Virginia Department of Game and Inland Fisheries

Guidance Document on Facility Use Fee Waivers and Deviations

February 29, 2012

Summary:

This guidance document contains the criteria and processes used by the Department in granting waivers and deviations to the facility use fee (Access Permit) established by 4VAC15-20-66.

Electronic Copy:

An electronic copy of this guidance in PDF format is available on the Department of Game and Inland Fisheries website at: http://www.dgif.virginia.gov/access-permit/guidance.

Contact Information:

Please contact the Departments Permits Section at Angela.Weller@dgif.virginia.gov or by calling 804-367-8747 with any questions regarding the application of this guidance.

Disclaimer:

This document is provided as guidance and sets forth standard operating procedures for the Department of Game and Inland Fisheries. It provides a general interpretation of applicable law and regulations but is not meant to be exhaustive as to all situations that may arise.

Background:

Section 29.1-103(14) of the Code of Virginia allows the Board of Game and Inland Fisheries (Board) to establish and collect admittance, parking, or other use fees at Department-owned facilities. This fee does not apply to (i) any person holding a valid hunting, trapping, or fishing permit, or a current certificate of boat registration issued by the Department, (ii) persons 16 years of age or younger, or (iii) the use of Department-owned boat ramps (§29.1-113). Any daily fee established by the Board cannot exceed $3.00, and any annual fee cannot exceed the cost of an annual state resident fishing or hunting license (§29.1-103(14)).

The Board has established a fee applicable to Department-owned Wildlife Management Areas and fishing lakes in 4VAC15-20-66. The daily fee is set at $3.00, and the annual fee is equal to the price of an annual basic state resident fishing or hunting license, currently $22. The cost to the purchaser will be $1 more per transaction due to a license agent fee. The Board's regulation additionally allows for the Director of the Department of Game and Inland Fisheries to waive fees for any person, group, or organization whenever such action is deemed to be in the Department's interest, and to allow deviations from established fees in the form of discounts or special promotions for the purpose of stimulating visitation and use of departmental facilities.

This guidance document provides additional details on how the Director makes determinations as to waivers and deviations from the standard fee.

Authority:

The Code of Virginia contains the following provisions relevant to this guidance:

§29.1-103. Powers and Duties of the Board

14. Establish and collect admittance, parking, or other use fees at certain Department-owned facilities as determined by the Board. Any daily fee established by the Board shall not exceed $3. Any annual fee established by the Board shall not exceed the cost of an annual state resident fishing license pursuant to subdivision A 2 of § 29.1-310, or an annual state resident hunting license pursuant to subdivision 2 of § 29.1-303.

§ 29.1-113. Admittance, parking, and use at certain Department-owned facilities or Department-leased land; civil penalty.

A. No person shall make use of, gain admittance to, or attempt to use or gain admittance to those certain Department-owned facilities where the Department charges a fee established by the Board pursuant to § 29.1-103, unless the person pays such fee. However, such fee shall not apply to (i) any person holding a valid hunting, trapping, or fishing permit, or a current certificate of boat registration issued by the Department, (ii) persons 16 years of age or younger, or (iii) the use of Department-owned boat ramps.

B. No person shall hunt on private lands managed by the Department through a lease agreement or other similar memorandum of agreement where the Department issues an annual hunting stamp without having purchased a valid annual hunting stamp.

C. Any person violating subsections A or B may, in lieu of any criminal penalty, be assessed a civil penalty of up to $50 by the Department. Civil penalties assessed under this section shall be paid into the Game Protection Fund. No owner or driver shall cause or permit a vehicle to stand:

1. On property owned or managed by the Department outside of designated parking spaces, except for a reasonable time in order to receive or discharge passengers or in the case of an emergency;

2. In any designated parking space on property owned or managed by the Department in violation of any posted rule regarding use of the space; or

3. In any space on property owned or managed by the Department designated for use by persons with disabilities unless the vehicle displays a license plate or decal issued by the Commissioner of the Department of Motor Vehicles, or a similar identification issued by a similar authority of another state or the District of Columbia, which authorizes parking in such a designated space. Notwithstanding the provisions of § 29.1-554, any regulation of the Board, or any other trespass provision in the Code of Virginia, any person violating this subsection shall not be subject to a criminal penalty. Any person violating this subsection may, in lieu of any criminal penalty, be assessed a civil penalty of $25, which shall be paid into the Game Protection Fund.

The regulations of the Board of Game and Inland Fisheries contain the following provision relevant to this guidance:

4VAC15-20-66. Admittance, parking, or other use fee at certain department-owned facilities.

A. Pursuant to the authority of the board under § 29.1-103 (14) of the Code of Virginia and in accordance with § 29.1-113 of the Code of Virginia, a daily fee of $3.00 or an annual fee equal to the price of an annual basic state resident fishing or hunting license is established for admittance, parking, or other use at department-owned wildlife management areas and public fishing lakes. Such fee shall not apply to (i) any person holding a valid hunting, trapping, or fishing license, or a current certificate of boat registration issued by the department ; (ii) persons 16 years of age or younger; or (iii) the use of department-owned boat ramps.

