

REGULATORY PROCESS IN VIRGINIA

STANDARD REGULATORY PROCESS

General Information

- An agency must follow the law passed by the General Assembly that sets out the process for creating, amending, or repealing a regulation. The law is the Administrative Process Act (§ [2.2-4000](#) et seq. of the Code of Virginia).
- Three basic steps take place to create, amend, or repeal a regulation.
- Typically, regulatory actions take about 18-24 months from start to finish.

Basic Steps

Step 1 - Notice of Intended Regulatory Action (NOIRA)

The public receives notification that a regulatory change is being considered, along with a description of the changes being considered. Once the NOIRA is published in *The Virginia Register of Regulations*, there is at least a 30-day period during which the agency receives comments from the public. The agency reviews these comments as it develops the proposed regulation.

Step 2 - Proposed regulation

The new, amended, or repealed regulation; a statement explaining the basis, purpose, substance and issues of the regulatory action; an Economic Impact Analysis (EIA) prepared by the Department of Planning and Budget (DPB); the agency response to the DPB EIA; and an agency contact person are published in the *Virginia Register*. A 60-day public comment period begins upon publication of the proposed regulatory action in the *Virginia Register*. The agency may make changes to the proposed regulation based on comments received during the public comment period.

Step 3 - Final regulation

The new, amended, or repealed regulation is published in the *Virginia Register*, highlighting (by bracketing changed language) any changes made to the text of the regulation since the proposed regulation was published. A 30-day waiting period takes place before the regulation becomes effective.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.