

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF PARKS AND RECREATION

Statutory Authority: 7 Delaware Code, Section 4701(a)(4) and 29 Delaware Code, Section 8003(7)
(7 Del.C. §4701(a)(4) and 29 Del.C. §8003(7))
7 DE Admin. Code 9201

FINAL

Secretary's Order No.: 2018-P-0029

RE: Approving Final Regulations to Amend 7 DE Admin. Code 9201: *Regulations Governing State Parks*

Date of Issuance: April 16, 2018

Effective Date of the Amendment: May 11, 2018

9201 Regulations Governing State Parks

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 Del.C. §4701(a)(4), 7 Del.C. §§6006 and 6010, 29 Del.C. §8003(7), and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory proceeding.

Background, Procedural History and Findings of Fact

This Order relates to proposed regulation amendments ("Amendments") to 7 DE Admin. Code 9201: *Regulations Governing State Parks*, necessitated as a result of the recent decision of the Delaware Supreme Court in *Bridgeville R&P Club, et al., v. Small*, 176 A.3d 632 (Del. 2017), which expanded the scope of legal possession of firearms within Delaware's State Parks, State Forests, and State Wildlife areas. Delaware State Parks and State Wildlife areas are under DNREC jurisdiction, while State Forests are under the jurisdiction of the Delaware Department of Agriculture ("DDA").

In the *Bridgeville* decision, the Court found that portions of existing firearm regulations of both DNREC and DDA violated the Delaware Constitution, in that they were overly broad in their prohibitions. Without valid regulations, firearms would essentially be unregulated (1) within Delaware's State Forest lands, including facilities such as education centers, lodges and offices; (2) within Delaware's State Parks; and (3) on land and waters administered by the Department's Division of Fish and Wildlife, including facilities such as visitor centers, educational facilities, and offices. Thus, on December 26, 2017, pursuant to 29 Del.C. §10119, both DNREC and DDA adopted emergency regulation amendments to those portions of each agency's existing regulations affected by the *Bridgeville* decision.

The emergency regulations of DNREC and DDA, as published in the Delaware *Register of Regulations* on January 1, 2018, are intended as interim measures, necessary to avoid the risk of harm to public health, safety, and welfare, pending the formal adoption of regulation amendments pursuant to the Administrative Procedures Act ("APA"), within the 120-day period (renewable for an additional sixty days) allotted to emergency regulations. Once finalized and adopted, the formal regulatory Amendments of both DNREC and DDA will immediately supersede the emergency regulations, pursuant to both the APA and 29 Del.C. §10115.

With the aforementioned emergency regulations in effect, both DNREC and DDA then began the formal adoption of the proposed regulations, so as to comply with the *Bridgeville* decision. The Department has the statutory basis and legal authority to act with regard to this proposed regulatory promulgation, pursuant to 7 Del.C. §4701(a)(4) and 29 Del.C. §8003(7).

The commencement of the formal regulatory development process was begun by both DNREC and DDA with the publication of each agency's proposed regulation Amendments in the February 1, 2018 Delaware *Register of Regulations*. Thereafter, public workshops were held jointly by both agencies in each county throughout the State of Delaware in February 2018. The joint public hearing in this matter was held on March 12, 2018, where the aforementioned proposed Amendments were then presented and thoroughly vetted to members of the public. All proper notification and noticing requirements concerning this matter were met by both DNREC and DDA. Proper notice of the hearing was provided as required by law.

The joint hearing held on March 12, 2018 was heavily attended by members of the public, with comment being received by the Department at that time. Pursuant to Delaware law, the record remained open for fifteen (15) additional days subsequent to the date of the hearing for the purpose of allowing additional public comment to be received regarding this proposed promulgation. The hearing record closed for comment in this matter on March 27, 2018, with additional public comment having been received by the Department during the post-hearing phase of this formal promulgation.

After the comment period formally closed, the Department performed a thorough review of the record, including, but certainly not limited to, all of the comments received on the proposed Amendments. The full range of comments contained

in the formal hearing record includes those from members of the public, as well as from other contributors such as the Delaware Association of Second Amendment Lawyers, the National Rifle Association of America, and the Giffords Law Center.

These proposed regulatory Amendments were necessitated by the Delaware Supreme Court's decision in *Bridgeville*, and the resulting need for the existing firearms regulations of both DNREC and DDA to comply with the same. The Court has drawn the lines to delineate how State agencies may regulate firearms, and DNREC and DDA believe that they have respected those limits with these proposed regulatory Amendments.

In *Bridgeville*, the Court specifically described the types of areas within which firearms could be restricted. The proposed regulatory Amendments limit the possession and use of firearms in defined common areas, such as visitor centers, lodges, educational facilities and dormitories, family campgrounds, bathhouses, playgrounds, recreational facilities, and guarded beaches. In adhering to the Court's guidance, only those with concealed-carry permits or law enforcement credentials may carry firearms into these and other "designated areas." The limits on firearms in crowded areas on State lands are consistent with the statutory limits on the use of deadly force. Moreover, the proposed regulatory Amendments specifically state that "[f]irearms may be carried within areas administered by the Division, outside of designated areas, by any person not prohibited by 11 **Del.C.** §1448." This language is found in all three sets of the proposed regulation amendments, specifically, 3 **DE Admin. Code** 402 at Section 8.8.4; 7 **DE Admin. Code** 3900 at Section 8.3.4.10; and 7 **DE Admin. Code** 9201 at Section 21.1.5.

Hearing Officer Vest prepared a Hearing Officer's Report dated April 9, 2018 ("Report"). The Report documents the proper completion of the required regulatory amendment process, establishes the record, and recommends the adoption of the proposed Amendments as attached to the Report as Appendix "A."

Reasons and Conclusions

Based on the record developed by the Department's experts and established by the Hearing Officer's Report, I find that the proposed regulatory amendments to 7 **DE Admin. Code** 9201: *Regulations Governing State Parks* are well-supported. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that the proposed regulatory Amendments be promulgated as final. I further find that the Department's experts fully developed the record to support adoption of these regulatory Amendments.

In conclusion, the following reasons and conclusions are entered:

1. The Department has the statutory basis and legal authority to act with regard to its proposed amendments to 7 **DE Admin. Code** 9201: *Regulations Governing State Parks*, pursuant to 7 **Del.C.** §4701(a)(4) and 29 **Del.C.** §8003(7);
2. The Department has jurisdiction under its statutory authority, pursuant to 7 **Del.C.** Ch. 60, to issue an Order adopting its proposed regulatory Amendments as final;
3. The Department provided adequate public notice of the proposed regulatory Amendments, and all proceedings associated with the same, in a manner required by the law and regulations, provided the public with an adequate opportunity to comment on the proposed regulatory Amendments, including at the time of the public hearing held on March 12, 2018, and held the record open through close of business on March 27, 2018, consistent with 29 **Del.C.** §10118(a), in order to consider public comment on the same before making any final decision;
4. Promulgation of the proposed regulatory Amendments will enable the Department to comply with the Delaware Supreme Court's decision in *Bridgeville R&P Club, et al., v. Small*, 176 A.3d 632 (Del. 2017), which expanded the scope of legal possession of firearms within Delaware's State Parks, State Forests, and State wildlife areas;
5. The Department has reviewed these proposed regulatory Amendments in the light of the Regulatory Flexibility Act, consistent with 29 **Del.C.** Ch. 104, and has selected Exemption "B1" concerning same, as these proposed regulatory Amendments are not substantially likely to impose additional costs or burdens upon individuals and/or small businesses;
6. The Department's Hearing Officer's Report, including its established record and the recommended proposed regulatory amendments as set forth in Appendix "A," are hereby adopted to provide additional reasons and findings for this Order;
7. The Department's proposed regulatory Amendments, as published in the February 1, 2018 Delaware *Register of Regulations*, and as set forth in Appendix "A" as noted above, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they are approved as final regulatory Amendments, which shall go into effect ten days after their publication in the next available issue of the Delaware *Register of Regulations*; and
8. The Department shall submit this Order approving as final the proposed Amendments to 7 **DE Admin. Code** 9201: *Regulations Governing State Parks*, to the Delaware *Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.

