



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Alcoholic Beverage Control Board
VAC Chapter Number:	3 VAC 5, Chapter 10 (3 VAC 5-10-10, et seq.)
Regulation Title:	Procedural Rules for the Conduct of Hearings before the Board and its Hearing Officers and the Adoption or Amendment of Regulations (amending 3 VAC 5-10-70 and 3 VAC 5-10-240).
Action Title:	Thirty-Day Appeal Period
Date:	1/9/01

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

Enter Statement Here

The amendments will require that notices of initial decisions of the Board's hearing officers be sent to interested parties by both certified mail, return receipt requested, and regular mail. The current regulation only requires that they be mailed, and does not specify any particular manner.

The amendments will also extend the present ten-day period for appealing such decisions to thirty days.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

Enter Statement Here

On December 12, 2000, the Alcoholic Beverage Control Board adopted a final regulation amending 3 VAC 5-10-10 et seq., “Procedural Rules for the Conduct of Hearings before the Board and its Hearing Officers and the Adoption or Amendment of Regulations,” specifically amending 3 VAC 5-10-70 and 5-10-240.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

Enter Statement Here

The Alcoholic Beverage Control Board is required by §4. 1-111 of the Code of Virginia, as amended by Chapter 40 of the 1997 Acts of Assembly, to adopt a regulation requiring retail licensees to file an appeal from any hearing decision by a hearing officer within thirty days of the date the notice of the decision is sent. The section further provides that the regulation shall require that the notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

Enter Statement Here

The purpose of these amendments is to carry out the mandate of Chapter 40 of the 1997 Acts of Assembly, and to provide more notice and opportunity for appeal to parties affected by decisions of the Board's Hearing Officers. The amendments promote the public welfare by ensuring that parties to matters before the Board receive adequate notice of proceedings which affect their property rights.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

Enter Statement Here

3 VAC 5-10-70. Amendments to this section require the Board's Hearing Officers to mail their decisions to interested parties at the address on record with the Board, both by regular mail and by certified mail, return receipt requested.

3 VAC 5-10-240. Amendments to this section extend the time within which an interested party may appeal an adverse decision of a Hearing Officer from ten to thirty days.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

Enter Statement Here

The amendments will have some advantages for interested parties. Mailing by both regular and certified mail should help insure that decisions are in fact received. Interested parties who receive an adverse decision will also have the advantage of additional time within which to decide whether to pursue an appeal.

Applicants for licensure may suffer a disadvantage, in that the longer appeal period will cause an additional twenty days' delay in the issuance of a license in cases in which the Hearing Officer's initial decision is to grant the contested license.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

Enter Statement Here

The Board made no changes from the proposed version.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Enter Statement Here

The Board received no public comments during the notice of comment period other than general comments of support for the amendments at the public hearing by the Virginia Hospitality and Travel Association and the Virginia Beer Wholesalers Association.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This

statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

Enter Statement Here

3 VAC 5-10-70. Decisions. Currently subsection D requires that initial decisions of the Board’s Hearing Officers be mailed to interested parties, without specification of the manner. This section will be amended by requiring that the decisions be mailed to interested parties “at the address on record with the board by certified mail, return receipt requested, and by regular mail.”

3 VAC 5-10-240. Appeals. Currently subsection A allows an interested party 10 days to request an appeal to the Board of the initial decision of a Hearing Officer, and subsection B allows an interested party to submit written exceptions to such a decision within the same 10 day period. The amendments will change the time limitations to 30 days in each subsection.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Enter Statement Here

This regulatory action will have no impact on the institution of the family or family stability.