

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Department of Conservation & Natural Resources		IRRC Number: 2260
(2) I.D. Number (Governor's Office Use) 7B-003		
(3) Short Title State Parks, General Provisions		
(4) PA Code Cite 17 Pa. Code Chapter 11	(5) Agency Contacts & Telephone Numbers Primary Contact: Susan Wood, Assistant Counsel, Office of Chief Counsel, 772-4171	
(6) Type of Rulemaking (Check One) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language.  The purpose of this rulemaking is to improve the protection of state park resources and to increase the safety and enjoyment of visitors to state parks. It adds some rules of conduct for park visitors and relaxes others, and it provides additional tools of enforcement. The rulemaking also reorganizes and streamlines the chapter.		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  The Department is authorized to promulgate these regulations by the Conservation and Natural Resources Act, 71 P.S. § 1340.313 (relating to rulemaking authority) and the Crimes Code, 18 Pa.C.S. § 7505 (relating to violation of governmental rules regarding traffic) and § 7506 (relating to violation of rules regarding conduct on Commonwealth property).		

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The Department is mandated by the Conservation and Natural Resources Act, 71 P.S. § 1340.313 (relating to rulemaking authority), to promulgate regulations for the control, management, protection, utilization, development, occupancy and use of the lands and resources of state parks and state forests as it may deem necessary or proper to conserve the interests of the Commonwealth.

The Department is also mandated by the Crimes Code, 18 Pa.C.S. § 7505 (relating to violation of governmental rules regarding traffic), to promulgate regulations governing all vehicular traffic on land under the jurisdiction of the Department.

The Department is not mandated by federal law or regulation or court order to promulgate these regulations.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Chapter 11, which has not been revised for nine years, needs to be updated to address changing needs in state parks regarding visitor safety and the protection of park resources.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Non-regulation would result in lack of protection of state park resources and visitors.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The revisions to Chapter 11 will improve the protection of state park resources and visitors to the parks. In the year 2001, 36-38 million persons visited the Commonwealth's state parks.

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effect as completely as possible and approximate the number of people who will be adversely affected.)

Chapter 11 is being revised to improve the protection of state park resources and safety of visitors. Therefore, no one will be adversely affected.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All visitors to state parks are required to comply with Chapter 11. These include campers, swimmers, boaters, including whitewater boaters, hikers, mountain bikers, equestrians, snowmobilers, and bird-watchers.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

In June and July of 2000, the Department received public comment during the development of this proposed rulemaking at six regional public meetings. In addition, the Department received comments at round table meetings sponsored by state park managers across the state. State park volunteers and groups with strong knowledge of the state park system attended these round table meetings and provided input on the development of this proposed rulemaking.

The Conservation and Natural Resources Advisory Council reviewed a draft of this proposed rulemaking and offered comments and suggestions, many of which were adopted, before it was approved by the executive staff for submission to the Governor's offices for review.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

This proposed rulemaking imposes no new costs or savings to the regulated community.

## Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable.

(19) Provide a specific estimate of the costs and/or savings to state governments associated with the implementation of the regulation, including any legal, accounting or consulting procedures which may be required.

Costs will be minimal—Postings of horsepower restrictions at lakes; signs on trails open for mountain biking; postings of length limits for pet leashes; and posting of revised summaries of Chapter 11 will be required. The total cost of these postings is estimated to be less than \$1,000. Permits for overnight facilities will need to be revised at a total cost of approximately \$750.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

Not applicable.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
Total Costs						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

Not applicable.

**Regulatory Analysis Form**

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Not applicable.

<b>Program</b>	<b>FY-3</b>	<b>FY-2</b>	<b>FY-1</b>	<b>Current FY</b>

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Not applicable.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Nonregulatory alternatives would not be appropriate. See answer to #10.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Not applicable.

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no federal standards.

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

All state park agencies have similar regulations. Adoption of these revisions will not put Pennsylvania at a competitive disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No. The Department received public input at round table discussions and public meetings across the state before developing proposed rulemaking.

## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Not applicable.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

September 30, 2002.

(31) Provide the schedule for continual review of the regulation.

The effectiveness of Chapter 11 will be monitored on an ongoing basis.



FACE SHEET  
FOR FILING DOCUMENTS  
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# 2260

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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p><i>Cristina S. Cooper</i> BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>MAR 06 2002 DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Department of Conservation and Natural Resources _____ (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. 7B-003</p> <p>DATE OF ADOPTION: _____</p> <p>BY: <i>J. C. Oliver</i> _____ TITLE: John C. Oliver, Secretary (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <i>B. Smith</i> _____ 2/20/02 DATE OF APPROVAL</p> <p>(Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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Notice of  
Proposed Rulemaking  
Department of Conservation and Natural Resources

(17 Pa. Code, Chapter 11)

State Parks - General Provisions

Notice of Proposed Rulemaking  
Department of Conservation and Natural Resources  
(17 Pa. Code Chapter 11)  
State Parks—General Provisions

**Preamble**

The Department of Conservation and Natural Resources, Bureau of State Parks, proposes to amend 17 Pa. Code Chapter 11 (relating to State Recreation Areas—General Provisions). The amendments update State Parks Rules and Regulations to improve the protection of state park resources, the safety of visitors, and the recreational opportunities of park visitors.

These proposed amendments also reorganize Chapter 11 and eliminate unnecessary provisions. All sections (§§ 11.1 through 11.164) in the chapter are deleted and replaced with new sections (§§ 11.201 through 11.224).

*Statutory Authority*

These amendments are proposed under the authority in Sections 303, 313 and 314 of the Conservation and Natural Resources Act (71 P.S. §§ 1340.303, 1340.313 and 1340.314); and Sections 7505 (relating to violation of governmental rules regarding traffic) and 7506 (regarding violation of rules regarding conduct on Commonwealth property) of the Crimes Code (18 Pa.C.S. §§ 7505, 7506).

*Background and purpose*

Pursuant to Executive Order 1996-1, the Department reviewed Chapter 11 and determined that it needed to be updated, reorganized, and streamlined. This proposed rulemaking is intended to accomplish these objectives, as well as to incorporate the flexibility to expand recreational opportunities of the public in state parks.

This proposed rulemaking deletes all sections of Chapter 11 and replaces them with new sections. The substance of most provisions in the current Chapter 11 is retained in the amended chapter, but many of these provisions appear in a different arrangement. In addition, unnecessary provisions have been eliminated. These include provisions that would more appropriately be in the form of permit conditions rather than regulations; provisions that are matters of internal Department policy rather than rules governing conduct of the public in state parks; and provisions that merely restate Fish and Boat Commission regulations.

In the current Chapter 11, many rules of conduct carry criminal penalties—the offender may be cited with a summary offense—while others do not. The only means of enforcing the latter is to order the offender to leave a state park. An offender who refuses to leave may be charged with criminal trespass, a misdemeanor. In the revised Chapter 11, all rules of conduct carry a criminal penalty. Therefore, the revised chapter gives officers more flexibility in

enforcing the regulations—if a regulation needs to be enforced against a park visitor, the officer may either cite the offender for violating the regulation or order the offender to leave the state park.

Finally, as a result of several successful pilot programs, this proposed rulemaking liberalizes some provisions in Chapter 11 to expand recreational opportunities in state parks.

### *Summary of Amendments*

**Title.** The title of Subpart B of Title 17 is changed from “State Recreation Areas” to “State Parks,” and all references throughout Chapter 11 to “State Recreation Area” are changed accordingly. This change is being made because the Conservation and Natural Resources Act uses the term “State parks” to refer to land which the Department has jurisdiction to acquire and administer for state park purposes. The term “State Recreation Areas” does not appear in the Act.

**Definitions.** Section 11.201 (relating to definitions) replaces current section 11.1 (relating to definitions). The new definition of “state park” includes all areas which, under the Conservation and Natural Resources Act, the Department has the authority to acquire and administer for state park purposes. The terms “family unit” and “resident” are deleted from the definition section because they are not used in the revised chapter. (It should be noted that the term “resident” is also not used in current Chapter 11.)

