filed (1/11/2006) Repealed effective 11/9/2021.