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

Issuing agency name and address:

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Type of rule action:

(ALD Use) Recent filing date:

New ☐ Amendment ☐ Repeal ☒ Emergency ☐ Renumber ☐

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?

Please list attachments or Internet sites if applicable.

Yes ☐ No ☒

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 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:

Ben Shelton

Check if authority has been delegated

☐

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 RULE 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the basis upon which the Energy, Minerals and Natural Resources Department (EMNRD), State Parks Division (Division) repealed and replaced, 19.5.1 of the New Mexico Administrative Code (NMAC) General Provisions and amended 19.5.2 NMAC Visitor Provisions, and 19.5.6 NMAC Fees.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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19.5.1.7 Definitions

Section 16-2-7.1 NMSA 1978 required the following changes to definitions

The Division adds subsection B of 19.5.1.7 NMAC to add the definition of active-duty military. The Division currently sells annual camping passes for active-duty military personnel and veterans. There is a need to define active-duty military to allow us to continue selling the annual camping pass for this population.

The Division adds subsection D of 19.5.1.7 NMAC to add the definition of camping. The Division currently has no definition for camping. The Division is required to provide unlimited camping to NM resident veterans, so there is a need to define camping to meet this requirement.

The Division adds subsection R of 19.5.1.7 NMAC to add the definition of developed camping. The Division currently has no definition for developed camping, yet charges differentiate rates for developed camping and primitive camping. There is a need to define developed camping to ensure we are charging appropriate rates.

The Division adds subsection AA of 19.5.1.7 NMAC to add the definition of NM resident veteran. The Division currently has no definition for NM resident veteran. NM resident veterans will be eligible for a free pass for park use and camping, so there is a need to define NM resident veteran to comply with this change.

The Division adds subsection LL of 19.5.1.7 NMAC to add the definition of primitive camping. The Division currently has no definition for primitive camping, yet charges differentiate rates for developed camping and primitive camping. There is a need to define primitive camping to ensure we are charging appropriate rates.

The Division adds subsection UU of 19.5.1.7 NMAC to add the definition of utilities. The Division currently has no definition for utilities, yet charges for utilities. There is a need to define utilities to ensure we are charging appropriate rates.

IV Changes to the Provisions in the Amended Rules19.5.2 NMAC (Visitor Provisions)

The State Parks Division amends 19.5.2. NMAC to clarify wording related to permits vs. passes, correct wording for Mesilla Valley Bosque state park, delete language allowing the division to require visitors to pay fees for their entire stay in advance, correct incorrect references to NMAC sections that have changed numbering, change the time a reservation site is available for other visitors if not occupied by the visitor holding the reservation, clarify language allowing the superintendent to restrict the number or size of tents, shade or screen shelters occupying a campsite or day use site, clarify language allowing the superintendent to restrict the number or size of vehicles, camping units or trailers occupying a campsite, day use site or parking area, add Rio Grande Nature Center state park to parks where annual day use passes are not valid, add restrictions to the use of annual day use passes, clarify that tribal or federal photo identification may be used for documentation in purchasing passes, delete language allowing a photocopy of the award letter the United States Department of Veterans Affairs issues for the purchase of a disabled annual camping pass, change wording from active-duty military or honorably discharged veteran to active-duty military passes, clarify identification requirements for the purchase of active-duty military passes, add Rio Grande Nature Center state park to the parks where an annual camping pass is not valid, delete language related to disabled veterans passes and add language related to lifetime veteran passes, implement requirements for and procedures for issuing lifetime veteran passes.

19.5.2 Visitor Provisions

The rule as written uses permits and passes interchangeably and creates confusion. All annual products sold by the Division are referred to as passes and products sold for a limited time frame are referred to as permits. This will ensure consistency.

The sections are being amended to correct NMAC references.

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19.5.2.12 Camping

The Division amends subsection A of 19.5.2.12 NMAC to correct wording for permits/passes and correct the name of Mesilla Valley Bosque state park.

The Division deletes subsection H of 19.5.2.12 NMAC as the Division no longer wishes to require visitors to pay fees for their entire stay in advance rather than daily for weekends, holidays or special activities.

The Division amends subsection I of 19.5.2.12 NMAC to correct numbering and correct wording for permits/passes.

The Division amends subsection J of 19.5.2.12 NMAC to correct numbering and change the time reservation campsites shall become available to other visitors if the visitor holding the reservation does not occupy the site. This allows the park to make unused sites available to visitors without sites.

19.5.2.13 Use of Facilities

The Division amends subsection I of 19.5.2.13 NMAC to clarify the superintendent may restrict the number or size of tents, shade or screen shelters occupying a campsite or day use site by posting on the reservation website. This updates language and makes it consistent with the use of our reservation system.

19.5.2.14 Parking

The Division amends subsection C of 19.5.2.14 NMAC to clarify 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 on the reservation website. This updates language and makes it consistent with the use of our reservation system.

