

Virginia Regulations 101



Supreme Law of the Land: Constitution of United States of America, U.S Code, U.S. Appropriation Act, Code of Federal Regulations



State Law: Constitution of the Commonwealth of Virginia, Code of Virginia (COV), Virginia Appropriation Act, Virginia Administrative Code (house state regulations)



A regulation is: (1) any statement of general application, (2) having the force of law, (3) affecting the rights or conduct of any person, (4) adopted by an agency in accordance with the authority conferred on it by applicable basic laws. **Regulations are agency or board-made law.** The Virginia General Assembly grants rulemaking authority to entities. There are about 90 rulemaking entities in Virginia. Regulations are housed in the Virginia Administrative Code (VAC) and first published in *Virginia Register of Regulations (Register)* (and, if applicable, on Town Hall website). Hundreds of regulations, 30,000+ pages in VAC



How is a regulation created?

A process called rulemaking



What is the purpose of rulemaking? To make sure the regulated community has time to prepare for a new rule or rule change and that everyone has an opportunity to be heard.

NOTICE & COMMENT

What determines the process and procedures of rulemaking? Various state laws, regulations and an executive order including:

- Administrative Process Act (APA), specifically Article 2 (COV §§ 2.2-4000 through 2.2-4017)
- Sometimes: Agency/Board's basic statute (may set out special/additional rulemaking procedures or exemption from APA but often not)
- Virginia Register Act (COV §§ 2.2-4100 through 2.2-4104) covers how to publish in the *Register of Regulations* (the official place for publishing regulatory proposals) before they become effective and go into the VAC.
- Agency/Board's public participation guidelines (PPGs) (They're called guidelines but they are, in fact, regulations)
- Executive Order (EO) on rulemaking procedures (COV § 2.2-4013) issued by each Governor no later than June 30 of the year s/he assumes office; this EO applies only to regs that are not exempt from the APA



<http://townhall.virginia.gov/>

Fast Facts of the Virginia Regulatory Town Hall website:

- Launched in 1999. First website of its kind. Recipient of state and national awards.
- Has 15,000 active registered public users and over 200 authorized state agency users.
- Features an email notification service tailored to user preferences.
- Over 50,000 public comments submitted to forums to date.
- In 2007, Town Hall 2.0 was launched and integrated with the Virginia Regulation Information System (RIS) (http://register.dls.virginia.gov/RIS_overview.shtml).

Website design includes several levels that are identified and understood on the Town Hall as described below:

Cabinet Secretariat (10 parts of Virginia government, e.g., HHR, AF, CT, PS)

Agency (houses a board, e.g., DPOR, VDACS, VDOT)

Board* (entity with rulemaking authority)

Chapter (houses a regulation or rule)

Action (what is used to promulgate, amend and repeal a reg)

Stage (driver of an action, one or more stages in an action)

What is a **Board** on Town Hall? It's a generic term used to describe a rulemaking entity. Rulemaking power can reside in an agency head, board, council, commission, council, university, authority and other entities.

Town Hall functions by level:

- **Agencies** may issue guidance documents and manage petitions for rulemaking.
- **Boards** may issue guidance documents, manage petitions for rulemaking, post meetings, manage legislative mandates, post periodic reviews, publish general notices, and open public comment forums.
- **Chapters** can be associated with guidance documents, periodic reviews, meetings, and general notices.
- **Actions** can be associated with legislative mandates, periodic reviews, petitions for rulemaking, meetings, and general notices.
- **Stages** can be associated with public comment forums, meetings, and general notices.