

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 34 WILDLIFE HABITAT AND LANDS
PART 3 USE OF STATE GAME COMMISSION LANDS

19.34.3.1 ISSUING AGENCY: New Mexico Department of Game and Fish.
[19.34.3.1 NMAC - Rp, 19.34.3.1 NMAC, 6-30-2016]

19.34.3.2 SCOPE: Department staff; licensed hunters, anglers, and trappers; and habitat management and access validation (HMAV) holders.
[19.34.3.2 NMAC - Rp, 19.34.3.2 NMAC, 6-30-2016]

19.34.3.3 STATUTORY AUTHORITY: Sections 17-1-1, 17-1-14, 17-1-26, 17-4-1, and 17-4-33 NMSA 1978, provide the New Mexico state game commission with the authority to acquire lands, to provide for use of game and fish for use and development for public recreation, and to establish rules that it may deem necessary to carry out the purposes of Chapter 17, NMSA 1978.
[19.34.3.3 NMAC - Rp, 19.34.3.3 NMAC, 6-30-2016]

19.34.3.4 DURATION: Permanent.
[19.34.3.4 NMAC - Rp, 19.34.3.4 NMAC, 6-30-2016]

19.34.3.5 EFFECTIVE DATE: June 30, 2016, unless a later date is cited at the end of a section.
[19.34.3.5 NMAC - Rp, 19.34.3.5 NMAC, 6-30-2016]

19.34.3.6 OBJECTIVE: To establish terms and conditions for use of land owned, controlled or operated by the commission.
[19.34.3.6 NMAC - Rp, 19.34.3.6 NMAC, 6/30/16]

19.34.3.7 DEFINITIONS:

A. “Access” shall mean consent for an individual to enter upon and use designated lands for hunting, fishing, trapping, or gaining access into nature activities. Access excludes commercial activity.

B. “Access rules” shall mean restrictions or prohibitions on access applicable to designated land pursuant to 19.34.3.10 NMAC.

C. “Big game” shall mean deer, elk, pronghorn antelope, bighorn sheep, ibex, Barbary sheep, oryx, turkey, javelina, bear, and cougar.

D. “Commercial activity” means any activity conducted within land for which a fee is charged or compensation or anything else of value is received by the person or business conducting the activity, except for hunting activities conducted by an outfitter registered with the department.

E. “Commission” shall mean the New Mexico state game commission.

F. “Director” shall mean the director of the New Mexico department of game and fish.

G. “Department” shall mean the New Mexico department of game and fish.

H. “Designated area(s)” shall mean those areas within designated land where access is either allowed or restricted.

I. “Designated land(s)” shall mean land on which access is allowed for hunting, fishing, trapping, gaining access into nature activities, or activities authorized by the director pursuant to 19.34.3.9 NMAC

J. “Gaining access into nature” or “GAIN” shall mean a program to provide broadly based wildlife-associated recreation opportunity, not to include hunting, trapping, or fishing, pursuant to 17-4-33 NMSA 1978.

K. “GAIN activities” shall mean activities that provide broadly based wildlife-associated recreation, not to include hunting, trapping, or fishing..

L. “Group” shall mean at least one (1) individual in possession of a hunting license, fishing license, trapping license, or habitat management and access validation (HMAV) valid for the current license year and up to three (3) accompanying individuals. Youth under the age of 18 are exempt from this definition.

M. “Land(s)” shall mean property owned, operated, or controlled by the commission except property upon which state parks are located and operated by the state parks division of the energy, minerals, and natural resources department. Activities on commission-owned land within state parks operated by the state parks division of the energy, minerals and natural resources department shall be subject to state parks division rules.

