

Office of Regulatory Management

July 14, 2022

Current Regulatory Situation

- ▶ The Administrative Process Act (“APA”) in the Code of Virginia governs the current review process. More than 20 agencies are exempt from regulatory review through the APA by statute.
- ▶ Additionally, many non-exempt agencies have “exempt” regulations outlined in statute as well that do not receive review by the Governor or the APA process.
- ▶ Many of the exempt regulations and agencies do not post their regulatory information on Town Hall leading to transparency issues for citizens.
- ▶ Additionally, these reviews include limited cost-benefit analyses as part of the review process. While DPB can facilitate economic impact analysis, they have limited time in their review. As a result, review of a regulation’s financial impact typically fails to be fulsome.
- ▶ While the APA outlines time constraints on each phase of the regulatory review process, often these are not met, resulting in the average regulation-review taking 2-3 years.

Purpose of ORM

The Office of Regulatory Management is being created by the Governor to help the Secretariats with regulatory management and to help provide the Governor with centralized management of cross-departmental functions such as regulations, permits, and other regulatory components.

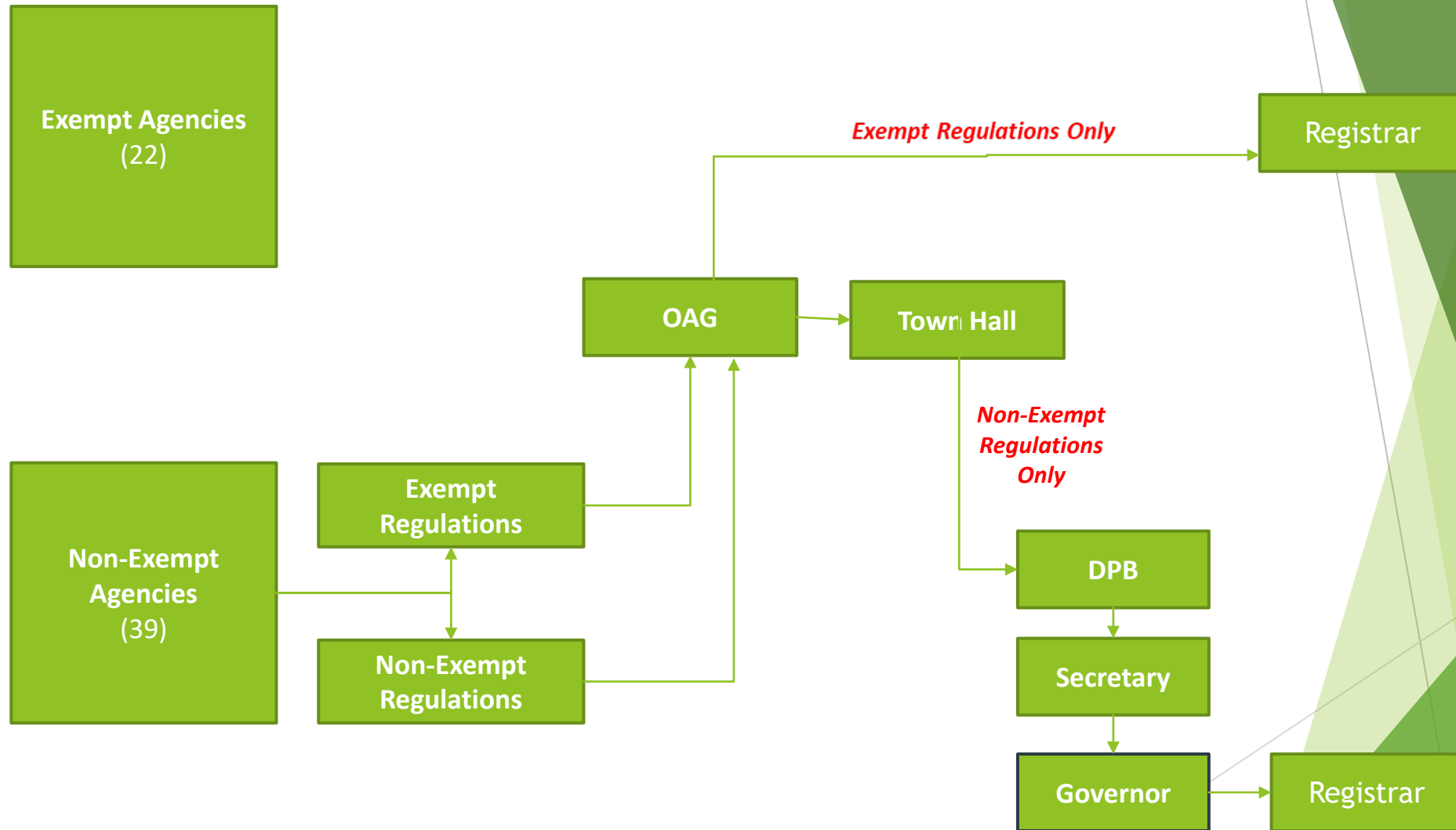
Regulatory Duties of ORM

- ▶ The Office of Regulatory Management (“ORM”) located within the Governor’s Office provides:
 - ▶ Centralized management of cross-departmental functions such as regulations, guidance documents, permits, and grants.
 - ▶ A focal point for regulatory management activities across the Executive branch.
