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BOARD OF OPTOMETRY

BOARD OF OPTOMETRY
PUBLIC HEARING
MARCH 9, 2001

TIME AND PLACE: Called to order at 9:05 a.m. at the Department of Health Professions. The purpose for the hearing was to receive public comment on the proposed amendments to the Public Participation Guidelines

PRESIDING CHAIRMAN: Thomas R. Cheezum, O.D., Chairman


MEMBERS PRESENT: No others were present.

STAFF PRESENT: Elizabeth A. Carter, Ph.D.
Elaine Yeatts, Senior Research Analyst

OTHERS PRESENT: No others were present.

PUBLIC COMMENT: No public comment was presented.
Proposed Amendments to the Public Participation Guidelines:

ADJOURNMENT: The Hearing adjourned 9:06 a.m.



Thomas R. Cheezum, O.D., Presiding Chairman



Elizabeth A. Carter, Ph.D., Executive Director

PLEASE READ REVERSE SIDE	Date/Time Filed with Registrar of Regulations:	Document Number:
Transmittal Sheet PROPOSED Action on Regulations		R9 - _____
		Date of Publication in Virginia Register:

DO NOT WRITE ABOVE THIS LINE

Name of Agency Regulatory Coordinator: Robert A. Nebiker		Phone Number: 662-9904
Name of Promulgating Agency: Board of Optometry		Statutory Authority for Promulgating Regulations: Sections 9-6.14:7.1 and 54.1-2400
Title of Regulation: Public Participation Guidelines		
Virginia Regulation (VR) Number:		
Virginia Administrative Code (VAC) Cite:		
VAC Title Number: 18	VAC Agency Number: 105	VAC Chapter Number: 10
VAC Section Number(s): 10, 30, 40, 60, 70, 80, 20, 100		Other VAC sections affected:
Transmittal By Authorized Officer. Please check one block: <input checked="" type="checkbox"/> The regulatory text contained in the attached document has been adopted in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). <input type="checkbox"/> This regulation or regulatory action is exempt from the Administrative Process Act pursuant to § _____ of the Code of Virginia.		
Name of Authorized Officer: Elizabeth A. Carter, Ph.D.		Title: Executive Director
Signature: <i>Elizabeth A. Carter</i>		Phone #: (804) 662-9910 Date: 01/16/2001

Check appropriate box to show the type of action taken:

New Regulations

Amendments to Existing Regulations

- Final regulation last appeared in:

10 : 17 VAR 4587 5/16/94
(volume) (issue) (page nos.) (date)

Repeal of Existing Regulations

If emergency action was required, indicate when emergency text was published:

_____ : _____ VAR _____
(volume) (issue) (page nos.) (date)

Is proposed text identical to emergency text?

Yes No

Check the following required items to show that they are attached to this transmittal sheet:

Notice of Comment Period (Form RR02)*

Summary of Proposed Regulation to be Approved by the Registrar of Regulations

Basis, Purpose, Substance and Issues Statement*

Text of Proposed Regulation

Incorporation by Reference (submit one copy only if applicable)

* Not required if exempt from Administrative Process Act

PLEASE READ REVERSE SIDE	Date/Time Filed with Registrar of Regulations:	Document Number:
NOTICE OF COMMENT PERIOD		C9 - _____
		Date of Publication In Virginia Register:

DO NOT WRITE ABOVE THIS LINE

① Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia or the requirements of federal law that the

AGENCY NAME: Department of Health Professions, Board of Optometry "

intends to

ADOPT AMEND REPEAL

regulations entitled

Title of Regulation: Public Participation Guidelines

② VIRGINIA REGULATION (VR) NUMBER:

③ VIRGINIA ADMINISTRATIVE CODE (VAC) CITE: 18 VAC 105-10-10 et seq.

VAC Title Number: 18 VAC Agency Number: 105 VAC Chapter Number: 10

VAC Section Number(s): 10, 20, 30, 40, 60, 70, 80, 100

④ Brief Summary of the Proposed Amendment or Proposed Regulation:

Amendments are proposed to update the guidelines for public participation in the regulatory process of the board, specifically to be consistent with electronic notifications and submissions.

