



COMMONWEALTH of VIRGINIA

Douglas W. Domenech
Secretary of Natural Resources

Department of Game and Inland Fisheries

Robert W. Duncan
Executive Director

SUBJECT: APPEALS AND PROCEEDINGS REGARDING DENIAL, SUSPENSION, REVOCATION, AND REINSTATEMENT OF WILDLIFE PERMITS

EFFECTIVE: September 22, 2011

Introduction

Under authority granted to the Board of the Department of Game and Inland Fisheries (DGIF) in §29.1-103 of the Code of Virginia, and subsequently conferred by the Board via 4 VAC 15-30-5 of Virginia Administrative Code, the DGIF Executive Director (Director) has the authority to set permit schedules, establish permit conditions, delegate signature authority, establish protocols for responding to permit decision appeals, and render final permit decisions. The Director also has the authority to establish a policy on the issuance of new permits to individuals whose previous permits or applications have been revoked or denied for infractions of wildlife laws, regulations, or conditions.

Permit issuance, denial, suspension, or revocation

Issuance of all permits is at the direction of the Director. The Director or his designee(s) may deny, suspend, or revoke any permit, by written notification to the Principal Applicant or Permittee. The notification will state the reasons for the decision, and/or contain a description of the evidence which was relied upon by the issuing designee. The notification will provide information concerning the right to appeal, the official to whom an appeal may be addressed, and the procedures for making an appeal. Denial, suspension, or revocation may be based on any of the following grounds:

1. Any incomplete or inaccurate completion of the application forms; or unauthorized, inadequate, unsubstantiated, or false justification for the requested permit.
2. Failure to provide or provisioning of false or incomplete information, in subsequent reports submitted in compliance with permit terms and conditions.
3. Use of unapproved or improperly executed sampling methods or techniques.
4. Conviction of any criminal act in connection with state or federal wildlife laws or regulations relating to the permit being sought.
5. Non-compliance with the terms, requirements, or limitations of the issued permit.
6. Failure to comply with any provision of a signed Corrective Action Plan.
7. Any other act or omission constituting a violation of state wildlife laws or regulations applicable to the permitted or to-be-permitted activity.

Such denial, suspension, or revocation shall remain in effect until the Permittee documents compliance with the terms and conditions of any applicable permits, completes any remediation or mitigation required to address such violations, and serves any applicable suspension/revocation term. Determination of compliance with these requirements is at the sole discretion of the Director or his designee(s).

Method of requesting reconsideration:

Any request for reconsideration must be addressed to the Director in writing, signed by the applicant (Principal Applicant or Permittee) or the legal representative of that person.

The request for reconsideration must be received within 30 calendar days of the date of denial notification. The request for reconsideration must state the reason(s) for reconsideration, including new facts and/or new information that address the reason(s) for denial.

Within 30 days of receipt of a request for reconsideration, the Director shall provide to the applicant a **Notice of Informal Fact Finding Proceeding** detailing the time and place for review of the appeal, and a copy of the Department's appeal policy and procedures. In the alternative, should the matter be negotiated to resolution through informal consultation between the Department and the applicant during this time period, such resolution and agreement shall be documented and no Informal Fact Finding Proceeding shall be necessary.

If the permit, application, or regulated activity is the subject of an ongoing criminal or administrative investigation, and the ongoing investigation provided grounds for the subject permit revocation or suspension, no administrative appeal shall be considered pending conclusion of said investigations and proceedings or adjudication by the courts. The Director may order an **Informal Fact Finding Proceeding** upon conclusion of such criminal investigations and proceedings, or at any other time he deems appropriate.

Informal Fact Finding Proceeding

Informal Fact Finding Proceedings will be conducted by a panel of three persons appointed by the Director. Two of the panel members shall be from DGIF's Permit Science Team, and familiar with the subject matter. The panel will hear and accept documentary evidence from the Principal Applicant, Permittee, Sub-permittees, and legal representatives thereof; from the complainants and representatives thereof, if any; and, if necessary, from Department staff knowledgeable of the issues under consideration. This proceeding will be considered, if appropriate, only upon the conclusion of any criminal investigations and proceedings regarding the appeal.

Within 10 working days of conclusion of the informal fact finding proceeding, the panel will forward a written summary of the proceeding and recommendations to the Director. This may include testimony of witnesses, exhibits, or proffers extended during the proceeding. Within 30 working days of receipt of that written record, the Director shall:

1. Issue a final ruling to deny the permit application, or suspend or revoke an existing permit.
2. Issue a final ruling to issue or reinstitute the subject permit(s) with appropriate conditions.

Corrective Action Plan

A Corrective Action Plan is a written agreement between the Department and the Principal Applicant or Permittee that details the corrective actions to be taken in response to documented violations of permit terms or conditions. At any time prior to issuance of a final ruling, the Department, Principal Applicant, or Permittee may offer a Corrective Action Plan, which may be discussed, accepted, modified, or rejected by the parties during any subsequent informal consultation or informal fact finding proceeding. A Corrective Action Plan, once agreed to and adopted in writing by the Principle Applicant or Permittee, must be incorporated into the terms and conditions of any related permits or rulings regarding permits or applications.

Duration of permit denials, suspensions, and revocations

Pursuant to 4 VAC 15-30-5, the Director is authorized to establish a policy on the issuance of new permits to individuals whose previous permits or applications have been revoked or denied for infractions of wildlife laws, regulations, or permit conditions.

When a permit application is denied, or a permit is suspended or revoked, the following periods apply:

- Permit application denials shall be for a period of at least six months and will not exceed twelve months;
- Permit suspensions shall be for a period of one to twelve months, as determined by the Director; and
- Permit revocations shall be for a period of not less than one year and will not exceed five years as determined by the Director.

Permit reapplication

A Principal Applicant or Permittee, may reapply or request reinstatement of a permit only after passage of the applicable period specified above in *Duration of permit denials, suspensions, and revocations*. The Principle Applicant or Permittee must satisfy all of the requirements, terms, and conditions of any applicable final ruling and Corrective Action Plan. If the originally-issued permit is still valid, the Department may, at the Director's discretion, reinstate the permit by letter of authorization to the Permittee. If the permit would have expired had it not been suspended or revoked, the applicant must reinitiate the normal permit application process as outlined on the Department's website at: <http://www.dgif.virginia.gov/>.

Approved:


Robert W. Duncan, Executive Director

09/22/2011
Date

Cc: Col. D. Watts
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