N. “License year” shall mean the period of April 1 through March 31.

O. “Operator” shall mean any person or entity that conducts commercial activity on land pursuant to a commercial permit issued by the department and that person’s or entity’s agents.
[19.34.3.7 NMAC - Rp, 19.34.3.7 NMAC, 6-30-2016]

19.34.3.8 PROHIBITION OF DISCRIMINATION: No one shall be denied use of lands on the basis of race, color, religion, sex, disability, family status or national origin.
[19.34.3.8 NMAC - Rp, 19.34.3.10 NMAC, 6-30-2016]

19.34.3.9 AUTHORITY OF DIRECTOR: The director shall have the authority to specify designated lands, specify access rules, and to close, in whole or in part, or otherwise restrict the use of land when in the opinion of the director such closure or restriction is reasonably necessary for the protection of such land, wildlife, habitat, the public or otherwise, to respond to circumstances concerning such land. The director shall have the authority to authorize an activity prohibited or restricted by access rules or not otherwise specified on land when in the opinion of the director such activity is not detrimental to the land, wildlife or purpose(s) for which the land is managed and will not result in any expenditure from the game protection fund that is inconsistent with Sections 17-1-28 and 17-1-29 NMSA 1978.
[19.34.3.9 NMAC - Rp, 19.34.3.12 NMAC, 6-30-2016]

19.34.3.10 ACCESS RULES:

- A.** It shall be unlawful for any individual to enter upon land not designated for access.
- B.** It shall be unlawful to operate any vehicle off of established roads or on closed roads within land, except as allowed by the director through permit or commission rule, or any county, state or federal law enforcement officer in the discharge of his/her official duties.
- C.** It shall be unlawful for an individual or group to enter upon designated land without possessing at least one (1) hunting license, fishing license, trapping license, or habitat management and access validation (HMAV) valid for the current license year. Youth under the age of 18 are exempt from this access rule.
- D.** It shall be unlawful to deface or remove rocks, minerals, plants (including fruits, nuts, and berries), animals, firewood, or man made feature from any land unless specifically allowed by commission rule.
- E.** It shall be unlawful for any person to excavate, injure, destroy, or remove any cultural resource or artifact from any land.
- F.** It shall be unlawful for any individual to access designated land, outside designated areas, during published big game and waterfowl hunting seasons for the respective designated land.
- G.** It shall be unlawful to camp in excess of fourteen (14) consecutive days, except by licensed hunters and their guests concurrent with their licensed hunt and scouting period.
- H.** It shall be unlawful to have an open fire unless safely contained.
- I.** It shall be unlawful to use or possess any hay or feed for domestic livestock use on land other than pelleted or grain feed, or hay certified as weed free.
- J.** It shall be unlawful to conduct a commercial activity on land without first obtaining a commercial permit as described in 19.34.3.12 NMAC.
- K.** Nothing in this rule shall prevent state employees or contract workers from performing administrative duties on land.
- L.** It shall be unlawful to possess unleashed dogs or other pets on land. Exceptions: dogs may be unleashed for permitted field trial or hunting purposes during established seasons only and only on land where use of dogs for hunting purposes is allowed by rule; dogs may be unleashed when allowed for authorized department personnel; and dogs may be unleashed for authorized wildlife management activities.
- M.** Properly-licensed big game hunters and up to three (3) guests are exempt from closures during a seven (7) day scouting period prior to the start of the licensed hunt period on the respective designated land.
- N.** It shall be unlawful to violate any access rule specified by the director for specific designated land and disseminated by posting or notice provision by the department (e.g. posted signs, New Mexico fishing and hunting rules and information, or the department website).
[19.34.3.10 NMAC - N, 6-30-2016]

19.34.3.11 USE OF LAND: Designated land for hunting, fishing, or trapping access shall be specified by the department and shall be disseminated through the annual publication of New Mexico hunting and fishing rules and information. Designated land for GAIN activities shall be specified by the director and shall be posted on the

department website (www.wildlife.state.nm.us). Access to designated land is allowed unless otherwise restricted or prohibited by access rules pursuant to 19.34.3.10 NMAC. Land not designated for access shall remain closed. Applications for the Jamie Koch community shelter shall be accepted only at the department office in Santa Fe. Reservations are made on a first come first serve basis. The fee shall cover the day use shelter for a 24 hour period up to four (4) consecutive days. The permit fee shall be established by the director.
[19.34.3.11 NMAC - Rp, 19.34.3.13 NMAC, 6-30-2016]

