

CHAPTER 5D

7:5D-8.2 Public information

STATE TRAILS SYSTEM

Authority

N.J.S.A. 13:1B-3; 13:1D-9; 13:8-30 et seq.;
13:8B-1 et seq.; and L.1975, c. 367.

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SUBCHAPTER 1. GENERAL PROVISIONS

7:5D-1.1 Purpose and scope

This chapter constitutes the rules of the Department concerning the implementation of the New Jersey Trails System Act, N.J.S.A. 13:8-30 et seq. This chapter establishes standards, procedures and practices for designating and maintaining trails as part of the State Trails System, in order to provide for the ever-increasing outdoor recreation needs of an expanding population and to promote public access to, travel within, and enjoyment and appreciation of the outdoor, natural and remote areas of the State. Designation of trails to the System is intended to help preserve the natural, recreational, ecological, geological, historic and cultural qualities of trails and the areas through which they pass; to increase open space and recreational opportunities; and to enhance the quality of life in New Jersey for all State residents and visitors.

7:5D-1.2 Construction

This chapter shall be liberally construed to permit the Department to effectuate the purposes of the New Jersey Trails System Act, N.J.S.A. 13:8-30 et seq.

7:5D-1.3 Severability

If any subchapter, section, subsection, provision, clause or portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, provision, clause, portion or application directly involved in the controversy in which such judgment is rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons.

7:5D-1.4 Definitions

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

“Act” means the New Jersey Trails System Act, N.J.S.A. 13:8-30 et seq.

“ADA” means the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

“Administering agency” means (1) any agency of the Department that is assigned responsibility for managing a particular parcel of land, or (2) any Federal agency, State department, local unit or charitable conservancy that establishes a land management policy for a particular parcel of land included in a designated State trail.

“Charitable conservancy” means a corporation or trust whose purposes include the acquisition and preservation of land or water areas, or of a particular land or water area, or either thereof, in a natural, scenic or open condition, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and which has received tax exemption under section 501(c)3 of the Internal Revenue Code.

“Commissioner” means the Commissioner of the Department or his or her designated representative.

“Conservation restriction” means an interest in land less than fee simple absolute, stated in the form of a right, restriction, easement, covenant, or condition, in any deed, will or other instrument, other than a lease, executed by or on behalf of the owner of the land, appropriate to retaining land or water areas predominantly in their natural, scenic or open or wooded condition, or for conservation of soil or wildlife, or for outdoor recreation or park use, or as suitable habitat for fish or wildlife, executive for the purposes listed at N.J.S.A. 13:8B-2(b).

“Council” means the New Jersey Trails Council.

“Department” means the New Jersey Department of Environmental Protection and Energy, its successors and assigns.

“Division” means the Division of Parks and Forestry in the Department.

“Local unit” means a municipality, county or other political subdivision of the State or agency thereof.

“New Jersey Trails Council” means the advisory board established by the Department and authorized by L.1975, c. 367, to undertake a study and prepare a plan for a coordinated system of trails throughout the State, and continued by the Department for the purpose of providing public input into the administration of the State Trails System.

“Scenic easement” means a perpetual easement in land which (1) is held for the benefit of the public, (2) is specifically enforceable by its holder or beneficiary, and (3) limits or obligates the holder of the servient estate and his or her heirs and assigns with respect to their use and management of activities conducted thereon, the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it.

“State Trails System” or “System” means the statewide system of individual trails or group of trails authorized by the Act and designated pursuant to this chapter.

“Trail facility” means any area, structure or equipment that functions to provide a service to the trail user, including, but not limited to, parking lots, picnic areas and rest rooms.

“Trail right-of-way” means a road, path, or water body and adjacent land, under the jurisdiction of an administering agency and designated for public trail access pursuant to this chapter.

“Trails Plan” means the plan for a coordinated system of trails throughout the State authorized by L.1975, c. 367, as updated.

SUBCHAPTER 2. NEW JERSEY TRAILS COUNCIL

7:5D-2.1 New Jersey Trails Council

(a) The New Jersey Trails Council shall advise the Department on the designation of trails to the State Trails System and the management of the State Trails System.

(b) The Council shall consist of representatives from trail user groups, outdoor recreation and conservation organizations, and State governmental agencies. Members of the Council representing trail user groups and outdoor recreation and conservation organizations shall be appointed by the Commissioner and shall serve for a period of three years from the date of appointment and until their successors are duly appointed. Members of the Council representing State governmental agencies shall serve as ex-officio members, and shall be appointed by the Commissioner of their respective departments.

