### Adopt Ncr 750 to read as follows:

#### CHAPTER Ner 750 VOLUNTEER PROGRAMS

Statutory Authority: RSA 12-A:2-c, I and II (a), RSA 216-A:3-l, and RSA 227-G:4, I.

#### PART Ncr 751 PURPOSE AND EXCLUSIONS.

Ncr 751.01 <u>Applicability</u>. The provisions of Ncr 750 shall apply to all department of natural and cultural resources (department) properties <u>listed in Ncr 101.06</u>, and subsequent properties and easements upon acquisition, and facilities, structures, and improvements thereon and to all listed conservation or trail easement properties held by the department to the extent that these provisions apply to the rights granted to the state or the restrictions placed on the property.

Ncr 751.02 Purpose. This chapter has been enacted to:

(a) Promote fairness and consistency in authorizing volunteer activities on department lands, facilities, and resources;

(b) Promote natural, cultural, and historical resource protection and stewardship of department lands, facilities, and resources;

(c) Manage impacts and prevent degradation to department lands, facilities, and resources;

(d) Manage competing uses of department lands, facilities, and resources, including but not limited to impacts to or degradation of the visitor experience;

(e) Provide a public benefit when allowing exclusive or privileged use of department lands, facilities, and resources;

(f) Manage the allocation, cost, and sufficiency of department operational resources, including but not limited to staff labor, materials, and training; *and* 

(g) Protect the state from liability and damages arising from the use of its lands, facilities, and resources.

Ncr 751.03 <u>Exclusions</u>. Permission through application shall be required for conducting volunteer activities on department lands, facilities, and resources, except uses by governmental and quasi-governmental agencies under separate agreement for the use or activity, or uses governed by the following statutes, rules, management plans, and department programs *as follows*:

(a) Ner 743, Special Use Permits for special use permits;

(b) RSA 216-A:3, Agreement *for agreements* with other state agencies, the federal government, municipalities, or other public and private agencies;

(c) RSA 227-H:9, Leasing of Privileges and Concessions for the leasing of privileges and concessions;

(d) Permissible uses granted under a property management plan; and

(e) Programs, events, or activities initiated, sponsored, or conducted by the department.

# PART Ner 752 DEFINITIONS.

# Ncr 752.01 Definitions.

(a) "Developed" means those lands, facilities, and resources that have improvements where staff or services are provided or fees are charged, such as but not limited to lawns and fields maintained by regular mowing, picnic areas, pavilions, group use areas, playgrounds, play areas, athletic fields, bathhouses, toilet buildings, park stores, visitors centers, educational facilities, administrative facilities, maintenance facilities, dwellings, camps, cabins, yurts, campsites and campgrounds, beaches, boat launches, and roadways, trails, and parking areas directly within or directly associated with developed areas.

(b) "Department lands, facilities and resources" means those lands, facilities, and resources under jurisdiction of the department or rights granted by third parties held by the department, including but not limited to historical, cultural, and natural resources such as water bodies, geology, vegetation and soil, and improvements such as facilities, structures, roads, trails, and landscaping.

(c) "Commercial use" means any use, activity, or event in which any of the following occur:

(1) Income is derived from use of department lands, facilities, and resources, directly or indirectly, regardless of the intent to produce a profit, as determined by the department;

(2) Attendees, participants or guests are charged a fee by the individual, business, group, or organization;

(3) The sale, promotion, exchange, or demonstration of goods or services;

(4) Canvassing or soliciting, excepting the use of a vehicle, boat or clothing permanently affixed with a commercial logo or insignia; or

(5) Fundraising or membership drives, even if for a non-profit or charity organization.

(d) "Degradation of the visitor experience" means the event, activity, or use disrupts traditional public park use or unduly inconveniences abutting landowners or the general public and causes or might cause any of the following conditions:

(1) Impose on or conflict with the use of department lands, facilities, and resources by the public at large;

(2) Excessive noise so as to deny others their right to quiet enjoyment of their recreational use of department lands, facilities, and resources; or

(3) Multiple complaints from other visitors or parties, as determined by the department.

(e) "Long-term volunteers" means an individual or group that conducts volunteer activities or work on a recurring basis, and who have the skillset and experience to work independently.

