



Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER 19 (2022)

DEVELOPMENT AND REVIEW OF STATE AGENCY REGULATIONS

Importance of the Initiative

By virtue of the authority vested in me as Governor under Article V of the Constitution of the Commonwealth of Virginia and under the laws of the Commonwealth, including, but not limited to, §§ 2.2-103, 2.2-4013, and 2.2-4017 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures in this Executive Order for all rulemakings and other regulatory activity. These policies and procedures shall apply in addition to those already specified in the Administrative Process Act (§ 2.2-4000 *et seq.* of the *Code of Virginia*), agencies' public participation guidelines, and agencies' basic authorizing statutes.

Nothing in this Executive Order shall be construed to limit my authority under the *Code of Virginia*, including to require an additional 30-day public comment period, file a formal objection to a regulation, suspend the effective date of a regulation with the concurrence of the applicable body of the General Assembly, or to exercise any other rights and prerogatives existing under Virginia law. Any failure to comply with the requirements set forth herein shall in no way affect the validity of a regulation, create any cause of action, provide standing for any person under Article 5 of the Administrative Process Act, or otherwise challenge the actions of a government entity responsible for adopting or reviewing regulations.

Preamble

Regulations are essential to a best in class state government. They are necessary to provide needed explanation and direction of our Commonwealth's laws to our citizens and businesses. Without regulations, the legislature would be forced to draft even more complex laws. However, our regulatory requirements have expanded to encompass almost every facet of our daily lives. Oftentimes these requirements are layered upon the citizens of the Commonwealth without regard to the existing regulatory burdens imposed by prior regulations

from the issuing agency or other agencies. Additionally the regulatory process has grown cumbersome, taking on average two to three years to issue a new regulation.

Currently, many regulatory agencies are exempt from the Virginia Administrative Process Act review process and approximately half of all regulatory actions are also exempt. While the Commonwealth operates a Regulatory Town Hall for regulatory information, not all agencies utilize the website. Most importantly, no standard cost/benefit analysis is conducted on proposed regulations to ensure that our citizens are receiving the best in class government they deserve. Instead, a more limited economic impact analysis is conducted within an abbreviated timeframe.

In order to provide a consistent regulatory approach and review across the entire government, I am creating an Office of Regulatory Management within the Office of the Governor. This new Office will work to ensure that all regulations are reviewed for their impact on local governments, and regulated community and most importantly the private citizens of our Commonwealth. The Office will work to help streamline the regulatory process and provide important institutional controls. An important function of the Office will be to work with each regulatory agency to review all existing regulations, which is required once every four years but has not been consistently or uniformly achieved, to reduce the overall regulatory burden on the public.

Applicability

The policies and procedures in this Executive Order apply to state agencies in the manner described herein.

Rulemakings initiated by executive branch agencies in accordance with Article 2 of the Administrative Process Act shall follow the procedures in the Executive Branch Review process set forth by the Office of Regulatory Management as directed below.

Executive branch rulemakings that are exempt from Article 2 of the Administrative Process Act are required to use the Executive Branch Review process, and all such exempt rulemakings must be posted on the Virginia Regulatory Town Hall according to instructions issued by the Department of Planning and Budget.

All executive branch agencies, including agencies and regulations with a full or partial exemption from either Article 1 or Article 2 of the Administrative Process Act, must comply with the requirements of this Executive Order pertaining to other regulatory activity, including petitions for rulemaking; meeting notices, agendas and minutes; the periodic review of existing regulations; and guidance documents. These other regulatory activities must be posted on the Virginia Regulatory Town Hall.

Actions

As Governor of Virginia, I hereby instruct and delegate:

1. The Office of Regulatory Management should establish its own policies and procedures for regulatory review consistent with the laws of Virginia and as approved by the Chief of Staff and Governor by July 30th 2022.
2. These policies and procedures from the ORM should include:

