

B. The department of game and fish shall prescribe the type of instruction and the qualifications of instructors and shall designate annually those persons qualified to give instruction in the safe handling of firearms. Persons designated by the department of game and fish to be instructors are authorized to give the course of instruction in the safe handling of firearms to all interested persons. Upon the completion of the course and certification to the department by the instructor, the department shall cause to be issued, to the person instructed, a certificate of competency in the safe handling of firearms, which shall be valid unless revoked by the department of game and fish for such cause as determined by regulation of the department to be unsafe handling of a firearm.

C. The department of game and fish shall promulgate rules and regulations to implement the provisions of the Hunter Training Act [17-2-33 to 17-2-36 NMSA 1978].

**History:** 1953 Comp., § 53-2-47, enacted by Laws 1971, ch. 61, § 3.

### 17-2-35. Exemption.

Nothing in the Hunter Training Act [17-2-33 to 17-2-36 NMSA 1978] shall prohibit any person from carrying or shooting a firearm while participating in an organized and supervised shooting program, or while under the immediate and direct supervision of a parent, guardian or responsible adult, or while participating in a course of instruction in the safe handling of firearms offered by the department of game and fish. However, no exemption shall permit hunting without possession of a valid hunter training certificate.

**History:** 1953 Comp., § 53-2-48, enacted by Laws 1971, ch. 61, § 4; 1981, ch. 306, § 1.

### 17-2-36. Short title.

This act [17-2-33 to 17-2-36 NMSA 1978] may be cited as the "Hunter Training Act."

**History:** 1953 Comp., § 53-2-49, enacted by Laws 1971, ch. 61, § 1.

## PART 3

### WILDLIFE CONSERVATION ACT

1974

### 17-2-37. Short title.

Sections 17-2-37 through 17-2-46 NMSA 1978 may be cited as the "Wildlife Conservation Act."

**History:** 1953 Comp., § 53-2-50, enacted by Laws 1974, ch. 83, § 1.

**Allocation of licenses based on residency impermissible discrimination.** — The allocation of licenses for bighorn, oryx and ibex by the state game commission on the basis of residency discriminates impermissibly against nonresidents under the federal constitution. *Terk v. Gordon*, No. 74-387-M (D.N.M., filed Aug. 25, 1977), *aff'd*, 436 U.S. 850, 98 S. Ct. 3063, 56 L. Ed. 2d 751 (1978).

**Fee structure, although discriminatory, not offensive.** — The present fee structure in 17-3-13 NMSA 1978, which discriminates against nonresidents, is not offensive to either the privileges and immunities clause, U.S. Const., art. IV, § 2, or the U.S. Const., amend. XIV. *Terk v. Gordon*, No. 74-387-M (D.N.M., filed Aug. 25, 1977), *aff'd*, 436 U.S. 850, 98 S. Ct. 3063, 56 L. Ed. 2d 751 (1978).

### 17-2-38. Definitions.

As used in the Wildlife Conservation Act [17-2-37 to 17-2-46 NMSA 1978]:

- A. "commission" means the state game commission;
- B. "director" means the director of the department of game and fish;
- C. "ecosystem" means a system of living organisms and their environment;



D. "endangered species" means any species of fish or wildlife whose prospects of survival or recruitment within the state are in jeopardy or are likely within the foreseeable future to become so, due to any of the following factors:

- (1) the present or threatened destruction, modification or curtailment of its habitat;
- (2) overutilization for scientific, commercial or sporting purposes;
- (3) the effect of disease or predation;
- (4) other natural or man-made factors affecting its prospects of survival or recruitment within the state; or
- (5) any combination of the foregoing factors.

The term may also include any species or subspecies of fish or wildlife appearing on the United States list of endangered native and foreign fish and wildlife as set forth in Section 4 of the Endangered Species Act of 1973 as endangered or threatened species provided that the commission adopts such lists in whole or in part. The term shall not include any species covered by the provisions of 16 U.S.C. 1331 through 1340 (1971);

E. "management" means the collection and application of biological information for the purposes of establishing and maintaining a congruous relationship between individuals within species and populations of wildlife and the carrying capacity of their habitat. The term includes the entire range of activities that constitute a full scientific resource program of, including but not limited to, research, census, law enforcement, propagation, habitat acquisition, improvement and maintenance, education and related activities of protection and regulated taking;

F. "take" means to harass, hunt, capture or kill any wildlife or attempt to do so; and

G. "wildlife" means any nondomestic mammal, bird, reptile, amphibian, fish, mollusk or crustacean or any part, egg or offspring, or the dead body or parts thereof.

