

# NMAC

## Transmittal Form



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Volume:  Issue:  Publication date:  Number of pages:  (ALD Use Only) Sequence No.

Issuing agency name and address:  Agency DFA code:

Contact person's name:  Phone number:  E-mail address:

Type of rule action:  New  Amendment  Repeal  Emergency  Renumber  (ALD Use) Recent filing date:

Title number:  Title name:

Chapter number:  Chapter name:

Part number:  Part name:

Amendment description (If filing an amendment):   
Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes  No  Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes  No  Public domain

### Specific statutory or other authority authorizing rulemaking:

Notice date(s):  Hearing date(s):  Rule adoption date:  Rule effective date:

# Concise Explanatory Statement For Rulemaking Adoption:

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## Findings required for rulemaking adoption:

### Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

See attached four page document titled Statement of Reasons for Amendment of State Parks Division Rules 18.17.2 NMAC, 19.5.1 NMAC, 19.5.2 NMAC, and 19.5.6 NMAC.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Ben Shelton

Check if authority has been delegated

Title:

Acting Deputy Cabinet Secretary, Energy, Minerals and Natural Resources Department

Signature: (BLACK ink only OR Digital Signature)

Date signed:



11/25/24

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STATEMENT OF REASONS FOR AMENDMENT OF STATE PARKS DIVISION RULES 18.17.2 NMAC, 19.5.1 NMAC, 19.5.2 NMAC, AND 19.5.6 NMAC

This statement of reasons provides the basis upon which the Energy, Minerals and Natural Resources Department (EMNRD), State Parks Division (Division) amended 18.17.2 NMAC Boating Operation and Safety, 19.5.1 NMAC General Provisions, 19.5.2 NMAC Visitor Provisions, and 19.5.6 NMAC Fees. This statement of reasons outlines the statutory background, process, and summary of the final version of the rule amendments and reasons for amending.

I. Statutory Authority

The Secretary is generally authorized to make and adopt rules necessary to carry out EMNRD's duties at NMSA 1978, 9-1-5(E). The Secretary is the issuing authority, unless the Secretary specifically delegates that authority in writing. EMNRD's general duties and purposes are set out at NMSA 1978, 9-5A-1 through 9-5A-7. Per NMSA 1978, 16-2-7 The secretary shall promulgate and adopt rules for each park as circumstances may demand to the end that each state park may be made as nearly self-supporting as possible. Per NMSA 1978, 66-12-18 the state park and recreation division [state parks division] may promulgate regulations to carry into effect the provisions of the Boat Act.

These rule amendments are adopted under the authority of NMSA 1978, Section 16-2-7 and NMSA 1978, Section 66-12-18.

II. Process

The Division drafted proposed rule amendments based on our statutory mandate that each state park may be made as nearly self-supporting as possible. Additionally, the Division drafted proposed rule amendments based on identified needs for changes to off-highway vehicle allowances based on safety concerns. The Division staff and EMNRD legal counsel drafted the proposed amendments and distributed them to the Cabinet Secretary, Director, deputy directors, bureau chiefs, and other Division staff. After receiving internal comments, the Division prepared the proposed rule amendments for notice and public comment.

Prior to the public meeting, which was held on October 22, 2024, the Division posted the proposed amendments and public hearing notice on the Division's website. The Division published notice of the rulemaking and the hearing in the Albuquerque Journal on July 30, 2024, and the New Mexico Register on July 30, 2024. The Division also sent notice of the rulemaking and the hearing to stakeholders including landowning agencies or entities, other state agencies, concessionaires, outfitters, local communities near state parks, associations, and other interested parties, the Legislative Council Service, posted in the State Parks Division office and sent to the Small Business Regulatory Advisory Committee. The Division received eleven comments on the proposed rulemaking.

III. Language of the Replaced Rules

18.17.2 NMAC (Boating Operation and Safety)

The State Parks Division replaces 18.17.2 NMAC to include a definition of human-powered watercraft and paddle craft in Section 7 Definitions, amend the registration fees for vessels in Section 8, and require users of human-powered watercraft to wear personal flotation devices, and include human-powered watercraft in vessels that are not required to have a bailing bucket, bilge pump or any length of stout rope in Section 9.

18.17.2.7 Definitions

The Division amends subsection F of 18.17.2.7 NMAC to add the definition of human-powered watercraft. Including the definition of human-powered watercraft allows for the clarification of which vessels require the use of personal flotation devices and are required to maintain certain equipment on the vessel. The Division amends subsection G of 18.17.2.7 NMAC to add the definition of paddle craft. Including the definition of paddle craft allows for the clarification of which vessels require the use of personal flotation devices and are required to maintain certain equipment on the vessel.

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purchase; amend language for foster family free access to parks to match language in house bill 35 from the 2023 legislative session.

#### 19.5.2.11 Day Use

The Division amends subsection A of 19.5.2.11 NMAC to require that visitors shall pay required day use fees upon entering a park. These changes are based upon recommendations from the Fees Study that was completed by the Division in July 2023 as well as public comments received during our public comment period.

The Division amends subsection C of 19.5.2.11 NMAC to correct grammatical errors in the text. The subsection requires visitors to maintain sites in parks in a clean and sanitary condition.

#### 19.5.2.12 Camping

The Division amends subsection A of 19.5.2.12 NMAC to correct grammatical errors, to clarify the time for campsites to be vacated may vary if a park posts other hours, and to add Cerrillos Hills state park to the list of parks where camping is unavailable. Cerrillos Hills state park is a day use only park that was established in 2009 but not included on the list of parks where camping is not available under subsection A of 19.5.2.12 NMAC. The addition of language to allow posting alternative times for vacating a campsite allows for adaptive management throughout the state parks system especially for parks where staffing requires additional time for cleaning and maintaining sites.

The Division amends subsection C of 19.5.2.12 NMAC to correct grammatical errors in the text. The subsection requires visitors to maintain campsites in a clean and sanitary condition.

The Division amends subsection E of 19.5.2.12 NMAC to reduce the maximum stay limit during the peak season from May 1 through September 30. The change allows campers to reside in a park for a maximum of 7 days out of any 20 calendar day period from May 1 through September 30 and maintains the maximum 14 day out of any 20 calendar day stay limit from October 1 through April 30 annually. This reduction in stay limit during the peak visitation season allows for more rotation of campers in busy parks making sites more available to more people.

The Division amends subsection I of 19.5.2.12 NMAC to reduce the maximum stay limit for anchored boats or vessels to match the maximum stay limit proposed in subsection E of 19.5.2.12 NMAC. This reduction in stay limit during the peak visitation season allows for more rotation of campers in busy parks making sites more available to more people.

The Division amends subsection J of 19.5.2.12 NMAC to correct grammatical errors in the text. The subsection provides for reservations to be cancelled if campers do not occupy the site by 4:00 p.m. the day after the scheduled arrival date.

#### 19.5.2.13 Use of Facilities

The Division amends subsection D of 19.5.2.13 NMAC to indicate that sites with developed and designated special accessible facilities for the use of individuals with disabilities will be marked with standard ADA signage. This ensures that sites are designated for ADA priority usage and increases accessibility for persons with disabilities.

#### 19.5.2.14 Parking

The Division amends subsection A of 19.5.2.14 to reduce the time where a visitor may leave a trailer, boat or vessel that is not attached to a vehicle in parking areas or parking turnouts from 72 to 24 hours. This reduction in time is necessary to ensure that visitors are not blocking off parking areas and reducing availability of parking for other users.

#### 19.5.2.16 Off-Highway Motor Vehicles and Golf Cars

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and discussion, it was determined that waiving day use fees for NM residents should only occur during the off season to avoid overcrowding and resource issues in parks.

The Division amends subsection B of 19.5.2.34 NMAC to require that visitors purchase camping permits to camp in a park and to correct grammatical errors.. The addition of language requiring the purchase of camping permits clarifies requirements for camping in state parks.

#### 19.5.2.35 Annual Permits and Passes

The Division amends subsection B(2)(d) of 19.5.2.35 NMAC adding a New Mexico resident active-duty or veteran annual camping pass. During our public information sessions the Division received several comments indicating the public's desire to see more opportunities for veterans and military personnel to receive discounts on camping for NM state parks. The addition of this pass allows for NM active duty military personnel and NM veterans to purchase an annual camping permit at a discounted rate.

The Division amends subsection B(2)(e) of 19.5.2.35 NMAC to correct numbering after adding a previous subsection.

The Division amends subsection C of 19.5.2.35 NMAC to make annual passes valid from January 1 through December 31 annually rather than 12 months from the date of purchase. Standardizing the expiration date for all passes and making the pass term consistent enhances the Division's ability to track passes and prevent fraudulent use of passes through our reservation system.

The Division amends subsection D of 19.5.2.35 NMAC to require proof of purchase for a replacement annual camping permit to be issued. Currently there is no requirement for a proof of purchase to receive a discounted replacement permit. Implementing this requirement will help prevent fraudulent purchases of replacement annual camping permits.

#### 19.5.2.38 Foster Families

The Division amends 19.5.2.38 NMAC to add language for foster family free access to parks to match language in house bill 35 from the 2023 legislative session.

#### 19.5.2.39 Park Passes

The Division amends subsection G of 19.5.2.39 NMAC to correct grammatical errors in the text.

#### 19.5.2.42 Public Assemblies, Meetings

The Division amends subsection A of 19.5.2.42 NMAC to correct spelling errors in the text.

### 19.5.6 NMAC (Fees)

The Division amends 19.5.6 NMAC to change fees for day use and camping permits, , add a parking fee to the Rio Grande Nature Center state park, change entrance fees at Living Desert Zoo and Gardens state park and Smokey Bear historical park, change utility fees, add a RV dump station use fee, , remove outdated wording, increase special use permit fees, add a short term concession permit, eliminate wildlife blind fees, and implement a regular review of fees based off the Chained Consumer Price Index for Urban Consumers.

