

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:

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.

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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:

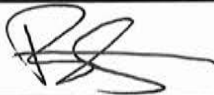
Ben Shelton

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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This is an amendment to 19.5.2 NMAC, Sections 10 through 14, 16, 21, 27, 32, through 35, 38, 39 and 42, effective 1/1/2025.

19.5.2.10 HOURS: The director or the ~~director~~ director's designee establishes opening and closing times for every area and facility of the state parks system. Hours are posted at the established park entrances, offices or pay stations.

[19.5.2.10 NMAC - Rp, 19.5.2.10 NMAC, 1/1/2008; A, 1/1/2025]

19.5.2.11 DAY USE:

A. Day use of a park area is from 6:00 a.m. to 9:00 p.m. unless the superintendent posts different hours or extends hours for special programs or events. Visitors shall pay required day-use fees upon entering the park. See 19.5.6 NMAC.

B. The division may designate areas solely for day use to exclude camping.

C. Visitors shall always maintain sites in parks in a clean and sanitary condition ~~[at all times]~~.

D. Visitors shall clean the site and dispose of trash and litter in appropriate waste receptacles.

[19.5.2.11 NMAC - Rp, 19.5.2.11 NMAC, 1/1/2008; A, 1/1/2013; A, 1/1/2025]

19.5.2.12 CAMPING:

A. Visitors may camp in parks in designated areas, provided ~~[that]~~ they obtain a valid camping permit. Visitors shall obtain permits upon entry by paying appropriate fees. See 19.5.6 NMAC. Use of park properties and facilities between the hours of 9:00 p.m. and 6:00 a.m., or as posted by the superintendent, is camping. Check out time, the time the campsite is to be vacated, is 2:00 p.m. unless otherwise posted; however, the camping permit allows day use of the park until 9:00 p.m. or as posted by the superintendent, on the day the camping permit expires. Camping is not available at Cerrillos Hills state park, Living Desert Zoo and Gardens state park, Rio Grande Nature Center state park, Mesilla Valley state park or Smokey Bear historical park.

B. Campers shall not leave unoccupied any type of vehicle, motorized camper, trailer, tent or other sleeping unit or facility or otherwise leave a campsite unoccupied for more than 24 hours without the superintendent's prior approval. Unoccupied means the camper is not present at the campsite for more than 24 hours.

C. Campers shall always maintain campsites in a clean and sanitary condition ~~[at all times]~~. Campers shall clean campsites and place litter only in appropriate disposal containers.

D. Campers in areas or parks designated and posted by the superintendent as pack-in, pack-out, shall carry out supplies and solid waste or other refuse, including human bioproducts, and properly dispose of these items in appropriate waste receptacles outside of the designated area or park.

E. From October 1 through April 30 [Campers] campers may reside in a park for a maximum of 14 calendar days during any 20-calendar day period unless the director extends, decreases or waives this limit. From May 1 through September 30 campers may reside in a park for a maximum of seven calendar days during any 20-calendar day period unless the director extends, decreases or waives this limit. Campers shall completely remove camping equipment and gear from the park [for six calendar days during the 20-calendar day period] after reaching the maximum stay limit.

F. The division shall charge fees according to the facilities provided at each campsite, as provided in 19.5.6 NMAC, regardless of whether the camper uses the facilities at the campsite. For example, camping at a site with electricity requires payment of the fee for a developed site with electrical hookup even if the camper uses no electricity.

G. Vehicles in a park between the hours of 9:00 p.m. and 6:00 a.m., or as posted by the superintendent, are individually subject to the appropriate camping fees. The division considers motor homes towing a vehicle or vehicles towing a camper a single vehicle for 19.5.2.12 NMAC's purposes.

H. The division may require visitors to pay fees for their entire stay in advance (rather than daily) for weekends, holidays or special events.

I. Anchoring a boat or vessel overnight within a park constitutes camping and requires a valid camping permit for the anchored boat or vessel unless the visitor has paid camping fees for the towing vehicle.