⑤ Statutory Authority: §§ 54.1-2400 and 9-6.14:7.1

⑥ A public hearing on the proposed regulation will be held on:

Date: Friday, March 9, 2001 Time: 9:00 a.m.

Location: Conference Room 2, 5th floor, 6606 W. Broad Street, Richmond, VA

⑦ Public comments may be submitted until: April 13, 2001 (Date)

to: _____ (Name and address, if different from contact person below)

⑧ For additional information contact:

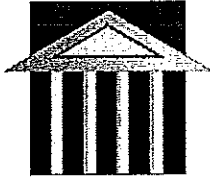
Name: Elizabeth A. Carter, Ph.D. Title: Executive Director

Address: 6606 W. Broad Street, 4th floor

Richmond VA 23230-1717

Telephone: (804) 662-9910 (Local) _____ (Toll Free)

_____ (FAX) _____ (Telecommunications Number for the Deaf)



Virginia
Regulatory
Town Hall

Periodic Review and Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Board of Optometry
VAC Chapter Number:	18 VAC 105-10-10 et seq.
Regulation Title:	Regulations Governing Public Participation Guidelines
Action Title:	Periodic review
Date:	05/03/00

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

Regulations are promulgated to provide guidelines for public participation in the regulatory process of the board. They set forth provisions for a mailing list to receive documents related to the promulgation of regulations, procedures to be followed in a petition for rulemaking, notices, public hearings and a periodic review of regulations. The regulations further establish provisions for advisory committees in the development of regulations.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The statutory authority for this regulation is the Administrative Process Act. § 9-6.14:7.1 specifically mandates the adoption of public participation guidelines pursuant to the provisions of the Act. Regulations so adopted do not exceed the mandate of the Act but do provide additional clarity to the public for their participation in the regulatory process.

§ 9-6.14:7.1. Public participation; informational proceedings; effect of noncompliance.

A. Any person may petition an agency to request the agency to develop a new regulation or amend an existing regulation. The agency receiving the petition shall consider and respond to the petition within 180 days. Agency decisions to initiate or not initiate rulemaking in response to petitions are not subject to judicial review.

B. In the case of all regulations, except those regulations exempted by § 9-6.14:4.1, an agency shall provide the Registrar of Regulations with a Notice of Intended Regulatory Action which describes the subject matter and intent of the planned regulation. At least thirty days shall be provided for public comment after publication of the Notice of Intended Regulatory Action. An agency shall not file proposed regulations with the Registrar until the public comment period on the Notice of Intended Regulatory Action has closed.

C. Agencies shall state in the Notice of Intended Regulatory Action whether they plan to hold a public hearing on the proposed regulation after it is published. Agencies shall hold such public hearings if required by basic law. If the agency states an intent to hold a public hearing on the proposed regulation in the Notice of Intended Regulatory Action, then it shall hold the public hearing. If the agency states in its Notice of Intended Regulatory Action that it does not plan to hold a hearing on the proposed regulation, then no public hearing is required unless, prior to completion of the comment period specified in the Notice of Intended Regulatory Action: (i) the Governor directs that the agency shall hold a public hearing or (ii) the agency receives requests for a public hearing from twenty-five persons or more.

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 which 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 such panels or consultation appropriate and intends to make use of such panels or consultation.

E. In formulating any regulation, including but not limited to those in public assistance programs, the agency pursuant to its public participation guidelines shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the

agency or its specially designated subordinate. However, the agency may, at its discretion, begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit input.

F. In the case of all regulations, except those regulations exempted by § 9-6.14:4.1, the proposed regulation and general notice of opportunity for oral or written submittals as to that regulation shall be published in the Virginia Register of Regulations in accordance with the provisions of subsection B of § 9-6.14:22. In addition, the agency may, in its discretion, (i) publish the notice in any newspaper and (ii) publicize the notice through press releases and such other media as will best serve the purpose and subject involved. The Register and any newspaper publication shall be made at least sixty days in advance of the last date prescribed in the notice for such submittals. All notices, written submittals, and transcripts, summaries or notations of oral presentations, as well as any agency action thereon, shall be matters of public record in the custody of the agency.

