

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 17 NAVIGATION AND BOATING
PART 3 CONSTRUCTION VISITOR PROVISIONS

18.17.3.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, State Parks Division.
[18.17.3.1 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.2 SCOPE: 18.17.3 NMAC applies to the construction and maintenance of private, non-commercial boat docks (“private boat docks”) on lakes that are subject to the division’s authority. 18.17.3 NMAC does not address the construction or maintenance of commercial boat docks or marinas, which are addressed in 19.5.5 NMAC.
[18.17.3.2 NMAC - N, 7/1/200; A, 1/1/2008]

18.17.3.3 STATUTORY AUTHORITY: 18.17.3 NMAC is established under the authority of NMSA 1978, Section 16-2-7, or under such other authority or agreements that grant the division authority over such private boat docks (for purposes of 18.17.3 NMAC all such lakes being described as “lakes subject to the authority of the division”).
[18.17.3.3 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.4 DURATION: Permanent.
[18.17.3.4 NMAC - N, 7/1/2002]

18.17.3.5 EFFECTIVE DATE: July 1, 2002, unless a later date is cited at the end of a section.
[18.17.3.5 NMAC - N, 7/1/2002]

18.17.3.6 OBJECTIVE: 18.17.3 NMAC’s objective is to provide construction and maintenance standards for private boat docks on lakes that are subject to the division’s authority.
[18.17.3.6 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.7 DEFINITIONS:

- A.** “BLM” means the United States department of the interior, bureau of land management.
- B.** “Boat dock” means a structure extending from the shore into the water to permit the landing and mooring of vessels. The term “boat dock” includes the anchoring system, and any catwalks or bridges that will attach to the dock itself.
- C.** “BOR” means the United States department of the interior, bureau of reclamation.
- D.** “Bridge” means a passage that provides access from the land to a boat dock, marina or other floating facility.
- E.** “Catwalk” means a passage that provides access from the land to a boat dock, marina or other floating facility.
- F.** “Community boat dock” means a private, non-commercial boat dock for use by the owner-members or other authorized residents of a residential community, such as a planned unit development or condominium, and is not available for commercial use. The imposition of a fee for the maintenance or use of a community boat dock by owner-members or other residents of a residential community served by a community boat dock will not result in the boat dock being characterized as a “commercial” boat dock.
- G.** “Dead load” means the permanent inert weight of the boat dock structure, including fixed or permanent attachments, such as bumpers, railings, winch stands, roof structures, etc.
- H.** “Decking” means the surface material that forms the floor of the boat dock or catwalk.
- I.** “Division” means the energy, minerals and natural resources department, state parks division.
- J.** “Flotation live load” means the total load that a boat dock can carry without capsizing or sinking. The flotation live load is equal to the dead load plus the live load.
- K.** “Habitable structure” means any structure on a boat dock or catwalk, whether permanent or temporary, including tents, which humans may use for overnight occupancy of any duration.
- L.** “Hunt absorption test” means a test documenting the rate at which flotation material absorbs liquid, as well as the quantity of liquid absorbed.
- M.** “Live load” means any moving or variable superimposed load on the boat dock.

- N. "PSF" means per square foot.
 - O. "Registered professional engineer" means a professional engineer currently registered with the New Mexico professional engineer and surveyors board, or its successor agency, with a specialization in civil or structural engineering.
 - P. "RPE" means a registered professional engineer.
 - Q. "Sanitation device" means any enclosure or equipment used as a toilet or bathing facility, or device capable of holding refuse, garbage or trash.
 - R. "Shoreline" means that line where the surface of the lake water and the land meet, regardless of the current lake elevation.
 - S. "Structural live load" means the weight of the boat dock itself and its ability to support itself.
 - T. "USFS" means the United States department of agriculture, forest service.
 - U. "Working load safety factor" means the ability of a boat dock anchoring system to hold or withstand loads. A safety factor of 3.0 means the anchoring system is rated to hold or withstand a load equal to three times the entire weight of the structure; *e.g.*, if the structure weighs 1000 pounds, the cable attached to the anchor will be able to hold 3000 pounds.
- [18.17.3.7 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.8 GENERAL PROVISIONS:

- A. Boat docks approved under 18.17.3 NMAC shall be for personal, family or community uses only and shall not be used for commercial activity.
 - B. The division operates a number of state parks under agreements with other entities. Those agreements and applicable federal, state and local statutes, regulations, rules and ordinances may contain provisions that supersede 18.17.3 NMAC. In addition, conditions at a particular lake, or the ownership of land on which a state park operates or around a lake, may restrict the construction or use of boat docks at a particular lake. Provisions applicable to individual state parks are set forth in 18.17.3.21 NMAC.
 - C. The provisions of the New Mexico Boat Act, NMSA 1978, Sections 66-12-1 through 66-12-23, and statutory provisions applicable to the acquisition and management of state parks, including NMSA 1978, Section 16-2-11, shall guide interpretation of 18.17.3 NMAC.
 - D. In reviewing project plans for a boat dock, the division may consider, without limitation: applicable federal, state and local statutes, regulations, rules and ordinances; agreements with other public agencies and private parties, including concessionaires; the purposes for which the lake and the state park were created; the management plan for the state park; the health, safety and welfare of other users and activities at the lake and state park, including the impact on boating, fishing and other recreation activities; and, conditions at a given location.
 - E. Community boat docks approved under 18.17.3 NMAC shall be permitted subject to payment of the following fees.
 - (1) Application fee – all applications for boat docks made under 18.17.3 NMAC shall be accompanied by a non-refundable application fee of \$1,000. In the event an application is rejected or withdrawn, the subsequent application fee for the same boat dock, location and owner is \$200.
 - (2) Annual fees – permittees for community boat docks approved under 18.17.3 NMAC shall submit to the division annual rental fees equal to \$2.50 per each square foot of boat dock, but no less than \$750 per year. Annual rental fees are due to the division prior to December 1 for the current and subsequent year if it is for a new permit, or by December 1 for the subsequent year if it is for an established permit.
 - (3) Annual fees for the first year shall be prorated to reflect the actual amount of time the boat dock is present prior to December 1.
- [18.17.3.8 NMAC - N, 7/1/2002; A, 1/1/2008; A, 1/1/2013]

18.17.3.9 APPROVED PLANS AND CERTIFICATION OF COMPLETION:

- A. Persons seeking to construct a boat dock shall submit to the division: two complete sets of project plans for the boat dock, including the anchoring system, and any catwalks or bridges that will attach to the boat dock; the surety bond required by 18.17.3.11 NMAC; and the permit or approval from other entities with authority over the lake or body of water.
 - (1) When a boat dock will use existing facilities as part of the new proposed boat dock, the project plans shall include a complete description of the existing facilities, and those facilities shall comply with the specifications set forth in 18.17.3 NMAC.
 - (2) The plans must be signed and sealed by a registered professional engineer, and contain a statement that the proposed boat dock complies with the specifications set forth in 18.17.3 NMAC.

(3) Each plan set also shall include a copy of the manufacturer's certified plans for any components that will be a part of a boat dock, such as floats, decking, railing or awning systems.

(4) Both engineered plans and manufacturer's certified plans shall be based upon the actual conditions at the site of the proposed boat dock.

B. Persons seeking approval for a boat dock are required to obtain a permit or written approval for the proposed boat dock from other entities with authority over the lake or body of water on which the proposed boat dock will be constructed or the land to which any part of the boat dock will be affixed.

(1) Persons seeking approval for a boat dock are responsible for determining what, if any, such permits or approvals are required, and for obtaining the permits or approvals.

(2) The division shall condition approval of the project plans for the boat dock upon receipt of proof that the person has received such other permits or approvals required to construct the boat dock.