#### 19.5.6.8 Day Use Permit (use fees)

The Division amends subsection A of 19.5.6.8 NMAC to implement differentiated day use fees for NM residents and non-residents, make school bus fees applicable to non-residents only, and implement a dump station fee for

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The Division amends subsection B of 19.5.6.18 NMAC to delete outdated language. Language referencing fees prior to December 1, 2018 has been deleted as it is no longer relevant.

The Division amends subsection C of 19.5.6.18 NMAC to delete outdated language. Language referencing fees prior to December 1, 2018 has been deleted as it is no longer relevant.

The Division amends subsection F of 19.5.6.18 NMAC to delete wildlife blinds rental fees and renumber following sections. The Division does not currently rent wildlife blinds.

19.5.6.19 Fee Changes

The Division adds 19.5.6.19 NMAC to require the Division to review the fees in 19.5.6 NMAC every five years and provide the opportunity to amend fees to reflect inflation as evidenced in the Chained Consumer Price Index for Urban Consumers. The addition of a requirement to review fees on a regular basis eliminates stagnation in the fee structure and avoids large fee increases in future years.

V. Rule

See 18.17.2 NMAC, 19.5.1 NMAC, 19.5.2 NMAC, and 19.5.6 NMAC which are attached.

VI. Conclusion

The Division considered the potential impacts of the rule amendments on small businesses and does not expect adverse effects to small businesses. EMNRD informed the Small Business Regulatory Advisory Commission as required by law and received no comment. After conducting multiple public information sessions around the state and virtually, we received a significant amount of input regarding our rule amendments. This input was used to better inform our decisions and incorporated into our final rule amendments. After conducting a public hearing in Santa Fe and receiving public comments, and considering comments from the Division's personnel, EMNRD, through the State Parks Division, adopts amendments to 18.17.2 NMAC, 19.5.1 NMAC, 19.5.2 NMAC and 19.5.6 NMAC summarized above in Section III and attached as stated in Section IV. The amendments shall become effective on January 1, 2025.



\_\_\_\_\_  
Cabinet Secretary or Designee

Date: 11/14/24

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**TITLE 18**        **TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 17**   **NAVIGATION AND BOATING**  
**PART 2**        **BOATING OPERATION AND SAFETY**

**18.17.2.1**        **ISSUING AGENCY:** Energy, Minerals and Natural Resources Department.  
[18.17.2.1 NMAC – Rp, 18.17.2.1 NMAC, 1/1/2025]

**18.17.2.2**        **SCOPE:** 18.17.2 NMAC applies to persons using vessels in the waters of New Mexico.  
[18.17.2.2 NMAC – Rp, 18.17.2.2 NMAC, 1/1/2025]

**18.17.2.3**        **STATUTORY AUTHORITY:** Section 66-12-18 NMSA 1978 authorizes the state parks division to promulgate rules to carry into effect the provisions of the Boat Act, Sections 66-12-1 *et seq.* NMSA 1978.  
[18.17.2.3 NMAC – Rp, 18.17.2.3 NMAC, 1/1/2025]

**18.17.2.4**        **DURATION:** Permanent.  
[18.17.2.4 NMAC – Rp, 18.17.2.4 NMAC, 1/1/2025]

**18.17.2.5**        **EFFECTIVE DATE:** January 1, 2025 unless a later date is cited at the end of a section.  
[18.17.2.5 NMAC – Rp, 18.17.2.5 NMAC, 1/1/2025]

**18.17.2.6**        **OBJECTIVE:** 18.17.2 NMAC's objective is to set forth registration requirements for vessels and to promote safety for persons and property in and connected with vessels' use, operation and equipment.  
[18.17.2.6 NMAC – Rp, 18.17.2.6 NMAC, 1/1/2025]

**18.17.2.7**        **DEFINITIONS:**

**A.**        **"Certificate of number"** means the registration certificate required to operate a motorboat on the waters of New Mexico.

**B.**        **"Combination lights"** means lights required on vessels operating on the waters of New Mexico in the hours of darkness, green on the starboard (right) side and red on the port (left) side and shall throw the lights from dead ahead to two points abaft of the beam on their respective sides.

**C.**        **"Department"** means the energy, minerals and natural resources department.

**D.**        **"Director"** means the director of the energy, minerals and natural resources department, state parks division.

**E.**        **"Division"** means the energy, minerals and natural resources department, state parks division.

**F.**        **"Human-powered watercraft"** means a vessel that is propelled by human power through the use of hands or feet, oars, paddles, poles or pedals, but not sails or an engine.

**G.**        **"Paddle craft"** means any type of canoe, kayak, paddleboard or other vessel powered only by its occupants using a single or double-bladed paddle as a lever without the aid of a fulcrum provided by oarlocks, tholepins, crutches or similar mechanisms.

