



Final Regulation Agency Background Document

Agency name	Department of Mines, Minerals, and Energy
Virginia Administrative Code (VAC) citation	4 VAC 25 -10
Regulation title	Public Participation Guidelines
Action title	Final Regulation package, no changes from proposed
Document preparation date	12-9-2003

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. If applicable, generally describe the existing regulation. Do **not** state each provision or amendment or restate the purpose and intent of the regulation.*

The Department of Mines, Minerals and Energy's Public Participation Guidelines govern how the regulatory actions of the Department of Mines, Minerals and Energy, the Virginia Gas and Oil Board, the Board of Coal Mining Examiners, and the Board of Mineral Mining Examiners will: (i) respond to petitions for rulemaking; (ii) maintain a regulatory mailing list; (iii) notify and include interested persons in the regulatory development process; and (iv) comply with the requirements for adopting regulations in compliance with the Administrative Process Act.

The final regulation clarifies what promulgating authorities are governed by the Public Participation Guidelines, provides for use of the new fast track regulatory process, provides for electronic notification of interested parties, reference the Virginia Regulatory Town Hall web site, and states that the department will not accept ex parte communications after a regulation's public comment period has closed.

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 December 9, 2003, the Director of the Department of Mines, Minerals and Energy adopted these final regulations entitled Public Participation Guidelines, 4 VAC 25-10.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

If the final text differs from the text at the proposed stage, please indicate whether 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.

The director of the Department is authorized to promulgate this regulation pursuant to the following Code Sections: (i) 2.2-4007.D of the Code of Virginia which mandates that agencies adopt public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations; (ii) 45.1-161.3 which provides the director of the department the authority to promulgate regulations necessary to perform its duties; (iii) 45.1-361.15 which provides the Virginia Gas and Oil Board with the authority to issue rules, regulations or orders pursuant to the provisions of the Administrative Process Act; (iv) 45.-161.28.C which provides the Board of Coal Mining Examiners with the authority to promulgate regulations necessary to perform its duties under the provisions of the Coal Mine Safety Act; and (v) 45.1-161.292:19.C which provides the authority to the Board of Mineral Mining Examiners to promulgate regulations necessary to perform its duties under the provisions of the Mineral Mine Safety Act. The referenced Code of Virginia citations may be accessed on the internet at <http://leg1.state.va.us/000/src.htm>.

The Office of the Attorney General certified at the proposed stage that the Department of Mines, Minerals and Energy, the Virginia Gas and Oil Board, the Board of Coal Mining Examiners, and the Board of Mineral Mining Examiners have the statutory authority to promulgate the proposed regulation. There have been no changes to the regulation since that time.

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 it 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.

The purpose of the final regulation is to amend the Department of Mines, Minerals and Energy’s Public Participation Guidelines. This regulation states how the department, the Board of Coal Mining Examiners, the Board of Mineral Mining Examiners and the Virginia Gas and Oil Board will: (i) respond to petitions for rulemaking; (ii) maintain a regulatory mailing list; (iii) notify and include interested persons in the regulatory development process; and (iv) comply with the requirements for adopting regulations under the Administrative Process Act.

The final regulation will enhance participation from the public in the regulatory process. This will result in regulations that better protect public health, safety and welfare.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

4 VAC 25-10-10. Deletes the definition of “promulgating authority” consistent with changes to other sections that clarify which entity, the director, Division of Mines chief, or one of the department boards, is initiating the regulatory action.

4 VAC 25-10-20. Changes code references to keep them consistent with the Code of Virginia amendments and adds provisions to reference the fast-track rulemaking process.

4 VAC 25-10-30. Specifies documents that govern the regulatory process and replaces “promulgating authority” consistent with changes made to 4 VAC 25-10-10. Amends language to be consistent with changes to the Code of Virginia.

4 VAC 25-10-40. Includes the use of e-mail and the Commonwealth’s Regulatory Town Hall Website as a means for interested parties to receive electronic notices of regulatory actions.