(I) Visitors may not leave anchored boats or vessels vacant for more than 24 hours without the superintendent's permission. From October 1 through April 30 [Anchored] anchored boats or vessels may remain within a park for a maximum of 14 calendar days during any 20-calendar day period unless the director extends, decreases or waives this limit. From May 1 through September 30 [Anchored] anchored boats or vessels may remain within a park for a maximum of seven calendar days during any 20-calendar day period unless the

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director extends, decreases or waives this limit. Visitors shall completely remove boats or vessels from the park [for six calendar days during the 20 calendar-day period] after reaching the maximum stay limit.

(2) Subsection I of 19.5.2.12 NMAC does not apply to boats or vessels only while they are moored overnight at concession operated facilities such as marinas or buoy lines. Boats or vessels are subject to division camping permits and camping fees when moored overnight at any other location in the park. Time limits do not apply while boats or vessels are moored at the concession facilities.

J. Reserved campsites shall become available to other visitors if the visitor holding the reservation does not occupy the reserved site or contact the reservations contractor or the park by [4] 4:00 p.m. the day after the scheduled arrival date. At that time the site will be available to other visitors and reservations. The visitor holding the reservation who failed to file a cancellation is not eligible for a refund.

[19.5.2.12 NMAC - Rp, 19.5.2.12 NMAC, 1/1/2008; A, 1/1/2013; A, 5/15/2018; A, 1/1/2025]

19.5.2.13 USE OF FACILITIES:

A. Facilities are available on a first come, first served basis except at parks where the division has established a reservation program and a visitor has reserved the facility. Campers shall not save or reserve camping spaces for other individuals even by purchasing additional permits.

B. Visitors using a park facility shall keep it in a clean and sanitary manner and shall leave it in a clean and sanitary condition.

C. Glass containers are prohibited outside vehicles, motor homes, campers, trailers and tents within the state parks system except on established commercial premises.

D. The division has developed and designated special accessible facilities for the use of individuals with disabilities. These facilities are marked with standard ADA signage. Individuals with disabilities shall have preferential use of these facilities over other persons.

E. Visitors shall not remove water from the park for use outside the park or deposit trash generated outside the park within a park.

F. Advance reservations are required for the use of meeting rooms. Meeting rooms are not available [at] in all parks. A person who reserves a meeting room is responsible for setting up the room, cleaning the room after use and leaving the room in the same condition it was in before use. See 19.5.6 NMAC for meeting room fees.

G. The director may designate areas within the state parks system including campsites, group shelters, group areas, cabins, yurts and lodges for use by reservation.

H. Advance reservations are required for the use of group shelters, group areas or reservation campsites. Visitors shall pay the appropriate day use or camping fees in addition to the fees for use of the facility or area. If visitors make reservations through the division's reservation system contractor, visitors shall pay the reservation processing and cancellation fees the contractor charges. The division may accept annual permits at reservation campsites if posted. See 19.5.6 NMAC for group shelter fees.

I. The superintendent may restrict the number or size of tents, shade or screen shelters occupying a campsite or day use site by posting the restriction or restrictions in the affected area or areas.

[19.5.2.13 NMAC - Rp, 19.5.2.13 NMAC, 1/1/2008; A, 12/30/2010; A, 1/1/2013; A, 5/15/2018; A, 1/1/2025]

19.5.2.14 PARKING:

A. Visitors shall park vehicles, camping units or trailers only in established parking areas or parking turnouts where provided. Visitors shall not park any vehicle, camping unit or trailer in a manner that blocks access, restricts traffic or inhibits the free movement of other vehicles, persons or wheelchairs. Visitors shall not leave a trailer, boat or vessel that is not attached to a vehicle in parking areas or parking turnouts for a period of more than [72] 24 hours without prior approval of the superintendent. At the superintendent's discretion, the division may remove vehicles so parked at the owner's expense.

B. Visitors shall not park a vehicle, camping unit or trailer in a designated disabled parking space unless the visitor's vehicle has registration plates or a state-issued placard indicating disability.

C. The superintendent may restrict the number or size of vehicles, camping units or trailers occupying a campsite, day use site or parking area by posting the restriction or restrictions in the affected area or areas.

[19.5.2.14 NMAC - Rp, 19.5.2.14 NMAC, 1/1/2008; A, 1/1/2013; A, 1/1/2025]

19.5.2.16 OFF-HIGHWAY MOTOR VEHICLES AND GOLF CARS:

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A. Visitors shall not operate off-highway motor vehicles or golf cars in the state parks system, [with the exception of] except for persons with mobility disabilities as provided in Subsection D of 19.5.2.16 NMAC [or as provided in Subsection F of 19.5.2.16 NMAC for ice fishing].