**H.**        **"Person"** means an individual, partnership, firm, corporation, association, joint venture or other entity.

**I.**        **"Personal flotation device"** means a U.S. coast guard approved personal floatation device used in accordance with its U.S. coast guard approved label.

**J.**        **"Personal watercraft"** means a class A motorboat less than 16 feet, designed to be operated by a person sitting, standing or kneeling on the vessel rather than the operator sitting or standing inside the vessel. Examples include jet skis, sea doos, wave runners and similar devices.

**K.**        **"Power driven vessel"** means any vessel propelled by machinery at the time of operation.

**L.**        **"Registration"** means the process by which motorboats owned by persons domiciled in New Mexico and motorboats not registered in another state nor by the United States, which are operated on the waters of this state are numbered as evidenced by a certificate of number issued by the New Mexico taxation and revenue department under a joint powers agreement with the department.

**M.**        **"Right of way"** means the right of a vessel, which is proceeding on an established forward course at a relatively constant speed to continue such course unchanged without reducing speed, turning, veering or reversing.

**N.**        **"Secretary"** means the secretary of the energy, minerals and natural resources department.

**O.**        **"Superintendent"** means a division employee who is in charge of a specific park.

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**P. "Vessel"** means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

**Q. "Wake"** means white water created from wave action breaking off the vessel's bow or sides. [18.17.2.7 NMAC – Rp, 18.17.2.7 NMAC, 1/1/2025]

**18.17.2.8 REGISTRATION:**

**A. Certificate of number:** In accordance with the Boat Act, boats operating on waters of the state shall be numbered and the certificate of number shall be available for inspection at all times when the motorboat is in operation. Every certificate of number except those issued to dealers and manufacturers expires on December 31 of the third calendar year of registration. Registration shall be renewed triennially. Refunds shall not be made for any unused period of a certificate of number due to non-use of a vessel or change in ownership. No person shall transfer or authorize the transfer of a registration validation decal from one vessel to another.

**B. Registration number:** A motorboat's registration number shall be painted on or permanently affixed to each side of the motorboat's forward half, and no other number shall be displayed on that part of the motorboat. Numbers shall: read from left to right; be in plain vertical block characters; be of a color contrasting with the background; be distinctly visible and legible; be not less than three inches in height; and have spaces or hyphens that are equal to the width of a letter between the letter and number groupings. Example: NM 0000 AA or NM--0000--AA. The validation sticker shall be affixed within six inches to the right of the registration number on the port side of the vessel.

**C. Dealer registrations:** A dealer's certificate of number shall be on board each vessel being demonstrated. Dealer numbers shall be displayed and mounted temporarily on such vessels. The dealer number shall not be affixed permanently on a vessel. An individual dealer shall not demonstrate more than three vessels at any one time.

**D. Registration fees:**

CLASS	MOTORBOAT LENGTH	THREE YEAR COST
A	Less than 16 ft.	\$60.00
1	16 ft. to less than 26 ft.	\$75.00
2	26 ft. to less than 40 ft.	\$120.00
3	40 ft. to less than 65 ft.	\$150.00
	65 ft. or over	\$180.00
	Duplicate Registration	\$25.00

[18.17.2.8 NMAC – Rp, 18.17.2.8 NMAC, 1/1/2025]

**18.17.2.9 EQUIPMENT REQUIRED TO OPERATE A VESSEL:** No person shall operate or give permission to operate a vessel on the waters of this state that is not equipped as required by 18.17.2.9 NMAC and the Boat Act.

**A. Flotation devices:**

(1) Vessels shall carry a U.S. coast guard approved wearable personal flotation device of proper size and fit for each person on board or being pulled as a skier, plus one U.S. coast guard approved throwable device. A throwable device is not required for personal watercraft, kayaks, canoes, paddleboards, wind sail boards, inner tubes, air mattresses, float tubes, rubber rafts or other inflatable watercraft. Personal flotation devices and throwable devices shall be in serviceable condition readily accessible for use and shall bear evidence of U.S. coast guard approval. Personal flotation devices and throwable devices shall be carried and used in accordance with any requirements on the approval label.

(2) Skiers and those being pulled on a floating object shall wear a U.S. coast guard approved wearable personal flotation device while being pulled by a vessel.

(3) Vessels that carry passengers for hire shall provide a U.S. coast guard approved wearable personal flotation device for each person on board. Vessels shall carry an additional number of approved wearable personal flotation devices of children size equal to at least 10 percent of the total number of persons carried unless the service is such that children are never carried.

(4) Persons engaged in boating on a river or in boat races or persons using human-powered watercraft, ice sailboats, personal watercraft, kayaks, canoes, paddleboards and rubber rafts on any waters of this state shall wear a U.S. coast guard approved wearable personal flotation device.

(5) Persons using wind sail boards, inner tubes, air mattresses, float tubes or other inflatable devices not covered in Paragraph (4) of Subsection A of 18.17.2.9 NMAC on waters of this state shall wear a U.S.



