

APA Exemptions Specifically Noted in Virginia Code (Category “A”)

2.2-1502(B) The regulations shall (i) provide for the content and scope of preplanning justifications and preplanning studies, including the definition of the terms "capital outlay project"; (ii) require consideration of locally available fuels, including wood wastes, for use in new and replacement central heating plants in any proposed or existing public buildings or other facilities; and (iii) shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.). **2001 Va. Acts ch. 844.** (DPB regulations requiring a preplanning justification or a preplanning study, or both, for all capital outlay projects)

2.2-2706(3) Adopt regulations for the use and visitation to the Memorial, which regulations shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.). **2001 Va. Acts ch. 844.** (Virginia War Memorial Foundation)

2.2-4321.1(G) Any action of the Department of Taxation, the Department of General Services, or of any state agency under this section shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.). **2003 Va. Acts ch. 994.** (Virginia Public Procurement Act)

2.2-5101(D) The preparation of the guidelines shall be exempt from the requirements of Article 2 (§ [2.2-4006](#) et seq.) of the Administrative Process Act (§ [2.2-4000](#) et seq.). **2001 Va. Acts ch. 844.** (Virginia Investment Partnership Act)

2.2-5102.1(D) The preparation of the guidelines shall be exempt from the requirements of Article 2 (§ [2.2-4006](#) et seq.) of the Administrative Process Act (§ [2.2-4000](#) et seq.). **2005 Va. Acts ch. 431.** (Virginia Investment Partnership Act)

3.1-188.23 The Board is authorized to quarantine this Commonwealth or any portion thereof when they determine that such action is necessary to prevent or retard the spread of a pest into, within or from this Commonwealth. Before a quarantine is adopted, the Board shall, after due public notice, hold a public hearing in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.), at which hearing any interested party may appear and be heard either in person or by attorney. Notwithstanding the provisions of § [2.2-4002](#) or any other law to the contrary, the Commissioner may impose a temporary quarantine for a period not to exceed ninety days. **1975 Va. Acts ch. 29; 1980 Va. Acts ch. 291.** (Temporary quarantines pursuant to the interstate Pest Control Compact)

3.1-398(C) The provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) shall not apply to the adoption of any regulation pursuant to subsection B if the Board of Health adopts the same edition of the Food Code, or the same portions thereof, pursuant to subsection C of § [35.1-14](#) and the regulations adopted by the Board and the Board of Health have the same effective date. **2003 Va. Acts ch. 695.** (Adoption of the U.S.F.D.A.'s Food Code)

3.1-530.1(C) Neither the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. . . . (D) Notwithstanding the provisions of subsections B and C, any permits that may be issued or regulations that may be promulgated for the sale or

manufacture of cheese from milk from any species not required to be permitted or regulated in intrastate commerce prior to July 1, 2001 under this article, shall be in accordance with the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) if such regulations or permits apply to persons who manufacture less than 1,000 pounds of such cheese annually. **2001 Va. Acts ch. 523.** (Milk marketing regulations).

3.1-634.1(A) The Board may adopt and enforce rules governing the conduct of special elections and voting therein. Such rules shall be exempt from Article 2 (§ [2.2-4007](#) et seq.) of the Administrative Process Act. **1999 Va. Acts ch. 793.** (State Apple Board elections)

3.1-741.6(A) The Commissioner may adopt regulations to prevent and control avian influenza in the live-bird marketing system and is authorized to participate in the federal Live Bird Marketing Program of the United States Department of Agriculture, as it may be amended from time to time. In adopting such regulations, the Commissioner shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.) and from public participation guidelines adopted pursuant thereto. **2006 Va. Acts ch. 442.**

3.1-796.93:3 Actions of the Department relating to the establishment, operation, and maintenance of the Commonwealth of Virginia Dangerous Dog Registry under this section shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.). **2006 Va. Acts ch. 837.**

8.01-216.18(G) Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under this article shall be exempt from disclosure under the Virginia Administrative Process Act (§ [2.2-4000](#) et seq.). **2002 Va. Acts ch. 842.** (Fraud Against Taxpayers Act)

