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## **ENVIRONMENTAL PROTECTION**

### **NATURAL AND HISTORIC RESOURCES**

#### **DIVISION OF PARKS AND FORESTRY**

##### **State Park Service Code**

**Adopted Amendments: N.J.A.C. 7:2-1.7, 2.1, 2.5, 2.8, 2.9, 2.11, 2.12, 2.17, 2.20, 2.22, 2.25, 3.2, 3.4, 3.5, 8.1, 8.9, 8.10, 9.7, 13.2, 13.3, 13.7, 16.2, and 17.1 through 17.4**

**Adopted Repeal: N.J.A.C. 7:2-10**

**Adopted New Rules: N.J.A.C. 7:2-3.10, 17.8, and 17.9**

Proposed: July 16, 2012, at 44 N.J.R. 1935(a) (see also 44 N.J.R. 2269(a)).

Notice of Proposed Substantial Changes upon Adoption to Proposal of Amendments: August 19, 2013, at 45 N.J.R. 1937(a).

Adopted: January 15, 2014, by Bob Martin, Commissioner, New Jersey Department of Environmental Protection.

Filed: January 16, 2014, as R.2014 d.031, **with substantial changes** to proposal after additional notice and public comment, pursuant to N.J.S.A. 52:14B-4.10, and **with substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

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: 01-12-06

Effective Date: February 18, 2014.

Expiration Date: April 13, 2014.

The Department of Environmental Protection (Department) is adopting amendments, a repeal, and new rules pertaining to the State Park Service Code at 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, golf courses, botanical gardens, and other lands, waters, and facilities under the jurisdiction of the Department and assigned to the State Park Service in the Division of Parks and Forestry.

The Department is adopting rules to address visitor safety and environmental stewardship throughout the State parks through amendments relating to the use of fires, stoves, and lanterns, air soft guns and paint guns, fireworks, and motor vehicles. The Department is repealing Subchapter 10, Golf Courses, because the Department no longer operates golf courses. The Department is also adopting amendments to Subchapter 17, Fees for Services and Facilities Provided by the State Park Service. On adoption, the Department is modifying the rules related to off-road and oversized vehicles, and the rules relating to the types of vehicles that are eligible for Mobile Sport Fishing Vehicle Permits.

The adoption document may also be viewed or downloaded from the Department of Environmental Protection's website at <http://www.nj.gov/dep/rules/adoptions.html>.

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

The original proposal published in the July 16, 2012, New Jersey Register. The Department published a notice extending the initial 60-day comment period an additional 30 days, until October 14, 2012. The comments received are summarized below, grouped in separate sections depending on whether the comment prompted a modification to the rules as originally proposed. Additionally, the Department received one public comment on the notice of proposed substantial changes on adoption of proposed amendments, which is included, along with the Department's response thereto, in a separate section below.

## **1. Comments Received During Comment Period on the Proposal, Giving Rise to Substantial Changes on Adoption**

In response to some of the comments received during the public comment period on the original rule proposal, the Department proposed to make substantive changes to the proposal, subject to additional notice and public comment, in accordance with the Administrative Procedure Act at N.J.S.A. 52:14B-4.10. The proposed substantial changes on adoption and the comments prompting them were the subject of a notice of proposed substantial changes on adoption of proposed amendments, published in the August 19, 2013, New Jersey Register. (See 45 N.J.R. 1937(a).) The comments and responses below are those published in that notice.

Comments were received from:

1. Scott Adams
2. George Alderson
3. Louis Amato
4. Robert Bennett
5. Judith Berrien
6. Tom Berry
7. Michael Bradway
8. John Britton
9. Alan Brooker
10. Donald Brossman
11. Matt Burk
12. Denny Bush
13. Robert Campi
14. Mary Ann Carlsen
15. Kevin Carlson
16. Lee Cattaneo
17. Gary Chandler
18. Andrew Ciok
19. Kenneth Coanshock
20. Wyllys Cooper
21. Nicholas DeLuca

22. Jim DeSaye
23. John Dwyer
24. Mark Dzindzio
25. Valerie Dzindzio
26. Zoltan Egyed
27. Chris Eppolito
28. Stephen Farrell
29. Trevor Farrell
30. Melanie Farrell
31. Kelly Farrell
32. Chris Farrell
33. Tom Farrell
34. Daniel Federico
35. Kevin Felix
36. Wayne Ford
37. John Franklin
38. Constance Gatto
39. James Gatto
40. Maria Gelfand
41. David Gelfand
42. Richard Giehl
43. Reb Gilliland
44. Charles Glotfelty
45. Leif Gobel
46. Barry Graber
47. Brian Hawthorne
48. Ralph Herbst III
49. Karen Heredia
50. Steven Hoitsma
51. Albert Horner
52. William Houston
53. Stephen Jobs
54. Art Johansen
55. Sarah Johansen
56. William Jones
57. Gertrude Jordan
58. Larry Karpinsky
59. Boris Khavronin
60. Chester Krencicki
61. Karen Kryven

62. Stephen Kuhn
63. Mike Kupetsky
64. Melissa Lenter
65. Robert Lick
66. Devin McGrath
67. Ron Meelheim
68. John Melilli
69. Sam Milone
70. Jean Moore
71. Bob Moore
72. Mike Moran
73. David Morrison
74. Anthony Mosca
75. Glenn Mullary, Sr.
76. Thomas Murl
77. Anthony Nascimento
78. Fred Norton
79. Paul Novello
80. Gregory O'Brien
81. Greg O'Driscoll
82. Richard Ogonofski
83. Diane Ogonofski
84. Frank Paglianite
85. John Parrinello
86. Linda Paul
87. David Paulick
88. Nancy Paulick
89. Ulumje Pereborow
90. Jaclyn Rhodes
91. Thomas Robb
92. Mark Rowley
93. Tony Saldutti
94. Thomas Schugsta
95. Albert Sergio
96. Joe Skelly
97. Norman Stoop
98. Robert Strobel
99. Sandy Sutyinszky
100. Kathleen Swigon
101. Donna Talley

- 102. Susan Thomason
- 103. Dave Uth
- 104. Doug Velting
- 105. Vincent Villecco
- 106. Michael Virilli
- 107. John J. Walaszek
- 108. Rhonda Ward
- 109. Jeff Warnet
- 110. Barb Weber Berry
- 111. Paul Wells
- 112. Ron Wilkens
- 113. Darryl Zarichak

114. The following 17 commenters submitted form letters in opposition to the change of definition for a mobile sport fishing vehicle at Island Beach State Park.

Jason Gribshaw  
Paul Harris  
Karen King  
Robert King  
Eileen Lloyd  
Paul Novello  
Michael Pawlowicz  
Dave Pietrowski  
Kate Pietrowski  
Natalie Pietrowski  
John Reinert  
Kurt Renart  
Mark Rowley  
David Strom  
Lou Sutyinszky  
Patrick Wales  
Zachary Wales

115. The following 86 commenters were included on a single form letter in opposition to the change of definition for a mobile sport fishing vehicle at Island Beach State Park.

Scott Adams  
John Amodio  
Alan Bikowski  
Anthony Buckley  
Janine Buckley  
Robert Campi  
Kerry Chamberlain  
Mark Chamberlain

Ann Clarkin  
John Clarkin  
Courtney Clayton  
Betty Joe Damato  
Wes Darcy  
James DeSaye  
Jennifer DeSaye  
Domanick Desiderio  
Amanda R. DeStefano  
Joe Ditchkus  
Cheryl Dunin  
Zoltan Egyed  
Celino Figueira  
Dania Garrett  
Richard Giehl  
Mike Harper  
Ruth Ann Harper  
Janine Hawrylak  
Tracey Jones  
Kaddie Karelson  
Amanda Keenin  
Scott Keenin  
Russell Knapp  
John Kravchak  
Staci Kravchak  
Chester Krencicki  
Mike Kupetsky  
Giancarlo Lacerda  
Eileen Lloyd  
Mike Lloyd  
Dr. Richard Lopez  
Jim Lusby  
Jimmy McDonnell  
Kevin McDonnell  
Andrea Morra  
Fred Morra  
Alexis Nixon  
Debra Nixon  
Edward Nixon  
Dorene Petronari  
Nick Petronari  
Adam Poppe  
William A. Radice, Jr.  
Joyce Raub  
Rick Raub  
Cindy Reali

Robert Reali  
Russell Reali  
Ryan Reali  
Carol Rodriguez  
John Rodriguez  
Kathleen Rowley  
Mark Rowley  
Connie Russup  
Karen Russup  
John Russup  
Robert Russup  
Guy Ryan  
Beverly Sabatino  
Tony Sabatino  
Corey Schoen  
Gregory Schoen  
Helen Schoen  
Sarah Schoen  
Scott Schoen  
Mike Scott  
Patti Sloan  
Richard Sloan  
Albert E. Sniede, Sr.  
Kathy Swick  
Henry Walker  
John Walters  
Susan Walters  
Patrick M. Walton  
Todd Warren  
Brian Wood  
Michael Wujek  
Kurt D. Zschak

116. The following four commenters submitted a single letter advocating for enforcement of existing rules and public education.

Glen Bintliff  
Joseph Donner  
Nicholas Haris  
Gregory Williams

A summary of the comments and the Department's responses follows with respect to those provisions for which substantial changes were proposed. The number(s) in parentheses after each comment identifies the respective commenter(s) listed above.



1. COMMENT: The proposed amendments to the definition of motor vehicles and their use in State parks and forests, the definition of mobile sport fishing vehicles at Island Beach State Park, and the definition of an off-road vehicle are supported. (1, 51, 64, 90, 102, 111, 112)

RESPONSE: The Department acknowledges the comments in support of the amendments; however, the Department has determined, in response to other comments received, to modify the definition of mobile sport fishing vehicle on adoption, as set forth below.

2. COMMENT: Rather than change the existing rules pertaining to off-road vehicle use and destruction of the natural resources within State parks and forests, enforce the current rules and regulations and/or provide education to the public on what rules exist. New rules are not needed. (4, 7, 17, 18, 20, 22, 45, 47, 49, 52, 54, 55, 59, 62, 66, 90, 91, 101, 103, 105, 107, 116)

RESPONSE: The Department's law enforcement personnel do enforce the rules and impose penalties for violations. The Department acknowledges that educating the public on the existing rules and regulations is a priority, and the Division of Parks and Forestry website does provide a link to the current Administrative Code (<http://www.nj.gov/dep/parksandforests/>). The Department is in the process of redesigning the website, and will post the rules and regulations more prominently on the website. The rules are also available at the individual State parks.

However, the Department has determined, in response to other comments received, to modify the definition "mobile sport fishing vehicle" on adoption as it relates to military-designed or surplus vehicles, and N.J.A.C. 7:2-3.2 regarding the use of military-designed or surplus vehicles in the parks. See the Response to Comments 3 through 6. See also the Response to Comment 7 regarding the modification on adoption of the definition of "mobile sport fishing vehicle" with regard to recreational vehicles (RVs).

3. COMMENT: The proposed amendments to N.J.A.C. 7:2-3.2, Unauthorized motor vehicle use, which ban any motorized vehicle that is likely to cause damage or injury to persons, wildlife, or property, is overly broad. It is a vehicle's operation that determines whether damage occurs and not the vehicle itself. (14, 24, 56, 62, 67, 79, 85, 86).

4. COMMENT: Vehicles with tires larger than 40 inches in diameter are still legal on public roads. The vehicles do not cause any more damage than a vehicle with 30-inch tires. A large tire disperses the weight of the vehicle and has fewer pounds per square inch (PSI) on its footprint than a smaller tire. Military vehicles are designed the same way, which is why they do so well off road. This proposal can lead to other restrictions on our privileges and rights to operate pleasure vehicles. For those who are not following the rules, cite the offenders. Do not punish those who are not breaking current regulations. (3)

5. COMMENT: The proposed amendment to N.J.A.C. 7:2-3.2 prohibits "military-designed or surplus vehicles (whether or not modified for civilian use)." It is wrong that drivers of these vehicles could now be cited by the State Park Police for driving on-road through a State park or forest. (19, 23, 80, 106)

6. COMMENT: The proposed amendment to N.J.A.C. 7:2-3.2(e) should be removed as it pertains to military-designed vehicles. If this ban is enacted, there should be a gross vehicle weight restriction used rather than the type of vehicle, as there is an immense range of military type designed vehicles. Not all military-designed vehicles are large. (86)

RESPONSE TO COMMENTS 3 THROUGH 6: It is the responsibility of the vehicle operator to operate a vehicle safely and not to cause damage or injury to persons, wildlife, or property; however, the Department must have the ability to protect the natural resources entrusted to the

State. The Department has observed that certain types of vehicles are frequently operated in such a way that they cause damage or injury. Not all vehicle operators are as conscientious as is necessary. Because the Department has been unable to rely upon the operators of those vehicles to act appropriately, the Department has determined that banning certain types of vehicles would be an effective means of protecting its resources.

As discussed in the summary of proposed N.J.A.C. 7:2-3.2 regarding unauthorized motor vehicle use, large vehicles are causing damage to trails and off-road areas in the State parks and forests (44 N.J.R. at 1937). The Department explained the problem further in its discussion of the definition of “mobile sport fishing vehicle.” The large vehicles often damage natural areas due to their extreme weight and the size of their tires, which cause ruts and other damage. (44 N.J.R. at 1935.) In particular, the Department has observed that military surplus vehicles, such as the “deuce and a half” and HMMWV, are often operated off-road, in a manner that damages natural areas. However, as pointed out in comments received on the proposal, not all military-designed or surplus vehicles are oversized, and not all have the oversized tires that are particularly damaging.

The Department is, in response to comments, modifying N.J.A.C. 7:2-3.2 on adoption to remove the general prohibition on military-designed or surplus vehicles. As adopted, N.J.A.C. 7:2-3.2(e) prohibits a person from operating a motorized vehicle likely to cause damage or injury to persons, wildlife, or property within the jurisdiction of the State Park Service; however, the adopted rule specifically identifies as prohibited only all-terrain vehicles (ATVs), and vehicles with more than two axles or having tires larger than 40 inches in overall diameter (except during special events on a pre-established course under prescribed conditions, pursuant to N.J.A.C. 7:2-3.4(d)). The Department is removing initially-proposed language that would have made the rule

applicable only to vehicles with four-wheel drive capability because, as discussed in the proposal Summary, large vehicles damage paved road ways as well as natural areas, whether or not the vehicle has four-wheel drive. Four-wheel drive is not a necessity on paved roadways. Most of the large military-type vehicles do have four-wheel drive, however. The adopted rule allows in the parks those vehicles with no greater than 40-inch tires and no more than two axles, similar to those vehicles included in the definition of “mobile sport fishing vehicles,” both as initially proposed and as modified on adoption. Existing N.J.A.C. 7:2-3.4 continues to prohibit all vehicles from operating in natural areas, including woods, swamps, bogs, wetlands, or fields, or off of established roads or parking areas, unless specifically permitted. Consequently, vehicles with tires of any size are prohibited from operating in these areas.

The large diameter tires that are contemplated under the rule are generally also a wider track tire. Although the wider tires may, as one commenter suggests, distribute the weight of the vehicle across a broader footprint, reducing the psi under the tire, the wide tire by virtue of its width disturbs a larger area from side to side than a narrower tire. The rule will continue to exclude the largest military-type vehicles, such as the “deuce and a half,” that are of significant concern. Vehicles of this type that have been modified to operate on two axles are usually equipped with tires that exceed the 40-inch restriction. Those that have not been modified exceed the two-axle limitation. The standard 40-inches maximum provides law enforcement with an objective measure to determine whether a vehicle meets the regulatory requirements.

In a related amendment, the Department, in recognition of comments pointing out that not all military vehicles are over-sized or have large tires, but keeping in mind the particular damage that large vehicles with large tires cause to beaches, is modifying the definition of “mobile sport fishing vehicle” at N.J.A.C. 7:2-1.7 on adoption to no longer exclude military-

designed and military surplus vehicles from the definition. To qualify as a mobile sport fishing vehicle, a vehicle must be a two-axle, four-wheel drive passenger motor vehicle, having tires no larger than 40 inches in overall diameter, and must be designed to be licensed and operated on the public roadways and highways of the State, and capable of four-wheel drive operation when off the public roads on the beach. ATVs and trailers-in-tow remain excluded from the definition. For a discussion of recreational vehicles (RVs) as mobile sport fishing vehicles, see the Response to Comment 7.

7. COMMENT: There should not be a change in the definition of “mobile sport fishing vehicle” to exclude RVs and military-designed or military surplus vehicles (whether or not modified for civilian use). Tire size should not be a determining factor. (1, 5, 6, 8-16, 18, 21, 22, 24-48, 50, 53, 57, 58, 60, 61, 63, 65, 68, 69-79, 81-85, 87-89, 91-101, 104, 105, 108, 109, 110, 113-115)

RESPONSE: As discussed above in the Response to Comments 3 through 6, the Department is modifying the definition of “mobile sport fishing vehicle” at N.J.A.C. 7:2-1.7 on adoption to remove the exclusion of military-designed and military surplus vehicles. The Department is also allowing RVs to be used as mobile sport fishing vehicles, provided the RV meets the restrictions on tire size.

The Department recognizes that it is not necessarily the nature of the vehicle, but its operation that causes harm to the natural areas. The exclusion of RVs and military-designed and military surplus vehicles as initially proposed was intended to apply to vehicles likely to harm natural areas and impair public safety. (44 N.J.R. at 1935.) As modified on adoption, N.J.A.C. 7:2-3.2(e) prohibits the operation of a motor vehicle that is likely to cause damage or injury to persons, wildlife, or property within the jurisdiction of the State Park Service, no matter the type

of vehicle. Therefore, the rules give the State Park Service the authority to protect the parks and visitors from harm from motor vehicles, whether or not particular types of vehicles are prohibited. This includes vehicles parked in such a way as to limit visibility beyond and around them. (44 N.J.R. at 1935.) The Department also stated in the proposal Summary that it was excluding from the definition of mobile sport fishing vehicles those vehicles “often used for overnight camping, which is prohibited on the beach.” (44 N.J.R. at 1935.) Existing N.J.A.C. 7:2-6.1 prohibits camping on any State Park Service property, except in areas designed and marked for that purpose. Accordingly, to the extent that holders of mobile sport fishing vehicle permits are camping on the beaches, in an RV or otherwise, the State Park Service will enforce the existing prohibition.

Because other provisions of the rules sufficiently protect beaches and natural areas, birds and other wildlife, and public safety, the Department is modifying the definition of “mobile sport fishing vehicle” on adoption to remove the exclusion of RVs. Only ATVs and trailers-in-tow are specifically excluded from the adopted definition. Provided a vehicle is a two-axle, four-wheel drive passenger motor vehicle, with tires no larger than 40 inches in overall diameter, designed to be licensed and operated on the public roadways and highways, and is capable of four-wheel drive operation when off the public road on the beach, and is not otherwise prohibited, the vehicle falls within the adopted definition of mobile sport fishing vehicle.

8. COMMENT: The Department cannot conclude that the proposed amendments will not have any economic impact or impact on jobs or employment in New Jersey. The prohibitions on sport fishing activities are likely to reduce participation in sport fishing and displace a percentage

of that use to other areas outside of New Jersey, as well as reduce spending on vehicles used for this activity within the State. (26, 33, 43, 47, 53, 65, 82, 83, 85, 94, 99, 144)

RESPONSE: To the extent that the comments are concerned with the restrictions on the types of vehicles that are eligible for a mobile sport fishing vehicle permit, see the Responses to Comments 3 through 6 and 7. The Department has not otherwise restricted sport fishing in the State parks and forests.

## **2. Comments Received During Comment Period on the Proposal, Not Giving Rise to the Notice of Substantial Changes on Adoption of Proposed Amendments**

In response to the July 16, 2012, publication of the proposal, the Department received a number of comments that did not give rise to the notice of proposed substantial changes on adoption of proposed amendments. Comments were received from:

1. Michael Achey
2. Joseph Adomaitis
3. J.P. Albert
4. Raymond Altonaga
5. John Ande
6. Tony Andes
7. John Aquino
8. Anthony Aravich
9. Lisa Arsenault
10. Gregory Ashe
11. William Atherholt
12. David Bader
13. Casey Barrett
14. Richard Bebenroth
15. Robert Bennett
16. William Benson
17. Patrick Bilazzo
18. Michael Blair
19. David Bostrom
20. Jay Boyle

21. Michael Bradway
22. Michael Bradway
23. Gene Bratovich
24. Alan Brooker
25. Christopher Brooks
26. John Bushell
27. Kevin Byrne
28. Robert Campbell
29. Kevin Carlson
30. Allan Castorino
31. Paul Chammings
32. Gary Chandler
33. Jason Chung
34. Matthew Coles
35. Michael Collins
36. Chris Collom
37. Matthew Conner
38. Michael Coomaraswamy
39. Anthony Coppola
40. Joseph Coppola
41. David Crane
42. Keith Culver
43. Phillip Cyr
44. Dennis Daly
45. James Davis
46. Nick Delnero
47. George Demetropolis
48. Timothy DeMond
49. David Demsey
50. Patrick Dierling
51. Jerry Dilks
52. Dan DiMaio
53. Joseph Dintino
54. Ken Doane
55. Robert Dowdell
56. James Drake
57. Timothy Driscoll
58. Jerry Duffy
59. Herbert Dyer
60. James Economou



