

THE DEPARTMENT OF NATURAL RESOURCES BOARD POLICY

POLICY #: 203.04

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SUBJECT: Recreational Use of SCDNR Properties

Revised and Approved: June 20, 2018

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

I. PURPOSE

The SCDNR is the principal advocate for and steward of the natural resources of South Carolina. Further, SCDNR holds ownership in tracts of land throughout the State. Each land acquisition has been based upon some intended purpose or the occurrence of some significant plant, animal, ecosystem, physical feature and/or cultural resource. Resource protection and management is the primary purpose for these landholdings. In some cases the management and use is dictated in the acquisition documents. As the human population of South Carolina continues to grow at a rapid rate, outdoor space will diminish and large outdoor areas suitable for recreation are not likely to be well distributed or readily available. Owners of large tracts of land, public and private, will be called upon to provide areas for traditional activities like hunting, fishing, bird watching, and for newer activities like off-road-vehicle (ORV) use, cycling, and others. Public agencies that own land must exercise care in providing recreational activities that are compatible with the resources for which the lands are valued. This policy will establish an evaluation process by which all recreational activities and uses of SCDNR lands are determined first to be “appropriate” and second to be “compatible.”

II. STATEMENT

This policy provides a statewide framework for determining appropriate recreational uses of South Carolina Department of Natural Resources (SCDNR) properties. In addition, this policy provides the procedure for determining if appropriate uses are compatible on a property.

III. DEFINITIONS

A. **Appropriate Use** is a proposed or existing use on an SCDNR property that meets at

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least one of the following conditions:

1. The use is a Natural Resources–Dependent Recreational Use as defined below.
 2. The use contributes to maintaining the essential character and fulfilling the property purpose as described in the Management Plan.
- B. Management Plan** is a written management plan that delineates management objectives, constraints and strategies for a SCDNR property. Changing socio-ecological conditions require that Management Plans be periodically updated.
- C. Natural Resources-Dependent Recreational Use** is a compatible natural resources use of a property involving: (1) hunting; (2) fishing; (3) wildlife or other natural resource observation; (4) wildlife or other natural resource photography; (5) environmental education; or (6) environmental interpretation.
- D. Property Manager** is the official, employed by the SCDNR who directs the management of a property, or the authorized representative of such official.
- E. Quality.** The criteria used to determine a high quality recreational experience include:
1. Promotes safety of participants, other visitors and facilities.
 2. Promotes compliance with applicable laws and regulations and responsible behavior.
 3. Minimizes or eliminates conflicts with fish and wildlife populations or habitat goals or objectives in the Management Plan.
 4. Minimizes or eliminates conflicts with other compatible wildlife-dependent recreation.
 5. Minimizes conflicts with neighboring landowners.
 6. Promotes resource stewardship and conservation.
 7. Promotes public understanding and increases public appreciation of South Carolina’s natural and cultural resources and our role in managing and protecting these resources.
 8. Provides reliable/reasonable opportunities to experience wildlife.
- F. Sound Professional Judgment** is a finding, determination or decision that is consistent with principles of sound fish and wildlife management and administration, available sciences and resources.

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IV. APPLICATION OF POLICY

This policy applies to all proposed and existing uses of SCDNR properties. Existing recreational uses defined in an approved Management Plans are considered to be in compliance with this policy.

This policy does not apply to:

- A. **Situations where reserved rights or legal mandates provide that certain uses must be allowed.** For example, there may be prescriptive purposes or other uses that are specifically required or not allowed in the deed or grant that conveyed the property to the State.
- B. **Property management activities.** Property management activities are specified in the Management Plans. These plans may specify management activities such as forest management, wildlife management, water regime management, fish or wildlife population control, that are not subject to this policy when conducted by DNR staff or an approved cooperator.
- C. **Emergencies.** The Director or Deputy Director may temporarily suspend, or allow any use of a property if it is determined necessary to immediately act in order to protect the health and safety of the public or any plant, fish or wildlife population.
- D. **Specialized Uses.** These require specific authorization from the SCDNR in the form of a special use permit, letter of authorization or other permit document. Some of the specialized uses that may be considered include use of buildings or other facilities, rights-of-ways and other encroachments, telecommunications facilities, military, NASA and other national defense uses, research, public safety training, etc. Requests for specialized uses are covered by other SCDNR policies and procedures (i.e. DNR Policy 400.01, or Scientific Research/Collection Permits).

V. AUTHORITIES

50-11-2200, SC Code of Laws, as amended. This statute provides that the SCDNR shall acquire, through purchase or lease, habitat for the protection, propagation and promotion of fish and wildlife and for public hunting and fishing. It further states that the Department may promulgate regulations for the protection, preservation, operation, maintenance and use of land owned by the Department. It goes further to specifically prohibit certain activities without regulations specifically providing for and allowing those activities.

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VI. TYPES OF USE

- A. **Other General Public Uses** that are not natural resources-dependent recreational uses as described herein, and do not contribute to the fulfillment of property purposes or goals or objectives as described in the Management Plan are the lowest priorities for property managers to consider. These uses are likely to conflict with Natural Resources-Dependent Recreational Uses and divert property management resources away from the Department’s responsibilities to protect and manage fish, wildlife and plants and their habitats, and cultural resources. Therefore, policy and practice have a general presumption against allowing such uses on SCDNR properties. Before these uses are considered, regardless of how often they occur or how long they last, an appropriateness determination must be made as defined in Section VII of this policy.