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coast guard approved wearable personal flotation device of the proper size and fit and in accordance with any requirements on the approved label.

(6) The operator of a vessel used for recreational purposes shall require children age 12 or under who are aboard the vessel to wear a personal flotation device approved by the United States coast guard while the vessel is underway, unless the child is below deck or in an enclosed cabin.

**B. Fire extinguisher:**

(1) Vessels constructed with any of the following characteristics shall be equipped with serviceable U.S. coast guard approved marine fire extinguisher of a size and in a quantity set forth in Paragraph (2) of Subsection B of 18.17.2.9 NMAC:

- (a) inboard engine;
- (b) closed compartments under thwarts and seats where portable fuel tanks may be stored;
- (c) double bottoms not sealed to the hull or that are not completely filled with flotation material;
- (d) closed living spaces;
- (e) closed storage compartments in which combustible or flammable materials may be stored; or

(f) permanently installed fuel tanks.

(2) Fire extinguisher requirements by boat length:

CLASS	LENGTH OF MOTORBOAT	NUMBER OF EXTINGUISHERS REQUIRED	SIZE OF FIRE EXTINGUISHERS
A	Less than 16 feet	One	5-B
1	16 feet to less than 26 feet	One	5-B
2	26 feet to less than 40 feet	Two or One	5-Bs or 20-B
3	40 feet or more	Three or One	5-Bs or 20-B

(3) Disposable (non-rechargeable) fire extinguishers meeting this requirement shall be not more than 12 years old from the date stamped on the bottle.

**C. Sound producing devices:** Vessels shall carry on board a sound producing device in accordance with the following minimum requirements:

- (1) less than 26 feet (this includes kayaks, canoes, paddleboards and rubber rafts): mouth, hand or power operated whistle or other sound producing mechanical device capable of producing a blast of two second duration and audible for at least one-half mile;
- (2) 26 feet but less than 40 feet: hand or power operated horn or whistle capable of producing a blast of two seconds or more duration and audible for a distance of at least one mile and a bell;
- (3) 40 feet or more: power operated horn or whistle capable of producing a blast of two seconds or more duration and audible for a distance of at least one mile and a bell.

**D. Flame arrestor:** Enclosed gasoline engine carburetors (except outboard motors) installed in a vessel shall be equipped with a U.S. coast guard approved backfire flame arrestor that is marked with a U.S. coast guard approval number or in compliance with UL 1111 tests or the standard SAE J-1928, MARINE.

**E. Water closets:** No person shall maintain or operate a vessel on the waters of this state equipped with a water closet unless the closet is self-contained and incapable of discharging directly into the water.

**F. Lights:**

(1) Power driven vessels operating one-half hour after sunset to one-half hour before sunrise or during times of poor visibility shall display a combination light on the vessel's fore part and a white light aft to show 360 degrees around the vessel's horizon and above the combination light. The combination light shall be green on the starboard (right) side and red on the port (left) side and shall throw the lights from dead ahead to two points abaft of the beam on their respective sides.

(2) A sailing vessel underway one-half hour after sunset to one-half hour before sunrise or during times of poor visibility shall exhibit lights as required below or by U.S. coast guard rule.

- (a) A sailing vessel of seven meters in length or more shall exhibit sidelights and a sternlight.

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(b) A sailing vessel of less than seven meters in length shall, if practicable, exhibit sidelights and a sternlight, but if she does not, she shall exhibit an all-round white light or have ready at hand an electric torch or lighted lantern showing a white light, which shall be exhibited in sufficient time to prevent collision.

(c) A sailing vessel of 12 meters or more in length proceeding under sail when also being propelled by machinery shall exhibit forward, where it can best be seen, a conical shape, apex downward. A sailing vessel of less than 12 meters in length is not required to exhibit this shape but may do so.

(3) Vessels under oar or paddle shall when underway or anchored in a non-designated mooring area one-half hour after sunset to one-half hour before sunrise or during times of poor visibility have ready at hand an electric torch or lighted lantern showing a white light, which shall be exhibited in sufficient time to prevent collision.

(4) The display of red, green and white lights contrary to Subsection F of 18.17.2.9 NMAC or U.S. coast guard regulations is prohibited.

**G. Other equipment:** Persons engaged in canoeing, kayaking, paddle boarding or rubber rafting and persons using human-powered watercraft, wind sail boards, inner tubes, air mattresses, float tubes or other inflatable devices are not required to have a bailing bucket, bilge pump or any length of stout rope. [18.17.2.9 NMAC – Rp, 18.17.2.9 NMAC, 1/1/2025]

#### 18.17.2.10 BOAT RENTALS:

**A. Records:** The owner of a boat rental facility shall keep a record of the name and address of persons borrowing or hiring a vessel, the identification number thereof, the departure date and time and the expected date and time of return. The owner of a boat rental facility shall preserve the record for at least six months.

