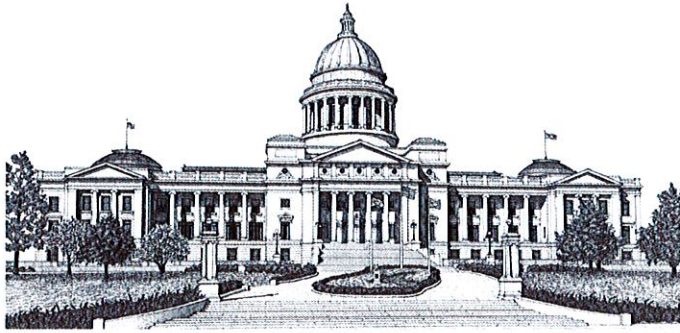


ARKANSAS REGISTER



Proposed Rule Cover Sheet

Secretary of State

John Thurston

500 Woodlane Street, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



Name of Department Arkansas Department of Parks, Heritage and Tourism

Agency or Division Name Division of Arkansas State Parks

Other Subdivision or Department, If Applicable n/a

Previous Agency Name, If Applicable n/a

Contact Person Leslie Fiskien

Contact E-mail leslie.fiskien@arkansas.gov

Contact Phone (501) 944-1492

Name of Rule Rock Climbing and Rappelling in Arkansas State Parks

Newspaper Name Arkansas Democrat Gazette

Date of Publishing July 26 through July 28, 2022

Final Date for Public Comment July 28, 2022

Location and Time of Public Meeting n/a

~~ARKANSAS DEPARTMENT OF PARKS AND TOURISM—DIVISION OF~~
~~STATE PARKS~~ ARKANSAS DEPARTMENT OF PARKS, HERITAGE, AND
TOURISM

DIVISION OF STATE PARKS

~~JULY 1, 2014~~ SEPTEMBER 15, 2022

PARK DIRECTIVE 3085

RAPPELLING AND ROCK CLIMBING RULES AND REGULATIONS

~~Rappelling and rock climbing on state park property is permitted at approved sites only.~~

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 ~~rappelling and/or rock climbing~~ may rock climbing and/or rappelling are encouraged to submit requests to the Director of Arkansas State Parks for approval.
- B. Requests ~~shall set forth~~ should include complete details of the site, ~~indicating~~ including the site location, ~~detailed a detailed~~ description, ~~resourcee~~ any potential impacts ~~on parks' to the park's~~ natural and cultural resources, any recreational uses, facilities, and long term development or master planning, safety hazards, weather and, 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 ~~will~~ may have signage indicating that the location is approved for rappelling and rock climbing. Signage shall should include any restriction which may apply, such as ~~time-of-day, plus instructions for rappellers and climbers to~~

~~check in at the park visitor center prior to rappelling and/or climbing.~~ hours of acceptable use.

II. ~~RULES AND REGULATIONS FOR RAPPELLING AND ROCK CLIMBING IN ARKANSAS STATE PARKS~~ **DEFINITIONS**

Arkansas contains significant geologic resources favorable for rock climbing and rappelling. Rock climbing and rapelling 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 rappelling and rock climbing and rappelling in Arkansas State Parks.

- A. Once each year, rappellers and/or rock climbers Rock climbers and/or rappellers must complete a rappelling / climbing checklist and sign a liability release form (see attachments); and sign the Rappelling and Rock Climbing Checklist Liability Release.

- B. ~~A parent or legal guardian must complete the check-list~~
checklist and liability release form for all minors; those age
seventeen (17) and under. (those aged 17 and under).
- C. ~~Rappellers and/or rock climbers must notify staff at the park~~
~~visitor center each day they participate.~~ 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.
- D. ~~Types of climbing considered free soloing* or highball~~
~~bouldering** are prohibited.~~ Climbers and rappellers are
expected to stay on established trails and refrain from
establishing "social" trails.

~~*Free soloing—climbing without safety equipment at various heights.~~

~~** Highball bouldering—climbing without safety equipment at limited heights (15 feet) with assistance of spotter and foam crash pad for landing.~~

- E. ~~All rappellers and climbers should be accompanied by a spotter~~
~~or another participant.~~ 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.
- F. ~~Designated rappelling and climbing sites are considered vertical~~
~~trails. Rappellers and climbers are expected to stay on trail~~
~~routes and refrain from making rogue trails.~~ Chipping, glueing,
or otherwise manufacturing holds is forbidden.

