



Economic Impact Analysis Virginia Department of Planning and Budget

4 VAC 25-11 – Public Participation Guidelines
Department of Mines, Minerals and Energy
September 25, 2008

Summary of the Proposed Amendments to Regulation

The Department of Mines, Minerals and Energy (DMME) proposes to adopt the model public participation guidelines developed by the Department of Planning and Budget in consultation with the Office of the Attorney General (as required by Chapter 321 of the 2008 Acts of Assembly), with one amendment; DMME proposes to add a section defining “Agency secretary for purpose of appeal.” This section is part of the agency’s current PPGs.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Pursuant to Chapter 321 of the 2008 Acts of Assembly, the Department of Planning and Budget, in consultation with the Office of the Attorney General, (i) developed model public participation guidelines (PPGs) and (ii) provided these model PPGs to each agency that has the authority to promulgate regulations. Chapter 321 requires that by December 1, 2008, each agency shall either (a) adopt the model public participation guidelines as an exempt action or (b) if significant additions or changes are proposed, promulgate the model public participation guidelines with the proposed changes as fast-track regulations pursuant to Code of Virginia section § 2.2-4012.1.

The purpose of the model PPG legislation is threefold: first, to ensure that each agency or board has a current set of PPGs in place.¹ Second, to ensure that each agency or board’s PPGs

¹ Some agencies and boards have not updated their PPGs since the mid-late 1980’s.

incorporate the use of technology such as the Virginia Regulatory Town Hall, email to the extent possible, and the use of electronic mailing lists. Last, but perhaps most importantly, to have uniform guidelines in place to facilitate citizen participation in rulemaking and to make those guidelines consistent, to the extent possible, among all executive branch boards and agencies.

DMME is proposing only one change to the model PPGs, to add a section defining “Agency secretary for purpose of appeal.” Rule 2A:2 of the Supreme Court of Virginia specifies that “Any party appealing from a regulation or case decision shall file, within 30 days after adoption of the regulation or after service of the final order in the case decision, with the agency secretary a notice of appeal signed by him or his counsel.” The proposed additional section specifies that: 1) the division head of the Division of Mines (Chief) shall perform the functions of agency secretary for appeals relating to Chapter 14.2, 14.3, 14.4 or 18 of Title 45.1 of the Code of Virginia, 2) the division head of the Division of Mineral Mining (Division Director) shall perform the functions of agency secretary for appeals relating to Chapter 14.4:1, 14.5, 14.6, 16, 18.1 or 21 of Title 45.1 of the Code of Virginia, 3) the division head of the Division of Gas and Oil (Division Director) shall perform the functions of agency secretary for appeals relating to Chapter 15.1 or 22.1 of Title 45.1 of the Code of Virginia, and 4) the division head of the Division of Mined Land Reclamation (Division Director) shall perform the functions of agency secretary for appeals relating to Chapters 17 and 19 of Title 45.1 of the Code of Virginia. Specifying which division head serves as agency secretary for specific regulations is beneficial in that it provides clarity for the public.

As described above, promulgating the otherwise model PPGs will be beneficial in that the DMME PPGs will: 1) reflect current information, 2) incorporate the use of technology such as the Virginia Regulatory Town Hall, email to the extent possible, and the use of electronic mailing lists, and 3) be largely consistent with other agency PPGs which will facilitate citizen participation in rulemaking.

Businesses and Entities Affected

All businesses, other entities, or individuals interested in participating in the regulatory process as it relates to DMME’s regulations are potentially affected by the agency’s public participation guidelines.

Localities Particularly Affected

Businesses, other entities, and individuals in all of Virginia's localities are potentially affected by DMME's regulations.

Projected Impact on Employment

The proposal amendments do not directly affect employment.

Effects on the Use and Value of Private Property

The proposal amendments do not directly affect the use and value of private property.

Small Businesses: Costs and Other Effects

The proposed amendments do not directly affect small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Real Estate Development Costs

The proposed amendments do not directly affect real estate development costs.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a

description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.