

CHAPTER 5D
STATE TRAILS SYSTEM

Authority

N.J.S.A. 13:8-30 et seq.

Source and Effective Date

R.2005 d.337, effective September 8, 2005.
See: 37 N.J.R. 1111(a), 37 N.J.R. 3812(c).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 5D, State Trails System, expires on March 7, 2011. See: 42 N.J.R. 2357(a).

Chapter Historical Note

Chapter 5D, State Trails System, was adopted as R.1995 d.147, effective March 20, 1995. See: 26 N.J.R. 1459(a), 27 N.J.R. 1204(c).

Pursuant to Executive Order No. 66(1978), Chapter 5D, State Trails System, was readopted as R.2000 d.156, effective March 20, 2000. See: 32 N.J.R. 348(a), 32 N.J.R. 1380(c).

Chapter 5D, State Trails System, was readopted by R.2005 d.337, effective September 8, 2005. See: Source and Effective Date. See, also, section annotations.

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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 text 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, executed 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, 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 P.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 P.L. 1975, c.367, as updated.

Amended by R.2000 d.156, effective April 17, 2000.

See: 32 N.J.R. 348(a), 32 N.J.R. 1380(c).

In “Conservation restriction”, substituted “executed” for “executive” following “wildlife.”

Amended by R.2005 d.337, effective October 3, 2005.

See: 37 N.J.R. 1111(a), 37 N.J.R. 3812(c).

In “New Jersey Trails Council” and “Trails Plan” definitions, added “P.” preceding “L. 1975”.

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) Scenic trails shall be designated for a single nonmotorized trail use. The Department shall specify the uses of scenic trails upon their designation to the State Trails System. The Department may allow segments of scenic trails to be used for additional nonmotorized uses such as hiking, horseback riding, bicycling, cross-country skiing and/or snowshoeing, 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.

Amended by R.2000 d.156, effective April 17, 2000.

See: 32 N.J.R. 348(a), 32 N.J.R. 1380(c).

Rewrote (b).

Amended by R.2005 d.337, effective October 3, 2005.

See: 37 N.J.R. 1111(a), 37 N.J.R. 3812(c).

In (b), deleted "canoeing," and "ski touring," and added "cross-country skiing" and "snowshoeing."

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, kayaking, horseback riding, carriage driving, bicycling, cross-country skiing, snowshoeing, orienteering, rock climbing, in-line skating, dog-sledding, snowmobiling, motorcycling, use of off-road vehicles (ORVs) or cultural, educational or historical touring.

Amended by R.2005 d.337, effective October 3, 2005.

See: 37 N.J.R. 1111(a), 37 N.J.R. 3812(c).

In (b), deleted "ski touring," and added "carriage driving," and "cross-country skiing, snowshoeing, orienteering, rock climbing, in-line skating, dog-sledding,"; rewrote "(ORV's)" as "(ORVs)"; added "educational" following "or cultural".

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 Procedure and criteria for designation to the State Trails System

(a) Any Federal or State agency, local unit, private organization or person may submit to the Department a request for designation of a trail to the State Trails System in accordance with the criteria for eligibility set forth at (d)1 through 7 below. The trail designation request shall also include documentation prepared to support eligibility for designation in accordance with (e) below. The trail designation request shall be submitted to the Department at the following address: State Trails System, Office of Natural Lands Management, Department of Environmental Protection, PO Box 404, Trenton, New Jersey 08625-0404.

(b) The Division, with the advice of the Council, shall evaluate the request for designation and the eligibility of each trail according to the criteria at N.J.A.C. 7:5D-5.1 and this section. If the Division determines that the trail meets the qualifications for designation and the criteria for eligibility, 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.

(c) 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. 7:7D-8.1;
2. Request that the Division reconsider its recommendations and resubmit the proposal to the Commissioner's review; or
3. Reject the proposed trail designation.