61. Barry Ellman
62. Jacqueline English
63. Wayne Ervin
64. Christopher Etzel
65. Doug Evans
66. Eric Evans
67. Stephen Farese
68. Michael Fernandez
69. George Ferreira
70. Janet Fisher
71. Dean Flores
72. Bill Foley
73. Wayne Fontanazza
74. Bruce Franklin, Jr.
75. William Franklin
76. Thomas Gafgen
77. George Gaskill
78. Mark Gatelein
79. Constance Gatto
80. Jay Geiger
81. Dennis Gerhardt
82. William Gleaves
83. Robert Glover
84. Robert Griffin
85. Eric Guyton
86. Paul Haertel
87. Loren Hamblin
88. Brian Hawthorne
89. Tom Hedden
90. Eric Heide
91. Warren Hendriksen
92. Christopher Hensley
93. Karen Heredia
94. Mike Herrschaft, Sr.
95. Perry Hodges
96. Robert Hoover
97. Kathryn Howard
98. Roy Howard
99. Trevor Hubbard
100. Jay Huggins

101. Skip Hughes
102. Brian Imperatore
103. James Jolly
104. Morgan Jones
105. Jeffrey Jotz
106. Ted Kadison
107. Aaron Kalisher
108. Francis Kaminski
109. Robert Kasper, Sr.
110. Brent Kelsey
111. Henry Kerwien
112. Michael Keyes
113. Boris Khavronin
114. Robert Klimowiz
115. Joseph Krakovsky
116. Brian Kruysman
117. Dean Kulp
118. Chris Kuriawa
119. Joseph Landoline
120. William Lane
121. Derek Layton
122. Ronald Leggiadro
123. Ronald Lehmann
124. Ron Lesnak
125. Robert Lick
126. Amanda Lipick
127. Justin Lipick
128. Rich Little
129. Michael Lutz
130. Hugh MacDonald
131. Russell MacIntyre
132. James Madden
133. William Mann
134. James Marcasciano
135. Margaret Marciniak
136. Joseph Marino
137. Robert Martin
138. Anthony Mauro
139. Brian May
140. Tammey May

141. Kenneth McDermott
142. Scott McGourley
143. Mike McHale
144. Brian McLaughlin
145. Dan McOdrum
146. Justin Meehan
147. Jeff Meelheim
148. Ron Meelheim
149. Henry Meyers
150. Anthony Mills
151. Kate Millsaps
152. George Molchan
153. David Morrison
154. David Morrison
155. Dave Mueller
156. Glenn Mullary, Sr.
157. Scott Munro
158. Thomas Murl
159. Scott Murphy
160. Arthur Naylor
161. Neil Newcomb
162. Daniel Notte
163. Paul Novello
164. Tom Nurse
165. Gregory O'Brien
166. Lynsey O'Brien
167. Diane Ogonofski
168. Richard Ogonofski
169. Sven Ostrowski
170. Chris Paling
171. Ron Palmer
172. John Parrinello
173. Linda Paul
174. Brian Pedrick
175. Lindsay Pirie
176. Albert Porter
177. David Porter
178. Christopher Pouchot
179. Eugene Prais
180. Leonard Prais

181. Jonathan Prytherch
182. Chris Reiner
183. Kenneth Reitsma
184. Jaclyn Rhoads
185. John Rhode
186. Richard Rizzieri
187. Miguel Rodriguez
188. Donald Ropp
189. Cliff Roth
190. Kathleen Rowley
191. Milt Rudy
192. Michael Ruhl
193. Keith Scherzinger
194. Victor Schiavone
195. Albert Sergio
196. Albert Simons
197. Drew Smith
198. Kerry Smith
199. Stephen Soisson
200. Joseph Springer
201. Kurt Stanwick
202. Tina Stites
203. Sean Supernowicz
204. Donna Talley
205. Todd Tally
206. Arthur Taylor
207. Robert Taylor
208. Randy Testa
209. Jim Tevis
210. Bryan Thomas
211. Joseph Tomasello
212. One Trailrider
213. George Trapani
214. Lindsay Trottnner
215. Andrew Trought
216. Melissa Trought
217. Clayton Troy
218. Dave Uth
219. John V
220. Glenn Van Istendal

221. Robert Vartanian
222. John Verity
223. Nick Vleisides
224. Mark Wadiak
225. John J Walaszek
226. Rhonda Ward
227. William Ward
228. Fred Waropay
229. Christopher Watters
230. Chris Waxman
231. Christopher Waxman
232. Dane Weiss
233. Scott Williams
234. Art Wilson
235. Ann Wolf
236. Martin Wolfson
237. Thomas Wright
238. Peter Wright
239. Chris Wyckoff
240. Erric Zdzchowski

241. The following 72 commenters submitted form letters opposing a ban on dual sport/adventure motorcycles:

Phillip Abbott  
Jake Albert  
Raymond Altonaga  
Edward Anenberg  
Philip Apruzzese  
Rossano Baldassarra  
Glen Bintliff  
William Brandfass  
David Brogden  
Glen Brown  
Ronald Burd  
Brian Burke  
Aaron Carley  
Merle Compton  
Craig Copeland  
Joseph Coppolla

Andrew Crowe  
Shaun Daly  
James Davis  
Michael DeMos  
Brad Denning  
Giorgio DeSantis  
William Dudley, Jr.  
Gerard Dugan  
David Eckel  
Donald Eilenberger  
Eric Evans  
Bruce Evans  
Chris Fahan  
John Francisco  
Philip Galardi  
Danny Geroe  
Vince Gorman  
Louis Green  
Carl Gulbish  
Domenic Gusky  
William Herman  
Glenn Hershey  
Devin Kellar  
Anthony Lachette  
Richard Lalacoma  
Len Legall  
Charles Leonardo  
Albert Lewis  
Tom Lucas  
Jeffrey Macknik  
Ray McAloon  
Scott Mizerek  
Sean Monahan  
Eber Morse  
David Nash  
Bruce Neide  
Paul Norris  
Jeffrey Pasqua  
Kristie Porter  
Peter Quigley

Michael Reszkowski  
James Rogers  
David Scheumeister  
Peter Sideris  
Rocco Spano  
Todd Tally  
Dennis Tarcza  
Timothy Thigpen  
Wallace Tunison  
Brian Van Driel  
Brad Voorhees  
Kenneth Wadle  
Leonard Wehrle  
Scott Wells  
David White  
Scott Williams

242. The following 21 commenters submitted form letters opposing a ban on dual sport/adventure motorcycles and suggesting that the creation of off highway vehicle parks would curb use of illegal vehicles.

Joseph Achmetov  
Glen Bintliff  
Don Blair  
A. Chalier  
Gary Chandler  
Daniel Damelio  
Dan Devlin  
Brian Evans  
William Gandy  
Norman Handzus  
Roger Hogan  
Alex Hogan  
Ian Kavanaugh  
Michael Kuriawa  
Joseph Mussington, Jr.  
Dan Notte  
Brian Peterson  
Dave Ritschel  
Mark Stainthorpe  
Kathy Van Kleeck

Kristopher Wasolaskus

243. The following four commenters submitted a single letter opposing a ban on dual sport/adventure motorcycles, and supporting creation of off highway vehicle parks and more funding for park managers to properly educate the public on existing rules and the proper enforcement of existing rules.

Glen Bintliff

Joseph Donner

Nicholas Haris, on behalf of the American Motorcyclist Association

Gregory Williams

244. The following 86 commenters were included on a single letter requesting the Department not adopt the proposed amendments and request a public hearing.