B. ~~[State park officials may use off highway motor vehicles or golf cars for park operations and maintenance.]~~ Off-highway motor vehicles and golf cars may be used for official purposes including:

(1) state park officials may use off-highway motor vehicles or golf cars for park operations and maintenance;

(2) government agencies or government officials or employees, including law enforcement and emergency service personnel, may use off-highway motor vehicles or golf cars while performing official duties in state parks (official duties do not include activities that do not have to occur in a park such as conferences, retreats, or training).

C. The park superintendent may approve the use of golf cars or off-highway motor vehicles by concessionaires within certain areas of a park for concession operations and maintenance.

D. Other power-driven mobility devices may only be used by visitors with mobility disabilities on established roads, pathways, trails and other areas open to pedestrian use. The use of other power-driven mobility devices is subject to more stringent laws or rules or regulations of a landowner (e.g. United States department of the interior, bureau of reclamation; New Mexico department of game and fish; United States army corps of engineers, New Mexico state land office, etc.) from which the division leases the land or reservoir. Visitors and state park officials shall comply with laws or regulations or rules of the landowner (e.g. United States department of the interior, bureau of reclamation) where applicable. Visitors shall consult park information provided at the park office and on the division's official website to determine limitations on park pathways, trails and other areas open to pedestrian use. To ensure protection of park resources, visitor safety and enjoyment:

(1) only other power-driven mobility devices not exceeding 36 inches in width and 62 inches in length are permitted on park pathways, trails and other areas open to pedestrian use;

(2) certain park pathways, trails and other areas open to pedestrian use may have other size limitations, or use of other power-driven mobility devices on certain park pathways, trails and other areas open to pedestrian use may be prohibited, as designated at the park office and on the division's official website;

(3) internal combustion engine devices are prohibited on park pathways, trails and other areas open to pedestrian use;

(4) maximum speed on park pathways, trails and other areas open to pedestrian use shall not exceed 10 miles per hour;

(5) the use of other power-driven mobility devices on park pathways, trails and other areas open to pedestrian use that produces noise that exceeds 96 decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J1287 is prohibited.

E. Persons using an other power-driven mobility device may be required to provide verification that the mobility device is required because of the person's disability. Acceptable forms of verification are:

(1) a valid, state-issued, disability parking placard or card;

(2) other state-issued proof of disability; or

(3) in lieu of Paragraphs (1) and (2) of Subsection E of 19.5.2.16 NMAC, a person may provide a verbal representation, not contradicted by observable fact, that the other power-driven mobility device is being used for a mobility disability.

~~[F. — Persons may use off-highway motor vehicles for ice fishing on the surface of the ice and in designated boat launch areas when the lake is open to ice fishing and designated for off-highway motor vehicle use.]~~ [19.5.2.16 NMAC - Rp, 19.5.2.16 NMAC, 1/1/2008; A, 1/1/2013; A, 5/15/2018; A, 1/1/2025]

19.5.2.21 FIREARMS AND BOWS:

A. Visitors shall not possess firearms with a cartridge in any portion of the ~~[mechanism]~~ mechanism except:

(1) a legally licensed hunter during a designated hunting season and within park areas designated as open to hunting for the species the hunter is licensed to hunt;

(2) on duty law enforcement officials;

(3) persons with a valid concealed handgun license issued to them pursuant to the Concealed Handgun Carry Act, Section 29-19-1 *et seq.* NMSA 1978.

(4) persons with a concealed handgun license issued to them by a state that has a valid concealed handgun reciprocity agreement with the state on New Mexico; or

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(5) persons carrying a firearm in a private vehicle or other private means of conveyance, for lawful protection of the person's or another's person or property.

B. Visitors shall not discharge a firearm within a state park except:

(1) a legally licensed hunter during designated hunting season who is hunting within park areas designated as open to hunting for the species the hunter is licensed to hunt and who is more than 300 yards from a developed park area or occupied campsite;

(2) on duty law enforcement officials pursuant to their official duties; or

(3) persons with a valid concealed handgun license issued to them pursuant to the Concealed Handgun Carry Act, Section 29-19-1 *et seq.* NMSA 1978, or another state that has a valid concealed handgun reciprocity agreement with the state of New Mexico when discharged in self defense, defense of another person or defense of a dwelling or habitation.

