



# Procedures on Guidance

*Requirements & Best Practices for Use of Guidance Documents*



Office of Regulatory Management  
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(Updated November 2023)

This document provides information for Virginia agencies on when and how to use guidance documents and on possible alternatives to the use of guidance documents.

*What qualifies as a guidance document?*

The Virginia Code defines “guidance document” as “any document developed by a state agency or staff that provides information or guidance of general applicability to the staff or public to interpret or implement statutes or the agency’s rules or regulations.” It goes on to say that “documents that pertain only to the internal management of agencies” are not considered to be guidance documents (§ 2.2-4101).

Not every document that Virginia agencies issue counts as a guidance document that goes through a public comment process (§ 2.2-4002.1) and is subject to review by the Office of Regulatory Management (ORM) (Youngkin Executive Order 19). When you are deciding whether a particular document qualifies as a guidance document subject to ORM review, you should ask three questions:

- (1) Does the document relate to interpretation or implementation of statute or the agency’s regulations? If not, it does not meet the definition of a guidance document.
- (2) Does the document announce a generally applicable policy? If it relates only to a specific party (e.g., an email notice to a company) or a one-time transaction (e.g., notice of an upcoming meeting), it does not qualify as a guidance document.
- (3) Does the document apply to or affect anyone outside the agency (including other state agencies)? If a document applies exclusively to matters internal to the agency, it is not considered a guidance document. Agencies may, however, consider posting internal documents that may be of public interest on their websites (rather than the Virginia Regulatory Town Hall) for purposes of transparency.

If the answer to these three questions is “yes,” then the document qualifies as a guidance document for purpose of ORM review regardless of the form or it takes or how it is titled. Though it is impossible to provide a comprehensive list of materials that do or do not qualify as guidance documents, ORM has identified some classes of documents for which agencies might be unsure as to whether they qualify:

| <b>Is a Guidance Document</b>   | <b>Is Not a Guidance Document<sup>1</sup></b>   |
|---|---|
| Document providing targeted processing times for agency permits   | Non-regulatory informational materials (e.g., list of courses offered, lists of services or providers, user’s manual, annual report, internal organizational chart) |
| Document that instructs other state agencies on how to administer a program                                 | Financial analyses (e.g., the agency’s annual budgetary projections)  |
| Email, memo, circular, announcement, or other communication describing a policy affecting regulated parties | Materials not authored by the agency itself (e.g., list of court decisions, bibliographies)   |
| Document that describes how a state agency applies federal regulatory requirements                          | Agreements with specific parties (e.g., contracts, MOUs)  |
|   | Press releases or promotional materials (e.g., newsletters, customer notices)   |
|   | Administrative announcements (e.g., hours of operation)   |
|   | Documents that solely concern internal agency matters (e.g., vacation policy)   |
|   | Forms <sup>2</sup>  |

<sup>1</sup> Though these do not qualify as guidance documents, many of them may be of public interest and may be good candidates for listing on the agency’s website and/or posting as “general notices” on the Virginia Regulatory Town Hall.

<sup>2</sup> Forms that regulated parties are required to complete must be included in the corresponding regulation and cannot be issued as guidance documents. 1 VAC 7-10-180.

Agencies should carefully review each guidance document to ensure it conforms to the statutory definition at § 2.2-4101. All agency guidance documents should be posted on the Regulatory Town Hall (<https://townhall.virginia.gov/L/GDocs.cfm>), and these should match the documents listed by the Office of the Registrar (<https://register.dls.virginia.gov/guidancedocs.aspx>). Only those documents that meet the statutory definition should be posted on the Town Hall.

If your agency has questions about whether a particular document is best classified as a regulation, guidance document, or something else, please contact ORM and, as applicable, the Office of the Attorney General (OAG). ORM will work with you to decide how the document should be classified and whether it should be submitted for ORM review. OAG can provide legal guidance on whether the document is subject to the Administrative Process Act and what procedures your agency should follow in issuing it.

*Can an agency set requirements via guidance documents?*

No. Only statutes and regulations have the force of law. (Virginia Code § 2.2-4101) Guidance documents cannot be enforced by the agency.

Agencies should also avoid setting requirements via guidance document for reasons of transparency. The Administrative Process Act (APA) includes various procedures that create an open and accountable process for the development of regulations. It is important that any document imposing a requirement go through this process. In addition, the Virginia Administrative Code (VAC) compiles all regulations in a single place. It is far easier for the public to find regulatory requirements in the VAC than to sort through an agency's guidance documents on its website or on Town Hall.

In no instance should an agency set or modify a *fee* (e.g., licensing fee, exam fee) via a guidance document rather than a regulation. An agency may, however, disclose a schedule or list of potential *penalties or fines* (including ranges) in order to provide transparency in an enforcement program. This is a permissible use of a guidance document, since the agency is simply announcing in advance how it will use its discretion rather than setting a new requirement. Such announcements should always occur via either regulation or guidance document, however, and should not be announced via a communication that does not undergo ORM review or receive public comment.

*How should an agency proceed if it needs to act quickly?*

As noted above, it is perfectly acceptable for an agency to *describe* a statutory or regulatory requirement via a guidance document or general notice. In that light, if an agency needs to quickly communicate a change in law, such as a new requirement imposed by the General Assembly, it is perfectly permissible to use a guidance document or general notice for that purpose.

