

El Malpais National Monument

123 East Roosevelt Ave. Grants, NM 87020

505 285 4641 phone

505 285 5661 fax

National Park Service

U.S. Department of the Interior

Superintendent's Compendium 2021: Designations, Closures, Permit Requirements and Other Restrictions Imposed Under Discretionary Authority

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations (36 CFR), Chapter 1, Parts 1-7, authorized by Title 16 United States Code, Section 3, the following provisions apply to all lands and waters administered by the National Park Service, within the boundaries of El Malpais National Monument. Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1, Parts 1-7.

Written determinations, which explain the reasoning behind the Superintendent's use of discretionary authority, as required by Section 1.5(c), appear in this document as italicized print.

Approved by:



Kelly Fuhrmann, Superintendent

Date

I. **36 CFR §1.5 – VISITING HOURS, PUBLIC USE LIMITS, CLOSURES, AND AREA DESIGNATIONS FOR SPECIFIC USE OR ACTIVITIES**

(a)(1) The following visiting hours and public use limits are established for all or for the listed portions of the Monument, and the following closures are established for all or a portion of the Monument to all public use or to a certain use or activity:

Visiting Hours

El Malpais Visitor Center: Visiting hours for public use of the El Malpais Visitor Center is usually between 0900-1700 hours (9:00am to 5:00pm). Specific hours for a season or day will be posted on the El Malpais Visitor Center's entrance gate and will be confirmed by the open or closed and locked gate at the entrance from Santa Fe Ave. The closure will also be posted on the El Malpais National Monument (NM) website. A permit from the Superintendent may authorize other public uses of this facility and area. This area will be closed on Thanksgiving Day, December 25, and January 1.

El Malpais Emergency Operations Center/Ranger Station Complex: Visiting hours for public use of the Complex is usually from 0830-1630 hours (8:30am to 4:30pm) unless posted otherwise. The Complex could be closed to visitation due to officially designated use such as emergency services activity like a wildland fire event, a search and rescue event, etc.... The closure of this Complex will be posted on the entrance gate and El Malpais NM website. A permit from the Superintendent may authorize other public uses of this area. This area will be closed on Thanksgiving Day, December 25, and January 1.

Parking Areas: Visiting hours for the following parking area is from sunrise to sunset, unless otherwise authorized by a NPS program or a permit from the Superintendent.

- **Sandstone Bluffs**

Determination: Visiting hours assists with the protection of the governmental buildings while closed. Visitors are encouraged to visit during business hours to be informed of the significance of the Monument, the sensitivity of natural and cultural resources, and applicable resource-related regulations. Creating an emergency complex where the NPS can handle emergency situations will allow for a more efficient and speedier conclusion to the emergency. The parking areas will be closed due to the increased illegal activity at those locations.

Public Use Limits

Caves (Lava Tubes): Entry into all caves is prohibited without a permit from the Superintendent. A free permit is available during the open hours at the following National Park Service locations: El Malpais NM Visitor Center and the El Morro NM Visitor Center. There is no permit needed for the lava bridge that is directly in front of the main entrance to Junction Cave. Some caves are open seasonally so check at the visitor centers and the El Malpais NM website for a list of available open caves.

Determination: The Federal Cave Resources Protection Act of 1988 requires that caves in land managed by the Department of the Interior shall be periodically reviewed for inclusion on the list of significant caves. The National Park Service has determined that all caves within the jurisdictional boundaries are significant caves. Entry into all caves is regulated by a permit system. Caves in the Monument are in the process of being surveyed to determine what resources they contain, how delicate those resources may be, and/or if the cave is safe for public use. These surveys will help to determine the extent of the permit system.

Additionally, flames and other heat producing devices in caves are destructive to fragile biological and geological resources, therefore, items such as gas lanterns, candles, torches, and all similar products and devices are prohibited. Only battery powered light sources 50,000 Candlepower or less or other fully enclosed and sealed light producing items such as glow-sticks are authorized for use in caves.

Closures

Northwest Tracts: This area will remain closed to public use and access until the government is able to clean and mitigate the safety issues in the area.

Determination: The portion of the Monument, which comprise the “Northwest Tracts,” are tracts of once private property, which the government has acquired, and include physical improvements to the land. Physical improvements range from residences, barns, storage sheds, wells, etc. These improvements are unsafe for public access as they are rodent infested, of sub-standard construction, and often contain hazardous materials. Therefore, they are all slated for demolition.

