

§ 2.2-4101. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means any authority, instrumentality, officer, board, or other unit of the government of the Commonwealth with express or implied authority to issue regulations other than the General Assembly, courts, municipal corporations, counties, other local or regional governmental authorities including sanitary or other districts and joint state-federal, interstate or intermunicipal authorities, the Virginia Resources Authority, the Virginia Code Commission with respect to minor changes made under the provisions of § [30-150](#), and educational institutions operated by the Commonwealth with respect to regulations that pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of students. "Virginia Administrative Code" means the codified publication of regulations under the provisions of Chapter 15 (§ [30-145](#) et seq.) of Title 30.

"Commission" means the Virginia Code Commission.

"Guidance document" means 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, *or program rules and policies in the case of non-regulatory state agencies*, excluding agency minutes or documents that pertain only to the internal management of agencies. Nothing in this definition shall be construed or interpreted to expand the identification or release of any document otherwise protected by law.

"Non-regulatory state agency" means any authority, instrumentality, officer, board, or other unit of the government of the Commonwealth that (i) adopts and publishes program rules or guidance documents of general applicability to the staff or public to interpret or implement its programs or policies and (ii) does not have express or implied authority to issue regulations. [Note: does this definition need to include the long list of exemptions contained in the "agency" definition?]

"Registrar" means the Registrar of Regulations appointed as provided in § [2.2-4102](#).

"Rule" or "regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws.

"Virginia Register of Regulations" means the publication issued under the provisions of Article 6 (§ [2.2-4031](#) et seq.) of the Administrative Process Act (§ [2.2-4000](#) et seq.).

1973, c. 535, § 9-6.16; 1975, c. 502; 1982, c. 489; 1984, c. 5; 1985, cc. 67, 602; 1993, c. 669; 1997, cc. [11](#), [87](#); 2001, c. [844](#).

§ 2.2-4103. Agencies to file regulations with Registrar; *Non-regulatory state agencies to file guidance documents with Registrar*; other duties; failure to file.

It shall be the duty of every agency to have on file with the Registrar the full text of all of its currently operative regulations, together with the dates of adoption, revision, publication, or amendment thereof and such additional information requested by the Commission or the Registrar for the purpose of publishing the Virginia Register of Regulations and the Virginia Administrative Code. Thereafter, coincidentally with the issuance thereof, each agency shall from day to day so file, date, and supplement all new regulations and amendments, repeals, or additions to its previously filed regulations. The filed regulations shall (i) indicate the laws they implement or carry out, (ii) designate any prior regulations repealed, modified, or supplemented, (iii) state any special effective or terminal dates, and (iv) be accompanied by a statement or certification, either in original or electronic form, that the regulations are full, true, and correctly dated. No regulation or amendment or repeal thereof shall be effective until filed with the Registrar.

Orders condemning or closing any shellfish, finfish or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ [28.2-803](#) et seq.) of Chapter 8, of Title 28.2, which are exempt from the requirements of the Administrative Process Act (§ [2.2-4000](#) et seq.) as provided in subsection B of § [2.2-4002](#), shall be effective on the date specified by the promulgating agency. Such orders shall continue to be filed with the Registrar either before or after their effective dates in order to satisfy the need for public availability of information respecting the regulations of state agencies.

An order setting a date of closure for the Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to § [28.2-1000.2](#), which is exempt from the requirements of the Administrative Process Act as provided by subsection A of § [2.2-4002](#), shall be effective on the date specified. Such orders shall be filed with the Registrar for prompt publication.

In addition, each agency shall itself (i) maintain a complete list of all of its currently operative regulations for public consultation, (ii) make available to public inspection a complete file of the full texts of all such regulations, and (iii) allow public copying thereof or make copies available either without charge, at cost, or on payment of a reasonable fee. Each agency shall also maintain as a public record a complete file of its regulations that have been superseded on and after June 1, 1975.

It shall be the duty of every agency *and every non-regulatory state agency* to annually file with the Registrar for publication in the Virginia Register of Regulations a list of any guidance documents upon which the agency *or non-regulatory state agency* currently relies. The filing shall be made on or before January 1 of each year in a format to be developed by the Registrar.

Each agency and non-regulatory state agency shall also (i) maintain a complete list of all of its currently operative guidance documents and make such list available for public inspection, (ii) make available for public inspection the full texts of all such guidance documents to the extent such inspection is permitted by law, and (iii) upon request, make copies of such lists or guidance documents available without charge, at cost, or on payment of a reasonable fee.

Nothing in this section is intended to nor shall it confer or impose any regulatory authority upon non-regulatory state agencies, nor shall this section be interpreted to create any rights to appeal or challenge the rules, guidance documents or policies adopted by non-regulatory state agencies.

Where regulations adopt textual matter by reference to publications other than the Federal Register or Code of Federal Regulations, the agency shall (i) file with the Registrar copies of the referenced publications, (ii) state on the face of or as notations to regulations making such adoptions by reference the places where copies of the referred publications may be procured, and (iii) make copies of such referred publications available for public inspection and copying along with its other regulations.

Unless he finds that there are special circumstances requiring otherwise, the Governor, in addition to the exercise of his authority to see that the laws are faithfully executed, may, until compliance with this chapter is achieved, withhold the payment of compensation or expenses of any officer or employee of any agency in whole or part whenever the Commission certifies to him that the agency has failed to comply with this section or this chapter in stated respects, to respond promptly to the requests of the Registrar, or to comply with the regulations of the Commission.

1973, c. 535, § 9-6.18; 1975, c. 502; 1982, c. 489; 1989, c. 299; 1997, cc. [11](#), [87](#); 2001, c. [844](#); 2007, c. [41](#); 2010, cc. [178](#), [407](#), [728](#).