19.5.2.35 Annual Passes

The Division amends subsection A of 19.5.2.35 NMAC to add specific restrictions to the use of annual day use passes including making them non-transferable to individuals not residing in the same household as the original purchaser, specifying that non-residents may not use resident annual day use passes, and adding language indicating annual day use passes used in violation of park rules are subject to confiscation. With the previous rule amendment, the Division implemented differentiated fees for residents and non-residents and there is a need to ensure passes are not transferable or used in violation of the rule.

The Division amends subsection A(1) of 19.5.2.35 NMAC to add the Rio Grande Nature Center state park as a park where annual day use passes are not valid. With the previous rule change a parking fee was implemented at Rio Grande Nature Center state park and the annual day use pass does not cover parking fees.

The Division amends subsection B(2)(a) of 19.5.2.35 NMAC to correct wording for permits/passes and to include tribal and federal issued photo identification as identification that may be used to verify residency. Not all visitors to state parks have a state issued identification and adding the option for federal and tribal issued photo identification ensures these visitors can purchase passes as residents.

The Division amends subsection B(2)(c) of 19.5.2.35 NMAC to remove reference to a photocopy of the award letter the United States Department of Veterans Affairs issues indicating they have a one hundred percent service-connected disability as a verification document for purchasing a disabled annual camping pass. With the new rule amendments, NM resident veterans will receive a lifetime veteran pass good for camping and day use.

The Division amends subsection B(2)(d) of 19.5.2.35 NMAC to change the active-duty military and veteran annual camping pass to just an active-duty military annual camping pass and clarify identification requirements for purchasing the pass. With the new rule amendments, NM resident veterans will receive a lifetime veteran pass good for camping and day use.

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The Division amends subsection B(4) of 19.5.2.35 NMAC to correct wording from permits to passes and add Rio Grande Nature Center state park as a park where the annual camping pass is not valid. With the previous rule amendment a parking fee was implemented at Rio Grande Nature Center state park and the annual camping pass does not cover parking fees.

The Division amends subsection D of 19.5.2.35 NMAC to clarify the requirement to provide proof of purchase when purchasing a replacement pass and to correct wording from permits to passes. The previous rule change added language requiring proof of purchase to obtain a replacement annual camping pass but was unclear. The revision clarifies the wording.

19.5.2.36 Lifetime Veteran Passes

The Division amends 19.5.2.36 NMAC to change the title from disabled veterans passes to lifetime veteran passes. House Bill 161 changed the statutory requirement for state parks to issue passes to all NM resident veterans not just disabled veterans.

The Division amends subsection A of 19.5.2.36 NMAC deleting previous language and adding language indicating that NM resident veterans are eligible for a free lifetime veteran pass that provides the individual with unlimited entry into state parks or recreation areas operated by the division and unlimited use of camping areas operated by the division subject to restrictions outlined in 19.5.2.11 NMAC, 19.5.2.12 NMAC, and 19.5.2.13 NMAC. This change implements the requirements outlined in House Bill 161 to provide NM resident veterans with free access to state parks for day use and camping.

The Division amends subsection B of 19.5.2.36 NMAC deleting previous language and adding language outlining the process for obtaining a lifetime veteran pass. This change implements the requirements outlined in House Bill 161 to provide NM resident veterans with free access to state parks for day use and camping.

The Division amends subsection C of 19.5.2.36 NMAC adding language indicating that the NM Department of Veterans Services will issue all lifetime veteran passes upon certification of eligibility. This change implements the requirements outlined in House Bill 161 to provide NM resident veterans with free access to state parks for day use and camping.

The Division amends subsection D of 19.5.2.36 NMAC adding language indicating that lifetime veteran passes are not valid for central reservation system contractor's service fees, group shelter fees, or meeting, event and lodging facility fees. This change ensures that clear expectations are outlined indicating what the lifetime veteran pass does not cover.

19.5.6 NMAC (Fees)

The Division amends 19.5.6 NMAC to delete language referencing the disabled veterans pass, correct wording from permit to pass, change the NM active-duty military or honorably discharged veteran pass to just active-duty military pass, and add the lifetime veteran pass.

19.5.6.10 Annual Day Use Pass

The Division amends 19.5.6.10 NMAC deleting the reference to the disabled veterans pass. House Bill 161 changed the statutory language requiring the Division to provide passes to all NM resident veterans not just disabled veterans. The disabled veteran pass has been eliminated.

19.5.6.11 Annual Camping Pass

The Division amends 19.5.6.11 NMAC changing the title from annual camping permit to annual camping pass and changing the NM active-duty military or honorably discharged veteran pass to just a NM active-duty military pass and adding the lifetime veteran pass as a free pass. The change in the title ensures consistent use of the word pass or

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permit throughout the rule. Eliminating the veteran pass is consistent with the implementation of the free lifetime veteran pass.

