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Proposed Regulation Agency Background Document

Agency name	Virginia Alcoholic Beverage Control Authority
Virginia Administrative Code (VAC) Chapter citation(s)	3VAC5-10
VAC Chapter title(s)	Procedural Rules for Conduct of Hearings Before the Board and Its Hearing Officers
Action title	Chapter 10 Reform
Date this document prepared	12/20/2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

A comprehensive review and amendment of the full chapter. The intent is to remove any redundancies or language that contradicts the Code of Virginia, modernize various processes, and make sure the regulations comport with current practices for hearings before the Board.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

NA

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The impetus for this change is to comply with the periodic review requirements of the Administrative Process Act and also to reduce regulatory requirements by 25%.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

- 1) The promulgating agency is the Virginia Alcoholic Beverage Control Authority.
- 2) Section 4.1-101 of the Code of Virginia (Code) establishes the Virginia Alcoholic Beverage Control Authority (ABC Board.)

Section 4.1-103 of the Code enumerates the powers of the Board which includes the authority to adopt regulations and to do all acts necessary or advisable to carry out the purposes of Title 4.1 of the Code (ABC Act).

Section 4.1-103(7) states the Board has the authority to adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed.

Section 4.1-103(21) permits the Board to hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

Section 4.1-103(24) permits the Board to promulgate regulations in accordance with the Administrative Process Act and Section 4.1-111.

Section 4.1-103.03(B) states the Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues.

Section 4.1-111 (A) of the Code provides the Board with the authority to adopt reasonable regulations which it deems reasonable to carry out the provisions of the ABC Act and to amend or repeal such regulations.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

This regulation is essential to protect the health, safety, and welfare of citizens because it provides guidance for administrative proceedings at VA ABC that are impactful to the regulated licensees and the communities where they operate. This regulation provides guidance for how administrative proceedings will be conducted and provides essential information necessary to interested parties about how to exercise their due process rights.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

There is one new substantive provision; Section 3VAC5-10-490. This provision gives guidance for how the Authority handles mediations.

There is one substantive change to an existing provision in Section 3VAC5-10-160. This provision is revised to include guidance for negotiations as an option for dispute resolution.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary 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, include a specific statement to that effect.

- 1) The primary advantage to the public is that these changes bring additional clarity to VA ABC's procedural rules for hearings before the Authority. It also includes information regarding mediations that is not currently included in the regulations. The regulation changes include gender neutral identifiers which is advantageous to the public as it is more inclusive. VA ABC's position is that there are not disadvantages to the public resulting from these changes.
- 2) The advantages to the Commonwealth include clarity to VA ABC's procedural rules for hearings before the Authority. VA ABC's position is that there are no disadvantages to the Commonwealth as a result of these regulatory changes.
- 3) The same advantages that are outlined for the public and the Commonwealth represent the pertinent matters of interest to the regulated community, government officials and the public.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There no requirements that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

NA

Localities Particularly Affected

NA

Other Entities Particularly Affected

NA

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources. 	<p>There are no projected costs, savings, fees, or revenues resulting from the regulatory changes for the Authority.</p>
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<i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There are no projected costs, savings, fees, or revenues resulting from the regulatory changes for other state agencies.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The benefits of the changes are they will remove any redundancies or language that contradicts the Code of Virginia, modernize various processes, and make sure the regulations comport with current practices for hearings before the Board.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees, or revenues resulting from the regulatory change.	There are no projected costs, savings, fees, or revenues resulting from the regulatory changes for localities.
Benefits the regulatory change is designed to produce.	The benefits of the changes are they will remove any redundancies or language that contradicts the Code of Virginia, modernize various processes, and make sure the regulations comport with current practices for hearings before the Board.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	These changes will impact the approximately 20,892 VA ABC licensees.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	VA ABC has approximately 20,892 licensees that would be subject to these regulation changes. VA ABC does not have the capability to determine which of its licensees meet the definition of a small business.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees;	There are no projected costs for licensees based on the revisions to these regulations.

d) purchases of equipment or services; and e) time required to comply with the requirements.	
Benefits the regulatory change is designed to produce.	The benefits of the changes are they will remove any redundancies or language that contradicts the Code of Virginia, modernize various processes, and make sure the regulations comport with current practices for hearings before the Board.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

There were no alternatives to these regulatory changes that were considered.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

There were no alternatives to these regulatory changes that were considered.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or

comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

The regulatory changes comply with EO 19 in that they reduce the number of regulatory requirements, remove redundant language, and bring clarity to VA ABC internal hearing processes.

