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## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	Department of Housing and Community Development (DHCD)
<b>Virginia Administrative Code (VAC) citation(s)</b>	1 VAC 50-11 1 VAC 50-20
<b>Regulation title(s)</b>	Public Participation Guidelines Organization and Regulations of Procedure
<b>Action title(s)</b>	Commission on Local Government – Update to Public Participation Guidelines Commission on Local Government – Update to Organization and Regulations of Procedure
<b>Date this document prepared</b>	10/17/2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (preferably no more than 2 or 3 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. If applicable, generally describe the existing regulation.*

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Commission on Local Government recently conducted a Periodic Review of its regulations (1 VAC 50-11 and 1 VAC 50-20, Public Participation Guidelines and Organization and Regulations of Procedure, respectively). The Public Participation Guidelines govern the processes behind the development, amendment, and repeal of regulations of the Commission. The Organization and Regulations of Procedure govern how the Commission is organized and operated in addition to more specific regulations

on how various interlocal agreements and transitions subject to the CLG’s mandatory review are conducted.

The Commission’s review schedule was formally adopted during its meeting on May 9, 2017. Based on the adopted review schedule, a Notice of Periodic Review was published in the *Virginia Register of Regulations* on June 12, 2017 (Volume 33, Issue 21). As part of the Periodic Review, the Public Notice indicated that public comment was sought on the review of any issue relating to each regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable. The public comment period closed on July 3, 2017, and no comments were received.

While no public comments were received, the Commission members, with the assistance of staff, voted in favor of making multiple, minor amendments to its regulations at the conclusion of its Periodic Review. All of the proposed amendments to the regulations are minor in nature and include items such as (i) updating definitions and regulations to correspond to changes in State Code, (ii) adding Oxford commas, (iii) updating terminology to be gender-neutral, (iv) generalizing the Commission’s regular meeting regulations to allow more meeting flexibility but remain consistent with State Code, and (iv) other minor changes. None of the proposed amendments to the regulations are substantive in nature.

**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.*

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“CLG” means the Commission on Local Government

“Commission” means Commission on Local Government

“DHCD” means the Virginia Department of Housing and Community Development

**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.*

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On August 15, 2017, the CLG voted to close its Periodic Review of 1 VAC 50-11 and 1 VAC 50-20, Public Participation Guidelines and Organization and Regulations of Procedure, respectively. While no public comments were received during the Periodic Review, the Commission voted in favor of making multiple, minor amendments to its regulations at the conclusion of its Periodic Review. None of the proposed amendments to the regulations are substantive in nature.

**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.*

Authority:

§ 15.2-2903 of the Code of Virginia:

“The Commission shall have the following general powers and duties:

1. To make regulations, including rules of procedure for the conducting of hearings;
2. To keep a record of its proceedings and to be responsible for the custody and preservation of its papers and documents;
3. To serve as a mediator between localities;
4. To investigate, analyze, and make findings of fact, as directed by law, as to the probable effect on the people residing in any area of the Commonwealth of any proposed action in that area:
  - a. To annex territory,
  - b. To have an area declared immune from annexation,
  - c. To establish a town or independent city,
  - d. To settle or adjust boundaries between localities,
  - e. To make a transition from city status to town status,
  - f. To make a transition from a county to a city,
  - g. To consolidate two or more localities, at least one of which is a county, into a city, or
  - h. To enter into economic growth-sharing agreements among localities;
5. To conduct investigations, analyses and determinations, in the sole discretion of the Commission, for the guidance of localities in the conduct of their affairs upon the request of such localities....”

Promulgating entity: The Commission on Local Government

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe 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.*

All of the proposed amendments to the regulations are minor in nature and include items such as (i) updating definitions and regulations to correspond to changes in State Code, including removal of references to “Commonwealth Calendar” and the right to counsel in rule-making proceedings (Chapter 795, 2012 Acts of Assembly), (ii) adding Oxford commas for greater clarity, (iii) updating terminology to be gender-neutral, (iv) generalizing the Commission’s regular meeting regulations to allow more meeting flexibility but remain consistent with State Code (§ 15.2-2904 of the Code of Virginia), and (v) other minor changes. None of the proposed amendments to the regulations are substantive in nature.

The regulations are essential to protect the health, safety, and welfare of citizens because they support the CLG’s purpose to ensure that all of the Commonwealth’s “localities are maintained as viable communities in which their citizens can live” (§ 15.2-2900 of the Code of Virginia).