- ▶ The Regulatory Office will expand regulatory evaluation by:
 1. Reviewing i) all exempt and nonexempt regulations, ii) all emergency regulations, iii) all expedited regulations, and iv) all notices for exempt and nonexempt regulations.
 2. Expanding the scope of regulatory review by including i) extensive cost-benefit analysis, ii) lists of regulatory requirements imposed by the regulation, iii) unfunded mandates and impositions on local governments, iv) economic impacts on families, and v) regulatory impacts on small businesses.
 3. Creating a control mechanism for the time it takes to complete regulatory review, by placing ORM within the Office of the Governor ensures that the Governor can hasten review of regulations.
 4. Introducing a new Unified Regulatory Plan by which all agencies will publish a list of all expected regulations for the upcoming year, annually. The list will ultimately be reviewed by each Secretary and the Office of Regulatory Management prior to publication and will organize upcoming review processes.
 5. Ensuring all regulations (proposed and existing) receive the Governor’s attention and review.
 6. Full transparency of all regulations on Town Hall, providing the public with one location for all exempt and non-exempt regulations.

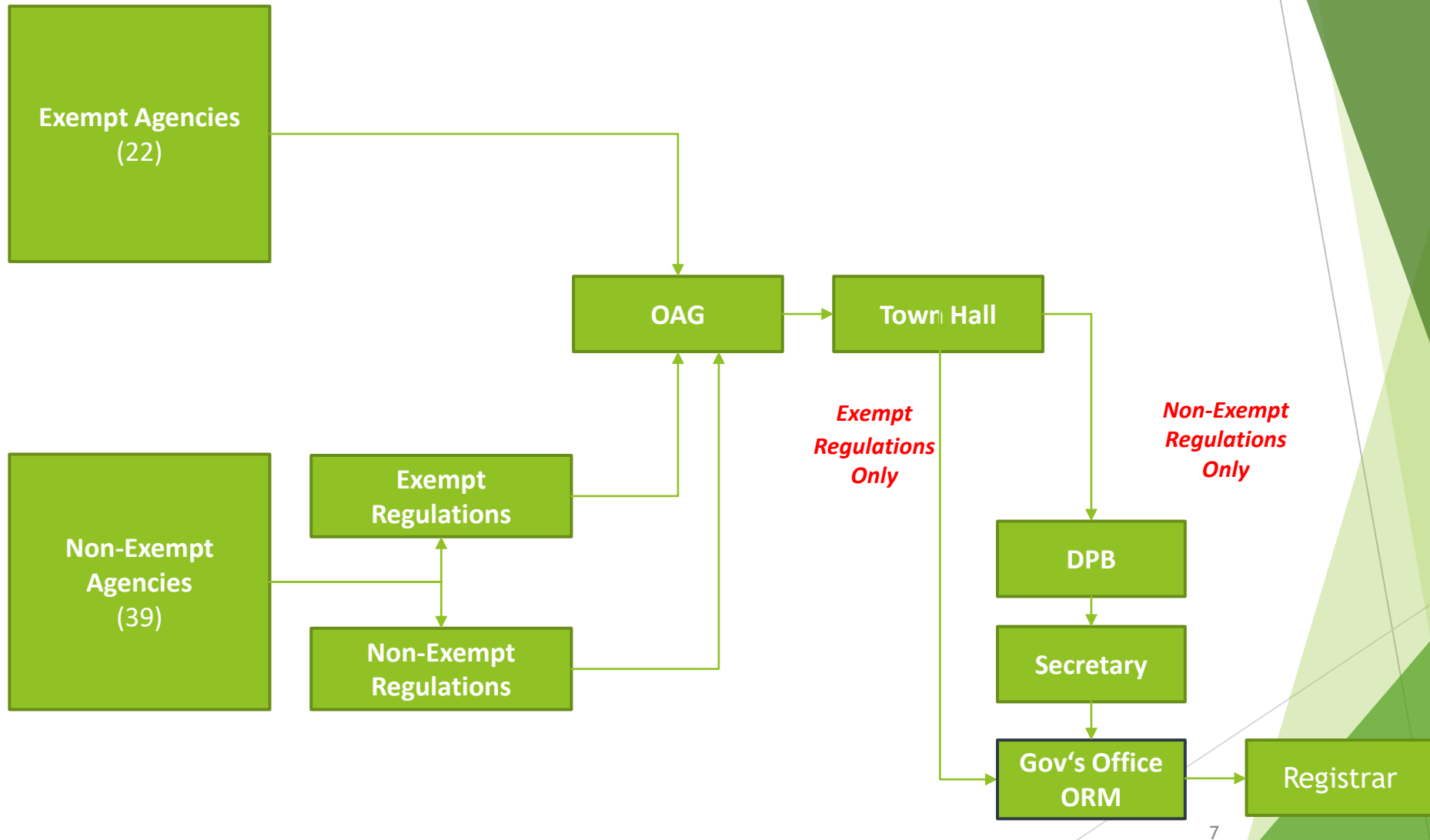
Additional Duties of the Regulatory Management Office

- ▶ Regulatory review process for existing regulations and guidance documents.
- ▶ Permit Streamlining program for efficiency and transparency.
- ▶ Oversight of Grants Distribution.
- ▶ Management Review of existing government reports.
- ▶ Oversight of Regulatory Boards.
- ▶ Coordination of all Multi-state arrangements.