**B. Equipment:** Neither the owner of a boat rental facility nor an agent or employee thereof shall permit a motorboat or a borrowed or hired vessel to depart from the facility unless it is provided with the equipment required by 18.17.2.9 NMAC and the Boat Act. [18.17.2.10 NMAC – Rp, 18.17.2.10 NMAC, 1/1/2025]

**18.17.2.11 PROHIBITED OPERATIONS:** The operator of a vessel operating on the waters of this state shall not engage the vessel in prohibited activities nor allow passengers to engage in activities prohibited by 18.17.2 NMAC or the Boat Act.

#### **A. Riding the foredeck and gunwales of vessels:**

(1) Except when casting off, mooring or when otherwise necessary such as for water rescue, picking up a swimmer or retrieving articles blown overboard, when a vessel is underway no vessel operator shall allow a person to ride or sit on the bow, gunwales, transom, seats on raised decks or any other place not intended for the carrying of passengers, unless the vessel is equipped with adequate guard rails designed to prevent a person from slipping under or rolling over the rail.

(2) Except when casting off, mooring or when otherwise necessary such as for water rescue, picking up a swimmer or retrieving articles blown overboard, when a vessel is underway no person shall ride or sit on the bow, gunwales, transom, seats on raised decks or any other place not intended for the carrying of passengers, unless the vessel is equipped with adequate guard rails designed to prevent a person from slipping under or rolling over the rail.

(3) Persons shall not sit on a seat back while the vessel is underway or allow their legs to hang overboard at any time.

(4) Persons shall not ride outside the railing of a pontoon boat when underway.

(5) Persons shall not ride on the elevated fishing seats of the vessel while the vessel is underway.

**B. Trolling:** Trolling or drift fishing is prohibited within 150 feet of a marina, boat ramp or courtesy dock.

#### **C. Speed:**

(1) Vessel operators shall not operate vessels at a speed greater than is reasonable or proper according to conditions prevailing at the time of operation.

(2) Vessel operators shall operate vessels at speeds controlled as necessary to avoid swamping or collision with any watercraft or person.

(3) Vessel operators shall observe no-wake speeds when operating within 150 feet of launch ramps, docks, mooring lines, beached or anchored vessels within 150 feet of shore, swimmers, fishermen and areas

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designated for "no-wake" boating. Exception to no-wake operation: under adverse weather conditions, a vessel may maintain the minimum speed necessary to maintain a safe course.

**D. Overloading:** No vessel operator shall carry more people on board than the number stated on a vessel's capacity plate or as computed by multiplying the vessel's length times its width and dividing by 15.

**E. Pollution:** No person shall deposit or discharge liquid or solid waste or other refuse into this state's waters.

**F. Buoys, water marking system:** No person shall anchor from, deface or relocate a buoy placed by the division or any government agency for the purpose of aiding navigation. No person shall operate a vessel in a manner that will interfere unnecessarily with the safe navigation of other vessels or anchor a vessel in the traveled portion of a channel in a way that will prevent or interfere with any other vessel passing through the same area.

**G. Operation while under the influence of alcohol or controlled substances:** No person shall operate a motorboat or vessel, nor use water skis, surfboard or similar device, while under the influence of alcohol or any controlled substance.

**H. Age restriction:** No person under the age of 13 shall operate a motorboat unless under an adult's onboard supervision.

**I. Use of airborne devices prohibited:** No person, while being towed by a watercraft, shall use a device, except for a parasail, for the purpose of becoming airborne over the waters of this state. No person while operating a watercraft shall tow a person using a device, except for a parasail, for the purpose of becoming airborne over the waters of this state.

**J.** No person shall operate a motorized vessel less than 26 feet in length without having on or affixed to their person a line or link that activates the emergency cut off switch (ECOS) while on plane or above no-wake speed. Exceptions to this requirement include when

- (1) the vessel is not equipped with ECOS by the manufacturer;
- (2) the engine of the vessel is three horsepower or less;
- (3) while using the vessel for fishing or while docking or trailering the vessel; or
- (4) when the main helm of the vessel is in an enclosed cabin.

[18.17.2.11 NMAC – Rp, 18.17.2.11 NMAC, 1/1/2025]

#### 18.17.2.12 BOATING ACCIDENTS:

**A.** The operator or legal representative of a vessel involved in a collision, accident or other casualty on a water of this state shall:

- (1) report the collision, accident or other casualty immediately to the local law enforcement agency; and
- (2) file a boating accident report within 48 hours with the division if the collision, accident or other casualty resulted in a death, injury requiring more than standard first aid or property damage in excess of \$100; forms are available at offices of state parks with lakes; reports shall be sent to and forms are also available at: State Parks Division; 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505; (505) 476-3355.

**B.** No person shall knowingly make false claims or statements when reporting a collision, accident or casualty.

[18.17.2.12 NMAC – Rp, 18.17.2.12 NMAC, 1/1/2025]

**18.17.2.13 WATER SKIING:** Water skiing is permitted on the waters of this state; however, in the interest of public safety, the director or his designee may designate certain areas as closed to such activity and prohibit entry into these areas for water skiing.