**Scope.** Section 11.202 (relating to scope) replaces current section 11.2 (relating to scope).

**State park waters.** Section 11.203 (relating to state park waters) replaces current section 11.62 (relating to State Recreation Area waters). Current section 11.62 (d) is deleted because it consists of both internal Department policy, which does not require a regulation, and a provision that is redundant with new section 11.204 (relating to application of Fish and Boat Commission rules and Game Commission rules).

**Fish and boat and game rules.** Section 11.204 (relating to application of Fish and Boat Commission rules and Game Commission rules) replaces current section 11.7 (relating to application of game and fish rules).

**Trespass.** Section 11.205 (relating to trespass) replaces current section 11.6 (relating to trespass).

**Property left in a state park.** Section 11.206 (relating to property left in a state park) replaces current 11.15 (relating to property left in State Recreation Areas).

**Traffic and parking.** Section 11.207 (relating to traffic and parking) replaces current sections 11.3 (relating to crimes and offenses—traffic and parking), 11.4 (relating to application of the Vehicle Code), and 11.16 (relating to bus parking). It adds as a summary offense parking without the proper authorization in an area designated for persons with disabilities.

Vehicle Code. The provision in current section 11.4 stating that the Vehicle Code is applicable in state parks is eliminated in the revised chapter because it has been a source of confusion and is unnecessary. The intent of the provision was to make the public aware that the regulations governing operation of a vehicle in a state park do not negate the applicability of the Vehicle Code. The provision is not necessary because the Vehicle Code's applicability in any given situation or location is governed by the provisions of the Vehicle Code itself.

Schedule; closure. Section 11.208 (relating to schedule; closure) replaces current sections 11.8 (relating to schedule), 11.111 (relating to Presque Isle State Park—evening driving), and 11.122 (relating to Presque Isle State Park—fishing hours). In response to requests by the public, particularly those who enjoy jogging and walking in the early morning, the new section provides that state parks will open at sunrise (unless otherwise posted), rather than at 8 a.m. under current section 11.8.

Current section 11.8 allows use of camping facilities and cabins 24 hours a day by persons who have permits. This provision is deleted in new section 11.208 because it is contained in permits issued to these persons.

New section 11.208 adds hunting, trapping and snowmobiling as activities that are permitted 24 hours a day. This provision reflects current Bureau of State Parks policy.

Miscellaneous activities. Section 11.209 (relating to miscellaneous activities) replaces current section 11.5 (a) (3), (5), (7), (8), (9), (10), (11), (12), (13), and (14) (relating to crimes and offenses—general). It also prohibits the following activities: removing or disturbing an historical or archeological artifact, relic or object; bringing an animal, other than a pet, into a state park; failing to comply with a condition of a permit; obstructing or impeding persons or vehicles, or subjecting persons to unwanted physical contact or unwanted verbal behavior; failing to dress appropriately; and storing or leaving food in a manner that is reasonably likely to attract wildlife.

Fires. Section 11.210 (relating to fires) replaces current section 11.5 (a) (17) and (18) and adds a new prohibition against disposing hot charcoal except in a facility designated by the Department for charcoal disposal.

Natural resources. Section 11.211 (relating to natural resources) replaces current sections 11.9 (relating to wood) and 11.5 (a) (4), which prohibits cutting, removing, damaging or defacing a tree, rock, plant or other natural object. However, under the new section, gathering edible fruits, nuts, berries and fungi (other than threatened, endangered, rare or vulnerable wild plants) in reasonable amounts for one's own personal or family consumption is permitted. In addition, gathering dead and down wood for use within the state park in designated campfire facilities is permitted. The new section prohibits planting seeds, trees, shrubs or plants; feeding wildlife; and releasing animals that were brought into a state park.

Pets. Section 11.212 (relating to pets) replaces current sections 11.5 (a) (19) and 11.11 (relating to pets). The current sections require a six-foot leash for pets. As a result of a successful pilot program, new section 11.212 does not mandate a maximum leash length.

Instead, it states that if posting specifies the maximum length, the leash may not exceed this length. In addition, it permits use of a cage or crate as an alternative to leashing.

New section 11.212 adds the following conditions to the keeping of a pet in a state park: the pet may not behave in a manner that may reasonably be expected to disturb or intimidate another person; it may not behave in a manner that may cause damage to property; its droppings must be disposed of in trash receptacles or outside the park; and it must have been licensed and vaccinated as required by law.

Organized events; public assemblies; distribution of written material. Section 11.213 (relating to organized events; public assemblies; distribution of printed material) replaces current section 11.5 (a) (6) and (12) and current section 11.13 (relating to proselytism and distribution of printed matter). The new section generally prohibits organized events, public assemblies, or distribution of printed matter without written permission of the Department. The procedure for requesting permission and for the Department's handling of a request is substantially the same as under the current section 11.13, but the provision has been simplified.

Waste. Section 11.214 (relating to waste) replaces current section 11.5 (a) (15) and (16). The prohibition against disposing of waste is expanded to specify the types of material that are considered to be waste and to refer to posted instructions.

Weapons and hunting. Section 11.215 (relating to weapons and hunting) replaces current sections 11.5 (a) (7), 11.10 (relating to firearms and hunting), and 11.115 (relating to Presque Isle State Park—duck hunting). A provision is added prohibiting target-shooting except in areas designated by the Department. This target-shooting provision reflects current Bureau of State Parks policy.

General recreational activity; horses; snowmobiles; all-terrain vehicles; mountain bikes. Section 11.216 (relating to general recreational activity; horses; snowmobiles; all-terrain vehicles; mountain bikes) replaces current section 11.12 (relating to recreational activity). The provision relating to horses is expanded to prohibit hitching or confining a horse in a manner that may cause damage to property, and to require the disposal outside the park of droppings from hitched or confined horses. The meaning of "antlerless deer season" in relation to the use of snowmobiles is clarified to allow for changes in Game Commission regulations establishing deer seasons. A new provision is added permitting mountain bikes on trails only if the trail is posted as being open for mountain biking. This biking provision reflects current Bureau of State Parks policy and practice.

Swimming. Section 11.217 (relating to swimming) replaces the following current sections under "Swimming Areas": 11.21 (relating to schedule), 11.22 (relating to swimming facilities), 11.23 (relating to aquatic apparatus), 11.24 (relating to breakable containers), 11.26 (relating to swimming attire), and 11.27 (relating to supervision of children required).

Current section 11.25 (relating to closure), which states that the Department will close entry to a swimming area when it reaches capacity, is eliminated in the revised chapter, because it is a matter of internal Department policy and does not require a regulation.

Under the new section 11.217, hours during which swimming is permitted are as posted.

The provisions relating to attire worn in designated swimming areas are expanded. Clothing may not display lifeguard lettering or insignia. In swimming pools, children who are not toilet-trained must be clothed in leak-proof clothing. The requirements concerning supervision of children are more specific than the current requirements. Current section 11.27 requires that children nine years old or younger be supervised by a "responsible" person. The new provision requires that children nine or younger be supervised "competently and effectively by a person at least 14 years of age."

Provisions addressing diving and sports activities are added. Running-entry diving, diving from the shoulders of another person, and head-first diving from poolside in shallow water are prohibited.

Because of a successful pilot program, aquatic apparatus that is prohibited under current section 11.23 (relating to aquatic apparatus) is allowed under new section 11.217 (8) if permission is given by posting or by an on-duty lifeguard. Similarly, engaging in sports activities, including water polo, volleyball, disc throwing, and catch is prohibited unless permission is given by posting or by an on-duty lifeguard.

Camping; overnight facilities. Section 11.218 (relating to camping; overnight facilities) replaces current section 11.5 (21). It prohibits camping or using an overnight facility without a permit.

All sections in current Chapter 11 that govern the conduct of persons using overnight facilities are eliminated in the revised chapter and will appear instead as conditions of the permits issued to these persons. These sections are 11.32 (relating to camping), 11.33 (relating to occupancy), 11.34 (relating to camping permits), 11.35 (relating to storage of camping equipment), 11.36 (relating to motor vehicles), 11.37 (relating to noise), 11.38 (relating to visitors), and 11.39 (relating to washing), 11.41 (relating to occupancy and use of cabins), 11.101 (relating to hiking groups), and 11.102 (relating to general requirements). Section 11.209 (b) (1) (relating to miscellaneous activities) of this proposed rulemaking prohibits the failure to comply with a condition of a permit.