**History:** 1953 Comp., § 53-2-51, enacted by Laws 1974, ch. 83, § 2.  
**Compiler's notes.** — Section 4 of the federal

Endangered Species Act of 1973 is compiled as 16 U.S.C. § 1533.

### 17-2-39. Findings and declarations.

The legislature finds and declares that:

A. species and subspecies of wildlife indigenous to the state which may be found to be endangered should be managed to maintain and, to the extent possible, enhance their numbers within the carrying capacity of the habitat;

B. the state should assist in the management of species or subspecies of wildlife which are deemed to be endangered elsewhere by prohibiting the taking, possession, transportation, exportation, processing, sale or offering for sale or shipment within this state of species or subspecies of wildlife listed on the United States lists of endangered fish and wildlife, unless such actions will assist in preserving or propagating the species or subspecies; and

C. adequate funding be made available to the department of game and fish by annual appropriations from the general fund or from other sources separate and apart from the game and fish protection fund [game protection fund] for management of endangered species.

**History:** 1953 Comp., § 53-2-52, enacted by Laws 1974, ch. 83, § 3.  
**Compiler's notes.** — The special fund referred to

in Subsection C is properly designated as the game protection fund. See 17-1-14 NMSA 1978.

### 17-2-40. Investigation.

The director shall conduct investigations concerning all species of wildlife indigenous to this state and named on the list required by Section 17-2-41 NMSA 1978 and those other species of wildlife indigenous to the state which are suspected of being endangered in order to develop information relating to population, distribution, habitat needs, limiting factor

and other biological and ecological data to determine management measures and requirements necessary for their survival.

**History:** 1953 Comp., § 53-2-53, enacted by Laws 1974, ch. 83, § 4.

### 17-2-41. Endangered species.

A. On the basis of investigations concerning wildlife, other available scientific and commercial data and after consultation with wildlife agencies in other states, appropriate federal agencies and other interested persons and organizations, not later than one year after the effective date of the Wildlife Conservation Act, the commission shall by regulation develop a list of those species and subspecies of wildlife indigenous to the state which are determined to be endangered within the state, giving their common and scientific names by species and subspecies.

B. The director shall conduct a review of the state list of endangered species biennially, commencing within two years of the effective date of the Wildlife Conservation Act, and may present to the commission recommendations for appropriate additions to or deletions from the list.

C. Except as otherwise provided in the Wildlife Conservation Act [17-2-37 to 17-2-46 NMSA 1978], it is unlawful for any person to take, possess, transport, export, process, sell or offer for sale or ship any species or subspecies of wildlife appearing on any of the following lists:

(1) the list of wildlife indigenous to the state determined to be endangered within the state as set forth by regulations of the commission;

(2) the United States lists of endangered native and foreign fish and wildlife, as set forth in Section 4 of the Endangered Species Act of 1973 as endangered or threatened species but only to the extent that such lists are adopted for this purpose by regulations of the commission; and

(3) provided, that any species or subspecies of wildlife appearing on any of the foregoing lists, transported into the state from another state or from a point outside the territorial limits of the United States and which is destined for a point beyond the state, may be transported across the state without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state, or otherwise in accordance with the laws of another state.

**History:** 1953 Comp., § 53-2-54, enacted by Laws 1974, ch. 83, § 5.

**Compiler's notes.** — Section 4 of the federal Endangered Species Act of 1973 is compiled as 16 U.S.C. § 1533.

"Effective date of the Wildlife Conservation

Act". — The phrase "effective date of the Wildlife Conservation Act" means February 26, 1974, the effective date of Laws 1974, Chapter 83.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 35 Am. Jur. 2d Fish and Game § 50.5.

16D C.J.S. Constitutional Law § 1416.

### 17-2-42. Management programs.

A. The director shall establish such programs, including programs for research and the acquisition of land or aquatic habitat, as authorized and deemed necessary by the commission for the management of endangered species.

B. In carrying out programs authorized by the Wildlife Conservation Act [17-2-37 to 17-2-46 NMSA 1978], the director may enter into agreements with federal agencies, political subdivisions of the state or with private persons for administration and management of any program established under this section or utilized for management of endangered species.

C. The director may authorize by permit the taking, possession, transportation, exportation or shipment of species or subspecies which have been deemed by the commission to be in need of management as provided in the Wildlife Conservation Act, so long as such use is for scientific, zoological or educational purposes, for propagation in captivity of such wildlife or to protect private property.

D. Endangered species may be removed, captured or destroyed where necessary to alleviate or prevent damage to property or to protect human health. Such removal, capture or destruction may be carried out only by prior authorization by permit from the director, unless otherwise provided by law; provided, that endangered species may be removed, captured or destroyed without permit by any person in emergency situations involving an immediate threat to human life or private property. Regulations governing the removal, capture or destruction of endangered species shall be adopted by the commission within one year after the effective date of the Wildlife Conservation Act.

