

Locating and Using Internet Archives for Virginia Practitioners

by Michele Gernhardt

Legal information maintained in Internet archives is an essential tool for answering common legal research questions such as:

- What was the exact language of this statute or regulation ten years ago?
- How was this regulation interpreted at the time this permit was issued?
- What was the legislature intending to accomplish by incorporating this language into the statute?
- Where can I find this government document from 1987?

Answers to many of these questions can be found on the Web by locating and accessing the appropriate Internet archives. A variety of Internet archives also are useful in the context of investigation. They can be instrumental in locating

- biographical or background information on a potential employee, party-opponent, or witness;
- information about a company that is no longer in business;
- Web content that has been removed from a Web page.

This article provides an overview of Internet archives for primary Virginia and federal law. It also highlights additional tools and tricks that can assist a search for archived Web content helpful to your practice.

Virginia Legal Internet Archives: Primary Law

Legislation

The Legislative Information System (LIS) of Virginia's Division of Legislative Services (<http://leg1.state.va.us>) provides electronic access to historic versions of the *Code of Virginia* and all

House and Senate documents from 1994 to present. The *Code*, bills and resolutions, reports to the General Assembly, and floor minutes can be browsed and searched by legislative session. The LIS also supports searches across all sessions for bills, resolutions, and summaries.

Vendor coverage of historic legislation varies. Fastcase (available through the Members Only section of the Virginia State Bar website, <http://www.vsb.org>) directs researchers to the commonwealth's LIS. Lexis's *Code* archives coverage begins with 1991, and its Advance Legislative Service coverage begins in 1989. Westlaw's *Annotated Code of Virginia* archives go back further, to 1987.

Administrative Agency Activity

Government-sponsored Internet archives are available for the *Virginia Administrative Code*, the *Virginia Register of Regulations*, and agency guidance documents. However, you'll have to visit a different archive for each document collection. *Virginia Administrative Code* archives from 1994 to the present are available through the LIS. The Virginia Code Commission provides access to archives for the *Virginia Register of Regulations* (<http://legis.state.va.us/codecomm/register/issfiles.htm>). The *Register* is fully browsable and searchable, with full text coverage beginning with Volume 14, June 22, 1998. Unless you're looking for greater search functionality, the commonwealth's resources are best.

When you're searching for guidance on how Virginia administrative agencies interpret regulations, your first stop should be Virginia Regulatory Townhall (<http://www.townhall.virginia.gov>). This website is an excellent resource for regulatory tracking and research. Applicable chapters of the *Virginia Administrative Code* or board, agency, or secretariat regulations can be browsed using this site's search engine. The guidance document archive includes documents that are more than twenty years old. Board meeting agendas and minutes from 1999 to present also are available. If you don't see what you need, try e-mailing the contact listed under the information tab for the agency or board you're researching.

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Local Government

Local government Internet archives are scarcer and vary widely from one local government to the next. A listing of Virginia municipalities is available at <http://virginia.gov> (from the home page, click Government, then Local Government Websites). Some cities, counties, and towns don't maintain a website. The Richmond City Council's Ordinance and Resolution archive (http://www.ci.richmond.va.us/citizen/city_gov/meetings/meetings_clerk.aspx#) provides access to all council papers, not just final laws. Coverage is comprehensive for recent years, and some documents are available from as early as 1993.

Federal Legal Resources

The U.S. Government Printing Office (GPO) public access website, GPO Access (<http://www.gpoaccess.gov>), offers an extensive archive of federal legislation, regulations, and legislative history. "The information provided on this site is the official, published version and the information retrieved from GPO Access can be used without restriction, unless specifically noted." <http://www.gpoaccess.gov/about/index.html> (accessed 5/8/08). All databases allow full-text searching and can be browsed by date and citation. Commercial providers are filling in some of the gaps in legislative and regulatory history coverage left by the GPO. Some providers are working to push back retrospective coverage, and others are adding more recent legislative and agency activity.

Legislation and Legislative History

GPO Access has archived all versions of the *U.S. Code* from 1994 through January 2006, as well as public and private laws, congressional bills, the *Congressional Record*, and conference reports. Congress's bill tracking system, THOMAS (<http://thomas.loc.gov>), works hand in hand with the GPO Access legislative archives. THOMAS obtains most of its electronic documents from the

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GPO, but there are some added features. Most notable is the bill summary and status page, which is available for every bill introduced since the 93rd Congress (1973).

The full text of legislation from the 101st (1989) through the current Congress is available and can be searched by a specific session or across all sessions. Searching THOMAS is often preferable to searching GPO Access, as THOMAS's searching and page and document loading is much faster. However, GPO Access offers PDFs of the actual documents, in addition to HTML and text.

A number of private vendors (e.g., Lexis, Westlaw, and Hein) collect legislative history compilations not otherwise available outside the collections of federal depository libraries. While there is overlap in coverage among vendors, the specific collections are not identical and therefore it may behoove you to check other resources if your first attempt is not successful.

Regulatory Activity

GPO Access's archives include all versions of the *Code of Federal Regulations* (CFR) from 1996 forward, as well as *Lists of Sections Affected* from 1986 to present. Its *Federal Register* coverage begins with Volume 59 (1994). If you need something older, HeinOnline (<http://heinonline.org>), a commercial database, is an online resource. Its coverage of the *Federal Register* and CFR each begins with volume one.