(x)(f) "Nonprofit organization" means a not for profit organization, corporation, community chest, fund or foundation organized and operated exclusively for religious, cultural, charitable, scientific, recreational, literary, agricultural, or educational purposes, or to foster amateur competition in a sport formally recognized by the National Collegiate Athletic Association, and an organization exempt from

taxation under section 501(c) of the Internal Revenue Code of 1986 organized or incorporated in this state or having a principal place of business in this state.

(x)(g) "Single-day volunteers" means an individual or group that conducts volunteer activities or work on a non-recurring basis, including but not limited to single-day or short-term projects with a clearly defined end date.

(x)(h) "Special use" means any event, activity, or use that is beyond the normal or routine recreational use of a specific department property or an event, activity, or use requiring a permit under Ncr 743.01.

(x)(i) "Volunteer" means an individual who performs hours of service for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered, is considered to be a volunteer during such hours. The department does not intend to discourage or impede volunteer activities undertaken for civic, charitable, or humanitarian purposes, but expresses its wish to prevent any manipulation or abuse of minimum wage or overtime requirements through coercion or undue pressure upon individuals to "volunteer" their services. Individuals shall be considered volunteers only where their services are offered freely and without pressure or coercion, direct or implied, from an employer. An individual shall not be considered a volunteer if the individual is otherwise employed by the department to perform the same type of services as those for which the individual proposes to volunteer.

# PART Ncr 753 RULES RELATING TO VOLUNTEER APPLICATIONS

Ncr 753.01 <u>Volunteer Application Required</u>. Except for Ncr 751.03, an application shall be required for any individual or organization, such as a group of individuals, a business, public or private entity, that wishes to *become a volunteer recognized by the department to* conduct volunteer activities or work on department lands, facilities or resources. *Individuals shall use the "Individual Volunteer Application" form, dated 10/2019. Organizations shall use the "Group Volunteer Application" form, dated 10/2019.* 

#### Ncr 753.02 Volunteer Applications.

(a) An applicant shall supply the following information:

(1) Name, mailing address, day-time telephone number, and email address of the individual, or in the case of a group, the name of the organization and the name, mailing address, website address-(, if applicable), and day-time telephone number, and email address of the group leader of the organization;

(2) Name of the department property and the facility or area within the property where the applicant proposes to conduct the volunteer activity or work;

(3) The following information about the proposed volunteer activity or work:

i.a. Description of the volunteer services offered;

**ii**.*b*. The resources the applicant has readily available to accomplish the proposed services, such as the number of individual volunteers, materials, equipment, and/or funds;

iii.c. Date(s) and time the applicant is available to conduct the activity or work;

iv.d. That the applicant is over the age of 18;

*v.e.* An explanation, if part of a court mandated or other obligation for voluntary service;

**vi.f.** If the applicant has ever been convicted of a felony that has not been officially annulled by a court, the date, location, including the court, and nature of the felony conviction; and

vii.g. The name and contact information of two-2 references.

(4) If the applicant is applying on behalf of an organization, the following information shall be required in addition to Ncr 753.02, (a):

*i.a.* The number of individual volunteers assisting with the activities or work;

ii.b. If a business, is the organization registered with the New Hampshire Secretary of State secretary of state pursuant to RSA 349:1, and, if so, whether the organization is in good standing;

iii.c. If a charitable organization, as defined in RSA 7:21, II, (b), is- whether the organization registered with the New Hampshire Department of Justice, Charitable Trusts Unit- department of justice, charitable trusts unit pursuant to Jus 402.01-;

**iv.d.** Describe any food and/or beverages, including alcohol, that will be served and/or items that will be offered to participants during the activities or work;

v.e. Describe any fundraising or solicitation activities that will occur;

vi.f. Describe any proposed activities that are otherwise prohibited under Ncr 730;

vii.g. Describe any additional needs or special considerations, such as but not limited to access to otherwise restricted areas, access to utility services such as electrical, water, and/or communications lines, the need for department staff assistance, additional waste and sanitation management, traffic control, or additional parking; and

viii.h. Describe any volunteer activities or work that shall occur offsite of department properties;.

ix.(b) Indication of coverage of General-general liability insurance coverage may be required from the organization so as to reasonably- as applicable to protect the state against actions and claims arising from the volunteer activities or work. The amount of liability insurance coverage shall be determined by the department based upon the type, extent and risk to persons and property associated with the use, but shall not exceed the limits on actions and claims against the state pursuant to RSA 541-B:14; and.