C. During construction of a boat dock, a complete set of all permits and approvals required for construction of the boat dock shall be posted in a readily visible location at or adjacent to the construction site, and one complete set of the approved plans shall be kept available at the construction site.

D. Construction of a boat dock shall be completed within six months of the date that the permitting entity approves the permit.

E. After a boat dock is completed, an RPE shall submit to the division a signed and sealed certification that it was built in accordance with the requirements set forth in 18.17.3 NMAC; the plans submitted to and approved by the division and any entity issuing a permit or approval for construction of the boat dock; and, with any special conditions or requirements imposed by the this division or any entity issuing a permit or approval for the construction of a boat dock.

F. The number shown on an approved permit shall be permanently affixed to the end of boat dock facing the lake using reflective numbers and letters three inches in height, and of a color contrasting with the background. Example: **UT-00-001**.

[18.17.3.9 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.10 COMPLIANCE WITH OTHER STATUTES:

A. All boat docks shall be constructed in compliance with the provisions of the New Mexico Cultural Properties Act, NMSA 1978, Sections 18-6-1 through 18-6-17, and the Cultural Properties Protection Act, NMSA 1978, Sections 18-6A-1 to 18-6A-6.

B. If federal land will be impacted in the construction or maintenance of a dock, federal law, including the following acts, shall be complied with: the Archaeological Resources Protection Act of 1979, 16 U.S.C. Section 470aa-11; the Native American Grave Protection and Repatriation Act of 1990, 25 U.S.C. Section 3001; and the National Historic Preservation Act of 1966, 16 U.S.C. Section 469l.

[18.17.3.10 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.11 LIABILITY AND SURETY BOND:

A. Boat dock owners are fully responsible for all damage, direct and indirect, of whatever nature, and by whomever suffered, arising out of a project described in 18.17.3 NMAC and agree to release, hold harmless and indemnify the state from any and all liability, claims or demands of any nature whatsoever, including the cost of defending against those claims or demands, arising out of or in any manner related to the ownership, construction, operation, maintenance or use of a boat dock.

B. Boat dock owners shall provide evidence of a surety bond in favor of the permitting entity and the state of New Mexico and its agencies including the division issued by a corporate surety company qualified and authorized to do business in New Mexico, to cover the cost of salvage and removal by the division or permitting entity of any boat dock that has come loose from its anchors or has become a hazard to navigation or to the use of state park lakes by virtue of its condition; or, was constructed in a manner that violates 18.17.3 NMAC or other applicable statutes or regulations or rules. The surety bond shall be in an amount not less than \$5000, but a larger amount may be required based on the size and configuration of the proposed boat dock or conditions at the lake where the boat dock will be located. Boat dock owners shall provide evidence annually to the division's boating safety and law enforcement bureau chief that the surety bond is in effect.

C. In addition to the surety bond required above, where a lake on which a boat dock will be constructed is owned or subject to the authority of an entity other than the division, persons applying for a permit to construct a boat dock may be required to secure an additional surety bond and insurance coverage in amounts satisfactory to, and for the purposes of, that entity.

D. A boat dock owner's failure to keep in effect the required surety bond and any required general liability coverage is grounds for the permitting entity to revoke the boat dock permit and to require the boat dock owner to remove the boat dock at their expense.
[18.17.3.11 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.12 BOAT DOCK SIZE AND CONFIGURATION:

A. Except as otherwise provided by 18.17.3 NMAC, boat docks shall not exceed 38 feet in length and 30 feet in width. Catwalks shall not be more than 32 feet in length. An entire boat dock, including catwalks and bridges, shall not project into a lake more than 70 feet from the shoreline at any time, regardless of lake elevation.

B. Boat docks located in coves or other narrow channels may not have a length greater than one-third of the distance to the opposite shoreline, or extend to within 25 feet of the center of the cove, whichever is more limiting, regardless of lake elevation.

