



October 3, 2018

TO: NMDGF Field Operations Rule Development

P.O. Box 25112, Santa Fe, NM 87504

RE: Proposed Changes: Manner & Method Rule, 19.31.10 NMAC, regarding use of aircraft

This letter is in addition to comments submitted Sept 3, 2018 regarding the proposed rule change and reflects what we've learned since the Public Meetings. Our letters and suggestions are intended to continue the conversation initiated with our letter sent to Commissioners Sept 26, 2017 (attached) in response to initial discussions regarding use of aircraft.

We urge you to retain the long standing and well understood "48 hour rule" in this initial Manner & Method rule and allow more time to explore options and identify effective solutions to issues raised. We offer the expertise of our aviation network to help address any issues of illegal use of aircraft for hunting and address hunter concerns about use of aircraft over hunting areas.

OUR KEY CONCERNS:

- 1. Proposed language targets aircraft pilots and passengers rather than hunters, is no more enforceable than the current rule, and represents excessive overreach.** It opens pilots to inappropriate citations for flights over areas that may be used for hunting, with pilots bearing the burden of proof. Pilots use aircraft for sightseeing or to access recreational areas, including travel to an airport or airstrip for a hunt, which may be considered "locating" game. Pilots operate aircraft in compliance with the Federal Aviation Administration (FAA) regulations and are not expected to know or be held accountable for state hunting rules.
- 2. Proposed language is intended to eliminate legal flights and curtail aviation tourism driving negative economic impact.** This includes guides and any pilots that are also hunters. This comes at a time when national aviation groups and New Mexico's recreational aviation community are diligently working with federal agencies (USFS and BLM) to invigorate aviation tourism including backcountry and recreational flying, recognizing potential for significant favorable economic impact on New Mexico's rural communities.
- 3. New Mexico Department of Game & Fish appears unwilling to align with outdoor recreation organizations in support of recreational aviation.** Following national and local partnerships with the Recreational Aviation Foundation and NMPA, defined through corresponding memorandums of understanding, the Forest Service's Land Management Plan for the Gila National Forest recognizes the importance of aviation access under "Management Approaches:
"Airstrips: Consider recreational aviation activities and access to airstrips and Forest Service lands for recreational purposes when developing projects for recreation and infrastructure. Encourage volunteers and partners such as the New Mexico Pilots Association and Recreational Aviation Foundation to assist with the maintenance of backcountry airstrips where appropriate."
- 4. Use of aircraft is not new technology.** We understand the desire to define limits of rapidly advancing technology to define a fair chase. Manned aircraft have been widely used since the 1930s and the 48 hour rule after flight has been long accepted. The average general aviation aircraft is now 48 years old, as most were built between 1940 - 1985.
- 5. Use of aircraft for scouting is not as inaccessible as perceived.** As noted in the Albuquerque Public meeting, scouting flights with a commercial pilot are available for as little as \$200. Considering costs of today's hunting equipment, technology, and transportation expenses, flight is not out of reach for most hunters.

RECOMMENDATIONS:

Considering these and concerns previously expressed, we submit the following language. Note that what we suggest for paragraph "E" comes directly from the Idaho hunting rule, with the exception of retaining New Mexico's current 48 hour rule. Idaho uses "same calendar day" for communicating game location.

19.31.10.7

Y. "Locate" shall mean any act or activity, in which any person is searching for, spotting or otherwise finding a protected species. ~~from or with the aid of any aircraft or drone.~~

19.31.10.11

E. Using aircraft to locate wildlife:

(1) It is unlawful ~~to use aircraft, including unmanned aircraft to locate or assist in locating a protected species and communicate location to persons on the ground, or to use any helicopter to transport hunters, gear or game except at established landing fields.~~

(2) It is unlawful ~~to make use of any aircraft, including unmanned aircraft, to locate any protected species for the purpose of hunting those species within 48 hours of locating those species from the air.~~

(3) This section shall not apply to ~~any flights for purposes other than locating game for hunting purposes, or flights relating to any individuals acting within the scope of their official duties as employees or authorized agents of the state of New Mexico or the United States federal government.~~

We acknowledge the challenges of advanced technologies and enforcing rules to ensure a fair chase, and when it comes to use of aircraft, we wish to partner with NMDGF to address such problems. As previously noted, our key strength is networking and communications within the aviation community. Like the Arizona Pilot's Association has helped hold pilots accountable to respect designated eagle nesting areas/seasons, we believe we could similarly help NMDGF.

Our members and partner aviation organizations have brainstormed ideas which may support your enforcement activity. Initial ideas include utilization of new communications and tracking technology, a web based or hotline reporting system for pilots when legally scouting, and perhaps establishing an agreement with organizations such as the Civil Air Patrol or LightHawk for support under NMDGF direction. We welcome an invitation to help NMDGF explore potential solutions.

We submit these comments and recommendations in a spirit of cooperation and collaboration. Along with the 12 nonprofit and governmental organizations who partnered to form the New Mexico Airstrip Network, we share common goals with NMDGF supporting fair access to recreational opportunities on public lands and conservation for future generations. Please feel free to contact us.

Respectfully submitted,

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The New Mexico Pilots Association (NMPA) is a non-profit organization representing 4294 pilots statewide and an aviation industry accounting for more than \$2.3 Billion in annual economic impact. NMPA members share common goals and ideals with NMDGF regarding enjoying the great outdoors and preserving personal freedoms for access to recreational opportunities.