



Virginia
Regulatory
Town Hall

Proposed Regulation
Agency Background Document

Agency Name:	Department of Labor and Industry
VAC Chapter Number:	16 VAC 15-10 et seq.
Regulation Title:	Public Participation Guidelines
Action Title:	Proposed amendments to regulation
Date:	April 23, 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summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed.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 out procedures to be followed by the Department of Labor and Industry to ensure that the public and all parties interested in regulations adopted by the agency have a full and fair opportunity to participate at every stage. The regulation sets forth processes to identify interested groups, to involve the public in the formulation of regulations, to solicit and use public comments and suggestions; and to draft and adopt regulations. It also defines the role of advisory groups and the use of open meetings. The current regulation contains references to requirements in the Administrative Process Act that have been repealed. The regulation is being amended to conform the language to the current requirements of the APA. Also, with the advances in information technology, amendments are necessary to include the agency web site and other Internet resources.

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.

The regulation is mandated by the Administrative Process Act, Code of Virginia, section 2.2-4007. This section mandates that the agency will have Public Participation Guidelines and defines policies to be included. The regulation meets the minimum requirements of the state mandate. There is no federal mandate for the regulation. The Office of the Attorney General has reviewed the proposed amendments and certifies that the agency has the statutory authority to promulgate these amendments.

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.

Since this regulation was adopted in 1994, the Administrative Process Act (APA) has been amended several times. Also, last year the APA was included in the recodification of Titles 2.1 and 9. Language in the current regulation includes provisions that are no longer required by the APA. This proposed action will conform the regulation language to the current requirements of the APA and update the cites to the APA. Also, with the advances in information technology since 1994, amendments are necessary to include the agency web site and other Internet resources that are now available. These changes will ensure that the public has the maximum opportunity to participate in the regulatory process of the agency.

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.

Amendments to the regulation would conform language to the current APA requirements; correct citations to the APA; include references to the agency web site; remove language contained in the APA that is repeated in the regulation; and remove any language that conflicts with the current APA or the Governor's Executive Orders.

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.

The primary advantage of this proposed action is the increased opportunity to receive information on regulatory actions by the agency through various Internet resources and the increased opportunity to provide comments by the use of e-mail. This will improve the speed of communication during the process and possibly increase the public participation. If the agency has a sufficient increase in the use of electronic communication, then it will reduce mailing costs for the agency. Since the current methods of notification are also being retained, there is no disadvantage to the public or the Commonwealth in implementing the amended provisions.

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 anticipated fiscal impact of the proposed amendments to the state, localities or affected entities. The entities affected would include any individual, business or organization interested in Department of Labor and Industry regulatory activity. An estimate of this number is not available.

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.

The following changes are proposed for this regulation:

1. Section 40 – An amendment allows persons or groups to be placed on an electronic notification list. This expands the methods available to the public to learn of the agency’s regulatory activity.
2. Section 50 – Amendment will add request for petitioner’s e-mail address, if applicable. Having e-mail address will improve communication between agency and petitioners.
3. Section 80 – Amendments would add e-mail, publication on Regulatory Town Hall web site, and posting on agency web site as ways to inform public of NOIRA . This would expand the methods used to inform interested parties of regulatory activity.

Part of section 80 B is being deleted as repetitive language.

4. Section 90 – Adds Regulatory Town Hall for publication of proposed regulation and posting on agency web site. This would expand the methods used to inform interested parties of regulatory activity.

The majority of section 90 C and sections 90 D through F are being deleted as repetitive language.

5. Section 100 – Language is including the Regulatory Town Hall for publication of final regulation. This would expand the methods used to inform interested parties of regulatory activity.

Through out the regulation, language is being deleted which is repetitive of the Administrative Process Act or has been repealed.

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.

Since this regulation is mandated there are no alternatives for achieving the purpose of the regulation.

Public Comment

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

No comments were received from the public during the NOIRA comment period from 10/22/2001 through 11/21/2001.

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.

The agency has determined that the regulation with proposed amendments is clearly written and easily understandable.

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.

The agency will review this regulation three years from the effective date of these amendments.

Family Impact Statement

Please provide an 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.

This regulation has no impact on the institution of the family or family stability.