Shawn M. Garvin
Secretary

1.0 Definitions

"Actively Engaged in Surf Fishing" means when a person is taking all reasonable and necessary actions to maximize the probability of hooking and landing game fish by rod, reel and line attached to a baited rig, artificial lure or artificial fly. A person is also actively engaged in surf fishing when they are within 50 feet of their fishing equipment and are tending, casting and recasting their fishing equipment.

"Activity Charge" means any fee assessed to offset the costs associated with a particular program or activity."

"Alcoholic Liquor", "Alcoholic Beverages" include the 4 varieties of liquor defined in 4 Del.C. §101 (alcohol, spirits, wine and beer) as well as every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being and any liquid or solid containing more than 1 of the 4 varieties defined in 4 Del.C. §101 is considered as belonging to that variety which usually has the higher percentage of alcohol.

"Authorized Agent" shall mean any employee of the Division or volunteer who has been delegated the authority to perform or cause to be performed, certain designated acts or functions within the scope of his duties.

"Bicycle" shall include that certain class of vehicles which are exclusively human-powered by means of foot pedals, which the driver normally rides astride, which have not in excess of 3 wheels and which may be commonly known as unicycles, bicycles and tricycles. The term "bicycle" also includes a 2- or 3-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 horsepower), whose maximum speed on a paved level surface, when powered solely by such motor while ridden by an operator who weighs 170 pounds, is less than 20 miles per hour. (21 Del.C. §101(4)).

"Commission" means the Commission created under 4 Del.C. Ch. 3, under the name of "The Delaware Alcoholic Beverage Control Commission".

"Department" shall mean the Department of Natural Resources and Environmental Control.

"Director" shall mean the Director of the Division of Parks and Recreation or his designee.

"Division" shall mean the Division of Parks and Recreation of the Department of Natural Resources and Environmental Control.

"Drug Paraphernalia" for the purposes of this chapter shall be defined in 16 Del.C. §4701.

"Firearm" includes any weapon from which a shot, projectile or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, whether operable or inoperable, loaded or unloaded. (11 Del.C. §222(12)).

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Hunter Registration Card" means a document issued by the Division which confers eligibility to participate in hunting programs on parks subject to special restriction.

"License" means any license, temporary instructor's permit or temporary license issued under the laws of the state pertaining to the licensing of persons to operate motorized vehicles or vessels. "License" shall also mean any document issued by the State for hunting or fishing.

"Motorized Vehicle" means every vehicle which is self- propelled including, but not limited to, mopeds, motorcycles, all terrain vehicles (ATV) and other two, three or four-wheel vehicles, except Other Power-Driven Mobility Devices that comply with the device specifications in the Division of Parks and Recreation's administrative policy.

"Operator" means any person who is in actual in physical control of any motorized vehicle, vessel, snowmobile or other means of conveyance.

"Owner" means a person who holds legal title to a vehicle, vessel or snowmobile.

"Permit" shall mean any written license issued by the Department permitting the performance of a specified act or acts.

"Resident" shall mean any person, persons or corporations owning a motorized vehicle(s) duly registered by the Delaware Motor Vehicle Division of the Department of Public Safety and possessing a valid Delaware Motor Vehicle operator's license.

"Restaurant" means any establishment, provided with special space and accommodation, where, in consideration of payment, food is habitually furnished to a park visitor, and does not include the following types of establishments defined in 4 Del.C. §101, tavern or taproom.

"Restricted Use Parking Area" means those parking areas which may be set aside and reserved for use by persons patronizing certain facilities within the park. Such areas will be signed designating type of use: i.e., Restaurant Parking, Marina Parking, etc.

"Secretary" shall mean the Secretary of the Department of Natural Resources and Environmental Control.

"Snowmobile" means a motorized vehicle designed to travel over ice or snow supported in whole or in part by skis, belts, or cleats, or an engine-driven vehicle of a type which uses sled-type runners or skis or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment or any military or law enforcement vehicle.

"State" shall mean the State of Delaware.

"Surf Fishing Vehicle Permit" means the owner's copy of the written permit and a surf fishing vehicle plate with current year validation sticker affixed.

"Vending" means to: solicit or receive an order for; keep or expose for sale; deliver or value in any other way than purely gratuitously; keep with intent to sell; traffic in; or for any valuable consideration, promise or obtain, directly or indirectly, or under any pretext or by any means whatsoever, procure, or allow to be procured for any other person.

"Vendor" means a person who is in the act of vending as defined in these regulations.

"Vessel" includes every description of water craft, other than a seaplane on water, used or capable of being used as a means of transportation.

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2.0 General Information

- 2.1 Purpose. It shall be the intent and purpose of the Division of Parks and Recreation to adopt only those minimal Rules and Regulations that are essential to the protection of Park resources and improvements thereto and to the safety, protection and general welfare of the visitors and personnel on properties under its jurisdiction.
- 2.2 Scope. Unless otherwise provided by statute, the following shall constitute the Rules and Regulations of the Division of Parks and Recreation and shall govern the use of all applicable lands, recreation areas, historic sites, natural areas, nature preserves, rights as grantee to conservation easements, marinas, waters and facilities administered by the Division of Parks and Recreation. No Rule or Regulation herein shall preclude the enforcement of any statute under the Delaware Code.
- 2.3 Regulation Authority. In accordance with Title 7 **Del.C.** §4702(c), of the Delaware Code Annotated, the Administrative Procedures Act, all Rules and Regulations of the Department of Natural Resources and Environmental Control, Division of Parks and Recreation, shall have the effect of law and shall be published in at least two newspapers, of general circulation in the territory to be affected, 30 days prior to the date the Rules and Regulation become effective, except in the case of an emergency, the Department or Division shall give such advance notice as deemed necessary or desirable.
- 2.4 Construction
 - 2.4.1 No Rule or Regulation herein shall be interpreted or construed in such a manner as to prevent or delay authorized personnel of the Department or other state, county or municipal agencies from completing official duties or emergency services.
 - 2.4.2 In special circumstances, events or emergencies, the Secretary or Director may, when it is deemed to be in the public interest, waive a specific Rule, Regulation or fee.
 - 2.4.3 Failure to enforce a specific Rule or Regulation at a particular instance or instances shall not affect the validity of any other Rule or Regulation or affect the validity of such Rule or Regulation at any other time.
- 2.5 Park Policies
 - 2.5.1 In order to promote the safety and welfare of park visitors and protect and manage property in the parks, the Director, Chief of Enforcement, Park Administrators and Superintendents shall have the authority to develop reasonable policies for State Parks that are not in conflict with 7 **Del.C.** Ch. 47 and these Rules and Regulations. These policies must be approved by the Director and posted in a conspicuous place in the park prior to their becoming effective. Copies of all policies shall also be maintained in the office of the Park Superintendent or Park Administrator and the Central Office.
 - 2.5.2 Violation of any park policy shall be grounds for eviction from the park and the denial, revocation or suspension of any permit issued or privilege granted by the Division.
 - 2.5.3 The Division shall have the authority to enforce safety rules and/or policies developed in accordance with 2.5.1 of these Regulations for the protection of visitors and property.

- 2.6 Severability. If any section, subsection, paragraph, sentence, phrase or word of these Rules and Regulations are declared unconstitutional by a court of competent jurisdiction, the remainder of these Rules and Regulations shall remain unimpaired and shall continue in full force and effect, and proceedings thereunder shall not be affected.
- 2.7 Any term contained in these Rules and Regulations shall be construed as follows:
- 2.7.1 Any term in the singular shall include the plural and vice versa;
 - 2.7.2 Any term in the masculine shall include the feminine and neuter;
 - 2.7.3 The prohibition of an act shall tend to include an attempt to commit such act and the causing and/or the procuring directly or indirectly of such act;
 - 2.7.4 No provision contained in these Rules and Regulations and no act performed by an officer or employee of the Department in the line of duty or in the scope of employment, or any act performed by a person, his agents, or employees in the performance or execution of the terms of an agreement with the Department shall be cause to be deemed unlawful; and
 - 2.7.5 Any reference to the Director, Park Administrator, Superintendent or Marina Manager shall include their authorized agent.
- 2.8 The violation of, or the refusal to obey, any Law, these Rules and Regulations, Park Policies or the terms or conditions of any permit issued or privilege granted by the Division shall be grounds for the suspension or revocation of any permit issued or privilege granted by the Division, the removal or eviction from State Park lands and/or the denial of future entry to, or the denial or future permits or privileges within State Parks. Any and all applicable permit fees shall be forfeited to, and retained by, the Division. Any such suspension, revocation, removal, eviction or the denial of entry, permit or privilege shall not preclude the prosecution of any person for violation of any Law or these Rules and Regulations.

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3.0 Use Restriction/Trespassing - Unclassified Misdemeanors

- 3.1 The Director may limit or close specific public use areas, lands, waters and/or facilities and/or temporarily prohibit certain activities, including possession and/or consumption of alcoholic beverages within those areas when such action is deemed necessary for property management, protection of flora, faunas and their habitats or when it is in the best interest of the health, safety, and the general welfare of the visitors.
- 3.2 Entering or remaining on lands under the jurisdiction of the Division when such lands are closed or entering or remaining within any building, structure or facility when such building, structure or facility is closed, shall be prohibited without written permission from the Director.
- 3.3 No person shall enter upon or be present upon lands administered by the Division, except as authorized by statute, regulation or written permission from the Director.
- 3.4 No structure, facility, building or area administered by the Division shall be used for any activity other than that for which it was intended.
 - 3.4.1 No person(s) shall sleep or attempt to sleep or otherwise be present and are not engaged in the activity for which the 24 hour facility or area is used for.
- 3.5 No person shall use or attempt to use a State Park campground or marina as a principle residence or as a base of operations for conducting any type of business either on a permanent or temporary basis.
- 3.6 Use of metal detectors on lands under the jurisdiction of the Division shall be prohibited except during normal park hours in the following areas:
 - 3.6.1 Ocean beaches east of the dune line.
- 3.7 No person shall collect, excavate, injure, destroy or appropriate prehistoric or historic artifacts or human skeletal remains from lands under the jurisdiction of the Division except with written permission from the Director. Violations under this paragraph may be charged under the provisions of 7 Del.C. §5306 or 7 Del.C. §5411.
 - 3.7.1 Possession or use of tools or devices specifically designed for the excavation and removal of artifacts or human skeletal remains shall be deemed prima facie evidence of a violation of this Regulation and will be confiscated, held as evidence and be subject to forfeiture upon conviction.
- 3.8 The Division maintains exhibits at the Brandywine Zoo, various Nature Centers and temporary exhibits to provide recreational interpretation to the public. The following regulations apply in these areas:
 - 3.8.1 No person shall bring pets or other animals into the Zoo.
 - 3.8.2 No person shall throw any object(s) at animals or into the animal enclosures.
 - 3.8.3 No person shall feed or attempt to feed any animal other than persons designated by the Zoo Director.

- 3.8.4 No person shall harass or attempt to harass any of the zoo animals by making unreasonable sounds, gestures, movements or use any object to touch the animals.
- 3.8.5 No person shall attempt to cross any safety barriers to prevent the animals from coming into contact with the general public.
- 3.8.6 No person shall put or attempt to put any body parts in the animal enclosures.
- 3.8.7 No person shall throw any object(s) into any exhibit.

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4.0 Campground Policy - Environmental D Violation

The Division shall develop policies as necessary pursuant to subsection 2.5.1 of these Regulations to ensure the safe and efficient operation of its campgrounds. Copies of the Campground Policy shall be kept on file in the park offices, posted in the campgrounds and will be made available to campers at the time of registration.

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5.0 Vessel Regulations - Environmental D Violation

- 5.1 No person shall launch or recover vessels from waters within or bordering on State Park lands except at designated boat-launch areas or docks.
- 5.2 No person shall operate a vessel except at slow-no-wake speed on any pond, lake, canal or within any marina under the jurisdiction of the Division.
 - 5.2.1 No person shall launch or operate a vessel powered by an internal combustion engine on Trussum Pond and Raccoon Pond.
- 5.3 All laws, rules and regulations as established by the Department governing boating in the State of Delaware shall apply to all ponds, lakes, rivers, canals, waterways, and marinas owned, leased, licensed or under the jurisdiction of the Division.
- 5.4 No person shall operate or use vessels of any type, including inflatable rafts, sailboats, rowboats, kayaks, and canoes on waters administered by the Division without one (1) Coast Guard approved lifejacket on board for each person.
 - 5.4.1 Operators and passengers of Division rental canoes, sailboats, kayaks or other watercraft rented or provided by the Division must wear a Coast Guard approved life jacket in the manner prescribed at all times while aboard such craft.
- 5.5 No person shall operate any vessel within one hundred (100) feet of a swimmer, surfer, or any designated swimming or surfboarding area, any swimmer or surfer or the coastline of any ocean beach or inland bay unless designated for such purpose.
- 5.6 Vessels and/or trailers shall not be anchored, moored, beached, stored or left unattended between the hours of sunset and 8 a.m. on lands or waters administered by the Division without authorization of the Park Administrator, Superintendent or Marina Manager.
- 5.7 Swimming or diving from any vessel, including a seaplane is prohibited in waters under the jurisdiction of the Division.
- 5.8 A person renting a vessel from the Division shall comply with the manufacturer's rated capacity for such vessel.
- 5.9 Operation of a vessel in a negligent or reckless manner which could endanger life, limb, or property is prohibited.
- 5.10 The parking or leaving of vessels, or vessel trailers in marina parking lots or marina areas overnight shall be prohibited unless prior written permission is given by the Marina Manager. This shall not apply to vessels and trailers legally stored within designated vessel storage areas or if the area is designated as a 24-hour facility by the Division.

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6.0 Marinas - Environmental D Violations

The Division shall develop policies as necessary pursuant to subsection 2.5.1 of the Regulations to ensure the safe and efficient operation of its marina. Copies of the Marina policies shall be kept on file in the Marina Office and will be made available upon request.

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7.0 Water Sports - Environmental D Violations

- 7.1 Persons swimming or sunbathing on areas administered by the Division shall be attired in acceptable swimwear, worn so as to prevent any indecent or lewd exposure of the person.
 - 7.1.1 Males - must cover buttocks and genitals
 - 7.1.2 Females - must cover buttocks, breasts and genitals
- 7.2 Swimsuits must be worn when using Division swimming pools. Cut-off jeans, trousers or other clothing not designed and sold as swimwear will not be permitted.
- 7.3 Lifeguards shall have the authority to enforce safety rules or policies that are deemed necessary for the protection of the public. Such rules shall be posted in a conspicuous place and shall be on file in the Park Administrator/Superintendent's office. Lifeguards shall have the authority to expel any person or persons who violate the Park Rules, Regulations and Policies.
- 7.4 No surfboards, sailboards, kayaks or similar watercraft shall be allowed in designated guarded swimming area unless approved by the Director or their designee.
- 7.5 Water skiing or towing of any persons on any type of device, other than on another vessel, shall be prohibited on all non-tidal waters administered by the Division, except by written permission of the Director or designee.
- 7.6 Use of scuba diving equipment shall be prohibited in all waters administered by the Division, unless written permission is given by the Director.
- 7.7 The possession of glass containers within any swimming area or on any beach administered by the Division shall be prohibited.
- 7.8 Swimming or diving is prohibited from all piers, docks, or bulkheads administered by the Division.
 - 7.8.1 Swimming or diving is prohibited from all vessels within marina waters.

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8.0 Ice Skating - Environmental D Violations

- 8.1 No person shall ice skate or enter upon any frozen pond, lake or stream administered by the Division except on areas as may be designated by the Division.
- 8.2 Areas where ice skating is permitted by the Division shall be marked and no person shall be permitted on the ice outside of such designated area.