22.1-202(B) These guidelines shall not be subject to the requirements of the Administrative Process Act (§ [2.2-4000](#) et seq.). However, to provide appropriate opportunity for involvement by the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing such guidelines. **1996 Va. Acts ch. 122.** (“constitutional rights and restrictions relating to the recitation of the pledge of allegiance ... in public schools”)

23-50.16:34 The provisions of Chapter 29 (§ [2.2-2900](#) et seq.) of Title 2.2, Chapter 32 (§ [2.2-3200](#) et seq.) of Title 2.2, Chapter 40 (§ [2.2-4000](#) et seq.) of Title 2.2, and Chapter 43 (§ [2.2-4300](#) et seq.) of Title 2.2 shall not apply to the Authority in the exercise of any power conferred under this chapter. **1996 Va. Acts ch. 905.** (VCU Health System Authority)

28.2-1207(C) The Commission shall, in conjunction with affected state and federal agencies, develop an expedited process for issuing general permits for activities that are intended to improve water quality such as bioengineered streambank projects and livestock stream crossings, and for activities required during emergencies in which a determination has been made that there is a threat to public or private property, or to the health and safety of the public. The development of the general permit shall be exempt from Article 2 (§ [2.2-4007](#) et seq.) of the Administrative Process Act. **1997 Va. Acts ch. 845.**

32.1-102.11(B) The Commissioner's determination shall be made in accordance with the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.), except that parties to the case shall include only those parties specified in § [32.1-102.6](#). **1992 Va. Acts ch. 612.** (COPN)

32.1-248 If the Commissioner determines that the threat to public health and welfare has abated in whole or in part, the State Health Commissioner may modify or revoke any such regulation or order in a manner that lessens the restrictions placed upon fishing, boating, swimming, or other usage. Such modification or revocation by the Commissioner shall not be subject to the requirements of the Administrative Process Act but shall be filed with the Registrar of Regulations in accordance with § [2.2-4103](#). The Board shall review such modification or revocation at its next regularly scheduled meeting after such action by the Commissioner and shall affirm, reverse, or modify the Commissioner's action. Review by the Board shall also be exempt from the provisions of the Administrative Process Act. **1979 Va. Acts. Ch. 711; 1981 Va. Acts ch. 144.** (Revoking orders that close waters to swimming, etc.)

32.1-283.1(A) The operating procedures for the review of child deaths shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.) pursuant to subdivision 17 of subsection B of § [2.2-4002](#). **1995 Va. Acts ch. 499.** (investigations by Chief Medical Examiner et al.)

35.1-14(E) The provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) shall not apply to the adoption of any regulation pursuant to subsection C if the Board of Agriculture and Consumer Services adopts the same edition of the Food Code, or the same portions thereof, pursuant to subsection B of § [3.1-398](#) and the regulations adopted by the Board and the Board of Agriculture and Consumer Services have the same effective date. **2004 Va. Acts ch. 802 (original subsection E exemption language enacted at 2003 Va. Acts ch. 695).** (U.S.F.D.A. Food Code)

38.2-1867(H) Actions of the Board shall be exempt from the application of the Administrative Process Act (§ [2.2-4000](#) et seq.). **1996 Va. Acts ch. 159 (originally subsection E).** (insurance continuing education)

38.2-5902(A) The Commissioner or his designee, based upon such recommendation, shall issue a written ruling affirming, modifying or reversing the final adverse decision within 10 working days after his receipt of the recommendation of the impartial review entity; however, if the regular process for the issuance of such written ruling will delay the rendering of treatment for a patient whose condition would be terminal without the treatment, the Commissioner or his designee shall issue his written ruling affirming, modifying, or reversing the final adverse decision no later than one business day following the receipt of such recommendation. Such written ruling shall not be construed as a final finding, order or judgment of the Commission, and shall be exempt from the application of the Administrative Process Act (§ [2.2-4000](#) et seq.). **1999 Va. Acts ch. 643.** (appeal by patient or health care provider of adverse decision by insurer)

44-146.40(E) The Virginia Council shall adopt rules and procedures in accordance with the provisions of the Administrative Process Act, Chapter 40 (§ [2.2-4000](#) et seq.) of Title 2.2 for the conduct of its business. [*Note: Might otherwise be considered exempt under 2.2-4006(A)(2)*] **1987 Va. Acts ch. 492.** (Virginia Emergency Response Council)

