

ONR-3
Temporary Revocable Permits
for State Lands and Conservation Easements

New York State Department of Environmental Conservation
DEC Program Policy

Issuing Authority: Christopher Amato

Title: Assistant Commissioner
Office of Natural Resources

Date Issued: July 31, 1986

Latest Date Revised: May 26, 2011

I. Summary

This policy sets forth the procedure for issuing Temporary Revocable Permits (TRPs) for the use of State Lands and Conservation Easement lands pursuant to Title 6 of Codes, Rules and Regulations of New York (NYCRR) and Environmental Conservation Law (ECL) Articles 3, 9, 11 and 51.

II. Policy

The Department issues TRPs in its sole discretion for the temporary use of State Lands and Conservation Easement lands only for activities that are in compliance with all constitutional, statutory and regulatory requirements; the Adirondack and Catskill State Land Master Plans; adopted Unit Management Plans and Recreation Management Plans; the APA/DEC MOU; Department policies; approved work plans and guidance documents; and that have negligible or no permanent impact on the environment. TRPs are subject to all other applicable State and Federal requirements and subject to any required Federal, State or local permit requirements.

A. Definitions

For the purposes of this policy, the following definitions shall apply:

1. **Central Office** - The respective Albany office Division Director or his or her designated program manager having management responsibility for the land parcel or facility in question.
2. **Competitive Event or Activity** - Any event or activity on public land in which two or more contestants compete and at least one of the following apply: **a.** Participants register, enter, or complete an application for the event, **b.** A predetermined course or area is designated;
3. **Recreation Management Plan (RMP)** - A document prepared and approved by the Department in consultation with the landowner and with public review and comment that constitutes the agreement of the Department and landowner regarding the location, extent, and timing of public recreational use on the lands subject to the conservation easement.
4. **Regional Manager** - A Natural Resources Supervisor; or designated program manager, to whom a given land parcel or facility is assigned for management, e.g., Regional Wildlife or Fisheries Manager, Regional Forester, Regional Marine Habitat Protection Manager (Tidal Wetlands), Fish Hatchery Manager, or Regional Operations Supervisor.
5. **Unit Management Plan (UMP)** - A document prepared and adopted by the Department and which has undergone public review and comment that assesses the natural resources of a State Land unit, guides natural resource protection and the management of public recreation, and establishes a yearly implementation schedule for managing resources and developing public facilities. UMPS developed within the Adirondack Park are developed in

consultation with the staff of the Adirondack Park Agency (APA) and are reviewed by the APA to ensure conformance with the Adirondack Park State Land Master Plan (APSLMP) prior to adoption by the Department.

B. Temporary Revocable Permit (TRP)

This policy establishes the four types of TRPs (Expedited TRPs, Routine TRPs, Non-Routine TRPs, and Research TRPs) and establishes procedures for their issuance by the Department. All TRPs shall include terms and conditions to protect public health, public safety and the environment.

1. Expedited TRP

An Expedited TRP shall not require an application fee and proof of liability insurance from the applicant nor shall it require prior approval from Central Office. An Expedited TRP will be handled by the Regional Office and can be immediately issued upon review by regional DEC staff as designated by the Regional Manager.

Standard Terms and Conditions for all Expedited TRPs: All activities authorized under an expedited TRP must meet all of the following conditions which shall also be made a part of the TRP:

- a. no alcohol will be served;
- b. events shall be non-competitive;
- c. no trees will be cut;
- d. all motor vehicles shall remain on highways open for such public motor vehicle use;
- e. no discharge of firearms will take place during the event; and
- f. other conditions that the Department, in its sole discretion, determines to be appropriate.

An expedited TRP shall not be issued for any activity at a Game Farm, Tree Nursery, Fish Hatchery, Intensive Use Area managed by the Division of Operations, or a non-regionalized facility.

An Expedited TRP may be issued only for the following activities:

- a. non-competitive event or activity when the group size involves **21 to 50** individuals (no permit is required for non-competitive events or activities of 20 individuals or less);
- b. fishing tournaments when the group size involves **21 to 50** individuals (no permit is required for fishing tournament of 20 individuals or less);
- c. maintenance or construction work conducted by a local government agency for the benefit of the State Land resource;
- d. falconry-eyas raptor take pursuant to the required DEC Special License;
- e. observational research project; or

- f. use of metal detectors (1) on State Land at designated campground beaches; (2) by an individual for the limited purpose of retrieving personal property recently lost on State Land by that individual; or (3) by utility companies to locate underground utilities.