If an agency needs to create *new requirements* that go beyond what is contained in statutes or regulations, however, it should not use a guidance document. If it needs to act quickly, it should instead consider the following options for promulgating regulations in short order:

| <b>Type of Regulatory Action</b> | <b>Legal Authority</b>   | <b>Key Characteristics of the Regulatory Process</b>  |
|----------------------------------|--|---|
| Emergency                        | APA § 2.2-4011 <ul style="list-style-type: none"> <li>• Office of Attorney General (OAG) and Governor’s Office must approve existence of emergency (unless statute mandates promulgation of regulation in 280 or fewer days)</li> </ul>  | <ul style="list-style-type: none"> <li>• Includes only one step rather than three (NOIRA, proposed, final)</li> <li>• Effective immediately upon submission to Registrar</li> <li>• Review by Department of Planning and Budget (DPB) is limited to 21 days</li> <li>• Effective only for 18 months (renewable for 6 months), but this allows time to adopt a permanent regulation</li> </ul> |
| Exempt                           | APA §§ 2.2-4002, 4006 <ul style="list-style-type: none"> <li>• Any non-discretionary regulation mandated by federal or state statute, federal regulation, or court order qualifies as exempt (§2.2-4006(A)(4))</li> </ul> Agencies often have other exemptions they can invoke | <ul style="list-style-type: none"> <li>• Includes only one step rather than three (NOIRA, proposed, final)</li> <li>• Only reviewed by OAG, Office of Regulatory Management (ORM), and the Governor’s Office</li> </ul>   |
| Fast-Track                       | APA § 2.2-4012.1 <ul style="list-style-type: none"> <li>• Governor must concur that regulatory action is “non-controversial”</li> </ul>  | <ul style="list-style-type: none"> <li>• Includes only one step rather than three (NOIRA, proposed, final)</li> <li>• DPB review is limited to 40 days (10 days to certify use of fast-track and another 30 days to review)</li> </ul>  |

ORM is aware that, in the past, the regulatory process would often take months or even years to complete, in large measure as a result of extensive delays in the executive review process. A major part of ORM’s mission is reducing those review times, and it has already reduced the average review time in the Governor’s Office from 241 days to 12 days (as of the date of this memorandum).

Agencies will, of course, need to build in time for public comment and publication in the Registrar (as is also true of guidance documents), as appropriate. But the overall process could

theoretically be completed in a matter of 3–4 months in the case of a fast-track action and an even shorter period of time in the case of an emergency or exempt regulation.

Of course, in cases in which it is operating under a compressed timeframe, the agency should communicate that information to (as applicable) OAG, DPB, the relevant Secretary, and ORM as soon as possible so that they can plan accordingly.

*What is the ORM process for review of guidance documents?*

When an agency makes a substantive change to a guidance document (including rescinding it entirely) or reconsiders an existing guidance document and decides to reissue it as is, the agency should submit the document to ORM for review. If, by contrast, the agency makes a technical edit to a guidance document, such as fixing a grammatical error or reformatting it, ORM does not need to review it. The chart below summarizes the types of actions ORM does and does not review.

| <b>ORM Will Review</b>   | <b>ORM Will Not Review</b>                                     |
|--|--|
| Reissuance of guidance document(s)   | Fixing grammatical errors (i.e., typos)                        |
| Repeal of guidance document(s)   | Modifications to formatting (i.e., incorrect page numbers)     |
| Changes to the scope of guidance coverage  | Fixing broken links for internal agency or external references |
| Addition of explanatory text   |  |
| Changes to verbiage in accordance with federal requirements and/or state statute |  |
| Deletion of unnecessary verbiage   |  |

If an agency believes that a guidance document falls into the “ORM Will Not Review” category, it should contact ORM Policy Analyst Jesse Settle ([j.settle@governor.virginia.gov](mailto:j.settle@governor.virginia.gov)). He will let the agency know whether ORM concurs in the conclusion that the document does not require review. If it does, the agency can submit the document to Ashley Colvin ([ashley.colvin@dpb.virginia.gov](mailto:ashley.colvin@dpb.virginia.gov)) in the Department of Planning and Budget, who will help the agency post the document to Town Hall.

If the guidance document requires ORM review, the agency should follow the instructions attached as an “Appendix” to this document. When ORM has completed its review, the agency will receive an auto-generated email from the Town Hall website. The agency should then submit the guidance document to the Registrar. Once submitted, the guidance document will undergo a 30-day public comment period.

After the comment period has ended, the agency is free to finalize the guidance document if it did not make any additional changes. If it did make changes, it should resubmit the document

for a second round of ORM review. For the time being, the agency should resubmit the revised document and the updated ORM Economic Review Form by emailing them to ORM Deputy Director Reeve Bull ([reeve.bull@governor.virginia.gov](mailto:reeve.bull@governor.virginia.gov)). Future changes will modify the Town Hall submission forum to allow the agency to resubmit a final revised guidance document for ORM review.

## Appendix



### Guidance Document Forums on the Virginia Regulatory Town Hall

November 6, 2023

These instructions outline the various steps, choices, and options available to you when managing a public comment forum for changes to guidance documents. These instructions are designed for all executive branch agencies. **All changes involving guidance documents (posting, amending, or deleting) must be approved by the Office of Regulatory Management (ORM).** In addition to the public comment forum process outlined in these instructions, agencies may also post or delete certain guidance documents without full review by ORM (see page 21).