Picnicking: The following areas are closed to picnicking:

- all caves (lava tubes)
- all archeological sites or structures
- all historical sites and structures

Determination: Trash receptacles are not provided at the above listed locations. Food and other trash not properly disposed of will mar the landscape, change the natural environs, and may encourage nuisance or possibly hazardous wildlife behavior.

Operation of Vehicles: Vehicle traffic is restricted to open maintained and designated Monument roads. Gated access points to roads are closed and are for administrative use only.

Determination: Operation of vehicles off maintained and designated Monument roads destroys delicate natural and cultural resources such as biological soil crusts and archaeological sites.

Rock Climbing and Bouldering: Rock climbing and bouldering is prohibited anywhere within the Monument, including caves and lava tubes, unless otherwise authorized by a permit from the Superintendent.

Determination: The Monument recognizes many areas where climbing could occur which have significant cultural value to neighboring Native American tribes. Climbing activities may conflict with cultural activities and sacred sites which the Monument was, in part, established to protect. The cliff areas are composed primarily of sandstone, which by its nature is extremely fragile, brittle, highly fractured, and is not considered compatible with public climbing activities. Climbing and or bouldering activities would place those involved (as well as those using the trails directly below the cliff faces) at high risk of personal injury or death since vertical surfaces of sandstone could fail under the weight of a climber. Climbing and or bouldering will also damage the rock surfaces and potentially threaten the irreplaceable cultural resources.

Segway or Similar Device Use: The use of Segway or similar personal transportation devices by mobility impaired persons will be permitted under the following conditions:

- The operation of the Segway will be limited to the following locations:
 - The interior spaces of El Malpais National Monument headquarters and visitor centers normally accessible to the public
 - El Malpais National Monument Visitor Center restroom facilities
 - The Zuni-Acoma Trailhead parking area and paved surface trail up to the interpretive display board
 - The El Calderon parking lot and trail to Junction Cave
 - The Sandstone Bluffs interpretive paved walkway to the interpretive display board
- The operator of the Segway will:
 - Provide authenticated documentation to staff upon initial entry at the visitor center, such as, a note from physician, handicap vehicle registration, or National Park Service Golden Access Card to help verify the operator’s status as mobility impaired
 - Wear an approved safety helmet. Segway recommends that riders wear a multi-impact helmet and there is a specific ASTM (American Society for Testing and Materials) standard for Segway helmets. A commonly manufactured bicycle-style helmet will meet this requirement

- Yield the right of way to all pedestrians at all times
- Maintain their Segway on the maintained trail or roadway surfaces at all times, in the areas indicated in the above section
- Not be operated at a speed exceeding 4 miles per hour (the speed of a brisk walking pace) at any time
- Utilize extreme caution at all times, particularly while traversing areas involving slopes, irregular surfaces, or steep drop-offs
- Prominently display a blue handicap placard on the Segway

***Determination:** Due to concentrated public visitation, varied topography and potentially congested or confined trail conditions encountered at El Malpais National Monument, Segway use is limited to maintained trails and certain parking areas in the Monument, generally those accessible to regular and motorized wheelchairs.*

Use of the Segway is specifically prohibited from use on any portion of the El Malpais National Monument where manually or powered wheelchairs cannot safely maneuver due to the presence of highly uneven and rough topography, narrow trail surfaces, and steep cliffs.

Unmanned Aircraft: The launching, landing, or operating of an unmanned aircraft from or on lands and waters administered by the National Park Service within the boundaries of the Monument is prohibited except as approved in writing by the Superintendent.

Definition: the term "unmanned aircraft" means a device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the device, and the associated operational elements and components that are required for the pilot or system operator on command to operate or control the device (such as cameras, sensors, communication links).

This term includes all types of devices that meet this definition (e.g. model airplanes, quadcopters, and drones) that are used for any purpose, including for recreation or commerce.

***Determination:** The use of unmanned aircraft is a new form of use within the National Park Service, El Malpais National Monument. It has been determined by the National Park Service that the use of unmanned aircraft has the potential to cause unacceptable impacts such as harming visitors, interfering with rescue operations, causing excessive noise, impacting viewsheds, and disturbing wildlife, to name a few. Until all impacts can be properly evaluated, it is in the best interest of El Malpais National Monument to not allow the use of unmanned aircraft. If El Malpais National Monument allowed the use of the unmanned aircraft before proper evaluation, it could result in unacceptable impacts to park resources, park values and visitor safety. This will be an interim measure unless a less restrictive measure will not suffice, and then the closure will be permanent.*

While the above determination for unmanned aircraft is being considered, it will only be considered for those areas that are not within our proposed wilderness area. Our proposed wilderness areas are to be treated as designated wilderness areas and the use of motorized equipment is prohibited by the NPS Management Policies 2006 and the Wilderness Protection Act.