B. Any person violating this section may, in lieu of any criminal penalty, be assessed a civil penalty of $50.

C. The director may waive fees for any person, group, or organization whenever such action is deemed to be in the department's interest. Any or all facilities may be closed by the director without notice due to an emergency or natural disaster. Full refunds or

credits may be issued whenever the closure prevents any use of the facility during the term of the permit. Partial refunds of fees may be made in the interest of providing better customer service.

D. The director may allow deviations from established fees in the form of discounts or special promotions for the purpose of stimulating visitation and use of departmental facilities.

Discussion:

I. Exemptions

In accordance with the authorities noted above, certain use of Department-owned land is either not included in or explicitly exempt from the fee imposed by 4VAC15-20-66. No fee is due for this use, and thus no waiver or deviation is necessary. This includes:

1. Use of Wildlife Management Areas and DGIF-owned public fishing lakes by users holding a valid hunting, trapping, or fishing license, or a current certificate of boat registration issued by the Department.
2. Use of Department-owned boat ramps and hatcheries (even where the ramps or hatcheries are located on Department land).
    a. For boat ramps located on Department land, including within Wildlife Management Areas, note that while use of the boat ramp is exempt, other use of the Wildlife Management Area will require payment of the fee.
3. Any use by a person under 17 years of age.

II. Waivers Deemed to be Granted/Not Requiring Separate Approval

In addition to the exemptions noted above, the fee shall be waived for the following uses. No application for a waiver is needed to be submitted for the following uses:

1. Use of locality-operated facilities that are located on DGIF property under an agreement with the Department. Any agreement must be approved by DGIF. Currently, such agreements exist for:
    a. Rural Retreat Lake (use of land-based facilities exempted; use of the Lake not addressed by the agreement and not exempted)
    b. Lake Robertson camp grounds (use of camp ground property exempted; use of surrounding Department land requires an Access Permit)
    c. Lake Conner (refuse disposal facilities maintained by Halifax County).
2. Federal, state, or local government employee or first-responders necessitating access as part of their official duties.
3. Contractors and agents of the Department in the process of bidding on and performing work on Department property.
4. Use of roadways through Wildlife Management Areas by in-holding landowners and the public to pass through Department property.
5. Access by adjoining landowners where such access is brief in nature and for the purpose of retrieving a pet, property of the landowner that has been blown over onto Department property, etc.
6. Individuals assisting disabled hunters or fishermen in gaining access to the property/engaging in the activity for which the hunter or fisherman is licensed (note

that hunting or fishing license may be required for these individuals depending on their own activities).

7. Individuals hiking on the Appalachian Trail or Great Eastern Trail.
8. Appalachian Trail maintenance workers/crews while engaged in maintenance work on the trail.
9. Scientific Collection and Threatened and Endangered Permit holders who are conducting research on Department lands and lakes.
10. Individuals visiting family gravesites on subject property. If the individual visits the property for other uses, an Access Permit is required.

III. Waivers Requiring Application and Approval

The facility use fee may also be waived for the following uses. Users must apply for a waiver and must carry written documentation of the approved waiver with them when on Department property. The Agency may take up to 30 days to respond to an application.

1. Any volunteer services to be provided by any Friends group, adjoining landowners, community groups, scouting organizations, etc. may apply for a waiver if that event advances the mission of the Department.
2. Individuals with prior Letters of Authorization allowing access, provided that a waiver is applied for and approved prior to access and a copy of any waiver granted is kept with them while on DGIF property.

Individuals who wish to confirm that they are the subject of a valid exemption or waiver, or who are required to apply for a waiver in accordance with the above, as well as those seeking further information should contact the Department's Permits Section at Angela.Weller@dgif.virginia.gov or by calling 804-367-8747.

IV. Group Permits

In the interest of stimulating use of Department facilities, discounted rates are authorized for daily group permits. These daily group permits may be used by nature/hiking groups, educational institutions, scouting groups, community groups, and any others who would not otherwise be exempt from the fee but who wish to make group use of Department properties. These daily group permits will be issued along with special use permits, which are required for any group of more than 12 individuals. The authorized discounted rates are:

1. Groups of up to 12 individuals: $25.00
2. Groups of 13-24 individuals: $50.00
3. Groups of 25-36 individuals: $75.00
4. Groups of 37-48 individuals: $100.00
5. Groups of 49-60 individuals: $125.00

Group permits may be purchased in combination, and groups of more than 60 will need to purchase more than one group permit. Group leaders are responsible for adherence to permit conditions and must maintain a list of participants for inspection at any time that the group is on Department property.

Adoption, Amendments, and Repeal

This guidance document is effective as of the date of signature below. It shall remain in effect until rescinded or superseded.

Robert W. Duncan 2/29/2012

Robert W. Duncan Date

Executive Director, Dept. of Game and Inland Fisheries