Some provisions under "Camping Areas" and "Cabin Areas" in current Chapter 11 are matters of internal Department policy and do not require regulations. For that reason they are eliminated in the revised chapter. These sections are 11.31 (relating to schedule), 11.32 (d) (relating to camping), 11.34 (a) (relating to camping permits), and 11.41 (c) (relating to occupancy and use of cabins). Sections 11.34 (b) and 11.41 (b) are deleted because they are statements of statutory authority and are not needed as regulations.

Boating. Many of the boating provisions in current Chapter 11 are merely reiterations of Fish and Boat Commission regulations. These provisions are eliminated in the proposed rulemaking, because they are enforceable as Fish and Boat Commission regulations. The provisions being eliminated are the following sections under "Boating Areas": 11.68 (relating to

registration of boats), 11.69 (relating to boating equipment), 11.70 (boating operation), 11.71 (relating to exhibitions and competitions), and 11.73 (relating to motor boats); and the following sections under "Special Provisions for Presque Isle State Park": 11.117 (relating to boat speed), 11.119 (relating to waterskiing), 11.121 (a) (relating to anchoring of watercraft), and 11.124 (relating to motor limitations).

New section 11.219 (relating to boating) applies to boating other than whitewater boating. It replaces the following sections under "Boating Areas": 11.63 (relating to boat launching), 11.72 (relating to prohibited watercraft), 11.73 (relating to motor boats), and 11.74 (relating to exceptions to boat motor limitations); and the following sections under "Special Provisions for Presque Isle State Park": 11.118 (relating to boating near beach areas) and 11.121 (b) (relating to anchoring of watercraft).

The provisions in current sections 11.61 (relating to use) and 11.64 (relating to mooring and dock space—general) are eliminated in the revised chapter because they are matters of internal Department policy or are more appropriate as permit conditions than as regulations.

Two current sections under "Special Provisions for Presque Isle State Park" are eliminated because they covered by other provisions. Section 11.120 (relating to hydroplaning) is eliminated because it is covered by a Fish and Boat Commission regulation establishing a slow, no-wake zone for boating within 500 feet of shore at Presque Isle State Park. Section 11.121 (b) (relating to anchoring of watercraft) is eliminated because it is covered by new section 11.219 (e) (1).

As a result of a successful pilot program, new section 11.219 (b) (4) (viii) permits use of surfboards and body boards in designated areas of Presque Isle State Park.

New section 11.219 (e) (1) (ii) replaces current section 11.94 (relating to boat mooring) under "Special Provisions for Point State Park."

Current section 11.73 (relating to motor boats) specifies power restrictions for motorboats at each park where boating is permitted. Only electric motors are permitted at some parks, and horsepower limits are specified for most parks where internal combustion engines are allowed. New section 11.219 replaces these power restrictions with a requirement that boaters must comply with power restrictions as posted. Although the power restrictions posted at each park are established by Fish and Boat Commission regulations, the removal of these restrictions from Chapter 11 and the reliance on posting allows for flexibility in the future.

Whitewater boating. Section 11.220 (relating to whitewater boating) replaces current section 11.75 (relating to whitewater boating). The quota provisions in section 11.75 (a) (3) are eliminated from the chapter because they are matters of internal Department policy and do not require regulations. Provisions applicable to whitewater boating at all three whitewater state parks have been consolidated under subsections (a), entitled "general requirements" and (b), entitled "general prohibitions" of new section 11.220. Subsection (c) contains additional provisions applicable only to Ohio State Park; subsection (d) applies only to Lehigh Gorge State Park, and subsection (e) applies only to McConnells Mill State Park.

As a result of a successful pilot program, the prohibition in current section 11.75 (a) (3) (iv) against weekend and holiday use of the Youghiogheny River Loop before 3 p.m. from May 1 to September 30 is eliminated.

Point State Park. Section 11.221 (relating to special provisions for Point State Park) replaces current sections 11.91 (relating to memorials), 11.92 (relating to loitering), 11.95 (relating to decorative pools), and 11.96 (relating to recreational equipment) under “Special Provisions for Point State Park.” Under new section 11.221 (4), an exception is permitted to the prohibition against wheeled recreational equipment, such as bicycles. The Department can allow an exception by means of posting or written permission. This is a liberalization of current section 11.96, which allows no exception to the prohibition against such equipment, and is the result of a successful pilot program at Point State Park. Under this pilot program, posting states that bicycling is permitted on a route from the north side of the park along the walkway on the Fort Duquesne Bridge, through the park’s portal, then exiting the park at the north end of Commonwealth Place

Section 11.93 (relating to group activities) is deleted from the Point State Park provisions because it is redundant with new section 11.213 (relating to organized events; public assemblies; distribution of printed matter). Section 11.94 (relating to boat mooring) is replaced by new section 11.219 (e) (1) (ii) (relating to boating).

Presque Isle State Park. Section 11.222 (relating to special provisions for Presque Isle State Park) replaces current sections 11.112 (relating to visiting after closing), 11.113 (relating to violation of night parking permit), and 11.123 (relating to seining for bait). Current section 11.116 (relating to duck blind permits) is eliminated in the revised chapter because it is a matter of internal Department policy and is not required as a regulation.

Violation of rules regarding conduct in state parks—summary offense. Section 11.223 (relating to violation of rules regarding conduct in state parks) is a new provision. Under this section, engaging in any activity that is prohibited under Chapter 11 (other than a traffic or parking offense, which is covered under new section 11.207 (relating to traffic and parking)) constitutes a summary offense. This new provision is intended to correct several problems in the current Chapter 11.

First, under the current Chapter 11 confusion often arises from the fact that the violation of some rules is clearly identified as a summary offense, but the violation of others is not. The only means of enforcing the latter is for a law enforcement officer to order the offender to leave the park; a person who refuses to leave the park may then be charged with the misdemeanor of criminal trespass. There appears to be no rational basis for considering some types of violations but not others as summary offenses. The new section 11.223 will eliminate this distinction and will allow any rule to be enforced as a summary offense.

Second, the new section 11.223 will give law enforcement officers greater flexibility in enforcing the rules and regulations in Chapter 11. Currently, if a park officer determines that enforcement is necessary in a particular situation, and the violation is not one of those listed in



Chapter 11 as being a summary offense, the officer has no alternative but to order the offender to leave the park; if the offender refuses to leave, the park officer may file a charge of criminal trespass, which is a misdemeanor. Under the new section 11.223, the park officer has the option of issuing a summary citation to enforce any regulation.

Prices. Section 11.224 (relating to prices) replaces current sections 11.164 (relating to fees) and 11.14 (relating to volunteer projects and State Recreation Area promotion). The reference in current section 11.164 to the Environmental Quality Board is eliminated because under the Conservation and Natural Resources Act, 71 P.S. § 1340.313 (f), the Environmental Quality Board has no authority over matters within the Department's jurisdiction. New section 11.224 does not itemize the activities, uses and privileges for which fees may be charged. These items and the prices to be charged will be published in the *Pennsylvania Bulletin*.

#### *Who is affected by the regulations*

Chapter 11 governs the conduct of visitors to state parks, and therefore, state park visitors will be affected by the revisions to this chapter. In 2001, state parks had 36-38 million visitors. The proposed rulemaking adds rules of conduct, liberalizes some current rules of conduct, and revises the application of criminal sanctions for violation of rules of conduct.

#### *Cost and paperwork requirements*

The revision of Chapter 11 will result in no additional costs or paperwork requirements for the general public, local governments, or the private sector. The only additional costs for the Commonwealth will be the Department's costs in revising rules and regulations booklets, summaries of rules and regulations for posting in state parks, web pages, and permits to include conditions that are being eliminated from Chapter 11; posting horsepower limits for motorboats; and posting length limits for pet leashes.

#### *Effective Date/Sunset Date*

These amendments will be effective upon publication of final rulemaking in the *Pennsylvania Bulletin*. Chapter 11 will thereafter be monitored by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

#### *Contact person*

These proposed amendments are posted on the Department's website at [www.dcnr.state.pa.us](http://www.dcnr.state.pa.us). Written comments, suggestions or objections from interested persons will be accepted by the Department for 60 days after publication of these proposed amendments in the *Pennsylvania Bulletin*. Such comments may be directed to Gary Smith, Chief, Division of Park Operations and Maintenance, Bureau of State Parks, by mail at P. O. Box 8551, Harrisburg, PA 17105-8551; by FAX at 717-783-5017; or by e-mail at [garysmith@state.pa.us](mailto:garysmith@state.pa.us).