- G. Rappellers/climbers shall use equipment and safety gear appropriate to for the activity. ~~The Arkansas Department of Parks and Tourism (ADPT)~~ ADPHT is not liable or responsible for any ~~portable or temporary~~ equipment ~~left~~ 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.
- H. ~~Rappellers / climbers are prohibited from attaching or placing any permanent equipment, hold, fasteners, or anchor points. Any existing permanent equipment is not maintained or supported by Arkansas State Parks or ADPT. Rappellers and/or climbers assume all liability and risk for use.~~ 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.
- I. ~~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.~~
- J. ~~In any and all cases, state park officials 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 _____.

~~Administrative Rules and Regulations
Sub-Committee on June 11, 2014.~~

~~Attachments: —Checklist
—————Liability Release~~

ATTACHMENT: RAPPELLING AND ROCK CLIMBING CHECKLIST AND
LIABILITY RELEASE

Replaces PD 3085 dated July 1, 2014

APPROVED BY:

GREG BUTTS SHEA LEWIS, DIRECTOR
Arkansas State Parks DIVISION OF STATE PARKS



Arkansas Department of Parks and Tourism
ARKANSAS DEPARTMENT OF PARKS, HERITAGE, AND
TOURISM

RAPPELLING AND ROCK CLIMBING CHECKLIST
RAPPELLING AND ROCK CLIMBING CHECKLIST AND LIABILITY
RELEASE

1. ~~Yes / No~~ Rappeller / climber ~~ensures~~ warrants that ~~their~~ his/her equipment is in good working condition and is appropriately rated for the subject activity.
2. ~~Yes / No~~ Rappeller / climber ~~certifies~~ warrants that ~~they~~ he/she possesses and will use appropriate safety gear for ~~this activity~~ the subject activities.
3. ~~Yes / No~~ Rappeller / climber ~~will be accompanied by the person named below~~; 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.
NAME:
ADDRESS
STATE: -ZIP:
PHONE (CELL PREFERRED):
4. ~~Yes / No~~ Rappeller / climber ~~has signed the liability release form for ADPT and has been verbally cautioned that any existing permanent anchor points he/she may find on routes are not maintained or supported by ADPT.~~ 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".
5. ~~Yes / No~~ Rappeller / climber ~~ensures that he/she will not install any permanent equipment or anchor points.~~ will not install any fixed hardware ("bolts") without permission from ADPHT.
6. ~~Yes / No~~ Rappeller / climber ~~agrees to restrict~~ engage in the subject activities only in approved to and designated rappelling and rock climbing areas/sites within the in state parks and exercise all due caution.
7. ~~Yes / No~~ Rappeller / climber ~~understands that any incident resulting in personal injury or damage to state park property must be reported immediately to~~

~~uniformed park staff.~~ agrees to follow all signage including no trespassing markers or signage.

8. ~~Yes / No~~ Rappeller / climber ~~has received permission to rappel or climb from the park superintendent or designee.~~ agrees to immediately report any incident involving personal injury or damage to state park property to park staff.



Arkansas Department of Parks and Tourism
ARKANSAS DEPARTMENT OF PARKS, HERITAGE, AND
TOURISM
DIVISION OF STATE PARKS

RAPPELLING AND ROCK CLIMBING CHECKLIST AND LIABILITY RELEASE

RAPPELLING / ROCK CLIMBING LIABILITY RELEASE

I, _____, am about to participate in rappelling/ and/or rock climbing.

PARTICIPANT - PRINT NAME

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 any anchors 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 rules-which are available at the park Visitor Center.

Therefore, in consideration of the permission extended to me by the ~~Arkansas Department of Parks and Tourism~~ 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 actions 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

PARTICIPANT'S SIGNATURE _____ **DATE**
(PARENT OR LEGAL GUARDIAN IF MINOR)

PARTICIPANT INFORMATION

Participant's Name: _____ Age: _____ DOB: _____

Telephone Number: (H) _____ (C)

Address:

City _____ State _____ Zip

Emergency Contact Person:

Address:

City

State

Zip

Relationship:

Phone (H): _____ (C):

Additional Emergency Contact Person:

Address:

City _____ State _____ Zip

Relationship _____ Phone (H): _____ (C):