(d) A proposal to designate a trail to the System shall be based on the following eligibility criteria:

1. **Scenic Quality:** The presence of high quality or rare natural features, vistas, historical or cultural features or other points of interest that can be signed or visited along the trail;
2. **Accessibility:** 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 shall 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 purpose of the trail are preferred to those which require extensive time and cost to develop and maintain;

6. **Public Support:** Public input and recommendations from counties, municipalities, private citizens' groups or other persons indicating endorsement of or opposition to future trail designation; and

7. **Environmental Impact:** Trail development will cause minimal erosion or destruction of plant, animal, historic or cultural resources unless no alternative routes are available.

(e) Eligibility for designation to the system shall be determined by the Department based on the submittal of the following documentation:

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 meets the qualifications for designation under N.J.A.C. 7:5D-5.1 and the criteria for eligibility under N.J.A.C. 7:5D-5.2(c);
5. A listing and justification of proposed uses for the trail upon designation; and
6. If the person proposing the trail designation is not the administering agency for the trail, a letter from the administering agency supporting the designation proposal.

Amended by R.2000 d.156, effective April 17, 2000.
See: 32 N.J.R. 348(a), 32 N.J.R. 1380(c).
Rewrote the section.

7:5D-5.3 (Reserved)

Repealed by R.2000 d.156, effective April 17, 2000.
See: 32 N.J.R. 348(a), 32 N.J.R. 1380(c).
Section was "Trail designation procedure".

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.

upland and lowland landscapes in Warren, Sussex and Passaic counties. Numerous side trails connect with the Appalachian Trail.

2. Batona Trail:

i. Location: Extending approximately 49 miles in Brendan T. Byrne State Forest, New Lisbon, to Bass River State Forest, New Gretna, Burlington County.

ii. Administering Agency: New Jersey Department of Environmental Protection, Division of Parks and Forestry.

iii. Permitted Trail Uses: Hiking; sections suitable for cross-country skiing and snowshoeing when snow covered.

iv. Trail Class: Scenic

v. Significance: The Batona Trail passes through a variety of Pine Barrens upland and lowland landscapes, connecting Brendan T. Byrne, Wharton and Bass River State Forests.

3. Delaware and Raritan Canal State Park:

i. Location: Extending approximately 70 miles from New Brunswick to Lawrence, and from Trenton to Frenchtown, passing through Mercer, Hunterdon, Somerset and Middlesex counties.

ii. Administering Agency: New Jersey Department of Environmental Protection, Division of Parks and Forestry.

iii. Permitted Trail Uses: Hiking, bicycling, cross-country skiing and snowshoeing throughout the entire length; horseback riding on the Main Canal section. Canoeing and kayaking are permitted in the canal.

iv. Trail Class: Recreation.

v. Significance: Delaware and Raritan Canal State Park includes a canal and towpath of the Delaware and Raritan Canal, and the former right-of-way of the BelDel Railroad. The park is listed as a National Recreation Trail. It is also listed on the National Register of Historic Places and has numerous historic structures and buildings associated with it.

4. Paulinskill Valley Trail:

i. Location: Lands owned by the Department extending approximately 27 miles from Knowlton to Sparta Junction.

ii. Administering Agency: Department of Environmental Protection, Division of Parks and Forestry.

iii. Permitted Trail Uses: Hiking, cross-country skiing, snowshoeing, bicycling, dog-sledding, horseback riding and carriage driving.

iv. Trail Class: Recreation.

v. Significance: The trail is designed to provide a variety of trail activities. It passes through a variety of rural and wooded landscapes in Sussex and Warren counties, and contains significant cultural features as an abandoned right-of-way of the former New York Susquehanna and Western Railroad. It intersects the Sussex Branch Trail and is managed by Kittatinny Valley State Park.

