



## Final Regulation Agency Background Document

<b>Agency name</b>	Department of Rehabilitative Services
<b>Virginia Administrative Code (VAC) citation</b>	__22__ VAC_30__ -_10__
<b>Regulation title</b>	Public Participation Guidelines
<b>Action title</b>	Amending the regulation to update the process to include usage of the Virginia Regulatory Town Hall
<b>Date this document prepared</b>	February 19, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

The Department is proposing to update and clarify its guidelines for public participation in the development and promulgation of initial, amended, or repealed regulations. The Virginia Regulatory Town Hall has been included as an option for providing public notice and public comment. The proposed amendments will update references to the Code of Virginia that have changed as a result of recodification. The commissioner may purge entries on the public participation notification list when the individual or entity requests to be removed from the list, when notices are returned as undeliverable, or when there is no response to a request from the commissioner. The failure of any person or entity to receive any notice or any copies of documents provided under these guidelines shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act. The Department shall consider all input received within the established comment period. Any person or entity may petition the commissioner to develop a new or amend an existing regulation, but the Department shall have to sole authority to dispose of the petition.

### 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 February 19, 2008, the Department of Rehabilitative Services, submitted the final agency action to the Regulatory Town Hall to adopt the amended regulations entitled *Public Participation Guidelines* (22 VAC 30-10-10; 22 VAC 30-10-20; 22 VAC 30-10-40; and 22 VAC 30-10-50. This action is subject to the Administrative Process Act and must go through final Executive Branch review prior to publication in the Virginia Register. After publication in the Virginia Register, thirty days will be allowed for public comment before the final regulations become effective.

### 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 Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

The Commissioner of the Department of Rehabilitative Services has statutory authority in Section 51.5-14 of the Code of Virginia to promulgate regulations necessary to carry out the provisions of the laws of the Commonwealth administered by the Department.

Public participation guidelines are mandated in Section 2.2-4007.02 of the Code of Virginia.

### 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 Department has updated and clarified its guidelines for public participation in the development and promulgation of initial, amended or repealed regulations. Changes are recommended by department staff after reviewing each regulation for effectiveness, consistency and clarity. The intent is for amendments to be clarifying rather than substantive. Full participation by the public and regulated entities in the regulatory process is necessary to ensure that regulations fulfill the purpose of protecting the health and safety of the public in a manner that is not overly burdensome to those being regulated. These proposed amendments to regulations for public participation guidelines will allow interested citizens to receive notice of proposed regulatory changes and to provide public comment electronically via the Virginia Regulatory Town Hall. These amendments will help to ensure the goal of notifying the most citizens in an effective and efficient manner. Using this electronic format will produce less paper waste and help the Department save money on postage. Citizens' use of the Regulatory Town Hall will help to keep their contact information current and will increase the likelihood that they receive pertinent regulatory information in a timely manner.

### 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.*

The regulations have been reviewed for clarity, ease of compliance, and consistency with the law. Existing sections add the Virginia Regulatory Town Hall as an option for providing public comment and

public notice. The commissioner may purge entries on the public participation notification list when they become obsolete. The failure of any person or entity to receive any regulatory notice shall not affect the validity of regulations that are properly adopted under the APA. The department shall consider all input received within the comment period. Any person or entity may petition the commissioner to develop new or amend existing regulations, but the department shall have the sole authority to dispose of the petition.

**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 to the public with these amendments is that they clarify the regulations and add the option of the Virginia Regulatory Town Hall as a vehicle for public notice and comment. The amendments are intended to give the public more access to the regulatory process. These amendments pose no disadvantages to the public. The proposed amendments will assist the Department in maintaining a current list of individuals and entities who are interested in the regulatory process while allowing the deletion of obsolete information from the public participation list. There are no disadvantages to the agency or the Commonwealth. There are no other pertinent matters of interest.

**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 made since the proposed stage

**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 comment regarding these proposed regulations was 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

10		Citation to Code is stated as 9-6.14:4.1	Changed to § <u>2.2-4000 et seq due to recodification</u>
20		<p>Identification and notification of interested parties</p> <p>The commissioner may use other methods to periodically purge (with prior notification) and update the (PPG) list</p>	<p>Adds that interested parties may register on the Virginia Regulatory Town Hall to receive regulatory notices and provide public comment.</p> <p>Adds that the commissioner may purge entries on the (PPG) list when the individual or entity requests to be removed from the list when either regular or electronic notice is returned as undeliverable, or there has been no response to the request from the commissioner.</p> <p>Adds that the commissioner shall mail or electronically transmit Notices of Intended Regulatory Action, Notices of Comment Period and public hearings, and a copy of proposed and final regulations at the appropriate stage.</p> <p>When the commissioner determines that a specific regulation is subject to the Administrative Process Act, the commissioner shall also publish the documents in the Virginia Registrar. Notices of meetings of advisory bodies shall be posted on the Town Hall and published in the Virginia Registrar.</p> <p>Failure of any person or entity to receive any notice under these guidelines shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act.</p>
30			No change
40		Provide a role in the regulatory process for interested parties, advisory bodies, and ad hoc committees.	Adds that the department shall consider all input received within the established comment period deadline.
50		Any person may petition the commissioner to develop new regulations or amend existing regulations	Adds that the department may have the sole authority to dispose of the petition.
60			No change

**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.*

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There are no alternate regulatory methods for small businesses that can be used that will ensure that the public can participate in the regulatory process

### 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.*

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There is no potential impact of the proposed regulatory action on the institution of the family.