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**ENVIRONMENTAL PROTECTION**

**DIVISION OF PARKS AND FORESTRY**

**State Park Service Code**

**Readoption with Amendments: N.J.A.C. 7:2**

**Adopted New Rules: N.J.A.C. 7:2-17.6 and 17.7**

**Adopted Repeals and New Rules: N.J.A.C. 7:2-10.6 and 10.8**

Proposed: November 20, 2006 at 38 N.J.R. 4779(a)

Adopted: May 7, 2007, by Lisa P. Jackson, Commissioner

Department of Environmental Protection

Filed: \_\_\_\_\_ as R. \_\_\_\_\_ **without change.**

Authority: N.J.S.A. 13:1B-1 et seq., 13:1B-15.100 et seq., and 13:1L-1 et seq.

DEP Docket Number: 21-06-10/537

Effective Date: May 7, 2007

Expiration Date: May 7, 2012

The New Jersey Department of Environmental Protection is readopting the State Park Service Code, N.J.A.C. 7:2, which governs the administration, operation, management and use of State parks, forests, recreation areas, historic sites, natural areas, marinas, a golf course, botanical gardens and other land, waters and facilities under the jurisdiction of the Department and assigned to the State Park Service in the Division of Parks and Forestry.

**Summary** of Public Comments and Agency Responses:

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The following persons submitted written comments during the comment period on the proposal:

1. Barb Sachau
2. Eric McKinley
3. Jason Keith
4. William R. O'Donnell
5. Joseph and Cynthia Cooper
6. Kurt Peterson
7. Arthur Samaras
8. Deborah Hankinson
9. Robert T. O'Brien
10. Andy Norin
11. Andy and Carrie Norin
12. John Anderson
13. Daniel Cintorino

A summary of the comments received and the Department's responses follows. The number(s) in parentheses after each comment identifies the respective commenter(s) listed above.

1. COMMENT: At N.J.A.C. 7:2-2.9, Service Animals and Hunting Dogs, do not permit hunting dogs in State parks (1).

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2. COMMENT: No one, including hunters or people engaged in fish and wildlife activities, should be allowed to take anything out of State parks. Everyone who takes anything out of a park should have the specific permission of the park superintendent. Such activities should be prohibited at N.J.A.C. 7:2-2.10, Damage to Property/Tampering. (1)

3. COMMENT: Hunters should be required to advise the park superintendent of their presence in the park. The Department should institute such a requirement at N.J.A.C. 7:2-2.17, Target Practice; firearms; fireworks (1)

4. COMMENT: The Department should amend N.J.A.C. 7:2-2.18, Restrictions on hunting, fishing and trapping, to prohibit hunting in State parks. (1)

RESPONSE TO COMMENTS 1 THROUGH 4: Hunting and fishing are legal forms of recreation within State parks and forests, as is the use of hunting dogs. The Division of Parks and Forestry and the New Jersey Fish and Game Council work to minimize user group conflicts wherever possible. With regard to the use of dogs, the Department has not received reports of problems associated with the use of hunting dogs, and does not have a basis to prohibit them. N.J.A.C. 7:5A-1.9(e)19iv requires that hunting dogs be under the immediate control of their owners.

The Department recognizes that there are individuals who oppose hunting, and hunting in State parks; however the Department strives to provide a variety of recreational opportunities to a variety of user groups, while also protecting the natural

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resources in the State. Hunting helps keep the deer population in check in the State parks. The reduction of the deer densities within State parks and forests fosters greater forest health and biodiversity, which benefits both the forest and wildlife generally.

It is not necessary for hunters to notify the Superintendent of their presence, as hunters are hunting in the park during specific times of the year during designated hunting seasons. The Superintendents are aware of the hunting seasons and that, as a result, there will be hunters in the park.

5. COMMENT: Amend N.J.A.C. 7:2-3.5 to keep snowmobiles out of State parks and forests entirely. (1)

RESPONSE: Snowmobiles are allowed only in specific areas and on certain trails in a limited number of New Jersey's State parks and forests. The potential for damage to the trail is reduced by the snow cover necessary for the use of such vehicles. Allowing snowmobiling is consistent with the Department's commitment to provide a variety of recreational activities to the public.

6. COMMENT: The Department should amend N.J.A.C. 7:2-10.1(j) to require an adult to accompany any child playing golf up to the age of 14, not 13 as was proposed. (1)

RESPONSE: Many 13 year olds are members of junior golf teams sponsored by local schools. The adopted amendment will allow these individuals to golf with their older teammates and coaches. To raise the age to 14 would unfairly impact the youngest members of these golf teams that use State facilities.

