

This rule was filed as 19 NMAC 33.3.

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 33 ENDANGERED AND PROTECTED SPECIES
PART 3 PROCEDURES FOR ACTIONS ON THE BIENNIAL REVIEW: CONTINUING LISTING,
UPGRADING, DOWNGRADING SPECIES

19.33.3.1 ISSUING AGENCY: New Mexico Department of Game and Fish.
[1/31/96; Recompiled 12/31/01]

19.33.3.2 SCOPE: The New Mexico state game commission, regarding certain procedures for maintaining a list of wildlife indigenous to New Mexico that are determined to be threatened or endangered within the state. Additional requirements may be found in 19 NMAC 33.1 [now 19.33.6 NMAC], 19 NMAC 33.2 [now 19.33.2 NMAC], and 19 NMAC 33.4 [now 19.33.4 NMAC].
[1/31/96; Recompiled 12/31/01]

19.33.3.3 STATUTORY AUTHORITY: Section 17-2-41(B) NMSA, 1978 Comp., directs the state game commission to adopt procedures for this purpose.
[1/31/96; Recompiled 12/31/01]

19.33.3.4 DURATION: Permanent.
[1/31/96; Recompiled 12/31/01]

19.33.3.5 EFFECTIVE DATE: January 31, 1996 [unless a later date is cited at the end of a section]
[1/31/96; Recompiled 12/31/01]

19.33.3.6 OBJECTIVE: To provide procedures for commission actions on recommendations from the director to continue listing species as threatened or endangered, or to upgrade or downgrade species between the threatened and endangered categories. (Commission actions to delist a species is not required in this act, as specified by 17-2-40(K-L) NMSA 1978 Compilation.)
[1/31/96; Recompiled 12/31/01]

19.33.3.7 DEFINITIONS:

- A. "Endangered" means any species listed as endangered in 19 NMAC 33.1 [now 19.33.6 NMAC].
- B. "Threatened" means any species listed as threatened in 19 NMAC 33.1 [now 19.33.6 NMAC].
- C. "Commission" means the New Mexico state game commission.
- D. "Director" means the director of the New Mexico department of game and fish.

[1/31/96; Recompiled 12/31/01]

19.33.3.8 PROCEDURES:

- A. In order to provide for an extended public comment period, the director shall, at least 90 days prior to the initial formal commission hearing on his recommendations, announce his intention to conduct the biennial review of New Mexico threatened and endangered species (Section 17-2-41B, NMSA 1978 Compilation). The announcement shall include the means by which interested persons may obtain draft copies of his recommendations to threatened and endangered species; the opening of a repository for public comment on the biological and ecological evidence and the economic and social impacts pertaining to the recommendations; the location of the repository; and the means by which comment may be submitted. The recommendations, including any revisions to the draft, shall be presented to the state game commission for an initial, formal hearing during which public comments shall be limited to the biological and ecological evidence pertaining to the recommendations (Section 17-2-40, Paragraphs G and L and Section 17-2-38, Paragraphs D and M, NMSA 1978 Compilation).
- B. Upon receipt of the director's recommendations, the commission shall announce that written comments regarding the biological and ecological evidence and the economic and social impacts, pertaining to the director's recommendations may be submitted and will be included in the public repository established under the Wildlife Conservation Act (Section 17-2-40(G) NMSA 1978 Compilation). Written comments pertaining to the biological and ecological evidence, submitted within 14 days of the announcement shall be considered by the

commission in taking action on the director's recommendations. Written comments pertaining to the economic and social impacts of a listing decision shall be preserved in the repository for consideration in the development, if practicable, of any recovery plans (Section 17-2-40(G) NMSA 1978 Compilation).

C. Based upon the relevant and reliable (17-2-40(L) NMSA 1978 Compilation) biological and ecological evidence, the commission shall act on the director's recommendations to continue to list a species, or to upgrade or downgrade a species, at its next regularly scheduled meeting following receipt of the recommendations (Section 17-2-41(B) NMSA 1978 Compilation).

(1) The commission may accept the director's recommendations, in whole or part.

(2) When the commission believes there is documented, relevant and reliable evidence, in public comments or in the repository, regarding the biological or ecological status of a species, the commission may instruct the director to conduct further study of one or more species.

D. The commission's decision to continue to list, to upgrade or downgrade a species shall be announced by a news release to the major newspapers of the state and published in a newspaper in circulation in the area most affected by the decision.

E. If at any time other than the biennial review of the New Mexico threatened and endangered species, the director recommends upgrading or downgrading a species on the state list of threatened and endangered species, the commission shall follow these procedures.

[1/31/96, 7/15/96; Recompiled 12/31/01]

HISTORY OF 19.33.3 NMAC: [RESERVED]