4 VAC 25-10-50. Replaces “promulgating authority” consistent with changes made to 4 VAC 25-10-10. Additional changes were made to clarify those newspapers that media releases must be sent to regarding regulatory changes. Provides that the Notice of Regulatory Action be posted on the Regulatory Town Hall Website.

4 VAC 25-10-60. Replaces “promulgating authority” consistent with the changes in 4 VAC 25-10-10. Corrects a Code of Virginia citation.

4 VAC 25-10-70. Replaces “promulgating authority” consistent with the changes in 4 VAC 25-10-10. Removes redundant administrative language. Addresses the treatment of ex parte communications.

4 VAC 25-10-80. Replaces “promulgating authority” consistent with the changes in 4 VAC 25-10-10.

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.*
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The department and the regulatory work committee that developed the regulation believe that the regulation is advantageous to the public because it makes clear which entity is initiating regulatory actions. The final regulation also provides for expanded opportunities for public notice via e-mail and the Regulatory Town Hall Website. Advantages to the Department of Mines, Minerals, and Energy include a smoother and more efficient regulatory process through the use of electronic notifications of interested parties and creation of a clear guidance on treatment of ex parte communications

The department and the regulatory work committee that developed the final regulation believe that the amendments pose no disadvantages to the public or the Commonwealth

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

No changes have been made to the regulation as proposed.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

No public comments were received.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4 VAC 25-10-10		Definitions section	4 VAC 25-10-10. Deletes the definition of “promulgating authority” consistent with changes to other sections that clarify which entity, the director, Division of Mines chief, or one of the department boards, is initiating the regulatory action.
4 VAC 25-10-20		Self explanatory.	4 VAC 25-10-20. Changes code references to keep them consistent with the Code of Virginia amendments and adds provisions to reference the fast-track rulemaking process.
4 VAC 25-10-30		Promulgating authority was replaced by director, chief, or board.	4 VAC 25-10-30. Specifies documents that govern the regulatory process and replaces “promulgating authority” consistent with changes made to 4 VAC 25-10-10. Amends language to be consistent with changes to the Code of Virginia.
4 VAC 25-10-40		Presently, the section did not include up dated use of technology that is now available, such as email and the Town Hall.	4 VAC 25-10-40. Includes the use of e-mail and the Commonwealth’s Regulatory Town Hall Website as a means for interested parties to receive electronic notices of regulatory actions.
4 VAC 25-10-50		Present section did not reference the Town Hall or use of technology now available.	4 VAC 25-10-50. Replaces “promulgating authority” consistent with changes made to 4 VAC 25-10-10. Additional changes were made to clarify those newspapers that media releases must be sent to regarding regulatory changes. Provides that the Notice of Regulatory Action be posted on the Regulatory Town Hall Website.

<p>VAC 25-10-60</p>		<p>Current section title was changed from "Drafting regulatory changes". Uses the term promulgating authority.</p>	<p>4 VAC 25-10-60. Replaces "promulgating authority" consistent with the changes in 4 VAC 25-10-10. Corrects a Code of Virginia citation. Section title changed to Regulatory Work Committee.</p>
<p>4 VAC 25-10-70</p>		<p>Section refers to "final" draft regulatory changes, current section has administrative language that is redundant with 10-50 and 10-60. Section incorporates procedural language.</p>	<p>4 VAC 25-10-70. Removes term "final", replaces "promulgating authority" consistent with the changes in 4 VAC 25-10-10, removes redundant administrative and procedural language. Addresses the treatment of ex parte communications.</p>
<p>4 VAC 25-10-80</p>		<p>Uses promulgating authority term.</p>	<p>4 VAC 25-10-80. Replaces "promulgating authority" consistent with the changes in 4 VAC 25-10-10. Incorporates additional resources used in promulgating regulations.</p>

Impact on family

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This regulation will have no direct effect on families.