



Final Regulation Agency Background Document

Agency name	State Lottery Department
Virginia Administrative Code (VAC) citation	11VAC5-20
Regulation title	Administration Regulations
Action title	Promulgate review and update of Administration Regulations
Date this document prepared	8-8-12

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

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.

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 or board taking the action, and (3) the title of the regulation.

The Board adopted as final the Virginia Lottery's proposed regulations pertaining to Administration of the Lottery (11 VAC 5-20), with the non-substantive amendment(s) noted herein, made on August 8, 2012.

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.

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. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it 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.

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 identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

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

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.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
	11VAC5-20-10	Modified “Retailer” definition to include sales agent verbiage.	Clarification

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
None		

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	11VAC5-20-10		<p>Deleted the following definitions:</p> <ol style="list-style-type: none"> 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" 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>The definitions removed referred to purchasing and were not reference in our regulations.</p> <p>Modified "Retailer" definition to include sales agent verbiage.</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		Deleted reference to the Retailer License Application Control Number, which is no longer used.
	11VAC5-20-180		Added language to reference Article 3 to the APA (§ 2.2-4018) for further clarification.
	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.