

**TOP TWENTY (or so) BEST PRACTICES FOR USING TOWN HALL, SUBMITTING
REGULATIONS, AND PARTNERING WITH PER**
(September 26, 2019)

Town Hall, Generally

The availability of the items listed below aids public understanding and also assists executive review.

Meeting, Agendas, and Minutes: Executive Order 14 (as amended, July 16, 2018) (EO 14) requires notices and agendas to be posted on Town Hall at least seven (7) days prior to the date of the meeting, unless it's an emergency meeting. EO 14 also requires minutes to be posted on Town Hall in accordance with the timeframes established in Virginia Code §§ 2.2-3707 and 2.2-3707.1. In addition, your PPGs, agency's basic law, agency policy, and/or board bylaws may have additional posting requirements for these items.

Periodic Reviews, Petitions for Rulemaking, and Legislative Mandates: Be sure these are created and linked to the relevant action.

Stage Information Page: Make sure it is consistent with the Agency Background Document (ABD) and RIS text: if there are no changes between the preceding stage and this stage, make sure this is correctly indicated on the stage information page, there are no changes in the text, and none are discussed on the ABD.

Final Stages: EO 14 states "If any change with substantial impact—as determined by DPB—has been made to the regulatory text between the proposed and final stages, the agency shall obtain a letter from the OAG certifying that the agency has authority to make the additional changes." If you anticipate needing a letter, it will save you time if the package is certified before you submit the final stage to DPB.

Fast-Tracks, A Special Case: Virginia Code § 2.2-4012.1 states that "rules that are expected to be noncontroversial" may be promulgated using the fast-track process. In addition, EO 14 states that "DPB shall request the Governor's Office to determine if the fast-track process is appropriate when there is any question as to whether a package should be allowed to proceed in this manner." DPB's review will assess whether the proposed changes are appropriate for this process.

Comment Forums: Our comment forums are generally monitored daily, including nights, weekends, and holidays. That said, if you see a comment that you think belongs in another forum, whether one of yours or another agency's, please let us know.

General Notices: Keep in mind that general notices must be related to a specific board.

Town Hall Ideas, Requests, and Improvements: Please feel free to send any ideas, requests, and improvements to us for consideration.

Agency Background Documents

ABDs: Consistent and Complete: Use the right version of the form and make sure it's complete. Make sure it is consistent with the RIS text on Town Hall, especially the Detail of Changes chart.

ABDs, Take Two: Particularly for complicated actions where there are a lot of changes, make sure that you are specific about what requirements are new, what requirements are changing (and how), and what requirements are being moved in their entirety versus what requirements are being moved but also tweaked a little (and how).

ABDs for NOIRAs, A Special Case: Remember that the purpose of an ABD is to provide the regulated community, other stakeholders, DPB and other reviewers, and the public with notice of the proposed changes. EO 14 states that "shall include the nature and scope of the regulatory changes being considered and the relevant sections of the VAC." Note that the EO also states "New issues that were not disclosed to the public when the NOIRA was published shall not be addressed at the proposed stage."

Notice, Public Participation, and Transparency: When working on Town Hall or on a regulatory package, remember that good regulatory drafting principles consider and incorporate the concepts of notice, public participation, and transparency.

Communicating and Collaborating During Regulatory Review

Interacting with DPB. There is no perfect ABD or proposed text but they should be consistent with each other. Remember that the ABDs are public documents too, and that the more detail you include on the ABD, the less questions we are likely to ask.

Interacting with DPB: Why Does DPB Want A Meeting? Often we will ask for a meeting or a conference call instead of trying to communicate by email. This is standard operating procedure and does not automatically mean there are problems with your regulatory proposal.

Interacting with DPB: Why Are They Asking Me SO Many Questions? For some complex or controversial packages, we're just trying to understand your program. And what we're really interested in is seeing an explanation of the regulation, the problem the changes are trying to solve, and how these changes would solve the problems.

Answering DPB's Questions: Please be as specific as possible in responding to DPB's questions so we don't have to go back and forth and ask follow up questions. The following agency responses are not very helpful: "the OAG told us we had to," (why?) "we're clarifying this to conform to current practice," (we want to know why the change in current practice), and "I don't know if it is going to affect another agency or the localities" are not sufficient.

Regulations and The Budget: Be prepared to address questions about how they interact, and be especially mindful of these rows on the economic impact section of the ABDs.

Respond Promptly to DPB's Inquiries: If you or someone else who may be needed to respond to questions will be out of the office for an extended period of time, please make sure we are aware of any such planned absences and include information about a backup contact.

Consider When To Click the Submit to DPB Button: Please be considerate of our time, and yours. Remember that our deadlines are measured in calendar days, they don't stop for holidays, illness, vacations, the General Assembly, budget development, hurricanes, or blizzards. So if DPB has less time to complete its review, that means that the submitting agency staff has less time to gather information, respond to inquiries, and make any necessary changes.

Let Us Know When You Need Us to Expedite Our Review: If you are getting ready to submit a stage that you would prefer we prioritize, or is a Secretary's/Governor's priority, let us know, preferably well before you submit it to DPB. Depending on our workload and other priorities, we will try to work with you to complete our review in less time than the EO and APA allow.

Staggering Your Submissions: If you have multiple stages to submit, which often happens after a board meeting or the OAG has completed its review, please prioritize and stagger your submissions over the course of several days or a week. It is also helpful if you call and discuss it with us in advance. In case you forget to call, Town Hall now has a reminder message that pops up after you've submitted more than 2 or 3 stages in a day. Again, this helps the submitting agency as well as the subsequent executive branch reviewers, by ensuring that responses or reviews are not required for multiple packages from the same agency simultaneously.

Last, and most importantly:

--Remember that DPB seeks to partner with agencies to make sure quality regulations are promulgated. We are working together to achieve the same goal.

