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## Exempt Action: Proposed Regulation Agency Background Document

<b>Agency name</b>	Virginia Board of Wildlife Resources
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	4VAC15-40-320 (New)
<b>VAC Chapter title(s)</b>	Game: In General
<b>Action title</b>	Reasonable efforts for deer and bear hunting with dogs
<b>Date this document prepared</b>	March 22, 2024

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

DWR's Law Division receives complaints and requests for service related to hunting with dogs throughout the hunting seasons. During the past year, 2,002 of 6,128 total calls for service for hunting complaints mentioned dogs. By far, the most common complaint received is hunting dogs being present on private land without landowner permission (for example, 699 of 749 calls for service involving dogs that did not allege a violation of law, and 188 of 327 calls for service involving dogs that did allege a violation of some type). This commonality is consistent with issues noted in other southeastern states (see D'Angelo, et al., *Best Management Practices and Current Status of Dog-Deer Hunting in the Southeastern United States*, 2020). As noted in the DWR's *2023-2024 Hunting Hounds-Private Landowner Stakeholder Advisory (SAC) Committee Final Report*, frequent and repeated instances of unwanted dog presence on private land are at the source of many complaints, as opposed to isolated instances.

In instances where existing law and regulation address issues, other Board proposals place an emphasis on enforcement of those existing rules. Current law and regulation largely do not, however, provide recourse for repeat and unwanted presence of dogs. Section 18.2-132.1 of the Code of Virginia

addresses the intentional release of dogs on posted lands without permission but does not reach other more commonly complained of situations. This leaves landowners without law enforcement recourse in most situations where assistance is requested.

The proposal seeks to reconcile the various viewpoints and values expressed by the SAC members. It suggests a complaint or notice-driven process to avoid creating new requirements for unproblematic situations and to allow both hunter and law enforcement efforts to be concentrated on avoiding or resolving potential conflict situations. It would seek to address repetitive cases rather than single or isolated incidents that may not recur or be informally resolved. Rather than doing so through a trespass approach, it focuses on the efforts made by the hunter in an iterative fashion. For predictability for landowner interests, two or more instances within a 12-month period following notice establishes a presumption that reasonable efforts have not been undertaken. To ensure that the hunter remains judged by his or her actions, on the other hand, this presumption is rebuttable, and the hunter may demonstrate that reasonable efforts are being implemented. Finally, receipt of landowner permission for the presence of dogs on the landowner's property in connection with the hunter's activities resolves any need for further action.

## Mandate and Impetus

*Identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

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The impetus for this regulatory amendment is the Board's desire to create reasonable measures to address the growing problem of hunting hound conflicts with private landowners across the Commonwealth. This regulatory proposal is the result of a process conducted by the DWR's Hunting Hounds-Landowners Stakeholder Advisory Committee that was initiated in spring of 2023 and commenced in January 2024. Code of Virginia 29.1-103(12) and 29.1-501(A) mandate the Department to promulgate regulations to assure the proper management of wildlife and game species across the Commonwealth. This proposed action aims to address user conflicts associated with a very popular and widely-used method of deer and bear hunting utilizing hounds for chase, and in tandem with our other concurrently proposed regulatory action involving GPS tracking collars (4VAC15-40-310), both serve to give the DWR better tools to address these conflicts across the Commonwealth, reduce enforcement and administrative burdens on DWR staff, and increase the day-to-day quality of life for Virginians on their own property.