 $\mathbf{x}$ .(c) If anyone in the group has ever been convicted of a felony that has not been officially annulled by a court, the date, location, including the court, and nature of the felony conviction.

(b)(d) All information shall be legible.

(c)(e) The applicant shall Sign sign and date the application to certify:

**i**-(1) That the information provided as complete and accurate, and no willful misrepresentations or omissions are made; and

**ii.(2)** That the applicant agrees to indemnify and hold harmless the **State**-state with respect to liability for bodily injury or property damage caused in whole, or in part, by the applicant's acts or omissions, or the acts or omissions of those within the applicant's party, or the acts or omissions of those acting on the applicant's behalf, to the extent RSA 99-D:1 and 2 do not apply.

(d)(f) The applicant shall mail, hand-deliver, or submit online if such online service is available, the completed application to:

Department of Natural and Cultural Resources Division of Parks and Recreation Volunteer Programs 172 Pembroke Road Concord, NH 03301 DNCR.Volunteer@dncr.nh.gov

Ncr 753.02 Approval of Volunteer Applications.

(a) Department authority. The director of the respective department division, or their assignees, shall be authorized to review and approve volunteer applications that are within their respective jurisdiction of land administration and operations.

(b) The department authority shall review and make its decision on the volunteer application within thirty ("30") days.

(c) The department authority shall approve a volunteer application if the conditions set forth herein are met:

(1) The application form is signed and complete;

(2) The applicant has adequate knowledge, skillset, and experience to safely conduct the proposed volunteer activities or work;

(3) The applicant has the time, materials, and resources to adequately complete the proposed volunteer activities or work;

(4) There is a need, as determined by the department, for the proposed volunteer activities or work at the location identified in the application; and

(4) The department can provide the necessary supervision <del>and/</del>or oversight for the proposed volunteer activities or work.

(d) Notwithstanding (c) above, the application shall be denied if one or more of the following circumstances are present, as determined by the department authority:

(1) The proposed use or activity violates deed restrictions or is inconsistent with department management purposes for the specific department lands, facilities, and resources, as determined by the department;

(2) The location sought is not suitable because the proposed use or activity would materially impact the characteristics or functions of department lands, facilities, and resources;

(3) The location sought is not suitable because department lands, facilities, and resources are reasonably likely to be harmed by the proposed use or volunteer activity;

(4) The proposed volunteer activity or work is prohibited by federal or state law unrelated to the content of expressive activity;

(5) The proposed volunteer activity or work violates state public health laws and rules or state personnel laws and rules;

(6) The applicant or an individual within the group, or the proposed volunteer activity or work will pose a danger to public health, safety, and welfare;

(7) The location sought is not suitable because the proposed volunteer activity or work are of such nature or duration that it cannot reasonably be accommodated in that location;

(8) The proposed use or activity will delay, halt, impact, or prevent administrative use of an area by *the* department or other scheduled or existing uses;

(9) The date and time requested have previously been allotted by special use permit, group reservation, or other contract or agreement;

(10) Within the preceding 2 years, the applicant has been granted a volunteer agreement and did, on that prior occasion, knowingly violate a material term or condition of the agreement, or any law, ordinance, statute or regulation relating to use of the department lands, facilities, or resources; or

(11) The proposed volunteer activity or work would unreasonably cause or contribute to the degradation of the visitor experience.

(e) If the department authority approves a volunteer application, the department *authority* shall provide written notification of acceptance to the applicant.

(f) If the department authority does not approve a volunteer application, the department authority shall notify the applicant in writing, citing the specific grounds contained within Ncr 753.02 for the denial.

(g) An applicant whose volunteer application is denied pursuant to Ncr 753.02, may appeal to the commissioner within 5 business days of receipt of the denial, citing all reasons the denial was inappropriate. Upon receipt of the appeal, the commissioner shall notify the applicant, in writing, of his or her the commissioner's decision within 10 business days, citing any denial to the grounds contained within Ncr 753.02.