2. Routine TRP

A Routine TRP shall require an application fee and proof of liability insurance from the applicant, and shall be approved and issued directly by regional DEC staff as designated by the Regional Manager.

Routine TRPs may be issued for the following activities:

- a. non-competitive event or activity when the group size involves **51 to 100** individuals;
- b. fishing tournaments with **over 50** individuals;
- c. an activity for which a Regional Office previously issued a TRP for the same activity at the same location within the past two years and where (1) there is no appreciable difference between the proposed activity described in the new TRP application; (2) the prior activity was conducted in compliance with all terms and conditions of the TRP issued for that activity; (3) the prior activity did not cause or create an adverse impact on natural resources or create a conflict with another user group; and (4) the previously issued TRP did not contain a condition prohibiting it from being considered a "Routine TRP" in the future;
- d. short-term access across non-Forest Preserve lands to private property, not to exceed two-weeks for seasonal opening & closing of camps using existing roadways;
- e. transportation of materials across Non-Forest Preserve lands, provided the route is on State Land and currently exists for such use, and where no new routes/roads will be built;
- f. routine maintenance of utility lines across State Land not involving vegetation management;
- g. vegetation management, including the removal of dead or hazardous trees from non-Forest Preserve lands, along roads, utility lines and private property boundaries, provided a tree count has been approved by a Department forester;
- h. vegetation management by state and local government including the removal of dead or hazardous trees from Forest Preserve lands, along roads, provided a tree count has been approved by a Department forester; and no more than 15 trees per lane mile will be cut; or
- i. military training and exercises on non-Forest Preserve lands where (1) firearms will not be discharged, (2) motor vehicles or aircraft will not be used, and (3) no adverse environmental impact or user conflict is likely to occur.

Routine TRPs shall not be issued for any activity at Intensive Use Areas managed by the Division of Operations.

Standard terms and conditions for Routine TRPs can be found on the attached forms.

3. Non-Routine TRP

A Non-Routine TRP shall require an application fee and proof of liability insurance and may also require a performance security from the applicant, and shall be approved by the Regional Manager and Central Office. Non-Routine TRPs for activities at a DFWMR Fish Culture Facility shall require approval from the Superintendent of Fish Culture in Central Office. Non-Routine TRPs will be issued only where they will result in negligible or no permanent impacts if conducted in compliance with the terms and conditions of the TRP. If the proposed activity requires one or more permits from the Department (e.g., wetlands permit, threatened and endangered species incidental take permit) in addition to the TRP, the TRP will be issued at the same time as such permits are issued. Any activity at Intensive Use Areas managed by the Division of Operations shall be considered Non-Routine.

Non-Routine TRPs may be issued for the following activities:

- a. group activities when the group size involves **more than 100** individuals; or
- b. an activity that may impact rare or endangered or threatened species or species of special concern;
- c. competitive event or activity;
- d. transportation of materials across State Land in the Forest Preserve, provided the route is on State Land and currently exists for such use, and where no new routes/roads will be built;
- e. short-term access across State Land to private property not to exceed two-weeks for seasonal opening & closing of camps using existing roadways where road maintenance or heavy equipment is involved;
- f. "contact" research on non-Forest Preserve lands involving (1) a sensitive site such as sites near known populations of endangered or threatened species or a species of special concern, (2) trapping, (3) leaving traps or equipment unattended, (4) digging soil pits or taking core samples, or (5) physical contact with any fish, crustacean, shellfish or wildlife species including handling, tagging or collecting;
- g. collection of materials, including scientific specimens, historic artifacts, living materials, minerals, or wildlife on State Land, and projects requiring State Museum approval under State Education Law §233 (Central Office will be responsible for seeking State Museum approval);
- h. surveying State Land for exploration purposes, including seismic (with required lease agreement), geodetic and mineral exploration;
- i. public road disturbance outside a road right of way where such disturbance is temporary in nature;
- j. oil and gas development projects (with required lease agreement);
- k. vegetation management, including the removal of dead or hazardous trees from Forest Preserve land and land acquired for the purpose of forest or wildlife conservation in Forest Preserve counties that exceeds the limits allowed under Routine TRPs;
- l. any activity involving motorized equipment, all-terrain vehicle use (ATVs and ORVs), except for motorized equipment allowed under an AANR Agreement (ONR-1 Adopt-A-Natural Resource Policy);

- m. military training and exercises in the Forest Preserve where (1) firearms will not be discharged, (2) motor vehicles or aircraft will not be used, and (3) no adverse environmental impact or user conflict is likely to occur; or
- n. any activity affecting freshwater or tidal wetlands;
- o. any activity involving State Land under water;
- p. any activity at a Game Farm, Fish Culture Facility (Hatchery), Downhill Ski Center or other non-regionalized DFWMR facility;
- q. any activity at Intensive Use Areas Managed by the Division of Operations; or
- r. any activity at the Saratoga Tree Nursery.