C. Except as otherwise provided by requirements in 18.17.3 NMAC for community boat docks, boat docks shall be constructed only in the following configurations: straight pier, T, L, F or U-shaped.

D. Persons seeking approval for a community boat dock may propose alternate configurations, such as an E shape, where the use of such configurations would be appropriate. In evaluating whether to approve the use of an alternate configuration for a community boat dock, the permitting entity may consider the factors described below for limiting the length or configuration of a boat dock, catwalk or boat dock.

E. Every boat dock shall have a minimum 50-foot setback from any other boat dock.

F. Notwithstanding the foregoing, based upon conditions at a given location the division or permitting entity may require length of a boat dock, catwalk and an entire boat dock to be shorter than the lengths set forth above, or may require greater setbacks from other boat docks. In addition, the division or permitting entity may limit the acceptable configurations of a boat dock. Conditions that the division or permitting entity may consider when determining whether to limit lengths or acceptable configurations or in requiring greater setbacks include, without limitation, the width or depth of a lake, channel or waterway at the location of the proposed boat dock; existing or proposed boat docks and boat docks in the vicinity of that location; and use of the surrounding area by others such as boaters, fishermen and water recreationists.

G. Boat docks may not be configured or placed in a manner that will restrict public access to a lake where such access is otherwise permitted by law.

[18.17.3.12 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.13 GENERAL CONSTRUCTION GUIDELINES; MAINTENANCE:

A. Sanitation devices, electric power sources or permanent storage facilities are not allowed on docks, or adjacent to floating facilities, whether permanent or temporary in nature.

B. No habitable structures are permitted on boat docks.

C. Boat docks shall be constructed with environmentally safe materials. The use of wood treated with creosote or penta is prohibited.

D. All steel used in boat docks shall be hot-dip galvanized. All holes, cuts or welds on steel members shall be made prior to hot-dip galvanizing. Connectors shall be hot-dip galvanized steel or stainless steel.

E. Boat docks shall not have enclosed or partially enclosed structures or any type of attached siding above the surface of the decking.

F. American society of civil engineers (ASCE) manuals and reports on engineering practice number 50 "*planning and design guidelines for small craft harbors*" (as amended or modified), ISBN #0-7844-0033-4, which is available for purchase from the ASCE bookstore at www.ASCE.org, is a recognized standard for the design of boat docks, and may be relied upon in designing boat docks and when seeking approval for a boat dock under 18.17.3 NMAC. However, the requirements set forth in 18.17.3 NMAC take precedence over the standards set forth in ASCE Number 50.

G. Maintenance, repairs, modifications or alterations to an existing boat dock shall conform to the requirements set forth in 18.17.3 NMAC.

[18.17.3.13 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.14 FLOTATION REQUIREMENTS:

A. Flotation material shall be extruded polystyrene, expanded polystyrene or a copolymer of polyethylene and polystyrene and shall have a minimum density of 0.9 pounds per cubic foot, and be of consistent quality throughout the float. Beads shall be firmly fused together, and there shall be no voids inside the encasement. Flotation material shall have a water rate absorption of less than 3.0 pounds per cubic foot over seven days when

tested by the Hunt absorption test. Other flotation material may be considered if it meets all of the requirements set forth in this section.

B. Flotation material shall be encased in solid polyethylene or a polyurethane type coating, both of which shall be watertight and have a nominal thickness of .125 inches.

C. Drums made of plastic, whether new or recycled, or metal shall not be used for encasements or floats.

D. All floats shall be warranted for a minimum of eight years against sinking, becoming waterlogged, cracking, peeling, fragmenting, or losing beads, and shall not be prone to damage by animals.

E. Floats that are punctured, exposing the foam to erosion or deterioration, shall be replaced immediately.

[18.17.3.14 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.15 LOADING REQUIREMENTS:

A. Flotation devices for docks, catwalks and bridges shall be designed to support the dead load plus 30-pounds PSF live load applied to deck area.

