

**Virginia Alcoholic Beverage Control Authority**

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February 28, 2024

The Virginia Alcoholic Beverage Control Authority (“VA ABC” or “Authority”) does not concur with the Department of Planning and Budget’s (“DPB”) “economic analysis” and takes exception to various statements made in the document. Below VA ABC’s response to each section reviewed by the analyst:

Section 20: Although the analyst makes the statement that some of the Sections 20 through 110 do not appear to be duplicative, the analyst fails to discuss Section 20 in the report. Section 20 is only a list of definitions used in the regulation. Under the new draft, those words are not used and as such do not need to be defined.

Section 30: The relevant portions of Section 30 were incorporated into Section 10 in the amended draft. VA ABC took the statements made by the analyst under advisement and revised it so that individuals may submit requests electronically or via postal carrier.

Section 40: This section includes requirements for VA ABC. It does not include requirements for the public and as such does not need to be a regulation. The portion of this section that is relevant to the public (Subsection B) was incorporated into the revised Section 10.

Section 50: The analyst admits that the majority of this section is duplicative and in the Code. The quote that is cited as not being in the Code is not a requirement on the public, but a requirement for VA ABC and does not need to be a regulation. It is also a discretionary requirement since it is not required by Code. The analyst also states that the minimum public comments requirements can be inferred by statute, but are not clearly mentioned, but fails to include the fact that the agency has no control over those minimum time periods and Town Hall will not let agencies manipulate those time periods for any time less than the minimum requirements, all facts making this regulation unnecessary.

Section 60: The analyst again admits that this section is partially duplicative of the Code. The portions referenced as not duplicative include a requirement that the petition include the petitioner’s name and contact information; however, Section 2.2-4007 of the Code requires that the agency identify the petitioner which cannot be done if the petitioner does not provide his/her name and contact information. That requirement in the Code makes this regulation unnecessary. The analyst also mentions the portion of the regulation that mentions the petition shall be posted on Town Hall as not being a requirement from the Code; however, Executive Order 19 mandates all regulatory activity (including petitions) be posted on



Town all for any activity initiated after July 1, 2022. Furthermore, as with other requirements that are noted by the analyst, this is a requirement on the agency, not a requirement of the public and therefore is not necessary to be outlined in a regulation.

Section 100: The analysts admits that this regulation is “largely” duplicative of the Code. As with other requirements that are noted by the analyst, the portion cited that is not in the Code is a requirement on the agency, not a requirement of the public and therefore is not necessary to be outlined in a regulation.

Section 110: The analysts admits that this regulation is partially duplicative of the Code. As with other requirements that are noted by the analyst, the portion cited that is not in the Code is a requirement on the agency, not a requirement of the public and therefore is not necessary to be outlined in a regulation and it is also discretionary.

Estimated Benefits and Costs: VA ABC does not concur with the analyst’s estimated benefits and costs. The rationale that the analyst uses is highly speculative and fails to demonstrate what specific costs will result from removing redundant regulations or regulations that only include requirements on the agency, not the public. The analyst begins this portion by hailing a “standardized process being substantially easier for the public to participate in formation and development of regulations.” The analyst then states that “[i]f agencies used different public participation polices, it would become difficult for the public to understand the process used at agency.” By that logic alone, VA ABC’s decision to rely primarily on the “standardized process” outlined in the Code that mandates the rules for all agencies aligns with the analyst’s rationale. This analysis claims that there is an economic loss to the public by removing redundant regulations or discretionary regulations that apply only to the agency will make the public “less informed”; however, regulations should not replace Code which should always be the first place the public goes for guidance. The public will not be less informed as the language that is removed exists in the Code.

VA ABC appreciates the analysis regarding regulatory advisory panel and negotiated rule making panel (3VAC5-11-70; 3VAC5-11-80; and 3VAC5-11-90) and will add those sections back into the Chapter.