History: 1953 Comp., § 53-2-55, enacted by Laws 1974, ch. 83, § 6.

"Effective date of the Wildlife Conservation

Act". — The phrase "effective date of the Wildlife Conservation Act" means February 26, 1974, the effective date of Laws 1974, Chapter 83.

### 17-2-43. Commission; power to regulate.

The commission is authorized and directed to establish such regulations as it may deem necessary to carry out all the provisions and purposes of the Wildlife Conservation Act [17-2-37 to 17-2-46 NMSA 1978].

History: 1953 Comp., § 53-2-56, enacted by Laws 1974, ch. 83, § 7.

### 17-2-44. Commission; land acquisition; state plan studies.

In addition to other powers and duties, the director [commission]:

A. may acquire lands, waters or interests therein for the conservation, management, restoration, propagation and protection of endangered species;

B. shall hold public hearings and include the participation of the public in the preparation and adoption of a state plan for all endangered species in order to efficiently carry out the provisions of the Wildlife Conservation Act [17-2-37 to 17-2-46 NMSA 1978]; and

C. shall conduct studies to determine the status and requirements for survival of endangered species.

History: 1953 Comp., § 53-2-57, enacted by Laws 1974, ch. 83, § 8.

Compiler's notes. — The bracketed word "commission" was inserted by the compiler.

### 17-2-45. Penalty.

A. Any person who fails to procure any permit required by Subsection C or D of Section 17-2-42 NMSA 1978 or who fails to abide by the terms of such permit, is guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300) or be imprisoned for not more than ninety days, or both.

B. Any person who violates the provisions of Subsection C of Section 17-2-41 NMSA 1978, or any regulations issued pursuant to that section is guilty of a misdemeanor and upon conviction shall be fined one thousand dollars (\$1,000) or imprisoned for a term of not less than thirty days nor more than one year, or both.

History: 1953 Comp., § 53-2-58, enacted by Laws 1974, ch. 83, § 9.

### 17-2-46. Enforcement; powers of conservation officers.

A. The director, each conservation officer, each sheriff in his respective county and each member of the New Mexico state police shall enforce the Wildlife Conservation Act [17-2-37 to 17-2-46 NMSA 1978] and with probable cause shall:

(1) seize any wildlife, including any wild mammal, bird, amphibian, reptile, fish, mollusk or crustacean held in violation of the Wildlife Conservation Act;

(2) arrest any person whom he knows to be guilty of a violation of the Wildlife Conservation Act; and

(3) open, enter and examine all camps, cars, vehicles, tents, packs, boxes, barrels and packages where he has reason to believe any game or fish taken or held in violation of the Wildlife Conservation Act is to be found, and seize it.

B. Any warrant for the arrest of a person shall be issued upon sworn complaint, the same as in other criminal cases, and any search warrant shall issue upon a written showing of probable cause, supported by oath or affirmation, describing the places to be searched or the persons or things to be seized.

C. Conservation officers under the direction of the director may establish checking stations at points along established roads as needed.

**History:** 1953 Comp., § 53-2-59, enacted by Laws 1974, ch. 83, § 10.

**Citizenship requirement for wildlife law enforcement officers.** — By operation of state law, wildlife law enforcement officers can be required to

hold New Mexico and United States citizenship. 1979 Op. Att'y Gen. No. 79-30.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 35 Am. Jur. 2d Fish and Game §§ 52 to 54.

36A C.J.S. Fish §§ 37, 42; 38 C.J.S. Game §§ 9, 17.

## ARTICLE 3 .

### Licenses and Permits

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- 17-3-2. Classes of licenses.
- 17-3-3. Repealed.
- 17-3-4. Residence.
- 17-3-5. Application for hunting or fishing licenses; contents; filing.
- 17-3-6. False statements; using license issued to another; hunting without license lawfully procured; altering licenses.
- 17-3-7. Blank forms; license issued only on application; false statement voids license; records; reports; accounting for fees collected.
- 17-3-8. Loss of application blanks by license collector; accounting.
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#### Part 2. Regulated Shooting Preserve Act

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- 17-3-38. Tags.
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- 17-3-41. Commercial operation of.

