

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, 4-1-2019]

19.31.2.2 SCOPE: Person or persons who violate 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, 4-1-2019]

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, 4-1-2019]

19.31.2.4 DURATION: Permanent.
[19.31.2.4 NMAC - Rp, 19.31.2.4 NMAC, 4-1-2019]

19.31.2.5 EFFECTIVE DATE: April 1, 2019 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, 4-1-2019]

19.31.2.6 OBJECTIVE: To revoke, suspend or deny the privileges of any person: who persistently, flagrantly or knowingly violates or countenances the violation of 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against them pursuant to Section 17-2-26 NMSA 1978 until those damages have been paid in full; whose privileges have been revoked by a wildlife violator compact member state or of any resident that fails to meet the terms of a citation issued from a compact member state pursuant to the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, 4-1-2019]

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. "Certificate of Compliance"** means a certified statement from HSD stating that an obligor is in compliance with a judgement and order for support or in compliance with a subpoena or warrant relating to paternity or child support proceedings.
- D. "Department"** means New Mexico department of game and fish.
- E. "Director"** means the director of the department of game and fish.
- F. "HSD"** means the New Mexico human services department.
- G. "Notice of contemplated action" or "NCA"** means a written notice that the commission is considering taking action against a respondent's privileges, the basis for the action and the manner in which they can request a hearing.
- H. "Notice of intent" or "NOI"** means a written notice that the department intends to take action against a respondent's privileges, the basis for the action and the manner in which they can request a hearing.
- I. "Obligor"** means a person who has been ordered to pay child or spousal support pursuant to a judgment and order for support.

J. “Privilege(s)” means the ability to lawfully obtain or hold any license, permit, certificate, registration, authorization or agreement issued by the department, including but not limited to, hunting, fishing, trapping, guiding and outfitting.

K. “Protected species” shall mean any of the following animals:

(1) all animals defined as protected wildlife species and game fish under Section 17-2-3 NMSA 1978;

(2) all animals defined as furbearing animals under Section 17-5-2 NMSA 1978;

(3) all animals listed as endangered or threatened species or subspecies as stated in 19.33.6 NMAC; and

(4) all animals listed under Sections 17-2-13, 17-2-14 or 17-2-4.2 NMSA 1978.

L. “Respondent” means any person who is served a notice of contemplated action or a notice of intent.

M. “Revocation” means when a person’s privileges are taken away by the commission or department, after notice and opportunity for a hearing.

N. “Suspension” means when a person’s privileges are taken away by the commission or department, after notice and opportunity for a hearing, until the person comes into compliance. [19.31.2.7 NMAC - Rp, 19.31.2.7 NMAC, 4-1-2019]

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 state game 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. 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;

(2) hunting big game without a license;

(3) 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;

(4) hunting with the aid of an artificial light or spotlight, in violation of Section 17-2-31 NMSA 1978;

(5) waste of game in violation of Section 17-2-8 NMSA 1978;

(6) selling, offering for sale, offering to purchase or purchasing any protected species or parts thereof in violation of Section 17-2-7 NMSA 1978;

(7) any violation of Section 17-3-6 NMSA 1978;

(8) any violation of Section 17-3-48 NMSA 1978, provided that any revocation under this section shall commence consecutively to any current revocation;

(9) any violation of Section 17-3-45 NMSA 1978 involving any protected species;

(10) guiding or outfitting without being registered in violation of Section 17-2A-3 NMSA 1978;

(11) using an outfitter or guide license issued to another;

(12) outfitter allowing or using an unregistered person to perform outfitting or guiding services;

(13) applying for or receiving an outfitter or guide registration while revoked;

(14) 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;

(15) any violation of Section 17-3-49 NMSA 1978;

(16) any violation of Section 17-2-7.1 NMSA 1978;

(17) 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;

(18) 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;

(19) any violation of Section 17-2-4.2 NMSA 1978;

- (20) knowingly or willfully introducing an aquatic invasive species, in violation of Section 17-4-35 NMSA 1978;
- (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.

B. 17-point criminal violations:

- (1) 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, in violation of Section 17-2-7 NMSA 1978;
- (2) 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;
- (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; or
- (4) accessory to any of the above violations.