G. Before delivering any proposed regulation under consideration to the Registrar as required in subsection H below, the agency shall deliver a copy of that regulation to the Department of Planning and Budget. In addition to determining the public benefit, the Department of Planning and Budget in coordination with the agency, shall, within forty-five days, prepare an economic impact analysis of the proposed regulation. The economic impact analysis shall 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 by the regulation; the projected number of persons and employment positions to be affected; the impact of the regulation on the use and value of private property; and the projected costs to affected businesses, localities or entities to implement or comply with such regulations, including the estimated fiscal impact on such localities and sources of potential funds to implement and comply with such regulation. Agencies shall provide the Department with such estimated fiscal impacts on localities and sources of potential funds. The Department may request the assistance of any other agency in preparing the analysis. The Department shall deliver a copy of the analysis to the agency drafting the regulation, which shall comment thereon as provided in subsection H, and a copy to the Registrar for publication with the proposed regulation. No regulation shall be promulgated for consideration pursuant to subsection H until such impact analysis has been received by the Registrar. For purposes of this section, the term "locality, business, or entity particularly affected" means any locality, business, or entity which bears any identified disproportionate material impact which would not be experienced by other localities, businesses, or entities. The analysis shall represent the Department's best estimate for the purposes of public review and comment on the proposed regulation. The accuracy of the estimate shall in no way affect the validity of the regulation, nor shall any failure to comply with or otherwise follow the procedures set forth in this subsection create any cause of action or provide standing for any person under Article 4 (§ 9-6.14:15 et seq.) of this chapter or otherwise to challenge the actions of the Department hereunder or the action of the agency in adopting the proposed regulation.

H. Before promulgating any regulation under consideration, the agency shall deliver a copy of that regulation to the Registrar together with a summary of the regulation and a separate and concise statement of (i) the basis of the regulation, defined as the statutory authority for promulgating the regulation, including an identification of the section number and a brief statement relating the content of the statutory authority to the specific regulation proposed; (ii) the purpose of the regulation, defined as the rationale or justification for the new provisions of

the regulation, from the standpoint of the public's health, safety or welfare; (iii) the substance of the regulation, defined as the identification and explanation of the key provisions of the regulation that make changes to the current status of the law; (iv) the issues of the regulation, defined as the primary advantages and disadvantages for the public, and as applicable for the agency or the state, of implementing the new regulatory provisions; and (v) the agency's response to the economic impact analysis submitted by the Department of Planning and Budget pursuant to subsection G. Any economic impact estimate included in the agency's response shall represent the agency's best estimate for the purposes of public review and comment, but the accuracy of the estimate shall in no way affect the validity of the regulation. Staff as designated by the Code Commission shall review proposed regulation submission packages to ensure the requirements of this subsection are met prior to publication of the proposed regulation in the Register. The summary; the statement of the basis, purpose, substance, and issues; the economic impact analysis; and the agency's response shall be published in the Virginia Register of Regulations, together with the notice of opportunity for oral or written submittals on the proposed regulation.

I. When an agency formulating regulations in public assistance programs cannot comply with the public comment requirements of subsection F of this section due to time limitations imposed by state or federal laws or regulations for the adoption of such regulation, the Secretary of Health and Human Resources may shorten the time requirements of subsection F. If, in the Secretary's sole discretion, such time limitations reasonably preclude any advance published notice, he may waive the requirements of subsection F. However, the agency shall, as soon as practicable after the adoption of the regulation in a manner consistent with the requirements of subsection F, publish notice of the promulgation of the regulation and afford an opportunity for public comment. The precise factual basis for the Secretary's determination shall be stated in the published notice.