These instructions consist of four parts:

1. Where to find your guidance document public comment forums (page 7).
2. Considerations before you start a guidance document public comment forum (page 8).
3. How to start a public comment forum, submit it to ORM for review, and then submit it for publication in the *Virginia Register of Regulations* (page 8).
4. What to do after the guidance document public comment forum closes (page 16).

### Where to find your guidance document public comment forums

On the Agency Functions dropdown list at the top of the menu bar, select “My Guidance Documents.”

You will then see the screen below, including two links:

1. If you need to open a forum, use the linked labelled “Start Guidance Document Forum (per § 2.2-4002.1).”
2. If you need to take action on an existing guidance document public comment forum, click on the link labelled “Manage My Comment Forums.”

A screenshot of the Virginia Regulatory Town Hall web application. On the left is a vertical menu titled "Agency Functions" with options: My Agency Boards, My Current Actions, My Guidance Documents (highlighted), My Meetings, My Mandates, My Petitions, and My Periodic Reviews. The main content area is for the "Department of Health Professions" and shows "278 guidance documents relevant to this agency for the criteria specified". Below this, it states "Changes to qualifying Guidance Documents must be done through Public Comment Forums". Two links are highlighted with red boxes: "Manage My Comment Forums" and "Start Guidance Document Forum (per § 2.2-4002.1)". Other links include "Add a new Guidance Document without forum" and "Guidance Document E-Z Editor". A note at the bottom says "Documents applying to multiple boards may be listed under each board." On the right, there is a "Search Options" section with a "Symbol Legend" containing five items with corresponding icons: Proposed change submitted for Governor's Office review, Forum not yet submitted for publication, Forum submitted for publication, but not yet open, Forum is open for comments, and Forum closed, changes not yet updated by the agency. Below the legend is a "Registrar's Office Submission (December)" section with two links: "Edit Guidance Document Introduction" and "Submit Annual List of Guidance Documents (last submitted: 10/17/23 10:00 am)".

## Considerations before you start a guidance document public comment forum

If you have more than one guidance document to add, change, or delete, please carefully consider whether this is best accomplished in a single comment forum or whether you should open multiple forums. The choice you make will apply to ALL of the guidance documents in a single public comment forum. The design of Town Hall does not allow the ability to apply different choices to different guidance documents (e.g., make some guidance documents effective, while delaying the effective date of other guidance documents), so it is especially important to be thoughtful and consider the ramifications of including several guidance documents in a single comment forum.

If you are making similar or related changes (e.g., you are changing contact information), or if your response to comments will be the same for each document, it may make sense to use one public comment forum because the comments would all be addressing similar changes in each guidance document.

If you are making different changes to each document, it may be preferable to open a separate forum for each guidance document, for clarity and in order to avoid confusion. Otherwise, you may not know which guidance document a comment pertains to, and you will not be able to take different actions in response to comments.

## How to start a public comment forum, submit it to ORM for review, and then submit it for publication in the *Virginia Register of Regulations*

You must complete each step before you can proceed to the next step, and all five steps must be completed before you can submit your proposed guidance document changes to the *Virginia Register of Regulations (Register)* for publication and open a public comment forum (on the date of publication). After the forum concludes, you will need to finalize the proposed changes. The box below provides an overview of the entire process, followed by the step-by-step instructions.

At a high level, the pre-publication process consists of the following:

1. Step 1, describe the proposed changes.
2. Step 2, identify the guidance documents that will be added, amended, or deleted; this may require you to upload a new or amended document(s).
3. Step 3, verify the contact information for the public comment forum.
4. Step 4, submit the ORM Economic Review Form and the proposed changes to ORM.
5. Step 5, after ORM review, submit the proposed changes to the *Register* for publication. A 30-day public comment forum will begin when the changes are published.

After the comment forum closes, you will have to take two other steps:

1. Step 1, select one of three options: retain the current effective date and/or delete the guidance document proposed to be deleted; delay the effective date for 30 days; or withdraw the proposed changes and leave the guidance document(s) "as is."
2. Step 2, either make effective the proposed document that appeared in the forum or upload a revised document for ORM review.

Once you have selected “Start Guidance Document Forum (per § 2.2-4002.1)”, you will see a screen with five steps (as indicated below).

**Step 1**

GDForum ID: new

**Description of Proposed Guidance Document Changes**

**Step 2**

**Guidance Document(s) for this Comment Forum**

*You must enter your change description above in step 1 prior to selecting your documents.*

| Document ID | Document Title | Document in Effect | Proposed Document |
|-------------|----------------|--------------------|-------------------|
|-------------|----------------|--------------------|-------------------|

**Step 3**

**Contact Information**

**Step 4**

**ORM Review**

After completing steps 1-3 executive branch agencies will be prompted to upload the “ORM Economic Review Form” for the Governor’s Office of Regulatory Management review.

**Step 5**

**The Virginia Register**

Once your Guidance Document information is specified and ORM review is complete, select the desired issue of *The Virginia Register*.

The public comment period will begin upon publication and extend for 30 days. You can specify the Effective Date of this Guidance Document to be any date following the comment period. After the comment period you will need to determine if you need to delay the implementation due to public feedback or proceed and promote the proposed document making it the current document.

