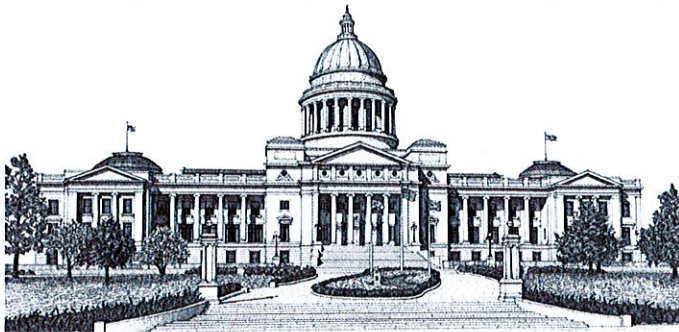


ARKANSAS REGISTER

Transmittal Sheet

Use only for FINAL and EMERGENCY RULES



Secretary of State

John Thurston

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Little Rock, Arkansas 72201-1094

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Parks, Heritage and Tourism

Department Division of Arkansas State Parks

Contact Leslie Fiskien E-mail leslie.fiskien@arkansas.gov Phone (501) 324-9586

Statutory Authority for Promulgating Rules Ark. Code Ann. §22-4-101 et seq., Ark. Code Ann. §25-43-1301 et seq. and Ark. Code Ann. §15-11-206

Rule Title: Rappelling and Rock Climbing in Arkansas State Parks

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

July 27 through July 29, 2022

August 25, 2022

October 21, 2022

November 4, 2022

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Leslie Fiskien leslie.fiskien@arkansas.gov

October 25, 2022

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

(501) 324-9586

leslie.fiskien@arkansas.gov

Phone Number

E-mail Address

Chief of Legislative Affairs

Title

October 25, 2022

Date

ARKANSAS DEPARTMENT OF PARKS, HERITAGE, AND TOURISM

DIVISION OF STATE PARKS

SEPTEMBER 15, 2022
PARK DIRECTIVE 3085

RAPPELLING AND ROCK CLIMBING RULES AND REGULATIONS

Arkansas contains significant and extensive geological resources favorable for rock climbing and rappelling. Furthermore, Arkansas has a long history of rock climbing and has become a desired destination for recreational climbing. In order to responsibly manage rock climbing and steward the natural resources in which climbing occurs, Park Directive 3085 establishes that rock climbing and rappelling on state park property is permitted at approved sites, only.

I. SITE SELECTION

- A. Superintendents of state parks that have sites considered desirable for rock climbing and/or rappelling are encouraged to submit requests to the Director of Arkansas State Parks for approval.
- B. Requests should include complete details of the site, including the site location, a detailed description, any potential impacts to the park's natural and cultural resources, any recreational uses, facilities, long term development or master planning, safety hazards, weather, time-of-day influences, proposed rules and signing for the site, and degree of supervision considered necessary for use by the public.
- C. Approved sites may have signage indicating that the location is approved for rappelling and rock climbing. Signage should include any restriction which may apply, such as hours of acceptable use.

II. DEFINITIONS

Arkansas contains significant geologic resources favorable for rock climbing and rappelling. Rock climbing and rappelling are generally categorized as follows:

- **Sport climbing.** Climbing predominantly involving the use of fixed hardware, ropes, harnesses, chalk, and removable quickdraws (carabiners plus fabric sling).
- **Trad climbing.** Climbing predominantly involving the use of removable equipment (cams and stoppers, primarily) placed in the rock by the climber for protection. Also uses the equipment listed above. Common on rock features containing cracks/fissures and other features where removable gear can be placed.
- **Bouldering.** Climbing involving only shoes, chalk, and a bouldering pad that emphasizes difficult and often gymnastic-like movements on boulders. Generally found on boulders and small bluffs that are low to the ground where serious injury from falling is unlikely.
- **Mixed climbing.** A combination of both sport and trad climbing.

- **Rappelling.** Differentiated from rock climbing in that rappelling begins at the top of a rock face with the rappeller lowering down the face using ropes, harnesses, lowering devices, and often fixed hardware that has been placed in the rock at the top of the rock face.

III. RULES AND REGULATIONS FOR ROCK CLIMBING AND RAPPELLING IN ARKANSAS STATE PARKS

The following rules and regulations will apply to rock climbing and rappelling in Arkansas State Parks.