The regulation is still very much needed as VA ABC regularly engages in administrative hearings for administrative violations, objections to applications, and franchise matters. The regulation is not complex and changes were made to make the language more accessible and comprehensive. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated in 2019.

The regulatory changes do not have an economic impact on small businesses. There are no requirements in these regulatory changes that will result in a cost to licensees.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency's response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response

No comments were received during the previous stage.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Virginia Alcoholic Beverage Control Authority is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to LaTonya Hucks-Watkins, Senior Legal Counsel, 7450 Freight Way, Mechanicsville, VA 23116, 804-213-4698(o), 804-213-4574(f), latonya.hucks-watkins@virginiaabc.com. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
3VAC5-10-10		<p>Currently states interested parties may appear in administrative proceedings.</p> <p>Explains the hearing may continue without the appearance of the interested party.</p>	<ul style="list-style-type: none"> • Changed “hearing officer” to “administrative law judge” • Changed “board” to “Authority” • Added provision allowing hearings to be conducted virtually. <p>The intent and rationale was to update the language with current terminology and provide notice that a hearing may be held virtually. There should be no or minimal impact resulting from these revisions.</p>
3VAC5-10-20		<p>Currently states oral and written argument may be submitted.</p>	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-30		<p>Currently states interested party may be represented by an attorney</p>	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-40		<p>Currently directs communications be sent to the Chief Hearing Officer</p>	<ul style="list-style-type: none"> • Changes “hearing officer” to “administrative law judge”. • Revises the name of the department to Hearings, Appeals, and Judicial Services. • Directs interested parties to send communications to the chief clerk

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>and not the chief administrative law judge.</p> <p>The intent and rationale is that communications should come to the chief clerk and the chief clerk will direct the communication to the appropriate judge that is hearing the matter that is the subject of the communication.</p> <p>This should result in no impact resulting from this change.</p>
3VAC5-10-50		Currently directs third parties to direct complaints to the Director of the Bureau of Law Enforcement	<ul style="list-style-type: none"> • No changes in requirements • Changes “director” to “Chief” • Changes “hearing officer” to “administrative law judge”. <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-60		Currently states motions to continue shall be granted as actions in law.	<ul style="list-style-type: none"> • No changes in requirements • Changes “hearing officer” to “administrative law judge”. • Revises the name of the department to Hearings, Appeals, and Judicial Services. <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-70		Currently provides clarification as to how initial decisions are disseminated.	<ul style="list-style-type: none"> • No changes in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” • Corrected the typo “bases” to “basis”. • The intent and rationale was to update the language with current terminology.
3VAC5-10-80		Currently explains how cases are placed on the docket.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-90		Currently provides guidance as to who may submit evidence in a matter; conduct cross-examinations; the handling cumulative evidence; the handling of	<ul style="list-style-type: none"> • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” • Changes “representatives” to interested parties to ensure that parties to actions meet the definition of interested parties.