45.1-161.82(A) For the purpose of allocating the resources of the Department to be used for conducting additional inspections, the Department shall develop a procedural policy of scheduling such inspections based on an assessment, to be made not less frequently than annually, of the comparative risks at each underground and surface coal mine. The Department's procedural policy shall be prepared with the assistance of working groups consisting of persons knowledgeable in mine safety issues. The issuance of the procedural policy shall be exempt from Article 2 (§ [2.2-4006](#) et seq.) of the Administrative Process Act. **1994 Va. Acts ch. 28.**

45.1-161.292:55(A) For the purpose of allocating the resources of the Department to be used for conducting additional inspections, the Department shall develop a procedural policy of scheduling such inspections based on an assessment, to be made not less frequently than annually, of the comparative risks at each underground mineral mine and those surface mineral mines which are not inspected by the Mine Safety and Health Administration. The Department's procedural policy shall be prepared with the assistance of working groups consisting of persons knowledgeable in mine safety issues. The issuance of the procedural policy shall be exempt from Article 2 (§ [2.2-4006](#) et seq.) of the Administrative Process Act. **1997 Va. Acts ch. 390.**

54.1-104 The Department of Professional and Occupational Regulation and the Department of Health Professions may suspend the license, certificate, registration or authority it has issued any person who submits a check, money draft or similar instrument for payment of a fee required by statute or regulation which is not honored by the bank or financial institution named. The suspension shall become effective ten days following delivery by certified mail of written notice of the dishonor and the impending suspension to such person's address. Upon notification of suspension, the person may reinstate the license, certificate, registration or authority upon payment of the fee and penalties required under statute or regulation. Suspension under this provision shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.). **1988 Va. Acts ch. 765.**

54.1-2961(E) The Board of Medicine shall adopt guidelines concerning the ethical practice of physicians practicing in emergency rooms, surgeons, and interns and residents practicing in hospitals, particularly hospital emergency rooms, or other organizations operating graduate medical education programs. These guidelines shall not be construed to be or to establish standards of care or to be regulations and shall be exempt from the requirements of the Administrative Process Act (§ [2.2-4000](#) et seq.). **1998 Va. Acts ch. 614.**

54.1-3223(A) In order to maintain a current and appropriate list of therapeutic pharmaceuticals on the TPA-Formulary, current and appropriate treatment guidelines, and current and appropriate determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists, the Board may, from time to time, amend such regulations. Such regulations shall be exempt from the requirements of the Administrative Process Act (§ [2.2-4000](#) et seq.), except to any extent that they may be specifically made subject to §§ [2.2-4024](#), [2.2-4030](#), and [2.2-4031](#); the Board's regulations shall, however, comply with § [2.2-4103](#) of the Virginia Register Act (§ [2.2-4100](#) et seq.). The Board shall, however, conduct a public hearing prior to making amendments to the TPA-Formulary, the treatment guidelines or the determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists. **1996 Va. Acts ch. 152.**

54.1-3307(B) The Board's regulations to implement the criteria set forth in subsection A shall include, but shall not be limited to, the establishment and implementation of a pedigree system, as defined in subsection D. The Board shall structure the implementation of the pedigree with limited application to certain schedules or certain drugs, upon finding that such drugs are more subject to counterfeiting. In order to maintain a current and appropriate list of drugs susceptible to counterfeiting, the Board may amend such list in its regulations. Such amendments to the list shall be exempt from the requirements of Article 2 (§ [2.2-4006](#) et seq.) of the Administrative Process Act. The Board shall establish in regulation a process for amending such list that provides notice and opportunity for public comment. **2006 Va. Acts ch. 632.**

58.1-112(C) Any action of the Department under this section shall be exempt from the Administrative Process Act and the Virginia Register Act, but the Department shall preserve the reason for its action among its records. The Department shall promulgate its action in a manner that is reasonably calculated to inform the affected class of the action. **1996 Va. Acts ch. 640.** (conditions for paying taxes more often than annually; waiving filing deadlines, penalties, etc.)