C. 15-point criminal violations:

- (1) illegally taking, attempting to take, killing or capturing of any big game species during hunting season;
- (2) illegally taking, attempting to take, killing, capturing or possessing any turkey or small game outside of hunting season in violation of Section 17-2-7 or 17-3-33 NMSA 1978;
- (3) exceeding the bag limit of big game;
- (4) shooting at any protected species from a vehicle;
- (5) shooting at any protected species from a roadway;
- (6) harassing a protected species;
- (7) any violation of Section 17-3-45 NMSA 1978 involving non-protected species;
- (8) illegal use of an aircraft or drone to locate, harass, drive or rally a protected species;
- (9) hunting with a license obtained through the special drawing pool without being accompanied by, and contracted with, a New Mexico outfitter or their guide;
- (10) applying or aiding any person in applying in the special drawing pool with an unregistered or unqualified outfitter number;
- (11) 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; or
- (12) accessory to any of the above violations.

D. 10-point criminal violations:

- (1) illegal possession of any big game species during hunting season;
- (2) hunting in a closed area;
- (3) illegal possession of any head, horns or antlers of a protected species found in the field;
- (4) procurement, possession or use of any additional big game or turkey license or tag, except as provided by rule;
- (5) fail to properly tag big game species or turkey as prescribed;
- (6) using an invalid or voided tag;
- (7) using a tag of any other person;
- (8) illegally taking, attempting to take, killing, capturing or possessing of any turkey or small game during hunting season;
- (9) hunting turkey without a license;
- (10) exceeding the bag limit of small game or turkey;
- (11) exceeding the bag limit of fish;
- (12) unlawfully using dogs while hunting big game or turkey;
- (13) retention of live protected species;
- (14) refusing or failing to produce an outfitter contract or not having a signed contract prior to hunting;
- (15) applying or allowing someone to apply in the special drawing pool without a contract; or
- (16) accessory to any of the above violations.

E. seven-point criminal violations:

- (1) fishing without a license;
- (2) illegal possession of fish;
- (3) hunting small game without a license;
- (4) hunting or collecting non-game without a license or permit; or

- (5) accessory to any of the above violations.
- F. five-point criminal violations:**
 - (1) failure to provide sufficient guides; or
 - (2) any provision of Chapter 17 NMSA 1978 and its implementing rules not specifically

listed herein.

- G. 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, 4-1-2019]

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, 4-1-2019]

19.31.2.10 TIMEFRAME: Paragraph 11 of Subsection B of Section 17-1-14 NMSA 1978 provides that the commission shall establish procedures for the suspension, revocation or withholding of license, permit, certificate and registration privileges for a definite period of time.

A. 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 state game commission rule, after notice and opportunity to be heard by a hearing officer, shall have his or her privileges revoked for a definite period of time, unless otherwise provided for by law.

B. Any person, who after having had their privileges revoked, is 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 state game commission rule, for a second time, after notice and opportunity to be heard by a hearing officer, shall have his or her privileges revoked for up to five years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

C. Any person, who after having had their privileges revoked for a second time, is 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 state game commission rule, for a third or subsequent time, shall have his or her privileges revoked for up to seven years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

D. Any person found to have taken or killed a bighorn sheep, ibex, oryx, Barbary sheep, elk, deer or pronghorn, without a valid license or during closed season, which results in the unnecessary or wanton waste of game, shall have his or her privileges revoked for up to seven years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

E. Any person found to have taken or killed a bighorn sheep, ibex, oryx, Barbary sheep, elk, deer or pronghorn, without a valid license or during closed season, which results in the unnecessary or wanton waste of game, for a second or subsequent time, shall have his or her privileges revoked for up to 10 years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

F. Any person that buys, sells, trades or attempts to buy, sell or trade illegal wildlife or the parts thereof, or aids and abets in this activity, shall have his or her privileges revoked for up to five years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

G. Any person that buys, sells, trades or attempts to buy, sell or trade illegal wildlife or the parts thereof, or aids and abets in this activity, for a second or subsequent time, shall have his or her privileges revoked for up to seven years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

H. Any person found to not comply with a department sponsored private lands agreement shall have his or her private lands program privileges revoked for up to three years.