J. For the purpose of this article, public assistance programs shall consist of those specified in § 63.1-87.

K. If one or more changes with substantial impact are made to a proposed regulation from the time that it is published as a proposed regulation to the time it is published as a final regulation, any person may petition the agency within thirty days from the publication of the final regulation to request an opportunity for oral and written submittals on the changes to the regulation. If the agency receives requests from at least twenty-five persons for an opportunity to submit oral and written comments on the changes to the regulation, the agency shall (i) suspend the regulatory process for thirty days to solicit additional public comment and (ii) file notice of the additional thirty-day public comment period with the Registrar of Regulations, unless the agency determines that the changes made are minor or inconsequential in their impact. The comment period, if any, shall begin on the date of publication of the notice in the Register. Agency denial of petitions for a comment period on changes to the regulation shall be subject to judicial review.

L. In no event shall the failure to comply with the requirements of subsection F of this section be deemed mere harmless error for the purposes of § 9-6.14:17.

M. This section shall not apply to the issuance by the State Air Pollution Control Board of variances to its regulations.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.

An announcement of the board's review of its regulations governing public participation in the regulatory process was posted on the Virginia Regulatory Townhall, sent to the Registrar of Regulations, and sent to persons on the PPG mailing list for the board. Public comment was received until April 27, 2000. During the 30-day comment period, no comments were received from members of the public.

An internal workgroup of regulatory coordinators for the agency and executive directors of regulatory boards met to review the current regulations, provisions of the Administrative Process Act, and changes in the process resulting from the initiation of the Townhall. Amendments to regulations were recommended by that group.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The goals for this regulation are as follows:

- 1) Ensure that persons and organizations are noticed when the board is considering regulatory action.
- 2) Ensure that the public has the opportunity to comment on the promulgation of any regulation.

Since the effective date of the current public participation guidelines in 1994, the board has followed the regulations by sending notices to the public for any meeting at which a regulatory action is to be considered, for an intended regulatory action, for comment on a proposed regulation, and for adoption of a final regulation. Opportunities for written and oral comment have been provided at each stage of the regulatory process, including holding a public hearing on any regulatory amendments affecting the licensure of the professions the board regulates. With the availability of e-mail and fax, comments may now be received electronically. In addition, the board has provided information on the Regulatory Townhall to all persons on the public participation guidelines mailing list with instruction on how to access regulatory submissions and request to join the mailing list.

Regulations have allowed for individuals and organizations to petition the board for rulemaking on an issue of interest and have also provided for the appointment of advisory committees on issues such as continuing competency.

Following a review of every regulation, the board has determined that the current public participation guidelines are reasonable, clearly stated and adequate to protect the public interest in the development and promulgation of regulations. Amendments proposed are necessary for additional clarity and updating of the requirements.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

The current regulations governing public participation in the regulatory process were finalized in 1994 following a thorough review of the regulation. Since that time, there have been no comments or requests for amendments to the regulation.

In the adoption of regulations, the board's intent was to implement but not duplicate provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

Recommendation

Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.

The board is recommending amendments to its Public Participation Guidelines regulations in order to improve the clarity of the rule, to incorporate forms of notification through the Virginia Regulatory Townhall and the Commonwealth Calendar, and to improve the procedures for public involvement in the process.

Substance

Please detail any changes that would be implemented.

Amendments to regulations are recommended in the following sections:

Composition of the mailing list.

- The word "entity" is deleted since "person" is defined as including any legal entity.
- Subsection D is amended to clarify that the board should remove persons from the mailing list if they fail to indicate an interest in continuing to receive notifications from the board.

Documents to be sent to person on the mailing list.

- Amendments will identify the notices to be sent and require that the notices include instructions on how to obtain a copy of the regulation and any supporting documentation, either from the board office or from the Virginia Regulatory Townhall.

Notice of Intended Regulatory Action.

- Subsection C is amended to provide greater clarity in the requirement for a public hearing to be held on a proposed regulation if requested by at least 25 persons during the 30-day comment period on the NOIRA.

Notice of Comment Period.

- An amendment clarifies that the public may provide any comment on proposed regulations, including comments received electronically.