Alternative means of providing comments and alternative formats of the proposed amendments may be made available to persons with disabilities upon request by contacting Gary

Smith at 717-787-8800 or through the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD).

*Regulatory Review*

Under Section 5 (a) of the Regulatory Review Act, the act of June 25, 1982 (P. L. 633, No. 181), as amended by the act of June 25, 1997 (P. L. 242, No. 24), 71 P.S. § 745.5 (a), the Department submitted a copy of this proposed regulation on March 13, 2002, to the Independent Regulatory Review Commission and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment. In addition to submitting the proposed regulation, the Department has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If the Commission has any objections to any portion of the proposed regulation, it will notify the Department by June 21, 2002. Such notification shall specify the regulatory review criteria which have not been met by that portion. The Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before final publication of the regulations.

JOHN C. OLIVER  
Secretary

**Fiscal Note:**

**ANNEX A**

**TITLE 17. CONSERVATION AND NATURAL RESOURCES**

**SUBPART B. STATE [RECREATIONAL AREAS] PARKS**

**CHAPTER 11. GENERAL PROVISIONS**

**[MISCELLANEOUS PROVISIONS]**

**§ 11.1. - § 11.16. [Reserved.]**

**[SWIMMING AREAS]**

**§ 11.21. - § 11.27. [Reserved.]**

**[CAMPING AREAS]**

**§ 11.31. - § 11.39. [Reserved.]**

**[CABIN AREAS]**

**§ 11.41. - § 11.52. [Reserved.]**

**[BOATING AREAS]**

**§ 11.61. - § 11.83. [Reserved.]**

**[SPECIAL PROVISIONS FOR POINT STATE PARK]**

**§ 11.91. – § 11.96. [Reserved.]**

**[SPECIAL PROVISIONS FOR LAUREL HIGHLANDS HIKING TRAIL]**

**§ 11.101. – § 11.102. [Reserved.]**

**[SPECIAL PROVISIONS FOR PRESQUE ISLE STATE PARK]**

**§ 11.111. – § 11.124. [Reserved.]**

**[FEES]**

**§ 11.151. – § 11.164. [Reserved.]**

**§ 11.201. Definitions.**

**§ 11.202. Scope.**

**§ 11.203. State park waters.**

**§ 11.204. Application of Fish and Boat Commission rules and Game Commission rules.**

**§ 11.205. Trespass.**

- § 11.206. **Property left in a state park.**
- § 11.207. **Traffic and parking.**
- § 11.208. **Schedule; closure.**
- § 11.209. **Miscellaneous activities.**
- § 11.210. **Fires.**
- § 11.211. **Natural resources.**
- § 11.212. **Pets.**
- § 11.213. **Organized events; public assemblies; distribution of printed matter.**
- § 11.214. **Waste.**
- § 11.215. **Weapons and hunting.**
- § 11.216. **General recreational activity; horses; snowmobiles; all-terrain vehicles; mountain bikes.**
- § 11.217. **Swimming.**
- § 11.218. **Camping; overnight facilities.**
- § 11.219. **Boating.**
- § 11.220. **Whitewater boating.**
- § 11.221. **Special provisions for Point State Park.**
- § 11.222. **Special provisions for Presque Isle State Park.**
- § 11.223. **Violation of rules regarding conduct in state parks.**

**§ 11.224. Prices.**

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**§ 11.201. Definitions.**

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

*Commercial activity*—An activity in which a person directly or indirectly accepts consideration of value as compensation for the provision of goods or services, including transportation.

*Crimes Code*—Title 18 Pennsylvania Consolidated Statutes.

*Department*—Department of Conservation and Natural Resources.

The term includes authorized officials of the Department.

*Designated swimming area*—A swimming pool, wading pool or the area of a natural or artificially constructed pond, lake, stream, river, bay, tidal waters or other body of water, which is designated, developed, maintained and operated by a state park for bathing and swimming purposes. The term includes the land, buildings, equipment, and appurtenances used in connection with the body of water.

*Fish and Boat Code*—Title 30 Pennsylvania Consolidated Statutes.

*Game and Wildlife Code*—Title 34 Pennsylvania Consolidated Statutes.

*Person*—A corporation, company, club, firm, association, society, partnership, joint stock company, governmental agency or individual.

*Pet*—A dog, cat, or other domestic animal.

*State park*—An area under the jurisdiction of the Department acquired or administered as a park under § 303 of the Conservation and Natural Resources Act or designated or administered as a park under § 302(a)(12) of the Act. The term includes a state park; state park preserve; parkway; conservation area as defined in § 44.1 (relating to conservation areas) of this title that is administered and managed by the Department's Bureau of State Parks; state park natural area as defined in § 17.2 (relating to state parks natural area definition) of this title; environmental education center administered by the Department's Bureau of State Parks; and state park waters under § 11.203 (relating to state park waters).

*Summer season*—The period beginning on the Saturday of Memorial Day weekend and continuing through Labor Day.

*Vehicle Code*—Title 75 Pennsylvania Consolidated Statutes.

**§ 11.202. Scope.**

(a) This chapter applies to state parks.

(b) The prohibitions in this chapter do not apply to authorized Department employees, authorized volunteers, and concessionaires acting within the scope of their duties or concession agreement, or to federal, state, and municipal law enforcement officers performing their official duties.

**§ 11.203. State park waters.**

The Department has jurisdiction over the following bodies of water:

(1) *General.*

(i) Lakes, water impoundments and other bodies of water that are wholly owned by the Department or completely surrounded by state park land.

(ii) Creeks, streams and non-navigable rivers that run through or along state parks.

(iii) Water areas within a 100-foot safety zone around launching, swimming, docking, mooring and marina facilities at state parks.

(2) *Presque Isle State Park.* Misery Bay, Marina Lake, Thompson Bay, Horseshoe Pond, Duck Pond, lagoons, and all the waters in Lake Erie and Presque Isle Bay within 500 feet of the low-water mark of the peninsula of Presque Isle.



(3) *Pymatuning State Park*. Pymatuning Lake.

**§ 11.204. Application of Fish and Boat Commission rules and Game Commission rules.**

Title 58 Pa. Code Part I (relating to the Fish and Boat Commission) and Part II (relating to the Game Commission) apply in state parks to activities under the jurisdiction of the Fish and Boat Commission and the Game Commission. However, to the extent that this chapter is more restrictive than Part I or II of 58 Pa. Code, this chapter applies.

**§ 11.205. Trespass.**

(a) A person who violates this chapter, disregards an instruction or warning given by a Department-commissioned officer, or interferes in the performance of the duties of a Department-commissioned officer, may be ordered to leave a state park.

(b) A person who refuses to leave a state park after receiving an order to leave from a Department-commissioned officer commits an act of criminal trespass under section 3503 (b) (relating to criminal trespass) of the Crimes Code.

**§ 11.206. Property left in a state park.**

(a) Property that has been left in a state park for more than 24 hours without written permission of the Department, or property that impedes public access or navigation, may be moved or removed by the Department and placed in storage at the state park. The property may be subject to disposal under Article XIII.1 of The Fiscal Code (72 P.S. §§ 1301.1-1301.29), or as otherwise provided by law or by agreement between the owner and the Department.

(b) Property that has been stored under this section will be released from storage only upon adequate proof of ownership and payment of the charges established under § 11.224 (relating to prices).

**§ 11.207. Traffic and parking.**

(a) *Traffic.* Operation of a motor vehicle, as defined in the Vehicle Code, as follows is prohibited:

(1) On a state park road at a speed in excess of the posted limit or, where no speed limit is posted, in excess of 25 miles per hour.

(2) On a state park road, lane, trail or area that is posted as closed to motor vehicles, except with permission of the Department.

(3) Off a road or outside a parking area, except on a trail or in an area posted as open to motor vehicles, or except with written permission of the Department.

(4) So as to cause noise that would likely annoy or disturb a reasonable person of normal sensitivities.

(5) Not in obedience to traffic-control devices.

(6) For purposes of commercial activity without written permission from the Department.