The National Park Service may use unmanned aircraft for administrative purposes when appropriate and approved by the Regional Director for the park unit. These purposes may include search and rescue operations, fire operations, and scientific study.

(a)(2) The following areas have been designated for a specific use or activity, under the conditions and/or restrictions as noted: (This authority allows superintendents to impose restrictions on activities within park areas for the maintenance of public health and safety).

Filming Activities

The following types of filming activities may occur in areas open to the public without a permit and without advance notice to the NPS:

- Outdoor filming activities outside of areas managed as wilderness involving five persons or less and equipment that will be carried at all times, except for small tripods used to hold cameras.

The organizer of any other type of filming activity must provide written notice to the Superintendent at least 10 days prior to the start of the proposed activity. Based upon the information provided, the Superintendent may require the organizer to apply for and obtain a permit, if necessary, to:

- maintain public health and safety;
- protect environmental or scenic values;
- protect natural or cultural resources;
- allow for equitable allocation and use of facilities; or
- avoid conflict among visitor use activities.

If the Superintendent determines that the terms and conditions of a permit could not mitigate the concerns identified above in an acceptable manner, the Superintendent may deny a filming request without issuing a permit. The Superintendent will provide the basis for denial in writing upon request.

The NPS will consider requests and process permit applications in a timely manner. Processing times will vary depending on the complexity of the proposed activity. If the organizer provides the required 10-day advance notice to the NPS and has not received a written response from the NPS that a permit is required prior to the first day of production, the proposed filming activities may occur without a permit.

The following are prohibited:

- Engaging in a filming activity without providing advance notice to the Superintendent when required.
- Engaging in a filming activity without a permit if the activity takes place in areas managed as wilderness or if the Superintendent has notified the organizer in writing that a permit is required.
- Violating a term and condition of a permit issued under this action.

Violating a term or condition of a permit issued under to this action may also result in the suspension and revocation of the permit by the Superintendent.

***Determination:** In Price v. Barr, Gordon Price, an independent filmmaker from Yorktown, VA, challenged the constitutionality of the commercial filming permit and fee requirements. In its decision in Price, the court acknowledged that the NPS has a substantial government interest in protecting park resources but determined that the permit requirement was not related closely enough to achieving this interest. The court objected to the fact that all commercial filming activities must obtain a permit no matter the potential for resource impacts. The court suggested that a permit requirement more closely tailored to the threat posed by high-impact filming may be acceptable. The court also held that the NPS did not have a sufficient interest to support charging location fees for commercial filming. The court issued a permanent injunction preventing the NPS from implementing and enforcing the permit and fee requirements for commercial filming.*

The court in Price recognized that the NPS has a legal obligation to protect the resources within the National Park System and to provide for visitor enjoyment of the same. 54 U.S.C. § 100101. All activities in park areas – including filming even if a permit is not required – must comply with all visitor use regulations in 36 C.F.R., including but not limited to those prohibiting resource damage (36 C.F.R. § 2.1), protecting wildlife (36 C.F.R. § 2.2) or mitigating audio disturbances (36 C.F.R. § 2.12), and any restrictions on visitor use in the park’s compendium, such as restrictions on the use of unmanned aircraft systems (i.e., drones). Filming of any kind may not occur in closed areas without written authorization. Filming activities may not violate applicable laws, such as the Endangered Species Act, the Archeological Resources Protection Act, or the Wilderness Act. All filming must comply with laws protecting the NPS’s intellectual property, such as laws and regulations governing the use of the NPS Arrowhead and images of NPS employees. Filming activities may not violate the provisions of the Wilderness Act, including

prohibitions on structures, installations, motor vehicles, mechanical transport, motorized equipment, motorboats or landing of aircraft in wilderness areas.

Mask Wearing

Regardless of vaccination status or local community transmission levels, all individuals over the age of two must wear masks, except when actively eating or drinking, in all common areas and shared workspaces in federally owned buildings administered by the National Park Service and in office space leased by the National Park Service.

'Federally owned buildings administered by the National Park Service' include, but are not limited to, visitor centers, administrative offices, maintenance facilities, and shared government quarters; buildings assigned to concessioners or other park partners; and buildings leased for commercial purposes to individuals or entities other than the National Park Service.

