

# Virginia Administrative Law Research: Technology Enhancements Provide Greater Access Opportunities



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[Portions of this article are taken from Chapter 5, “Administrative Law” of the third edition of the [Guide to Legal Research in Virginia](#), which Ms. Zwirner edited. The [Guide](#) is available from the Virginia Law Foundation.]

Agency rules, regulations, decisions and interpretations, as well as opinions of the Virginia Attorney General and the executive orders of the Governor are the components of administrative law research in Virginia.<sup>1</sup> These documents are becoming more accessible electronically, and improved access now provides greater flexibility to the Virginia researcher. In some cases these sources are difficult to obtain and use in the print version, but have become more accessible recently due to the codification of regulations, the expansion of online services, and the advent of the World Wide Web. This article discusses sources for Virginia administrative law research, and examines the availability and distinctions between the print and electronic sources. Several CD-ROM products cover Virginia sources, but they are beyond the scope of this article.

Three general secondary sources for Virginia administrative law research are available only in print: (1) the *Report of the Secretary of the Commonwealth*; (2) the *Virginia Administrative*

*Law Appendix*; and (3) *Virginia Administrative Law and Practice*.

The Report of the Secretary of the Commonwealth is a biennial government report which includes the statutory authority, purpose, powers and duties, composition, term, and membership of all departments of the executive, legislative, and judicial branches of Virginia government. It also includes the governor’s executive orders. The governor’s World Wide Web site, located at <http://www.state.va.us/governor> includes executive orders from the current administration.

*The Virginia Administrative Law Appendix* is an annual publication distributed with the updates to the *Code of Virginia*. It contains listings of regulations of administrative agencies in effect, a statement of the role of the agency, and the address where the public may seek the text of the regulations. Prior to the creation of the *Virginia Administrative Code*, this was the best place for “one stop shopping” for a list of all regulations of an agency, but did require the extra step to obtain the full text.

The Virginia Law Foundation publishes a practice handbook entitled *Virginia Administrative Law and Practice*, now in its fourth edition. Chapters by practitioners cover the State Corporation Commission, the Workers’ Compensation Commission, the ABC Board, environmental agencies, the Board for Contractors, and health regulatory boards.

The Virginia Register Act requires every agency having express or implied authority to issue regulations to file with the Registrar of Regulations the full text of the current regulations as well as the dates of adoption, revision, publication, or amendment. Va. Code Ann. § 9-6.18. The agency must also provide the registrar with all repeals, amendments or additions to previously filed regulations. Until a regulation, amendment, or repeal is filed with the registrar, it cannot become effective. The two primary sources for regulations in Virginia are the *Virginia Register* (the Register) and the *Virginia Administrative Code* (VAC).

The *Register* began publication in 1985 and is issued every two weeks by the Virginia Code

Commission. It contains proposed and final regulations; emergency regulations; Governor's executive orders; state lottery regulations and director's orders; State Corporation Commission orders and regulations; the Virginia Tax Bulletin; and notices of all public meetings and public hearings of state agencies, legislative committees, and subcommittees. Currently, the print version of the *Register* is the only full-text source. The *Register* is indexed quarterly, with the final index being cumulative.

Summaries of all available regulations can be found in the regulation-tracking databases of Lexis (VA;VARGTR) and Westlaw (VA-REGTRK). Pending regulations are included. The databases are updated daily. The World Wide Web address for the *Register* is <http://legis.state.va.us/codecomm/register/regindex.htm>. Copies of the *Register* can be downloaded beginning with Volume 14, Issue 20 (June 22, 1998), but this is not a searchable site.

The *Virginia Administrative Code* was created ten years after the *Virginia Register*, thanks to a three-year lobbying effort by the Virginia Bar Association Administrative Law Section and the Virginia Association of Law Libraries. The comprehensive subject arrangement code was long overdue. Practitioners earlier had to rely on the *Register* for regulations, which did not include over 25% of the regulations that existed prior to the creation of the *Register*, or researchers had to contact the agency directly for copies, often without success. The browsability of the print version of the *VAC* is very helpful in any code source, but the availability of the code from both online legal vendors and at the Web site provide additional flexibility. Lexis's source for the *VAC* is at VA;VAADMIN and Westlaw's database identifier is VA-ADC. The World Wide Web address for the *VAC* at the Legislative Information System site is <http://leg1.state.va.us>.

A search example will illustrate the strengths and limitations of the formats of the *VAC*. If one looks for regulations regarding "educational standards for accrediting public schools," the print index of the *VAC* under "Education, State Board of" and "Accreditation," will refer you to 8 VAC 20-130-10. Although the source is in looseleaf-like binders, it is not a true looseleaf service in that the supplement pages are not interfiled as a Commerce Clearing House publication would be, for example. Savvy researchers will look for a supplement, which is quite obvious at the back of the binder. Finding the supplement is crucial because 8 VAC 20-130-10, et seq. was repealed and replaced with new sections 8 VAC 20-130-10 through 8 VAC 20-131-340. The last revision to the print index was in 1996, with no supplementation, and these new regulations were not effective until 1997.

schools"). The results included the full text of all sections clearly marked repealed and all current sections.