The goal of this proposal is to update the CLG’s regulations for greater clarity and consistency based upon a review by the Commission and its staff at the conclusion of its Periodic Review.

## 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?*

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This rulemaking is expected to be noncontroversial because the proposed amendments to the regulations are minor in nature and include items such as (i) updating definitions and regulations to correspond to changes in State Code, including removal of references to “Commonwealth Calendar” and the right to counsel in rule-making proceedings (Chapter 795, 2012 Acts of Assembly), (ii) adding Oxford commas for greater clarity, (iii) updating terminology to be gender-neutral, (iv) generalizing the Commission’s regular meeting regulations to allow more meeting flexibility but remain consistent with State Code (§ 15.2-2904 of the Code of Virginia), and (iv) other minor changes. None of the proposed amendments to the regulations are substantive in nature, nor do they have an impact on small businesses or individual citizens.

Furthermore, this rulemaking is expected to be noncontroversial because no comments were received during the opportunity for public comment period, which ran from June 12, 2017, to July 3, 2017, and was advertised in the Virginia Register of Regulations on June 12, 2017 (Volume 33, Issue 21).

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of changes” section below.*

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None of the proposed amendments to the regulations are substantive in nature.

### 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.*

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The advantages to the proposed amendments to the regulations are all minor in nature but, overall, allow for greater clarity and consistency with recent changes to the Code of Virginia.

There are no anticipated disadvantages to the public or the 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.*

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There are no applicable 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.*

No localities are disproportionately impacted.

### Regulatory flexibility analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, 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.*

Given that proposed amendments to the regulations are minor in nature, there are no alternative regulatory methods consistent with health, safety, environmental, and economic welfare that could be proposed. Consequently, analysis of such alternative regulatory methods cannot be conducted. Furthermore, because the regulations concern the CLG’s mandatory review of various interlocal agreements and local government transitions, no impacts to small business are anticipated..

### 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>	\$0.00
<b>Projected cost of the new regulations or changes to existing regulations on localities.</b>	\$0.00
<b>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</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. Small business means a business entity,</b>	0

including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	
<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 including:</b> a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) 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.	\$0.00
<b>Beneficial impact the regulation is designed to produce.</b>	\$0.00

### 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.*

Given that proposed amendments to the regulations are minor in nature, there are no alternative regulatory methods consistent with health, safety, environmental, and economic welfare that could be proposed. Consequently, analysis of such alternative regulatory methods cannot be conducted. Furthermore, because the regulations concern the CLG’s mandatory review of various interlocal agreements and local government transitions, no impacts to small business are anticipated.

### Public participation notice

*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: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

### Periodic review and small business impact review report of findings

*If this fast-track is the result of a periodic review/small business impact review, use this form to report the agency’s findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health,*

safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include 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.

Commenter	Comment	Agency response

No comments were received during the public comment period (June 12, 2017, through July 3, 2017), which was published in the Virginia Register on June 12, 2017 (Volume 33, Issue 21).

The regulations are essential for the protection of public health, safety, and welfare because they support the CLG’s purpose to ensure that all of the Commonwealth’s “localities are maintained as viable communities in which their citizens can live” (§ 15.2-2900 of the Code of Virginia). Pursuant to the General Principles of Executive Order 17 (2014):

- (1) no economic incentives were considered to encourage desired outcomes, nor would they be appropriate for consideration given the nature of the CLG’s review of interlocal agreements and local transitions,
- (2) information disclosure requirements would not be applicable to the CLG’s regulations,
- (3) performance standards would not be applicable to the CLG’s regulations, and
- (4) no reasonably available alternatives in lieu of the regulations were considered, especially given the minor proposed amendments to the regulations.

The regulations are necessary in order to satisfy the CLG’s purpose to ensure that all of the Commonwealth’s “localities are maintained as viable communities in which their citizens can live” (§ 15.2-2900 of the Code of Virginia), especially given the nature of its mandatory review of various interlocal agreements and local transitions.

The Commission is unaware of any complaints or comments from the public regarding its regulations. Furthermore, the Commission did not receive any complaints or comments from the public during the opportunity for public comment period, which ran from June 12, 2017, to July 3, 2017, and was advertised in the Virginia Register of Regulations on June 12, 2017 (Volume 33, Issue 21).

The Commission’s regulations are not overly complex and are fairly consistent regarding its mandatory of various interlocal agreements and local transitions. The regulations are harmonious and complimentary to the various state statutes governing the Commission’s mandatory review of various interlocal agreements and local transitions.

The CLG’s regulations were last subject to a Periodic Review in 2013. Changes in technology, economic conditions, and other factors are irrelevant to this update.

**Family impact**

*Please assess the impact of this 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.

Because the regulations concern the CLG’s mandatory review of various interlocal agreements and local government transitions, no impacts to family or family stability are anticipated.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. 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 follow the instructions in the text following the three chart templates below.*

For changes to existing regulation(s), please use the following chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change, intent, rationale, and likely impact of proposed requirements</b>
1VAC50-11-10	N/A	N/A	Minor: addition of an Oxford comma after “amendment.” No impact.
1VAC50-11-20	N/A	N/A	Minor: updated the definition for “agency” to include “within the Virginia Department of Housing and Community Development” to clarify that the CLG is within DHCD. No impact.
1VAC50-11-20	N/A	N/A	Minor: changed the term “commonwealth calendar” to “calendar maintained by the commonwealth” and updated the definition to be consistent with changes made to § 2.2-3707 of the Code of Virginia (Chapter 616, 2017 Acts of Assembly). No impact.
1VAC50-11-20	N/A	N/A	Minor: addition of an Oxford comma to the definition for “open meeting” after “amending.” No impact.
1VAC50-11-50	N/A	N/A	Minor: updated the Public comment section to be consistent with changes made to § 2.2-4007.02 of the Code of Virginia that require agencies to afford interested persons an opportunity to “be accompanied by and represented by counsel or other representative” (Chapter 795, 2012 Acts of Assembly). No impact.
1VAC50-11-60	N/A	N/A	Minor: addition of an Oxford comma to subsection C after “consider.” No impact.
1VAC50-11-90	N/A	N/A	Minor: replaced the term “commonwealth calendar” with “calendar maintained by the commonwealth” to be consistent with changes made to § 2.2-3707 of the Code



			of Virginia (Chapter 616, 2017 Acts of Assembly). No impact.
1VAC50-11-100	N/A	N/A	Minor: replaced the term “commonwealth calendar” with “calendar maintained by the commonwealth” in subsection D to be consistent with changes made to § 2.2-3707 (Chapter 616, 2017 Acts of Assembly). No impact.
1VAC50-20-5	N/A	N/A	Minor: replaced the terms “chairman” with the term “chair” to be gender neutral. No impact.
1VAC50-20-5	N/A	N/A	Minor: addition of an Oxford comma to the definition for “locality or localities” after “city.” No impact.
1VAC50-20-40	N/A	N/A	Minor: replaced the terms “chairman” with the term “chair” and “vice chairman” to “vice chair” to be gender neutral. No impact.
1VAC50-20-50	N/A	N/A	Minor: replaced the terms “chairman” with the term “chair” to be gender neutral. No impact.
1VAC50-20-140	N/A	N/A	Minor: generalized the Commission’s regular meeting schedule requirement to allow more meeting date and location flexibility (no longer mentions specific months or Richmond) but remain consistent with statute in § 15.2-2904 of the Code of Virginia. Minimal impact: would allow the Commission to hold its regular meetings in even-numbered months and at a different location in the future, if so desired.
1VAC50-20-142	N/A	N/A	Minor: replaced the term “chairman” with the term “chair” to be gender neutral. No impact.
1VAC50-20-142	N/A	N/A	Minor: inserted the term “- including by electronic means –” after “mailed” to clarify that the Commission chair may notify members by mail or electronic mail in the event a special meeting of the Commission has been scheduled. No impact.
1VAC50-20-142	N/A	N/A	Minor: replaced the term “commonwealth calendar” with “calendar maintained by the commonwealth” to be consistent with changes made to § 2.2-3707 of the Code of Virginia (Chapter 616, 2017 Acts of Assembly). No impact.
1VAC50-20-150	N/A	N/A	Minor: replaced the term “website” with “webpage.” No impact.
1VAC50-20-180	N/A	N/A	Minor: addition of an Oxford comma after “phone number” in subsection A. No impact.
1VAC50-20-180	N/A	N/A	Minor: addition of an Oxford comma after “phone number” in subsection A (1). No