C. Visitors shall not use or discharge arrows, bolts or air or gas fired projectiles, weapons and other devices capable of causing injury to persons or animals or damage or destruction of property in the state parks system, except:

(1) a legally licensed hunter or fisherman during a designated hunting or fishing season who is hunting or fishing within park areas designated as open to hunting or fishing for the species the hunter or fisherman is licensed to hunt or fish, or in authorized areas, and who is more than 100 yards from a developed park area or occupied campsite; or

(2) for park authorized events and activities.

D. Subsection C of 19.5.2.21 NMAC does not apply to on duty law enforcement officials acting pursuant to their official duties.

[19.5.2.21 NMAC - Rp, 19.5.2.21 NMAC, 1/1/2008; 19.5.2.21 NMAC - Rn & A, 19.5.2.20 NMAC, 1/1/2013; A, 1/1/2025]

19.5.2.25 **ROCK COLLECTING:**

A. Rock collecting is [~~permissible~~] permissible in areas designated by the secretary and posted at the rockhound unit of Rockhound state park.

B. Rocks removed from Rockhound state park shall be as [~~souvenirs~~] souvenirs only, not for resale, trade or commercial use.

C. Rock collecting is limited to small hand tools only. The following are prohibited: mechanical or motorized tools and equipment, tools with a handle longer than 12 inches, wheeled devices such as wheelbarrows, carts or wagons.

[19.5.2.25 NMAC - Rp, 19.5.2.23 NMAC, 1/1/2008; 19.5.2.25 NMAC - N, 1/1/2013; A, 1/1/2025]

19.5.2.27 **CONDUCT:**

A. Visitors are encouraged to enjoy park experiences without infringing upon other visitors' ability to enjoy the same experiences. Visitors shall not engage in threatening, abusive, boisterous, insulting or indecent language or behavior.

B. Visitors shall not solicit, gamble or illegally discriminate.

C. Visitors shall not evade, disobey or resist a state park official's lawful order.

D. Parents, guardians or other adults in charge shall exercise constant direct supervision of minor children or adults who do not possess the intelligence or awareness to recognize possible danger.

E. Law enforcement officers may forcibly eject a person who violates a state law or a department rule or a person who evades, disobeys or resists a state park official's lawful order from a park. Based on the severity of conduct or reported incident, *i.e.*, threatening or intimidating conduct toward visitors or park staff, the ejection may be permanent.

(1) Permanent ejection requires the regional manager to issue written notification to the person being permanently ejected.

(2) To request review of a permanent ejection a regional manager issues, an individual ejected from a park or parks shall submit a written request including the reasons for requesting review to the director within 15 calendar days of issuance and provide written notice to the regional manager.

(3) The regional manager and the ejected individual shall submit written statements to the director within 10 working days of the submission of the request for review.

(4) The director shall base [~~his or her~~] the director's decision on the written statements unless the ejected individual or the regional manager requests the opportunity to call witnesses or make oral arguments within 10 working days of the request for review.

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(5) A request for hearing shall explain the need for any witness testimony or oral argument. If the ejected individual or regional manager asks to make oral arguments or call witnesses, the director may set a hearing to be held within 10 working days after receiving that request and provide notice of the hearing date, time and location to the regional manager and the ejected individual. Oral testimony shall be made under oath. ~~[A-tape]~~ An audio or stenographic record shall be made of any oral argument or witness testimony.

(6) The director shall issue a written final decision, including findings of fact within 10 working days after the date for submission of written statements, or a hearing if any, and send copies to the ejected individual and the regional manager.
[19.5.2.27 NMAC - Rp, 19.5.2.25 NMAC, 1/1/2008; 19.5.2.27 NMAC - Rn & A, 19.5.2.25 NMAC, 1/1/2013; A, 1/1/2025]

19.5.2.32 FEES AND CHARGES:

A. Upon entering a park, visitors shall pay fees and charges in accordance with 19.5.6 NMAC. The visitor shall display applicable permits in accordance with instructions provided with the permit. If a visitor fails to obtain a permit, state park officials may field collect fees.

