

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:

NMSA 1978 Section 16-2-7

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 5 page document titled Statement of Reasons for Repeal and Replace of State Park Division Rule 19.5.1 NMAC and Amendment of State Parks Division Rules 19.5.2 NMAC and 19.5.6 NMAC.

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

Name:

Check if authority has been delegated

Ben Shelton

☐

Title:

Deputy Cabinet Secretary

Signature: (BLACK ink only OR Digital Signature)

Date signed:

Ben Shelton

Digitally signed by Ben
Shelton
Date: 2025.06.11
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STATEMENT OF REASONS FOR REPEAL AND REPLACE OF STATE PARK DIVISION RULES 19.5.1 NMAC
AND AMENDMENT OF STATE PARKS DIVISION RULES 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the basis upon which the Energy, Minerals and Natural Resources Department (EMNRD), State Parks Division (Division) repealed and replaced, 19.5.1 of the New Mexico Administrative Code (NMAC) General Provisions and amended 19.5.2 NMAC Visitor Provisions, and 19.5.6 NMAC Fees.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 9-1-5(E) NMSA 1978. 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 9-5A-1 through 9-5A-7 NMSA 1978. Per 16-2-7 NMSA 1978, 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 16-2-7.1 NMSA 1978, the Division is required to issue passes to New Mexico (NM) resident veterans for unlimited entry into state parks or recreation areas operated by the division and unlimited use of camping areas operated by the division.

II. Process

The Division drafted proposed rule amendments based on the revised statutory mandate established by House Bill 161 adopted during the 2025 legislative session. The bill amended Section 16-2-7.1 NMSA 1978, requiring the Division to issue passes to NM resident veterans for unlimited entry into state parks or recreation areas operated by the division and unlimited use of camping areas operated by the division. 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 June 10, 2025, 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 May 6, 2025, the New Mexico Sunshine Portal on May 8, 2025 and the New Mexico Register on May 6, 2025. 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 two written comments on the proposed rulemaking.

The first comment was related to concerns that unhoused veterans would take up residence in parks with the issuance of the lifetime veteran pass. The pass is limited by the current stay limits and would prohibit this from happening.

The second comment received had multiple questions related to the amendments in 19.5.2, most of which were unrelated to the proposed amendments. The comment questions the use of NM driver's license as a verification for Active duty military annual camping passes, and we corrected the wording in the proposed rule to reference valid NM identification card rather than being specific to driver's licenses.

There were no comments significantly opposing the proposed rule amendments.

III. Language of the Replaced Rules

19.5.1 NMAC (General Provisions)

The Division repeals and replaces 19.5.1 NMAC to include a definition of active-duty military, camping, developed camping, NM resident veteran, primitive camping, and utilities.

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TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 5 STATE PARKS AND RECREATION
PART 1 GENERAL PROVISIONS

19.5.1.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, State Parks Division.
[19.5.1.1 NMAC - Rp, 19.5.1.1 NMAC, 07/01/2025]

19.5.1.2 SCOPE: 19.5.1 NMAC applies to persons using the New Mexico state parks system.
[19.5.1.2 NMAC - Rp, 19.5.1.2 NMAC, 07/01/2025]

19.5.1.3 STATUTORY AUTHORITY: 19.5.1 NMAC is authorized pursuant to Subsection E of Section 9-1-5 NMSA 1978 and Section 16-2-2 *et seq.* NMSA 1978.
[19.5.1.3 NMAC - Rp, 19.5.1.3 NMAC, 07/01/2025]

19.5.1.4 DURATION: Permanent.
[19.5.1.4 NMAC - Rp, 19.5.1.4 NMAC, 07/01/2025]

19.5.1.5 EFFECTIVE DATE: July 1, 2025, unless a later date is cited at the end of a section.
[19.5.1.5 NMAC - Rp, 19.5.1.5 NMAC, 07/01/2025]

19.5.1.6 OBJECTIVE: 19.5.1 NMAC's objective is to identify general provisions and definitions, which apply to parts in Title 19, Chapter 5.
[19.5.1.6 NMAC - Rp, 19.5.1.6 NMAC, 07/01/2025]

19.5.1.7 DEFINITIONS:

A. "Authorized areas" means locations, places, sites, regions, zones or spaces identified by the director or, for purposes of hunting or fishing, the state game commission. These areas may be defined with signs or other appropriate proclamation or means. For purposes of bowfishing, authorized areas include all parks where fishing is allowed.