58.1-339.11(D) The Tax Commissioner shall establish guidelines regarding the information to include and the format for proof of payment. Such guidelines shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.). **2006 Va. Acts ch. 570.**

58.1-439.12:01(D) Actions of the Department relating to the approval or denial of applications for reservations for tax credits pursuant to this section shall be exempt from the provisions of the Administrative Process Act pursuant (§ [2.2-4000](#) et seq.). **2004 Va. Acts (Special Sess. I) ch. 4.** (exported cigarettes)

58.1-512(D)(3)(a) No credit in the amount of \$1 million or more shall be issued with respect to a donation unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation, based on the criteria adopted by the Virginia Land Conservation Foundation for this purpose. Such criteria and subsequent amendments shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.), but the Virginia Land Conservation Foundation shall provide for adequate public participation, including adequate notice and opportunity to provide comments on the proposed criteria. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action. **2006 Va. Acts (Special Sess. I) ch. 4.**

58.1-512.1(A) Each appraisal estimating the value of any donation upon which credits are to be based shall employ proper methodology and be appropriately supported by market evidence. The Department of Taxation shall establish and make publicly available guidelines that incorporate, as applicable (without limitation), requirements under § 170(h) of the United States Internal Revenue Code of 1986, as amended, and the Uniform Standards of Professional Appraisal Practice (USPAP). The Department shall update the guidelines as necessary as determined by the Tax Commissioner. Such guidelines shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.) but the Department shall provide for adequate public participation, including adequate notice and opportunity to provide comments on the proposed guidelines. **2006 Va. Acts (Special Sess. I) ch. 4.**

58.1-1021.04:5 The Tax Commissioner shall establish guidelines and rules, including record keeping requirements, for implementation of the tax on tobacco products under Article 2.1 (§ [58.1-1021.01](#) et seq.) of Chapter 10 of Title 58.1 of the Code of Virginia. The establishment of the guidelines and rules by the Tax Commissioner shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.). **2005 Va. Acts ch. 71.**

58.1-1840.1(C) The Tax Commissioner shall establish guidelines and rules for the procedures for participation and any other rules that are deemed necessary by the Tax Commissioner. The guidelines and rules issued by the Tax Commissioner regarding the Virginia Tax Amnesty Program shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.). **2003 Va. Acts ch. 24.**

59.1-282.2(E) Actions of the Department relating to the allocation and awarding of grants shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) pursuant to subdivision B 4 of § [2.2-4002](#). **1995 Va. Acts ch. 792.** (Enterprise Zone Grants)

59.1-549(L) Actions of the Department relating to the approval or denial of applications for enterprise zone incentive grants under this chapter shall be exempt from the provisions of the Administrative Process Act pursuant to subdivision B 4 of § [2.2-4002](#). **2005 Va. Acts ch. 863 (renumbered).**

62.1-44.15:5.1(A) The Board shall coordinate the development of a general permit for activities such as bioengineered streambank stabilization projects and livestock stream crossings that: (i) are coverable by the Nationwide Permit Program (33 C.F.R. Part 330) of the United States Army Corps of Engineers and for which certification has not been waived by the Board; (ii) are conservation practices designed and supervised by a soil and water conservation district; (iii) meet the design standards of the Department of Conservation and Recreation and the United States Department of Agriculture's Natural Resource Conservation Service; and (iv) are intended to improve water quality. The development of the general permit shall be exempt from Article 2 (§ [2.2-4006](#) et seq.) of the Administrative Process Act. **1997 Va. Acts ch. 845.**

63.2-805(F) Actions of the Department relating to the review, allocation and awarding of benefits and grants shall be exempt from the provisions of Article 3 (§ [2.2-4018](#) et seq.) and Article 4 (§ [2.2-4024](#) et seq.) of Chapter 40 of the Administrative Process Act (§ [2.2-4000](#) et seq.). **2002 Va. Acts ch. 747.** (Home Energy Assistance)

63.2-2203(E) Actions of the Department relating to the review, allocation and awarding of grants shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) pursuant to subdivision B 4 of § [2.2-4002](#). Decisions of the Department shall be final and not subject to review or appeal. **2002 Va. Acts ch. 747.** (Caregivers Grants)