B. Fees, charges and permit display requirements do not apply to:

- (1) government agencies or government officials or employees, including law enforcement and emergency service personnel, who are performing official duties (official duties do not include activities that do not have to occur in a park such as conferences, retreats or training);
- (2) non-governmental emergency service personnel, such as private ambulance companies, who are performing their official duties;
- (3) persons traveling nonstop through a park on a state or federal highway, county road, federal road or municipal road or street;
- (4) on duty news media personnel who are reporting on events or activities within a park and are only in the park to report on those events or activities; or
- (5) individuals or groups who are entering the park to provide volunteer services and have signed a volunteer agreement with the division or have ~~[made-arrangements]~~ arranged with the division to provide volunteer services.

C. Fees and charges do not apply to:

- (1) division contractors, suppliers or agents or other persons providing services to a park who are not using the park or its facilities for purposes other than providing services to the park;
- (2) concessionaires, concession permittees or their employees or commercial contractors, suppliers and agents who are only traveling to and from the concession and are not using the park or its facilities for personal use;
- (3) persons needing to pass through a park to access private property who are only passing through the park and are not using the park or its facilities;
- (4) park support group members or volunteers who have a park pass issued pursuant to Subsection D of 19.5.2.36 NMAC; or
- ~~[(5) — persons who are only entering the Conchas Lake state park to access the concessionaire store, restaurant or bar at the north area of Conchas Lake state park and are not using the park or its facilities, provided they park in the designated concessionaire parking area at the north area].~~

D. Visitors not subject to Subsection B of 19.5.2.32 NMAC shall display permits at all times inside a park.

E. The superintendent or director may waive or reduce park fees for primary or secondary school groups, ~~[or] college or university groups, [that are involved with a division educational program or have made arrangements with the division to conduct research within a park]~~ or other organized youth groups or for governmental entities holding such activities as trainings or other educational activities or projects, retreats or conferences at a park.

F. State park officials may issue rain checks for unused, prepaid daily camping activities or the cancellation of a group shelter reservation.

G. The division or its contractors may charge fees in addition to the appropriate use fee for reservation processing and cancellation. The contractor or state park officials shall collect the reservation fee for those park sites where the division has established a reservation program. See 19.5.6 NMAC. Visitors shall pay the reservation fee in advance with applicable fees for facilities, sites, day use, camping, electricity or other service for the total reservation period.

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H. In addition to the appropriate use fees, the division may charge additional fees for special events such as concerts, festivals, etc. The additional fees shall not exceed the value of admission to the special events. [19.5.2.32 NMAC - N, 1/1/2008; 19.5.2.32 NMAC - Rn & A, 19.5.2.30 NMAC, 1/1/2013; A, 5/15/2018; A, 1/1/2025]

19.5.2.33 PERMITS AND CONCESSIONS: Concession-operated ~~[camp grounds]~~ campgrounds do not accept division-issued permits. [19.5.2.33 NMAC - Rp, 19.5.2.28 NMAC, 1/1/2008; A, 12/30/2010; 19.5.2.33 NMAC - Rn, 19.5.2.31 NMAC, 1/1/2013; A, 1/1/2025]

19.5.2.34 DAY USE AND CAMPING PERMITS:

A. Day use permits.

(1) Day use permits authorize visitors to use park facilities that do not require other fees, such as meeting rooms or group shelters, from 6:00 a.m. to 9:00 p.m.; unless the superintendent has posted different hours.

(2) When purchasing the day use permit visitors shall comply with the instructions on the permit and provide, as requested, their name, address and vehicle license number as well as the date of purchase and the amount enclosed and, if applicable, their site number. Visitors shall also indicate ~~[that they are only paying for day use]~~ they are visiting the park for day use.

(3) New Mexico residents are exempt from purchasing day use permits from October 1 through April 30 annually.

B. Camping permits. Visitors shall purchase camping permits to camp in a park.

(1) Subject to the availability of a campsite, camping permits authorize visitors to camp in a park.

(2) When purchasing the camping permit visitors shall comply with the instructions on the permit and provide, as requested, their name, address and vehicle license number as well as their site number, the date of purchase, the amount enclosed and length of stay and, if applicable, their annual permit number. Visitors shall also indicate ~~[that]~~ they are camping.

[19.5.2.34 NMAC - N, 1/1/2008; 19.5.2.34 NMAC - Rn, 19.5.2.32 NMAC, 1/1/2013; A, 1/1/2025]

19.5.2.35 ANNUAL PERMITS AND PASSES:

A. Annual day use passes.

(1) Annual day use passes authorize the vehicle owner or individual to access and use the park at no additional charge during the times indicated in 19.5.2.11 NMAC. Visitors may use annual day use passes at all parks, except at the Living Desert Zoo and Gardens state park and Smokey Bear historical park.

(2) When purchasing an annual day use pass visitors shall comply with the instructions on the pass and provide their name and address.

(3) The division does not issue extra vehicle passes for annual day use passes.

B. Annual camping permits.

(1) Annual camping permits authorize the vehicle owner or individual to access and use the park at no additional charge except for utility hookups during the times indicated in 19.5.2.12 NMAC. The annual camping permit allows the visitor one sleeping unit. A motor home towing a vehicle or a vehicle towing a camping trailer is considered a sleeping unit. The visitor shall pay the per night camping fee for additional vehicles.

(2) Annual camping permits are available for:

(a) New Mexico residents as documented with a current New Mexico driver's license or other state of New Mexico issued photo identification;

(b) New Mexico residents 62 years of age or older as documented with a current New Mexico driver's license or other state of New Mexico issued photo identification;

(c) New Mexico residents with disabilities who present a New Mexico handicap motor vehicle license plate issued to them; a parking placard for mobility impaired individuals with a placard holder identification card issued to them by the taxation and revenue department, motor vehicle division if the placard was issued before June 4, 2008; a parking placard for mobility impaired individuals with the photograph of the placard holder issued to them by the taxation and revenue department, motor vehicle division if the placard was issued on June 4, 2008 or after; a New Mexico department of game and fish lifetime hunting and fishing card containing their name; a written determination from the United States social security administration finding that they are currently eligible for social security disability benefits or supplemental security income disability benefits; or a photocopy of

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the award letter the United States department of veterans affairs issues indicating they have a one hundred percent service-connected disability; [and]

(d) A New Mexico resident who is active-duty military or an honorably discharged veteran of the United States military as defined by the New Mexico department of veterans' services. Orders or other documentation (excluding military ID cards) of current active-duty service must be presented to purchase an active-duty military pass. The applicant's DD-214 must be presented to purchase a veteran pass.

~~[(d)]~~ (e) all-out-of-state-residents.

(3) When purchasing an annual camping permit, visitors shall comply with the instructions on the permit and provide their name; address; if applicable, proof of age or residency; and the license plate number of the vehicle for which the visitor is purchasing the permit.

(4) Visitors may use annual camping permits at all parks, except at the Living Desert Zoo and Gardens state park and Smokey Bear historical park.

(5) Annual camping permits are authorized for use by the person the permit is issued to as indicated on the permit receipt and are non-transferrable.

C. Annual day use passes and annual camping permits [~~expire 12 months after the date the division issues them~~] are valid from January 1 through December 31 annually. Annual day use passes and annual camping permits for the next calendar year may be purchased beginning July 1 each year. The division shall not make refunds or prorations for permits or passes that remain in effect for less than 12 months.

D. Visitors may obtain replacement annual camping permits and stickers by submitting a signed affidavit describing the facts of the purchase and the permit's loss or destruction and [~~if available,~~] the original permit or proof of purchase. The division shall not issue replacement annual camping permits without proof of purchase. The division does not issue replacements for annual day use passes.