Effective Date

**Step 1** requires you to briefly describe the nature of the changes you will be making to your guidance documents. Once you are finished, click the “Save” button, which will appear as soon as you start typing in the text box. Note that you can further edit this description at any time before submitting the forum to the *Register*.

**Step 2** requires you to identify the guidance document(s) that will change and upload the proposed guidance document(s), if applicable. Specifically, you will have two options:

1. Select an existing document (the “document in effect”) to update or delete (page 10), or
2. Add a brand new (“proposed”) guidance document (page 13).

These instructions will describe how to use each option, beginning with selecting an existing document to update or delete.

Option 1: select an existing document to update or delete

1. To update or delete an existing document, click “Select Existing Document” as illustrated on the screen below.

**Step 1**

GDForum ID: 2273

Description of Proposed Guidance Document Changes

Test

**Step 2**

Guidance Document(s) for this Comment Forum

After entering your change description above, select your Existing Documents you will change or remove. Next you can upload (or link to) either a new document or a revision to an existing document. You can also mark an existing document for removal/deletion.

Does it make sense to select multiple documents? [Read More](#)

Select Existing Document(s)

Add New Document

| Document ID | Document Title | Document in Effect | Proposed Document |
|-------------|----------------|--------------------|-------------------|
|-------------|----------------|--------------------|-------------------|

2. Next, a list of all your guidance documents will appear, as shown in the next image.

| ID   | Title  | Effective Date  | Date Posted          |
|--|--------|---|----------------------|
| Agency level documents applying to all of this agency's boards |        |   |                      |
| <input checked="" type="checkbox"/>                            | 2672   | Process for Early Dispute Resolution of Notices of Alleged Violation and Notices of Deficiency    | 9/1/2005 6/12/2009   |
| <input type="checkbox"/>                                       | 2951   | Regulatory Guidance Development   | 4/17/2006 6/12/2009  |
| <input type="checkbox"/>                                       | 4012   | Division of Enforcement Case Referrals  | 8/20/2009 8/21/2009  |
| <input type="checkbox"/>                                       | 6378   | Virginia Environmental Excellence Program Operations Manual                                       | 6/12/2018 6/12/2018  |
| <input type="checkbox"/>                                       | CEM-00 | General Compliance Procedures   | 12/1/2016 12/1/2016  |
| <input type="checkbox"/>                                       | CEM-01 | Civil Enforcement Manual - Introduction   | 4/28/2009 3/23/2012  |
| <input type="checkbox"/>                                       | CEM-02 | Civil Enforcement Manual - Chapter 1- Enforcement Policy  | 4/28/2009 12/14/2012 |
| <input type="checkbox"/>                                       | CEM-03 | Civil Enforcement Manual - Cover Memorandum - Chapters 2-4 Changes Effective 12/1/16              | 11/22/2016 12/1/2016 |
| <input type="checkbox"/>                                       | CEM-04 | Civil Enforcement Manual - Chapter 2 - General Enforcement Procedures                             | 12/1/2016 12/1/2016  |
| <input type="checkbox"/>                                       | CEM-05 | Civil Enforcement Manual - Chapter 2A - Attachments to Chapter 2 - General Enforcement Procedures | 12/30/2014 1/8/2015  |

3. Use the checkbox next to each guidance document to select the ones you want to update or delete. (Notice how two of the guidance documents on the screen above cannot be selected. This is because these guidance documents are currently being changed in another public comment forum.)
4. To save your work, be sure to click the "Save" button at the bottom of this page.

After clicking the “Save” button, you will be returned to the previous screen, which will now look similar to the one on the next page. The document(s) you selected will now be displayed under the “Document in Effect” column.

**Step 1**

GDForum ID: 2273

**Description of Proposed Guidance Document Changes**

Test

**Step 2**

**Guidance Document(s) for this Comment Forum**

Once all the documents for this forum are selected, the next step is to upload or link to your proposed revisions or indicate you intend to remove/delete a document from Town Hall.

[Select Existing Document\(s\)](#)   [Add New Document](#)

| Document ID              | Document Title           | Document in Effect       | Proposed Document  |
|--------------------------|--------------------------|--------------------------|--|
| <a href="#">76-10.05</a> | Reports to The Data Bank | <a href="#">Document</a> | <a href="#">Upload Doc</a><br><a href="#">Intend to Delete</a> * |

Prior to ORM approval you can use the \* symbol to remove a row in the table

The next step is to complete the “Proposed Document” column. Here you have two options as indicated below:

1. Upload Doc: If you plan to replace the existing guidance document that you just selected, then you should click on “Upload Doc.” Note that if your existing document currently consists of a link to your website, then your proposed document must also be a link. If you want to replace a link with a PDF, contact DPB. More information is provided on the following page.)
2. Intend to Delete: If you plan to delete the existing guidance document that you just selected, then you should click on “Intend to Delete.”

**Step 1**

GDForum ID: 2273

**Description of Proposed Guidance Document Changes**

Test

**Step 2**

**Guidance Document(s) for this Comment Forum**

Once all the documents for this forum are selected, the next step is to upload or link to your proposed revisions or indicate you intend to remove/delete a document from Town Hall.

[Select Existing Document\(s\)](#)   [Add New Document](#)

| Document ID              | Document Title           | Document in Effect       | Proposed Document  |
|--------------------------|--------------------------|--------------------------|--|
| <a href="#">76-10.05</a> | Reports to The Data Bank | <a href="#">Document</a> | <a href="#">Upload Doc</a><br><a href="#">Intend to Delete</a> * |

Prior to ORM approval you can use the \* symbol to remove a row in the table

The image below shows the screen after uploading a new document to replace the existing one.

**Step 2**

**Guidance Document(s) for this Comment Forum**

Once all the documents for this forum are selected, and proposed changes are specified, you can proceed to Step 3. Note: these guidance documents and this forum will not be editable until the comment forum is closed, so please verify this forum is correct before submission.

[Select Existing Document\(s\)](#)   [Add New Document](#)

| Document ID                     | Document Title   | Document in Effect       | Proposed Document                   |
|---------------------------------|--|--------------------------|-------------------------------------|
| <a href="#">Adult Education</a> | Individual Student Alternative Education Plan (ISAEP) Program Guidelines | <a href="#">Document</a> | <a href="#">Proposed Document</a> * |

Prior to ORM approval you can use the \* symbol to remove a row in the table

The image below shows the screen after selecting “Intend to Delete.”

**Step 2**

**Guidance Document(s) for this Comment Forum**

Once all the documents for this forum are selected, and proposed changes are specified, you can proceed to Step 3. Note: these guidance documents and this forum will not be editable until the comment forum is closed, so please verify this forum is correct before submission.

[Select Existing Document\(s\)](#)   [Add New Document](#)

| Document ID                     | Document Title   | Document in Effect       | Proposed Document |
|---------------------------------|--|--------------------------|-------------------|
| <a href="#">Adult Education</a> | Individual Student Alternative Education Plan (ISAEP) Program Guidelines | <a href="#">Document</a> | To Be Deleted     |

Prior to ORM approval you can use the symbol to remove a row in the table

See the red at the end of each row? You may use this to delete a row in case you make a mistake. Then you can then click on “Add New Document” to start over. You can make edits like this until you submit the public comment forum to ORM for review.

*Note about entries that point to an external link:* If you chose to use a direct link to the file instead of uploading the file, the link must always be kept up-to-date. So if the link changes, or you want to replace it with a PDF, contact DPB. If a link is used, then you will see a green icon as in the screen below:

[Select Existing Document\(s\)](#)   [Add New Document](#)

| Document ID              | Document Title                       | Document in Effect       | Proposed Document  |
|--------------------------|--------------------------------------|--------------------------|--|
| <a href="#">LAD-LAPM</a> | Locally Administered Projects Manual | <a href="#">Document</a> | <a href="#">Add Link</a><br><a href="#">Intend to Delete</a> |

Prior to ORM approval you can use the symbol to remove a row in the table

When you click on Add Link, you will be presented with a place to type in (or cut and paste from the URL field on your computer) the URL for your document, as shown below:

Add Link to Proposed Document

Example: <http://agency.virginia.gov/foldername/GuidanceDocument1.pdf>

After you have added a link to your proposed GD, the screen will look something like this:

**Step 2**

**Guidance Document(s) for this Comment Forum**

Once all the documents for this forum are selected, and proposed changes are specified, you can proceed to Step 3. Note: these guidance documents and this forum will not be editable until the comment forum is closed, so please verify this forum is correct before submission.

[Select Existing Document\(s\)](#)   [Add New Document](#)

| Document ID              | Document Title                       | Document in Effect       | Proposed Document                 |
|--------------------------|--------------------------------------|--------------------------|-----------------------------------|
| <a href="#">LAD-LAPM</a> | Locally Administered Projects Manual | <a href="#">Document</a> | <a href="#">Proposed Document</a> |

Prior to ORM approval you can use the symbol to remove a row in the table

## Option 2: Add a Brand New Guidance Document

If you are issuing a brand new guidance document, and are not replacing or deleting an existing one, then click on “Add New Document” as shown below in red:

### Step 2

#### Guidance Document(s) for this Comment Forum

After entering your change description above, select your Existing Documents you will change or remove. Next you can upload (or link to) either a new document or a revision to an existing document. You can also mark an existing document for removal/deletion.

Does it make sense to select multiple documents? [Read More](#)

|             |                |                    | <a href="#">Select Existing Document(s)</a> | <a href="#">Add New Document</a> |
|-------------|----------------|--------------------|---|----------------------------------|
| Document ID | Document Title | Document in Effect | Proposed Document                           |                                  |

After you click this link:

- You will be prompted to give the new guidance document a title. (You may also assign it an optional agency document ID.)
- After entering the title, you must upload a new document.

The image below shows the screen after uploading a new document.

### Step 2

#### Guidance Document(s) for this Comment Forum

Once all the documents for this forum are selected, and proposed changes are specified, you can proceed to Step 3. Note: these guidance documents and this forum will not be editable until the comment forum is closed, so please verify this forum is correct before submission.

|             |  |                    | <a href="#">Select Existing Document(s)</a>   | <a href="#">Add New Document</a>  |
|-------------|--|--------------------|---|---|
| Document ID | Document Title                               | Document in Effect | Proposed Document   |   |
| New         | Test of Adding a Brand New Guidance Document | n/a                |  Proposed Document |  |

Prior to ORM approval you can use the  symbol to remove a row in the table

After you have completed the steps for either Option 1 or Option 2, you can proceed to Step 3.