I. Any person not in compliance with the Parental Responsibility Act (Section 40-5A-1 NMSA 1978) or the Interstate Wildlife Violator Compact (Section 11-16-1 NMSA 1978) shall have his or her privileges revoked or suspended for the timeframe designated and allowed by law.

J. The commission may revoke a person's privileges for any definite period of time they deem appropriate if they determine that the person has committed a flagrant or egregious violation of Chapter 17 NMSA 1978, Section 30-14-1 NMSA 1978 or state game commission rule, and provided that any revocation under this section shall commence consecutively to any current revocation.

K. The commission or department may suspend, revoke or deny a person's privileges for any definite period of time they deem appropriate if they determine that the person has violated any provision of Chapter 17 NMSA 1978, Section 30-14-1 NMSA 1978 or state game commission rule, or any other license, permit, certificate, registration, authorization or agreement issued by the department that is not otherwise listed in this rule.

L. If the department fails to initiate (initiation shall be calculated based on the post mark on the notice of contemplated action or notice of intent 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, 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, 4-1-2019]

19.31.2.11 REVOCATION AND SUSPENSION PROCEDURES: The department shall mail out a notice of contemplated action (NCA) or a notice of intent (NOI) when it determines that there is sufficient evidence that a person has accumulated 20 or more points, or when the commission is contemplating revoking a landowner's or authorized ranch contact's 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. The commission grants approval to the department, through the director, to initiate this process without commission consideration. However, the commission retains all authority for final decisions with the exception of decisions made by the director, where no hearing was requested, under the Interstate Wildlife Violator Compact, Parental Responsibility Act or failure to appear, failure to pay a penalty assessment or failure to pay a civil judgement. The NCA or NOI shall clearly describe the proposed action and shall contain a statement that includes the following:

A. Sufficient evidence: That the department of game and fish has sufficient evidence which, if not rebutted or explained, will justify taking the proposed action.

B. Hearing may be requested: That the respondent may secure a hearing before a hearing officer designated by the commission by depositing in the mail within 20 days after service of the notice, a certified, return

receipt requested letter addressed to the department at PO Box 25112, Santa Fe, NM 87504, and containing a request for a hearing.

C. Rights of respondent: Informing the respondent of his or her rights under applicable law.
[19.31.2.11 NMAC - Rp, 19.31.2.11 NMAC 4-1-2019]

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 chairman 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 4-1-2019]

19.31.2.13 HEARING REQUESTED: If a respondent requests a hearing as provided by this rule, the department, within 20 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, 4-1-2019]

19.31.2.14 RIGHTS OF A PERSON REQUESTING A HEARING: A person entitled to be heard under this rule shall have the right to be represented by counsel or may appear on his or her 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. All notices issued pursuant to this rule shall contain a statement of these rights.

A. Written request: Upon written request to another party, any party is entitled to:
(1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
(2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

B. Response time frame: The party to whom such a request is made shall comply with the request within 20 days after the delivery of the request. No such request shall be made less than 20 days before the hearing.

C. Stipulated agreements: At the Department's discretion, a person entitled to be heard under this rule 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, 4-1-2019]

19.31.2.15 METHOD OF SERVICE: Any notice or decision required by this rule shall be served by certified mail, return receipt requested, directed to the respondent, at his or her last known address as shown by the records of the department of game and fish.

[19.31.2.15 NMAC - Rp, 19.31.2.15 NMAC, 4-1-2019]

19.31.2.16 REVOCATION NOTICE OF SERVICE: 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.

[19.31.2.16 NMAC - Rp, 19.31.2.16 NMAC, 4-1-2019]

19.31.2.17 VENUE: Hearings held under this rule shall be conducted in Santa Fe 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 or telephonically. Witnesses may appear in person or telephonically.

[19.31.2.17 NMAC - Rp, 19.31.2.17 NMAC, 4-1-2019]

19.31.2.18 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, 4-1-2019]

19.31.2.19 HEARING OPEN TO THE PUBLIC: All hearings conducted under this rule shall be open to the public.

[19.31.2.19 NMAC - Rp, 19.31.2.19 NMAC, 4-1-2019]

19.31.2.20 HEARING INTERPRETER PROVIDED: The commission shall provide technology or an interpreter for individuals requesting a hearing who provide proof of hearing impairment to the extent that he or she cannot understand voice communications. The respondent must give notice of this need to the department at the time they request a hearing or 30 days prior to their hearing.

