



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Forestry
<b>Virginia Administrative Code (VAC) citation</b>	4 VAC10-30
<b>Regulation title</b>	State Forest
<b>Action title</b>	State Forest Special Use Permit Fees – Hunting, Trapping, Fishing, Riding Bikes and Riding Horses [§§10.1-1152] – Creating Proposed Regulation to Insure Permanence of DOF Authority to Charge Special Use Permit Fees
<b>Date this document prepared</b>	May 23, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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.*

- 1) The 2012 Virginia General Assembly passed and the Governor approved an act to amend and reenact §§10.1-1152 [Virginia Acts of Assembly Chapter 484] relating to state forest special use permits, mandating that the Department of Forestry promulgate emergency regulations to implement the provision of the act that established a fee for the special use permit to hunt, trap, fish, ride bikes and horses in a state forest. Pursuant to the act, the regulations are to become effective within 280 days of the enactment of the act. This regulation is not exempt under the provisions of subdivision A. 4 of §2.2-4006.
- 2) The changes to the existing regulation implements the provisions of the act to amend and reenact §10.1-1152, Virginia Acts of Assembly Chapter 484, requiring minor changes of clarification to 4VAC10-30 sections 40, 120, 200 and 210. These changes clarify that any person who hunts, fishes, traps, rides bikes or rides horses is required to purchase an annual special use permit for a fee of \$15.
- 3) The Department of Forestry wants to maintain the authority to charge users for special use permits at the rate of \$15 as previously allowed by the Code of Virginia and subsequently through emergency regulations. DOF is initiating the "Proposed" stage to allow the emergency action to become permanent and provide the continuing authority.

- 4) The Department of Forestry has also initiated a standard regulatory review action NOIRA to allow for a thorough and comprehensive amendment of all of the state forest regulations, including the special use permit fees and activities. These two agency actions will be processed through the regulatory review in simultaneous fashion.

**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.*

DOF – Department of Forestry  
SF – State Forests

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

§10.1-1101 (General Powers of the Department), section 4 authorizes the Department of Forestry to promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter. Chapter 484 of the Virginia Acts of Assembly was approved by the Governor and will become effective July 1, 2012, amended and reenacted §10.1-1152.

In addition, Section 2.2-4011 of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of subdivision A. 4 of § 2.2-4006.

**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.*

Establishes an annual fee of \$15 for special use permits to hunt, trap, fish, ride bikes and ride horses on state forest lands in Department of Forestry regulations pursuant to its authority per §10.1-1152 of the Code of Virginia. Chapter 484 of the Virginia Acts of Assembly authorizes the Department to set fees for state forest special use permits by regulation. The emergency regulation is necessary to implement the provisions of the act that authorize the establishment of a fee for the special use permit to become effective within 280 days of the enactment of the act.

In addition, the purpose of the State Forest regulations is to better protect and serve the health, safety and welfare of the public who use Virginia State Forests for their recreational activities and/or while

working in the State Forests for official business reasons. The regulations to establish a fee, however, primarily provides the agency the same authority to charge a fee for hunting, fishing, trapping, riding horses and riding bikes that was in the Code of Virginia. The authority to charge a fee is being transferred to regulations. Thanks. Ron Jenkins

DOF is submitting the “Proposed” stage to insure the authority granted under the emergency regulation continues as permanent authority.

**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.)*

The “Proposed” stage is exactly like the emergency regulations. There are no changes submitted in the Proposed.

**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 indicate.*

This regulatory action poses no disadvantages to the public or the Commonwealth.

**Requirements more restrictive than federal**

*Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale 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.*

There are no requirements contained within this proposal which are more restrictive than applicable federal requirements.

**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.*

There are none. The DOF has 22 State Forests in various counties. People who use the State Forests for hunting, fishing, trapping, riding bikes and horses pay the DOF for the special use permit. Localities are impacted in a positive manner as a result of purchases of goods and services with locality businesses while visiting State Forests.

**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.*

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board 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 Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email or fax to Ron Jenkins, Assistant State Forester, 900 Natural Resources Drive, Suite 800, Charlottesville, Virginia 22903, 434-220-9022, 434-97-7749(fax), 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 midnight on the last date of the public comment period.

**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 requirements 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>	None
<b>Projected cost of the new regulations or changes to existing regulations on localities.</b>	None
<b>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.</b>	Individuals using the State Forests for hunting, trapping, fishing, riding bikes and horses.
<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. 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.</b>	Estimated 6,000 to 7,000 individuals.
<b>All projected costs of the new regulations or</b>	None

<p><b>changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and 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></p>	
<p><b>Beneficial impact the regulation is designed to produce.</b></p>	<p>Provides revenue to DOF for management of the State Forests' recreational activities.</p>

**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.*

Fees provide sources of revenue to create and maintain recreational opportunities for the public. No general funds are provided or available for these uses.

**Small business impact review result**

In order to minimize the economic impact of regulations on small businesses, please include, pursuant to Code of Virginia § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps,

duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination of whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

**NOTE:** If the NOIRA Agency Background Document did not contain an announcement that you were conducting a small business impact review, please delete this entire small business impact review section. Otherwise, report the result of the small business impact review by completing this section.

**Public comment**

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

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
None	None	None

**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.*

This regulatory action provides for positive outdoor experience for families.

**Detail of changes**

*Please list 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. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.*

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

For changes to existing regulation(s), use this chart: The Proposed and Emergency regulation language are identical.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
4VAC10-30-40		<p>A permit to do any act shall authorize the same only insofar as it may be performed in strict accordance with the terms and conditions thereof. Any violation by its holder or his agents or employees of any term or condition thereof shall constitute grounds for its revocation by the department, or by its authorized representative. In case of revocation of any permit, all moneys paid for or on account thereof shall, at the option of the department, be forfeited to and be retained by it; and the holder of such permit, together with his agents and employees who violated such terms and conditions, shall be jointly and severally liable to the department for all damages and loss suffered by it in excess of money so forfeited and retained; but neither such forfeiture and retention by the department of the whole or any part of such moneys nor the recovery or collection thereby of such damages, or both, shall in any manner relieve such person or persons from liability to punishment for any violation of any provision</p>	<p>A permit to do any act shall authorize the same only insofar as it may be performed in strict accordance with the terms and conditions thereof. Any violation by its holder or his agents or employees of any term or condition thereof shall constitute grounds for its revocation by the department, or by its authorized representative. In case of revocation of any permit, all moneys paid for or on account thereof shall, at the option of the department, be forfeited to and be retained by it; and the holder of such permit, together with his agents and employees who violated such terms and conditions, shall be jointly and severally liable to the department for all damages and loss suffered by it in excess of money so forfeited and retained; but neither such forfeiture and retention by the department of the whole or any part of such moneys nor the recovery or collection thereby of such damages, or both, shall in any manner relieve such person or persons from liability to punishment for any violation of any provision of any Virginia State Forests Regulation. A state forest <del>hunting</del> <u>special use permit</u> will be required to <del>hunt, or trap, fish, ride bikes or ride horses</del> on any state forest or portion thereof on which <del>hunting, and trapping, fishing, riding bikes or riding horses</del> is permitted.</p>

		<p>of any Virginia State Forests Regulation. A state forest hunting permit will be required to hunt or trap on any state forest or portion thereof on which hunting and trapping is permitted.</p>	
--	--	--	--

If a new regulation is being promulgated, use this chart:

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

Enter any other statement here