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9.0 Surf Fishing Vehicles - Environmental D Violations

- 9.1 The Division through its authorized agents shall collect an annual fee and issue an appropriate permit for each 2 axle vehicle, with no less than 4 and no more than 6 wheels, equipped for travel upon sand beaches for the purpose of surf fishing at Cape Henlopen State Park, Delaware Seashore State Park, Fenwick Island State Park, and Beach Plum Island.
 - 9.1.1 Surf Fishing Vehicle Permits shall be issued only to those vehicles duly registered and licensed to operate on public highways.
- 9.2 No person shall operate a vehicle upon the beach areas or dune crossings administered by the Division without a permit for such vehicle as set forth in subsection 10.1.
 - 9.2.1 The owner's copy of the permit receipt shall be available for inspection at all times when the vehicle is being operated on such beach areas.
- 9.3 A valid surf fishing vehicle plate with a current surf fishing decal affixed must be properly displayed on the vehicle for which the permit was issued prior to operation on beach areas administered by the Division.
 - 9.3.1 The valid surf fishing vehicle plate shall be affixed to the front of the vehicle.
 - 9.3.2 A valid blue and white numberless plate will be issued upon the purchase of a permit. Numbered surf fishing plates issued prior to 2015 are hereby invalid.
 - 9.3.3 A valid Low Digit Tag may be used in place of the blue and white numberless plate.
 - 9.3.3.1 A Low Digit Tag is a black and white numbered plate auctioned by the Division starting in 2015.
 - 9.3.3.2 A surf fishing permit must be purchased for the current calendar year for the Low Digit Tag to be valid.
 - 9.3.3.3 If a surf fishing permit is not purchased within a current calendar year for the Low Digit Tag, the Division of Parks and Recreation shall have the sole discretion to reissue that Low Digit Tag number.
 - 9.3.3.4 If a Low Digit Tag number is reissued, any previously issued iterations of the Low Digit Tag number are henceforth invalid.

- 9.3.3.5 The sale, transfer or inheritance of a low digit tag is permitted. The owner and buyer/receiver of the low-digit tag must be present and complete an Affidavit to Transfer form to authenticate the transfer/sale. By law, surf-fishing tags numbered 200 or below may only be transferred to another Delaware-registered vehicle. All rules and regulations pertaining to the ownership of the low-digit surf fishing tag shall transfer to the new owner.
- 9.4 It shall be a violation of this Section to loan a Surf Fishing Vehicle Permit, or to use or attempt to use a Surf Fishing Vehicle Permit on any vehicle other than the vehicle it is assigned to. In addition to other action that may be taken, the permit will may be confiscated and held as evidence.
- 9.5 It shall be unlawful to operate any vehicle on any authorized dune crossing or on any beach area administered by the Division at any speed that is greater than is reasonable and prudent under the conditions, and having regard to the actual and potential hazards then existing, but never exceeding 15 m.p.h. In every event, speed shall be controlled and limited to that speed necessary to maintain traction and steering.
- 9.6 The capacity of the beaches administered by the Division to absorb the impact of vehicles, without substantial environmental degradations and decreased quality of experience for all visitors is limited. Therefore, vehicle use on the designated beaches is restricted to persons actively engaged in surf fishing. Permitted surf fishing vehicle operation on the beaches administered by the Division for reasons other than traveling to and from fishing areas for the express purpose of actively engaging in surf fishing, is prohibited. Any permitted surf fishing vehicle parked for any period of time on the beaches administered by the Division, without one or more persons who arrived in that vehicle being actively engaged in surf fishing is prohibited. When no one who arrived in the surf fishing vehicle is actively engaged in surf fishing, the surf fishing vehicle shall exit the beach immediately. In addition to other penalties prescribed in these rules and regulations and by statute, violation of this subsection is grounds for suspension or revocation of the permit.
- 9.6.1 Use of a surf fishing permit for the purpose of commercial bait fishing is permitted on the beaches administered by the Division provided all conditions and requirements of said permit are met and a permit is obtained from the Director.
- 9.6.2 All persons actively engaged in surf fishing must possess adequate saltwater fishing tackle, bait and/or lures commonly used for surf fishing.
- 9.6.3 On the beaches administered by the Division, surf fishing vehicles shall park between the toe of the dune and the high tide line in a single row, specifically meaning no vehicle shall park in front of or behind another vehicle.
- 9.7 The Division shall designate areas for surf fishing vehicle use on beaches under its jurisdiction. These areas shall be marked with symbol signs indicating 24-hour access, limited access and no access. Operation of a vehicle in an area not authorized for such use or during times and/or dates the area is closed to vehicles shall be a violation of this regulation.
- 9.8 The use or operation of any vehicle whatsoever, on, over, or across the sand dunes on Division lands is expressly prohibited, except when it is a vehicle displaying a valid Delaware Surf Fishing Vehicle Permit and is crossing dunes at authorized dune crossings, which are designated and maintained for that purpose by the Division.
- 9.8.1 Any other use or operation of a vehicle on, over or across the primary sand dunes, except at authorized crossings, is expressly prohibited. Violators of this regulation may be charged under 7 Del.C. §6805(b) which carries a penalty of \$200 to \$5,000 or imprisonment for up to two years or both, in addition to reimbursing the Department for reasonable expenses in remedying damages created.
- 9.9 Beach areas, including surf fishing areas, may be closed to pedestrians and vehicles, in whole or in part, for resource protection or for health, welfare, and/or safety reasons for such a period as may be determined by the Department. Unauthorized entry into a posted and/or barricaded closed area shall be a violation of this regulation.
- 9.10 The Director shall have the right to suspend Surf Fishing Vehicle Permits for up to 90 days or to revoke permits for up to three (3) years for conviction of reckless operation of a surf fishing vehicle or operation of a surf fishing vehicle under the influence of alcoholic beverages and/or drugs on lands administered by the Division or for violations of these regulations.

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10.0 Vehicles - Environmental D Violations

- 10.1 Vehicles operated on lands administered by the Division shall be in compliance with all State statutes, laws, rules and regulations.
- 10.1.1 No person shall operate any motorized vehicle upon any lands administered by the Division, unless said vehicle is licensed for use upon public highways and roadways.

- 10.1.2 Vehicles operated on lands administered by the Division must be properly equipped with brakes, headlights, tail lights, tag light, turn signal, and horn all in good working order.
- 10.1.3 Towed trailers must have an adequate towing hook-up, complete with safety chains. They must also be equipped with operating tail lights, turn signals, tag light, and be currently registered to be towed on public roads.
- 10.2 No person shall operate a motorized vehicle, motorcycle, motor bike or other two or three-wheeled motor driven vehicle upon any lands administered by the Division, unless said person has been issued and is the holder of a valid license or permit to operate said vehicle on public highways and roadways.
 - 10.2.1 The license or permit shall be in the immediate possession of the licensee at all times when driving a motorized vehicle, motorcycle, motor bike or other two or three-wheeled motor driven vehicle and he/she shall display same upon demand of Department Enforcement personnel.
- 10.3 No person shall authorize or permit a motorized vehicle of any type owned by him or under his control to be driven by any person on lands administered by the Division, knowing that said person has no legal right to do so, or shall authorize or permit said vehicle to be driven in violation of any of the provisions of the said Division's Rules and Regulations.
- 10.4 The driver of a motorized vehicle when on lands administered by the Division shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle, the traffic and the condition of the roadway or area.
- 10.5 Every driver shall yield preferential right-of-way at an intersection or other place indicated by stop signs or yield signs authorized and installed by the Division.
 - 10.5.1 Except when directed to proceed by an enforcement officer or traffic control device, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall come to a complete stop before entering the intersection.
 - 10.5.2 The operator of any vehicle who has come to a full stop, as provided in 11.1.1 of this Regulation, shall not enter upon or across such intersection until such movement can be made in safety.
- 10.6 Specific motorized vehicle speed limits on lands administered by the Division:
 - 10.6.1 Every driver shall observe all posted speed limits. When no special hazard exists the following speed shall be lawful, but any speed in excess of such limits shall be absolute evidence that the speed is not reasonable or prudent and that it is a violation of this Section:
 - 10.6.1.1 25 m.p.h. -- on roads administered by the Division unless otherwise posted or stated in Regulations.
 - 10.6.1.2 10 m.p.h. -- in parking, camping and congested areas unless otherwise posted.
- 10.7 No person shall operate a motorized vehicle on lands administered by the Division in a willful or wanton disregard for the safety of person or property.
 - 10.7.1 No person shall operate a motorized vehicle on lands administered by the Division in a careless, inattentive or imprudent manner without due regard for road, weather and traffic conditions.
 - 10.7.2 The intentional accelerating of a motorized vehicle causing spinning of tires or what is commonly known as "burning rubber" on any park facility or roadway within an area administered by the Division is prohibited and shall be a violation of this Section.
- 10.8 An operator and/or passenger of a motorcycle under the age of 18 must wear a safety helmet of a type approved by the Secretary of Public Safety.
- 10.9 An operator of a motorized vehicle shall not permit any person riding upon any bicycle, coaster, roller skates, sled or toy vehicle to attach same or himself to any motorized vehicle being operated on lands administered by the Division.
- 10.10 No person, while on lands administered by the Division, shall ride upon any vehicle without the consent of the driver, and when any person is riding on any vehicle with the driver's consent, no part of the person's body may protrude beyond the limits of the vehicle.
- 10.11 No person shall drive or operate a motorized vehicle on lands administered by the Division, unless such motorized vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.
- 10.12 No vehicle shall be driven, moved or parked on any lands administered by the Division unless so loaded or constructed as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.
- 10.13 It shall be unlawful for any person to operate any motorized vehicle or any other type of vehicle within any area administered by the Division except on such roads or areas specifically designated by the Division for such purpose.

