



REGULATION THROUGH GUIDANCE

Donald Walker

HOW IT STARTS AND HOW IT GROWS

Broadly Worded Statutes

Regulations Containing Broad Language, Open-ended phrases, Ambiguous Standards, etc.

Agency Issues Guidance Documents:
Circulars, Memoranda, Bulletins, Letters , etc.

Rules and Regulations

Texas Definition – APA §2001.003(6):

Agency Statement; General Applicability; Interprets Law or Policy

Federal Definition - 5 U.S.C. §551(4):

Agency Statement; General or Particular Applicability;

Future Effect; Interprets or Prescribes Law or Policy

Rules and Regulations

The Product of Rulemaking

Has the Effect of Law

Binds the Regulated Community

Binds the Courts

Binds the Agency

(Or Does It?)

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Regulating Through Guidance

Also available as part of the eCourse

[2018 Advanced Texas Administrative Law eConference](#)

First appeared as part of the conference materials for the
13th Annual Advanced Texas Administrative Law Seminar session
"Regulating Through Guidance"