4. Forest Preserve Research TRPs

Research at Intensive Use Areas managed by the Division of Operations shall be processed as Non-Routine permits.

Research TRPs may be issued for the following activities on Forest Preserve Lands:

- a. contact research involving (1) a sensitive site such as sites near known populations of endangered or threatened species or a species of special concern, (2) trapping, (3) leaving traps or equipment unattended, (4) digging soil pits or taking core samples, or (5) physical contact with any fish, crustacean, shellfish or wildlife species including handling, tagging or collecting;
- b. placement of monitoring equipment or other equipment for research purposes;
- c. public surveys and interviews; or
- d. collection of materials, including scientific specimens, historic artifacts, living materials, minerals, or wildlife on State Land, and projects requiring State Museum approval under State Education Law §233 (Central Office will be responsible for seeking State Museum approval);

Applications for Research TRPs shall be in a form provided by the Department and shall include such additional information as may be specified or requested by the Department. All applications for Research TRPs shall be submitted to the Department **by February 28th** of each year in which such research is proposed to be commenced or occur.

Not all requests for research will be approved. To help reduce impacts on the environment, and protect the experience of visitors, the number and type of permits issued each year may be limited based on the land use classification, resource sensitivity, past research, use level and number of research requests.

C. Activities on State Land for which TRPs will not be issued

1. Any activity which unreasonably impedes the routine use of State Land by the public or interferes with the management of State Land by the Department.
2. Any activity which could compromise The People of the State of New York's title to State Land or change the mandated use of the State Land.

3. Any construction or installation of permanent facilities such as roads, bridges, trails, structures, towers or utility lines not authorized by law, deeded right or easement.
4. Any use or establishment of a roadway for motor vehicle access across State Land as a permanent route of ingress and egress, except where an easement or other legal encumbrance to The People of the State of New York's title exists which authorizes such use.
5. Any use or establishment of trails that lead from private land and extend onto State Land or a Conservation Easement for the sole benefit of the private landowner(s) or their invitee(s).
6. Any activity using metal detectors on State Land that is not allowed by this Policy.
7. Any activity that may prevent the public's use of a State Land boat launch, fishing access site or waterway access site, other than the parking of vehicles and the launching and retrieval of boats.
8. Any activity not compatible with the purpose for which the State land was acquired or is managed.

D. Activities on Conservation Easements for which TRPs will not be issued

1. Any activity or use which is inconsistent with or not encompassed by the rights granted to the State in the applicable Conservation Easement.
2. Any activity or use prohibited in the applicable Conservation Easement.
3. Any activity or use that is inconsistent with applicable law or an approved UMP or RMP.
4. Any activity that interferes with the management of the Conservation Easement by the landowner or Department.

E. Fees

1. Routine and Non-Routine TRP applications will require a \$25.00 non-refundable application fee.
2. Educational institutions; federal, state, county and local governments and their political subdivisions are exempt from the application fee.
3. If it is deemed that the project to be done is one that assists the Department in the administration of the facility, the Regional Manager may waive the application fee.
4. Activities at Intensive Use Areas that charge entrance fees shall require participants of the TRP activity to pay the entrance fee or the applicant must pay an administrative fee based on the anticipated number of participants or facility area the event will occupy;
5. Routine and non-routine TRPs may be subject to additional fees necessary to cover costs incurred by the Department directly associated with permit administration, use of facilities, and/or oversight.

F. Liability Insurance

Routine and Non-Routine TRP applicants shall be required to purchase liability insurance to indemnify The People of the State of New York against any and all claims for injury to property or person or death arising out of or relating to the operations of the applicant under the TRP.

1. The provisions of this section do not apply to federal or executive State agencies. However, provisions of this section do apply to the SUNY Research Foundation and similar not-for-profit foundations that are associated with other federal and executive state agencies.
2. Proof of liability insurance coverage must list "The People of the State of New York" and the "New York State Department of Environmental Conservation, its officers and employees as additional insured.
3. Policies, certificates of insurance, or proof of self-insurance (applicable to local government agencies and educational institutions) shall be received by the Department with full premiums paid at least five (5) business days before commencement of any activity by the permittee.
4. The policy and coverage will be subject to the approval of the Department for adequacy and form of protection.
5. All liability policies shall provide minimum limitations at levels required by the Department.
6. Permit is invalid unless the permittee has a valid insurance certificate at the time of the event/activity.
7. Any TRP issued by the Department will remain valid only for the duration of the insurance coverage period.