Scott Adams

John Amodio

Alan Bikowski

Anthony Buckley

Janine Buckley

Robert Campi

Mark Chamberlain

Kerry Chamberlain

John Clarkin

Ann Clarkin

Courtney Clayton

Betty Joe Damato

Wes Darcy

Jennifer DeSaye

James DeSaye

Domanick Desiderio

Amanda R. DeStefano

Joe Ditchkus

Cheryl Dunin

Zoltan Egyed

Celino Figueira

Dania Garrett

Richard Giehl

Ruth Ann Harper

Mike Harper

Janine Hawrylak

Tracey Jones

Kaddie Karelson

Scott Keenin



Amanda Keenin  
Russell Knapp  
John Kravchak  
Staci Kravchak  
Chester Krencicki  
Mike Kupetsky  
Giancarlo Lacerda  
Eileen Lloyd  
Mike Lloyd  
Dr. Richard Lopez  
Jim Lusby  
Kevin McDonnell  
Jimmy McDonnell  
Fred Morra  
Andrea Morra  
Edward Nixon  
Debra Nixon  
Alexis Nixon  
Nick Petronari  
Dorene Petronari  
Adam Poppe  
William A. Radice, Jr.  
Rick Raub  
Joyce Raub  
Ryan Reali  
Cindy Reali  
Robert Reali  
Russell Reali  
Carol Rodriguez  
John Rodriguez  
Kathleen Rowley  
Mark Rowley  
Robert Russup  
Karen Russup  
John Russup  
Connie Russup  
Guy Ryan  
Beverly Sabatino  
Tony Sabatino  
Scott Schoen  
Helen Schoen  
Gregory Schoen  
Corey Schoen  
Sarah Schoen  
Mike Scott  
Richard Sloan

Patti Sloan  
Albert E. Sniede, Sr.  
Kathy Swick  
Henry Walker  
John Walters  
Susan Walters  
Patrick M. Walton  
Todd Warren  
Brian Wood  
Michael Wujek  
Kurt D. Zschak

245. The following 71 commenters submitted form letters opposing the proposed amendments to fee provisions.

Stefany Alarcon  
Cynthia Assini  
Gregory Auriemma  
John W. Bair  
Mike Baker  
Don Barth  
Gerald Beyer  
Rajdeep Bhathal  
DJ Bittle  
Lois Blake  
Thomas Boghosian  
Michael Bolles  
Terrence Brown  
Jesse Cannella  
John W. Cantilli  
Robert Carnevale  
Gina Carola  
William Christy  
William Dix  
Roger Dreyling  
Phil Dumont  
Cheryl Dzubak  
Dinda Evans  
Glenn Ewen  
Suzanne Ficara  
Brian Fink  
Ellen Foose  
Ellen Foos  
Peter Ford  
Constance Ftera

Brian Gill  
Coralyn Gorlicki  
Donna Henry  
Patti Hodgetts  
Harry Hudson  
Kenneth Johanson  
Winifred Johanson  
Anton Kihm  
Kevin Klingaman  
Jonathan Klizas  
Stephen Knowlton  
Tiina Kull-Flint  
Rozanne Levine  
Dave Long  
Laura Lynch  
Cinny MacGonagle  
Nancy MacPhee  
Nancy Malinowski  
Tanya McCabe  
Linda McKillip  
Lia Menaker  
P. Naprstek  
John Olivo  
Joanne Pannone  
Judy Pizarro  
Paul Potochniak  
Fred Reimer  
Meyer Rosenthal  
Patricia Rossi  
Edward Romain  
Ronald Sauers  
Andrea Segura  
Anne Siebecker  
Larry Siegel  
S. Simpson  
Alexandria Sola  
Pamela Swallow  
Dr. Joe Testa  
Doris Thurber  
Charles Vreeland  
Ralph Zelman

246. The following 59 commenters submitted form letters requesting an extension of the comment period and/or that public hearings be held on the proposal.

Joseph Accardi

Tara Begolly  
Thomas Bishop  
Robert Campi  
Kevin M. Carlson  
Andrew Ciok  
Guy Critelli  
Frank Dara  
Jason DeCarlo  
John Deering  
Paul Delozier  
Dennis DeMey  
Timothy Egan  
Stephen Farrell  
Paul Haertel  
Ken Hollins  
Stephen Jobs  
Robert Kelly  
Karen Kryven  
Wayne Kubovec  
Frederick John Lavergne  
Jeff Lavin  
Robert Law  
Paul LeoGrande  
Stephen Machalaba  
Louis Mazzatenta  
Noreen Mazzatenta  
Ed Monkemeier  
Anthony Nascimento  
Michael Norris  
Donna Norris  
Fred Norton  
Christopher Ongaro  
Michele Papp  
Mike Parks  
David Paulick  
Don Pluta  
Carlton M. Prescott  
Joseph Puntasecca  
Cindy Reali  
Kurt Renart

Kathleen Rowley  
Mark Rowley  
Karen Schmidt  
David Scholar  
Albert Sergio  
Joseph Smith  
Christopher Stoop  
Melia Stoop  
Robert Switzer  
Ryan Toal  
William Tristram  
Vincent Villecco  
Marcus Villecco  
Jill Villecco  
Kenneth J. Voegele  
Rhonda Ward  
Richard Watkins  
Edward Wengrowski

The comments received are summarized below. The comments are numbered sequentially to continue from the comments reproduced in section 1. The number(s) in parentheses after each comment identifies the respective commenter(s) listed above.

#### Public Comment Period

9. COMMENT: The Department should extend the public comment period on the rule proposal and/or conduct a public hearing. (138, 153, 195, 200, 226, 244, 246)

RESPONSE: In response to comments, the Department extended the initial 60-day comment period for an additional 30 days, until October 14, 2012. (See 44 N.J.R. 2269(a).)

#### General Support for the Proposed Amendments

10. COMMENT: The fee increases for out-of-State residents, oversized vehicles, and commercial enterprises are appropriate. (167, 168, 173, 226)

RESPONSE: The Department acknowledges the comments in support of the amendments.

11. COMMENT: The rule waiving fees for veterans attending an event sponsored by a veterans' association at a State park or forest is appropriate. (125)

RESPONSE: The Department acknowledges the comment in support of the amendment.

12. COMMENT: It is right that the Department restrict the use of paintball and air guns within the parks, as well as require that charcoal fires cannot be left unattended. (151)

RESPONSE: The Department acknowledges the comment in support of the amendments.

#### General Opposition to the Proposed Amendments

13. COMMENT: Island Beach has never been in greater shape and is the only park that makes money. Put your efforts into something more useful instead of finding ways to further destroy the local economy. (8, 26)

RESPONSE: The Department does not anticipate that the adopted amendments will have a negative impact on the economy surrounding Island Beach State Park. See Economic Impact, 42 N.J.R. at 1942.

14. COMMENT: Do not adopt the proposed amendments. (55, 78, 114, 133)

RESPONSE: The Department acknowledges the commenters' opposition to the amendments.

The Department is adopting the amendments with the modifications noted herein, made in response to comments on specific provisions of the proposed rules.

#### Motor Vehicle Use and Public Access

15. COMMENT: There should be a ban on ATV use; however, the exemption for special events should be removed. (151)

16. COMMENT: There should not be a ban on off-road riding. I do not like the thought that I soon may not be able to hunt with my four-wheeler for turkey and deer due to the rule change.