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7: COMMENT: Each year different individuals should be able to apply for a mobile sport fishing vehicle permit (MSFP). If a person purchases a MSFP one year, he or she should not be able to purchase one in next year, until all of the public has a chance to purchase one. Otherwise, the same people would receive the permits each year. N.J.A.C. 7:2-16.2, Mobile sport fishing vehicles/permits/restrictions. (1)

RESPONSE: There are no restrictions on who can purchase a MSFP. The Department provides equal opportunity for all members of the public to purchase a MSFP at Island Beach after January 1<sup>st</sup> of each year. The Department has not had to deny an MSFP to an applicant as a result of a limited supply of permits. On the contrary, the Department usually has available MSFPs remaining at the end of the year. Accordingly, a lottery or rotation system is unnecessary.

8. COMMENT: At N.J.A.C. 7:2-17.1(f), Daily or annual launch ramp fee at designated State parks and marinas, the Department should increase the daily launch ramp fee from \$10.00 to \$15.00 and the annual launch ramp fee from \$55.00 to \$100.00. (1)

RESPONSE: The fees set forth at N.J.A.C. 7:2-17.1(f) are imposed in order to offset the State's cost of providing the service to the public. At Corson's Inlet, Mullica River and Hopatcong State Park, the fee for using the launch ramps is lower because the areas are not staffed, and do not offer the amenities that are provided to the public at the Liberty State Park and Leonardo State Marina launch ramps, where the higher fees are charged.

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The fees for launching at these areas have been introduced during the last several years, and there is less public demand for the use of these ramps as compared to the launch ramps at Liberty State Park and Leonardo State Marina.

9. COMMENT: At N.J.A.C. 7:2-17.3(e), miscellaneous fees for services and facilities provided by the State Park Service at Wharton State Forest, the Department should charge all clubs the \$150.00 fee specified for use of the new auditorium at Wharton, and not allow certain hunting or sportsmen clubs free use of this facility. (1)

RESPONSE: The Department intends to charge the same auditorium use fee to all members of the public who request to use this facility. The fee is charged in order to offset the cost of making the facility available to the public. Any club, including a hunting or sportsmen club, that makes use of the facility will be charged the applicable fee.

10. COMMENT: The Batsto Historic Tour fee at N.J.A.C. 7:2-17.1(m), may present a hardship for those members of the public who depend on State parks and forests as places for free entertainment for the whole family. Factoring in the costs for transportation, a picnic lunch, possible tolls and the summer entrance fee to Batsto Village, a low income family may not have the money for the Batsto Mansion Tour. (2)

RESPONSE: The fee is not new, but is a reinstatement of a fee that has not been charged for several years, due to the closure of the Batsto Historic Mansion for restoration and

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repairs. As the mansion is now open again for public tours, this fee is again being charged. The Department is reinstating this fee at the same level it was in 1991. The Department is investing millions of dollars worth of repairs and restoration work at the mansion. The revenue generated from the fee will offset some the costs associated with making the mansion available to the public.

11. COMMENT: The State Park Service Code should be amended to explicitly permit rock climbing in all its disciplines within New Jersey's State parks and forests. (3 - 13).

12. COMMENT: Eliminate the liability waiver requirement for rock climbers. The current waiver system is an unreasonable and unnecessary regulation imposed on rock climbers that no other user group must follow. (3 -13).

RESPONSE TO COMMENTS 11 AND 12: The Department is responsible for protecting and preserving New Jersey's natural resources. In doing so, there are times when limits or restrictions are needed for certain recreational activities to ensure that the resources are preserved and protected.

Protection of the plant species and habitat from damage due to overuse is imperative. The current policy of allowing park Superintendents on a case-by-case basis to allow or restrict climbing, depending on conditions in the park, reflects the Department's effort to balance the competing needs of recreation with resource protection while also maintaining safety in New Jersey's State parks and forests.

The Department's policy is to obtain a liability waiver from individuals who rockclimb in State parks, as a compromise to allow individuals to engage in this unique

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and potentially-dangerous activity, while limiting the State's liability for injury that may result from the activity, instead of precluding such activity outright.

### **Federal Standards Statement**

The readopted rules with amendments are not promulgated under the authority of or in order to implement, comply with or participate in any program established under Federal law, or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements. Accordingly, no further analysis is required.

**Full text** of the readoption follows:

(No change from proposal.)