G. Performance Security

A performance security shall be required where failure by the permittee to fully comply with the terms and conditions of a TRP may result in an adverse impact on the State Land or Conservation Easement land which is the subject of the TRP.

1. The value of the performance security shall be commensurate with the scope of work and potential impact of the proposed activity and the cost of any site restoration that may be required in the event of non-compliance.
2. The performance security may be provided in any one of the following forms: a security bond; a certified check or money order; a certificate of deposit assigned to the Department; or a letter of credit from a federally chartered or state licensed financial institution.
3. If the performance security is in the form of a bond, letter of credit, or assignment of a CD, it should be retained in a secure location in the Regional office.

H. TRP Revocation or Suspension and Enforcement

1. Any TRP issued by the Department will remain valid only if all necessary permits and/or licenses are obtained and kept current for the full duration of the TRP.

2. TRPs may be revoked or suspended at any time in the sole discretion of the Department.
3. In the event that the permittee fails to comply with the terms and conditions of a TRP, the Department may take necessary action against the permittee to enforce such terms and conditions, including but not limited to requiring corrective action and/or site restoration. Upon determining that a permittee has failed to comply with the terms and conditions of a TRP, the Department may revoke or suspend the permit immediately or may send to the permittee by certified mail, return receipt requested, a "Notice to Correct" specifying the corrective action, site restoration or other measures to be undertaken and completed. If the required work is not completed by the permittee within 10 business days following such receipt of such "Notice to Correct" and the permittee is unable to demonstrate a good faith effort to complete such work to the Department's satisfaction, the TRP may be terminated for cause or the performance security may be forfeited, or both, at the Department's option.

I. TRP Expiration

1. Upon expiration or completion of activities authorized by a TRP and as deemed necessary, the Regional Manager or designee shall inspect the State Land or Conservation Easement land subject to the TRP, in order to ensure that the permittee has complied with all terms and conditions of the TRP.
2. TRPs shall be issued for a term not to exceed one (1) year, including TRP renewals and extensions. TRPs for Motorized Access Program for People with Disabilities (CP-3) shall be issued for a term not to exceed five (5) years.

J. TRP Renewals or Extensions

1. TRPs shall be renewed or extended only in the case of extenuating circumstances or if the Department determines that continuance of the temporary use is in the public interest and is otherwise consistent with applicable statutes, rules, regulations, policies and approved management plans for the State Land or Conservation Easement in question.
2. Applications for renewals must be made no more than 6 months after the expiration date of a TRP.
3. Requests made for extensions less than 30 days prior to the expiration date shall be considered as new applications and handled accordingly.

III. Purpose & Background

The policies and procedures set forth herein govern the processing of TRP applications and the issuance of TRPs for activities on State Lands and Conservation Easements lands.

Authority for the issuance of TRPs is provided by Articles 3, 9 and 11 of the Environmental Conservation Law (ECL) for Forest Preserve, Reforestation Areas (State Forests), and Wildlife Management Areas; and ECL Article 51 for Tidal Wetlands. The provisions of ECL Articles 3 and 9 provide the general authority to issue TRPs for other lands and Conservation Easements.

This policy supersedes Department Policies and Procedures, Title 8400, Chapter 8426, Temporary Revocable Permits for the Use of State Lands. This policy does not apply to the issuance of Adopt- a-Natural Resource Agreements, which are governed by Policy ONR-1.

IV. Responsibility

Responsibility for the interpretation, updating and overall management of this policy shall reside within the Division having management responsibility over land which is the subject of the TRP application.

V. Procedure

A. TRP Application

1. Applications for all TRPs on State Lands and Conservation Easements or renewals of such TRPs should be made on the referenced application.
2. For activities requested on State Lands or Conservation Easements on non-Forest Preserve lands, applications should be received by the appropriate Regional Office at least 30 days prior to the requested use date.
3. For activities requested on State Lands or Conservation Easements within the Forest Preserve, applications should be received at least 60 days prior to the requested use date.
4. Applications for research activities shall be submitted by February 28 of the year in which the research is to commence or occur.
5. Applications must include a location map of sufficient detail and accuracy to depict the location and extent of the proposed activity. Location maps will not be required for Expedited TRPs unless determined necessary by the reviewer.
6. All Routine & Non-Routine TRP applications must include the minimum non-refundable application fee determined by the Department, together with any additional administrative fee, if applicable.