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
		subpoenas, the stenographic report, and stipulations.	<p>Only interested parties can cross-examine witnesses.</p> <p>The intent and rationale was to update the language with current terminology. Additionally, the intent of the changes is to prevent the unauthorized practice of law. Parties that have relied on other entities that are not interested parties to appear at hearings will be impacted.</p>
3VAC5-10-100		Currently includes information regarding where a hearing shall be held and the hearing officer's authority to uphold order and decorum in a proceeding.	<ul style="list-style-type: none"> • Changes "hearing officer" to "administrative law judge". • Changes "board" to "Authority" • Includes language authorizing virtual or telephonic hearings. <p>The intent and rationale was to update the language with current terminology. Additionally, the intent of the changes are to authorize virtual and telephonic hearings. The impact should be minimal and highly beneficial to licensees in that it provides more options for hearings.</p>
3VAC5-10-110		Currently outlines the hearing officers' authority in presiding over administrative hearings.	<ul style="list-style-type: none"> • Changed "hearing officer" to "administrative law judge" (universal change). • Changed "board" to "Authority" (universal change). • Added Subsections (B)(11) and (12) to give ALJs the authority to conduct mediation between parties and to require the designation of a single representative from an interested group. <p>The impact should be minimal and beneficial to the regulated community. It provides for the mediation option which parties often find less adversarial than a hearing, and it makes hearings more efficient in that it allows for large groups of individuals to be represented by one interested party.</p>
3VAC5-10-120		Currently defines interested parties.	<ul style="list-style-type: none"> • Changes "hearing officer" to "administrative law judge" • Includes a definition of permittee.

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>The impact should be minimal. There are no requirements changes and the changes provide a definition of permittee that had not previously been included in this regulation.</p>
3VAC5-10-130		Currently provides guidance on motions practice before the Board.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes the division name to Hearings, Appeals, and Judicial Services. <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-150		Currently provides guidance to the consent settlement process	<ul style="list-style-type: none"> • No change in requirements • Changes “board” to “Authority” <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-160		Currently provides guidance for Offers in Compromise	<ul style="list-style-type: none"> • Changes “hearing officer” to “administrative law judge”. • Includes guidance regarding the negotiation process. • Extends the period for an offer in compromise; removed restrictive language regarding when an offer in compromise may be accepted. <p>The intent and rationale was to update the language with current terminology. The new section should have no impact as it outlines a process that has been utilized since 2018.</p>
3VAC5-10-170		Currently provides clarification as to what constitutes the record and how parties may request a copy of the record.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-180		Currently outlines the process for requesting a rehearing.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-190		Currently provides guidance regarding self-incrimination.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”.

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<ul style="list-style-type: none"> • Changes “board” to “Authority” The intent and rationale was to update the language with current terminology.
3VAC5-10-200		Currently provides guidance on subpoenas.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” The intent and rationale was to update the language with current terminology.
3VAC5-10-210		Currently provides guidance for witnesses in administrative hearings.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” The intent and rationale was to update the language with current terminology.
3VAC5-10-220		Currently provides guidance for how pre-hearing conferences are conducted.	<ul style="list-style-type: none"> • No change in requirements • Changes “board” to “Authority” • The intent and rationale was to update the language with current terminology.
3VAC5-10-230		Currently provides guidance as to who can represent the Authority.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” • Changes “director” to “Chief” of the Bureau of Law Enforcement. The intent and rationale was to update the language with current terminology.
3VAC5-10-240		Currently provides guidance for how appeals are handled at the Authority.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” The intent and rationale was to update the language with current terminology.
3VAC5-10-250		Currently provides guidance as to interested parties being represented by attorneys in appeals.	<ul style="list-style-type: none"> • No change in requirements • Changes “board” to “Authority” • The intent and rationale was to update the language with current terminology.
3VAC5-10-260		Currently provides guidance as to who to address communication to regarding appeals.	<ul style="list-style-type: none"> • Revises the name of the department to Hearings, Appeals, and Judicial Services. • Directs interested parties to send communications to the chief clerk

