



Virginia  
Regulatory  
Town Hall

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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Department of Forestry
<b>Virginia Administrative Code (VAC) citation</b>	__4__ VAC_10__ - _30__
<b>Regulation title</b>	State Forests Regulations
<b>Action title</b>	Amend State Forest Regulations to Allow Persons to Carry Concealed Handguns with a Lawful Concealed Handgun Permit on State Forests
<b>Date this document prepared</b>	March 9, 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*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

Amend the State Forest regulations to allow the lawful carrying of concealed handguns by persons with a lawful concealed handgun permit on State Forest properties. The current prohibition against persons carrying open carried handguns will remain in place. The agency has decided to amend its State Forest Regulations after receiving a petition to eliminate the prohibition against both open carried handguns and concealed handguns from the Virginia Citizens' Defense League. The Department of Forestry sought the advice of the Governor's General Counsel, the Office of Attorney General and the Department of Conservation & Recreation. The Agency received over 2000 comments almost entirely favoring the petition request. The State Forester proposes to amend State Forest Regulations to match the State Park regulations regarding handguns.

### 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., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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.

### Need

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

The decision to allow persons to carry the concealed handgun, when possessing a lawful concealed handgun permit, was raised as an issue of safety in the petition. The Virginia Citizens' Defense League claimed the right to carry handguns to protect themselves while using the State Forests. The agency relied upon the advice of Counsel and two prior Attorney General Opinions to amend State Forest regulations to allow the lifting of the ban on concealed handguns with lawful permits. However, the agency believes it must maintain the prohibition against open carried handguns for the safety and enjoyment of all persons using Virginia's State Forests.

### Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

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

### Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

The agency identified two possible options. The options include: 1) no changes, and 2) allow both open carry and concealed handguns on State Forests. The agency will review all comments and advice during the process before developing its final regulation. The amendment of State Forest regulations regarding handguns should not have a fiscal impact different from what the agency currently experiences. State Forest staff members are primarily responsible for the management, maintenance and care of the State Forest properties. Staff report incidents of potential regulatory, civil and criminal nature to local Sheriffs' departments.

### Public participation

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

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The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also 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 **Ron Jenkins, Department of Forestry, 900 Natural Resources Drive, Suite 800, Charlottesville, Virginia 22903, by email [ron.jenkins@dof.virginia.gov](mailto:ron.jenkins@dof.virginia.gov), or by fax at 434 - 977 - 7749.** Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

A public hearing will not be held.

### Participatory approach

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

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The Agency plans to seek the advice of several advisors during the regulatory amendment process. Potential advisors include the Counsel of the Office of the Governor, Office of the Attorney General, Secretariat of Agriculture & Forestry, Board of Forestry, DOF Senior Management Team, Department of Conservation of Recreation, and other state staff. The Agency is using the participatory approach in the development of the proposal.

### Family impact

*Assess the potential 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.*

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The proposed regulatory action will likely have a family impact. At the core of this amendment is the United States Constitution Second Amendment – Right to Bear Arms – Ratified 12/15/1791. “A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.” The issue will likely be whether people believe that government can “infringe” upon the second amendment of the Constitution. The impact to families will be whether the right to carry handguns on State Forests will affect family use and enjoyment of Virginia’s State Forests.

**Periodic review - Public comment**

**Periodic review - Discussion**