**A. Prohibited skiing activities:**

(1) Water skiing is prohibited within 150 feet of a public dock (other than a ski dock), mooring line, launching ramp, boat, fisherman, swimmer or a person not also engaged in water skiing.

(2) No person shall intentionally obstruct or interfere with water skiers engaged in waterskiing.

(3) The use of personal watercraft such as jet skis, sea-doo's, wave runners and similar devices to tow water skiers, surfboards, tubes or similar devices is prohibited except as provided in Paragraph (2) of Subsection B of 18.17.2.13 NMAC.

**B. Skiing special requirements:**

(1) A person in the towing vessel shall raise an international fluorescent orange or a red warning flag whenever a person on water skis or other water device has fallen, dropped off or is starting, to warn

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other vessels away from the area. The flag shall be a minimum of 12 inches by 12 inches and displayed high enough to be visible 360 degrees around the vessel without obstruction.

- (2) No person shall pull a water skier with a personal watercraft unless:
- (a) water skiing laws and rules are complied with;
  - (b) the personal watercraft pulling the skier has manufacturer recommended seating for at least three people;
  - (c) there is a vacant seat on the pulling vessel for the skier; and
  - (d) the personal watercraft has an observer on board in addition to the operator.

[18.17.2.13 NMAC – Rp, 18.17.2.13 NMAC, 1/1/2025]

#### 18.17.2.14 SPECIAL REGULATIONS:

##### A. Weather:

(1) If at any time the superintendent determines that the weather or the condition of a lake is dangerous for boats, the superintendent may prohibit the launching or use of boats for an indefinite period of time upon the posting of appropriate notice.

(2) Boaters shall observe small craft weather warnings and seek shelter ashore when flags or lights have been activated to indicate adverse weather conditions.

##### B. Anchoring and mooring:

(1) Vessels when not in use shall be firmly anchored, moored or otherwise secured so as to prohibit drifting or otherwise damaging another's property. No person shall moor or anchor a vessel within 150 feet of a marina, boat ramp or courtesy dock.

(2) Private docks are prohibited except as provided in 18.17.3 NMAC. Private buoys and the mooring of houseboats are prohibited unless authorized by the director. Persons may anchor vessels overnight provided it does not impede or present a hazard to navigation. Overnight anchoring of vessels within a state park is subject to overnight camping permits and fees, unless the person has paid camping fees for towing vehicle, except for vessels moored at concession operated facilities such as marinas or buoy lines. Persons may not leave anchored vessels vacant for more than 24 hours without the superintendent's permission unless moored at an authorized marina or buoy line.

(3) Courtesy docks are provided for the purpose of loading and unloading vessels. No person shall leave a vessel moored at a courtesy dock for longer than 10 minutes.

C. **Launching:** Boaters using launching areas or launching ramps on waters of this state shall be prepared to launch or load their vessels promptly without undue delay to others. After the vessel is launched, the towing vehicle shall be immediately driven well away from the launching area and parked in a designated location if such is provided.

[18.17.2.14 NMAC – Rp, 18.17.2.14 NMAC, 1/1/2025]

18.17.2.15 **TRAFFIC CONTROL:** When a person operating a vessel meets, overtakes or crosses another vessel's course, the operator shall take the appropriate action.

A. **Meeting:** When two vessels approach each other head-on or nearly so, each vessel shall steer to the starboard (right) so as to pass port (left) side to port side.

B. **Passing on parallel courses:** When the courses of two vessels approaching one another are so far on the starboard side of each other as not to be meeting head-on, the vessels shall pass on the starboard side of each other.

C. **Overtaking:** When one vessel is overtaking another, the vessel overtaking shall keep clear of the vessel being overtaken.

D. **Crossing:** When the courses of two vessels are such that their courses, if continued unchanged, will cross, the vessel approaching from the left shall give way by altering course, slowing down, stopping or reversing.

E. **Power driven vessels:** A power driven vessel shall yield the right-of-way to a non-power driven vessel except when the non-power driven vessel is passing the power driven vessel from behind the power-driven vessel shall maintain course.

F. **Vessel departure/arrival:** A vessel leaving a pier or dock has the right-of-way over a vessel approaching a dock.

G. **Distance:** Vessels shall keep 150 feet away from swimmers, water skiers, fishermen, diver flags and others not participating in the same activity.

[18.17.2.15 NMAC – Rp, 18.17.2.15 NMAC, 1/1/2025]

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**18.17.2.16 RESTRICTED OPERATION ON STATE WATERS:** Limits to the size, type and operation of vessels on waters within the state are provided below. Officials of the division and other state and federal agencies authorized by the director or by law and who are on official duty are exempt from 18.17.2.16 NMAC while operating in an emergency condition.