B. "Active-duty military" means a New Mexico resident who is currently enlisted, drafted, inducted or commissioned in the:

(1) armed forces of the United States and was accepted for and assigned to active duty in the armed forces of the United States;

(2) army reserve, navy reserve, marine corps reserve, air force reserve, coast guard reserve, space force reserve, army national guard or air national guard and was accepted and assigned to duty; or

(3) United States public health service commissioned corps or the national oceanic and atmospheric administration commissioned officer corps and served in the capacity of a commissioned officer while on active duty in defense of the United States.

C. "Boating and rafting excursions" means a guiding service for boating or rafting trips offered to the general public.

D. "Camping" means the temporary use of division administered lands and waters for the purpose of overnight occupancy.

E. "Capital improvement" means a construction project by a concessionaire to the concession premises that is not maintenance or repair and that costs at least \$1,000.

F. "Commercial activity" means for-profit sales or services but does not include the operation of vending machines unless the vending machine is operated as part of a larger concession operation.

G. "Commercial charter bus" means a bus transporting a group of persons who pursuant to a common purpose, and under a single contract at a fixed price, have acquired the exclusive use of a bus to travel together under an itinerary.

H. "Commercial filming" means the use of motion picture, videotaping, sound recording or other moving image or audio recording equipment that involves the advertisement of an event, product or service; or the creation of a product for sale including film, videotape, television broadcast or documentary of participants in commercial sporting or recreation events for the purpose of generating income.

I. "Commercial photography" means still images taken with a camera that the photographer intends to sell.

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J. **"Concession"** means commercial activity conducted within a park the department has authorized in writing.

K. **"Concessionaire"** means the owner or operator of a concession who operates pursuant to a department-issued concession contract.

L. **"Concessions administrator"** means a division employee who maintains records and documentation concerning concession contracts and concession permits.

M. **"Concession contract"** means an agreement between the department and a person, or business entity, which allows the concessionaire to provide services, merchandise, accommodations or facilities within a park. The concessionaire may or may not occupy a permanent structure or location within the park. The concession contract's term shall not exceed 30 years pursuant to Section 16-2-9 NMSA 1978.

N. **"Concession permit"** means a permit the department issues to a person or business entity to provide commercial activities, including services or goods in a park for a period of up to one year. The fee for a concession permit is established in 19.5.6 NMAC. Services the division may authorize under a concession permit include guiding and outfitting services for fishing, boating and rafting excursions; educational and park resource protection services; and other services or goods, including commercial services, that enhance visitors' experience and enjoyment, such as sales of firewood, propane, ice, food or refreshments.

O. **"Concession permittee"** means the holder of a department-issued concession permit.

P. **"Cultural property"** means a structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance.

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

R. **"Developed Camping"** a developed camping site is a designated area for camping that includes infrastructure and amenities like restrooms, fire pits, picnic tables, and sometimes even utility hookups.

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

T. **"Director designee"** means persons the director appoints including deputy directors, bureau chiefs, regional managers and park superintendents.

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

V. **"Flotation assist device"** means a wet suit or wearable flotation device in good condition capable of providing flotation to the wearer on the water's surface.

W. **"Geocaching"** means an outdoor treasure-hunting activity in which the participants use a global positioning system receiver or other navigational means to hide or find containers called "geocaches" or "caches".

X. **"Gross receipts from sales and services"** means the total amount of receipts from sales and services.

Y. **"Guide"** means an individual or an employee of an outfitter who is hired to escort or accompany clients in fishing, rafting or boating.