A search at the Web site using the terms "accrediting public schools" produced the repealed section and the new regulations. Recent improvements to the Web site provide a "next section, previous section" option, allowing more browsability. Additionally, this site now allows researchers to search by the statutory authority, previously available only in searches in Lexis or Westlaw. Although there is a tables volume in the print edition of the *VAC*, it converts only *Register* sections to *VAC* sections, and vice versa. The addition of a statutory reference table is something librarians will have to lobby for next.

Often overlooked, but valuable sources for regulatory history are legislative studies, referred to as House and Senate Documents. An index of legislative studies from 1902 to the present is available at the Legislative Information System Web site at <http://leg1.state.va.us>. For example, continuing with the school accreditation issue, House Document No. 88 in 1997 was entitled Report of the Commission on Accountability for Educational Excellence. The index is very brief, and requires a bit of patience to find these valuable reports. For this search I used the terms "education standards" to produce the report. This source of Virginia research would be most valuable if it were available electronically in full text, but currently, the index is only available.

Similarly, another source of regulatory history is the reports of the Joint Legislative Audit and Review Commission (JLARC). JLARC is charged with carrying out continuous legislative review and evaluation of the effectiveness and efficiency of state programs. The Commission reports annually on findings and recommendations to the Governor and the General Assembly concerning the improvement or elimination of state agency functions, and they are assigned House or Senate Document numbers and indexed in the list of legislative studies mentioned above. For example, five reports have already been submitted by JLARC to the General Assembly for the 2000 session, including: Alternatives to Stabilize Regional Criminal Justice Training Academy Membership (Sen. Doc. No. 7); Review of Air Medevac Services in Virginia (House Doc. No. 14); Review of Undergraduate Student Financial Aid in Virginia's Public Institutions (House Doc. No. 11); Competitive Procurement of State Printing Contracts (House Doc. No. 8); and Final Report: Review of the Health Regulatory Boards (House Doc. No. 5).

Guidance documents are also important to Virginia regulatory research. The *Virginia Code* defines these sources as "any document developed by a state agency or staff that provides informa-

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The electronic versions of the *VAC* nicely provide that information. A Lexis search using the strategy "heading (standards w/5 accrediting public schools)" produced 35 hits. The first hit outlines the sections that were repealed and the other 34 hits are the current sections recently promulgated. A Westlaw search produced 72 hits using "ca,pr(standards /s "accrediting public

tion or guidance of general applicability to the staff or public to interpret or implement statutes or the agency's rules or regulations, excluding agency minutes or documents that pertain only to the internal management of agencies." Va. Code Ann. §§ 9-6.14:4, 9-6.16. The VAPA requires annual publication in the *Virginia Register* of guidance documents lists from state agencies

covered by the VAPA. The best way to describe these documents is that they are too big to codify, but are worth including as part of the research process.

The World Wide Web sites of individual agencies will provide more information about regulations and guidance documents. A group site of links to Virginia's agencies can be found at <http://www.vipnet.org/vipnet/state-agency-index.html>.

The final category of documents for administrative law research in Virginia is agency orders and decisions. Electronic access has provided access flexibility to some agency decisions, but not all. The following are the Virginia agencies that produce decisions, orders and opinions.

State Corporation Commission. The SCC publishes the *Annual Report of the State Corporation Commission*, which may be purchased from the clerk's office. It includes the rules of practice and procedure, matters disposed of by formal orders, annual statistical reports by division within the SCC, and a name index for access to cases reported. Selected Commission orders, hearing examiner reports and rulings are available at the SCC's Web site, located at <http://www.state.va.us/scc/index.html>. Both Lexis (VA;VASEC) and Westlaw (VASEC-ADMIN) provide databases of Virginia securities administrative decisions and Virginia Public Utilities Reports (Lexis-VA;VAPUS or Westlaw-VAPUR). Current SCC corporate and limited partnership records are available on Lexis in the VA and VASOS libraries and Westlaw, in the VA-CORP library.

Workers' Compensation Commission. The Workers' Compensation Commission, formerly named the Industrial Commission, publishes hardbound volumes of *Opinions of the Workers' Compensation Commission*. The commission will distribute the opinions in disk format, and summaries of opinions are published in Virginia Lawyers Weekly or at the World Wide Web site, located at <http://www.vwc.state.va.us/>. Opinion coverage begins in 1995. Both Lexis (VA;VAWORK) and Westlaw (VAWC-ADMIN) include these decisions in their systems.

