

This is amendment to 19.5.1 NMAC, Section 7, effective, 5/1/04.

**19.5.1.7 DEFINITIONS:**

- A. “Boating and rafting excursions”** means any guiding service for boating or rafting trips offered to the general public.
- B. “Capital improvement”** means a construction project by a concessionaire to the concession premises that is not maintenance or repair and that costs at least \$1,000.00.
- C. “Commercial activity”** means any 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.
- D. “Concession”** means any commercial activity conducted within a state park or recreation area and authorized in writing by the department.
- E. “Concessionaire”** means the owner or operator of a concession who operates pursuant to a concession contract with the department.
- F. “Concessions administrator”** means an employee of the state parks division who maintains all records and documentation concerning concession contracts and concession permits.
- G. “Concession contract”** means an agreement between the department and a person, or business entity, or ~~friends group~~ park support group which allows the concessionaire to provide services, merchandise, accommodations or facilities within a state park or recreation area. The concessionaire shall occupy a permanent structure or location within the state park or recreation area. The term of the concession contract shall not exceed 30 years pursuant to Section 16-2-9 NMSA 1978.
- H. “Concession permit”** means a permit issued to a person, business entity, or ~~friends group~~ park support group by the department to provide services in a state park or recreation area for a time period of one year or less. The fee for a concession permit ~~shall be a fixed fee and shall not exceed \$500~~ is established in 19.5.6 NMAC. The director may waive this fee for concession permits issued to friends groups. The concession permittee shall not maintain any fixed assets within the state park and recreation area. The concession permittees business address shall be outside of the state park or recreation area. Services authorized under a concession permit are limited to guiding and fishing services, boating and rafting excursions, educational services and park resource protection services for example, firewood sales.
- I. “Concession permittee”** means the holder of a concession permit issued by the department.
- J. “Cultural property”** means a structure, place, site or object having historic archaeological, scientific, architectural or other cultural significance.
- K. “Department”** means the energy, minerals and natural resources department.
- L. “Developed site”** means a park camping site with at least one shelter, table, grill or any combination of two or more such facilities at the site. Sites with recreational vehicle utility hookups shall be considered developed regardless of the presence of shelters, tables or grills.
- M. “Director”** means the director of the state parks division of the energy, minerals and natural resources department.
- N. “Director designee”** means persons appointed by the director to include: deputy directors, bureau chiefs, regional managers, and park superintendents.
- ~~[N-]O.~~ **“Division”** means the state parks division of the energy, minerals and natural resources department.
- ~~[O-]P.~~ **“Flotation assist device”** means a wet suit or wearable flotation device in good condition capable of providing flotation to the wearer on the surface of the water.
- ~~[P-]Q.~~ **“Friends group”** means an organized group of individuals recognized by the division that volunteers time, services or funds to promote and support the division.
- ~~[Q-]R.~~ **“Gross receipts from sales and services”** means the total amount of receipts from sales and services.
- ~~[R-]S.~~ **“Guide”** means an individual or an employee of an outfitter who is hired to escort or accompany clients in fishing, rafting or boating.
- ~~[S-]T.~~ **“Lessor”** means the state parks division.
- ~~[T-]U.~~ **“Leaseholder”** means an individual who leases a portion of land from the state parks division.
- ~~[U-]V.~~ **“Net receipts from sales and services”** means the total amount of receipts from sales and services, less the amount of gross receipts taxes.
- ~~[V-]W.~~ **“Off highway motor vehicle”** means any motor vehicle operated or used exclusively off the highways of this state and that is not legally equipped for operation on the highway.
- ~~[W-]X.~~ **“Outfitter”** means a person or company who employs guides.

~~[X-]~~**Y.** “**Park management and development plan**” means a plan used as a guide for all expansion, services, programs and development for the park.

~~Z.~~ **“Park support groups”** means a friends group or other organization as defined in NMSA 1978, Section 6-5-(A)-1(A)(2).

~~[Y-]~~**AA.** “**Person**” means an individual, partnership, firm, corporation, association, joint venture or other entity.

~~[Z-]~~**BB.** “**Personal flotation device**” means a coast guard approved life preserver, buoyant vest, hybrid device, ring buoy or buoyant cushion.

~~[AA-]~~**CC.** “**Primitive site**” means a camping site that offers no facilities except a cleared area for camping. Primitive sites may have trash receptacles, chemical toilets or parking.

~~[BB-]~~**DD.** “**Property marker**” means a secured object, such as a flag or pole, that is used to mark lease lot boundaries.

~~[CC-]~~**EE.** “**Receipts**” means all consideration in money and in trade received from sales and charges for services.

~~[DD-]~~**FF.** “**Regional manager**” means a state parks division employee responsible for several parks within a region.

~~[EE-]~~**GG.** “**Resolution committee**” means a group of individuals that consists of one representative from the state parks division, one representative from the United States bureau of reclamation, when applicable, and leaseholders involved in survey dispute.

~~[FF-]~~**HH.** “**Sales and services**” means all transactions by a concessionaire, or agents or employees of a concessionaire for which the concessionaire receives consideration in money or money's worth in connection with the concession business operated pursuant to the concession contract.

~~[GG-]~~**II.** “**Secretary**” means the secretary of the energy, minerals and natural resources department.

~~[HH-]~~**JJ.** “**Special use permit**” means a permit issued to a person, business entity, ~~[friends group]~~ park support group or organized group by the division to provide an event or activity within a state park and recreation area. Examples of special use events and activities include: regattas, boat races, parades, races, fishing tournaments, exhibitions, and educational activities. The term of a special use permit shall be for the duration of the approved event or activity but shall not be issued for a period of more than five consecutive days.

~~[H-]~~**KK.** “**State park official**” means any employee of the state parks division.

~~[JJ-]~~**LL.** “**State parks system**” means all land and water in state park and recreation areas.

~~[KK-]~~**MM.** “**Superintendent**” means an employee of the state parks division who is in charge of a specific park(s).

~~[LL-]~~**NN.** “**Vending machine**” means any coin-operated beverage, snack or service machine subject to approval by the division.

~~[MM-]~~**OO.** “**Veteran's permit**” means one annual day use permit for entry into state parks, issued to a New Mexico resident veteran with a permanent one hundred percent service connected disability. A veteran's permit ~~[shall be for personal use only by the veteran and]~~ is non-transferable.

[7-17-67, 7-25-72, 7-31-79, 12-21-89, 12-31-89, 5-20-92, 12-31-96, 12-31-98, 7-1-99; 19.5.1.7 NMAC - Rn & A, 19 NMAC 5.1.7, 12/31/02, A; 5/1/04]