All individuals over the age of two years, regardless of vaccination status or local community transmission levels, must wear masks in the following outdoor areas, when others are present, except when actively eating or drinking, where the superintendent has determined that physical distancing (staying at least six feet apart) cannot reasonably be maintained:

- Outdoor areas adjacent to the visitor center; including the sidewalks, patios, and shade structures.
 - *Visitors gather to read material provided by the park outside the visitor center as they prepare for their visit and staying six feet apart may not be reasonable. Sidewalks and the visitor entrances are too narrow to allow for visitors to be further than six feet apart while allowing for two-way traffic.*
- Parking lots
 - *Parking spaces are within six feet of each other. It is not possible to maintain six feet physical distancing when parking lots and spaces are full.*
- Crowded trails and viewpoints.
 - *The Trails inside the Monument are narrow and prohibit maintaining six feet physical distancing, especially when passing each other or crowded. Carrying of a mask is encouraged for temporary wearing when passing other visitors for events where the distance cannot be maintained; such as, while hiking or at a viewpoint.*
- All outdoor Interpretive Programs
 - *Interpretive programs draw large crowds and may be conducted in locations that do not allow the six feet of physical distancing that is required.*

Masks must cover the nose and mouth and fit snugly around the nose and chin with no large gaps around the sides of the face. Masks not designed to be protective, masks with ventilation valves, and face shields do not meet the requirement.

Regardless of vaccination status, all individuals must comply with all orders regarding masks issued by the Centers for Disease Control and Prevention (CDC).

CDC prevention measures continue to apply to all travelers on public transit, regardless of vaccination status. Masks remain required on all forms of public transit that operate within parks, including busses, trains, and boats/ferries, and in transportation hubs.

Determination: As stated in E.O. 13991, it is the policy of the Administration to halt the spread of coronavirus disease 2019 (COVID-19) by relying on the best available data and science-based public health measures. Such measures include wearing masks when around others, physical distancing, and other related precautions recommended by the Centers for Disease Control and Prevention (CDC).

On January 24, 2021, the Office of Management and Budget issued M-21-15, COVID-19 Safe Federal Workplace: Agency Model Safety Principles to provide guidance to federal agencies on implementing E.O. 13991. On January 29, 2021, the Acting Secretary of the Interior issued a memorandum entitled

Protecting Our Workforce by Requiring Mask-Wearing. This memorandum reaffirmed the Administration's commitment to an urgent, robust, and professional response to the COVID-19 pandemic. The Memorandum requires all onsite employees, contractors, and volunteers to wear a mask or face covering at all times while in Department buildings or on federal public lands when physical distancing of 6 feet or more is not possible.

February 2, 2021, memorandum entitled Implementing and Enforcing Mask-Wearing Requirement for Park Visitors provided guidance on the implementing and enforcement of mask-wearing for park visitors. This authority allowed superintendents to impose restrictions on activities within park areas for the maintenance of public health and safety. On May 13, 2021, the CDC issued guidance on Interim Public Health Recommendations for Fully Vaccinated People which resulted in the issuance on May 19, 2021, the memo entitled Updating Mask-Wearing Requirements. The direction is shared above.

On Tuesday, July 27, 2021, the CDC issued updated information for fully vaccinated people given the new evidence on the B.1.617.2 (Delta) variant currently circulating in the USA. This included information that recommends that fully vaccinated people to wear a mask in public indoor settings in areas of substantial or high transmission. The NPS memorandum dated August 6, 2021, confirmed out guidance on following the recommendations.

August 16, 2021, memorandum titled Masking Requirements for Shared Indoor and Designated Outdoor Spaces, modified and replaced all previously issued NPS masking requirement for the NPS. Since most visitors come from outside the counties in which they reside and the majority of the USA is currently substantial or high in transmission categories, we should consider that the majority of visitors have the potential to come from a substantial and/or a high transmission community and they must wear a mask.

The CDC has issued detailed considerations for wearing masks. Some of these considerations are summarized below.

- In addition to physical distancing and hand washing, masks are a critical step to help prevent people from getting and spreading COVID-19. When you wear a mask, you protect others as well as yourself.
- COVID-19 spreads mainly from person to person through respiratory droplets. Masks are a simple barrier to help prevent respiratory droplets from reaching others.
- Masks can prevent the spread of the disease even when the wearer is not sick. This is because several studies have found that people with COVID-19 who never develop symptoms (asymptomatic) and those who are not yet showing symptoms (pre-symptomatic) can still spread the virus to other people.
- Masks may not be necessary when you are outside by yourself away from others, or with other people who live in your household.
- It is especially important to wear a mask indoors with people you do not live with and when you are unable to stay at least 6 feet apart because COVID-19 spreads mainly among people who are in close contact with one another.
- Recommended masks include non-medical disposable masks, masks that fit properly (cover nose and mouth and fit snugly around the nose and chin with no large gaps around the sides of the face), masks made with breathable fabric (such as cotton), masks made with tightly woven fabric (i.e., fabrics that do not let light pass through when held up to a light source), masks with two or three layers, and masks with inner filter pockets. Novelty/non-protective masks, masks with ventilation valves, or face shields are not a substitute for the recommended masks.