[19.31.2.20 NMAC - Rp, 19.31.2.20 NMAC, 4-1-2019]

19.31.2.21 LANGUAGE INTERPRETER PROVIDED: The commission shall provide an interpreter for individuals requesting a hearing who provide proof of inability to comprehend English well enough to understand the proceedings. The respondent must give notice of this need to the department at the time they request a hearing or 30 days prior to their hearing.

[19.31.2.21 NMAC - Rp, 19.31.2.21 NMAC, 4-1-2019]

19.31.2.22 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 state game 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 state game 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 his or her discretion, exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Documentary evidence may be received in the form of copies or excerpts.

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 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, 4-1-2019]

19.31.2.23 HEARING AND POST-HEARING PROCEDURES:

A. 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.

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

C. Hearing officer's report: Within 20 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.

D. Report copies to parties: The department shall serve a copy of the recommended decision on the parties by certified mail with return receipt requested.

E. 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 days of the hearing if not otherwise specified by the hearing officer.

F. Exceptions and briefs served on all parties: Copies of exceptions to the hearing officer's recommended decision and any briefs shall be served on all parties within the time period set by the hearing officer or no later than 30 days from the hearing if no time period was set.

G. Exception and brief requirements: Any exception not specifically made shall be considered waived. Any exception that fails to comply with the foregoing requirements may be disregarded. Any brief or exception shall not contain matters not related to or within the scope of the hearing.

[19.31.2.23 NMAC - Rp, 19.31.2.23 NMAC, 4-1-2019]

19.31.2.24 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 days after the commission's decision is rendered and signed by the chairman 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, 4-1-2019]

19.31.2.25 JUDICIAL REVIEW: In accordance with Section 17-3-34 NMSA 1978, any person whose privileges have been revoked or suspended 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 the decision only if it is found to be:

A. arbitrary, capricious or an abuse of discretion;

B. not supported by substantial evidence in the record; or

C. otherwise not in accordance with law.

[19.31.2.25 NMAC - Rp, 19.31.2.25 NMAC, 4-1-2019]

19.31.2.26 WILDLIFE VIOLATOR COMPACT SUSPENSION AND REVOCATION: Any person whose name appears on the wildlife violator compact list or who has been revoked by another wildlife violator compact member state and is in accordance with Subsection B of Section 17-2-10.3 NMSA 1978 shall have his or her privileges revoked or suspended. 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 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 send the same violator a NOI and an opportunity to request a hearing.

B. Hearing procedures: If a hearing is requested, it shall be conducted in accordance with this rule with the following limitations:

(1) The issues to be decided at the hearing, if requested, are limited to whether:

(a) the violation(s) leading to a revocation or suspension in another state, if committed in New Mexico, would have accrued 20 or more points;

(b) the respondent is the person whose name appears on the wildlife violator compact list as being revoked by another wildlife violator compact member state;

(c) the revocation or suspension in the other wildlife violator compact member state ended or has been rescinded.

(2) In any hearing under this section, relevant evidence shall be limited to documentary evidence that refutes the issues listed in this subsection.

C. Default orders for failure to request a hearing: In the event a respondent does not request a hearing within 20 days of the date that notice was served, the director may administer the suspension or revocation under 19.31.2.26 NMAC without further commission consideration.

D. Notification to the commission: The department shall notify the commission of the number of individuals revoked or suspended pursuant to Subsection C of Section 19.31.2.26 NMAC at a properly scheduled commission meeting after the director has taken action to revoke or suspend such individuals.
[19.31.2.26 NMAC - Rp, 19.31.2.26 NMAC, 4-1-2019]

19.31.2.27 SUSPENSION: The Parental Responsibility Act (PRA), Section 40-5A-1 NMSA 1978, provides that the commission shall suspend the privileges of any person not in compliance with the PRA, and allows the reinstatement of such privileges at any time that the obligor comes into compliance and pays the reinstatement fee. Chapter 17 NMSA 1978 provides that the commission shall suspend the privileges of any person who fails to pay a penalty assessment or a civil judgment, until the assessment or judgment is paid in full or who fails to appear, after proper notice, for hearings as required by law or regulation until they have made an appearance in the court.
[19.31.2.27 NMAC - Rp, 19.31.2.27 NMAC, 4-1-2019]

19.31.2.28 PARENTAL RESPONSIBILITY ACT: Any person found to be in violation of the PRA, after notice and an opportunity to request a hearing, shall have his or her privileges suspended until he or she provides a certificate of compliance from the HSD and has paid the reinstatement fee.

