



## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Aviation
<b>Virginia Administrative Code (VAC) citation</b>	24 VAC 5-11
<b>Regulation title</b>	Public Participation Guidelines
<b>Action title</b>	Promulgation of Model Public Participation Guidelines
<b>Date this document prepared</b>	October 13, 2010

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

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.*

Public participation guidelines (PPGs) exist to promote public involvement in the development, amendment or repeal of an agency's regulations. Under §2.2-4007.02 of the Code of Virginia the Department of Aviation, as a rule making body, is required to adopt public participation guidelines and to use those guidelines in the development of any of its subsequent regulations.

### Statement of final agency action

*Please 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.*

The Virginia Aviation Board adopted new model Public Participation Guidelines on \_\_\_\_\_.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.*

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Under §2.2-4007.02 of the Code of Virginia, every rulemaking body in Virginia is required to adopt public participation guidelines and to use those guidelines in the development of its regulations. Chapter 321 of the 2008 Acts of Assembly mandates agencies to adopt model public participation guidelines issued by the Department of Planning and Budget, or adopt the PPG model with any necessary amendments.

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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The purpose of this regulatory action is to adopt model Public Participation Guidelines as required by the Virginia General Assembly, the legal reference for which is cited above.

## Rationale for using fast track process

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

*Please note: 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 (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

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Utilization of the Fast Track regulatory process is warranted due to the fact that the (1) regulations proposed are those required by the General Assembly, and (2) the regulations proposed use Model Public Participation Guidelines developed by the Department of Planning and Budget. Because of this, the action of adopting new PPG's is not expected to be controversial.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)*

This action creates a new chapter within the existing regulations and uses text verbatim, excepting applicable agency references and dates, etc., from the applicable text of the model public participation guidelines developed by the Department of Planning and Budget.

### 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 there are no disadvantages to the public or the Commonwealth, please indicate.*

As noted above this proposed regulatory action is mandated by the General Assembly. The advantage to the Department of Aviation is that the new PPG's will provide more consistent regulatory participation for affected citizens, stakeholders, and customers. The Department forecasts no disadvantages for the public, agency, or Commonwealth.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.*

Inasmuch as this proposal centers upon the enactment of Public Participation Guidelines for the APA, the action will not ratify regulations that are more restrictive than 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.*

Passage of the proposed PPG's ensures equal treatment of and applicability to all Virginia political subdivisions.

**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.*

There is no alternative considered, as the action is pursued to comply with a mandate issued by the General Assembly.

**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 requirement creates the anticipated economic impact.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	Because this proposal affects only the PPG’s, a minimal or non-existent financial impact will be borne by the Department.
<b>Projected cost of the new regulations or changes to existing regulations on localities.</b>	None Anticipated
<b>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.</b>	Individuals, businesses and other entities likely to be affected by passage of new PPG’s will be affected in a beneficial manner because the new PPG’s provide more paths for customer and stakeholder participation.
<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.</b> 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.	Licensed public-use airport sponsors = 66 Private-use airport owners = 189 Current VA aircraft licenses = 2595
<b>All projected costs of the new regulations or 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</b>	None Anticipated

<p><b>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>As noted above, the new PPG's provide more paths for customer and stakeholder participation in the development of any new or amended Virginia Aviation Regulations.</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.*

There is no alternative considered, as the action is pursued to comply with a mandate issued by the General Assembly.

**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.*

It is not anticipated, nor can it be envisioned, that passage of model PPG's by the Department of Aviation will have any negative impact on the structure of the family.

**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 in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.*

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

The proposed text is used verbatim, excepting agency name, etc. from the model PPG's developed and published by the Department of Planning and Budget.