VII. DETERMINING APPROPRIATE USE

A property use is appropriate if the use meets all of the following criteria:

- A. It is a Natural Resources-Dependent Recreational Use of a property.
- B. The SCDNR has jurisdiction over the use and therefore authority to permit or allow the use.
- C. The use complies with all applicable laws and regulations (Federal, State and local).
- D. The use is consistent with applicable State and SCDNR policies.
- E. The use is consistent with public safety. If the use creates an unreasonable level of risk to visitors or SCDNR staff, or if the use requires SCDNR staff to take unusual safety precautions to assure the safety of the public or other SCDNR staff, the use is not appropriate.
- F. The use was evaluated under previous administrative review, was deemed appropriate, and conditions have not changed that would warrant further review (if applicable).
- G. The use contributes to the public’s understanding and appreciation of the property’s natural or cultural resources, or the use is beneficial to the property’s natural or cultural resources.

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The property manager shall consider the above criteria and complete Exhibit 1 (appended to this policy) for each property use subjected to the appropriateness test. The findings shall be forwarded to the appropriate Regional Coordinator and through the chain of supervision to the Deputy Director, or designee, for concurrence. This will serve to promote consistency in determining appropriate uses of SCDNR lands. The SCDNR Director has final authority in appropriate use determinations.

VIII. DETERMINING COMPATIBILITY

Uses that are determined to be appropriate for SCDNR properties will then be evaluated for compatibility to determine if the use will be allowed, and under what conditions the use will be allowed. The property manager is required and expected to exercise sound professional judgment in making these determinations. Compatibility determinations are inherently complex and require the property manager to consider their field experience and knowledge of the property's resources, particularly its biological resources. When a property manager is exercising sound professional judgment, the property manager will use available information that may include consulting with others both inside and outside the SCDNR. At a minimum, the property manager should consider the following questions:

- A. Will the use materially interfere with or detract from the fulfillment of the SCDNR mission?
- B. Is the use consistent with property goals and objectives in an approved Management Plans or other documents? If the proposed use, either itself or in combination with other uses or activities, conflicts with a property goal, objective or management strategy, the use is generally not compatible.
- C. Is the use manageable within available budget and staff? If a proposed use diverts management efforts away from the proper and reasonable management of a property or natural resources-dependent recreational use, the use is generally not compatible.
- D. Will the use be manageable in the future within existing resources? If the use would lead to recurring requests for the same or similar activities that will be difficult to manage in the future, then the use is generally not compatible. If the use can be managed so that impacts to natural and cultural resources are minimal or inconsequential, or if clearly defined limits can be established, then the use may be compatible.
- E. Can the use be accommodated without impairing priority general public use or reducing the potential to provide high quality recreational use in the future?

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- F. If a use is not compatible as initially proposed, can it be modified with stipulations that avoid or minimize potential adverse impacts, making the use compatible?

The property manager shall consider the above questions, and any other information deemed necessary to make a determination based on sound professional judgment, and complete Exhibit 2 (appended to this policy) for each property use subjected to a compatibility determination. The findings shall be forwarded to the appropriate Regional Coordinator and through the chain of supervision to the Deputy Director, or designee, for concurrence. This will serve to promote consistency in determining compatible uses of SCDNR lands. The SCDNR Director has final authority in compatible use determinations.

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EXHIBIT 1

APPROPRIATE USE DETERMINATION

Property Name: _____

Use: _____

DECISION CRITERIA	YES	NO
Is the use a natural resource-dependent recreational use of a property?		
Do we have jurisdiction over the use?		
Does the use comply with applicable laws and regulations (Federal, State or local)?		
Is the use consistent with applicable state or SCDNR policies?		
Is the use consistent with public safety?		
If the use was evaluated under previous administrative review, was it deemed appropriate?		
Does the use contribute to the public's understanding and appreciation of the property's natural or cultural resources, or is the use beneficial to the property's natural or cultural resources?		

To be found appropriate, answers to ALL of the above questions must be YES.

_____ **Not Appropriate**

_____ **Appropriate**

Comments:

Property Manager: _____

Date: _____

Regional Coordinator: _____

Date: _____

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**EXHIBIT 2
COMPATIBILITY DETERMINATION**

(Use as much space as needed)

USE:

PROPERTY NAME:

ACQUISITION AUTHORITY (INCLUDE PRESCRIPTIVE PURPOSES, ANY PROPERTY USE RESTRICTIONS ESTABLISHED BY DEED OR GRANT, ETC.):

PROPERTY PURPOSE:

SCDNR MISSION:

DESCRIPTION OF USE:

AVAILABILITY OF RESOURCES:

ANTICIPATED IMPACTS OF THE USE:

DETERMINATION (CHECK ONE BELOW):

USE IS NOT COMPATIBLE

USE IS COMPATIBLE

STIPULATIONS NECESSARY TO ENSURE COMPATIBILITY:

JUSTIFICATION:

PROPERTY MANAGER SIGNATURE AND DATE

REGIONAL COORDINATOR SIGNATURE AND DATE