



## Proposed Regulation Agency Background Document

<b>Agency name</b>	State Lottery Department
<b>Virginia Administrative Code (VAC) citation</b>	11VAC5-20
<b>Regulation title</b>	Administration Regulations
<b>Action title</b>	Promulgate review and update of Administration Regulations
<b>Date this document prepared</b>	1-9-2012

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.*

The existing regulation has been amended to reflect a general review by the State Lottery Department of this chapter. All sections were reviewed for content, accuracy and clarity.

### 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.*

N/A

### 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.*

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The State Lottery Department is adopting amended administration regulations 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>).

Section 58.1-4007 states The Board shall have the power to adopt regulations governing the establishment and operation of a lottery. The regulations governing the establishment and operation of the lottery shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.).

## 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.*

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It has been over five (5) years since this chapter has been reviewed for changes and/or updates. Chapter 11VAC5-20 contains outdated language, particularly in the definitions section which was amended based on use within the document. With the rapid growth of technology, to include social media, the Department would like to take advantage of new communication channels.

## 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.)*

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Many definitions were deleted that refer to purchasing to avoid potential confusion to our citizens. The agency's procurement process is addressed in the Code of Virginia § 58.1-4007, A, 13, second paragraph. Removed reference to the State Lottery Fund since the Appropriations Act already addresses the use of this fund.

## 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.*

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Advantages: The proposed amendments to this chapter will further enhance our transparency to our citizens and add additional clarification to our regulations.

Disadvantages: The agency does not foresee any disadvantages to the citizens and businesses of the Commonwealth.

Other: No other impact is anticipated.

**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 of the proposed amendments that exceed 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.*

The proposed amendments will be applicable to the entire state. No locality will be singularly affected by the proposed amendments.

**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 Mitch Belton, 900 E. Main Street, Richmond, VA 23219, phone: (804) 692-7136, fax: (804) 692-7603, email [mbelton@valottery.com](mailto:mbelton@valottery.com) . Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

A public hearing will not be held.

**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 <i>new regulations or changes to existing regulations</i> on localities.</b>	None
<b>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</b>	None
<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.	None
<b>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 real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</b>	There are no projected costs associated with the amended regulation for individuals, business, or other entities.
<b>Beneficial impact the regulation is designed to produce.</b>	The proposed amendments to this chapter will further enhance our transparency to our citizens and add additional clarification to our regulations.

**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.*

The proposed regulations were evaluated by the Department for accuracy and further clarification/transparency to our citizens. No anticipated cost of the proposed regulations was identified for small businesses or any other entity.

### 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.*

The proposed regulations do not impact any existing compliance or reporting requirements. In addition, no further compliance or reporting requirements were added.

### 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 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.

All sections of this chapter were reviewed for the continued need by the Department. It has been over 5 years since the regulations were reviewed. Section 11VAC5-20-200 was modified to include reference to the Code of Virginia for further clarification. Again, while reviewing this chapter, the Department's goal was to reduce and simplify our regulations. There are no projected costs or small business impact associated with the amended regulation for individuals, business, or other entities.

### Public comment

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

No comments were received.

Commenter	Comment	Agency response

**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 will have no impact on the institution of the family or family stability.

**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:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
	11VAC5-20-10		Deleted the following definitions:  1) “Award” 2) “Bid” 3) “Bid bond” 4) “Competitive bidding” 5) “Competitive negotiation” 6) “Contract administration” 7) “Contracting officer” 8) Contractor” 9) “Informalities” 10) “Invitation for Bids” 11) “Kickbacks” 12) “Letter contract” 13) “Negotiation” 14) “Noncompetitive negotiations” 15) “Nonprofessional services”

			<p>16) "Notice of Award"                  17) "Notice of Intent to Award"                  18) "Performance bond"                  19) "Personal services contract"                  20) "Professional services"                  21) "Protest"                  22) "Purchase order"                  23) "Request for Information (RFI)"                  24) "Request for Proposals (RFP)"                  25) "Responsible vendor"                  26) "Solicitation"</p> <p>The definitions removed referred to purchasing and were not reference in our regulations.</p>
	11VAC5-20-60		<p>Added language to expand on the advertising media utilized to include internet and social media.</p>
	11VAC5-20-70		<p>Amended percentages for apportionment of moneys.</p> <p>Deleted reference to the State Lottery Fund. The Appropriations Act already addresses the use this fund.</p>
	11VAC5-20-150		<p>Added language to reference the Code of Virginia relating to case decisions.</p> <p>Added language that the board may consider their decision in closed session.</p>
	11VAC5-20-160		<p>Added language to reference the State Lottery offices as a central point to mail or hand deliver an appeal. The Lottery has other offices and these offices are not referred to as a regional offices</p> <p>Deleted reference to the Retailer License Application Control Number, which is no longer used.</p>
	11VAC5-20-170		<p>Deleted reference to the Retailer License Application Control Number, which is no longer used.</p>
	11VAC5-20-180		<p>Added language to reference Article 3 to the APA (§ 2.2-4018) for further clarification.</p>

	11VAC5-20-200		Added language to reference Chapter 40 of title 58.1 of the Code of Virginia for further clarification of purchasing guidelines.
	FORMS (11VAC5-20) Repealed		Forms were deleted as they are not referenced in our regulations.
	DOCUMENT INCORPORATED BY REFERENCE (11VAC5-20) Repealed		Deleted reference to the Virginia Lottery Purchasing Manual. Document is no longer referenced.

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