

Issues and concerns regarding the requirement of written permission when hunting, fishing, or trapping on private land

Sportsmen and landowners have encouraged the State Game Commission to adopt rule that will make it unlawful to hunt, trap, or fish on private property unless a person has written permission to do so, and if any game animals or fish are taken in violation of this, they will be subject to seizure.

- This request stemmed from past rules that did not explicitly prohibit hunters from entering un-posted private land, kill or take a game animal and keep the animal even if they are caught and charged with trespass. During the 2009-2010 & 2010-2011 Big Game Rule development process that began in February 2008, landowners requested that the Department to provide a meaningful deterrent to hunters who enter private land without permission.
- The Department developed draft language in all relevant rules that would make public draw hunting licenses for antelope, elk, deer, oryx, and Barbary sheep invalid on any private property unless the holder of the license also had written permission to be there (the requirement to have written permission has been in place for public deer hunters for the last 4 years. The written permission requirement would enable Conservation Officers to seize any animals taken because the license was not valid and the subsequent killing would have been unlawful.
- Several sportsmen groups expressed concern with the draft language, arguing that unless private property is legally posted, they should not be expected to know it is private land, and that the penalties are too severe. The Commission directed the Department to work with interested parties to come up with language that would be acceptable to all.

It appears that most interests agree it should be unlawful for public hunters or anglers to enter on private lands that are posted or where the hunter or angler has been notified that they do not have permission. Further, most agree that unless they have written permission to do so, any game animals or game fish that are taken should be seized. Most also agree that the same should apply when the hunter or angler knows the property is private, regardless of posting or notification.

In order to meet these expectations, the following issues need to be considered and resolved:

1. In many situations it is very difficult, if not impossible, for a landowner to install and maintain proper posting requirements, leaving many private lands technically un-posted and creating the potential for public hunters to intentionally or inadvertently enter these private lands.
2. In those circumstances where a hunter, angler, or trapper has inadvertently or un-knowingly entered onto un-posted private property these penalties should not apply.

The Department has developed the following *draft* language that would amend the Manner & Method Rule 19.31.10 NMAC, for all interested parties to consider. The State Game Commission will be holding a Special Public Meeting on Saturday, January 10, 2009, at the New Mexico Museum of Natural History and Science located @ 1801 Mountain Rd. NW, Albuquerque, N.M. where the public is encouraged to attend and comment on this issue. The meeting will be from 1:00 pm to 4:00pm.

If you cannot attend this meeting you may mail or fax written comments to:

New Mexico Department of Game & Fish
Attn. Private Land – Written Permission
PO Box 1247
Santa Fe, New Mexico 87504

Fax # 505-476-8124

All comments must be received by February 4, 2009.

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**TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND FISHING
PART 10 HUNTING AND FISHING-MANNER AND METHOD OF TAKING**

**19.31.10.18 UNLAWFUL TAKING OR KILLING OF GAME ANIMALS, FURBEARERS,
GAME BIRDS, OR GAME FISH ON PRIVATE LAND:**

A. It shall be unlawful to hunt, capture, take, attempt to take, or kill any game animal, furbearer, game bird, or game fish without possessing written permission on any private property that is in compliance with 30-14-6 NMSA posting requirements unless otherwise allowed for in rule or statute.

B. It shall be unlawful to hunt, capture, take, attempt to take, or kill any game animal, furbearer, game bird, or game fish without possessing written permission on any private property if the consent to enter or remain is denied or withdrawn by the owner or occupant thereof per 30-14-1 NMSA or the owner's designee unless otherwise allowed for in rule or statute.

C. It shall be unlawful to knowingly enter upon any private land to hunt, capture, take, attempt to take, or kill any game animal, furbearer, game bird, or game fish without possessing written permission from the landowner or the landowner's designee unless otherwise allowed for in rule or statute.

D. Any game animals, furbearers, game birds, or game fish taken in violation of this section shall be subject to seizure.