Z. **"Letter boxing"** means an outdoor hobby that combines elements of orienteering, art and puzzle solving. Letter boxers hide small, weatherproof boxes in publicly accessible places and distribute clues to finding the boxes in printed catalogs, on websites or by word of mouth. The activity is characterized by the boxes containing a logbook and a rubber stamp. Letter boxers stamp the box's logbook with personal rubber stamps and use the box's stamp to imprint their personal logbooks as proof they found the box.

AA. **"NM resident veteran"** means a New Mexico resident who:

(1) was regularly enlisted, drafted, inducted or commissioned in the:

(a) armed forces of the United States and was accepted for and assigned to active duty in the armed forces of the United States;

(b) army reserve, navy reserve, marine corps reserve, air force reserve, coast guard reserve, space force reserve, army national guard or air national guard and was accepted and assigned to duty for a minimum of six continuous years; or

(c) United States public health service commissioned corps or the national oceanic and atmospheric administration commissioned officer corps and served in the capacity of a commissioned officer while on active duty in defense of the United States; and

(2) was not separated from such service under circumstances amounting to dishonorable discharge.

BB. **"Net receipts from sales and services"** means the total amount of receipts from sales and services, less the amount of gross receipts taxes.

CC. **"Off highway motor vehicle"** means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:

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(1) **"all-terrain vehicle"**, which means a motor vehicle 50 inches or less in width, having an unladen dry weight of 1,000 pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control;

(2) **"off-highway motorcycle"**, which means a motor vehicle traveling on not more than two tires and having a seat designed to be straddled by the operator and has handlebar-type steering control;

(3) **"snowmobile"**, which means a motor vehicle designed for travel on snow or ice and steered and supported in whole or part by skis, belts, cleats, runners or low-pressure tires;

(4) **"recreational off-highway vehicle"**, which means a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:

- (a) a steering wheel for steering control;
- (b) non-straddle seating;
- (c) maximum speed capability greater than 35 miles per hour;
- (d) gross vehicle weight rating no greater than 1,750 pounds;
- (e) less than 80 inches in overall width, exclusive of accessories;
- (f) engine displacement of less than 1,000 cubic centimeters; and
- (g) identification by means of a 17-character vehicle identification number; or

(5) by rule of the department of game and fish, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes.

DD. "Other power-driven mobility device" means any mobility device powered by batteries, fuel or other engines – whether or not designed primarily for use by individuals with mobility disabilities – that is used by individuals with mobility disabilities for the purpose of locomotion including golf cars, electronic personal assistance mobility devices, such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair.

EE. "Outfitter" means a person or company who employs guides.

FF. "Park" means an area designated as a state park within the state parks system and that the division manages or owns.

GG. "Park" or "parking" means the leaving of a vehicle, camping unit or trailer, whether occupied or not, in a location, other than when engaged in loading or unloading.

HH. "Park management and development plan" means a plan used as a guide for expansion, services, programs and development for the park.

II. "Park support group" means an organization as defined in Section 6-5A-1 NMSA 1978, or an organized group of individuals that volunteers time, services or funds to promote and support the division or an individual park and whose principal purpose as authorized by the division is to complement, contribute to and support, aid the function of or forward the division's or park's purposes.

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

KK. "Personal flotation device" means a United States coast guard approved life preserver, buoyant vest, hybrid device, ring buoy or buoyant cushion.

LL. "Primitive camping" is a specific type of dispersed camping, where you camp within a state park or recreation area without designated campsites or certain amenities.

MM. "Rally" means a parking area or facility designated for group functions.

NN. "Receipts" means consideration in money and in trade received from sales and charges for services.

OO. "Regional manager" means a division employee responsible for several parks within a region.

PP. "Resident" means an individual with a valid New Mexico state identification card or NM license plate on the vehicle.

QQ. "Resource program" means a division employee or employees responsible for the natural and cultural resource protection program.

RR. "Sales and services" means transactions by a concessionaire, or a concessionaire's agents or employees, for which the concessionaire receives consideration in money or money's worth in connection with the concession business operated pursuant to the concession contract.