A growing number of federal rule-making documents are available from a single source, Regulations.gov (<http://www.regulations.gov>). The Regulations.gov archive includes docket items from nearly all federal departments and agencies. This resource was launched in 2003, so the date range of documents available is limited. Regardless, Regulations.gov is valuable. It provides instant access to not only regulations and public comments, but also to background documents, which include studies, reports, pleadings, and orders from adversarial proceedings concerning federal rule making.

Many state and federal administrative agencies have created Internet archives of news releases, guidance documents, decisions, and publications. There's far too much out there to provide even a broad overview here. Just be aware most agencies have Internet archives, some more structured and organized than others. Sometimes it's easier to track down an archived government document using Google than it is to search or browse the government archive.

Internet Archive Tools and Resources

Attorneys need more than the black letter of the law. Fact-finding and investigation is often equally important. Internet research often can be quite intimidating. It's very discouraging when your Web searches return zero results or three million results. It's difficult to sift through the incomprehensible volume of Web content to find relevant, reliable information. Fortunately, there is some order amidst the chaos.

Internet Archive

If you know the URL (Web address) for the website you want to investigate, odds are the Internet Archive (<http://www.archive.org>) will oblige. "The Internet Archive is a 501(c)(3) non-profit that was founded to build an Internet library, with the purpose of offering permanent access for researchers, historians, and scholars to historical collections that exist in digital format." <http://www.archive.org/about/about.php> (accessed May 9, 2008). This resource allows you to explore old versions of websites and browse the content. Most of the hyperlinks will take you to the content originally linked to the older version of the Web page. I use this resource regularly to search for documents and background information on companies and individuals.

Recently an attorney asked me to obtain a guidance document issued by a federal agency. A hyperlink to the document was provided in an agency press release. However, a couple months after the release, the document had been removed from the Web page. What to do? Federal Freedom of Information Act (FOIA) requests can take forever. Searching the website was ineffective. The hyperlink reference made this an ideal candidate for the Internet Archive. I entered the URL, pulled up an older version of the website, and there was the document.

On another occasion, I received a request for biographical information on an attorney. We didn't have any information concerning her current employment, and she wasn't listed in any of the standard legal directories. Eventually, I found her name referenced in a case. Unfortunately, this case was a few years old and she was no longer with the firm. But fortunately, several versions of the firm's website were available through the Internet Archive. I browsed the attorney sections of some of the earlier versions and uncovered the attorney's biography.

I also use the Internet Archive to review older versions of company websites. You can locate websites for companies that have gone out of business, as well older versions of existing company websites containing content relevant to pending litigation, such as warranties or material that may infringe on your clients' intellectual property rights.

The Internet Archive is not a panacea. The volume of Web content and content changes is far too overwhelming for any current system to find everything. Even if a website archive is available, it is possible a particular version wasn't archived before the content was changed. And then there's robots.txt. Anyone can use this simple protocol to prevent his or her website's content from being archived. It's very effective, but not

perfect, so there's always hope the gem you're looking for escaped obliteration.

Google Cache

Did you ever run a Google search, click on the link provided, and come up with a "page cannot be found" message? Or was the content completely different than the descriptive blurb Google provided? Click the "Cache" link instead of the main hyperlink, and you will be directed to the archived content. At the top of the page, Google provides the date that the Web page was cached. Unlike the Internet Archive, only the most recent cache is available. Once Google's crawlers reach the website again, the cache is replaced.

Journals

The Internet is also a great place to locate journal archives. A number of journals provide access to their archives via their websites—often for a fee, but sometimes issues free of charge. Others are available through the publisher and commercial databases.

For articles from sources other than legal journals, try the OneFile periodicals database available through Find It Virginia (<http://www.finditva.com/cgi-bin/main.cgi>). Access to Find It Virginia is provided through the Library of Virginia and local public library systems. One only needs a public library card from any one of Virginia's many public libraries. Gale's General OneFile (<http://www.gale.cengage.com/onefile>) is a comprehensive periodical resource that searches more than sixty million articles with a single query.

LegalTrac is the equivalent archive for legal periodicals. Remote access generally is not available, but one can access this database at most law school libraries and at law firm and court libraries that maintain an annual subscription. HeinOnline's law journal archive is an excellent resource for finding older law journal articles, as its coverage generally begins with volume one of each title. Hein's, Lexis's, and Westlaw's coverage is not identical, so check each resource. Avoid search charges by calling customer service or checking the database coverage before performing a search that may not be supported.

When All Else Fails ...

If you can't find something online, it's important to know where to turn. Librarians can assist by searching the library's resources, performing additional online searches, and borrowing items from other libraries. For government documents you can always try a FOIA request. If you need the documents fast, commercial services will retrieve and deliver print archives for you by fax, overnight mail, or e-mail. There are many retrieval services for medical and other nonlegal journal articles. The Canada Institute for Scientific and Technical Information (http://cisti-icist.nrc-cnrc.gc.ca/main_e.html) and the University of Minnesota's Biomedical Information Service (<http://www.bis.lib.umn.edu>) are two such services with access to extensive collections.

For primary and secondary legal resources, if you haven't been successful locating your items locally, try the Social Law Library (<http://www.sociallaw.com>). Based in Massachusetts, it offers a nationwide document delivery service. It's hard to determine what is more impressive—its turnaround time (more than 90 percent of requests completed in less than an hour) or its collection, which includes current and retrospective versions of state and federal primary and secondary legal resources.

For a list of collection highlights, see <http://www.sociallaw.com/article.htm?cid=10358> (accessed 5/9/08). ■