#### PART Ncr 754 RULES RELATING TO VOLUNTEER PROJECTS AND WORK PLANS

Ncr 754.01 <u>Project and Work Plans Required</u>. Long-term volunteer groups approved by the department authority to conduct long-term volunteer activities and work on department properties shall submit an annual work plan to the department.

Ncr 754.02 Annual Work Plan Submission.

(a) Work plans shall be submitted to the department volunteer program manager by February 1 each year for summer projects and by October 1 each year for winter projects.

(b) Volunteers shall solicit input from the department's onsite park, trail and/or forest manager or supervisor so as to identify the department's project needs and priorities.

(c) Work plans shall contain the following information:

(1) Volunteer group information:

a. Name of the volunteer group and name of the group leader;

b. Group leader's phone number and email address;

c. Name of the department property and locations and facilities where volunteer activities and work will take place; and

d. Name of the designated department site supervisor, as determined by the department's volunteer manager-;

(2) Proposed operations for the upcoming year, including but not limited to a summary of *the following* general operations and activities:

a. List all project plans and activities, including the use of **DNCR** *department* land and facilities, and any group-owned structures on department lands;

b. A schedule of volunteer group meetings;

c. A schedule of volunteer group activities that will take place on department land;

d. If applicable, winter grooming projects on non-motorized trails, including:

1. List of previously approved trail locations that were groomed;

2. List of proposed trail locations to be groomed;

3. List of the names of groomer operators;

4. List of equipment to be used; and

5. Confirmation that the volunteer group holds an active general liability insurance policy for its grooming activities and its grooming equipment-; and

e. If there are any unfinished projects <del>and/or</del> tasks from the previous year, a list of such projects <del>and/or</del> tasks and plans for completing such projects <del>and/</del>or tasks in the upcoming year;

(3) Financial initiatives for the upcoming year, including:

a. Fees to be charged to third-parties for activities within or use of department land and facilities;

b. Sponsors and donations solicited on behalf of and for use of department land and facilities;

c. Grants to be used on behalf of and for use on department land, which shall require prior written approval from the department; and

d. An explanation of how the use of revenue will support the mutual goals of the volunteer group and the department in the upcoming year-;

(4) A description of any signs, promotions, and advertising to be used onsite or associated with department land, including but not limited to placing or painting blazes on through-trails, an image of the blaze, and the name of trail(s) upon which the signs and/or blazes will be placed-;

(5) A list of new project proposals that are beyond routine maintenance, such as but not limited to new construction projects that require permitting, installation of structures, *and* trail improvements outside of the established trail, and shall *that* requires prior approval from the department and/or other state agency approvals-;

(6) A list of all programs, events, and fundraisers to be held on department land in the upcoming year, including:

- a. Dates and time of such activities;
- b. Whether any fees, admission charges and/or donation requests will be made;
- c. Who the target audience is;
- d. Whether food and/or beverages, including alcohol, will be served;
- e. Whether third-party vendors will be present; and

f. Any other relevant information that will enable the department to determine if a special use permit is required under Ncr 740-;

- (d) (7) The following documents shall be submitted with the work plan:
  - e.(1) Certificate of insurance with a minimum general liability coverage of \$1,000,000 per occurrence, and \$2,000,000 aggregate, and listing the department as additional insured and as a certificate holder with the following address:

State of New Hampshire Department of Natural and Cultural Resources 172 Pembroke Road, Concord, NH 03301

 f.(2) For winter grooming activities, a copy of a certificate of insurance must also show showing coverage for the grooming activities and the grooming equipment and a copy of the trail maintenance vehicle registration issued by NH-Fish & Game fish and game; g.(3) Certificate of good standing from the office of the secretary of state;

- h.(4) Confirmation that the volunteer group is registered with the office of the attorney general charitable trusts unit, if applicable; and
- i.(5) A copy of the volunteer group's roster, including but not limited to a list of its board of directors and a list of all members and regular volunteers.

(e) (8) The work plan shall be dated and signed by the authorized signatory, as defined in the certificate of authority.