**Step 3** requires you to verify that the contact information for the public comment forum is correct. If it is, you do not need to do anything. If it needs to be changed, select “No” and enter the correct information.

At this point, please make sure everything about this forum looks correct, because uploading the ORM Economic Review Form in the next step will also automatically submit this forum to ORM for review.

**Step 4** requires you to upload the ORM Economic Review Form. If your screen does not look like the image below, then look at your work in Step 2 to ensure this step has been completed.

### Step 4

#### ORM Review

After specifying your documents and verifying contact information, please

[Upload the ORM Economic Review Form](#) for the Governor’s Office of Regulatory Management review.

After clicking on the link to upload the ORM Economic Review Form you will be taken to another screen to select the ORM Economic Review Form. **Note, when you submit the ORM Economic Review Form, this forum will automatically be submitted to the Governor's Office of Regulatory Management for review.**

The image below shows the screen after submitting the changes to ORM. At this point, ORM will review the proposed changes.

**Step 4**  
ORM Review



Once ORM has approved your guidance document changes, you will get an email from Town Hall and your screen will look like the image below; you can then proceed to Step 5.

**Step 4**  
ORM Review



**Step 5** occurs after ORM review, and requires you to complete the *Register* publication information and submit the forum for publication. It will default to the next publication date but you can select a future publication date if needed. (This works very similar to the process for submitting a regulatory stage to the *Register* for publication.) Note: In compliance with Code § 2.2-4002.1, the default effective date will be set as the 31<sup>st</sup> day after publication, but you can make it later if you wish.

The image below shows Step 5 after ORM has approved the changes.

**Step 5**  
The Virginia Register

Once your Guidance Document information is specified and ORM review is complete, select the desired issue of *The Virginia Register*.

09/18/2023 Vol 11, Issue 22 ▾

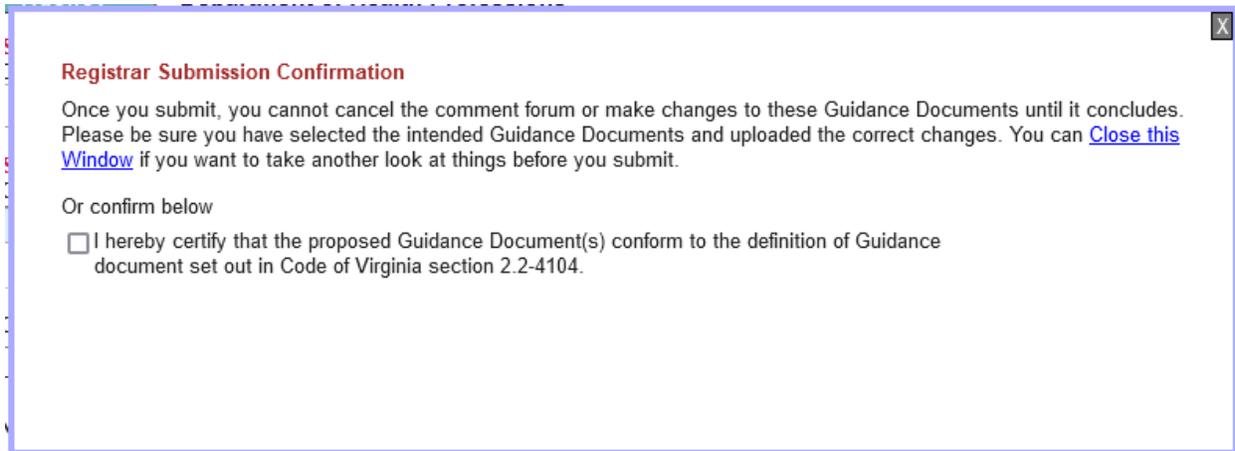
The public comment period will begin upon publication and extend for 30 days. You can specify the Effective Date of this Guidance Document to be any date following the comment period. After the comment period you will need to determine if you need to delay the implementation due to public feedback or proceed and promote the proposed document making it the current document.

Effective Date 10/19/2023

**Submit**

to the Registrar for publication. You cannot change the details of this forum once submitted for publication so check carefully before you Submit!

Before you can submit the forum to the Registrar, a pop up box will appear (pictured below). You will need to click this box to certify that any proposed guidance document conforms to the definition of a guidance document in § 2.2-4101. This is a legal requirement in [§ 2.2-4002.1](#) of the Code of Virginia.



**Warning:** After you click the “Submit” button, these guidance documents and this forum will be locked and you will not be able to edit them or make other changes until after the comment forum has been closed, so please verify that all information is correct before clicking “Submit.”

The image below shows Step 5 after submitting the guidance document to the Registrar.

#### *The Virginia Register*

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Publication Date: 9/18/2023  Volume: 11 Issue: 22

The public comment period is  **In Progress!** **Opened Today!** closes at 11:59pm on **10/18/2023**

[View and Enter Comments](#)

Planned Effective Date: 10/19/2023

Go back to [Manage Comment Forums](#)

### **The 30-day public comment forum**

Five days before notice of the guidance document public comment forum is published in the *Register*, notification will automatically be sent out to Town Hall registered public users. Public comment forums for guidance documents operate and can be managed in the same way as those opened for regulatory proposals. When a public comment forum opens on Town Hall, the Guidance Document Forum page will look like the screen on the next page.

test

Guidance Document(s) for this Comment Forum

| Document ID | Document Title                               | Document in Effect | Proposed Document   |
|-------------|--|--------------------|---|
| New         | Test of Adding a Brand New Guidance Document | n/a                |  <a href="#">Proposed Document</a> |

Contact Information

Name:  Title:

Email:

Address:

City:  State:  Zip:

Phone:  Fax:

**ORM Review**

ORM Approved (9/18/2023)

 [ORM Economic Review Form](#) posted: 9/18/2023

**The Virginia Register**

Publication Date: 9/18/2023  [Volume: 11 Issue: 22](#)

The public comment period is  **In Progress!** **Opened Today!** closes at 11:59pm on **10/18/2023**

[View and Enter Comments](#)

Planned Effective Date: 10/19/2023

## After the public comment forum closes

Immediately after the public comment forum closes, you have to complete two final steps in order to complete the process. At a high level, these steps are:

1. Step 1: choose from one of three options: retain or change the effective date, delete a document that you indicated would be deleted, or abandon all changes and leave any existing guidance documents “as is” (page 17).
2. Step 2: finalize the forum by taking final action on each guidance document. This involves deciding whether to make the proposed guidance document (the one that was part of the forum) your final guidance document, or whether to instead use a revised guidance document. **Note: if you have identified a need to upload a revised document, you must first email the document and a revised ORM Economic Review Form to ORM for review (see page 20).**

**Step 1** requires you to choose one of three options:

1. Retain the current effective date and/or delete the guidance document proposed to be deleted;
2. Delay the effective date for 30 days; or
3. Withdraw (or abandon) the proposed changes in their entirety and leave the guidance document(s) “as is.” This will leave the guidance document just as it was before the forum began.

Please be advised that you need to make the same decision for all your documents in the forum.

You can select one of the options by clicking on the corresponding link (each link is highlighted in the red box on the screen below).

**Agency** Department of Health Professions GDForum ID: 2227

Description of Proposed Guidance Document Changes  
Adoption of Guidance Document 110-51 related to cannabis product packaging

Guidance Document(s) for this Comment Forum

Now that the Comment Forum is closed you may decide to [retain the current effective date](#) or [delay for 30 days](#) while comments are considered or you can [Withdraw](#) these changes entirely and retain the existing documents as is.

| Document ID | Document Title                          | Document in Effect | Proposed Document  |
|-------------|---|--------------------|--|
| 110-51      | Cannabis Product Packaging Requirements | n/a                |  <a href="#">Proposed Document</a> |

***Option 1: Retain the current effective date and/or delete the guidance document that was proposed to be deleted.***

Under option 1 you have two choices.

1. If you are adding or amending a guidance document, you can chose to retain the effective date of the document (the date you entered before the forum began); or
2. If you intend to delete the guidance document, you can proceed with deletion.

If you decide to retain the effective date of your guidance document, your screen will look something like the example on the next page:

Description of Proposed Guidance Document Changes

GDForum ID: 2227

Adoption of Guidance Document 110-51 related to cannabis product packaging

Guidance Document(s) for this Comment Forum

The last step is to take action on each document to make the changes current. You can do that on this screen or Edit the Guidance Document directly and upload the final, changed document. You should make these changes as close to the effective date as possible to avoid confusion.

| Document ID | Document Title                          | Document in Effect | Proposed Document   |  |
|-------------|---|--------------------|---|--|
| 110-51      | Cannabis Product Packaging Requirements | n/a                |  Proposed Document | <a href="#">Make Proposed the Current</a><br>or<br><a href="#">Upload a Revised Document</a> |

Contact Information

Let the contact for this forum default to the agency contact?  Yes  No

Name:  Title:

Email:

Address:

City:  State:  Zip:

Phone:  Fax:

ORM Review

ORM Approved (8/4/2023)

 [ORM Economic Review Form](#) posted: 6/14/2023 (missing) [replace](#)

The Virginia Register

Publication Date: 8/28/2023  [Volume: 40 Issue: 1](#)

The public comment period began upon publication and extended for 30 days. It ended on 9/27/2023.

There were no comments

Effective Date: 9/28/2023

If you have proposed to delete a guidance document, your screen will look something like this:

**Agency** Department of Health Professions

**Description of Proposed Guidance Document Changes** GDForum ID: 2248  
 Revision to Guidance Document 90-3 and Repeal of Guidance Document 90-11

**Guidance Document(s) for this Comment Forum**  
 The last step is to take action on each document to make the changes current. You can do that on this screen or Edit the Guidance Document directly and upload the final, changed document. You should make these changes as close to the effective date as possible to avoid confusion.

| Document ID | Document Title   | Document in Effect | Proposed Document |                      |
|-------------|--|--------------------|-------------------|----------------------|
| 90-3        | Continued competency violations for nurses                                   | Document           | Proposed Document | Updated on 9/28/2023 |
| 90-11       | Boards' guidance on Continuing Competency Violations for Nurse Practitioners | Document           | To Be Deleted     | Delete               |

**Option 2: Delay the effective date for 30 days.**

Option 2 applies if you are adding or amending a guidance document, but you need to extend the effective date per § 2.2-4002.1 of the Code of Virginia. If you choose a 30-day delay for the effective date of your guidance document, your screen will look something like this:

*The Virginia Register*

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Publication Date: 8/28/2023 Volume: 40 Issue: 1  
 The public comment period began upon publication and extended for 30 days. It ended on 9/27/2023.  
 There were no comments

Effective Date: ~~9/28/2023~~ Delayed until 10/28/2023 while comments are evaluated.