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			<p>and not the chief administrative law judge.</p> <p>The intent and rationale is that communications should come to the chief clerk and the chief clerk will direct the communication to the appropriate judge that is hearing the matter that is the subject of the communication. This should result in no impact resulting from this change.</p>
3VAC5-10-270		Currently provides guidance for requesting a continuance for an appeal.	<ul style="list-style-type: none"> • Changes “Secretary to the Board” to “Chief Clerk of Hearings, Appeals, and Judicial Services. There should not be any impact on the regulated individuals. There is no longer a “secretary to the Board” position at VA ABC.
3VAC5-10-280		Currently provides guidance regarding the dissemination of final appeals’ decisions.	<ul style="list-style-type: none"> • No change in requirements • Changes “board” to “Authority” <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-290		Currently provides guidance regarding if and how the board may receive evidence during appeals	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-300		Currently provides address for where appeals hearings will be held.	<ul style="list-style-type: none"> • No change in requirements • Changes “board” to “Authority” <p>The intent and rationale was to update the language with current terminology.</p>
3VAC5-10-310		Currently provides guidance regarding motions and requests in appeals hearings.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” • Directs interested parties to submit motions and requests to the Chief Clerk of the Hearings and Appeals Division. <p>The intent and rationale was to update the language with current terminology. The impact is minimal in that the interested party has to change the name of the recipient for these documents.</p>

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
3VAC5-10-320		Currently provides guidance regarding the notice of hearing.	<ul style="list-style-type: none"> • No change in requirements • Removes gender specific pronoun. The intent and rationale was to update the language to use gender neutral identifiers.
3VAC5-10-330		Currently provides guidance regarding the appeals record.	<ul style="list-style-type: none"> • No change in requirements • Changes “board” to “Authority” • Changes “Secretary to the Board” to “Chief Clerk of Hearings, Appeals, and Judicial Services. There should not be any impact on the regulated individuals. There is no longer a “Secretary to the Board” position at VA ABC. The intent and rationale was to update the language with current terminology.
3VAC5-10-340		Currently provides guidance regarding rehearings and reconsiderations in appeals	<ul style="list-style-type: none"> • Repealed because the Authority does not have processes for these proceedings. There should not be an impact because these have not been proceedings anyone has taken advantage of in years.
3VAC5-10-350		Currently provides information that the scope of an appeals hearing will be limited to the record.	<ul style="list-style-type: none"> • No change in requirements • Changes “board” to “Authority” The intent and rationale was to update the language with current terminology.
3VAC5-10-360		Currently directs complaints regarding the Wine and Beer Franchise Act be submitted to Secretary of the Board	<ul style="list-style-type: none"> • No change in requirements • Changes “Secretary to the Board” to “Chief Clerk of Hearings, Appeals, and Judicial Services. The intent and rationale was to update the language with current terminology. There should not be any impact on the regulated individuals. There is no longer a “Secretary to the Board” position at VA ABC.
3VAC5-10-370		Currently provides guidance regarding franchise hearings.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” The intent and rationale was to update the language with current terminology.
3VAC5-10-380		Currently provides guidance for appeals of franchise hearings.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority”

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
			The intent and rationale was to update the language with current terminology.
3VAC5-10-390		Currently provides guidance regarding hearings on price increases.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” The intent and rationale was to update the language with current terminology.
3VAC5-10-400		Currently provides guidance on discovery in administrative hearings.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” The intent and rationale was to update the language with current terminology.
3VAC5-410		Currently provides guidance as to when a hearing may be held telephonically.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” The intent and rationale was to update the language with current terminology.
3VAC5-10-420		Currently provides guidance as to who may appear in a telephonic hearing.	<ul style="list-style-type: none"> • No change in requirements • Changes “board” to “Authority” • The intent and rationale was to update the language with current terminology.
3VAC5-10-430		Currently provides guidance regarding submission of arguments.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. The intent and rationale was to update the language with current terminology.
3VAC5-10-440		Currently provides guidance regarding the submission of evidence.	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. The intent and rationale was to update the language with current terminology.
3VAC5-10-450		Currently provides guidance regarding telephonic hearings	<ul style="list-style-type: none"> • No change in requirements • Changes “hearing officer” to “administrative law judge”. • Changes “board” to “Authority” • Updates the central office location. The intent and rationale was to update the language with current terminology.

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
	3VAC5-10-490		<p>New regulation that includes guidance as to how to initiate mediation.</p> <p>The intent is to let interested parties know the process for meditation.</p> <p>Those who request to participate in mediation will be impacted by this new regulation, but it is beneficial to them because it provides a less adversarial approach to resolving administrative matters.</p>

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage