

Proposed New Mexico Game & Fish Manner and Method Rule Change Affects General Aviation

Summary

The New Mexico State Game and Fish Commission has discussed a ban on use of aircraft over hunting areas for the past year. On Oct 5, the Commission expects to confirm Manner and Method Rule changes for publishing and proceed to approve the rule, making it a misdemeanor to use an aircraft to locate game for hunting purposes from Aug 1 – Jan 31. They are intent on eliminating aerial game scouting in New Mexico.

General aviation pilots risk being questioned and inappropriately cited for flights over areas that may be used for hunting. Enforcement officers say pilots may be questioned but insist pilots won't be inadvertently cited.

Proposed Change

The proposed Manner and Method Rule change 19.31.10 will make it unlawful *“for any individual, for the purpose of hunting, to locate or assist in locating a protected species from or with the aid of an aircraft or drone. . . during the period beginning on August 1 and ending on January 31 of each license year”*.

Current Rule

“It shall be unlawful to hunt for or to take, or assist in the hunting for or taking of any protected species with the use of information regarding location of any protected species gained from the use of any aircraft until 48 hours after such aircraft use.”

Why Proposed Changes?

The New Mexico Department of Game & Fish (NMDGF) has not provided documentation justifying what they attempt to accomplish by banning aircraft for 6 months out of the year. During public meetings, we heard NMDGF enforcement personnel say:

- They are unable to prove that information is relayed to hunters from air to ground.
- The 6 month timeframe won't improve their ability to enforce, but the problem would go away because they expect all flying that is related to hunting would cease.
- Sportsmen complain when seeing aircraft overhead because it affects their backcountry experience and aircraft may be viewed as providing an unfair hunting advantage.

How Changes Affect General Aviation

- This rule is a restraint of not only commercial aviation, (overseen by the Interstate Commerce Commission), but on a pilot's fundamental rights to pass without fear of restraint or reprisal, when no crime has been committed, nor probable cause for enforcement has been demonstrated.
- Commercial pilots who fly hunters or guides to remote airstrips or support scouting will be put out of business. New Mexico will lose significant revenue from Governor's tag sales and hunting tourism.
- Federal law establishes the Federal Aviation Administration with the responsibility to administer aviation airspace - for public safety and interstate commerce. A no-fly-zone can be established for safety and national security but must be administered by the FAA. Even the military must abide by the rules set forth by the FAA.
- General aviation pilots can expect to be questioned and potentially cited for flights over areas that may be used for hunting. Pilots adhere to FAA regulations but are not familiar with hunting seasons or game unit boundaries.

NMPA Recommendations to NMDGF

1. Retain the current 48 hour rule.
2. Partner with the New Mexico Pilots Association and other aviation organizations to utilize our aviation network to aid enforcement. Our members have suggested technology approaches, a hot-line for reporting aerial violations, and awareness communications throughout the aviation and hunting communities.
3. Utilize aviation organizations to help educate sportsmen on the USFS and BLM recognized use of backcountry airstrips for access to public lands and recreational purposes, and that circling an airstrip is typical to assure a safe landing.

Our Rationale

- There is no evidence that aviation has a significant negative impact on New Mexico's wildlife resource or the opportunity for a fair chase.
- The current 48 hour rule has been on the books for a long time, is widely understood, accepted, and followed.
- Pilots of aircraft are being singled out where other means of scouting are not addressed.
- Aircraft landing at a backcountry airstrip are no more distraction to a hunter than an OHV driving by on a road. As the only transportation mode requiring no road, backcountry aircraft have a relatively low impact on the land.
- It's inappropriate to address drone operations and aircraft operations with the same language.
- The aviation community shares common ideals with NMDGF regarding fair access to public lands and recreational opportunities.

Call to Action – How You Can Help!

- A. Submit comments to NMDGF by **September 25, 2018** by email, DGF-fieldopscomments@state.nm.us or mail to: NM Dept of Game and Fish; Attn: Field Operations Rule Development; P.O. Box 25112, Santa Fe, NM 87504. Identify yourself as a hunter and/or pilot as applicable.
- B. Attend the NMDGF Commission meetings on October 5 where proposed language will be finalized for publishing to the Registrar, and November 30 when the final rule is to be approved. See [meeting schedule](#).
- C. Write to **EACH** Commissioner directly at: New Mexico State Game Commission; PO BOX 25112; Santa Fe, NM 87504. Or by email:
 - Chairman Paul Kienzle III - paul@kienzlelaw.com
 - Ralph Ramos - ralphramos@comcast.net
 - Bob Ricklefs - bob.ricklefs@gmail.com
 - Dickie Salopek - DickSalopek@hotmail.com
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*Prepared by the New Mexico Pilots Association
For updates or more info, see: www.nmpilots.org
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