(10)

RESPONSE TO COMMENTS 15 AND 16: To the extent that a “four-wheeler” falls within the definition of “ATV” in the existing rules, it falls within the existing rule prohibiting the operation of any ATV on any State land. (N.J.A.C. 7:2-2.4(d).) This prohibition is unchanged by the adopted rules. There is only one exception to the prohibition: ATVs may be operated at the new Mount Pleasant State Off Road Vehicle Park in Woodbine. The rules do not allow ATVs to operate on State land during special events, except at the off-road vehicle park.

In addition to the new Mount Pleasant State Off Road Vehicle Park, the Department is in the process of assessing additional lands in Central and Northern New Jersey for purposes of establishing similar parks for off-road vehicle use. For information on the Mount Pleasant park, see [http://www.state.nj.us/dep/parksandforests/parks/Mount\\_Pleasant\\_ATV\\_Park.html](http://www.state.nj.us/dep/parksandforests/parks/Mount_Pleasant_ATV_Park.html).

17. COMMENT: There should be a ban on dual sport and adventure motorcycles, but also the creation of the promised off highway vehicle parks would curb the use of illegal vehicles on public lands. (184)

18. COMMENT: There should not be a ban on dual sport and adventure motorcycles, but the Department should create the promised off highway vehicle parks to curb the use of illegal vehicles on public lands. (34, 88, 101, 134, 242, 243)

RESPONSE TO COMMENTS 17 AND 18: See the Response to Comments 15 and 16 regarding the definition of “off-road vehicles,” and the Response to Comments 19 through 22 regarding the use of motorcycles in the parks.

19. COMMENT: The proposed amended definition of “off-road vehicle” is too vague and broad and could be interpreted in many different ways, allowing for unintended consequences for four wheel drive and all-wheel drive vehicles and motorcycles. (12, 48, 49, 84, 88, 100, 130, 147, 148, 152, 160, 165, 172, 173, 181, 198, 219, 229, 230, 237)

20. COMMENT: The change in the definition of “off-road vehicle” should not be adopted because it will ban dual sport and adventure motorcycles from riding off road in State parks and forests. It would unfairly prohibit law abiding citizens from enjoying State parks and forests. (1-7, 9, 11, 13-21, 23, 24, 27, 28, 30, 32, 33, 35-47, 50-54, 56, 57, 59-67, 69-77, 80-83, 85, 87, 89-99, 103, 104, 107-113, 115-124, 126-132, 136, 139-146, 149, 150, 155-157, 159, 161, 162, 164, 166, 169-171, 174-176, 178, 180-183, 185-189, 191-194, 196, 197, 199, 201-204, 206-218, 220-226, 228-230, 232-234, 236-241)

21. COMMENT: The proposed rule will kill another industry in New Jersey and help to close many dealerships in New Jersey. (102)

22. COMMENT: Parking a motorcycle in the parking lot of a State park would not be an environmental issue and should not be prohibited. (106)

**RESPONSE TO COMMENTS 19 THROUGH 22:** As discussed in the summary of the proposed amendments to N.J.A.C. 7:2-1.7, the definition of “off-road vehicle” is based upon the definition in the statutes governing motor vehicles and traffic regulations. (44 N.J.R. at 1936.) As proposed, the Department specifically carved out of the definition of “off-road vehicle” those motorcycles that are designed to be licensed and operated on the public roadways and highways. Under the proposed rule, licensed motorcycles designed for the public roadways and highways were not considered “off-road vehicles,” and would continue to be allowed to operate in the parks. As stated in the proposal, “unlike the vehicles categorized as off-road vehicles,



motorcycles may be driven on established public roads and in designated parking areas.” (44 N.J.R. at 1363.) The proposed rule stated, “a motorcycle that is designed to be licensed and operated primarily on the public roadways and highways of the State is not considered capable of operating off of improved and maintained roads, and is not included in this definition.” By virtue of their being licensed and operated primarily on the public roadways, the motorcycles were, for purposes of the rules, “not considered capable of operating off of improved and maintained roads.” That a motorcycle was actually capable of such off-road travel would not cause it to be excluded from the parks.

It is evident from the comments the Department received that the proposed definition caused confusion, leading many commenters to believe that motorcycles that are registered and operated by licensed riders are prohibited from using roads in the parks. Accordingly, the Department is modifying the rule on adoption to remove the reference to a motorcycle’s design, and instead refer only to whether the motorcycle is registered, insured, authorized under N.J.S.A. 39:3-1 et seq. to operate on public roadways in the State, and ridden by a licensed operator. Provided a motorcycle is registered, insured, can legally be operated on the public roadways of the State, and is operated by a licensed rider, it may be operated in the State parks in those places where vehicles are permitted. The modification on adoption does not mean that motorcycles may be operated in areas of the parks that are not open to vehicles. The adopted amendment recognizes that the motorcycle operator, rather than the motorcycle itself, is licensed.

23. COMMENT: It is unfair to ban motorcycles from the parks. I have been a rider for over 30 years. If motorcycles are considered damaging to the parks, stop the use of people using their horses on park land, since they do damage. (137)

RESPONSE: See Response to Comments 19 through 22 for a discussion of the modification on adoption of the definition of “off-road vehicle” as it pertains to motorcycles. The use of motorcycles is restricted to roads in the parks (N.J.A.C. 7:2-3.2(a)) in order to prevent damage to sensitive resources. For the same reasons, the use of horses is restricted to certain trails in the parks. See N.J.A.C. 7:2-2.21, Horseback riding.

24. COMMENT: Enjoying the pines is why my grandfather brought his family to the parks in 1959. Three generations of the family regularly visit. No group can shut out the pines. Are you closing the woods to make a political statement? (149)

25. COMMENT: Any type of restrictions on access to State park lands should be tabled. (179, 232)

RESPONSE TO COMMENTS 24 AND 25: The Department did not propose closing or restricting access to any State park or forest area. To the extent the proposed amendments to the definition of “off-road vehicle” were interpreted as prohibiting the use of certain motorcycles in the parks, the Department has clarified the definition on adoption. (See the Response to Comments 19 through 22.) The adopted rules relating to off-road vehicles and the use of certain large or heavy vehicles are necessary to prevent damage or injury to persons, wildlife, or property within the jurisdiction of the State Park Service.

### Fees

26. COMMENT: The Department should review the amendments carefully and clarify the true intent so that everyone can understand the rules, including the people who have to enforce these regulations. Revenue can be generated from selling permits with some type of simple rules

including heavy fines for abusers. This revenue could help fund the expense of the forests.

Look at other states for ideas. (31, 220)

RESPONSE: See the Response to Comment 2 in Section 1 regarding educating the public.

Revenue for the State parks and forests is generated from the park entrance fees, permit fees, boat launching fees, interpretive programming fees, and other fees for services and facilities provided in the State parks and forests. Additional funds come from the State's General Fund, and from payments by concession operators and leaseholders. The Department has studied means of increasing revenue, as discussed in the Economic Impact (44 N.J.R. at 1942).

The Department makes every effort to draft rules that are clear and understandable. When, as in this rulemaking, it is apparent that a rule is subject to misinterpretation, the Department amends the rule for clarity. The definition of "off-road vehicle" is modified on adoption, as discussed above, in order to make the rule easier to understand. The Department is also meeting with stakeholder groups to explain the rules and how the members of the groups are affected.

