



REGULATION THROUGH GUIDANCE

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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?)

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