

**SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES
HUMAN RESOURCES POLICY**

POLICY #: 700.04

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SUBJECT: Outside Working Activity
(Consulting, Moonlighting, Etc.)

Revised July 1, 2004

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.

STATEMENT OF POLICY

No employee of the South Carolina Department of Natural Resources shall accept any form of payment above his/her regular salary and authorized expenses for professional services rendered to any program for which he/she has administrative responsibility.

No Department employee shall be connected or affiliated with a commercial operation whose activity is regulated by the South Carolina Department of Natural Resources. (i.e., fur trapping, commercial fishing, etc.)

It is not considered ethical to accept consulting fees, gratuities or expenses from any group, organization or individual to whom professional services are rendered within the State if the service is justifiable as a legitimate function provided by the Department. This service should be rendered in the name of the Department and reimbursement for expenses should be claimed in the usual manner.

When invited to render a service, consulting fees may be accepted where there is no potential for or direct indication of a conflict of interest when an employee is on approved annual leave and expenses are not paid by the State. An employee shall not accept a consulting fee or gratuities for services rendered on State time nor shall he/she utilize State equipment or supplies.

I. Procedure

In the event that any full-time employee considers any outside working activity, whether self employment or otherwise which could result in the employee receiving any form of compensation, to include money, bartered products or services, free or reduced housing, utilities, etc., the employee must request permission from his/her supervisory chain of command through the respective Deputy Director before engaging in the proposed

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activity. The supervisor(s) will evaluate the proposed outside working activity to ascertain that there is no conflict of interest or breach of policy guidelines in a manner conducive to protecting the employee's self-interest and avoiding potential criticism of the Department. The judgment of the supervisor(s), in this regard, is considered as part of the overall personnel management process for which the supervisor(s) will be held accountable.

Upon approval of the Division Deputy Director, all outside working activity must be submitted to the Human Resources Director for review and approval. The Agency Head retains the right to approve/disapprove any outside working activity.

Employees requesting to engage in outside activity must submit an Outside Working Activity Form (PDC-10) to their supervisor. If the outside employment is work for another State agency, the employee must be exempt and must complete a Dual Employment Form. A PDC-10 is to be submitted prior to December 31 of each year for continuing outside activities.

Upon proper final approval, a copy of PDC-10 will be returned to the requesting individual and the original will be maintained in the Office of Human Resources.

II. Dual Employment/Work for Another State Agency

The following additional criteria must be met when an employee performs work for other State agencies:

- A. In order to be eligible for dual employment with another state agency, an employee must be classified as an exempt employee under the Fair Labor Standards Act (FLSA) in order to avoid the potential overtime liability for DNR, since state agencies are considered one employer for FLSA purposes.
- B. The maximum compensation that an employee will be authorized to receive for dual employment shall not exceed 30% of the employee's annualized salary for the fiscal year.
- C. No employee shall be eligible for additional fringe benefits as a result of dual employment, including annual leave, sick leave, military leave, insurance and holidays. However, dual employment compensation shall be subject to such tax and retirement deductions as the Comptroller General or law may stipulate.

- D. Each request for approval of dual employment shall apply to only one (1) specific situation and shall be limited to a specific time frame which cannot extend beyond the fiscal year.
- E. If the duties to be performed constitute service by the employee on a board, commission or committee for which a per diem allowance is to be awarded, the employee is not eligible to receive such per diem allowance.
- F. Travel and subsistence paid to a State employee by the requesting (secondary) agency shall be in compliance with provisions of the annual appropriations act and any regulations promulgated by the Budget and Control Board or the Comptroller General's Office.

A Dual Employment Request Form must be completed and approved at the Division level then forwarded to the Office of Human Resources for final approval and adherence to criteria prior to the beginning date of employment. Employees who fail to obtain the appropriate approvals for outside working activity are subject to disciplinary action in accordance with Policy # 701.03, Standards of Disciplinary Actions (Willful Violation of Written Rules, Regulations or Policies).

III. Law Enforcement

No employee of the South Carolina Department of Natural Resources shall accept payment above his/her regular salary and authorized expenses for professional services rendered to any program for which he/she has administrative responsibility.

No Department employee shall be connected or affiliated with a commercial operation whose activity is regulated by the South Carolina Department of Natural Resources. (i.e., fur trapping, commercial fishing, etc.)

It is not considered ethical to accept consulting fees, gratuities or expenses from any group, organization or individual to whom professional services are rendered within the State if the service is justifiable as a legitimate function provided by the Department. This service should be rendered in the name of the Department and reimbursement for expenses should be claimed in the usual manner.

When invited to render a service, consulting fees may be accepted where there is no potential for or direct indication of a conflict of interest when an employee is on approved annual leave and expenses are not paid by the State. An employee shall not

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accept a consulting fee for services rendered on State time nor shall he/she utilize State equipment or supplies.

A. Procedure

In the event that any full-time employee considers any outside working activity, whether self employment or otherwise which could result in the employee receiving compensation, the employee must request permission from his/her immediate supervisor before engaging in the proposed activity. The supervisor will evaluate the proposed outside working activity to ascertain that there is no conflict of interest or breach of policy guidelines in a manner conducive to protecting the employee's self-interest and avoiding potential criticism of the Department. The judgment of the supervisor, in this regard, is considered as part of the overall personnel management process for which the supervisor will be held accountable.

Employees requesting to engage in outside activity must submit a PDC-10 to their supervisor. If the outside employment is work for another State agency, the employee must complete a Dual Employment Form. A PDC-10 is to be submitted prior to December 31 of each year for continuing outside activities.

Upon proper final approval, a copy of PDC-10 will be returned to the requesting individual and the original will be maintained in the Office of Human Resources.

B. Dual Employment/Work for Another State Agency

The following additional criteria must be met when an employee performs work for other State agencies:

1. The maximum compensation that an employee will be authorized to receive for dual employment shall not exceed 30% of the employee's annualized salary for the fiscal year.
2. No employee shall be eligible for additional fringe benefits as a result of dual employment, including annual leave, sick leave, military leave, insurance and holidays. However, dual employment compensation shall be subject to such tax and retirement deductions as the Comptroller General or law may stipulate.

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3. Each request for approval of dual employment shall apply to only one (1) specific situation and shall be limited to a specific time frame, which cannot extend beyond the fiscal year.
4. If the duties to be performed constitute service by the employee on a board, commission or committee for whom a per diem allowance is to be awarded, the employee is not eligible to receive such per diem allowance.
5. Travel and subsistence paid to a State employee by the requesting (secondary) agency shall be in compliance with provisions of the annual appropriations act and any regulations promulgated by the Budget and Control Board or the Comptroller General's Office.

A Dual Employment Request Form must be completed and approved at the Division level then forwarded to the Office of Human Resources for final approval and adherence to criteria prior to the beginning date of employment.

C. Use of Department Commission for Off-duty Employment

The following additional criteria must be met when a commissioned employee performs work that requires a law enforcement commission:

1. Use of commission weapon, holster, credentials and restraining devices are permitted for performing off-duty employment, however, it must be used in a manner that is in the public's best interest. Use of other DNR issued equipment or DNR logos/insignias must be approved on a case-by-case basis and its use must be deemed in the best interest of DNR.
2. If an officer is approved to use other DNR equipment or incurs any expenses to the Department for use of any other authorized equipment to include lost or damaged items while working off-duty employment, the officer must reimburse the Agency for the actual expenses. (The Agency Director on an annual basis will approve a list of reimbursement charges).
3. In addition to having the required PDC-10 "Authorization for Off-duty Employment Form" on file with the Department's Human Resources office, prior to working each specific off-duty job that requires the use of a Department issued commission, the officer must also complete a "Law Enforcement Authorization for Off-duty Employment Form". The officer

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must complete the form and have it approved prior to working the off-duty job.

4. Off-duty employment performed by any commissioned law enforcement employee shall not be considered as work performed within the scope of his or her employment and neither the State, nor the Department shall be liable for any acts performed by the employee. (Section 23-24-30, SC Code of Laws)
5. If during the course of working approved off-duty employment a situation occurs that requires the officer to represent him/herself as a state law enforcement officer and respond to the situation in that capacity, the officer must comply with all state statutes, DNR Policies, Directives and routine operating procedures that would be applicable to the situation.
6. An officer, who causes the death of any person while working an approved off-duty job, shall be placed on inactive duty without pay for not more than thirty days. The officer shall not be reinstated until an investigation of the death has been held and the officer has been exonerated. (Section 23-24-40, SC Code of Laws)
7. Officers utilizing their law enforcement commission for approved off-duty employment are responsible for reporting additional income and compensation to the Internal Revenue Service (Federal) and Department of Revenue (State) in accordance with the established guidelines of these agencies.
8. Based on the needs of the Department and/or State of South Carolina as determined and/or directed by the Governor, the Department Board, Agency Director, Division Deputy Director, or their appointed designees, approved off-duty employment may be suspended and the officer recalled to duty immediately. In the event this action is required, neither the State, nor the Department shall be liable for any circumstances or actions that may result between the officer and an off-duty employer.

Officers requesting to work off-duty employment that requires use of their Department commission are required to advise their potential employer of this Policy and must have the employer acknowledge approval on the "Law Enforcement Authorization for Off-duty Employment Form".