			impact.
1VAC50-20-180	N/A	N/A	Minor: addition of an Oxford comma after “phone number” in subsection A (2). No impact.
1VAC50-20-180	N/A	N/A	Minor: addition of an Oxford comma after “phone number” in subsection A (3). No impact.
1VAC50-20-180	N/A	N/A	Minor: addition of an Oxford comma after “phone number” in subsection D. No impact.
1VAC50-20-230	N/A	N/A	Minor: deletion of the word “and” before “phone number” in subsection A. No impact.
1VAC50-20-230	N/A	N/A	Minor: deletion of a “—” which appeared to be erroneously included after “under” in subsection A. No impact.
1VAC50-20-230	N/A	N/A	Minor: addition of an Oxford comma after “phone number” to subsection D. No impact.
1VAC50-20-270	N/A	N/A	Minor: deletion of the word “and” before “phone number” in subsection A. No impact.
1VAC50-20-270	N/A	N/A	Minor: addition of an Oxford comma after “phone number” in subsection D. No impact.
1VAC50-20-310	N/A	N/A	Minor: deletion of the word “and” before “phone number” in subsection A. No impact.
1VAC50-20-310	N/A	N/A	Minor: addition of an Oxford comma after “phone number” in subsection D. No impact.
1VAC50-20-350	N/A	N/A	Minor: addition of an Oxford comma after “phone number” in subsection A. No impact.
1VAC50-20-350	N/A	N/A	Minor: addition of an Oxford comma after “phone number” in subsection D. No impact.
1VAC50-20-382	N/A	N/A	Minor: deletion of the word “and” before “phone number” and addition of an Oxford comma after “phone number” in subsection A. No impact.
1VAC50-20-382	N/A	N/A	Minor: addition of an Oxford comma after “phone number” in subsection D. No impact.
1VAC50-20-384	N/A	N/A	Minor: addition of an Oxford comma after “rights” in subsection A. No impact.
1VAC50-20-384	N/A	N/A	Minor: addition of an Oxford comma after “documents” in subsection B. No impact.
1VAC50-20-390	N/A	N/A	Minor: replaced the term “chairman” with the term “chair” in subsection G to be gender neutral. No impact.
1VAC50-20-390	N/A	N/A	Minor: replaced the term “parties that chooses” with “parties that choose” to be grammatically correct in subsection R. No impact.

1VAC50-20-540	N/A	N/A	Minor: removed an extraneous comma after “municipality” in subsection A (6). No impact.
1VAC50-20-560	N/A	N/A	Minor: addition of an Oxford comma after “industrial” in subsection 2. No impact.
1VAC50-20-570	N/A	N/A	Minor: addition of an Oxford comma after “industrial” in subsection 3. No impact.
1VAC50-20-590	N/A	N/A	Minor: addition of an Oxford comma after “schools” in subsection 1. No impact.
1VAC50-20-605	N/A	N/A	Minor: addition of an Oxford comma after “schools” in subsection 2. No impact.
1VAC50-20-614	N/A	N/A	Minor: addition of an Oxford comma after “rights” in subsection 4. No impact.
1VAC50-20-620	N/A	N/A	Minor: replaced the terms “chairman” with the term “chair” to be gender neutral. No impact.
1VAC50-20-620	N/A	N/A	Minor: added the phrase “or she” after “he” in subsection H to be gender neutral. No impact.
1VAC50-20-630	N/A	N/A	Minor: replaced the terms “chairman” with the term “chair” to be gender neutral. No impact.
1VAC50-20-630	N/A	N/A	Minor: added the phrase “or she” after “he” in subsection I to be gender neutral. No impact.

If an existing regulation or regulations (or parts thereof) are being repealed and replaced by one or more new regulations, please use the following chart:

Current chapter-section number	Proposed new chapter-section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements

No existing regulation or regulations are being repealed or replaced by one or more new regulations.

If a new regulation is being promulgated, that is not replacing an existing regulation, please use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements

No new regulation is being promulgated, that is not replacing an existing regulation.

If the proposed regulation is intended to replace an emergency regulation, and the proposed regulation is identical to the emergency regulation, please choose and fill out the appropriate chart template from the choices above. In this case “current section number” or “current chapter-section number” would refer to the **pre-emergency** regulation.

If the proposed regulation is intended to replace an emergency regulation, and the proposed regulation includes changes since the emergency regulation, please create two charts: 1) a chart

describing changes from the **pre-emergency** regulation to the proposed regulation as described in the paragraph above, and 2) a chart describing changes from the **emergency** regulation to the proposed regulation. For the second chart please use the following title: “Changes from the Emergency Regulation.” In this case “current section number” or “current chapter-section number” would refer to the **emergency** regulation.