- 10.14 No driver shall at any time drive to the left of a solid center line on a roadway when operating a vehicle on lands administered by the Division.
- 10.15 Where traffic control devices establish one-way traffic, it shall be unlawful to drive in the opposite direction unless directed by a Law Enforcement Officer.
- 10.16 No person shall drive a motorized vehicle on any lands administered by the Division while using an electronic communication device while such motorized vehicle is in motion.
 - 10.16.1 "Electronic communication device" shall mean a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, 2-way messaging device, electronic game, or portable computing device.
 - 10.16.2 Using" shall mean holding in a person's hand or hands an electronic communication device while: viewing or transmitting images or data; playing games; composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or engaging in a call. "Using" specifically does not include a person engaging in a call with a hands-free electronic communication device while utilizing hands-free equipment and such person does not hold the hands-free electronic communication device in such person's hand or hands;
 - 10.16.3 This section shall not apply to a law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;
 - 10.16.4 This section shall not apply to a person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or medical or hazardous materials emergency, or to report the operator of another motorized vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs, or to report any crime.
- 10.17 The driver of a motorized vehicle operated on any lands administered by the Division shall wear a properly adjusted and fastened seat belt which meets the applicable federal motorized vehicle safety standards. The driver of a motorized vehicle shall secure or cause to be secured in a properly adjusted and fastened seat belt system, as defined by the applicable federal motorized vehicle safety standards, each occupant of the passenger compartment of the motorized vehicle who is 16 years of age or older.
 - 10.17.1 As used in this section, "motorized vehicle" does not include motorcycles.
 - 10.17.2 This section shall not apply to any person who possesses a written verification from a licensed physician or a licensed physical therapist that such person is unable to wear or use a seat belt for physical or medical reasons or any motorized vehicle which is not required to be equipped with seat belt under federal law or has otherwise been exempted from compliance in conformity with federal law.
- 10.18 The driver of a motorized vehicle shall secure or cause to be secured any child through the age of 7 and up to and including the weight of 65 pounds in a motorized vehicle operated on any lands administered by the Division, for providing protection of the child by properly securing the child in all seating positions, according to manufacturer's instruction, in a child safety seat or booster seat meeting federal motorized vehicle safety standards, and that is appropriate for the child's weight and height. Every child who has either attained the age of 8 or a weight in excess of 65 pounds and has not yet attained the age of 16 shall, in all seating positions, wear a properly secured seatbelt while in a motorized vehicle operated any lands administered by the Division.

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11.0 Parking Violations

- 11.1 It shall be unlawful to stop, park or leave unattended any motorized vehicle on any roadways, berms, trails, no parking zones or in any other areas not specifically designated as a parking area on lands administered by the Division.
 - 11.1.1 No person shall park any vehicle in a parking space marked or signed as a designated handicap parking space unless such vehicle bears a special handicap license plate or displays an authorized identification card indicating the vehicle is a vehicle of the handicapped and bearing the license number of the vehicle to which it was issued.
 - 11.1.2 No person shall park a vehicle and allow said vehicle to remain parked in an area longer than the posted time limit.
 - 11.1.3 No person shall park in any parking space that is signed and marked as reserved for a Park Ranger, emergency vehicles or employee parking.
 - 11.1.4 No person shall park in a "Restricted Use Parking Area" unless parking is for use of the facility so designated.
 - 11.1.5 No person shall park in any fire lane or within fifteen (15) feet of a fire hydrant.

- 11.1.6 No person shall park a vehicle in any designated area without first having paid the appropriate rate, fee or charge established by the Division or Department.
- 11.2 It shall be unlawful for any vehicle to remain on lands administered by the Division after "closing hours" for any day-use areas closed from sunset until 8 a.m.
- 11.3 It shall be unlawful to leave any motorized vehicle unattended on lands administered by the Division for a period exceeding 24 hours, without prior notification to the Park Administrator or Superintendent or written approval from the Director.
- 11.4 Any officer empowered to enforce Division Rules and Regulations during the performance of his duties may remove or cause to be removed from any lands administered by the Division, at the owner's or operator's expense, any motorized vehicle, camping unit, or part thereof, parked or standing illegally or in violation of these regulations.
- 11.4.1 No vehicle or camping unit removed or caused to be removed pursuant to this Section shall be released until payment is made for such removal and/or storage and proper authority to process and operate said vehicle, camping unit or part thereof displayed by the person attempting to recover said vehicle, camping unit or part thereof.
- 11.4.2 No liability shall occur to the Division or its authorized agents for any damage or loss caused by such removal or storage.

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12.0 Bicycles and Skating Equipment - Environmental D Violations

- 12.1 Anyone riding a bicycle or propelling a vehicle by human power shall have all the rights and all the duties applicable to the operator of any other vehicle referenced within these Regulations and shall be in compliance with all State laws, rules and regulations when operating on lands administered by the Division.
- 12.1.1 Bicycling is permitted only on roadways designated for public use, designated and signed bike paths and multiple-use trails designated and signed for such use. Bicycles with electric motors are prohibited on all trails except with written permission from the Director.
- 12.1.2 Bicycles must be ridden as far to their right as possible on roadways and trails.
- 12.1.3 Bicyclists must give hand signals when stopping or turning on Park roadways and trails.
- 12.1.4 Bicycles operated on designated bike trails/paths shall yield right of way at all locations where the trail or path intersects with any roadway. Bicycle riders shall yield to horseback riders and/or hikers encountered on multiple use trails administered by the Division. Bike riders shall come to a complete stop and allow horseback riders and/or hikers to pass.
- 12.1.5 Bicycles operated at night shall be equipped with:
- 12.1.5.1 a lamp on the front which shall emit a white light and be visible for 500 feet, and;
- 12.1.5.2 Reflectors or reflectorized material on the rear and both sides visible from 600 feet.
- 12.1.6 No one shall operate a bicycle on Park roadways with ear plugs in both ears or while wearing a headset covering both ears.
- 12.1.7 Persons riding bicycles upon a roadway or trail shall not ride more than 2 abreast. Persons riding 2 abreast shall not impede the normal and reasonable movement of traffic.
- 12.1.8 Persons riding bicycles upon a roadway or trail shall obey the instructions of any traffic control device, including traffic signal lights, traffic signs, traffic markings, and trail markings.
- 12.1.9 Bicycles operated upon lands administered by the Division shall not be operated in wilful or wanton disregard for the safety of persons or property, in a careless or imprudent manner, or without due regard for road, weather and traffic conditions then existing, or in an aggressive manner.
- 12.2 Using roller skates, skateboards, roller skis or similar devices is prohibited on lands administered by the Division except in areas which may be designated for such use.
- 12.3 No person shall operate a motorized scooter, moped or similar device not defined in 21 **Del.C.** §101(35).
- 12.4 Persons on skateboards, roller skates, coasters, sleds or toy vehicles are prohibited from being towed or propelled by a motorized vehicle on lands administered by the Division.

