



Fast Track Proposed Regulation Agency Background Document

Agency name	State Lottery Department
Virginia Administrative Code (VAC) citation	11 VAC 5-11
Regulation title	Public Participation Guidelines
Action title	Promulgate new Public Participation Guidelines and Repeal Chapter 10
Date this document prepared	September 16, 2011

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. The Virginia Lottery Board is adopting amended public participation guidelines pursuant to Chapters 575 and 321, 2008 Acts of Assembly (<http://leg1.state.va.us/cgi-bin/legp504.exe?081+ful+CHAP0575> and <http://leg1.state.va.us/cgi-bin/legp504.exe?081+ful+CHAP0321>).

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 Lottery Board adopted new model Public Participation Guidelines on September 14, 2011.

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.

The Virginia Lottery Board's powers are set forth in statute at Virginia Code § 58.1-4007. Among other powers, the Board is authorized to adopt regulations governing the establishment and operation of a lottery, including: lottery ticket prices, numbers and sizes of prizes, prize payment, frequency of drawings, and licensing of and compensation for sales agents. The board also hears appeals on the denial, suspension, or revocation of retailers' licenses.

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 and Chapter 575 (identical chapters), 2008 Acts of Assembly, require agencies to adopt model public participation guidelines issued by the Department of Planning and Budget, or adopt this PPG model with 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.

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.

Utilization of the Fast Track regulatory process is warranted due to the fact that the (1) regulation proposed is required by the General Assembly, and (2) the regulation proposed uses the Model Public Participation Guidelines developed by the Department of Planning and Budget as its basis. Accordingly, this action of adopting new PPGs 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 regulation and uses text verbatim, except 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 Virginia Lottery Board is that the new PPGs will provide more consistent regulatory participation for affected citizens, stakeholders, and customers. The Department sees no disadvantages to the public, agency, or Commonwealth in adopting this regulation.

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 by this state agency, 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.

Promulgation of the proposed PPGs will ensure equal treatment of 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.

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	Because this proposal affects only the PPGs, a minimal or non-existent financial impact will be borne by the Department.
Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.	None Anticipated
Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.	Individuals, businesses and other entities likely to be affected by passage of new PPGs will be affected in a beneficial manner because the new PPGs provide more paths for customer and stakeholder participation.
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.	
All projected costs of the <i>new regulations or changes to existing regulations</i> 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	None Anticipated

<p>real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	
<p>Beneficial impact the regulation is designed to produce.</p>	<p>As noted above, the new PPGs provide more paths for customer and stakeholder participation in the development of any new or amended Virginia Lottery 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 promulgation of this public participation guidelines regulation by the Virginia Lottery Board 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 PPGs developed and

published by the Department of Planning and Budget. The model PPG developed by DPB can be found here: <http://townhall.virginia.gov/L/modelppg.pdf>.