



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Forestry
<b>Virginia Administrative Code (VAC) citation</b>	4 VAC 10 -30-170
<b>Regulation title</b>	State Forest Regulations
<b>Action title</b>	State Forest Regulations' Firearms Amendment
<b>Date this document prepared</b>	September 18, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.*

Amend the State Forest Regulations to allow the lawful carrying of concealed handguns with a valid concealed handgun permit on State Forests. Once the State Forest regulations are successfully amended, the requirements for carrying handguns on State Forests will be similar to those governing handguns on State Parks.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly*

chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

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10.1-1101 (General Powers and Duties of the Department) provides the authority to the Department of Forestry, with the approval of the State Forester, to promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under the Chapter.

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

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Amend the State Forest regulations to allow the lawful carrying of concealed handguns by persons with a valid concealed handgun permit on State Forest properties. The current prohibition against persons carrying open carried handguns will remain in place. The agency received a petition to eliminate the prohibition against both open carried handguns and concealed handguns from the Virginia Citizens' Defense League. DOF has completed the NOIRA stage. DOF received 1926 comments supporting the amendment during the NOIRA stage. The State Forester proposes to amend State Forest Regulations to match the State Park regulations regarding handguns.

**Substance**

*Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)*

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The agency will propose to lift the ban on State Forests against persons carrying legal concealed handguns, who possess a valid concealed handgun permit. The agency will propose to continue to ban users from carrying open handguns on State Forests.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*  
1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*  
2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*  
3) *other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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- 1) The Virginia Citizens Defense League requested the Department of Forestry allow the carrying of firearms on the State Forests.

- 2) If the regulatory amendment is approved, citizens may carry concealed handguns on State Forests with a valid concealed weapon permit.
- 3) If the regulatory amendment is approved as suggested, the State Forest Regulations would match the firearms section of the State Park Regulations.
- 4) During the NOIRA phase, the Department of Forestry received 1926 comments supporting the amendment.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

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If the regulatory amendment is approved, 4 VAC 10 -30-170 will match the current regulations on firearms under the Department of Conservation and Recreation. See extract from 4VAC5-30-200 below.

4VAC5-30-200. Firearms.

No person except employees, police officers, or officers of the department shall carry or possess firearms of any description, or airguns, within the park. This regulation shall not apply in areas designated for hunting by the Department of Conservation and Recreation. This regulation also shall not apply to the carrying of concealed handguns within state parks by holders of a valid concealed handgun permit issued pursuant to § 18.2-308 of the Code of Virginia.

### Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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The nineteen State Forests are currently located in the counties of Appomattox, Bedford, Buckingham, Carroll, Craig, Cumberland, Essex, Fauquier, Grayson, King & Queen, King William, Lancaster, Nelson, New Kent, Prince Edward, Prince William, Russell, Shenandoah, and Washington.

### Public participation

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

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In addition to any other comments, the Department of Forestry(DOF) is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, DOF is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Townhall website, [www.townhall.virginia.gov](http://www.townhall.virginia.gov), or by mail, email or fax to Ronald S. Jenkins, 900 Natural Resources Drive,

Suite 800, Charlottesville, Virginia 22903, 434 -220 – 9022, fax 434 977 – 7749, [ron.jenkins@dof.virginia.gov](mailto:ron.jenkins@dof.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and the Commonwealth Calendar. Both oral and written comments may be submitted at that time.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.</b>	Unknown. Enforcement normally performed by Department of Game & Inland Fisheries, Department of Conservation & Recreation, State Police, or Local Sheriff Department. Continuous.
<b>Projected cost of the new regulations or changes to existing regulations on localities.</b>	Unknown
<b>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.</b>	Department of Game & Inland Fisheries, Department of Conservation & Recreation, State Police, and/or local Sheriff departments would be responsible for enforcement.
<b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Four law enforcement agencies could potentially be involved in enforcement of the law.
<b>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and do include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</b>	Unknown
<b>Beneficial impact the regulation is designed to produce.</b>	Will make the State Forester regulations on firearms similar to firearms’ regulations on State Parks.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

None

**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

Not applicable.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Received 1926 comments during the NOIRA stage	1926 supported amending the regulations to allow the carrying of concealed handguns with a legal concealed handgun permit. Of the 1926 total commenters, 126 also supported open carrying of handguns. Of the 1926 commenters, 584 requested the agency hold a public hearing.	During the Notice of Intended Regulatory Action (NOIRA) stage, the Department of Forestry (DOF) received 1926 comments supporting the amendment of State Forest regulations to allow the carrying of concealed handguns on State Forests by persons possessing a valid concealed weapon permit. The DOF will proceed to the Proposed Regulation Public Comment stage with the intent to amend the State Forest regulations to allow the carrying of concealed handguns on State Forests by persons possessing a valid concealed weapon permit. DOF will also provide a public hearing opportunity during the Notice of Proposed Regulation Public Comment stage. DOF

		<p>appreciates receiving comments from all who commented on the proposed regulatory amendment during the NOIRA stage. For information regarding this matter, please feel free to contact Ron Jenkins, Assistant State Forester, at 434 - 220 - 9022, or by email at ron.jenkins@dof.virginia.gov.</p>
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**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

Unknown

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please detail the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change, rationale, and consequences</b>
4 VAC 10 -30-170		No person shall bring into or have in any forest any explosive or explosive substance, except commercial sporting firearms ammunition;	<u>This regulation shall not apply to the carrying of concealed handguns within state forests by holders of a valid concealed handgun permit issued pursuant to § 18.2-308 of the Code of Virginia.</u>

		explosives, explosive substances and firearms of all types are prohibited in any portion of a forest assigned to the Department of Forestry, for administration as a recreational area.	Rationale – Adding this statement to the existing regulation will make State Forest regulations involving firearms similar to the existing State Park regulations.  Consequences - Unknown
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For new chapters, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements

**4VAC10-30-170. Explosives, fires, etc.**

No person shall bring into or have in any forest any explosive or explosive substance, except commercial sporting firearms ammunition; explosives, explosive substances and firearms of all types are prohibited in any portion of a forest assigned to the Department of Forestry, for administration as a recreational area. This regulation shall not apply to the carrying of concealed handguns within state forests by holders of a valid concealed handgun permit issued pursuant to § 18.2-308 of the Code of Virginia.

Statutory Authority

§ 10.1-1101 of the Code of Virginia.

Historical Notes

Former 4VAC5-40-170 derived from VR215-01-03; eff. October 14, 1970; renumbered as 4VAC10-30-170, Virginia Register Volume 22, Issue 21, eff. July 26, 2006.