Geo-caching

The creation or maintenance of a "geo-cache" containing any physical items within the Monument is prohibited. "Virtual" caches may be created and maintained as long as they meet the designated management conditions of the location. Conditions include consistency with park management plans such as not encouraging off-trail travel or travel in closed areas, visitor safety considerations, and the protection of resources. (Abandoning or leaving property unattended is also a violation of 36 CFR, Section 2.22(a) – Property).

Determination: The purpose of this restriction is to protect the natural, cultural and archaeological resources from damage due to geo-caching, and to preserve the landscape in as pristine a visual condition as possible.

First Amendment Activities

Public gatherings or demonstrations including, but not limited to, religious observances or distribution of related materials may be held only in the following designated areas:

- The primary First Amendment site is at the El Malpais Visitor Center located off I-40. The area is on the southeast side of the visitor center, just past the picnic table area. This area is seen in Figure 1. All activities are to remain inside this area and not extend further in any direction.
- A secondary First Amendment site is located at the El Malpais Emergency Operations Center/Ranger Station Complex, which is located off Hwy 53. The area is located on the northwest side of the Information Center building. All activities are to remain inside this area and not extend further in any direction -- see Figure 2.
- These sections shall not be interpreted so as to interfere with the rights of Native Americans as delineated in the Native American Religious Freedom Act, nor any other applicable regulation or policy.

The following restrictions and/or conditions are in effect for the specific uses or activities:

- Implementation of a public use limit: Groups of 25 or more engaged in public gatherings or demonstrations including, but not limited to, religious observances or distribution of related materials, must obtain a permit in accordance with the criteria and procedures of 36 CFR 1.6. Individuals or groups of less than 25 do not need a permit but must remain within the designated areas.
- Groups of 25 or more may not circumvent the permit process by breaking into smaller groups
- Activities may include the use of hand-carried signs, but not stages, platforms, or structures
- The use of loudspeakers or other sound amplifying devices is prohibited.
- Normal pedestrian traffic may not be impeded by activities under this section.

Determinations: In order to accommodate Freedom of Speech Activities, the Superintendent has designated the areas as shown in Figures 1 and 2 where such activities may take place. Groups of 25 or more are required to obtain a permit. The Superintendent will issue permits upon request after making a determination that the requested activity will not have an adverse impact on public health and safety, environmental or scenic values, natural or cultural resources, scientific research, implementation of management responsibilities, proper allocation and use of facilities, or the avoidance of conflict among visitor use activities. The Superintendent must remain content neutral when evaluating the issuance of a permit for First Amendment activities. Use of these areas will be on a "first come, first served" basis. A group holding a permit will NOT have priority over a smaller group already in place.



Figure 1. First Amendment location at the El Malpais Visitor Center, circled in red.



Figure 2. First Amendment location at the El Malpais Emergency Operations Center/Ranger Station Complex, circled in red.

II. 36 CFR §1.6 – ACTIVITIES THAT REQUIRE A PERMIT

(f) The following is a compilation of those activities for which a permit from the Superintendent is required:

- §1.5(d) The following activities related to Public Use Limits:
 - After hours visitation or use
 - Entrance into the public use caves, all others are closed
- §2.4(d) Carry or possess a weapon, trap, or net.
- §2.5(b) Specimen collecting, research, and some science education activities:
 - Permits are available from Resources Management
 - Refer to 36 CFR §2.5 RESEARCH SPECIMENS

Note: When permits are required for scientific activities pertaining solely to cultural resources, including archeology, ethnography, history, cultural museum objects, cultural landscapes, and historic and prehistoric structures, other permit procedures apply and will be outlined during the permitting process.