27. COMMENT: The Department should not raise the fees, because the funds generated will not go to the park. The fees will go to the General Fund to close budget gaps. (151, 245)

RESPONSE: Fees paid by users of State park facilities currently offset less than 15 percent of the operating costs of the State Park Service annually. All revenue generated from fees is deposited into the State's General Fund, which then directly funds the operating expenses of the State parks and forests. See the Economic Impact, 44 N.J.R. at 1942.

28. COMMENT: The fees for non-residents for all activities are not high enough, and the fees for non-residents should be consistent throughout the entire State Park system. Why do some parks charge only \$7.00 for a non-resident and others charge \$20.00? In addition, the fee

for special event parking is too low and should be raised higher than \$5.00 to \$7.00 per car.

(226)

29. COMMENT: Fees should not be increased across the board. There are now fees for facilities for which fees were never previously required, such as the Delaware and Raritan Canal and feeder canals, and Fisherman's Landing in Parvin State Park. This could put an expensive and undue burden on motor boat users and kayak and canoe users. (68, 151)

30. COMMENT: Fees should not be imposed for parking at historic sites and State parks or for activities at State parks and forests for which fees were not previously charged, nor should entrance fees be raised for non-residents. These fees may affect tourism. (151)

RESPONSE TO COMMENTS 28 THROUGH 30: The Department has not, through this rulemaking, raised parking or entrance fees for State residents. Taxes, paid primarily by New Jersey residents, support the costs associated with the State parks and forests, as discussed in the Economic Impact (44 N.J.R. at 1942). Non-residents do not contribute to the operating costs, other than through fees; accordingly, it is appropriate that some fees are higher for non-residents. (See discussion of resident and non-resident fees in the proposal Summary, 44 N.J.R. at 1938.)

The State Park Service has historically charged fees at parks where there is a significant demand for services. As discussed in the proposal Summary, the Department has taken into account the cost of providing a service of facility, including staffing and short- and long-term maintenance, and the quality and quantity of amenities and services that the State Park Service offers at a particular facility. (44 N.J.R. at 1938.) The entrance fees charged at the State park and forest facilities for both residents and non-residents vary depending on the type of activities that are offered within these areas. Those parks and forest areas that provide swimming,

bathhouses, food, and boat livery concessions offer visitors more than just passive recreation and, therefore, a higher entrance fee is charged.

As the demand for services increases, so do the costs of maintaining the facilities. For example, as the demand for boat launching has increased at Bull's Island within the Delaware and Raritan Canal State Park and Fisherman's Landing within Parvin State Park, the Department's cost to maintain the facilities has also increased. It has become necessary for the Department to hire additional seasonal employees to ensure the launch areas are clean and safe for the public to use. Likewise, fees for areas such as Barnegat Lighthouse and Washington Crossing State Parks support the interpretive services that the State Park Service provides there. Fees for historic tours and interpretive programming defray the costs associated with providing additional employees and managing tours through scheduling, which ensures appropriate staff is available to conduct these programs and tours. It is appropriate that the additional costs are borne primarily by the people making use of the facilities and services.

As discussed in the Economic Impact, the Department has reviewed the fees for similar services provided by other states, other governmental entities in New Jersey, and the private sector, and has found the fees to be competitive. The Department recognizes that the fees will have an economic impact on users of the State's parks and forest and facilities; however, the fee changes are necessary to keep the amenities and services available. As stated in the Economic Impact (44 N.J.R. at 1942), the Department recognizes that fees charged do not meet the costs to support and maintain the facilities; however, the fees represent a balance between offsetting a portion of operating costs of the parks and minimizing the economic impact of fees on visitors to the parks. (44 N.J.R. at 1942.)

31. **COMMENT:** Some consideration should be given to the total fees that non-residents pay. Most people who live out of State cannot use the State facilities as often as those that live in State due to the time and cost of traveling to the destination. The Department should create a system that provides credits towards additional fees charged. For an Island Beach mobile sport fishing vehicle permit and boat ramp fees, the cost is \$305.00. That is a lot of money to visit Island Beach three or four times a month from September to December and launch a boat into the Delaware three times a month from April to October. Possibly provide a free fresh water fishing license as an additional item that could help New Jersey businesses with additional revenue as the public would have additional facilities to patronize. (58)

**RESPONSE:** See the discussion of in-State and out-of-State resident fees in the Response to Comments 28 through 30.

The Department has evaluated the fee for the Island Beach State Park mobile sport fishing vehicle permit and determined that it is reasonable, considering that the park is open year round, 24 hours a day, seven days a week for mobile sport fishing vehicle permit holders. The annual fee for a mobile sport fishing permit for a non-resident is \$225.00. If a non-resident visits Island Beach State Park for sport fishing three or four times per month over the four-month period of September through December, as the commenter suggests, he or she pays the equivalent of slightly more than \$14.00 per visit. The daily rate for a non-resident to park a regular sized vehicle at Island Beach State Park on weekends and holidays is \$20.00, which does not include sport fishing, access to the park after midnight, or parking on the beach. The fee for a three-day mobile sport fishing vehicle permit at Island Beach State Park is \$90.00 for a non-resident, or \$30.00 per day for a three day weekend. Accordingly, by any measure, the annual mobile sport fishing pass is an excellent value.

The annual boat launch fee for non-residents at other individual parks is \$80.00, as set forth at N.J.A.C. 7:2-17.1(g). If a non-resident launches a boat three times a month over the seven-month period of April to October, as the commenter suggests, the fee equates to less than \$4.00 per launch. The daily launch fee for a non-resident varies among the parks, but ranges from \$20.00 to \$25.00 per launch. Again, the annual pass is an extremely reasonable price for the service provided.

At present, the Department does not have the resources or technology to track an individual's attendance at a park or to provide credits; however, under the commenter's example, three or four boat launches in a year justifies the \$80.00 cost of the annual boat launch fee, since four daily launches would cost \$80.00 to \$100.00. Although there is no daily mobile sport fishing vehicle permit at Island Beach State Park, three three-day permits at \$90.00 each for a non-resident would cost more than the \$225.00 annual permit for Island Beach State Park.

Fishing licenses are issued by the Division of Fish and Wildlife. The cost of the permit is \$34.00 for non-residents aged 16 and older, and the permit is valid from the date of purchase through December 31 of each calendar year. In light of the value of the annual mobile sport fishing vehicle permit and annual boat launch, providing a free fresh water fishing permit is unnecessary. A free fresh water fishing license could, as the commenter suggests, increase revenue to businesses that provide services and facilities to individuals who fish, if the free permit resulted in more people fishing; however, the revenue to the Department (through the Division of Fish and Wildlife) would be reduced by the lost revenue from the licenses.

32. COMMENT: The \$9.25 Internet registration fee for the online reservation system adds significantly to the cost of one of the few affordable activities left in the State. In addition, the lack of in-person reservations, which forces the individual into the online system with expensive

\$9.25 or \$7.00 fees, adds another cost for those looking for last minute affordable getaways with our families. The State should be able to charge a reasonable convenience fee, but \$9.25 or \$7.00 is too onerous. (105)

RESPONSE: The Department is committed to providing a great camping experience in its parks and forests. The public has grown accustomed to making airline, resort, and hotel reservations over the Internet. For many years there have been requests that the Department offer comparable online and telephone reservations for the State's park and forest facilities. Accordingly, the Department has contracted with ReserveAmerica to manage the advance reservations for overnight facilities in the State's parks and forests. The new system allows patrons to research the State's parks and make reservations 24 hours per day, 365 days per year. For those who do not have access to the Internet, ReserveAmerica offers a toll-free call center.