B. Boat dock and dock structural frame shall be designed to support 50 pounds PSF live load applied to the full surface area of the deck.

C. Roofs on boat docks shall have a minimum flotation live load of 12 pounds PSF and a structural live load of 15 pounds PSF.

D. Catwalks and bridges shall be designed to support a live load of 50 pounds PSF.

E. Catwalk and bridge handrails shall be designed to withstand a 200-pound load applied in any direction and at any point along the handrail.

F. Catwalks and bridges shall have a maximum slope under dead load of a 4:1 ratio in any direction.

G. Boat docks shall be able to withstand a minimum of two-foot high wave action. Based upon conditions at a specific site, the division may require a dock to withstand a larger wave loading.

H. Boat docks, anchoring systems and connectors, including cables and chains, shall be designed to resist wind loads of up to 77 miles per hour (15 pounds PSF) in any direction.

I. Cables and chains used in anchoring systems shall be designed with a minimum working load safety factor of 3.0 for cables and 2.0 for chains.

[18.17.3.15 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.16 ANCHORING SYSTEMS: The anchoring systems for boat docks shall be designed and constructed in accordance with sound engineering practice and the actual soil properties encountered at the location of a proposed boat dock and shall meet the standards set forth in 18.17.3.12 NMAC through 18.17.3.15 NMAC.

[18.17.3.16 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.17 INSPECTIONS, REMOVAL FOR VIOLATIONS:

A. Boat docks are subject to inspection by the division, or its authorized agents, without notice, at reasonable times. Boat dock owners shall also allow entities permitting or approving docks to conduct inspections in accordance with that entity's guidelines. If there are no such guidelines, the mandatory inspection guidelines in Subsection C of 18.17.3.17 NMAC shall be followed.

B. Boat dock owners and boat docks shall comply with 18.17.3 NMAC and any requirements contained in a permit at all times.

C. Boat dock owners shall have their boat docks inspected every five years by an RPE at their own expense. Inspections shall cover every component of the entire boat dock, including boat dock, catwalk, anchorage, winches, cable, decking and flotation material and encasements. After each inspection, boat dock owners shall submit a letter to the division signed and sealed by the RPE who conducted the inspection stating that the entire boat dock meets or exceeds the design standards set forth in 18.17.3 NMAC.

D. Failure to complete inspections, follow inspection guidelines set forth above, or to correct any violations of 18.17.3 NMAC within 30 days of receipt of written notice, may result in the division or permitting entity requiring removal of the boat dock at the boat dock owner's expense.

E. The division or permitting entity may remove boat docks that become hazards to navigation at the boat dock owner's expense.

[18.17.3.17 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.18 REMOVAL OF BOAT DOCKS: When a boat dock is removed for any reason whatsoever, including at the initiative of the boat dock owner or at the direction of the division or permitting entity, the boat dock owner is responsible for the complete removal of the entire boat dock including the boat dock, catwalk, anchoring system, cables, floats and any other related components or materials installed in conjunction with the construction, maintenance or use of the boat dock.

[18.17.3.18 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.19 SPECIAL RULINGS, ADDITIONAL REQUIREMENTS AND VARIANCES: Where conditions on a lake or at a proposed boat dock location warrant, the division in the reasonable exercise of its discretion, may make special rulings, impose additional requirements and allow appropriate variances from 18.17.3 NMAC. In addressing these matters, the division may take into consideration, without limitation: applicable federal, state and local statutes, regulations, rules and ordinances; agreements with other public agencies and private parties, including concessionaires; the purposes for which the state park and the lake were created; the management plan for the state park; the health, safety and welfare of other users; and activities at the lake and state park, including the impact on boating, fishing and other recreation activities; and conditions at a given location.

[18.17.3.19 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.20 EMERGENCY USE BY PUBLIC AGENCIES: Boat dock owners shall allow the division, any other entity permitting or approving the boat dock, law enforcement agencies, fire departments and emergency personnel to access and use a boat dock for emergency purposes, without charge or other compensation, or liability for such use.