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13.0 Aviation - Environmental D Violations

- 13.1 No person shall voluntarily bring, land or cause to descend or alight on or upon any lands or waters administered by the Division any aircraft, flying machine, balloon, parachute, drones or other apparatus for

aviation except with the prior consent of the Director. "Voluntarily" shall mean for purposes of this paragraph anything other than a forced or emergency landing.

- 13.2 Flying of radio-controlled model aircraft, including drones, or the launching of model rockets shall not be permitted in areas administered by the Division except in areas set aside and designated for such purposes. Special policies regarding insurance and operating conditions will be posted.

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14.0 Domesticated Animals/Pets - Environmental D Violations

- 14.1 No person shall ride or lead a horse through any area or upon any roadway, trail or path administered by the Division unless such area, trail, roadway or path is designated for such use by the Division.
- 14.1.1 Animal-drawn vehicles are permitted upon roadways and parking areas and shall be granted all the rights and shall be subject to all the regulations applicable to motorized vehicles except for those regulations which by their very nature can have no application.
- 14.2 In areas where horses are permitted on ocean beaches administered by the Division, owners/riders must stay within the parameters outlined in the Horseback Riding Policy.
- 14.2.1 On State Park ocean beach areas, horses must use the designated crossings as outlined in the Horseback Riding Policy.
- 14.2.2 Vehicle and trailers used to transport horses shall be parked in accordance with the Division's Horseback Riding Policy.
- 14.3 Horseback riders shall yield to hikers encountered on multiple use trails administered by the Division. The horseback rider shall stop and remain stopped until the hiker passes.
- 14.4 Except service animals as defined by the Americans with Disabilities Act, dogs and other domesticated animals, shall not be permitted within or upon designated picnic areas, nature trails, public buildings, structures and other designated areas administered by the Division.
- 14.4.1 Except service animals as defined by the Americans with Disabilities Act, dogs and other domesticated animals shall not be permitted upon or within any Division-administered swimming area, or swimming area beach or surfboard/sailboard areas at anytime, day or night, from May 1 through September 30 each year, 7 Del.C. §1715.
- 14.5 In areas where such animals are permitted, person(s) having custody of said animal must keep it restrained on a leash not to exceed six (6) feet in length and under proper control. The sole use of an electronic lease shall be prohibited.
- 14.5.1 Leases are not required when lawfully hunting with a dog or when training dogs within designated and authorized hunting and/or training areas.
- 14.6 In areas where such animals are permitted, person(s) having custody of said animal shall not leave the pet unattended.
- 14.7 Any person(s) with a dog or other domesticated animal or pet, that creates a nuisance or disturbance, or who fails to properly control such animals, may be evicted without refund or reduction of fee.
- 14.8 Owners or persons having custody of dogs or other domesticated animals shall be responsible for the clean up and removal of any feces deposited by the animal.

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15.0 Conduct - Unclassified Misdemeanor

- 15.1 Disorderly conduct is unlawful and enforcement action may be taken against any person who intentionally causes public inconvenience, annoyance, nuisance, or alarm to any other person who creates a risk thereof by:
- 15.1.1 Engaging in fighting or in violent, tumultuous or threatening behavior;
- 15.1.2 Making an unreasonable noise or an offensively coarse utterance, gesture or display or addressing abusive language to any person present;
- 15.1.3 Disturbing any lawful assembly or meeting of persons without lawful authority;
- 15.1.4 Obstructing vehicular or pedestrian traffic;
- 15.1.5 Congregating with other persons and refusing to comply with a lawful order of an enforcement officer to disperse;
- 15.1.6 Creating a hazardous or physically offensive condition which serves no legitimate purpose; or

- 15.1.7 Engaging with at least one other person in a course of disorderly conduct, which is likely to cause substantial harm or serious inconvenience, annoyance or alarm and refuses or knowingly fails to obey an order to disperse made by an enforcement officer to the participants.
- 15.2 No person shall expose themselves in any manner which would be considered as indecent exposure or perform any lewd act which they know is likely to be observed by others who would be affronted or alarmed by such act or exposure on lands or waters or in facilities administered by the Division.
- 15.2.1 The disposal of human body waste is prohibited except within designated facilities provided for that purpose.
- 15.3 Gambling is prohibited and no person shall bring into any area administered by the Division, with the intention of engaging in a game of chance for money or other valuables, any implement or device commonly used or intended for gambling purposes.
- 15.4 Practicing, playing or using equipment pertaining to archery or golf on lands administered by the Division is prohibited except in those areas specifically designated for such use.
- 15.5 The playing of games on lands administered by the Division involving thrown objects such as hardballs, Frisbees, horseshoes, etc. shall be restricted to such areas set aside for such activities.
- 15.6 No person while on lands administered by the Division shall, without a valid written permit, use any radio or other sound-producing device or article which, in any way, may annoy or disturb a reasonable person of normal sensitivities.
- 15.7 No person, while on lands administered by the Division, shall at any time use a horn other than as a reasonable warning signal or make any unnecessary or unreasonable harsh sound by means of a horn or other amplified warning devices.
- 15.8 Reasonable quiet must be maintained at all times within all overnight facilities, particularly between the hours of 10 p.m. and 7 a.m. Unnecessary loud noises or disturbances of any nature, which are disturbing to others, shall be prohibited.

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16.0 Fires - Environmental D Violation

- 16.1 No person shall kindle, build, maintain or use a fire on lands administered by the Division, unless said fire is in a designated area and confined within fireplaces, grills, fire rings, or other equipment designed for the purpose of containing cooking fires.
- 16.1.1 Any fire shall be under the care and direction of a competent person from the time it is kindled until it is extinguished.
- 16.1.2 All fires must be properly extinguished and the ashes, embers or coals disposed of in receptacles provided for such purpose, so as to cause no danger whatsoever to persons, structures, animals, plant life, or vehicles.
- 16.1.3 Fires shall be prohibited on designated swimming/surfing beaches administered by the Division.
- 16.1.4 No fires larger than necessary for cooking purposes shall be permitted unless there is written permission from the Director.
- 16.1.5 Fires of any type or the use or possession of lanterns which use inflammable fuel, are not permitted on fishing piers.
- 16.2 The possession, explosion or discharge of any firecrackers, torpedoes, rockets or other fireworks or explosives in areas administered by the Division is prohibited, except with prior written permission of the Director.

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17.0 Property Violations - Unclassified Misdemeanor

- 17.1 It shall be unlawful to place, dump, deposit, throw or leave any garbage, refuse, trash, cans, bottles or other debris of any kind within or upon any public beach, lands or waters administered by the Division, except in receptacles provided for such purpose.
- 17.1.1 No person shall bring into a State Park from an area outside of the Park any garbage, refuse, waste, rubbish or obnoxious materials for the purpose of disposing of such in park litter receptacles.
- 17.2 Disposing or discharging of solid waste on lands or waters under the jurisdiction of the Division is prohibited. Violators may be charged under 7 Del.C. §6025(b).
- 17.3 Unless specifically authorized by the Department for management, research or educational purposes, the cutting, injuring or removal of trees, shrubs, wildflowers, ferns, mosses, or other plants from lands administered by the Division is strictly prohibited.