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**REFERENCE SET 1082**

**VOLUME 7**

ER ID	REFERENCE
58906	Nyhan, J.W., B. J. Drennon, W. V. Abeele, G. Trujillo, W. J. Herrera, M. L. Wheeler, J. W. Booth, and W. D. Purtymun, July 1984. "Distribution of Radionuclides and Water in Bandelier Tuff Beneath a Former Los Alamos Liquid Waste Disposal Site After 33 Years," Los Alamos National Laboratory report LA-10159-LLWM, Los Alamos, New Mexico. <b>(Nyhan et al. 1984, 58906)</b>
58907	Hickmott, D., January 7, 1993. "Mapping South of S-Site," Los Alamos National Laboratory Memorandum CLS-ER/BM-93:001, Los Alamos, New Mexico. <b>(Hickmott 1993, 58907)</b>
<del>58908</del> See 58904 Vol. 8	Brown, R.A., B. Martin, and D. Hickmott, 1992. "Barium Transport at S-Site and Laser-Induced Breakdown Spectroscopy (LIBS): Its Application to Field Screening of Barium in Soils," Los Alamos National Laboratory unpublished report, Los Alamos, New Mexico. <b>(Brown et al. 1992, 58908)</b>
58909	Urizar, M.J., October 10, 1984. "Impact Sensitivity," Los Alamos National Laboratory Memorandum (M-1) to L. Stretz, D. Loughran, and J. Baytos, Los Alamos, New Mexico. <b>(Urizar 1984, 58909)</b>
58910	Baytos, J. F., August 7, 1985. "Analysis of Soil Samples for Residual Explosives From Drainage Ditches at Sump Effluent Outlets," Los Alamos National Laboratory Memorandum M-1 to A. P. Torres (WX-3) from J. F. Baytos, Los Alamos, New Mexico. <b>(Baytos 1985, 58910)</b>
58911	Baytos, J. F., June 2, 1970. "Analysis of Soil Samples for Residual Explosives From Drainage Ditches at the Sump Effluent Outlets at Group GMX-3 Operating Buildings," Los Alamos National Laboratory Memorandum GMX-3 to E. Wilder from J. F. Baytos, Los Alamos, New Mexico. <b>(Baytos 1985, 58911)</b>
58936	Toro, E., J. Miller, and M. Zappi, May 1995. "Assessing Advanced Oxidation Processes for the Treatment of Trinitrotoluene Contaminated Groundwater," Proceedings of the Department of Defense Environmental Technology Workshop, Hershey, Pennsylvania. <b>(Toro et al. 1995, 58936)</b>
58937	Manning, J. F., R. Boopathy, and E. R. Breyfogle, December 1996. "Field Demonstration of Slurry Reactor Biotreatment of Explosives-Contaminated Soils," Bioremediation Group, Environmental Research Division paper (SFIM-AEC-ER-CR-96178), Argonne, Illinois. <b>(Manning et al. 1996, 58937)</b>

58938	Agrawal, A. and P. G. Tratnyek, 1995. "Reduction of Nitro Aromatic Compounds by Zero-Valent Iron Metal," Environmental Science and Technology paper Vol. 30, No. 1. <b>(Agrawal and Tratnyek 1995, 58938)</b>
58939	Craig, H. D, W.E. Sisk, M.D. Nelson, and W.H. Dana, 1995. "Bioremediation of Explosives-Contaminated Soils: A Status Review," Proceedings of the 10 <sup>th</sup> Annual Conference on Hazardous Waste Research. <b>(Craig et al. 1995, 58939)</b>
58940	Sisk, W. E. 1998. "Incineration of Explosive-Contaminated Soil," presentation by W.E. Sisk, U.S. Army Environmental Center. <b>(Sisk 1998, 58940)</b>
58941	EPA (U. S. Environmental Protection Agency), February 1995. "EPA Superfund Record of Decision: Umatilla Army Depot (Lagoons), Operable Unit 4, 7/19/1994," EPA/ROD/R10/94/095, Hermiston, Oregon. <b>(EPA 1995, 58941)</b>
58942	EPA (U. S. Environmental Protection Agency), February 1995. "EPA Superfund Record of Decision: Umatilla Army Depot (Lagoons), Operable Unit 3, 7/19/1994," EPA/ROD/R10/94/094, Hermiston, Oregon. <b>(EPA 1995, 58942)</b>
58943	Channel, M. G., April 1996. "An Evaluation of Solidification/Stabilization for Treatment of Contaminated Soils from the Umatilla Army Depot Activity," U.S. Army Corp of Engineers, Vicksburg, MS. <b>(Channel 1996, 58943)</b>

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58907	Hickmott, D., January 7, 1993. "Mapping South of S-Site," Los Alamos National Laboratory Memorandum CLS-ER/BM-93:001, Los Alamos, New Mexico. <b>(Hickmott 1993, 58907)</b>
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58938	Agrawal, A. and P. G. Tratnyek, 1995. "Reduction of Nitro Aromatic Compounds by Zero-Valent Iron Metal," Environmental Science and Technology paper Vol. 30, No. 1. <b>(Agrawal and Tratnyek 1995, 58938)</b>
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