



Virginia
Regulatory
Town Hall

Final 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:	June 18, 2003

Please refer 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* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

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.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

The State Board of Social Services approved the final regulation 22 VAC 40-11-10 et seq., *Public Participation Guidelines*, on June 18, 2003.

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, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final 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 has certified 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 final 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 90 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 of the regulatory action's detail.

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 final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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.

This regulation benefits 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. This regulation benefits 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.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

At the request of the Secretary of Health and Human Resources, 22 VAC 40-11-50. A. has been amended to make deletions from notification lists a permissive function rather than a mandatory function. Additional amendments to 22 VAC 40-11-50. A. specify that deletions of electronic mail addresses will be made only after repeated, unanswered returns over a long period of time.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

The proposed regulation was published in The Virginia Register on February 10, 2003, with the 60-day public comment period ending April 11, 2003. No comment was received.

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 crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the 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 made publication of proposed regulations in a newspaper of general circulation discretionary rather than mandatory.