



Periodic Review / Retain Regulation Agency Background Document

Agency name	Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects
Virginia Administrative Code (VAC) citation	18VAC10-11
Regulation title	Public Participation Guidelines
Document preparation date	December 30, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

(1) Relevant Laws

[§ 2.2-4007.02](#)

Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations. Under § 2.2-4007.02 of the *Code of Virginia*, every rulemaking body in Virginia is required to adopt public participation guidelines and to use these guidelines in the development of its regulations. Chapter 321 of the 2008 Acts of Assembly (effective July 1, 2008) mandated that, by December 1, 2008, agencies either adopt model public participation guidelines issued by the Department of Planning and Budget, or if they need to make significant changes to the model guidelines, promulgate new public participation guidelines as fast-track regulations.

[§ 54.1-201.5](#) of the *Code of Virginia* states that the Board has the power and duty "To promulgate regulations in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ [54.1-100](#) et seq.) and 3 (§ [54.1-300](#) et seq.) of this title.

[§ 54.1-404.A](#) of the *Code of Virginia* authorizes the board as follows: "The Board shall promulgate regulations not inconsistent with this chapter governing its own organization, the professional qualifications of applicants, the requirements necessary for passing examinations in whole or in part, the

proper conduct of its examinations, the implementation of exemptions from license requirements, and the proper discharge of its duties."

The imperative form of the verb "shall" is used, making the Board's authority to regulate mandatory rather than discretionary.

Executive Order 14 (2010) states, in part, "Each existing regulation in the state shall be reviewed at least once every four years by the promulgating agency unless specifically exempted from periodic review by the Governor."

(2) The promulgating entity is the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

No viable alternative has been identified. The regulations are necessary for the Board to comply with §2.2-4007.02 of the *Code of Virginia* and Chapter 321 of the 2008 Acts of Assembly.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comments were received. No informal advisory committee was formed.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulations are consistent with the criteria of Executive Order 14 (2010) in that they are written clearly and are easily understandable. Further, they are necessary for the Board to comply with §2.2-4007.02 of the *Code of Virginia* and Chapter 321 of the 2008 Acts of Assembly.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency recommends that the regulations remain in effect and unchanged.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

1. The current regulations are necessary for the Board to comply with §2.2-4007.02 of the Code of Virginia and Chapter 321 of the 2008 Acts of Assembly.
 2. No public comments were received.
 3. The regulations are not complex in nature.
 4. The regulations do not overlap, duplicate, or conflict with federal or state laws or regulations.
 5. The regulations were last effective on 8/8/2008 with the adoption of the Model Public Participation Guidelines pursuant to Chapter 321 of the 2008 Acts of Assembly.
- No small business impact has been identified.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

No family impact has been identified.