- §2.12 Audio Disturbances:
 - (a)(2) Operation of a chainsaw in developed areas
 - (a)(3) Operation of any type of portable motor or engine, or device powered by a portable motor or engine in non-developed areas
 - (a)(4) Operation of a public address system in connection with a public gathering or special event for which a permit has been issued pursuant to §2.50 or §2.51
- §2.17 Aircraft & Air Delivery:
 - (a)(3) Delivery or retrieval of a person or object by parachute, helicopter or other airborne means
 - (c)(1) Removal of a downed aircraft
- §2.37 Soliciting or demanding gifts, money, goods or services (Pursuant to the terms and conditions of a permit issued under §2.50, §2.51 or §2.52).
- §2.38 Explosives:
 - (a) Use, possess, store, transport explosives, blasting agents
 - (b) Use or possess fireworks
- §2.50(a) Conduct a sports event, pageant, regatta, public spectator attraction, entertainment, wedding ceremony, and similar events.
- §2.51(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views.
- §2.52(c) Sale or distribution of printer matter that is not solely commercial advertising.
- §2.60(b) Livestock use.
- §2.61(a) Residing on federal lands.
- §2.62 Memorialization:
 - (a) Erection of monuments (Requires approval from Regional Director)
- §4.11(a) Exceeding of established vehicle load, weight and size limits.

- §5.1 Advertisements: Display, posting or distribution.
- §5.3 Engaging in or soliciting any business (Requires a permit, contract or other written agreement with the United States, or must be pursuant to special regulations).
- §5.4(a) Commercial transportation of passengers by motor vehicles.
- §5.5 Still Photography/Audio Recordings:
 - (a) Still photography activities are subject to provisions of 43 CFR part 5, subpart A.
 - (b) Audio Recordings do not need a permit unless it meets the standards found here.
- §5.6(c) Use of commercial vehicles on park area roads. The Superintendent shall issue a permit to access private lands within or adjacent to the park when access is otherwise not available.
- §5.7 Construction of buildings, facilities, trails, roads, path, structure, etc.
- §6.9(a) Operation of a solid waste disposal site.

III. GENERAL REGULATIONS

36 CFR §2.1 – PRESERVATION OF NATURAL, CULTURAL AND ARCHEOLOGICAL RESOURCES

(a)(4) Dead wood on the ground may be collected for use as fuel for campfires within the park in the following areas:

The collection of dead and down wood is prohibited anywhere in the Monument.

(a)(5) The following conditions are in effect for walking, climbing, entering, ascending or traversing the listed archeological or cultural resource, monuments or statues:

There are no conditions that allow for any of these activities. All are prohibited.

(c)(1), (c)(2) The following fruits, nuts, berries or unoccupied seashells may be gathered by hand for personal use or consumption, in accordance with the noted size, quantity, collection sites and/or use or consumption restrictions:

- One (1) pound of pinon pine nuts, per person per day
- One-quarter (1/4) pound of berries, per person per day

Determination: Nominal quantities of the above resources are available in the Monument and therefore public gathering of the above-specified quantities will not affect the propagation of the species nor deprive the natural wildlife of sustainable browse.

36 CFR §2.2 - WILDLIFE PROTECTION

(d) The transporting of lawfully taken wildlife through El Malpais National Monument is permitted under the following conditions and procedures:

- Transportation may only be by a vehicle on existing roads
- A direct route is taken to public or private roads, or private property
- An appropriate New Mexico State hunting licenses must be in possession of the hunter and the required tags filled in and attached to the animal

(e) The following areas are closed to the viewing of wildlife with the use of an artificial light:

Viewing wildlife with artificial light is prohibited in the Monument.

36 CFR §2.4 – WEAPONS, TRAPS, AND NETS

(e) A special use permit signed by the Superintendent or designee is required to transport weapons, traps, or nets across park lands in order to access inaccessible Bureau of Land Management lands.

- The carriage of firearms within the boundaries of El Malpais National Monument is allowed pursuant to New Mexico State law, provided that the individual is not otherwise prohibited by law from possessing the firearm.
- The actual USE of firearms within the Monument is PROHIBITED. Use includes aiming, sighting, or using a scope to view wildlife.
- Firearms are prohibited in all federal facilities.
- In the State of New Mexico, you must be 19 years of age to carry a firearm “open carry” and must be 21 years of age to obtain a Concealed Weapons permit and “carry concealed.”
- All other weapons, traps and nets remain prohibited to possess or use in the Monument except as authorized by a permit in accordance with 36 CFR 2.4.

Determination: As of February 22, 2010, federal law changed to allow the carriage of firearms in National Parks and Monuments pursuant to state law. While that section of the CFR has changed, it remains prohibited to use a firearm within NPS boundaries. (Use of a firearm includes pointing, looking through an optic mounted on the firearm, display or brandishing, and the actual firing of the weapon.) Carriage of a loaded firearm through the Monument while engaged in a legal or illegal hunt outside of the Monument is not allowed as that activity meets the definition of “take.”

