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## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	Department of General Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	1 VAC 30-11
<b>VAC Chapter title(s)</b>	Public Participation Guidelines
<b>Action title</b>	Amend existing regulation to conform to statute
<b>Date this document prepared</b>	August 4, 2020 (Revised January 6, 2022)

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

This action amends subsection A of 1VAC 30-11-50 to include the requirement for the Department to afford interested persons the opportunity to be accompanied by and represented by counsel or other representative when presenting their views regarding the promulgation of any regulatory action by the Department.

### Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

N/A

### Statement of Final Agency Action

*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 4, 2020, the Director of the Department of General Services approved this agency action to amend 1 VAC 30-11 Public Participation Guidelines.

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

*As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.*

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This action conforms 1 VAC 30-11 Public Participation Guidelines to Chapter 795 of the 2012 Acts of Assembly, which amended subsection B of §2.2-4007.02 on public participation guidelines.

This action is not expected to be controversial because it is mandated by statute.

### Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

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The Department of General Services amends this chapter pursuant to §2.2-1102.1(A)(1) of the Code of Virginia which authorizes the Department of General Services to “prescribe regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter” with the Director’s approval.

In addition, §2.2-4007.02(B) of the Administrative Process Act requires of an agency, “pursuant to its public participation guidelines shall afford interested persons an opportunity to...be accompanied by and represented by counsel or other representative” when these persons present their views on a regulation.

## Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.*

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This regulatory change is necessary for the Department of General Services to comply with §2.2-4007.02(B) of the Administrative Process Act which requires of an agency, "pursuant to its public participation guidelines shall afford interested persons an opportunity to...be accompanied by and represented by counsel or other representative" when an agency formulates a regulation. This regulatory change is essential to protect the health, safety or welfare of citizens by requiring the Department to provide an opportunity for the public to be represented by counsel or other representatives when the Department promulgates a regulatory action.

## Substance

*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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The Department has amended subsection A of 1 VAC 30-11-50 to include a requirement for the Department to afford interested persons an opportunity to present their views and be accompanied by and represented by counsel or other representatives in the promulgation of any of the department's regulatory actions.

## Issues

*Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.*

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There are no disadvantages to the public or any agency of the Commonwealth with the amendment of this subsection. This regulatory action provides the public with the opportunity to be represented by counsel or other representative regarding a regulatory action.

## Requirements More Restrictive than Federal

*Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.*

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There are no applicable federal requirements.

**Agencies, Localities, and Other Entities Particularly Affected**

*Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

No agency, locality, or entity is particularly affected by this regulatory action.

**Economic Impact**

*Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.*

**Impact on State Agencies**

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	There is no fiscal impact to the agency for implementation.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There is no fiscal impact to other state agencies.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The benefit is consistency between statute and regulation.

**Impact on Localities**

Projected costs, savings, fees or revenues resulting from the regulatory change.	There is no fiscal impact to localities with implementation.
Benefits the regulatory change is designed to produce.	The benefit is consistency between statute and regulation.

**Impact on Other Entities**

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	There is no impact on individuals, businesses or other entities with implementation.
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<p>Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <ul style="list-style-type: none"> <li>a) is independently owned and operated and;</li> <li>b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</li> </ul>	<p>None</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:</p> <ul style="list-style-type: none"> <li>a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;</li> <li>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;</li> <li>c) fees;</li> <li>d) purchases of equipment or services; and</li> <li>e) time required to comply with the requirements.</li> </ul>	<p>A fiscal impact would only occur for an individual wishing to have representation and costs associated with such representation. No estimate is available.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The benefit is consistency between statute and regulation.</p>

**Alternatives to Regulation**

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.*

There are no viable alternatives to the regulatory change because it is required by statute. This regulatory package is not expected to be intrusive or costly for small businesses because it does not require the public to be represented by counsel.

**Regulatory Flexibility Analysis**

*Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.*

No alternative regulatory methods exist to accomplish the objectives of this regulatory action, and this regulatory action is not expected to have an adverse impact on small business.

## Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.*

*As required by § 2.2-4011 of the Code of Virginia, 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.*

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Department of General Services is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency’s regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to: Rhonda Bishton, 1100 Bank Street, Suite 420, Richmond, VA 23219, or by email to: [rhonda.bishton@dgs.virginia.gov](mailto:rhonda.bishton@dgs.virginia.gov) or by fax to: 804-371-8305. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

## Detail of Changes

*List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.*

*If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.*

**Table 1: Changes to Existing VAC Chapter(s)**

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements

<p>VAC 30 – 11 – 50</p>	<p>N/A</p>	<p>In considering any nonemergency, nonexempt regulator action, the agency shall afford interested persons an opportunity to submit data, view and arguments, either orally or in writing to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.</p>	<p>Adds a second requirement to subsection A so that when persons present their views to the Department regarding any nonemergency or nonexempt regulatory action, the Department is required to afford these persons the opportunity to be accompanied by and represented by counsel or other representative. This change is mandated by Chapter 795 of the 2012 Acts of Assembly.</p>
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