- A. **Bottomless lakes:** Only paddle craft, vessels under oar and float tubes are permitted.
  - B. **Clayton lake:** Motorized boating activity is limited to no-wake operation only.
  - C. **Cochiti lake:** Motorized boating activity is limited to no-wake operation only.
  - D. **Fenton lake:** Only paddle craft, vessels under oar and float tubes are permitted.
  - E. **Heron lake:** Motorized boating activity is limited to no-wake operation only.
  - F. **Morphy lake:** Only vessels with electric motors, paddle craft, vessels under oar and float tubes are permitted.
  - G. **San Juan river:** Motorized vessels are prohibited on the San Juan river, within Navajo Lake state park. The use of non-motorized vessels on the San Juan river within Navajo Lake state park is authorized from the Texas hole day use area downstream and is limited to the purpose of fishing unless otherwise authorized by the director.
  - H. **Santa Cruz:** Motorized boating activity is limited to no-wake operation only.
  - I. **Sugarite canyon:** Only vessels with electric motors, paddle craft, vessels under oar and float tubes are permitted on lake Maloya. Only float tubes are permitted on lake Alice.
- [18.17.2.16 NMAC – Rp, 18.17.2.16 NMAC, 1/1/2025]

**18.17.2.17 VESSEL INSPECTIONS:** Division law enforcement officials may randomly inspect vessels operating on the waters of this state to verify registration, titling and that the proper safety equipment is on board.  
[18.17.2.17 NMAC – Rp, 18.17.2.17 NMAC, 1/1/2025]

**18.17.2.18 TERMINATION OF VOYAGE:** Division law enforcement officers, sheriffs in their respective county and members of the state police may terminate the voyage of a vessel when they determine the continued use of the vessel will create hazardous conditions that constitute a danger to the health and safety of the occupants of the vessel or others. The officer may direct the operator of the vessel to return to mooring, remove the vessel from the water or prohibit launching of the vessel until the unsafe conditions end or are corrected. Reasons for termination of voyage include

- A. operating a vessel contrary to the provisions of 18.17.2.9 NMAC;
- B. operating a vessel contrary to the provisions of 18.17.2.11 NMAC or otherwise operating a vessel in a reckless or negligent manner;
- C. operating a vessel in hazardous weather as to create an undue risk to the life of the occupants of the vessel; or
- D. any other conditions a reasonable person would deem create a danger to the occupants of the vessel or others and only the immediate termination of the voyage would prevent serious injury or death.

[18.17.2.18 NMAC – Rp, 18.17.2.18 NMAC, 1/1/2025]

#### **HISTORY OF 18.17.2 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the commission of public records, state records center:

- SPRD 67-1, Rules and Regulations, filed 7/17/1967;
- SPRD 68-1, New Mexico Pleasure Boating Requirements and State Park Regulations, filed 10/17/1968;
- SPRD 69-1, New Mexico Pleasure Boating Requirements and State Park Regulations, filed 9/11/1969;
- SPRD 71-1, New Mexico Pleasure Boating Requirements and State Park Regulations, filed 11/10/1971;
- SPRD 72-1, New Mexico Pleasure Boating Requirements and State Park Regulations, filed 6/5/1972;
- SPRD 73-3, New Mexico Pleasure Boating Requirements and State Park Regulations, filed 9/14/1973;
- SPRD 74-1, New Mexico Pleasure Boating Requirements and State Park Regulations, filed 2/19/1974;
- SPRD 75-1, New Mexico State Park and Recreation Commission Regulations, New Mexico Boating Law, 1975 Edition, filed 2/24/1975;
- SPRD 77-1, New Mexico State Park and Recreation Commission Regulations, New Mexico Boating Law, 1977 Edition, filed 4/15/1977;
- SPRD 79-1, New Mexico Park Regulations and Boating Laws, filed 7/31/1979;
- SPRD 82-1, New Mexico State Park Regulations and Boating Laws, Revised in 1981, filed 5/17/1982;

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SPRD 87-1, New Mexico State Park Regulations and Boating Laws, Revised in 1987, filed 5/6/1987;  
EMNRD PRD 87-3, Rules Governing Motorboat Registration and Numbering, Boat Titling and Excise Tax Collections, Security Participation under the Boat Act, file 8/6/1987;  
EMNRD PRD 89-1, Boating Act Regulations, filed 12/21/1989;  
EMNRD PRD 92-1, Boating Act Regulations, filed 5/20/1992.

**History of Repealed Material: [RESERVED]**

**Other History:**

EMNRD PRD 92-1, Boating Act Regulations (filed 5/20/1992)), was renumbered, reformatted, amended and replaced by 18 NMAC 17.2, Boating Operations and Safety, effective 12/31/1996.

18 NMAC 17.2, Boating Operations and Safety (filed 12/17/1996), was renumbered, reformatted, amended and replaced by 18.17.2.11 NMAC, Boating Operations and Safety, in an emergency rulemaking effective 9/15/2006.

18.17.2 NMAC – Boating Operations and Safety, filed 12/17/1996, was repealed and replaced by 18.17.2 NMAC – Boating Operations and Safety, effective 1/1/2025.