



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	State Board of Social Services
VAC Chapter Number:	22 VAC 40-11
Regulation Title:	Public Participation Guidelines
Action Title:	Provide for Electronic Comment
Date:	October 16, 2002

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulation sets forth the procedures the State Board of Social Services uses to obtain public input when developing, revising or repealing a regulation. This regulation covers the following topics: petitions from interested parties, solicitation of input, public hearings, and withdrawal of regulations. The proposed regulation provides for electronic transmission of information and incorporates recent statutory changes.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Section 2.2-4007 D. of the *Code of Virginia* mandates that the Department of Social Services promulgate this regulation. § 63.2-217 of the *Code of Virginia* vests the State Board of Social Services with the authority to promulgate regulations for programs administered and supervised by the Department of Social Services.

The Office of the Attorney General certifies that the State Board of Social Services has the authority to promulgate this regulation and that it comports with applicable law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

This regulation establishes procedures to solicit input from interested parties prior to the formation and drafting of regulations and during the formation, promulgation and final adoption of regulations by the State Board of Social Services and the Department of Social Services. The Virginia Administrative Process Act requires that this regulation be in place before the State Board of Social Services can adopt any other regulation. This regulation permits the State Board of Social Services to execute its statutory responsibilities for promulgating regulations to carry out the purposes of Title 63.2 of the *Code of Virginia*.

The State Board of Social Services has promulgated approximately ninety regulations to administer various licensure programs, service programs, assistance programs, and child support enforcement programs provided for in Title 63.2 of the *Code of Virginia*. The intent of these programs is to protect and ensure the health, safety and welfare of all citizens of the Commonwealth.

The goal of these amendments is to increase participation, reduce cost and improve the speed of communication through the electronic transmission of public comment.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

This regulatory action provides for the electronic transmission of information to include e-mail notifications, receiving public comment by e-mail and use of the internet for dissemination and collection of comment on regulatory actions. The action also incorporates recent statutory changes that concern public participation in the regulatory process.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 include a sentence to that effect.

These regulations benefit the public by letting individuals and regulated entities know how they may be involved in the development and promulgation of the State Board of Social Services' regulations. These regulations benefit the Commonwealth by permitting the State Board of Social Services to fulfill its statutory mandate to promulgate regulations necessary to implement Title 63.2 of the *Code of Virginia*.

This regulation creates no known disadvantage to the public or the Commonwealth.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

There is no projected cost to the state to implement the amendments proposed by this action. Additionally, there is no projected cost to localities. All citizens of the Commonwealth will be affected by this action. This action will be less burdensome on persons wishing to participate in promulgation of the State Board of Social Services' regulations, allowing participation in more cost-effective ways.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

Editorial changes have been made throughout the regulation to improve clarity. *Code of Virginia* citations are corrected to reflect the recodification of Title 2.2 and Title 63.2 of the *Code*.

Section 22 VAC 40-11-40 has been amended to reflect the provisions of Chapter 241, 2002 Acts of Assembly.

Section 22 VAC 40-11-50 has been amended to provide for electronic transmission of information to include e-mail notifications, receiving public comment by e-mail and use of the internet for dissemination and collection of comment on regulatory actions. This section also has been revised to reflect the the statutory changes of Chapter 717, 1995 Acts of Assembly which make publication of proposed regulations in a newspaper of general circulation discretionary rather than mandatory.

Alternatives

Please describe the specific 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.

This regulation is specifically mandated by subsection D. of § 2.2-4007 of the *Code of Virginia*. Other alternatives are not an option.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

The notice of intended regulatory action was published in the Virginia Register on August 12, 2002. No comment was received during the August 12, 2002, to September 11, 2002, public comment period.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

This regulation was reviewed for clarity and several clarifying editorial changes were made. No public comment was received that indicated that the regulation was unclear or difficult to understand.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

This regulation will be review within four years of final adoption of the proposed amendments. The review will evaluate if the regulation continues to ensure that the public may participate in the formation and development of regulations of the Department of Social Services and the State Board of Social Services. The following requirements will be examined to determine if they should be continued, amended, or terminated:

- the establishment and maintenance of list of interested persons,
- use of ad hoc advisory groups or standing advisory committees, and
- a time for public comment on regulations at all regularly scheduled meetings of the State Board of Social Services.