- Rock climbers and/or rappellers must complete and sign the Rappelling and Rock Climbing Checklist Liability Release.
- A parent or legal guardian must complete the checklist and liability release form for all minors (those aged 17 and under).
- Rock climbers and rappellers shall minimize their impacts to the sites and follow leave-no-trace principles. Climbers bouldering shall guard against unnecessary damage to flora by limiting cleaning of boulders and keeping crash pads in the staging area.
- Climbers and rappellers are expected to stay on established trails and refrain from establishing "social" trails.
- Arkansas Department of Parks, Heritage, and Tourism (ADPHT) recognizes that fixed hardware is an accepted and essential component both in safely facilitating rock climbing and in protecting natural resources. ADPHT shall allow the placement and maintenance of fixed hardware (i.e., "bolts") where appropriate and is encouraged to consult with a qualified local climbing organization (e.g. Arkansas Climbers Coalition) for the accepted best practices for the management of fixed hardware.
- Chipping, gluing, or otherwise manufacturing holds is forbidden.
- Rappellers/climbers shall use equipment and safety gear appropriate for the activity. ADPHT is not liable or responsible for any equipment used by rappellers or climbers, nor is ADPHT liable or responsible for any fixed hardware. Rappellers and climbers assume all liability and risk associated with the use of fixed hardware.
- Rappelling and climbing participants shall conduct themselves in a courteous and orderly manner and abide by local, state, and federal laws, as well as obey all park rules and regulations.
- In any and all cases, state park management shall have complete and final authority over all sites and retain the authority to revoke any privileges issued for rappelling/climbing activities.

Reviewed by the Arkansas Legislative Council – Administrative Rules Sub-Committee
on _____, _____.

ATTACHMENT: RAPPELLING AND ROCK CLIMBING CHECKLIST AND LIABILITY RELEASE

Replaces PD 3085 dated July 1, 2014

APPROVED BY: _____
SHEA LEWIS, DIRECTOR
DIVISION OF STATE PARKS

**ARKANSAS DEPARTMENT OF PARKS, HERITAGE, AND TOURISM
DIVISION OF STATE PARKS**

RAPPELLING AND ROCK CLIMBING CHECKLIST AND LIABILITY RELEASE

- Rappeller/climber warrants that his/her equipment is in good working condition and is appropriately rated for the subject activities.
- Rappeller/climber warrants that he/she possesses and will use appropriate safety gear for the subject activities.
- Rappeller/climber acknowledges that the subject activities are inherently dangerous and involve the use of fixed hardware that was, and is, not provided, installed, inspected, maintained, or endorsed by ADPHT.
- Rappeller/climber acknowledges that ADPHT has made no warranties or representations about the conditions or suitability of the designated rappelling or climbing sites, and rappeller/climber enters such areas at his/her own risk "as is", "where is", and with "all faults".
- Rappeller/climber will not install any fixed hardware ("bolts") without permission from ADPHT.
- Rappeller/climber agrees to engage in the subject activities only in approved and designated sites in state parks and exercise all due caution.
- Rappeller/climber agrees to follow all signage including no trespassing markers or signage.
- Rappeller/climber agrees to immediately report any incident involving personal injury or damage to state park property to park staff.

I am about to participate in rappelling and/or rock climbing. I am participating entirely upon my own initiative, risk, and responsibility. I fully and completely accept any consequences that arise from conditions within designated rappelling/climbing areas, including but not limited to the failure of fixed hardware or other equipment that may exist, as well as all natural conditions.

I, or a member of my family shall be liable for any and all rescue and/or evacuation recovery costs incurred by the State as a result of my participating in rappelling and/or rock climbing in Arkansas State Parks.

I do hereby agree and adhere to all rules of Arkansas State Parks which are available at the park Visitor Center.

Therefore, in consideration of the permission extended to me by ADPHT, I do hereby, for myself, my heirs, executors, and administrators remise, release, and forever discharge the Arkansas Department of Parks, Heritage, and Tourism, and its officers, agents, employees, and assigns from any and all claims, actions, or causes of action on the account of my death, or on account of any injury to me or my property which may occur from any cause during such rappelling and/or rock climbing activities.

RAPPELLER / ROCK CLIMBER'S NAME

SUPERINTENDENT'S NAME

RAPPELLER / ROCK CLIMBER'S SIGNATURE

SUPERINTENDENT'S SIGNATURE

DATE

DATE

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Parks, Heritage and Tourism

DIVISION Division of Arkansas State Parks

PERSON COMPLETING THIS STATEMENT Leslie Fiskien, Chief of Legislative Affairs

TELEPHONE NO. (501) 324-9586 FAX NO. (501) 324-9575 EMAIL: leslie.fiskien@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rapelling and Rock Climbing in Arkansas State Parks

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

- b) The reason for adoption of the more costly rule;

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

Total \$ 0.00

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

Total \$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

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6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

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7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.