(f) (9) The group leader shall mail, hand-deliver, or submit online if such online service is available, the completed work plan to:

Department of Natural and Cultural Resources Division of Parks and Recreation Volunteer Programs 172 Pembroke Road Concord, NH 03301 DNCR.Volunteerdncr.volunteer@dncr.nh.gov

Ncr 754.03 Approval of Annual Work Plans.

(a) Department authority. The director of the respective department division, or their assignees, shall be authorized to review and approve work plans that are within their respective jurisdiction of land administration and operations.

(b) The department authority shall review and make its decision on the work plan within thirty (30) days.

(c) The department authority may shall request revisions to the work plan *if the plan is incomplete or additional information is needed in order to make a determination.* and t*T*he volunteer group shall comply with the requested revisions and submit a revised work plan within 30 days for review by the department authority.

(d) The department authority shall approve a work plan if the conditions set forth herein are met:

(1) The work plan is signed and complete;

(2) The volunteer group has adequate knowledge, skillset, and experience to safely conduct the proposed work plan;

(3) The volunteer group has the time, materials, and resources to adequately complete the proposed work plan;

(4) There is a need, as determined by the department, for the proposed volunteer activities or work at the location identified in the work plan; and

(5) The department can provide the administration and/or management support for the proposed work plan.

(e) Notwithstanding (d) above, the work plan shall be denied if one or more of the following circumstances are present, as determined by the department authority:

(1) The proposed work violates deed restrictions or is inconsistent with department management purposes for the specific department lands, facilities, and resources, as determined by the department;

(2) The location sought is not suitable because the proposed work would materially impact the characteristics or functions of department lands, facilities, and resources;

(3) The location sought is not suitable because department lands, facilities, and resources are reasonably likely to be harmed by the proposed work;

(4) The proposed work is prohibited by federal or state law unrelated to the content of expressive activity;

(5) The proposed work violates state public health laws and rules or state personnel laws and rules;

(6) The group, or an individual within the group, or the proposed work will pose a danger to public health, safety, and welfare;

(7) The location sought is not suitable because the proposed work is of such nature or duration that it cannot reasonably be accommodated in that location;

(8) The proposed work will delay, halt, impact, or prevent administrative use of an area by department or other scheduled or existing uses;

(9) The date and time requested have previously been allotted by special use permit, group reservation, or other contract or agreement;

(10) Within the preceding 2 years, the volunteer group has been granted a volunteer agreement and did, on that prior occasion, knowingly violate a material term or condition of the agreement, or any law, ordinance, statute, or regulation relating to use of the department lands, facilities, or resources; or

(11) The proposed work would unreasonably cause or contribute to the degradation of the visitor experience.

(e) If the department authority approves a work plan, the department *authority* shall provide written notification of acceptance to the group leader.

(f) If the department authority does not approve a volunteer application, the department authority shall notify the applicant in writing, citing the specific grounds contained within Ner 754.03 for the denial.

(g) A volunteer group whose work plan is denied pursuant to Ncr 754.03, may appeal to the commissioner within 5 business days of receipt of the denial, citing all reasons the denial was inappropriate. Upon receipt of the appeal, the commissioner shall notify the volunteer group, in writing, of his or her the commissioner's decision within 10 business days, citing any denial to the grounds contained within Ncr 754.03.

# PART Ncr 755 VOLUNTEER REPORTING

Ncr 755.01 <u>Volunteer Reporting Required.</u> To comply with the provisions of Ncr 751.02, individual <del>and/</del>or group volunteers shall submit the following reports, *forms, or other information* to the department, when requested:

(a) The single day volunteer sign in sheet, including the date, the name of all volunteers, the signature of all volunteers, and the phone number or email address of all volunteers.-;

(b) The "y Youth  $\neq$  Volunteer p Parental e Consent f Form," *dated 10/2019* for volunteers under the age of 18-;

(c) The volunteer work report, including the date, hours worked, the task(s) completed, the number of adult volunteers and the number of youth volunteers who worked-*; and* 

# (d) All volunteers and volunteer groups shall notify their site supervisor of upcoming volunteer activities prior to onsite arrival Notice of upcoming volunteer activities, which shall be provided to the site supervisor prior to on-site arrival.