E. The division may sell gift certificates for annual day use passes and annual camping permits. [19.5.2.35 NMAC - N, 1/1/2008; 19.5.2.35 NMAC - Rn & A, 19.5.2.33 NMAC, 1/1/2013; A, 1/1/2025]

19.5.2.38 FOSTER FAMILIES: Foster parents and children in their custody, young adults enrolled in the fostering connections program and children who are in custody of the children, youth and families department or in tribal custody, who are New Mexico residents are entitled to free day use of parks and a camping pass for up to three consecutive nights of overnight access to a state park. To obtain a free annual day use pass for entry to parks or a free camping pass for up to three consecutive nights of overnight access to a state park the foster parent shall present a current New Mexico driver's license or other state of New Mexico issued photo identification and a current New Mexico children, youth and families department foster parent certification card to park staff. [19.5.2.38 NMAC - N, 6/25/2019; A, 1/1/2025]

19.5.2.39 PARK PASSES:

A. Concessionaires. The director or director designee (see Subsection Q of 19.5.7 NMAC) may issue park passes to concessionaires, concession permittees or their employees or commercial contractors, suppliers and agents for access to and from the concession. Concessionaires, concession permittees or their employees or commercial contractors, suppliers and agents using the park, lake or facilities away from the concession premise shall pay the appropriate fees.

B. Contractors. The director or director designee (see Subsection Q of 19.5.1.7 NMAC) may issue park passes to division contractors, suppliers or agents or other persons providing services to a park for access to the park. Division contractors, suppliers or agents or other persons providing services to a park using the park or its facilities for purposes other than providing services to a park shall pay the appropriate fees.

C. Access to private property. The director or director designee may issue park passes to persons needing to pass through a park to access private property. Persons with such park passes shall only use the park passes to travel through the park. If they use the park or its facilities they shall pay the appropriate fees.

D. Park support groups and volunteers. The director or director designee may issue park passes to individuals who are members of a park support group that has entered into an agreement with the department or, as provided in division policy, to volunteers who significantly contribute to the division.

E. Complimentary park passes. The director or director designee (see Subsection Q of 19.5.1.7 NMAC) may issue complimentary passes as rainchecks to visitors for unused services or to resolve visitor complaints about park operation or maintenance.

F. Official use passes. The director may issue "official use only" passes to state government executive branch officials with direct oversight of the division, park advisory board members and state legislators for the performance of their official duties.

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G. Advertising and promotions. To promote the parks or in exchange for advertising or promotion of parks, the director may issue free or discounted park passes or not charge fees if the director obtains the secretary's approval after the division provides the secretary with written justification showing that the issuance of park passes for promotion or advertising or not charging fees for promotional purposes provides a benefit to the division. Reduced rates for advertising must be equal to or exceed the value of the park passes ~~that~~ the division provides in exchange for receiving the reduced rates.

[19.5.2.39 NMAC - Rn, 19.5.2.38 NMAC, 6/25/2019; A, 1/1/2025]

19.5.2.42 PUBLIC ASSEMBLIES, MEETINGS:

A. Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views are allowed within parks. A special use permit issued by the park ~~superintendent~~ superintendent is required for public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views that involve groups of:

- (1) more than 10 people; or
- (2) 10 people or less who are using stages, platforms or structures.

B. The superintendent shall, without unreasonable delay, issue a special use permit on proper application unless:

(1) a prior application for a special use permit for the same time and place has been made that has been or will be granted and the activities authorized by that special use permit do not reasonably allow multiple occupancy of that particular area;

(2) it reasonably appears that the event will present a danger to the public health or safety; or

(3) the event is of such nature or duration that it cannot reasonably be accommodated in the particular location applied for, considering such things as damage to park resources or facilities, interference with program activities or impairment of public use facilities.

C. If the superintendent denies a special use permit, the superintendent shall inform the applicant in writing with the reasons for the denial set forth.

D. The superintendent shall designate on a map, which shall be available in the office of the superintendent, the locations available for public assemblies. Locations may be designated as not available if such activities would:

(1) cause injury or damage to park resources;

(2) unreasonably interfere with interpretive, visitor service or other program activities, or with the division's administrative activities;

(3) substantially impair the operation of public use facilities or services of division concessionaires or contractors; or

(4) present a danger to the public health and safety.

E. The special use permit may contain such conditions as are reasonably consistent with protection and use of the park area for the purposes for which it is established. It may also contain reasonable limitations on the equipment used and the time and area within which the event is allowed.

F. It is prohibited for persons engaged in activities permitted or authorized pursuant to 19.5.2.42 NMAC to obstruct or impede pedestrians or vehicles, harass park visitors, interfere with park programs or create security or accessibility hazards.

[19.5.2.42 NMAC - Rn & A, 19.5.2.41 NMAC, 6/25/2019; A, 1/1/2025]