Firearm means a loaded or unloaded pistol, rifle, shotgun or other weapon, which is designed to, or may be readily converted to, expel a projectile by the ignition of a propellant.

Weapon means a firearm, compressed gas or spring-powered pistol or rifle, bow and arrow, crossbow, blowgun, spear gun, hand-thrown spear, slingshot, irritant gas device, explosive device, or any other implement designed to discharge missiles, and includes a weapon the possession of which is prohibited under the laws of the State in which the park area or portion thereof is located.

36 CFR §2.10 – CAMPING and FOOD STORAGE

(a) The sites and areas listed below have been designated for camping activities as noted. A permit system has been established for certain campgrounds or camping activities, and conditions for camping and camping activities are in effect as noted:

- El Malpais NM has no designated campsites.
- Camps must meet the following:
 - Be at least one-quarter (1/4) of a mile from the following:
 - A road to a trailhead or parking area
 - Trailhead parking areas
 - Picnic areas
 - County Road 42
 - A building
 - Any cave or lava tube
 - Archeological or historical sites and/or structure
 - Primitive in nature using leave no trace ethics

- Limited to a maximum of 7 consecutive days in one area and no more than 14 days in a calendar year
- The maximum size of any one group of campers is limited to no more than 15 people in any one area
- Parking for backcountry camping cannot exceed 10 feet off the roadway

(b)(3) Camping within 25 feet of a fire hydrant or main road, or within 100 feet of a flowing stream, river or body of water is authorized only in the following areas, under the conditions noted:

No areas are authorized within the Monument

(d) Conditions for the storage of food are in effect, as noted, for the following areas:

Food must be securely stored at all times, except during the actual preparation of the meal, to prevent animal access. Coolers and other food containment devices must be secured to prevent access and should be kept in vehicles, trailers, bear boxes, or other protection devices to prevent access by large mammals (bear, deer, elk, etc.) These conditions apply to the entire Monument.

36 CFR 2.13 – FIRES

(a)(1) The lighting or maintaining of fires is generally prohibited, except as provided for in the following designated areas and/or receptacles, and under the conditions noted:

Designated Areas

- Picnic areas within the grills provided
- When camping in the backcountry and/or wilderness areas

Established Conditions for Fires

Campfires must be attended in person by the user at all times and shall not be abandoned.

(b) Fires must be extinguished according to the following conditions:

Water and stirring must be used on the fires for extinguishing to make sure the fire is cold to the touch. No smoke showing and no heat is detected with the back of your hand.

36 CFR §2.14 – SANITATION and REFUSE

(a)(2) The use of government refuse receptacles or facilities for dumping household, commercial or industrial refuse, brought as such from private or municipal property is allowed under the following conditions:

No areas are authorized for outside dumping within the Monument.

(b) Conditions for the disposal, containerization, or carryout of human body waste have been established as follows:

- Where possible, small holes will be dug 6-8 inches deep in organic soil;
- Toilet paper will be buried along with the excrement or carried out.

36 CFR §2.15 – PETS

(a)(1) The following structures and/or areas are closed to the possession of pets:

- all caves
- all lava tubes
- all lava trenches
- all archeological sites
- all historical sites
- all government buildings
- all government vehicles
- There are certain exceptions for certified service dogs.

(a)(3) Pets may be left unattended and tied to an object in the following areas, under the conditions noted:

No areas are authorized within the Monument.

(a)(5) Pet excrement must be disposed of in accordance with the following conditions:

Excrement will be picked up and placed in trash containers.

(b)Hunting Dogs may be used in support of hunting activities within the following areas of the Monument:

No hunting dogs are allowed within the Monument since no hunting is allowed.

36 CFR §2.16 – HORSES and PACK ANIMALS

(a) The following animals are designated as pack animals for purposes of transporting equipment:

- Horses
- Llamas
- Burros and Mules
- Other hoofed mammals

(b) The use of horses or pack animals is allowed on the following trails, routes or areas:

Established roads

(d) Free-trailing or loose-herding is allowed on the following trails/routes, subject to the conditions noted:

No free-trailing or loose-herding of pack animals are authorized within the Monument.

36 CFR §2.17 – AIRCRAFT and AIR DELIVERY

(c)(1) The removal of a downed aircraft, components, or parts thereof is subject to procedures established by the Superintendent through written authorization.

Request permits through the Chief Ranger’s Office.

