



Virginia
Regulatory
Town Hall

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Proposed Regulation Agency Background Document

Agency name	Department of Rehabilitative Services
Virginia Administrative Code (VAC) citation	22 VAC 30 - 10
Regulation title	Public Participation Guidelines
Action title	Amending the regulation to update the process to include usage of the Virginia Regulatory Town Hall
Date this document prepared	6/28/2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The Department is proposing to update and clarify its guidelines for public participation in the development and promulgation of initial, amended, or repealed regulations. The Virginia Regulatory Town Hall has been included as an option for providing public notice and public comment. The proposed amendments will update references to the Code of Virginia that have changed as a result of recodification. The commissioner may purge entries on the public participation notification list when the individual or entity requests to be removed from the list, when notices are returned as undeliverable, or when there is no response to a request from the commissioner. The failure of any person or entity to receive any notice or any copies of documents provided under these guidelines shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act. The Department shall consider all input received within the established comment period. Any person or entity may petition the commissioner to develop a new or amend an existing regulation, but the Department shall have to sole authority to dispose of the petition.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Commissioner of the Department of Rehabilitative Services has statutory authority in Section 51.5-14 of the Code of Virginia to promulgate regulations necessary to carry out the provisions of the laws of the Commonwealth administered by the Department.

Public participation guidelines are mandated in Section 2.2-4007 of the Code of Virginia.

D. Public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations shall be developed, adopted and utilized by each agency pursuant to the provisions of this chapter. The guidelines shall set out any methods for the identification and notification of interested parties, and any specific means of seeking input from interested persons or groups that the agency intends to use in addition to the Notice of Intended Regulatory Action. The guidelines shall set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency. Such policy shall address the circumstances in which the agency considers the panels or consultation appropriate and intends to make use of the panels or consultation.

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.

The Department has updated and clarified its guidelines for public participation in the development and promulgation of initial, amended or repealed regulations. Changes are recommended by department staff after reviewing each regulation for effectiveness, consistency and clarity. The intent is for amendments to be clarifying rather than substantive. Full participation by the public and regulated entities in the regulatory process is necessary to ensure that regulations fulfill the purpose of protecting the health and safety of the public in a manner that is not overly burdensome to those being regulated. These proposed amendments to regulations for public participation guidelines will allow interested citizens to receive notice of proposed regulatory changes and to provide public comment electronically via the Virginia Regulatory Town Hall. These amendments will help to ensure the goal of notifying the most citizens in an effective and efficient manner. Using this electronic format will produce less paper waste and help the Department save money on postage. Citizens' use of the Regulatory Town Hall will help to keep their contact information current and will increase the likelihood that they receive pertinent regulatory information in a timely manner.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The regulations have been reviewed for clarity, ease of compliance, and consistency with the law. Existing sections add the Virginia Regulatory Town Hall as an option for providing public comment and public notice. The commissioner may purge entries on the public participation notification list when they become obsolete. The failure of any person or entity to receive any regulatory notice shall not affect the validity of regulation that are properly adopted under the APA. The department shall consider all input received within the comment period. Any person

or entity may petition the commissioner to develop new or amend existing regulations, but the department shall have the sole authority to dispose of the petition.

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 so indicate.

The primary advantage to the public with these amendments is that they clarify the regulations and add the option of the Virginia Regulatory Town Hall as a vehicle for public notice and comment. The amendments are intended to give the public more access to the regulatory process. These amendments pose no disadvantages to the public. The proposed amendments will assist the Department in maintaining a current list of individuals and entities who are interested in the regulatory process while allowing the deletion of obsolete information from the public participation list. There are no disadvantages to the agency or the Commonwealth. There are no other pertinent matters of interest.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are 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.

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.

There are no localities particularly affected by the proposed regulation.

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 agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency 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 by mail, email or fax to **Vanessa S. Rakestraw, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia, 233229, fax number (804) 662-7696; email address: Vanessa.Rakestraw@drs.virginia.gov.** Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

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	None
Projected cost of the regulation on localities	None
Description of the individuals, businesses or other entities likely to be affected by the regulation	Individuals affected would be those interested in the regulatory work of the Department.
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, 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.	The Department has a number of programs that it regulates; therefore, interest in any given regulatory process varies. Thus, the number of entities that respond to a particular notice will vary.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	None

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.

During the review of the Department's public participation guidelines (PPG), staff of the Department examined both the PPG regulations of a number of other state agencies. The purpose was to determine whether alternative language that would state the regulations more clearly could be adopted or whether there were other provisions that would make the regulations more effective. Attempts were made to choose simple language that would provide the most clarity to the public. Staff also reviewed sections of the Administrative Process Act and the current Governor's Executive Order on the promulgation of regulations and consulted with the staff of Department of Planning and Budget to ensure that the guidelines were consistent with those requirements.

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.

There are no alternate regulatory methods for small businesses that can be used that will ensure that the public can participate in the regulatory process.

Public comment

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

No public comment was received.

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.

There is no potential impact of the proposed regulatory action on the institution of the family.

Detail of changes

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

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		Citation to Code is stated	Changed to § 2.2-4000 et seq due to

		as 9-6.14:4.1	<u>recodification</u>
20		<p>Identification and notification of interested parties</p> <p>The commissioner may use other methods to periodically purge (with prior notification) and update the (PPG) list</p>	<p>Adds that interested parties may register on the Virginia Regulatory Town Hall to receive regulatory notices and provide public comment.</p> <p>Adds that the commissioner may purge entries on the (PPG) list when the individual or entity requests to be removed from the list when either regular or electronic notice is returned as undeliverable, or there has been no response to the request from the commissioner.</p> <p>Adds that the commissioner shall mail or electronically transmit Notices of Intended Regulatory Action, Notices of Comment Period and public hearings, and a copy of proposed and final regulations at the appropriate stage.</p> <p>When the commissioner determines that a specific regulation is subject to the Administrative Process Act, the commissioner shall also publish the documents in the Virginia Registrar. Notices of meetings of advisory bodies shall be posted on the Town Hall and published in the Virginia Registrar.</p> <p>Failure of any person or entity to receive any notice under these guidelines shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act.</p>
30			No change
40		Provide a role in the regulatory process for interested parties, advisory bodies, and ad hoc committees.	Adds that the department shall consider all input received within the established comment period deadline.
50		Any person may petition the commissioner to develop new regulations or amend existing regulations	Adds that the department may have the sole authority to dispose of the petition.
60			No change