Notice of Meeting.

- The notice of meeting described in this section may take a different form than the one provided by the Registrar, so the capitalized name has been changed to lower case.

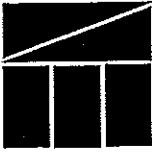
Review of regulations.

- An amendment is adopted to recognize that Executive Orders may direct a schedule of regulatory review which is different from a review each biennium, but the review is to occur at least every two years.

Family Impact Statement

Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.

In its preliminary analysis of the proposed regulatory action, the agency has determined that there is not potential impact on the institution of the family and family stability.



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 105-10 – Public Participation Guidelines
Department of Health Professions, Board of Optometry
November 21, 2000

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G 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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Board of Optometry proposes to revise its public participation guidelines (PPGs) to incorporate electronic forms of regulatory submission, notification, and communication that are currently available or may become available in the near future. Specific amendments include permitting notification and comment by facsimile, email, or other electronic means, and allowing electronic mailing lists to be maintained in addition to traditional paper lists.

Estimated Economic Impact

Under the Administrative Process Act, all state agencies that promulgate regulations are required to maintain public participation mailing lists containing the names of all parties that have registered an interest in a particular regulation. Membership on these lists typically includes members of the regulated community, public interest groups, law firms, and individual citizens with an interest in a particular area of regulation.

There are no clear disadvantages associated with the changes proposed by the Board of Optometry. Interested parties will be encouraged to be notified of regulatory actions electronically through the Virginia Regulatory Town Hall. However, individuals may also choose to remain on the traditional mailing lists, which will continue to be maintained by the Board.

If electronic notification and comment becomes more prevalent, there would be a reduction in printing and mailing costs incurred by the Board. In addition to the potential fiscal benefits, these changes also allow the Board to increase the speed of notification and the amount of information readily available to interested parties, which will increase efficiency and may enhance public participation.

Businesses and Entities Affected

The proposed changes will affect individuals and organizations interested in the regulations governing individuals licensed by the Board of Optometry. There are currently 72 entities listed on the PPG mailing list for the Board of Optometry.

Localities Particularly Affected

No localities are particularly affected by the proposed changes to this regulation.

Projected Impact on Employment

The proposed changes to this regulation are not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property

The proposed changes to this regulation are not anticipated to have a significant effect on the use and value of private property.

The Board concurs with the analysis of the Department of Planning and Budget on proposed regulations for Public Participation Guidelines.



COMMONWEALTH of VIRGINIA

Office of the Attorney General
Richmond 23219

Mark L. Earley
Attorney General

900 East Main Street
Richmond, Virginia 23219
804 - 786 - 2071
804 - 371 - 8946 TDD

November 1, 2000

Elizabeth A. Carter, Ph.D.
Executive Director
Virginia Board of Optometry
6606 West Broad Street
Richmond, VA 23230-1717

**RE: 18 VAC 105-10-10 et seq.
Regulations Governing Public Participation Guidelines**

Dear Dr. Carter:

I have reviewed the proposed amendments to regulations governing public participation guidelines as cited above and as adopted by the Board of Optometry at its meeting on November 1, 2000. I find the amended regulations to be constitutional and in conformity with existing statutory provisions.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard M. Casway".

Howard M. Casway
Assistant Attorney General

cc: Robert A. Nebiker, Agency Regulatory Coordinator
Department of Health Professions

PROPOSED REGULATIONS OF THE VIRGINIA BOARD OF OPTOMETRY

18 VAC 105-10-10 et seq.

PUBLIC PARTICIPATION GUIDELINES

**Part I.
Statement of Purpose.**

18 VAC 105-10-10. Purpose.

The purpose of this chapter is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Optometry. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1.1 of the Code of Virginia). These rules seek to expand participation by providing for electronic exchange with the public and thereby increasing participation, reducing costs, and improving the speed of communication.

18 VAC 105-10-20. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"*Administrative Process Act*" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Board" means the Board of Optometry.