36 CFR §2.20 – SKATING, SKATEBOARDS and SIMILAR DEVICES

The use of roller skates, skateboards, roller skis, coasting vehicles, or similar devices are allowed only in the following areas:

No areas are authorized within the Monument.

36 CFR §2.21 – SMOKING

(a) The following portions of the park, or all or portions of buildings, structures or facilities are closed to smoking as noted:

Smoking restrictions apply to all cigarettes, pipes, smoking instruments, and electronic cigarettes.

- All the trails are closed to smoking
- All government buildings are closed to smoking
- Within 50 feet of fuel/paint storage areas
- Within 50 feet of propane tanks/enclosures
- At all archeological sites.

Determination: The inappropriate disposal of cigarette butts negatively impacts natural and cultural resources. The presence of burning smoking materials of any type represents a fire risk during periods of elevated fire danger.

36 CFR §2.22 – PROPERTY

(a)(2) Property may be left unattended for periods longer than 24 hours in the following areas and under the following conditions:

A permit may be obtained from the Chief Ranger's office for property to be left longer than 24 hours in the following areas:

- All roadside and visitor center parking areas
- All NPS maintenance areas

36 CFR §2.35 - ALCOHOLIC BEVERAGES and CONTROLLED SUBSTANCES

(a)(3)(i) The following areas are closed to the consumption of alcoholic beverages and/or the possession of a bottle, can, or other receptacle containing an alcoholic beverage that is open, or that has been opened, or whose seal is broken, or the contents of which have been partially removed:

- Inside visitor center and on adjacent patio/porch areas
- At all interpretive activities within NPS jurisdiction

36 CFR §2.38 – EXPLOSIVES

(b) Fireworks and firecrackers may be possessed and/or used in the following areas, under the conditions noted:

No areas are authorized within the Monument.

Determination: Using or possessing fireworks, firecrackers or other explosives devices is inherently hazardous, constitutes a fire hazard, and is not appropriate within a protected natural and cultural resource area.

36 CFR §2.60 – LIVESTOCK USE and AGRICULTURE

No areas are authorized within the Monument.

36 CFR §2.62 – MEMORIALIZATION

(a)The placement of memorials within the Monument is prohibited.

Determination: The placement of memorials may cause damage to sensitive natural and cultural resources. Increased human activity at such areas may promote adverse effects such as ground compaction, disruption to vehicle traffic flow, damage, or disturbance of archeological or historic heritage sites, and interference with normal patterns of wildlife behavior or movement.

(b)The scattering of human ashes from cremation is prohibited.

Determination: The scattering of human remains or ashes can conflict with the spiritual or cultural practices of indigenous people traditionally associated with the Monument. In addition, the presence of modern remains could affect the National Park Service's ability to preserve and protect human remains that are themselves cultural resources.

36 CFR §4.21 – SPEED LIMITS

(b) The following speed limits are established for the routes/roads indicated:

Unless otherwise designated, the speed limit is 15 miles-per-hour.

Determination: The Superintendent has determined that these restrictions are necessary to promote traffic and visitor safety, and to reduce wildlife mortalities caused by vehicular collisions.

36 CFR §4.30 – BICYCLES

(a) Park roads – The use of a bicycle is permitted on park roads and in parking areas that are otherwise open for motor vehicle use by the general public.

Determination: The use of bicycles on trails is destructive to the resources. Bicycles are unsafe on the trails due to the narrow, uneven terrain with pedestrian traffic. Bicycles are unsafe on the Administrative Roads due to the potential destruction to the resources and the use of the roads by NPS vehicle use. Traditional bicycles are prohibited within our proposed Wilderness areas as established by Federal statute.

(i)(1) Electric bicycles – The use of an electric bicycle is allowed on park roads and parking lots that are otherwise open to traditional bicycles.

Determination: The use of electric bicycles on trails is destructive to the resources. Electric bicycles are unsafe on the trails due to the narrow, uneven terrain with pedestrian traffic. Electric bicycles are unsafe on the Administrative Roads due to the potential destruction to the resources and the use of the roads by NPS vehicle use. Electric bicycles are prohibited within our proposed Wilderness areas as established by Federal statute.

36 CFR §4.31 – HITCHHIKING

Hitchhiking is permitted in the following areas under the conditions noted:

Hitchhiking is prohibited on all roadways within El Malpais National Monument in accordance with applicable New Mexico State Traffic Statute 66-7-340.

Determination: Compliance with New Mexico State Traffic Statute 66-7-340- Pedestrians soliciting rides or business.