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# COMMONWEALTH of VIRGINIA

Office of the Governor

Richmond 23219

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## EXECUTIVE POLICY MEMORANDUM 1-82

### THE REVIEW OF EXISTING AND THE DRAFTING OF FUTURE VIRGINIA GOVERNMENT REGULATIONS

By virtue of the authority vested in me by Chapter 5, Title 2.1, Section 2.1-41.1, Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish and publish state policy governing the review of existing and the drafting of proposed Virginia state government regulations.

While recognizing that the state government has an affirmative and inescapable duty to enforce regulations that protect the public health, safety and welfare, it is the policy of the Commonwealth of Virginia to conduct required regulatory activities in a manner that intrudes to the least possible extent into the legitimate functions of private enterprise and individual citizens. It is also the policy of the Commonwealth to strive to draft, adopt and enforce regulations that do not unnecessarily burden the activities of private businesses and citizens.

### DRAFTING OF PROPOSED REGULATIONS

Because administrative regulations are an important instrument of government control, it is vital that such regulations, both in form and substance, reflect a consistent and rational regulatory philosophy. Rational regulatory policy requires that administrative regulations be subject to evaluation when drafted and prior to issuance.

Therefore, for all new regulations drafted for proposed issuance, consistent with the Administrative Process Act, and with the Virginia Register Act and the regulations adopted pursuant to that Act by the Virginia Code Commission, all state agencies in the Executive Department under the authority of the Governor have the following responsibilities:

Each agency will:

- A. draft proposed regulations in concise, simple, and clear language in order to achieve legislative goals effectively and efficiently. Excessively technical terminology will be avoided.
- B. provide with each proposed regulation:
  1. a short preamble that explains in nontechnical terms the purpose of the proposed regulation, what it requires, and who is subject to its terms;



2. a statement of the estimated cost of the proposed regulation to the private businesses and individual citizens who are to be regulated as well as the cost to administer such proposed regulations;
  3. a description of any forms, reports or other procedural requirements mandated by the proposed regulation and an explanation of the need for such forms, reports or requirements;
  4. a statement of the statutory or Executive authority under which the proposed regulation is developed, with cross references to other related laws and regulations;
  5. a concise and understandable example illustrating the operation of the proposed regulation, when appropriate; and
  6. the name, title, address, and telephone number of a responsible official who can answer questions about the proposed regulation.
- C. prepare an analysis of the proposed regulation and submit it to the Governor with a copy of the proposed regulation, prior to inviting interested persons to submit data, views, evidence or argument concerning the proposed regulation or 30 days prior to finally adopting the proposed regulation, whichever comes first. The analysis will include:
1. the legal authority that permits or requires the issuance of the proposed regulation;
  2. an assurance that the proposed regulation is consistent with existing federal and state statutes, regulations and judicial decisions;
  3. a statement of why the proposed regulation is needed;
  4. a discussion of alternative approaches that were considered to meet the need the proposed regulation addresses;
  5. an assurance that the proposed regulation is the least burdensome alternative available to meet the need the proposed regulation addresses;
  6. an explanation of the steps taken to minimize new reporting and accounting obligations imposed by the proposed regulation; and
  7. a discussion of the plan which has been developed to evaluate the effectiveness of the proposed regulation after its implementation.



## REVIEW OF EXISTING REGULATIONS

Rational regulatory policy also requires that administrative regulations be subject to periodic reevaluation once they are in effect. The purpose of such a reevaluation is to compare the stated intent of a regulation with its accomplishments in order to determine whether circumstances and/or legal authority justify continued enforcement of the regulation.

Therefore, state agencies operating under the authority of the Governor, and designated by him, have the following responsibilities:

Each designated agency will:

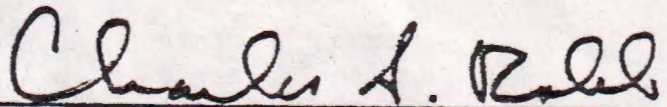
- A. prepare within 60 days of designation by the Governor a work plan for review of all existing regulations issued under its authority. The work plan will describe with particularity the means by which existing agency regulations will be reviewed to determine their clarity; simplicity; consistency with state and federal regulations; efficacy; and legal justification. This work plan will also include particular discussion of how the agency will address, for each existing regulation:
  1. the continued need for the existing regulation;
  2. the length of time elapsed since the last evaluation of the existing regulation;
  3. the degree to which factors and circumstances have changed which justified the initial issuance of the existing regulation;
  4. a summary of the comments, suggestions and complaints that have been received since adoption of the existing regulation; and
  5. a summary of the economic and social effects that have resulted from enforcement of the existing regulation.
- B. submit all work plans for the evaluation of existing regulations to the Governor;
- C. upon approval of the work plan, conduct evaluations of existing regulations in accordance with the timetable set forth in the work plan; and



- D. provide each evaluation of an existing regulation to the Governor upon completion and with a recommendation for elimination, alteration and simplification, or continuance of the regulation.

The Secretary of Administration and Finance is responsible for the issuance of directives necessary to effect the policies set forth herein.

This Executive Policy Memorandum is effective October 4, 1982 and shall continue unless rescinded or amended.

  
Governor