- 17.4 Removing, defacing, damaging, altering, or tampering of any tangible property, including structures, buildings, natural features, and equipment on lands administered by the Division is strictly prohibited.
- 17.5 The willful harming, collecting, harassing or possessing of wildlife, flora, or fauna on lands administered by the Division is strictly prohibited.
- 17.6 Walking on, over, or across a primary dune administered by the Division, except at locations specified by the Department or Division for such use, shall be prohibited.
- 17.7 Operating a motorized vehicle in such a manner as to cause willful, wanton or reckless damage to lands administered by the Division, is prohibited and shall be a violation of this Section.
- 17.8 Use of dedicated state nature preserves shall be limited to posted trails and permitted activities. Property violations are enforceable under these Rules and Regulations and 7 Del.C. Ch. 73.
- 17.9 Activities such as rock climbing, rappelling, or similar are only permitted in designated areas and with the proper permit issued by the Division.

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18.0 Public Assemblies, Meetings, Distribution and Posting of Printed Matter - Environmental D Violation

- 18.1 In order to maintain the recreational nature of State Parks as a haven for the public from the rigors of work and the commercial environment, and to promote the State's interest in its concessions and sales to the public, no commercial advertising by the distribution or posting of printed matter, other than by the State or its concessionaires, shall be permitted in State Parks.
- 18.2 Public meetings, assemblies, gatherings, demonstrations and/or the distribution or posting of printed matter are permitted on lands administered by the Division provided that a permit or approval to do so has been issued by the Director.
- 18.3 A Division Special Use Permit shall be completed and set forth the name of the applicant, the name of the organization (if any), the date, time, duration and the number of persons expected to attend or participate, the location of the proposed distribution or posting of printed matter, and a statement designating the equipment and facilities to be used in connection therewith. The application shall be submitted to the Director at least 7 days in advance of the proposed event, distribution or posting.
- 18.4 Persons engaged in the distribution or posting of printed matter under this Section shall not obstruct or impede pedestrians or vehicles, harass visitors with physical contact or verbal demands, misrepresent the purposes or affiliations of those engaged in the distribution or misrepresent whether the printed matter is available without cost or donation.
- 18.5 A Special Use Permit may be revoked for violation of the terms or conditions of the permit, Park Regulations or Park Policies. Such a revocation shall be made in writing with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by a written confirmation.

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19.0 Solicitations and Concessions - Environmental D Violation

- 19.1 Vending of merchandise, services or food upon lands administered by the Division is prohibited without the express written approval of the Director.
- 19.2 No person shall solicit for money or goods or services on any lands administered by the Division without the written permission of the Director.
- 19.3 No person, group of persons, nor any business or commercial entity shall utilize parks or their facilities for business gain, whether for profit or otherwise, except those concessionaires or groups who have followed procedures, met established requirements, paid appropriate program charges and have been authorized by the Director.

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20.0 Alcoholic Beverages and Drugs - Environmental D Violation

- 20.1 The sale of alcoholic beverages without a permit from the Division of Alcoholic Beverage Control and written permission from the Director is prohibited on lands and waters administered by the Division.
- 20.2 No person under the age of twenty-one (21) years shall possess or consume alcoholic beverages of any type. Any person suspected of being in violation of this subsection, and who fails to provide sufficient identification to prove otherwise may, in addition to any other action taken, be evicted without refund of any fee.
- 20.3 No person who is of legal age to possess or consume alcoholic beverages shall sell, give or in any way provide alcoholic beverages to a person under the age of twenty-one (21) years.

- 20.4 No person under the influence of alcohol, narcotics or any other drug, to the extent of being considered publicly intoxicated, shall enter or remain upon or within lands or waters administered by the Division.
- 20.5 The unlawful possession, use or consumption of narcotics, drugs, drug substances, or controlled substances and/or drug paraphernalia as listed and defined in Title 16, Delaware Code is expressly prohibited upon lands or waters or within facilities administered by the Division.
- 20.6 Unless authorized by the Director the possession, consumption, or public display of alcoholic beverages or intoxicating liquors within or upon the following areas is prohibited:
- 20.6.1 Brandywine Creek State Park -- Prohibited on all areas.
 - 20.6.2 Fort Delaware State Park -- Prohibited on all areas.
 - 20.6.3 Wilmington State Parks-Prohibited in all areas.
 - 20.6.4 Fox Point State Park-Prohibited in all areas.
 - 20.6.5 Specific Areas Within all State Parks -- All nature trails, nature preserves, youth camps public restrooms, bath houses, parking facilities, roadways, designated swimming areas, pools, or other areas designated by the Director.
- 20.7 No person shall operate or be in actual physical control of any motorized vehicle, vessel, bicycle or any other means of conveyance while under the influence of alcohol or any drug.
- 20.7.1 Possession and/or use of any alcoholic beverage and/or drugs while aboard Division rental vessels shall be prohibited.
- 20.8 The bringing in of draft beer in kegs or by a vehicle equipped to dispense draft beer shall not be permitted upon lands administered by the Division without prior written permission from the Director.

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21.0 Hunting, Fishing and Wildlife Management - Environmental D Violation

- 21.1 It shall be unlawful to display, possess or discharge firearms of any description, air rifles, B.B. guns, sling shots, or archery equipment upon lands or waters within designated areas administered by the Division, except with prior written approval of the Director, or as set forth below.
- 21.1.1 Designated areas shall include park offices, visitor centers, nature centers, bathhouses, restaurants and snack bars, stadiums and facilities while used for sporting events, concerts, and festivals, museums, zoos, stables, educational facilities, dormitories, playgrounds, camping areas, swimming pools, guarded beaches, and water parks, and shall be identified by appropriate signage.
 - 21.1.2 The Director may grant written approval on a daily basis for the possession of firearms within designated areas, upon written application showing good cause related to self-defense or the defense of family, and due regard for the safety of others within the designated areas.
 - 21.1.3 Active duty and qualified retired law enforcement officers may possess firearms within areas administered by the Division, including designated areas, provided that proper and current credentials shall be produced upon request.
 - 21.1.4 Delaware residents holding an active current permit to carry a concealed deadly weapon may carry a firearm within areas administered by the Division, including designated areas, provided that the permit shall be produced upon request. Residents of other states holding an equivalent permit or license to carry a concealed firearm may be permitted to carry a concealed firearm at the discretion of the Director.
 - 21.1.5 Firearms may be carried within areas administered by the Division, outside of designated areas, by any person not prohibited by 11 Del.C. §1448.
 - 21.1.6 Law enforcement officers may limit the discharge of firearms and the use of other weapons within areas administered by the Division, in order to protect public safety and preserve the peace.
 - 21.1.7 Any person possessing a firearm shall display identification upon request, sufficient to enable a law enforcement officer to undertake a background check.
- 21.2 No person shall hunt, pursue, trap shoot, injure, kill or molest in any way by hand, gun, archery, equipment or dog any wild bird or animal on lands or waters administered by the Division, nor shall any person have any such wild bird or animal in his possession.
- 21.3 Notwithstanding subsections 21.1 and 21.2 above, hunting may be permitted in certain areas at times authorized by the Division. Hunting shall be in accordance with State and Federal laws, rules and regulations. Those persons lawfully hunting in those areas specifically designated for hunting by the Division may possess and discharge authorized firearms for the purpose of lawfully hunting. Those persons lawfully hunting may possess such wild bird or animal hunted, pursued, trapped, injured or killed by gun, archery equipment or dog in areas designated by the Division for hunting when such hunting is lawful.