(b) *Parking.* The following activities are prohibited:

(1) Parking a motor vehicle, boat trailer, camp trailer or other vehicle or equipment in an area designated by the Department for persons with a disability unless the vehicle is operated by, or for the transportation of, a person with a disability or a severely disabled veteran and the vehicle displays one of the following:

(i) A valid person-with-disability registration plate or a valid severely-disabled-veteran registration plate, issued in accordance with the Vehicle Code, or a substantially equivalent issuance from another state;

(ii) A valid person-with-disability parking placard or a valid severely-disabled-veteran placard, issued in accordance with the Vehicle Code, or a substantially equivalent issuance from another state.

(iii) A valid placard provided by the Department's Bureau of State Parks indicating issuance of authorization to operate the vehicle on state park land.

(2) Parking a motor vehicle, boat trailer, camp trailer or other vehicle or equipment as follows without written permission of the Department:

(i) In an area other than an area designated by the Department for parking.

(ii) In a location that obstructs a gate, road, trail, footpath, bicycle path, access way, drinking fountain, entrance, exit or road turnaround.

(iii) In an area that is posted as closed.

(iv) At a campsite.

(v) When the park is closed under § 11.208 (relating to schedule; closure).

(3) Parking a bus in an area that is posted as being closed for buses.

(c) *Removal; storage.* A motor vehicle, boat trailer, camp trailer or other vehicle or equipment parked in violation of subsection (b) may be removed and stored at the owner's expense upon authorization of the Department.

(d) *Violations.* Engaging in an activity in violation of this section constitutes a summary offense under section 7505 (relating to violation of government rules regarding traffic) of the Crimes Code.

(e) *Parking tickets.*—

(1) Prior to filing a citation charging a summary offense for violation of subsection (b), the Department may issue a parking ticket, which will be handed to the violator or placed on the windshield of the violator's vehicle. The Department will not file a citation if the violator pays a charge to the Department in the amount of the maximum fine as provided in section 7505 (relating to violation of government rules regarding traffic) of the Crimes Code within five days of the violation as specified on the ticket.

(2) If it has issued a parking ticket, the Department will file a citation only if the violator fails to pay the charge within the time limit specified in paragraph (1) and in the manner specified on the ticket, as provided for in the Pennsylvania Rules of Criminal Procedure.

(3) If it has not issued a parking ticket, the Department may file a citation as provided for in the Pennsylvania Rules of Criminal Procedure.

(f) *Violations of parking provisions of the Vehicle Code.*

Violations of sections 3351-3354 (relating to stopping, standing and parking) of the Vehicle Code will be handled in accordance with subsection (e) except that the amount of the charge imposed by a parking ticket will be \$15.

**§ 11.208. Schedule; closure.**

(a) *General.* Except as otherwise provided in subsections (b) through (f), as otherwise provided in this chapter, and as otherwise posted, state parks are open to the public daily only from sunrise until sunset.

(b) *Point State Park.* Point State Park is open to the public from 8 a.m. to 11 p.m.

(c) *Presque Isle State Park.* Presque Isle State Park is open to the public from 5 a.m. until sunset. After sunset, it is open only to tenants, persons with visitor passes, and persons engaged in evening driving. The closing hour for evening driving is as posted.

(d) *Fishing and boating.* Subject to § 11.219 (relating to boating), areas designated for fishing and non-whitewater boating are open to the public for these purposes 24 hours per day. However, at Presque Isle State Park, fishing is permitted only during hours when the park is open to the public.

(e) *Hunting and trapping.* Subject to § 11.215 (relating to weapons and hunting), areas designated by the Department for hunting are open to the public for hunting and trapping 24 hours per day.

(f) *Snowmobiling.* Subject to § 11.216 (relating to general recreational activity; horses; snowmobiles; all-terrain vehicles; mountain bikes), snowmobiling is permitted 24 hours per day.

(g) Notwithstanding any other provision of this chapter, the Department may close a state park, portion of a state park, or state park facility or may restrict it to certain uses or activities.

(h) Notwithstanding any other provision of this chapter, the Department may prohibit certain uses or activities in a state park, portion of a state park, or state park facility.

(i) The public will be informed of the closure, restriction, or prohibition under subsection (g) or (h) by any form of communication,

which may include these regulations or posting, or by fencing, barricade, gate, or other structure or device manifestly designed to exclude intruders.

(j) *Prohibitions.*

(1) Entering, using, or remaining in a state park, area, or facility that is not open to the public or that has been closed under this section is prohibited, unless permitted by the Department.

(2) Using, or engaging in activities in, a state park, area, or facility in violation of a restriction or prohibition under subsection (g) or (h) is prohibited, unless permitted by the Department.

**§ 11.209. Miscellaneous activities.**

(a) The following activities are prohibited without written permission of the Department:

(1) Engaging in construction or excavation.

(2) Moving, removing, damaging or defacing a Department sign, structure, facility or equipment.

(3) Possessing, discharging or causing to be discharged a firecracker, explosive, torpedo, rocket or other pyrotechnical material.

(4) Using a chain saw.

(5) Engaging in commercial activity.



(6) Posting or displaying a sign or printed matter.

(7) Soliciting funds.

(8) Removing or disturbing an historical or archeological artifact, relic or object.

(9) Bringing an animal, other than a pet as provided in § 11.212 (relating to pets), and other than a horse as provided in § 11.216 (relating to general recreational activity; horses; snowmobiles; all terrain vehicles; mountain bikes), into a state park.

(b) The following are prohibited:

(1) Failing to comply with a condition of a permit issued by the Department.

(2) Possessing, selling or consuming an alcoholic beverage except at specially designated facilities operated or leased by the Department.

(3) Causing or creating a noise which would likely annoy or disturb a reasonable person of normal sensitivities.

(4) Obstructing or impeding persons or vehicles, or subjecting persons to unwanted physical contact or unwanted verbal behavior.

(5) Failing to fully cover with opaque clothing one's genitals, pubic area, buttocks or female breast below the top of the nipple.

(6) Storing or leaving food in a manner that is reasonably likely to attract wildlife.

**§ 11.210. Fires.**

The following activities are prohibited without written permission of the Department:

(1) Starting or maintaining a fire except in a fireplace, grill, stove or other facility designated by the Department for campfires.

(2) Leaving a fire unattended.

(3) Disposing hot charcoal except in a facility designated by the Department for charcoal disposal.

**§ 11.211. Natural resources.**

The following activities are prohibited without written permission of the Department.

(1) Cutting, picking, digging, damaging or removing, in whole or in part, a living or dead tree, shrub or plant. However, the following activities are permitted:

(i) Gathering edible fruits, nuts, berries and fungi, in reasonable amounts, for one's own personal or family consumption. This permission does not apply to wild plants listed in Chapter 45 (relating to conservation of Pennsylvania native wild plants) of this title as threatened, endangered, rare or vulnerable.

(ii) Gathering dead and down wood for use within the state park in a fireplace, grill, stove or other facility designated by the Department for campfires.

(2) Damaging, defacing, cutting or removing rock, shale, sand, clay, soil or other mineral product, natural object, or material.

(3) Planting a seed, tree, shrub or plant.

(4) Feeding wildlife.

(5) Releasing an animal that was brought into a state park.

**§ 11.212. Pets.**

(a) This section does not apply to a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

(b) An owner, keeper, or handler of a pet may keep the pet in a state park only in accordance with subsections (c), (d) and (e) and only under the following conditions:

(1) It is on a leash or is in a cage or crate. If a maximum length of leash is specified by posting, the leash may not exceed the length specified.

(2) It is attended and under physical control of an individual.

(3) It does not behave in a manner that may reasonably be expected to disturb or intimidate another person.

(4) It does not behave in a manner that may cause damage to property or resources.

(5) Its droppings are disposed of in trash receptacles or outside the park.

(6) It has been licensed and vaccinated as required by law.

(c) A pet is not permitted in a designated swimming area.

(d) A pet is not permitted in an overnight area unless the area is designated by the Department for pets.

(e) A pet is not permitted in a building.

(f) *Hunting or training.* Paragraphs (1) and (5) in subsection (b) do not apply to a dog being used by a person engaged in hunting or training as provided in § 11.215 (relating to weapons and hunting).