B. TRP Review

The Regional Manager shall:

1. Ensure the TRP application is complete and includes a location map depicting with specificity the location and extent of the proposed activity (survey maps and deeds may be necessary to show property boundaries and ownership);
2. Determine if the proposed use of the State Land or Conservation Easement land will be in compliance with this Policy; and
3. Approve, recommend approval or deny the TRP by completing the Regional Review section of the TRP application.

C. TRP Issuance

All TRPs should be transmitted electronically whenever possible.

1. **Expedited TRPs**

For Expedited TRP applications, the Regional Manager or designee shall determine if the TRP application can be approved and so indicate with signature on the application.

- a. If approved, the Regional Manager will:
 - i. provide a copy of the approved application and routing TRP to the permittee with standard terms and conditions and/or special terms and conditions attached;
 - ii. forward a copy of the Expedited TRP to the respective Division or Bureau designee in Central Office.

If a current Expedited TRP is requested for extension or renewal, the Regional Manager may extend or renew the TRP by letter and copy the respective Division or Bureau designee in Central Office.

2. Routine TRPs

For Routine TRP applications, the Regional Manager or designee shall process the minimum non-refundable application fee and/or an additional administrative fee if applicable, determine if the TRP application can be approved and so indicate with signature on the application.

- a. If approved, the Regional Manager will:
 - i. provide a copy of the approved application and routing TRP to the permittee with standard terms and conditions and/or special terms and conditions attached;
 - ii. forward a copy of the Routine TRP to the respective Division or Bureau designee in Central Office; and
 - iii. proof of liability insurance and performance security (if applicable) for Routine and Non-Routine TRPs must be received at least five (5) business days prior to the onset of the activity approved by the TRP. TRPs requiring such insurance or security shall not be effective until proof of such insurance or security has been received by the Department.
- b. If denied, the Regional Manager shall notify the applicant by letter explaining the reason(s) for denial.
- c. If a current Routine TRP is requested for extension or renewal, the Regional Manager may extend or renew the TRP by letter and copy the respective Division or Bureau designee in Central Office.

3. Non-Routine TRPs

For Non-Routine TRP applications, the Regional Manager or designee shall process the minimum non-refundable application fee and/or an additional administrative fee if applicable, determine if the TRP application can be approved and so indicate with signature on the application.

If the Regional Manager recommends approval, he or she will forward the signed application package, draft TRP, and location map to the respective Division or Bureau designee in Central Office for review.

- a. If the TRP application package and draft TRP are approved by Central Office, both shall be returned to the Regional Manager who will then issue a Non-Routine TRP to the permittee with a copy of all relevant documents; and shall forward a copy of the TRP and location map to the Regional Ranger Captain in charge of the area where the TRP will be effective;
- b. If the TRP application package and draft TRP are denied by Central Office, the appropriate Division or Bureau designee in Central Office will so indicate on the application, provide the reasons for denial, sign and return application to the

Regional Manager, after which the Regional Manager will then notify the applicant by letter explaining the reasons for the denial.

4. Proof of liability insurance and performance security (if applicable) for Routine and Non-Routine TRPs must be received at least five (5) business days prior to the onset of the activity approved by the TRP. TRPs requiring such insurance or security shall not be effective until proof of such insurance or security has been received by the Department
5. Routine and Non-Routine TRP permittees shall be directed to notify the Regional Manager at least one (1) week prior to commencing an activity permitted under a TRP and upon completion of such activity, except for those activities scheduled to occur on a specific date.

VI. Related References

Department Policy and Procedures Manual, Title 8400, Chapter 8426
6 NYCRR Part 190 - Use of State Lands
6 NYCRR Sub Chapter G - Fish and Wildlife Management Areas and Facilities - Parts 51 – 113
NYS Environmental Conservation Law 3
NYS Environmental Conservation Law 9
NYS Environmental Conservation Law 11
NYS Environmental Conservation Law 51
Adopt-A-Natural Resource Policy (ONR-1)
DEC Commissioner Policy (CP-3) - Motor Vehicle Access to State Lands under Jurisdiction of the Department for People with Disabilities
APA/DEC MOU
Adirondack Park State Land Master Plan
Catskill Park State Land Master Plan
Management Guidance - Snowmobile Trail Siting, Construction and Maintenance on Forest Preserve Lands in the Adirondack Park
NYS Education Law