



Virginia
Regulatory
Town Hall

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Fast Track Proposed Regulation Agency Background Document

Agency name	Department of Forensic Science
Virginia Administrative Code (VAC) citation	6 VAC 40-10-10 et seq.
Regulation title	Public Participation Guidelines
Action title	New regulation
Date this document prepared	5-18-06

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

This new regulation was developed in order to facilitate participation by the public in the formation of regulations that are being promulgated to carry out the legislative mandates of the Department of Forensic Science (Department).

Statement of final agency action

Please 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.

On May 10, 2006, the Forensic Science Board approved the Department's proposed regulations entitled Public Participation Guidelines.

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 General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Pursuant to Virginia Code § 2.2-4007(D), every executive branch agency is required to adopt public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. The Department, which formerly existed as a Division within the Department of Criminal Justice Services, became an agency effective July 1, 2005. Accordingly, the Department must promulgate its own public participation guidelines. Pursuant to § 9.1-1110, the Department's policy board, the Forensic Science Board, has the power and duty to adopt Department regulations.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

This regulation was developed in order to facilitate participation by the public in the formation or regulations that are being promulgated to carry out the legislative mandates of the Department. Every agency must adopt such regulations pursuant to Code § 2.2-4007(D). This regulation promotes the welfare of citizens by facilitating public participation in the development of Department regulations.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-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 (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The Department does not expect any objections to this regulation as it is merely designed to encourage the public to participate in the regulation development process by informing them how to do so.

Substance

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

This is a new regulation. The substantive provisions are as follows:

6 VAC 40-10-10. Definitions.

6 VAC 40-10-20. Purpose.

6 VAC 40-10-30. Notification lists.

6 VAC 40-10-40. Documents to be sent to persons on the lists.

6 VAC 40-10-50. Petition for rulemaking.

6 VAC 40-10-60. Notice of Intended Regulatory Action.

6 VAC 40-10-70. Notice of 60-day Comment Period.

6 VAC 40-10-80. Notice of meeting.

6 VAC 40-10-90. Ad hoc advisory committees.

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 there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantage of this regulation is that it provides the public with guidelines on how to participate in the regulatory development process of the Department. There are no disadvantages to the agency, the public, or the Commonwealth.

Requirements more restrictive than federal

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

Agencies are required to develop public participation guidelines pursuant to Virginia Code § 2.2-4007. 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.

No locality is particularly affected by the proposed regulation.

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 is no adverse impact to small business.

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	
Projected cost of the regulation on localities	
Description of the individuals, businesses or other entities likely to be affected by the regulation	
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	The primary user agencies of the Department are law enforcement agencies and Commonwealth’s Attorneys. There are approximately 375 law enforcement agencies and approximately 125 Commonwealth’s Attorneys Office’s statewide. Defense

of less than \$6 million.	attorneys, defendants and other citizens are also potentially affected constituents.
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.	There is no anticipated economic impact from the proposed regulation.

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.

There are no alternatives to the regulation that would meet the purpose of the action.

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 family impact.

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

This is a new regulation.