0900 LIABILITY-RELEASE 07/14

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Department of Parks, Heritage and Tourism
DIVISION Division of Arkansas State Parks
DIVISION DIRECTOR Secretary Stacy Hurst, Director Shea Lewis, Deputy Director Jeff King
CONTACT PERSON Leslie Fisken
ADDRESS 1100 North Street, Little Rock, AR 72201
PHONE NO. (501) 324-9586 **FAX NO.** (501) 324-9575 **E-MAIL** leslie.fisken@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Leslie Fisken, Chief of Legislative Affairs
PRESENTER E-MAIL leslie.fisken@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
D. Rule" below.
E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Rapelling and Rock Climbing in Arkansas State Parks

2. What is the subject of the proposed rule? Rapelling and Rock Climbing in Arkansas State Parks

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes ☐ No ☒

If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes ☐ No ☐

5. Is this a new rule? Yes ☐ No ☒ If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes ☐ No ☒ If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes ☒ No ☐ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

The proposed amendment provides for the responsible management of rock climbing in State Parks while preserving the natural resources in which climbing occurs. Rock climbing will only be allowed at approved sites within State Parks.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

Ark. Code Ann. §22-4-101 et seq., Ark. Code Ann. §25-43-1301 et seq. and Ark. Code Ann. §15-11-206.

7. What is the purpose of this proposed rule? Why is it necessary?

The purpose of the proposed amendment to the rule is to provide for responsible management of rock climbing in State Parks while preserving the natural resources in which climbing occurs. Arkansas contains significant and extensive geological resources favorable for rock climbing and rappelling. Arkansas has a long history of rock climbing and has become a desired destination for recreational climbing. As Arkansas has become a desired destination for recreational climbing, in order to responsibly manage rock climbing and steward the natural resources in which climbing occurs, the amendment establishes that rock climbing and rappelling on state park property is permitted only at approved sites. The amendment also allows for bouldering and installation of fixed hardware. Those climbing activities were previously prohibited in State Parks.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://www.arkansasstateparks.com/>

9. Will a public hearing be held on this proposed rule? Yes ☐ No ☒ If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

08/25/2022

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

10/31/2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. Attached _____

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). Attached _____

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

We are not aware of any persons, groups or organizations that plan to comment on these rules.

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 Fiskin, Chief of Legislative Affairs

TELEPHONE NO. (501) 324-9586 FAX NO. (501) 324-9575 EMAIL: leslie.fiskin@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 _____

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 _____

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.

Notice of Rulemaking

Pursuant to Arkansas Code Annotated §25-15-201 et seq., notice is hereby given that the Arkansas Department of Parks, Heritage and Tourism is proposing an amended rule for Rock Climbing and Rappelling in State Parks.

The Department is accepting public comment on the proposed amended rule through August 25, 2022. Interested persons may review the proposed rule and make comments online to Leslie Fiskien, Chief of Legislative Affairs, Arkansas Department of Parks, Heritage & Tourism at leslie.fiskien@arkansas.gov. Written comments may be returned to Leslie Fiskien, Chief of Legislative Affairs, Arkansas Department of Parks, Heritage & Tourism, 1100 North Street, Little Rock, AR 72201. Comments may be submitted by phone to Leslie Fiskien, Chief of Legislative Affairs, Arkansas Department of Parks, Heritage & Tourism, by calling (501) 324-9162.

A copy of the proposed amended rule can be found on the Division of Arkansas State Parks' website at: <https://adpht.arkansas.gov/>. Copies also may be obtained by contacting Arkansas Department of Parks, Heritage & Tourism, 1100 North Street, Little Rock, AR 72201, Phone: (501) 324-9162.

Leslie Fisken

From: Leslie Fisken
Sent: Friday, July 22, 2022 3:41 PM
To: legalads@arkansasonline.com
Subject: Full Run Ad
Attachments: LEGAL AD-Rock Climbing and Rappelling ADPHT.doc

Good afternoon.

The purpose of this email is to request legal advertisement of the proposed amended rules for Rock Climbing and Rappelling in State Parks. We request that the advertisement be published for three consecutive days from July 27, 2022 through July 29, 2022.

Please submit the invoice to my attention via email or at the address provided below.

Please let me know if you have any questions. Thank you.



LESLIE FISKEN

Chief of Legislative Affairs

Arkansas Department of Parks, Heritage and Tourism
Office of the Secretary
1100 North Street
Little Rock, AR 72201
leslie.fisken@arkansas.gov
p: 501.324.9586 | c: 501.944.1492 | f: 501.324.9575

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