(g) *Prohibition.* Failure by an owner, keeper, or handler of a pet to comply with a provision in this section is prohibited.

**11.213. Organized events; public assemblies; distribution of printed matter**

(a) *Activities.* Engaging or participating in any of the following activities is prohibited without written permission of the Department:

- (1) An exhibition, competition, or organized event
- (2) A public assembly, meeting, gathering, demonstration,

parade, or other public expression of views

- (3) Distribution of printed matter

(b) *Application.* An application for a permit to engage in an activity listed in subsection (a) shall be delivered to the park manager at least 24 hours before the activity on a form prescribed by the Department and shall include a copy of any printed matter to be distributed.

(c) *Departmental review.* The Department will grant or deny a permit without unreasonable delay. A denial of a permit will specify the grounds for denial.

(d) *Grounds for denial.* Any of the following will justify denial of a permit:

(1) A prior application for a permit for the same time and place has been made that has been or will be granted and the activities authorized by that permit do not reasonably allow multiple occupancy of the particular area.

(2) It reasonably appears that the activity will present a clear and present danger to public health or safety.

(3) The activity is of such nature or duration that it cannot be accommodated without causing injury or damage to park resources.

(4) The activity is of such nature or duration that it cannot be accommodated without unreasonably interfering with a protected area's peace and tranquility, the use of the state park by other visitors, program or administrative activities, the operation of public use facilities, or the provision of services by state park concessionaires or contractors.

(e) *Conditions.* A permit issued under this section may contain conditions consistent with the considerations in subsection (d).

**§ 11.214. Waste.**

The following activities are prohibited:

(1) Depositing, dumping, or causing to be deposited or dumped, litter, trash, refuse, garbage, bottles, pollutants or any other substance, liquid or waste, including sewage, sink water or bath water, except in receptacles or facilities provided by the Department for this purpose and in accordance with any posted instructions.

(2) Disposing material that was not accumulated during use of a state park.

**§ 11.215. Weapons and hunting.**

The following activities are prohibited without written permission of the Department:

(1) Hunting, pursuing or intentionally disturbing woodchucks, also known as groundhogs. The provisions in paragraph (2) do not apply to this activity.

(2) Hunting, pursuing or intentionally disturbing wildlife unless:

(i) The person engaging in the activity is licensed by the Game Commission to hunt and is engaged in hunting in accordance with the Game and Wildlife Code;

(ii) The activity takes place in an area designated by the Department for hunting. At Presque Isle State Park, waterfowl hunting may take place only from a facility designated by the Department as a waterfowl blind, and shooting shall be directed away from state park land and over the adjacent waters;

(iii) The activity takes place during hunting season as established by the Game Commission; and

(iv) The firearm, archery equipment or other device used for this activity is lawful for hunting under the Game and Wildlife Code. A device operated by air, chemical or gas cylinder by which a projectile can be discharged or propelled is not lawful for hunting under the Game and Wildlife Code.

(3) Using a device, including a firearm, archery equipment, or slingshot, that is capable of discharging or propelling a projectile, except as provided in paragraph (2) or (7).

(4) Possessing an uncased device, or uncasing a device, including a firearm, archery equipment, or slingshot, that is capable of discharging or



propelling a projectile, except as provided in paragraph (2) or (7), or except in the owner's building on a leased campsite, in the owner's residence, or in the owner's vehicle or trailer.

(5) Failing to keep a device, including a firearm, archery equipment, or slingshot, that is capable of discharging or propelling a projectile, in the owner's building on a leased campsite, in the owner's residence, or in the owner's vehicle or trailer. This prohibition does not apply to:

(i) A person licensed by the Game Commission to hunt, and in possession of a device that is lawful for hunting under the Game and Wildlife Code, during hunting season as established by the Game Commission, in a state park open for hunting; or

(ii) A person engaged in target-shooting under paragraph (7).

(6) Trapping wildlife. This prohibition does not apply to a person licensed by the Game Commission to engage in trapping, during trapping season as established by the Game Commission, in an area designated by the Department for hunting.

(7) Target-shooting with a device, including a firearm, archery equipment, or slingshot, capable of discharging or propelling a projectile,

except in an area designated by the Department for this purpose and in accordance with posted requirements and restrictions.

(8) Dog training, except from the day following Labor Day through March 31, in an area designated by the Department for hunting.

**§ 11.216. General recreational activity; horses; snowmobiles; all-terrain vehicles; mountain bikes.**

(a) *General recreational activity.* Outdoor recreational activity is restricted to locations at which physical improvement or posting designates the appropriate purpose and use and to the requirements in subsections (b) through (e).

(b) *Horses.*

(1) Subject to paragraph (4), a horse is permitted only on the right side of a state park road open to motor vehicles or on a trail or area posted for horseback riding.

(2) Hitching or confining a horse in a manner that may cause damage to a tree, shrub, improvement or structure is prohibited.

(3) All droppings from hitched or confined horses shall be disposed of outside the state park.

(4) At Presque Isle State Park, a horse is permitted only with written permission of the Department.

(c) *Snowmobiles*. Use of a snowmobile, as defined in the Vehicle Code, is permitted only as follows:

(1) In accordance with Chapter 77 (relating to snowmobiles and all-terrain vehicles) of the Vehicle Code.

(2) On an area, road or trail posted for snowmobiles, or with written permission of the Department.

(3) During the period beginning the day following the last day of antlerless deer season as established by the Game Commission, through the following April 1, unless otherwise posted. For purposes of this paragraph, "antlerless deer season" means a regular season or an extended season. If more than one antlerless deer season in a calendar year is established by the Game Commission, then "the last day of antlerless deer season" as used in this paragraph means the antlerless deer season that is the latest in the calendar year but that ends prior to December 25.

(d) *All-terrain vehicles*. Use of an all-terrain vehicle, as defined in the Vehicle Code, is permitted only as follows:

(1) In accordance with Chapter 77 (relating to snowmobiles and all-terrain vehicles) of the Vehicle Code.

(2) On an area, road or trail posted for all-terrain vehicles, or with written permission of the Department.

(e) *Mountain bikes.* Use of a mountain bike on a trail is permitted only on a trail posted for mountain biking.

(f) *Prohibition.* Failure to comply with a provision or restriction in this section is prohibited.

**§ 11.217. Swimming.**

The following are prohibited:

- (1) Swimming outside a designated swimming area.
- (2) Swimming at other than posted hours.
- (3) Use of underwater breathing apparatus or a snorkel. However, with permission of the Department, this equipment may be used by an emergency or rescue unit conducting a rescue operation or training or by a diver certified by an organization approved by the Department.
- (4) Possessing or using a glass or breakable container or utensil in a designated swimming area.
- (5) Wearing the following:
  - (i) In a designated swimming area that is a swimming pool,

cut-off pants, clothing that may damage the filtration system or pool surface, or clothing that may otherwise cause damage or endanger the facility or a visitor.

(ii) In a designated swimming area that is a swimming pool, clothing that is not leak-proof, on an infant or on a child who is not toilet-trained.

(iii) In a designated swimming area, clothing that displays lifeguard lettering or insignia.

(6) The presence of a child 9 years of age or younger in a designated swimming area unless accompanied and supervised competently and effectively by a person at least 14 years of age. There may be no more than five children under the supervision of one person.

(7) Diving as follows in a designated swimming area:

(i) Running-entry diving.

(ii) Diving from the shoulders of another person.

(iii) Head-first diving from poolside where the water depth is five feet or less.

(8) Engaging in the following activities in a designated swimming area unless permitted by posting or by an on-duty lifeguard:

(i) Using or possessing a buoyant device. However,

personal flotation devices approved by the United States Coast Guard may be worn.

(ii) Engaging in sports activities, including water polo, volleyball, disc throwing, and catch.

**§ 11.218. Camping; overnight facilities.**

(a) *Camping.* Placing a tent, shelter, lean-to, sleeping bag, bedding material, or mobile camping unit in an area without a valid camping permit for use of that area is prohibited.

(b) *Overnight facilities.* Placing personal property in, or otherwise using, a cabin, yurt, walled tent, camping cottage, or other overnight facility without possession of a valid permit for use of that facility is prohibited.

**§ 11.219. Boating.**

(a) *Applicability.* This section applies to the use of watercraft, as defined by section 102 (relating to definitions) of the Fish and Boat Code, other than whitewater boating.