Current State of Regulatory Review



New State of Regulatory Review



Exempt Agencies

Exempt Executive Branch Agencies

No.	Exempt Agencies
1	*Department Of Law (OAG)
2	Department Of Small Business And Supplier Diversity
3	Library Of Virginia (Library Board)
4	Virginia Museum Of Fine Arts
5	Marine Resources Commission
6	Department Of Emergency Management
7	Department Of Rail And Public Transportation
8	Department Of Veterans Services
9	George Mason University
10	College Of William And Mary; Richard Bland College
11	University Of Virginia
12	Virginia Commonwealth University
13	Longwood University
14	Virginia Polytechnic Institute And State University
15	James Madison University
16	Norfolk State University
17	Old Dominion University
18	Radford University
19	State Board For Community Colleges
20	University Of Mary Washington
21	Virginia Military Institute
22	Virginia State University

Exempt Non-Executive Branch Agencies

No.	Branch	Exempt Agencies
1	Legislative	Commission On The Virginia Alcohol Safety Action Program
2	Legislative	Virginia Code Commission
3	Judicial	Board Of Bar Examiners
4	Judicial	Virginia State Bar
5	Judicial	Virginia Indigent Defense Commission
6	Judicial	Judicial Inquiry And Review Commission
7	Independent	State Corporation Commission
8	Independent	Virginia Workers' Compensation Commission
9	Independent	Alcoholic Beverage Control Board
10	Independent	Virginia Lottery Board
11	Independent	Virginia Birth-Related Neurological Injury Compensation Program

- There are 22 Executive Agencies that are “Exempt” under the APA that will now be under the purview of the Office of Regulatory Management under the new Executive Order.
- *Under the APA, OAG is not exempt from Executive Branch oversight, but over the years OAG has determined that they are exempt since the AG is independently elected.
- The Executive Order will not apply to the agencies outside of the Executive Branch and have been excluded through the Applicability Section.

New Regulatory Process

Office of Regulatory Management will review:

- ▶ All Notices for Exempt and Nonexempt Regulations
- ▶ All Exempt and Nonexempt Regulations (full review)
- ▶ All Emergency Regulations
- ▶ All Expedited Regulations*

* Expedited regulations are regularly occurring regulations typically on an annual basis such as wildlife or fishing quotas

New Regulatory Process - Page 2

All steps in the regulatory process, for both exempt and non exempt regulations will be captured on DPB's Town Hall website:

Townhall.Virginia.Gov

New Regulatory Process - Page 3

For ORM full review, agencies will be required to submit the following data:

- ▶ Cost Benefit Analysis
- ▶ List of Regulatory Requirements Included in the Regulation
- ▶ Unfunded Mandates on Local Governments
- ▶ Regulatory Impact on Small Businesses
- ▶ Regulatory Impacts on families

Unified Regulatory Plan

- ▶ Each year on July 1st the Departments will publish a list of all expected regulations for the upcoming year on [Townhall.Virginia.gov](https://www.townhall.virginia.gov).
- ▶ The list will be reviewed by each Secretary and the Office of Regulatory Management prior to publication.
- ▶ In order for a regulation to be considered expedited (annually occurring regulations) they must be included on the Unified Regulatory Plan.
- ▶ For 2022, the deadline for the Unified Regulatory Plan will be October 1, 2022.

Example: Working to consolidate regulations, manuals, guidance documents, etc



Expected Outcomes

- ✓ Full Governor-office oversight of regulations promulgated by the Executive Branch.
- ✓ Provides knowledge and transparency, to the public and the Governor's Office, on all regulatory matters that impact Virginians.
- ✓ Best-in-Class regulatory framework realized through expanding the scope of matters reviewed and as well as deepening the analysis of each regulation.
- ✓ Provides visibility to the Governor's Office in unnecessary delays in review process.
- ✓ Organizes, archives, and prioritizes review of all existing and proposed regulations, and permitting processes through the Unified Regulatory Plan (modeled after the federal regulatory agenda used by Presidents to announce their priorities).
- ✓ Creates a more nuanced and thoughtful approach to regulatory reform, by shifting focus from reduction in the gross number of regulations to the number of regulatory requirements mandated by each regulation.
 - Each regulation holds multiple regulatory requirements. While some agencies have very few regulations, the constraints imposed by requirements under each regulation could be understated by focusing on gross regulation counts.
 - We will move forward with a 25% reduction in regulations, building off the bipartisan 2018 legislation, but will shift its focus to reduction on regulatory requirements, not the number of regulations.