Alcoholic Beverage Control (ABC) Board. The Alcoholic Beverage Control Board decides who may and may not sell alcoholic beverages in the Commonwealth. Decisions and orders are not formally published, but are public records, and may be examined by the public during normal business hours.

Department of Taxation (DOT). The Department of Taxation administers the tax laws of the Commonwealth, collects taxes, assists local governments with state and local taxes, and advises the executive branch. Va. Code Ann. § 58.1-202. The DOT is required to publish regulations, orders of the Tax Commissioner, orders and opinions of the circuit court, other rulings or interpretations that the tax commissioner thinks may be relevant, annual tax rates of localities, assessment sales rate studies of real property in localities, and the required forms and instructions for filing of tax returns.

Court decisions, rulings, and letters from the DOT and opinions of the Attorney General on tax issues may be found in the volumes of the *State Tax Reports* for Virginia, published by Commerce Clearing House. *State Tax Reports* also contains Virginia tax bulletins, which summarize recent cases and rulings. Virginia tax bulletins are also published in the *Virginia Register of Regulations*. The state tax library on Lexis includes reported Virginia appellate decisions regarding taxation, as well as rulings (June 1994 to the present), bulletins, and regulations (1984 to the present) of the DOT. DOT decisions regarding taxation (1984 to the present) and rulings (1982 to the present) can also be found on Westlaw. The DOT's World Wide Web site at <http://www.vdot.state.va.us/> includes links to tax forms.

State Lottery Department (Board). The State Lottery Law was approved in 1987 to "produce revenue consonant with the probity of the Commonwealth and the general welfare of its people, to be used for the public purpose." Va. Code Ann. § 58.1-4001. The Director's orders are published in the *Virginia Register of Regulations*. Orders, regulations, and forms administered by Lottery are available for public inspection at their offices.

Opinions of the Attorney General. The opinions of the Attorney General are collected in the *Report of the Attorney General of Virginia*. The report contains a subject index, and an index to *Acts of the General Assembly*, sections of the *Virginia Code*, and provisions of the Virginia Constitution. Electronic sources provide some flexibility, but do not include a comprehensive collection of opinions. Lexis (VA;VAAG) has opinions from July 1980 to the present; Westlaw has opinions from 1976 to the present (VA-AG). The AG's Office World Wide Web site, located at <http://www.oag.state.va.us/> includes opinions from 1996 to the present.

## Sources for General Virginia Administrative Law Research

Description	Location
<b>Code and Register:</b>	
Virginia Administrative Code	Print: West Group Web: <a href="http://leg1.state.va.us">http://leg1.state.va.us</a> Online: Lexis (VA;VAADMIN); Westlaw (VA-ADC)
Virginia Register of Regulations	Print: Virginia Code Commission Web: <a href="http://legis.state.va.us/codecomm/Register/regindex.htm">http://legis.state.va.us/codecomm/Register/regindex.htm</a>
University of Richmond Law Review "Annual Survey of Virginia Law" (covers any changes in the Virginia Administrative Process Act and selected court cases dealing with state administrative procedure)	Print: University of Richmond Law Review Web: <a href="http://law.richmond.edu/lawreview/Default.htm">http://law.richmond.edu/lawreview/Default.htm</a>  Online: Lexis (LAWREV;URLR); Westlaw (URMDLR)
<b>Agency:</b>	
Virginia state agencies, boards, commissions, councils (group site)	Web: <a href="http://www.vipnet.org/vipnet/government/executive_agencies.html">http://www.vipnet.org/vipnet/government/executive_agencies.html</a>
Attorney General, Office of the	Print: Annual Report of the Attorney General of Virginia (The Office) Web: <a href="http://www.oag.state.va.us/">http://www.oag.state.va.us/</a> (1996-present) Online: Lexis (VA;VAAG), July 1980-present; Westlaw (VA-AG), 1976-present
<b>Judicial System:</b>	
Report of the Secretary of the Commonwealth	Print: Office of the Secretary of the Commonwealth
Virginia Administrative Law & Practice	Print: Virginia Law Foundation
Virginia Administrative Law Appendix	Print: Michie

Access to Virginia's regulations has improved dramatically in the last few years due to the creation of the *Virginia Administrative Code* in print and its electronic versions through the World Wide Web and the major online legal vendor databases. The agency decisions vary in availability, but with the advent of the World Wide Web, problems with access should diminish in the next few years. 📄

### ENDNOTES

1 The Virginia Administrative Process Act was enacted in 1975 to "supplement present and future basic laws conferring authority on agencies either to make regulations or decide cases as well as to standardize court review thereof." Va. Code Ann. § 9-6.14:3. The VAPA, which is codified as sections 9-6.14:1 to 9-6.14:25 of the Virginia Code, provides the framework within which non-exempt state agencies exercise their delegated regulatory and adjudicatory powers.



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