The new system provides a convenient and accessible reservation service; however, the service comes with a cost, which is the fee that the vendor charges for the service. This fee does not go to the State Park Service. The Department's review of similar services indicates that the vendor's fees are comparable to those charged at other state, county, and national park systems.

Patrons can walk into the parks and make in-person reservations for the same day. These same-day reservations are not subject to ReserveAmerica's fees.

33. COMMENT: The State should give senior citizens a 50 percent discount on the mobile sport fishing vehicle permit like Brigantine Beach does. (154)

RESPONSE: As discussed in the Economic Impact, 44 N.J.R. at 1942, the Department has compared the adopted fees to those for similar services offered by others, and has found them competitive. Brigantine Beach charges \$175.00 for a seasonal four-wheel drive permit. Vehicle owners aged 60 and over pay \$85.00. (<http://brigantinenow.com/4-wheel-drive-beach-permits/>)



The annual fee for a mobile sport fishing vehicle permit is \$50.00 for State residents at Corson's Inlet State Park (approximately 20 miles south of Brigantine Beach). The State, therefore, offers a mobile sport fishing vehicle permit to State residents of any age at a lower cost than Brigantine Beach. The Department does not believe a further reduction is necessary.

The resident fee for a mobile sport fishing vehicle permit at Island Beach State Park (an approximately 70-mile drive north of Brigantine Beach) is \$195.00 for the season, or \$75.00 for three days. In light of the year round popularity of the park and the mobile sport fishing vehicle permits, the Department does not believe that a reduced fee is necessary or appropriate. The Department receives requests for discounts from numerous interest groups. Were it to grant the requests, the Department would be forced to rely even more heavily on the General Fund to pay for the operating costs of the State Park Service.

34. COMMENT: The fee increases would be a double hit, in some cases adversely affecting the very residents who are least able to pay and whose voices are generally not heard by government. Focus instead only on those sections that are really justified and do not impact New Jersey residents, and look elsewhere for other budget balancing strategies. (176)

35. COMMENT: Technically the citizens of New Jersey own the parks and should not have to pay admission to any of them. It is okay to charge for boating and other activities, but not just for entering the facility. (235)

36. COMMENT: If you raise the fees too much, you will chase away tourism and/or exclude segments of the population. The parks will be too expensive for many families to afford. (235, 245)

37. COMMENT: The Department should reconsider increasing fees during these hard economic times, as any fee increase may have a negative impact on park use, which will have a secondary effect on the local businesses. (86)

RESPONSE TO COMMENTS 35 THROUGH 36: The adopted rules do not increase parking or entrance fees to New Jersey residents, and do not impose new entrance fees for entrance to historic sites and State parks for which an entrance fee was not previously charged. As discussed in the Economic Impact, 44 N.J.R. at 1942, the amendments to the fees are necessary to keep the amenities and services available to New Jersey residents and tourists visiting the State. The fees represent a balance between offsetting a portion of operating costs of the parks and minimizing the economic impact of fees on visitors to the parks. (44 N.J.R. at 1942.) For a discussion of the fees for visitors and New Jersey residents, see the Response to Comments 28 through 30.

#### Miscellaneous Uses

38. COMMENT: The new rules allow, with the approval of the park superintendent, such activities as parasailing, paragliding, and the use of helicopters within the park. These could potentially be used for private events, and should not be allowed. (151)

RESPONSE: Public and private events regularly occur within the State parks and forests. The fees that the events generate further the State's goal of making the park system more self-sustaining, in accordance with Governor Christie's Park Sustainability Plan (<http://www.nj.gov/dep/sustainableparks/docs/funding-strategy-es.pdf>). In accordance with adopted N.J.A.C. 7:2-2.22, the Department requires special permission for these otherwise restricted recreational activities in order that the Department can provide prompt emergency response, if required. (44 N.J.R. at 1937)

39. COMMENT: There should be no hunting, trapping, and fishing at night in the State's parks. (151)

RESPONSE: Hunting, trapping, and fishing are permitted in State parks in accordance with the State's Fish and Wildlife regulations at N.J.A.C. 7:25. The Department did not propose amendments to provisions in the State Park Service Code relating to hunting, trapping, and fishing. Accordingly, the comment is beyond the scope of this rulemaking.

### **3. Comments Received on Notice of Proposed Substantial Changes on Adoption of Proposed Amendments**

The Department received one comment during the comment period for the notice of proposed substantial changes on adoption of proposed amendments, from Robert Lick. A summary of the comment and the Department's response follows. The comment is numbered sequentially to continue from section 2 above.

40. COMMENT: The definition of "mobile sport fishing vehicle" as proposed to be modified on adoption is much more acceptable than as initially proposed. The modified definition appropriately recognizes long-standing traditional configurations and use of mobile sport fishing vehicles.

RESPONSE: The Department acknowledges the commenter's support for the modified definition.

### **Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65) require State agencies that adopt, readopt, or amend any State rule or regulation that exceeds any Federal standards or requirements to include in the rulemaking document a Federal standards analysis.

The adopted new rules, amendments, and repeal 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, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal standards analysis.

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from the proposal indicated in brackets with asterisks \*[thus]\*):

## SUBCHAPTER 1. GENERAL PROVISIONS

### 7:2-1.7 Definitions

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise.

...

“Mobile sport fishing vehicle” means a two-axle, four-wheel drive passenger motor vehicle, having tires no larger than 40 inches in overall diameter, designed to be licensed and operated on the public roadways and highways of the State and capable of four-wheel drive operation when off the public roads on the beach. ATVs\*[, recreational camping vehicles

(RVs),] \* **and** trailers-in-tow\*[, and military-designed or military surplus vehicles (whether or not modified for civilian use)]\* are specifically excluded from this definition.

...

“Off-road vehicle” means any motorized vehicle with two or more wheels or tracks that is capable of being operated off of improved and maintained roads including, but not limited to, motorcycles as defined at N.J.S.A. 39:1-1 et seq., Motor Vehicles and Traffic Regulation, snowmobiles, and all-terrain vehicles, and dirt bikes as defined at N.J.S.A. 13:1L-1 et seq., Acquisition, Construction and Management of State Parks and Forests. A motorcycle that is \*[designed to be licensed and operated primarily on the public roadways and highways of the State is not considered capable of operating off of improved and maintained roads and]\* **\*registered, insured, authorized under N.J.S.A. 39:3-1 et seq. to operate on public roadways in the State, and ridden by a licensed operator\*** is not included in this definition.

...

### SUBCHAPTER 3. MOTORIZED VEHICLES

#### 7:2-3.2 Unauthorized motor vehicle use

(a) - (d) (No change.)

(e) Except in accordance with N.J.A.C. 7:2-3.4(d), a person shall not operate or permit the operation on or over lands or in or on waters under the jurisdiction of the State Park Service of a motorized vehicle likely to cause damage or injury to persons, wildlife, or property within the jurisdiction of the State Park Service. Such vehicles include, but are not limited to, a motor vehicle having more than two axles \*[and capability of four-wheel drive] **\*or having tires larger than 40 inches in overall diameter\***, an ATV, \*[military-designed or surplus vehicle (whether or not modified for civilian use),]\* or an unlicensed or unregistered motor vehicle.