(c) The Council shall:

1. Provide a forum for the public to discuss issues related to the designation and management of the State Trails System or the contents of the Trails Plan;
2. Advise the Department on the establishment, development, and maintenance of scenic, recreation and connecting trails on lands owned by the Department;
3. Advise the Department on the trail development potential of proposed State acquisitions;
4. Review proposals for trail designation submitted by Federal or State agencies, local units, private organizations or persons and advise the Department on such proposals;
5. Periodically evaluate the Trails Plan and advise the Department on additions, deletions, and modifications;

6. Review trail proposals and funding allocations consistent with any Federal requirements for trail acquisition and management, and advise the Department on the results of its review; and

7. Encourage the development of trails throughout the State and provide information to the State and the public on trails issues of Statewide interest.

SUBCHAPTER 3. LAND ACQUISITION FOR TRAILS

7:5D-3.1 Land acquisition for trails

(a) The Department, with the advice of the Council, may acquire interest in land for trails purposes in fee simple, or by conservation restriction or scenic easement, through purchase, donation or exchange.

(b) The Department shall review for trails acquisition potential all formal declarations of railroad right-of-way abandonments by the Interstate Commerce Commission or other Federal agencies.

SUBCHAPTER 4. CLASSES OF TRAILS

7:5D-4.1 Classes of trails

(a) The State Trails System is composed of the following classes of trails:

1. Scenic trails;
2. Recreation trails; and
3. Connecting trails.

7:5D-4.2 Scenic trails

(a) Scenic trails are designated to the State Trails System to provide the public with the opportunity for the appreciation of natural and cultural areas, and to facilitate the conservation and enjoyment of significant scenic, historic, natural, ecological, geological or cultural areas through which such trails pass.

(b) The Department shall specify the uses of scenic trails upon their designation to the State Trails System. Such uses shall be limited to non-motorized recreational uses. The Department may allow segments of scenic trails to be used for hiking, canoeing, horseback riding, bicycling, and/or ski touring, as appropriate.

(c) Scenic trails must be five miles or longer in length, but a scenic trail may consist of segments or components of a group of trails totalling five miles or more.

7:5D-4.3 Recreation trails

(a) Recreation trails are designated to the State Trails System to provide the public with the opportunity for a variety of outdoor recreational uses.

(b) The Department shall specify the uses of recreational trails upon their designation to the State Trails System. Such uses may include hiking, canoeing, horseback riding, bicycling, ski touring, snowmobiling, motorcycling, use of off-road vehicles (ORV's), or cultural or historical touring.

7:5D-4.4 Connecting trails

Connecting trails are designated to the State Trails System to provide additional points of public access to scenic or recreation trails or to provide connections between such trails, including connections between points of interest on such trails.

SUBCHAPTER 5. DESIGNATION OF TRAILS TO THE STATE TRAILS SYSTEM

7:5D-5.1 Qualifications for designation

(a) To qualify for designation to the State Trails System, a trail must satisfy one of the following qualifications:

1. The trail right-of-way is owned through fee simple title or held under a conservation restriction or scenic easement by the State and administered by the Department;
2. The trail right-of-way is owned through fee simple title or held under a conservation restriction or scenic easement by a local unit or a charitable conservancy, and access to and use of the trail right-of-way is guaranteed through a legal instrument dedicating the trail right-of-way for trail purposes duly filed with the appropriate county clerk; or
3. The trail right-of-way is owned by the Federal government or State agency other than the Department and there is a written cooperative agreement between the owner agency and the Department designating land or water areas for trail purposes.

7:5D-5.2 Criteria for designation

(a) A proposal to designate a trail to the System prepared pursuant to N.J.A.C. 7:5D-5.3(a) shall be based on the following criteria:

1. Scenic Quality: Trail designation proposals shall take into account the presence of high quality or rare natural features, vistas, historical or cultural features or other points of interest that can be sighted or visited along the trail;

2. **Accessibility:** Trail designation proposals shall take into account the availability of access points for vehicles, trailers or disabled trail users along or adjacent to the trail right-of-way. Water trail rights-of-way must have public access at both ends of the trail and at areas where portage is required;

3. **Length:** Trails shall be a minimum of five miles in length to be eligible for consideration as scenic trails, but this criterion may be satisfied by segments or components of a group of trails totalling five miles or more. Recreation or connecting trails are not subject to a length criterion;

4. **Multiple Use:** Trails which are managed in a safe and environmentally protective manner to accommodate more than one type of trail use are preferred for designation to those which can support only a single use;

5. **Development and Maintenance Costs:** Trails which require little capital development or reconstruction of areas critical to the designated purpose of the trail are preferred to those which require extensive time and cost to develop and maintain;

6. **Public Support:** Trail designation proposals shall take into account public input and recommendations from counties, municipalities, private citizens' groups or other persons indicating endorsement of or opposition to the trail designation; and

7. **Environmental Impact:** Trails which require extensive development causing erosion or destruction of plant, animal, historic or cultural resources shall not be included in the State Trails System unless no alternative routes are available.