(b) *General.* The following activities are prohibited without written permission of the Department:

- (1) Operating watercraft on a body of water not posted as being open for boating.
- (2) Operating, using or anchoring watercraft within 100 feet of either a designated swimming area or an area marked by buoys.
- (3) Operating or using watercraft in an impoundment, except where the impoundment is designated for boating.
- (4) Operating, towing or using any of the following:
  - (i) Watercraft propelled by air propellers.
  - (ii) Seaplane. However, seaplanes may be taxied at a slow minimum-height-swell speed in the waters of Presque Isle State Park for the purpose of access to and egress from the park.
  - (iii) Water-skis, as defined by the Fish and Boat Commission in 58 Pa. Code Chapter 109 (relating to specialty boats and water-skiing activities). This prohibition does not apply to the use of conventional water-skis in lakes where motorboats with unlimited horsepower are permitted.
  - (iv) Unseaworthy watercraft.
  - (v) Novelty-type watercraft.

(vi) An inflatable device except one which is at least 7 feet long, made of durable, reinforced fabric, and has at least two separate buoyancy chambers exclusive of an inflatable floor or bottom.

(vii) Equipment or device not constructed or sold primarily for transportation on water.

(viii) Body board or surfboard, except where permitted by posting at Presque Isle State Park.

(c) *Motorboats.* This subsection does not apply to boats used for purposes of state park administration, law enforcement, search and rescue, safety patrol, or concessionaire excursions. The following activities are prohibited without written permission of the Department:

(1) Operating a boat powered by one or more internal combustion engines totaling more than the posted maximum horsepower.

(2) Operating a boat powered by an internal combustion engine in waters that are posted as being restricted to electric motor use.

(3) Operating personal watercraft, regardless of horsepower, unless the body of water is posted as being open to motorboats without a limit on horsepower.

(d) *Endangerment.* Operating or using watercraft in a manner that endangers a person or property is prohibited.



(e) *Mooring, anchoring and storing.* The following activities are prohibited:

(1) Mooring watercraft at any location without possession of a valid watercraft mooring permit issued by the Department for that location. This prohibition does not apply as provided in subparagraph (ii).

(i) A decal issued by the Department evidencing issuance of the permit must be affixed aft of amidship on the starboard (right) side of the watercraft.

(ii) At Point State Park, watercraft may be moored along the river wall temporarily during the day. Watercraft may be moored along the river wall overnight only with permission of the Department.

(2) Leaving watercraft in an area designated by the Department for storage without possession of a valid storage permit issued by the Department.

(3) Leaving unoccupied watercraft anywhere in a state park between sunset and 8 a.m., except in accordance with paragraph (1) or (2).

(f) *Launching.* The following activities are prohibited:

(1) Launching or removing watercraft at a location that is not designated by the Department as a launching site, without written permission of the Department.

(2) Except as provided in paragraph (3), launching watercraft without one of the following:

(i) A valid watercraft launching or mooring permit issued by the Department. If a decal evidencing the issuance of a permit has been provided by the Department, the decal must be affixed to the watercraft aft of amidship on the starboard (right) side. If another form of evidence of the issuance of a permit has been provided by the Department in lieu of a decal, this evidence must be carried on the watercraft.

(ii) A valid registration number and validation decal, or a valid use permit, issued and displayed in accordance with Fish and Boat Commission regulations.

(3) Paragraph (2) does not apply as follows:

(i) *Presque Isle State Park*. To an operator of watercraft at Presque Isle State Park, unless registration or a use permit is required under Fish and Boat Commission regulations. If registration or a use permit is required under Fish and Boat Commission regulations, launching watercraft without complying with the regulations is prohibited.

(ii) *Pymatuning State Park*. To an operator of watercraft at Pymatuning State Park if a valid launching permit has been issued for the watercraft by the State of Ohio.

(g) *Prohibition.* Failure to comply with a provision in this section is prohibited.

**§ 11.220. Whitewater boating**

(a) *General requirements.* A person engaging in whitewater boating at Ohiopyle State Park, Lehigh Gorge State Park or McConnells Mill State Park shall comply with the following requirements:

(1) Wear an appropriate-sized United States Coast Guard-approved personal flotation device, Type I, III, or V. However, participants in whitewater events approved by the Department and the Fish and Boat Commission may, with written approval of the Department and the Fish and Boat Commission, wear a lifedeck personal flotation device that provides a minimum buoyancy of 6 kilograms (13.5 pounds).

(2) Use one of the following types of watercraft in addition to complying with specific watercraft requirements in subsections (c), (d), and (e):

(i) Non-inflatable watercraft that is designed by the manufacturer for whitewater use. Non-inflatable canoes and non-inflatable kayaks must have sufficient flotation to ensure that they will float when they are completely full of water.

(ii) Inflatable watercraft that has multiple air chambers of a tough durable construction intended for whitewater use, consists of a tough laminated material, and is of commercial grade.

(iii) Other non-motorized watercraft approved by the Department.

(b) *General prohibitions.* A person engaging in whitewater boating at Ohiopyle State Park, Lehigh Gorge State Park or McConnells Mill State Park is prohibited from the following:

- (1) Using motorized watercraft.
- (2) Using watercraft in a manner that endangers a person or property.
- (3) Using watercraft before sunrise or after sunset without written permission of the Department.
- (4) Using a non-watercraft device, such as an inner tube or body board, without written permission of the Department.
- (5) Possessing or using a glass container.

(c) *Ohiopyle State Park.* The following rules apply on the Youghiogheny River at Ohiopyle State Park. River levels are measured at the state park's river gauge at the Lower Youghiogheny River launch area.

(1) *Lower Youghiogheny River.* The Lower Youghiogheny River is the section of the Youghiogheny River between the base of Ohiopyle Falls and the northern-most point of the river that lies within the state park. Persons engaging in whitewater boating on the Lower Youghiogheny River shall comply with the following requirements:

(i) *Guided tour or permit.* They shall either be part of a guided tour provided by a state park-licensed concession or have a valid whitewater launch permit issued by the Department. Permits may not be transferred, assigned, altered or used to subvert their original intent. During periods when a launch area is not staffed, boaters shall sign the sign-on sheet at the contact station in lieu of obtaining a permit.

(ii) *Launch and take-out.* Except as provided in clauses (A) and (B), launch of watercraft shall occur only at launch areas designated by the Department and take-out shall occur only at take-out areas designated by the Department.

(A) Watercraft may be launched on tributaries entering the Youghiogheny River downstream from Ohiopyle Falls, with permission of the Department.

(B) Watercraft may be launched at Bruner's Run take-out area for the purpose of boating downstream from Bruner's Run take-out area.

(iii) *Watercraft requirements.* Except as provided in subparagraph (iv), the following requirements apply to watercraft used on the Lower Youghiogeny River:

(A) At river levels below 3 feet, inflatable watercraft must be at least 8 feet long and have an outside tube diameter of at least 14 inches. This requirement does not apply to inflatable canoes and inflatable kayaks.

(B) At river levels 3 feet and above but less than 4 feet, inflatable watercraft must be at least 12 feet long and have an outside tube diameter of at least 16 inches.

(C) At river levels 4 feet and above, watercraft must be other than commercially-rented watercraft, and inflatable watercraft must be at least 15 feet long and have an outside tube diameter of at least 18 inches.

(iv) *Exceptions to watercraft requirements.*

(A) State park-licensed concession watercraft is not subject to the requirements in subparagraph (iii) of this paragraph, but is subject to the terms of the license agreement.

(B) Watercraft, other than commercially-rented watercraft, that is approved by the Department as being high-performance watercraft is not subject to the requirements in subparagraph (iii) of this paragraph unless posting states otherwise.

(2) *Middle Youghioghney River.* The Middle Youghioghney River is the section of the Youghioghney River between the Ramcat launch area and the Middle Youghioghney take-out area upstream of the bike trail bridge in Ohiopyle Borough. Persons engaging in whitewater boating on the Middle Youghioghney River shall comply with the following requirements.

(i) *Launch and take-out.* Launch of watercraft shall occur only at launch areas designated by the Department, and take-out shall occur only at take-out areas designated by the Department.