A. Notice procedures: When the department receives a HSD certified list of obligors not in compliance with the PRA, the director shall send a NOI to any named obligor in the department's database. The NOI shall inform the obligor that the obligor's privileges will be suspended unless the obligor:

(1) files a written request for a hearing within 30 days from the date that the notice is mailed;
or

(2) provides the department, within 30 days from the date the notice is mailed, a valid certificate of compliance from the HSD.

B. Hearing procedures: Hearings shall be in accordance with this rule.

(1) The issues to be decided at the hearing, if requested, are limited to whether the respondent is:

(a) in compliance with a judgment and order for support;
(b) in compliance with a subpoena or warrant relating to paternity or child support proceedings; and
(c) the person whose name appears on the certified list sent to the department from the HSD.

(2) In any hearing under this section, relevant evidence shall be limited to documentary evidence that refutes the issues listed in this subsection.

C. Default orders for failure to request a hearing: In the event an obligor does not request a hearing, or provide proof of compliance within 30 days of the date the notice was mailed, the director may administer the suspensions without further commission consideration.

D. Notification to the commission: The department shall notify the commission of the number of individuals suspended pursuant to Subsection C of 19.31.2.28 NMAC at a properly scheduled commission meeting after the director has taken action to suspend such individuals.

E. 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 \$25.00 and all costs associated with his or her hearing. 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, 4-1-2019]

19.31.2.29 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 pursuant to Section 17-2-26 NMSA 1978, shall be suspended until in compliance.

A. Notice procedures: Pursuant to Section 17-2-10.3 NMSA 1978, a person who has failed to appear in court for a hearing as required by law, has failed to pay a penalty assessment pursuant to Section 17-2-10.2 NMSA

1978, or a person who owes damages pursuant to a civil judgment in accordance with Section 17-2-26 NMSA 1978, the director shall send a NOI. The NOI shall inform the respondent that the respondent's privileges will be suspended unless the respondent:

(1) files a written request for a hearing within 30 days from the date that the notice is mailed;

or

(2) pays the penalty assessment or civil judgement in full within 30 days from the date the notice is mailed.

B. Hearing procedures: Hearings shall be conducted in accordance with this rule with the following limitations:

(1) The issues to be decided at the hearing are limited to whether the respondent:

(a) owes an outstanding penalty assessment or civil judgement; or

(b) failed to appear for a court hearing as required by law.

(2) In any hearing under this section, relevant evidence shall be limited to documentary evidence that refutes the issues listed in this subsection.

C. Default orders for failure to request a hearing: In the event a respondent does not request a hearing, or pay their outstanding penalty assessment or civil judgement in full within 30 days of the date that notice was mailed, the commission grants approval to the department through the director to administer the suspension without further commission consideration or notice.

D. Notification to the commission: The department shall notify the commission of the number of individuals suspended pursuant to Subsection C of 19.31.2.29 NMAC at a properly scheduled commission meeting after the director has taken action to suspend such individuals.

E. 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. [19.31.2.29 NMAC - Rp, 19.31.2.29 NMAC, 4-1-2019]

HISTORY OF 19.31.2 NMAC:

NMAC History:

19.31.2 NMAC Hunting and Fishing License Revocation, filed 04/01/1995; amended 10/31/1998, 11/14/1998, 01/29/1999, 12/14/2001, 12/28/2001, 05/15/2002, 09/30/2002, 06/15/2006, 12/14/2006.

History of Repealed Material:

19.31.2 NMAC, Hunting and Fishing License Revocation, filed 12-03-2001, repealed effective 09-14-2012.

19.31.2 NMAC, Hunting and Fishing License Revocation, filed 09-14-2012, repealed effective 12-19-2017.

19.31.2 NMAC, Hunting and Fishing License Revocation, filed 12-19-2017, repealed effective 04-01-2019.