7:5D-5.3 Trail designation procedure

(a) Any Federal or State agency, local unit, private organization or person may submit to the Department a proposal for the designation of a trail to the System. The trail designation proposal shall be submitted to the Department at the following address: State Trails System, Office of Natural Lands Management, Department of Environmental Protection and Energy, CN 404, Trenton, New Jersey 08625-0404. The trail designation proposal shall consist of the following:

1. A written narrative description of the trail area and trail right-of-way, including a description of the length, surrounding land use, physical condition, and need for land acquisition and/or development for the proposed trail, and a description of public support of or opposition to the proposed trail;

2. A United States Geological Survey 7.5 minute quadrangle map marked to show the location of the proposed trail;

3. A written evaluation of whether the proposed trail should be designated as a scenic trail, recreation trail or connecting trail as set forth at N.J.A.C. 7:5D-4;

4. A written statement of how the proposed trail qualifies for designation under the qualifications set forth at N.J.A.C. 7:5D-5.1;

5. A written analysis of how the proposed trail is suitable for designation under the criteria set forth at N.J.A.C. 7:5D-5.2; and

6. A listing and justification of proposed uses for the trail upon designation.

(b) The Department encourages persons proposing the designation of a trail to the System to obtain letters of endorsement from public officials and agencies, and private citizens and organizations, as applicable, indicating support for the proposed trail designation.

(c) The Division, with the advice of the Council, shall evaluate each trail designation proposal according to the criteria at N.J.A.C. 7:5D-5.1 and 5.2. The Division shall prepare a recommendation for the Commissioner's review evaluating the proposed trail's suitability for designation and recommending that the Commissioner approve or disapprove the proposed trail designation.

(d) The Commissioner shall review all trail designation recommendations submitted by the Division and shall take one of the following actions on each proposal:

1. Propose the trail designation and designated uses of the trail as an amendment to N.J.A.C. 7:5D-8.1;

2. Request that the Division reconsider its recommendation and resubmit the proposal for the Commissioner's review, if appropriate; or

3. Reject the proposed trail designation.

7:5D-5.4 Repeal of trail designation

(a) If at any time after the designation of a trail to the System the Department determines that the trail is not meeting its designated uses and/or management objectives and that mitigation measures are not available to bring the trail into conformance with its designated uses and/or management objectives, the Department may propose to repeal the designation of the trail to the System.

(b) The procedure for repealing the designation of a trail to the System is as follows:

1. If the Division makes a preliminary determination that the designation of a trail to the System should be repealed, it shall conduct a site evaluation of the trail to determine the extent of the trail deterioration, change of use, or unsuitability;

2. Upon completion of the site evaluation, the Division shall submit the site evaluation to the administering agency for a determination of whether mitigation measures are available to bring the trail into conformance with its designated uses and/or management objectives;

3. The Division, with the advice of the Council, shall review the administering agency's determination under (b)2 above, and, if appropriate, shall recommend repeal of the trail designation to the Commissioner;

4. The Commissioner shall review all trail designation repeal recommendations submitted by the Division and shall take one of the following actions on each proposal:

- i. Propose the trail repeal as an amendment to N.J.A.C. 7:5D-8.1;
- ii. Request that the Division reconsider its recommendation and resubmit the proposal for the Commissioner's review, if appropriate; or
- iii. Reject the proposed repeal of the trail designation.

5. Identification of pre-existing trail uses that are inconsistent with the nature of the trail and its designated uses and/or management objectives, and evaluation of techniques to mitigate their impact;

6. Description of erosion control measures, if necessary, taking into account the designated uses of the trail and preservation of the natural environment; and

7. Identification of parking or other ancillary facilities necessary to support the classification and uses of the trail.

(d) The administering agency shall be responsible for the initial development and continued maintenance of a designated trail. The management techniques employed by the administering agency shall be compatible with the trail classification and the purposes for which the trail was designated. The administering agency may allow uses of the trail other than the designated uses only with the prior approval of the Department.

(e) In developing a trails management plan, the administering agency shall solicit the advice of the local unit(s) with jurisdiction over the area(s) through which the trail passes.

(f) The administering agency is encouraged to solicit advice on trail design and management, and assistance for routine trail maintenance, from volunteers and user groups.

(g) The administering agency shall cooperate to the fullest extent possible with the owner of the trail right-of-way in complying with the requirements of the ADA, as applicable.

(h) Emergency vehicles and authorized maintenance vehicles shall be permitted access to designated trails for emergency and management purposes.

(i) The Department shall provide administering agencies with standardized trail head signs for posting.