5. Sussex Branch Trail:

i. Location: Lands owned by the Department extending 20 miles from Netcong to Branchville, in Morris and Sussex counties.

ii. Administering Agency: Department of Environmental Protection, Division of Parks and Forestry.

iii. Permitted Trail Uses: Hiking, cross-country skiing, snowshoeing and bicycling for its entire length; dog-sledding, horseback riding, and carriage driving from Andover to Branchville.

iv. Trail Class: Recreation.

v. Significance: The Sussex Branch Trail passes through a variety of landscapes in Sussex and Morris counties and contains significant natural features. It was an abandoned right-of-way of the former Erie Lackawanna Railroad and is now managed by Kittatinny Valley and Hopatcong State parks. The Sussex Branch Trail is designed to provide a variety of trail activities and access to several other outdoor recreational activities at Kittatinny Valley State Park and Allamuchy Mountain State Park.

6. Belleplaine State Forest Trail System:

i. Location: Upper and Dennis townships, Cape May County and Maurice River Township, Cumberland County.

ii. Administering Agency: New Jersey Department of Environmental Protection, Division of Parks and Forestry.

iii. Permitted Trail Uses: Hiking, horseback riding, bicycling, cross-country skiing, snowshoeing and motorized use of registered vehicles on designated trails.

iv. Trail Class: Recreation.

v. Significance: Belleplaine State Forest offers a variety of trail opportunities on over 15,600 acres of predominantly Pine Barrens forest, including a trail for the visually impaired.

7. Cedar Creek:

i. Location: Ocean County, from Dover Forge in Double Trouble State Park to Route 9.

ii. Permitted Trail Uses: Canoeing and kayaking.

iii. Trail Class: Recreation.

iv. **Significance:** Cedar Creek provides an appreciation of ecosystems of the Pinelands, in a slow winding course. The river passes through Double Trouble State Park and the village of Double Trouble, a National Historic District.

8. Wells Mills County Park Trails System:

- i. **Location:** Ocean Township, Ocean County.
- ii. **Administering Agency:** Ocean County Parks and Recreation Department.
- iii. **Permitted Trail Uses:** Hiking, cross-country skiing, snowshoeing and bicycling on designated trails.
- iv. **Trail Class:** Recreation.
- v. **Significance:** The park includes Pine Barrens upland oak-pine forests and lowland habitats, including Atlantic white cedar swamps. The park also includes a trail for the visually impaired, nature center, picnic area, and canoe rental for fishing and canoeing on Wells Mills Lake.

9. Wharton Water Trails:

- i. **Location:** Burlington and Atlantic counties, within Wharton State Forest.
- ii. **Administering Agency:** All portions of adjacent land to the rivers are within Wharton State Forest, administered by the Department of Environmental Protection, Division of Parks and Forestry.
- iii. **Permitted Trail Uses:** Canoeing and kayaking.

iv. **Trail Class:** Recreation.

v. **Significance:** Wharton Water Trails form a network of pristine Pine Barrens water trails all converging into the Mullica River. The Lower Atsion, Batsto, Oswego and Wading rivers total 52 miles of slow-moving waterways that are available for canoeing and kayaking. The Lower Atsion is New Jersey's only designated Wild and Scenic River.

Amended by R.2000 d.156, effective April 17, 2000.

See: 32 N.J.R. 348(a), 32 N.J.R. 1380(c).

In (a), added 1 through 9.

Amended by R.2005 d.337, effective October 3, 2005.

See: 37 N.J.R. 1111(a), 37 N.J.R. 3812(c).

Rewrote (a).

7:5D-8.2 Public Information

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

Office of Natural Lands Management
 Division of Parks and Forestry
 Department of Environmental Protection
 PO Box 404
 Trenton, New Jersey 08625-0404
 (609) 984-1339
NatLands@dep.state.nj.us

Amended by R.2000 d.156, effective April 17, 2000.

See: 32 N.J.R. 348(a), 32 N.J.R. 1380(c).

Amended by R.2005 d.337, effective October 3, 2005.

See: 37 N.J.R. 1111(a), 37 N.J.R. 3812(c).

Added email address to contact information.