"Notification lists" means lists used by the board to notify persons pursuant to these rules. Such lists may include electronic mailing lists maintained through a state website or regular mailing lists maintained by the board.

"Person" means an individual, a corporation, a partnership, an association, a governmental body, a municipal corporation, or any other legal entity.

Part II.

Mailing List Notification Lists.

18 VAC 105-10-30. Composition of the mailing list lists.

A. The board shall maintain a list lists of persons ~~or entities~~ who have requested to be notified of the formation and promulgation of regulations.

B. Any person ~~or entity~~ may request to be placed on the ~~mailing~~ a notification list by indicating so electronically or in writing to the board. The board may add to ~~the~~ a list any person ~~or entity~~ it believes will serve the purpose of enhancing participation in the regulatory process.

C. The board may maintain additional mailing lists for persons ~~or entities~~ who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The board shall periodically request those persons on the mailing list notification lists to indicate their desire to either continue to receive documents by regular mail, be notified electronically or be deleted from the ~~list lists~~. Persons who elect to be included on an electronic mailing list may also request that all notices and mailings be sent in hard copy. When either regular or electronic mail is returned as undeliverable or there has been no response to the request from the board, individuals or organizations such persons shall be deleted from the list.

18 VAC 105-10-40. Documents to be sent to persons ~~or entities~~ on the mailing list lists.

Persons ~~or entities~~ on the ~~mailing list notification lists~~, as described in 18 VAC 105-20-30, shall be mailed or have electronically transmitted the following documents related to the promulgation of regulations:

1. A ~~Notice of Intended Regulatory Action~~ notice of intended regulatory action.
2. A ~~Notice of Comment Period~~ notice of the comment period on a proposed regulation and instructions as to how to obtain a copy of the regulation and any supporting documents, either electronically or from the board office.

3. A ~~copy of any final regulation adopted by the board~~ notification of the adoption of a final regulation and instructions as to how to obtain a copy of the regulation and any supporting documents, either electronically or from the board office.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Part III.

Public Participation Procedures.

18 VAC 105-10-60. Notice of Intended Regulatory Action.

A. ~~The Notice of Intended Regulatory Action~~ notice of intended regulatory action (NOIRA) shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The NOIRA shall indicate whether the board intends to hold a public hearing on the proposed regulation after it is published. If the board does not intend to hold a public hearing, it shall state the reason in the NOIRA.

C. ~~The NOIRA shall state that a public hearing will be scheduled, if, during the 30-day comment period, the board receives requests for a hearing from at least 25 persons.~~ If prior to

the close of the 30-day comment period on the NOIRA, the board receives a request for a public hearing on the proposed regulation from at least 25 persons, such a hearing shall be scheduled.

18 VAC 105-10-70. Notice of Comment Period.

A. The ~~Notice of Comment Period~~ notice of comment period (NOCP) shall indicate that copies of the proposed regulation are available electronically or from the board and may be requested in writing from the contact person specified in the NOCP.

B. The NOCP shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The NOCP shall make provision for ~~either oral or written submittals~~ comments on ~~pertaining to the proposed regulation or on the impact on regulated entities and the public and on the cost of compliance with the proposed regulation~~ by regular mail, internet, facsimile or electronic means. With the exception of comment received at a scheduled public hearing, oral comment may not be accepted.

18 VAC 105-10-80. Notice of Meeting.

A. At any meeting of the board or advisory committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in ~~the Notice of Meeting a~~

notice of meeting, which has been posted electronically on the Internet and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1. of the Code of Virginia, the ~~Notice of Meeting~~ notice of meeting shall indicate that a copy of the proposed regulation is available on a state website or upon request to the board at least two days prior to the meeting and that a copy of the regulation shall be made available to the public attending such meeting.

18 VAC 105-10-100. ~~Biennial~~ Periodic review of regulations.

A. ~~At least once each biennium~~ Unless otherwise directed by Executive Order, the board shall conduct an informational proceeding at least every two years to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in The Virginia Register and shall be sent to the mailing list identified in 18 VAC 105-10-30.