

1. 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.
2. The emergency regulation is necessary because Chapter 380 of the 1999 Acts of Assembly requires that the Alcoholic Beverage Control Board promulgate emergency regulations to implement the provisions of Chapter 40 of the 1997 Acts of Assembly. The regulation is not exempt under the provisions of subdivision C4 of Section 9-6.14:4.1.
3. The proposed regulation will require in 3 VAC 5-10-70 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. In 3 VAC 5-10-240, the proposed regulation will extend the present ten day appeal period to thirty days.
4. Since the proposed regulation was mandated by the General Assembly, the Board has not considered whether, in its opinion, the contemplated regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function.
5. The proposed regulation is no more burdensome or intrusive on interested parties than current regulation, and gives such parties additional notice of the Board's actions and additional time to respond to them. There were no less burdensome and less intrusive alternatives identified.
6. The Alcoholic Beverage Control Board desires to promulgate a permanent regulation to replace this emergency regulation. Such action is also required by Chapter 380 of the 1999 Acts of Assembly.