(ii) *Watercraft requirements.* Except as provided in subparagraph (iii), the following requirements apply to watercraft used on the Middle Youghioghney River:

(A) At river levels below 3 feet, inflatable watercraft must be at least 8 feet long and have an outside tube diameter of at least 14 inches.

(B) At river levels 3 feet and above, inflatable watercraft must be at least 12 feet long and have an outside tube diameter of at least 16 inches.

(iii) *Exceptions to watercraft requirements.*

(A) Inflatable canoes and inflatable kayaks are not subject to the requirements in subparagraph (ii) of this paragraph.

(B) State park-licensed concession watercraft is not subject to the requirements in subparagraph (ii) of this paragraph, but is subject to the terms of the license agreement.

(C) Watercraft, other than commercially-rented watercraft, that is approved by the Department as being high-performance watercraft is not subject to the requirements in subparagraph (ii) of this paragraph unless posting states otherwise.

(3) *Waterfall running.* Waterfall running is prohibited without written permission of the Department.

(d) *Lehigh Gorge State Park.* The following rules apply on the Lehigh River at Lehigh Gorge State Park. Flow rates are measured at the



state park river gauges at the launch area designated by the Department at White Haven and the launch and take-out areas designated by the Department at Rockport and Glen Onoko.

(1) At flow rates less than 250 cubic feet per second, inflatable watercraft must be at least 7 feet long and have at least two separate air chambers.

(2) At flow rates from 250 cubic feet per second through 1,000 cubic feet per second, inflatable watercraft must be at least 8 feet long, contain at least 3 separate air chambers, and have an outside tube diameter of at least 13 inches. This requirement does not apply to inflatable canoes and inflatable kayaks.

(3) At flow rates above 1,000 cubic feet per second through 5,000 cubic feet per second, inflatable watercraft must be at least 11 feet long, contain at least 3 separate air chambers, and have an outside tube diameter of at least 15 inches. This requirement does not apply to inflatable canoes and inflatable kayaks.

(4) At flow rates above 5,000 cubic feet per second, inflatable watercraft must be at least 12-1/2 feet long, contain at least 3 separate air chambers, and have an outside tube diameter of at least 17

inches. This requirement does not apply to inflatable canoes and inflatable kayaks.

(5) Launch of watercraft shall occur only at launch areas designated by the Department and take-out shall occur only at take-out areas designated by the Department, except with written permission of the Department.

(6) Operation of commercial watercraft is prohibited on the Lehigh River between the Francis E. Walter Dam and the White Haven launch area.

(7) Operation of commercial watercraft is prohibited on the Lehigh River between the White Haven launch area and the Rockport launch and take-out area during the opening weekend of annual trout season, as established by the Fish and Boat Commission, and the following weekend.

(e) *McConnells Mill State Park.* Inflatable watercraft used on Slippery Rock Creek at McConnells Mill State Park must be at least 8 feet long and have an outside tube diameter of at least 14 inches. This requirement does not apply to inflatable canoes and inflatable kayaks.

(f) *Prohibition.* Failure to comply with a provision in this section is prohibited.

**§ 11.221. Special provisions for Point State Park.**

The following provisions apply to Point State Park:

(1) *Memorials.* Memorials may be erected with written permission of the Department to honor those persons and events which symbolize the spirit of the American pioneer and the significance of frontier forts prior to the year 1800.

(2) *Portal Arch Bridge.* Congregating or loitering on the Portal Arch Bridge is prohibited.

(3) *Decorative pools.* Swimming, wading or fishing in the reflecting pool or the fountain pool is prohibited.

(4) *Recreational equipment.* Use of roller skates, skateboards, scooters, bicycles or other wheeled recreational equipment is prohibited, except where posted as being permitted or except with written permission of the Department.

**§ 11.222. Special provisions for Presque Isle State Park.**

The following provisions apply to Presque Isle State Park:

(1) *Visiting after closing.* A person who desires to enter the park during a period when the park is closed shall stop at the park ranger office and state his or her name, address, destination, reason for entering and

planned time of departure. Permission to enter the park may be granted if the Department determines that good cause exists for entering the park. This provision does not apply to a park resident or tenant.

(2) *Transfer of night parking permit.* Lending or transferring a night parking permit is prohibited and will result in cancellation of the permit.

(3) *Seining for bait.* Seining for bait in designated swimming areas is prohibited.

**§ 11.223. Violation of rules regarding conduct in state parks.**

Engaging in activity prohibited under section § 11.208 (relating to schedule; closure), § 11.209 (relating to miscellaneous activities), § 11.210 (relating to fires), § 11.211 (relating to natural resources), § 11.212 (relating to pets), § 11.213 (relating to organized events; public assemblies; distribution of printed matter), § 11.214 (relating to waste), § 11.215 (relating to weapons and hunting), § 11.216 (relating to general recreational activity; horses; snowmobiles; all-terrain vehicles; mountain bikes), § 11.217 (relating to swimming areas), § 11.218 (relating to camping; overnight facilities); § 11.219 (relating to boating), § 11.220 (relating to whitewater boating), § 11.221 (relating to special provisions for Point State

Park), or § 11.222 (relating to special provisions for Presque Isle State Park) constitutes a summary offense under section § 7506 (relating to violation of rules regarding conduct on Commonwealth property) of the Crimes Code.

**§ 11.224. Prices.**

(a) *Schedule of prices.* The Department will establish, by publication in the *Pennsylvania Bulletin*, a schedule of prices for activities, uses and privileges.

(b) *Reduction or waiver of prices.* The Department may reduce or waive prices established under subsection (a) as follows:

(1) For persons who provide a service deemed by the Department to be valuable to the public, the Department, or the Commonwealth.

(2) In specific situations in which the Department determines that good customer service or a marketing or promotional benefit to the Department warrants a reduction or waiver.

(c) *Prices for goods and services.* The Department will set reasonable prices for the sale of goods and services to the public.



**Pennsylvania Department of Conservation and Natural Resources**

Rachel Carson State Office Building, P.O. Box 8767, Harrisburg, PA 17105-8767  
Office of the Secretary

March 13, 2002

Mr. Robert E. Nyce  
Executive Director  
Independent Regulatory Review Commission  
14th Floor, Harrisstown II  
333 Market Street  
Harrisburg, PA 17101

RE: Proposed Rulemaking: State Parks – General Provisions (#7B-003)  
Title 17 Pa. Code, Chapter 11

Dear Mr. Nyce: *Bob,*

Enclosed is a copy of a proposed regulation for review by the Independent Regulatory Review Commission pursuant to the Regulatory Review Act. Section 5(b)(3) of the Act provides that the Commission shall have 30 calendar days from the closing date of the public comment period to notify the Department of any objections.

The Department of Conservation and Natural Resources will provide the Commission with any assistance it may require to facilitate the review of this proposed regulation. If you have any questions regarding this proposal, please contact Gary Smith, Chief, Division of Park Operations and Maintenance, Bureau of State Parks, at 787-8800.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'John C. Oliver', is written over the typed name below.

John C. Oliver  
Secretary

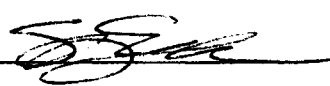
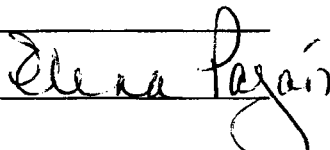
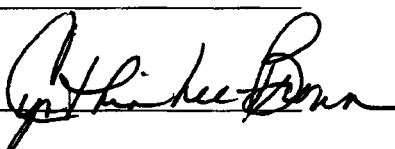
TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

I.D. NUMBER: 7B-003  
SUBJECT: State Parks - General Provisions  
AGENCY: DEPARTMENT OF CONSERVATION & NATURAL RESOURCES

TYPE OF REGULATION

- X Proposed Regulation  
Final Regulation  
Final Regulation with Notice of Proposed Rulemaking Omitted  
120-day Emergency Certification of the Attorney General  
120-day Emergency Certification of the Governor  
Delivery of Tolled Regulation  
a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
3/13/02		HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
3/13/02	Patricia A. Carnathan	
		SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
3/13/02		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
3/23/02		LEGISLATIVE REFERENCE BUREAU

*Patricia Carnathan*  
*Sen. K. Hota*

March 7, 2002