19.5.6.12 Replacement of Annual Camping Pass

The Division amends 19.5.6.12 NMAC changing the title from replacement of annual camping permit to replacement of annual camping pass. The change in the title ensures consistent use of the word pass or permit throughout the rule.

V. Rule

See 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 holding the required 30-day comment period, we received a minimal input regarding our 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, repeals and replaces 19.5.1 NMAC, and adopts the amendments to 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 July 1, 2025.

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**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES
STATE PARKS DIVISION**

IN THE MATTER OF PROPOSED RULE REVISIONS:

**19.5.1 NMAC – GENERAL PROVISIONS,
19.5.2 – VISITOR PROVISIONS, AND
19.5.6 – FEES**

HEARING OFFICER REPORT

Introduction

On June 10, 2025, the undersigned Hearing Officer accepted testimony and public comment during a hearing held in person in Santa Fe as part of the information gathering necessary for the Energy, Minerals and Natural Resources Department (EMNRD) to reach a decision on rule revisions proposed by the State Parks Division (Division): amendments to Sections 19.5.2, and 19.5.6; and the repeal and replacement of 19.5.1 NMAC.

The hearing was conducted pursuant to the procedures set out in NMSA 1978, Section 9-1-5, requiring public notice, a public hearing, and an opportunity for interested persons to present their views. Notice of the hearing and opportunity to provide comment was published in the Albuquerque Journal and the New Mexico Register; posted on the EMNRD webpage and Sunshine portal; sent to the Legislative Council Service and Small Business Regulatory Advisory Commission; posted at the Santa Fe Division office and all Division park and region offices; and sent to interested persons by mail and email. All public notice requirements were met and exceeded.

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At the hearing, following introductory remarks by the Hearing Officer, Jared Langenegger of the Division presented the proposed new rule and rule amendments and was available to answer questions by others present. Public comment was invited from all present and offered by 2 persons. The hearing, which was recorded, started at 10:00 a.m. and continued for approximately one half-hour. Persons in the room during the hearing totaled 10-12.

In addition to inviting oral comments, the Hearing Officer announced that written public comment would be accepted by the Division through noon on June 10, 2025. No additional written public comment was received. The two written public comments received prior to hearing from Vicki Davison and Steve Telles were addressed by Mr. Langenegger in his testimony and are in the record.

Hearing Testimony from the Division

Jared Langenegger, Chief of the Division's Field Operations Bureau, presented his testimony in support of the proposed new rule and rule amendments with an extensive slide presentation.

The changes to rule are required by the passage of House Bill 161 in the 2025 Legislative Session. This bill amended 16.2.7.1 NMSA 1978, requiring the State Parks Division to issue passes to New Mexico Resident Veterans for free day use and camping at New Mexico State Parks.

The Division worked with the Department of Veteran Services to develop the rule changes and process for implementing the requirements of House Bill 161. The Division developed a lifetime veteran pass to meet the requirements outlined in House

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Bill 161 and is coordinating with the Department of Veteran Services for distribution of the pass to eligible veterans.

The new rules as finally proposed may include the insertion of the potential presentation of a state-issued identification card in lieu of a driver's license, to accommodate those veterans who do not possess driver's license. See 19.5.2.35 NMAC.

Following Mr. Langenegger's testimony, verbal public comment was offered at the hearing by two attendees:

Eric James, Deputy Cabinet Secretary of the New Mexico Department of Veterans' Services, stated that they had reviewed the proposed rule revisions and support them for adoption.

Toby Velasquez, EMNRD State Parks Division Director, stated that he takes great pride in the Division staff's ability to develop the rule revisions within a very short timeline following the passage of HB 161 during the 2025 legislative session, and its signature by the Governor. He commends the relationship between the Division and the Department of Veterans' Services. As an enterprise agency dependent upon park fees for funding, they will have to evaluate the financial impact of the rule revisions when implemented. He is pleased to honor all New Mexico veterans with these revisions.

The record includes the notice of public hearing, the hearing audio-recording, Mr. Langenegger's slides, the rule revisions as proposed shown in legislative format, the two written public comments addressed in Mr. Langenegger's presentation, House Bill 161, the draft statement of reasons, and this Report.

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The Statement of Reasons supporting the adoption of the rule revisions is being finalized separately by Division Counsel, and will be included with the final rules for transmittal to the State Records Center for publication.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Felicia L. Orth", written over a horizontal line.

Felicia L. Orth, Hearing Officer

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The Energy, Minerals and Natural Resources Department approved at its 6/10/2025 hearing to repeal its rule 19.5.1 NMAC, General Provisions, filed 1/1/2025, and replace it with 19.5.1 NMAC, General Provisions adopted on 6/10/2025 and effective 7/1/2025.