

6 VAC 40-10-10 et seq. Public Participation Guidelines.

CHAPTER 10

PUBLIC PARTICIPATION GUIDELINES

6 VAC 40-10-10. 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 40 (§2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Board" means the Forensic Science Board.

"Department" means the Department of Forensic Science.

"Notification lists" means lists used by the Department to notify persons pursuant to these guidelines.

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

6 VAC 40-10-20. Purpose.

The purpose of this chapter is to facilitate participation by the public in the formulation of regulations that are written to carry out the Department's legislative mandates. These guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act.

6 VAC 40-10-30. Notification lists.

A. The Department shall maintain a list of persons who have requested to be notified of the formation and promulgation of regulations. The Department may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

B. Any person may request to be placed on a notification list by indicating so electronically or in writing to the Department. In addition, the Board or Department may add to a list any person it believes will serve the purpose of enhancing participation in the regulatory process.

C. The Department shall periodically request those persons on the notification lists to indicate their desire to either continue to receive documents by regular mail, be notified electronically or be deleted from the 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 mail is returned as undeliverable or electronic mail is returned as undeliverable over more than one day, such persons shall be deleted from the list.

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

A. Persons on the notification lists, as described in 6 VAC 40-10-30, shall be mailed or have electronically transmitted to them the following documents related to the promulgation of regulations:

1. Notice of intended regulatory action (NOIRA).
2. Notice of the 30-day comment period after the NOIRA and instructions as to how to obtain a copy of the regulation and any supporting documents if available.
3. Notice of the 60-day comment period following the publication of the proposed regulation in the Virginia Register.
4. Notice of the adoption of a final regulation and instructions as to how to obtain a copy of the regulation and any supporting documents.

B. Failure of a person to receive the documents for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act.

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

A. Any person may petition the Board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. Any petition received shall appear on the agenda for the next regular meeting of the Board. The Board shall consider and respond to the petition in accordance with § 2.2-4007 of the Code of Virginia.

D. Nothing herein shall prohibit the Board from receiving information from the public and proceeding on its own motion for rulemaking.

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

A. The NOIRA shall state the purpose of the action and provide 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. If the Board does not intend to hold a public hearing, it shall state the reason in the NOIRA.

C. 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 (i) the Governor or (ii) 25 or more persons, such a hearing shall be held.

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

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

B. The NOCP shall make provision for comments pertaining to 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.

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

At any meeting of the Board at which the adoption of a regulation is anticipated, the subject shall be described in a notice of meeting, which has been posted electronically on the Internet and transmitted to the Registrar of Regulations for inclusion in the Virginia Register.

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

A. The Board may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations.

B. An advisory committee that has been appointed by the Board may be dissolved by the Board when:

1. There is no response to the NOIRA; or

2. The Board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.

2. At the end of that extended term, the Board shall evaluate the continued need and may continue the committee for additional six-month terms.