SS. "Secretary" means the secretary of the department.

TT. "Special event facility" means an entire building or structure such as a visitor center, lodge, pavilion or group shelter, or an area designated by the superintendent.

UU. "Utilities" means additional services above and beyond camping such as individual campsite electricity, water and sewer connections that parks may offer that enhance convenience and comfort for users.

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VV. "Special use permit" means a permit the division has issued to a person for a non-commercial activity or event in a park.

WW. "State parks system" means land and water in a park.

XX. "Superintendent" means a division employee who is in charge of a specific park; which includes a park superintendent or park manager.

YY. "Vehicle" means an automobile, car, van, sport-utility truck, pickup truck, motorcycle, wagon, buggy or similar device that is used or may be used to transport persons or property on a highway, except devices moved exclusively by human power.

ZZ. "Vending machine" means a coin-operated beverage, snack or service machine subject to division approval.

AAA. "Visitor" means a person who reserves park facilities or enters a park. This definition does not include department employees who are on duty, concessionaires or their employees operating their concession or on duty employees of an entity that owns the property where the park is located.

BBB. "Wheelchair" means a manually operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or both indoor and outdoor locomotion.

CCC. "Working days" means Monday through Friday, excluding state holidays.
[19.5.1.7 NMAC – Rp, 19.5.1.7 NMAC, 07/01/2025]

History of 19.5.1 NMAC:

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

SPRD 67-1, Rules and Regulations, 07/17/1967;

SPRD 68-1, New Mexico Pleasure Boating Requirements and State Park Regulations, 10/17/1968;

SPRD 69-1, New Mexico Pleasure Boating Requirements and State Park Regulations, 09/11/1969;

SPRD 71-1, New Mexico Pleasure Boating Requirements and State Park Regulations, 11/10/1971;

SPRD 72-1, New Mexico Pleasure Boating Requirements and State Park Regulations, 06/05/1972;

SPRD 73-3, New Mexico Pleasure Boating Requirements and State Park Regulations, 09/14/1973;

SPRD 74-1, New Mexico Pleasure Boating Requirements and State Park Regulations, 02/19/1974;

SPRD 75-1, New Mexico State Park and Recreation Commission Regulations, New Mexico Boating Law, 1975 Edition, 02/24/1975;

SPRD 77-1, New Mexico State Park and Recreation Commission Regulations, New Mexico Boating Law, 1977 Edition, 04/15/1977;

SPRD 79-1, New Mexico Park Regulations and Boating Laws, 07/31/1979;

SPRD 82-1, New Mexico Park Regulations and Boating Laws Revised in 1981, 05/17/1982;

SPRD 87-1, New Mexico State Park Regulations and Boating Laws, Revised in 1987, 05/06/1987;

EMNRD PRD 87-3, Rules Governing Motorboat Registration and Numbering, Boat Titling and Excise Tax Collections, Security Participation under The Boat Act, 08/06/1987;

EMNRD PRD 89-1, Boat Act Regulations, 12/21/1989;

EMNRD PRD 89-2, New Mexico State Park Regulations, 12/21/1989;

EMNRD PRD 92.1, Boat Act Regulations, 05/20/1992.

History of Repealed Material: [RESERVED]

Other History:

Those portions of EMNRD PRD 89-2, New Mexico State Park Regulations, filed 12/21/1989 and EMNRD PRD 92.1, Boat Act Regulations, filed 05/20/1992 were renumbered, reformatted and replaced by 19 NMAC 5.1, General Provisions, filed 12/17/1996.

19 NMAC 5.1, General Provisions, filed 12/17/1996 renumbered, reformatted, amended and replaced by 19.5.1 NMAC, General Provisions; effective 12/31/2002.

19.5.1 NMAC, General Provisions; filed 12/31/2002, was repealed and replaced by 19.5.1 NMAC, General Provisions; effective 01/01/2025.

19.5.1 NMAC, General Provisions; filed 01/01/2025, was repealed and replaced by 19.5.1 NMAC, General Provisions; effective 07/01/2025.