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Fast-Track Regulation Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) Chapter citation(s)	2 VAC 5-205
VAC Chapter title(s)	Rules and Regulations Pertaining to Shooting Enclosures
Action title	Repeal of 2 VAC 5-205
Date this document prepared	December 12, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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, 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.

Section 3.2-6039 of the Code of Virginia (Code) directs the Board of Agriculture and Consumer Services (Board) to adopt regulations to carry out the provisions of Article 4 of Chapter 60 of Title 3.2 of the Code pertaining to shooting enclosures. Section 3.2-6039 of the Code directs the Board to adopt regulations relating to the requirements for operating a shooting enclosure in Virginia and authorizes the Board to establish specific criteria relating to the specific species of goats, sheep, or hogs that may be held within a shooting enclosure as well as their health and care requirements.

Section 3.2-6036 of the Code directs the Department of Agriculture and Consumer Services (VDACS) to issue a license for shooting enclosures only to those enclosures that were in operation on or before January 1, 1995. The last remaining shooting enclosure in the Commonwealth failed to renew its registration and permanently closed in 2017. As there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new

enclosure, this regulatory action proposes to repeal 2 VAC 5-205, *Rules and Regulations Pertaining to Shooting Enclosures*, which is no longer used or needed and can be repealed without impact.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"Shooting enclosure" is defined in the "Definitions" section of this regulation.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On December 9, 2022, the Board of Agriculture and Consumer Services repealed 2 VAC 5-205, *Rules and Regulations Pertaining to Shooting Enclosures*.

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, 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."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

A periodic review prompted this regulatory action.

Section 3.2-6036 of the Code directs VDACS to issue a license for shooting enclosures only to those enclosures that were in operation on or before January 1, 1995. The last remaining shooting enclosure in the Commonwealth failed to renew its registration and permanently closed in 2017. As there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure, this regulatory action proposes to repeal 2 VAC 5-205, *Rules and Regulations Pertaining to Shooting Enclosures*. The agency anticipates this regulatory action will be noncontroversial, as the regulation is no longer used or needed.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Section 3.2-109 of the Code establishes the Board as a policy board. Section 3.2-6039 of the Code directs the Board to adopt regulations to carry out the provisions of Article 4 of Chapter 60 of Title 3.2 of

the Code pertaining to shooting enclosures. Section 3.2-6039 of the Code directs the Board to adopt regulations relating to the requirements for operating a shooting enclosure in Virginia and requires the Board to establish specific criteria relating to the specific species of goats, sheep, or hogs that may be held within a shooting enclosure as well as their health and care requirements.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

Section 3.2-6036 of the Code directs VDACS to issue a license for shooting enclosures only to those enclosures that were in operation on or before January 1, 1995. The last remaining shooting enclosure in the Commonwealth failed to renew its registration and permanently closed in 2017. As there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure, this regulatory action proposes to repeal 2 VAC 5-205, *Rules and Regulations Pertaining to Shooting Enclosures*. The agency anticipates this regulatory action will be noncontroversial, as the regulation is no longer used or needed. The public benefits from the clarity provided through the removal of unused regulations from the Virginia Administrative Code.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The proposed regulatory action will repeal the entire regulation.

Issues

Identify the issues associated with the regulatory change, 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 there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

As shooting enclosures are no longer legally permissible and the last shooting enclosure has ceased operations, the repeal of this regulation does not advantage or disadvantage the public. There is no longer a regulated community, and there is an advantage to the agency to repeal this regulation, as it will no longer need to maintain or review this unused regulatory text. The repeal of this regulation does not disadvantage the agency.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

There are no other state agencies affected by this regulatory action.

Localities Particularly Affected

There are no localities affected by this regulatory action.

Other Entities Particularly Affected

There are no other entities affected by this regulatory action.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>The agency does not anticipate an economic impact associated with the repeal of this regulation.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>The agency does not anticipate other state agencies experiencing an economic impact associated with the repeal of this regulation.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>There is not an economic benefit associated with the repeal of this regulation. The benefit is in reducing regulatory requirements.</p>

Impact on Localities

If this analysis has been reported on the ORM Economic Review form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees or revenues resulting from the regulatory change.	The repeal of this regulation will have no impact localities. See ORM Economic Review Form, Table 2.
Benefits the regulatory change is designed to produce.	

Impact on Other Entities

If this analysis has been reported on the ORM Economic Review form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	The repeal of this regulation will not have an economic impact on an individual, business, or other entity. See ORM Economic Review Form, Tables 1a, 3, and 4.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	
Benefits the regulatory change is designed to produce.	

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

Section 3.2-6036 of the Code directs VDACS to issue a license for shooting enclosures only to those enclosures that were in operation on or before January 1, 1995. The last remaining shooting enclosure in the Commonwealth failed to renew its license and permanently closed in 2017. As there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure, this regulatory action proposes to repeal 2 VAC 5-205, *Rules and Regulations Pertaining to Shooting Enclosures*.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

This regulatory action proposes to repeal the regulation. The only alternative would be to keep the regulation as-is and not repeal it. However, there are no entities subject to the provisions of the current regulation. The last remaining shooting enclosure failed to renew its shooting enclosure license and permanently closed in 2017. Since there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure, this regulation can be repealed without impact.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Department of Agriculture and Consumer Services is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email, or fax to Carolyn Bissett, 804-371-2380 (fax), or carolynn.bissett@vdacs.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
205-10		Definitions	Repeal, as there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure.
205-20		General Provisions	Repeal, as there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure.
205-30		Weapons	Repeal, as there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure.
205-40		Inspection requirements relating to shooting enclosures	Repeal, as there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure.
205-50		Fencing	Repeal, as there are no longer any shooting enclosures in operation in Virginia and VDACS does not have

			statutory authority to issue a shooting enclosure license to a new enclosure.
205-60		Shelter and humane care	Repeal, as there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure.
205-70		Health Requirements	Repeal, as there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure.
205-80		Shooting enclosure operations	Repeal, as there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure.
205-90		Common carriers; trucks	Repeal, as there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure.
205-100		Health requirements of animals to be held	Repeal, as there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure.
205-110		Suspension or revocation of license	Repeal, as there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure.