

## Advisory Group Guidelines

### Background

The State Water Control Board adopted Public Participation Guidelines (PPGs) to develop regulations and collect stakeholder input. The PPGs allow the use of advisory groups such as Regulatory Advisory Panel (RAP), Technical Advisory Committee (TAC), Stakeholder Advisory Group (SAG), Technical Regulatory Committee (TRC), or Work Group.

### Establishment of a Group and Statutory Requirements

- Membership to an advisory group, including alternates, is at the discretion of the Agency Director.
- Recommendations and appointments for membership are person-specific. Organization must submit the name of an individual and may also name an alternate.
- Potential group members are encouraged to identify alternates early in the regulatory development process to ensure that an organization can still be represented when the appointed member is unable to attend. Alternates for an individual should share an affiliation with the member approved for the advisory group.
  - Alternates are encouraged to attend meetings as observers when the appointed member is in attendance, to keep abreast of issues discussed at meetings if they need to stand in for an appointed member. When the appointed member is present, alternates present are considered members of the public, and should not actively participate in the discussions.
- More than half of appointed members or alternates must be present at a meeting for a quorum to be present.
- Advisory group are public bodies and must follow the requirements of the Freedom of Information Act (FOIA). All meetings of the group are public meetings and be noticed in advance in the Virginia Regulatory Town Hall website, Commonwealth Calendar, and DEQ website.
- Advisory groups meetings of are meetings of a public body under the FOIA, which requires all business to be conducted at legally announced public meeting. As such, members should refrain from interactions outside of meetings discussing the advisory group topic, including by email or other electronic communications.
- Meetings may be audio or video recorded by the agency, advisory group members, or members of the public as long as the use of the recording equipment does not physically interfere with the meeting.
- FOIA requires that minutes (a summary of the meeting) be prepared and posted to the Townhall website ([www.townhall.virginia.gov/](http://www.townhall.virginia.gov/)).
  - Unless the group establishes that minutes must be approved, minutes do not have to be approved. Draft minutes must be posted within 10 days after the meeting with a final posted within 3 days of approval. If the minutes do not need approval, the final must be posted within 10 days after the meeting.

### Role of the Group

The purpose of the group is to collect stakeholder input, assist in associated regulatory processes, and help the Department balance the concerns of all those interested in the action being undertaken.

- The role of the group is advisory only. The group's primary responsibility is to collaboratively contribute to regulatory process that is in the best interests of the Commonwealth as a whole.
- Group members are expected to devote the time and energy needed to ensure that they will be active participants of the regulatory advisory group, including attending scheduled meetings, contributing to group discussions, as well as actively listening as other members share their ideas.
- The group's goal is to reach a consensus and make recommendations to the Department and Board. In the regulatory and public policy arena, consensus is defined as a willingness of each member of the group to be able to say that he or she can live with the decisions reached and will not actively work against them.
- This is not to say that everyone will be completely satisfied by the results. It is necessary; however, that each participant come prepared to negotiate in good faith around complex and sensitive issues.
- Also, because the group represents many different interests, all members should expect to compromise in order to accomplish the group's mission.
- If no consensus is reached, staff will present the differing opinions to management and the Board.
- Voting, per se, is contrary to a consensus-based process, but people may be asked to demonstrate their strength of feeling for or against a particular idea and may be asked to help set priorities during the process.

### **General Guidelines for Discussions of the Group**

- Listen with an open mind and heart - it allows deeper understanding and, therefore, progress.
- Stay positive; focus on the issue, not individuals, and present solutions alongside problems.
- Speak one at a time; interruptions and side conversations are distracting and disrespectful to the speaker. "Caucus" or private conversations should take place during breaks, not during the work of the group.
- Be concise and avoid repeating points, unless you have new or different information to share.
- Simply note your agreement with what someone else has said if you feel that it is important to do so, it is not necessary to repeat it.
- Review materials to be discussed prior to meetings so you are prepared to participate in the discussion. Do not assume that the group will revisit previously discussed issues at later meetings.
- If you miss a meeting, get up to speed before the next one, as the group cannot start over.
- Turn off all cell phones; take and make all calls outside the room.

### **Participation by Persons not on the Group**

Because advisory group meetings are public meetings, any member of the public may attend and observe the proceedings. However, only group members may actively participate in the discussions.

- Non-members are encouraged to work with members with common interests to make their concerns heard.
- As warranted, the Department will provide a means for those persons not on the group to make their concerns known, provided it is not disruptive or does not inhibit the advancement of the work of the group.
- For groups working on regulations, those persons not on the group also have an opportunity to be formally heard during the 60-day public comment period on the proposed regulation.

### **When a Group Assisting in Regulation Development is Finished**

- The Department will develop the draft regulations and submit recommendations to the Board. The documentation sent to the Board will also be sent to members of the group.
- Areas where the group was unable to reach consensus or where the Department's recommendation differs from the group's recommendation will be identified in the material sent to the Board.
- The Board will decide if the Department's recommendation should be modified before the proposed regulation is promulgated. After Board approval, the proposed regulation will undergo executive review and a 60-day comment period. Any member of the group or the public may provide comment.
  - However, it is hoped that members of the group would actively support the work of the group during the public comment period if the regulation were essentially the same as that developed by the group.
  - The Department may meet with the group to review public comments and Department responses prior to finalizing the summary and response document for the Board. This summary explains the Department's position on the comments (why the regulation was changed or was not changed).
  - In addition, Department staff should send the summary and response document to commenters and all advisory committee members and post the document on the Department's web site.
- At the Board meeting, Department staff will recommend final action by the Board. At that time public comment on the regulation will be accepted in accordance with the Board's Policy on Public Comment.

### **When a Group Assisting in Something Other Than Regulation Development is Finished**

In some cases, a group is working on developing a regulation, but on the collection of stakeholder input.

- In these instances, after the group makes its recommendations, Department staff managing the group will summarize the deliberations and outcomes and prepare recommendations for Department management.
- Areas where the group was unable to reach consensus or where the staff's recommendation differs from the group's recommendation will be identified in the material sent to Department management for a decision.
- Department staff will inform the group members of the decision made by Department management.