19.34.3.12 COMMERCIAL PERMITS:

- A.** A commercial permit is required for any person or business to conduct a commercial activity on designated land and must be in the possession of the permittee while the permittee is on designated land.
- B.** Requests for commercial permits may be submitted to the department office in Santa Fe for review.
- C.** Each commercial permit shall specify the number of employees or agents authorized to conduct activities on behalf of the permittee pursuant to said permit. A copy of the commercial permit must be in the possession of the operator and every employee or agent while on designated land.
- D.** No commercial permit shall be issued until the applicant has provided proof of insurance or bond in the amount of not less than \$1,000,000 naming the department, the commission and state of New Mexico as additional insureds.
- E.** Operators and their clients are subject to all applicable state and federal regulations.
- F.** Commercial permits are not transferable. A commercial permit cannot be sold or transferred for any reason. The department will not refund any portion of the commercial permit fee for any reason.
- G.** The director may limit the number and type of commercial permits in order to protect resources. The director may prescribe special requirements and conditions for commercial permits when, in his sole discretion, it is in the best interests of the state to do so. Special requirements may include, but are not limited to: limitations on use of designated land, grounds and facilities; designation of a specific area within the designated land in which an operator is allowed to operate; designation of specific days or hours during which an operator is allowed to operate; number of participants, requirements for submission of use and price data; and training requirements.
- H.** No operator shall violate any condition of the commercial permit or restriction of the designated land. Violation of the commercial permit or a restriction may result in the immediate revocation of the commercial permit. Operators shall be subject to the procedural provisions of Section 17-3-34 NMSA 1978 and Subsection C of 19.31.2.10 NMAC, and 19.31.2.11 NMAC through 19.31.2.24 NMAC.
- I.** The director may deny any application for a commercial permit.
- J.** The department shall establish the fee for each individual commercial permit it issues.
- K.** The department reserves the right to cancel or modify any commercial permit in emergency circumstances as determined by the director.

[19.34.3.12 NMAC - Rp, 19.34.3.14 NMAC, 6-30-2016]

HISTORY OF 19.34.3 NMAC:

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

DGF 70-1, Regulation No. 510, Establishing Camping Fees on Department Controlled Lands, 1/19/70.
DGF 70-1, Amendment No. 1, Order No. 8-70, Amending State Game Commission's Regulation No. 510 and Repealing State Game Commission's Regulation No. 458, 1/14/71.
DGF 70-5, Regulation No. 515, Establishing Camping Fees on Department Controlled Lands, 4/20/70.
DGF 71-2, Regulation No. 519, Establishing Camping Fees on Department Controlled Lands, 3/9/71.
DGF 72-6.1, Regulation No. 537, Establishing Camping Fees on Department Controlled Lands, 6/6/72.
DGF 72-6.1, Amendment No. 1, Order No. 4-72, Amending State Game Commission Regulation No. 537, 8/16/72.
DGF 74-3, Regulation No. 553, Establishing Camping Fees on Department Controlled Lands, 1/11/74.
DGF 76-3, Regulation No. 574, Establishing Camping Fees on Department Controlled Lands, 3/16/76.
DGF 76-3, Amendment No. 1, Order No. 3-78, Amending Regulation No. 574, 2/15/78.
DGF 79-3, Regulation No. 598, Establishing Fees, Dates and Other Rules for Use of Department Controlled Lands, 6/27/79.
DGF 79-3, Amendment No. 1, Order No. 1-81, Amendment No. 1 to Regulation No. 598, 3/5/81.
Regulation No. 666, Establishing Fees, Dates and Other Rules for Use of Department Controlled Lands, 3/20/89.
Regulation No. 671, Establishing Fees, Dates and Other Rules for Use of Department Controlled Lands, 9/1/89.
Order No. 3-84, Amendment to Regulation No. 598, 3/16/84.

History of Repealed Material:

19.34.3 NMAC, Use of Department of Game and Fish Lands, filed 1/18/05 - Repealed effective 10-30-09.

19.34.3 NMAC, Use of Department of Game and Fish Lands, filed 10/30/09 - Repealed effective 6-30-16.