## PART Ner 756 USE OF DEPARTMENT LANDS, FACILITIES, AND RESOURCES

# Ncr 756.01 Use of Department Lands, Facilities, and Resources Granted Under Chapter 750.

(a) For purposes of this part, an "agreement" means a volunteer agreement, as is applicable under this chapter.

(b) Only the buildings, facilities, specified areas, or resources of the department lands identified in the agreement shall be used for the approved use or activity.

(c) Hours of the use or activity shall be limited to the time authorized by the agreement.

(d) The individual or group identified by the agreement shall comply with all the conditions of the agreement.

(e) For verification purposes, a copy of the agreement shall be presented to the manager or other authorized department personnel on the day of the scheduled use or activity.

(f) The use or activity, while engaged or executed, shall not unreasonably cause or contribute to the degradation of the visitor experience, as determined by the authorized department personnel.

(g) The use or activity, while engaged or executed, shall not cause environmental or property damage to department lands, facilities, and resources, as determined by the authorized department personnel.

(h) Onsite signs, postings, decorations, and setup for the use or activity shall be appropriate for a family-friendly park and forest environment, subject to the approval of the onsite manager or other authorized department personnel.

(i) Volunteers, attendees, and participants shall park in areas designated by authorized department personnel.

(j) All buildings, facilities, specified areas, or resources used for the approved use or activity shall be restored by the volunteer or volunteer group identified by the agreement to the same condition in which it was originally found, including the removal of all signs, postings, decorations, equipment and structures, and trash.

(k) Supervision of the use or activity shall be the responsibility of the volunteer group leader identified by the agreement.

(1) Volunteers, attendees, and participants who access and use department properties outside of the volunteer work hours approved by the department shall be considered members of the general public and shall pay all admission, parking, camping, rental, and any other fees charged to the general public.

# PART Ner 757 SUSPENSION AND TERMINATION OF VOLUNTEERS

Ncr 757.01 <u>Suspension of Use of Department Lands, Facilities, and Resources Granted Under</u> <u>Chapter 750</u>.

(a) For purposes of this part, an "agreement" means a volunteer agreement, as is applicable under this chapter.

(b) At any time, an authorized department personnel shall immediately suspend the agreement pursuant to RSA 541-A:30, III, and shall evict the volunteer, volunteer group, organization, company, or contracted party, should any of the following occur, as determined by the authorized department personnel:

- (1) Causing environmental or property damage;
- (2) Causing damage to department lands, facilities, or resources;
- (3) Endangering public health, safety, or welfare;
- (4) Unreasonably causing or contributing to the degradation of the visitor experience; or
- (5) Violating the terms or conditions of the agreement.

(c) Any volunteer, volunteer group, or organization evicted from the property pursuant to the above, shall not receive a refund of department-related daily fees, including but not limited to, volunteer work pass, admission, parking, permit, or enterprise function fee, except for a portion of camping rental fees as allowed by RSA 216-I:6.

Rule	State or Federal Statute which the Rule is Intended to Implement
Ner 751.01 through Ner 756.01	RSA 12-A:2-c, I and II(a) and (b); RSA 216-A:3-l, III, and RSA 227-G:4, I
Ncr 757.01	RSA 12-A:2-c, I and II(a); RSA 216-A:3-l, III, and;

# APPENDIX

RSA 541-A:30, III

# **APPENDIX B:** Incorporation by Reference

Rule	Title	Obtain at:
Ncr 753.01	Individual Volunteer Application, 10/2019 Group Volunteer Application, 10/2019	Department of Natural and Cultural Resources Division of Parks and Recreation Volunteer Programs 172 Pembroke Rd Concord, NH 03301 <u>dncr.volunteer@dncr.nh.gov</u>
Ncr 755.01, (b)	Youth Volunteer Parental Consent Form, 10/2019	Cost: Free of Charge Department of Natural and Cultural Resources Division of Parks and Recreation Volunteer Programs 172 Pembroke Rd Concord, NH 03301 <u>dncr.volunteer@dncr.nh.gov</u> Cost: Free of Charge