1. The administering agency shall place and maintain signs at trail entrances, exits, and other strategic points to indicate that a trail is a component of the System.

(j) The Department will inspect each designated trail at least every two years, with the cooperation and assistance of the administering agency. If the Department determines that the trail is not meeting one or more of its designated uses and/or management objectives, it may authorize the administering agency to undertake mitigation measures, including temporary prohibition of one or more trail uses. If the Department determines that mitigation measures are not available to bring the trail into conformance with its designated uses and/or management objectives, it may recommend repeal of the trail designation in accordance with the procedure at N.J.A.C. 7:5D-5.4.

SUBCHAPTER 6. TRAILS MANAGEMENT

7:5D-6.1 Trails management

(a) Except as provided under (g) below and under N.J.A.C. 7:5D-7.1(g), all uses of a trail right-of-way that are inconsistent with the uses specified by the Department upon designation of the trail to the System are prohibited without prior approval by the Department.

(b) Upon designation of a trail to the System, the administering agency, in coordination with the Department and with the advice of the Council, shall prepare a management plan for the trail right-of-way.

(c) Management objectives to be addressed through preparation of a trail management plan include:

1. Management of scenic trails primarily to protect and enhance their natural and scenic qualities;
2. Protection of the natural vegetation of trail rights-of-way. Clearing of vegetation shall be permitted for public safety, trail construction, creation of occasional vistas, construction or maintenance of trail use facilities or other natural resource management that does not adversely affect the trail right-of-way or its designated uses and/or management objectives;
3. Development of multiple compatible trail uses which allow convenient exits and entrances. Special consideration shall be given to identifying trail segments and access points appropriate for the needs of disabled trail users and conducting planning to meet any applicable guidelines and/or requirements under the ADA;
4. Full consideration of and coordination with adjacent landowners and their operations in order to minimize potential adverse effects on these owners from trail use;

SUBCHAPTER 7. DEPARTMENT-FUNDED CONSTRUCTION PROJECTS AFFECTING DESIGNATED TRAILS

7:5D-7.1 Review of Department-funded construction projects affecting designated trails

(a) The Department shall assess all proposed construction projects partially or wholly funded by the Department that temporarily or permanently cross, directly border upon, or interrupt use of a designated trail right-of-way or its facilities to determine the project's potential impact on the trail, trail users, associated facilities and adjacent property owners.

(b) It is the Department's policy to incorporate, through a memorandum of understanding if appropriate, an informal analysis of the impact of a proposed project on designated trails into its review of non-Department-funded construction projects under its other regulatory programs. The Department may require permittees to take measures to mitigate the impact of proposed projects on designated trails if such measures are consistent with the statutory and regulatory authority governing the permit program.

(c) The Department's review under (a) or (b) above shall assess the following:

1. The location and nature of the proposed project, including the length of time the project is expected to be under construction;
2. The potential impacts of the proposed project on the trail, including, but not limited to, soil erosion, sediment deposition, degradation of water quality, flooding, safety and health hazards, destruction or degradation of natural, historic or cultural resources, or disruption of scenic values; and
3. Proposed or potential methods for mitigating or remediating the proposed project's impacts on the trail.

(d) The Division, with the advice of the Council, shall review a proposed Department-funded construction project within 90 days of receipt of the project plans from the Department's funding program and shall provide a recommendation on the proposed project to the Commissioner.

(e) The Commissioner shall review the recommendation of the Division made under (d) above and shall take one of the following actions on the recommendation:

1. If the Commissioner determines that the proposed Department-funded construction project will temporarily interfere with the trail right-of-way, the Commissioner may require, as a condition of Department funding, mitigation measures to maintain or relocate the trail and its facilities in a manner consistent with the designated classification of the trail during the period of construction or permanently thereafter; or

2. If the Commissioner determines that the proposed Department-funded construction project will permanently interfere with the trail right-of-way or its uses, thereby rendering the trail unsuitable for its designated purposes, and that no satisfactory remediation or mitigation is possible, the Commissioner may disapprove use of the trail for the proposed project. Remediation for permanent interference with the trail right-of-way may include relocation of the trail right-of-way in a manner consistent with N.J.A.C. 7:5D-5.1 and 5.2.

(f) Emergency measures to protect public health, safety and welfare may be undertaken in the trail right-of-way without prior review by the Department. However, persons or organizations undertaking such measures must notify the Division in writing within 24 hours of commencing such measures.

SUBCHAPTER 8. STATE TRAILS SYSTEM

7:5D-8.1 State Trails System

(a) The following trails are designated as components of the State Trails System:

7:5D-8.2 Public information

Interested persons may obtain information on the State Trails System by contacting:

Office of Natural Lands Management
Department of Environmental Protection
CN 404
Trenton, New Jersey 08625-0404
(609) 984-1339