- 21.4 A hunter registration card issued by the Division, in addition to a valid Delaware hunting license, is required for hunting on lands administered by the Division that are opened for hunting. Hunting registration cards shall be issued by the Park Administrator or Park Superintendent and shall be valid for the entire hunting season unless revoked for violations of hunting laws, rules or regulations. All hunting activities shall be regulated by the registration card and all card holders shall abide by the conditions of the registration card. This hunting registration card shall not be valid for deer hunting on any park where a drawing is held for assignment of deer stands or hunting areas. A special registration card is required in areas that regulate deer hunting by lottery.
- 21.4.1 In areas where elevated deer stands are provided or authorized, hunters must remain on their assigned stand during the shotgun season. Archery deer hunters must stay within the area assigned to their stand. Hunting programs in each State Park vary by season, method of take and other restrictions for that specific park. Hunters must follow Park specific requirements for use of hunting stands and designated hunting areas.
- 21.4.2 Trapping is prohibited except for management purposes as authorized by the Director.
- 21.4.3 Raccoon hunting is restricted to chase by dogs only, with firearms prohibited. Firearms are prohibited while raccoon hunting.
- 21.5 Persons under the influence of alcoholic beverages, liquors or drugs or possessing and/or consuming alcoholic beverages, liquors or drugs shall not be permitted to hunt on Division lands.
- 21.6 Fishing shall be permitted, in accordance with the laws and regulations as set forth by the Division of Fish and Wildlife. A General Fishing License (GFL) issued by the Division of Fish and Wildlife is required to fish from any lands or in any waters administered by the Division.
- 21.6.1 Fishing is not permitted in designated swimming areas.
- 21.6.2 Fishing is prohibited from all piers, docks, bulkheads, and vessels within marina waters.
- 21.6.3 It shall be unlawful for anyone to utilize an apparatus to cast a fishing hook or bait as a projectile by force of combustion, explosive, gas and/or mechanical means, or to possess such apparatus, whether operable or inoperable, loaded or unloaded.
- 21.7 The disturbance of nesting or interference with the raising of young of wildlife, including amphibians, reptiles, birds or mammals on any lands or waters administered by the Division is prohibited unless authorized by the Director.
- 21.7.1 The heronry at Pea Patch Island Nature Preserve shall be closed to the public year round. Entry without specific prior written authorization by the Division Director is prohibited.
- 21.8 No person, pet or vehicle shall be permitted to enter an area designated and posted by the Division as a bird-nesting/breeding area.
- 21.9 It shall be prohibited for any person to bring in or otherwise introduce any species of domestic or wild animal onto lands administered by the Division.

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22.0 Rates, Fees and Charges - Environmental D Violation

- 22.1 No person shall use or gain admittance to, or attempt to use or gain admittance to, any area or facilities for which a rate, fee, or charge is made by the Division or Department unless he/she pays the rate, fee or charge established by said Division or Department.
- 22.2 The purchase or resale of a daily entrance fee ticket, except through an authorized Division agent, is prohibited.
- 22.3 The use or attempt to use any altered daily entrance fee ticket is prohibited.
- 22.4 The vehicle permit for entering a State Park shall be affixed to a conspicuous place on the vehicle as designated by the Division. Adhesive backing on the permit shall be used to attach the permit to the vehicle. Use of any other material or device to attach the permit shall be prohibited.
- 22.5 Use of Senior Annual Pass without a senior being present in the vehicle is prohibited.
- 22.5.1 Use of a valid Lifetime Pass by a person other than to whom it was issued is prohibited.

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23.0 Facility Rentals and Special Events - Environmental D Violation

- 23.1 No person shall make use of or attempt to make use of any State Park pavilion or other facility which has been reserved, unless they are a member of the family or group reserving the pavilion or facility.
- 23.2 No person, group, or organization shall schedule, hold or conduct an activity or event that requires special arrangements, considerations and/or planning by the staff unless a written request is submitted to the Director

for approval at least 7 days prior to the activity or event. Additional costs may be charged for special arrangements, considerations and/or planning may include but not be limited to traffic and crowd control, parking, special equipment use, and the use of facilities for activities other than their intended purposes.

7 DE Reg. 1768 (06/01/04)

19 DE Reg. 854 (03/01/16)

24.0 Enforcement Powers - Unclassified Misdemeanor

- 24.1 In accordance with the provision set forth in 7 **Del.C.** §4701(a)(8), the Division may employ personnel who shall have all the powers of investigation, detention and arrest, conferred by law on peace officers, sheriffs, or constables for the enforcement of the Division Rules and Regulations.
- 24.2 Powers, duties and functions of Law Enforcement Officers of the Department of Natural Resources and Environmental Control:
 - 24.2.1 In accordance with 29 **Del.C.** §8003(a), Law Enforcement Officers of the Department of Natural Resources and Environmental Control shall see to the enforcement of all laws, regulations, rules, permits, licenses, orders and program requirements of the Department of Natural Resources and Environmental Control.
 - 24.2.2 Law Enforcement Officers of the Department of Natural Resources and Environmental Control shall have police powers similar to those of sheriffs, constables, peace officers and other police officers when enforcing the laws, rules, regulations, permits, licenses, orders and program requirements of the Department of Natural Resources and Environmental Control. Such police powers shall include, but not be limited to, powers of investigation, search, seizure, detention and arrest, conferred by law on sheriffs, constables, peace officers and other police officers.
 - 24.2.3 Law Enforcement Officers of the Department of Natural Resources and Environmental Control shall have the authority to serve and return summonses, subpoenas and warrants.
- 24.3 Each employee vested with the enforcement responsibility as authorized above shall be required to show proper identification as issued by the Department of Natural Resources and Environmental Control or other county or state law enforcement agencies.
- 24.4 No person shall willfully fail or refuse to comply with any lawful order or direction of any Enforcement Officer on lands or waters administered by the Division.
- 24.5 Anyone interfering with enforcement personnel during the performance of their duty in enforcing these regulations shall be cited for "interfering with enforcement personnel in the performance of his or her duty".

7 DE Reg. 1768 (06/01/04)

19 DE Reg. 854 (03/01/16)

25.0 Penalty and Court Powers

- 25.1 In accordance with the provisions set forth in the 7 **Del.C.** §4702(a), any person convicted of violating any rule or regulation promulgated by the Department of Natural Resources and Environmental Control pursuant to this chapter shall be:
 - 25.1.1 Fined not less than \$50.00 nor more than \$100.00, plus the costs of prosecution and court costs, for any rule or regulation designated by the Department of Natural Resources and Environmental Control as a class D environmental violation. Any person convicted of a class D environmental violation within 5 years of a prior conviction for a class D environmental violation shall be fined not less than \$100.00 nor more than \$500.00, plus the costs of prosecution and court costs.
 - 25.1.2 Fined not less than \$50 nor more than \$250, plus the costs of prosecution and court costs, or imprisoned not more than 10 days, or both, for any rule or regulation designated by the Department of Natural Resources and Environmental Control as an unclassified misdemeanor.
 - 25.1.3 Fined not less than \$10 nor more than \$25 for all parking violations. No court costs or other administrative fee shall be assessed if a civil penalty is paid by voluntary assessment. A summons in the appropriate form to be adopted by the Department of Natural Resources and Environmental Control may be attached to an unattended vehicle found in violation of any rule or regulation for parking in state parks by an authorized officer.
- 25.2 Justices of the Peace shall have jurisdiction over violations of the Rules and Regulations of the Department of Natural Resources and Environmental Control, Division of State Parks and Recreation, throughout the state, with the condition that any person arrested for such violation be taken before the closest available magistrate in the county where such violation is alleged to have occurred. An arresting officer may issue a summons to any person arrested for any violation of these Rules and Regulations and have said person appear at a subsequent date at the Justice of the Peace Court which is the nearest available Justice of the Peace to the place of arrest during the regularly scheduled hours of said court. For the purposes of this Section, the

summons for later appearance shall be sufficient to grant jurisdiction over the offense to the said nearest available Justice of the Peace. A Justice of the Peace is available when he is present at court.

25.3 Failure to answer any summons issued for violations of these Rules and Regulations shall result in an additional charge of Failure to Answer Summons.

25.4 Nothing contained herein shall preclude an action being brought in a court of equity for injunctive or other relief.

19 DE Reg. 854 (03/01/16)

26.0 Effective Date

The amendments to these regulations become effective April 1, 2016.

19 DE Reg. 854 (03/01/16)

Effective Date:

These Amended Rules and Regulations are to take full force and effect at midnight, June 30, 2002

Adoption:

I, John A. Hughes, Secretary of the Department of Natural Resources and Environmental Control, hereby adopt and establish for the Division of Parks and Recreation the foregoing Rules and Regulations of the Department pursuant to 7 Del.C., Ch. 47, Subsection 4702(c).

John A. Hughes, Secretary

Department of Natural Resources and Environmental Control

7 DE Reg. 1768 (06/01/04)

19 DE Reg. 854 (03/01/16)

21 DE Reg. 890 (05/01/18) (Final)