After the 30-day delay, you will need to finalize your guidance document, as described in Step 2 below.

**Option 3: Withdraw the changes proposed to your guidance document.**

If you choose to abandon or withdraw all the changes associated with the public comment forum, the screen will look something like this:

*The Virginia Register*

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Publication Date: 8/28/2023 Volume: 40 Issue: 1  
 The public comment period began upon publication and extended for 30 days. It ended on 9/27/2023.  
 There were no comments

Effective Date: ~~9/28/2023~~ CHANGES WITHDRAWN

Note that the forum will continue to be on the Town Hall website even if the proposed changes are withdrawn.

**Step 2** requires you to **take final action** on each guidance document. You should make these changes as close to the effective date as possible in order to avoid confusion. If you are creating a new guidance document or amending an existing document, follow these directions:

As indicated by the options circled in red below, you can either make effective the proposed document that appeared in the forum by clicking on “Make Proposed the Current,” or you can select the option to “Upload a Revised Document” which would be the original proposed document with additional changes made in response to public comment. See the red box below for an example.

**Agency** Department of Health Professions GDForum ID: 2227

**Description of Proposed Guidance Document Changes**  
Adoption of Guidance Document 110-51 related to cannabis product packaging

**Guidance Document(s) for this Comment Forum**

The last step is to take action on each document to make the changes current. You can do that on this screen or Edit the Guidance Document directly and upload the final, changed document. You should make these changes as close to the effective date as possible to avoid confusion.

| Document ID | Document Title                          | Document in Effect | Proposed Document |  |
|-------------|---|--------------------|-------------------|--|
| 110-51      | Cannabis Product Packaging Requirements | n/a                | Proposed Document | <div style="border: 2px solid red; padding: 5px;"> <a href="#">Make Proposed the Current</a><br/>                     or<br/> <a href="#">Upload a Revised Document</a> </div> |

**Note: if you have identified a need to upload a revised document, do not create a new forum. Instead, you must submit the revised document and a revised ORM Economic Review Form to ORM. Because this process is not currently available on Town Hall, you should submit the revised document and ORM Economic Review Form to ORM via email to Reeve Bull ([reeve.bull@governor.virginia.gov](mailto:reeve.bull@governor.virginia.gov)) and Jesse Settle ([j.settle@governor.virginia.gov](mailto:j.settle@governor.virginia.gov)). A future update will allow this to be done via Town Hall.**

**After you receive ORM approval, you can post the revised guidance document and complete Step 2.**

Once you make your choice, the screen will change to show that the guidance document has been updated. See the red box below for an example. (Note, the screen looks the same regardless of which choice you made.)

**Agency** Department of Health Professions GDForum ID: 2227

**Description of Proposed Guidance Document Changes**  
Adoption of Guidance Document 110-51 related to cannabis product packaging

**Guidance Document(s) for this Comment Forum**

| Document ID | Document Title                          | Document in Effect | Proposed Document |                      |
|-------------|---|--------------------|-------------------|----------------------|
| 110-51      | Cannabis Product Packaging Requirements | n/a                | Proposed Document | Updated on 9/28/2023 |

If you are deleting a guidance document, follow these directions:

For forums where one or more of the guidance documents is proposed to be deleted, click the “Delete” button to eliminate your guidance document. Note: This will remove your guidance document completely from the Town Hall database. Below is what the screen will look like:

| Agency   |  | Department of Health Professions   |   |                      |
|--|--|--|---|----------------------|
| <b>Description of Proposed Guidance Document Changes</b>                 |  |  |   | GDForum ID: 2248     |
| Revision to Guidance Document 90-3 and Repeal of Guidance Document 90-11 |  |  |   |                      |
| <b>Guidance Document(s) for this Comment Forum</b>                       |  |  |   |                      |
| Document ID  | Document Title   | Document in Effect   | Proposed Document   |                      |
| <a href="#">90-3</a>   | Continued competency violations for nurses                                   |  <a href="#">Document</a> |  <a href="#">Proposed Document</a> | Updated on 9/28/2023 |
| <a href="#">90-11</a>  | Boards' guidance on Continuing Competency Violations for Nurse Practitioners |  <a href="#">Document</a> | To Be Deleted   | Deleted on 10/5/2023 |

### Posting or deleting certain guidance documents without full ORM review

In certain situations, you may be able to make guidance document changes without a full ORM review. For example, if the changes involve typographical, formatting, or other non-substantive issues, ORM may not require submission of the ORM form and a full ORM review. See ORM’s Procedures on Guidance for a more thorough discussion of which changes may not require full ORM review. If you believe that a potential change may not require full ORM review, contact ORM via email to Jesse Settle ([j.settle@governor.virginia.gov](mailto:j.settle@governor.virginia.gov)).