[18.17.3.20 NMAC - N, 7/1/2002; A, 1/1/2008]

18.17.3.21 PROVISIONS APPLICABLE TO INDIVIDUAL PARKS:

A. 18.17.3.21 NMAC addresses restrictions on obtaining permits for private boat docks under 18.17.3 NMAC at state parks with or adjacent to lakes. 18.17.3 NMAC states whether private boat docks are allowed on a lake and what entity must be contacted to obtain permission to build such a boat dock. The applicant shall obtain written authorization for a private boat dock from the appropriate authority before submitting an application to the division for a permit.

B. Bluewater Lake state park. Private boat docks are not permitted.

C. Bottomless Lakes state park. Because of the size of the lakes at this state park, private boat docks are not permitted.

D. Brantley Lake state park. The division operates this state park pursuant to an agreement with the BOR. Private boat docks are not permitted.

E. Caballo Lake state park. The division operates this state park pursuant to an agreement with the BOR. Private boat docks are not permitted.

F. Clayton Lake state park. The division operates this state park pursuant to an agreement with the New Mexico state game commission, and the state owns the land surrounding the lake. Private boat docks are not permitted.

G. Conchas Lake state park. The division operates this state park pursuant to an agreement with the United States army corps of engineers. The United States army corps of engineers has designated that part of the shoreline and lake the division operates "public recreation use" areas and private boat docks are not allowed.

H. Eagle Nest Lake state park. The division operates this state park pursuant to an agreement with the New Mexico state game commission and the New Mexico department of game and fish. Private boat docks are not permitted.

I. Elephant Butte Lake state park. The division operates this state park pursuant to an agreement with the BOR. Private boat docks are not permitted.

J. El Vado Lake state park. The division operates this state park pursuant to an agreement with the BOR. Private boat docks are not permitted.

K. Fenton Lake state park. The division operates this state park pursuant to an agreement with the New Mexico department of game and fish. The New Mexico department of game and fish constructed the dam at the lake pursuant to an agreement with the USFS. That agreement does not permit any structure other than a dam to be built or maintained on land the USFS owns. The New Mexico department of game and fish owns the remaining land around the lake. Private boat docks are not permitted.

L. Heron Lake state park. The division operates this state park pursuant to an agreement with the BOR. Private boat docks are not permitted.

M. Morphy Lake state park. The division operates this state park pursuant to an agreement with the New Mexico state game commission, under which the New Mexico state game commission controls the use of boats and other floating devices on the lake. The New Mexico state game commission operates the lake pursuant to an agreement with the Acequia de San Jose and the Acequia de la Isla of Le Doux (the acequias), which own the lake and the surrounding land. Private boat docks are not permitted.

N. Navajo Lake state park. The division operates this state park pursuant to an agreement with the BOR. Private boat docks are not permitted.

O. Oasis Lake state park. The division operates this state park pursuant to an agreement with the New Mexico state land office, which owns the land on which the state park is located. The agreement does not authorize private boat docks.

P. Santa Rosa state park. The division operates this state park pursuant to an agreement with the United States army corps of engineers. Pursuant to federal regulation, private boat docks are not permitted in the area the division operates.

Q. Storrie Lake state park. The division operates this state park pursuant to an agreement with the Storrie project water users association. Private boat docks are not permitted.

R. Sugarite Canyon state park. The division operates this state park pursuant to an agreement with the city of Raton. Private boat docks are not permitted on Lake Alice or Lake Maloya.

S. Sumner Lake state park. The division operates this state park pursuant to an agreement with the BOR. Private boat docks are not permitted.

T. Ute Lake state park. The New Mexico interstate stream commission owns this lake and must approve applications for private boat docks.

[18.17.3.21 NMAC - N, 7/1/2002; A, 1/1/2008]

HISTORY of 18.17.3 NMAC: [RESERVED]