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# COMMONWEALTH of VIRGINIA

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## Secretary of Administration and Finance Directive No. 4-82

Subject: Procedures for Implementing Executive Policy Memorandum 1-82  
Relating to the Review of New Regulations.

Purpose: This directive provides guidance for agency performance in carrying out the policies in Executive Policy Memorandum 1-82 relating to the review and drafting of future Virginia state government regulations. A separate directive will be issued in November providing guidance on the review of existing 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.

Applicability: This directive applies to all proposed new or revised regulations proposed for issuance by all state agencies in the Executive Department except for those regulations which are presently pending the public hearing stage or have reached the stage of being filed with the Registrar of Regulations, Virginia Code Commission pursuant to §9-6.18, Code of Virginia, as of the effective date of this directive.

Exceptions: These procedures do not apply to proposed regulations to be issued to address an emergency condition. In the event of an emergency, the affected agency shall notify the responsible Secretary of the nature of the emergency, the regulations required to address the emergency and request a waiver from the procedures.



Effective Date: October 4, 1982

Process and Procedures:

I. Agency Responsibility

- A. Each agency will draft proposed regulations in concise, simple, and clear language in order to achieve legislative goals effectively and efficiently. Excessively technical terminology will be avoided. Each agency will provide with each proposed regulation a briefing paper to include:
  - 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.
- B. Each agency proposing a regulation will prepare an analysis to accompany the draft regulation for review. The analysis shall be prepared prior to inviting interested persons to submit data, views, evidence or argument concerning the regulation, or at least 30 days prior to finally adopting the proposed



regulation, whichever comes first. The analysis must include the following elements:

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 and the potential consequences that may result in the absence of regulation;
  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 plan to evaluate the effectiveness of the proposed regulation after its implementation.
- C. Each agency proposing a regulation will submit three copies of a review package to the responsible Secretary for action. The review package must include the following:
1. a completed Regulation Review Summary (Initial Submission) [see Appendix A];
  2. a copy of the agency's briefing paper and the analysis of the proposed regulation;
  3. a copy of the draft proposed new or revised regulation; and
  4. copies of any forms required by the proposed regulation.
- D. If requested by the Governor, the affected agency will appear before the Governor's Regulatory Reform Advisory Board to



present the proposed regulation and provide information to the Board for its deliberations.

- E. Upon receipt of the Governor's review of a proposed regulation, the affected agency will proceed with the remaining stages required for adoption of the regulation, unless the Governor has provided comments that raise issues which require resolution. In this instance, the affected agency will resubmit, within 10 days, three copies of a modified review package to the Secretary for action. The modified review package will consist of:
  - 1. a completed Regulation Review Summary (Modified Submission); and
  - 2. a narrative statement explaining the agency's response to the issues requiring resolution.

## II. Secretarial Responsibility

- A. Each Secretary will be responsible for reviewing, within 21 days of receipt, an initial submission of a proposed regulation submitted by an agency subject to the Secretary's jurisdiction.
- B. The Secretary's review will focus on:
  - 1. the need for the regulation;
  - 2. the justification for the alternative chosen by the agency to address the need identified; and
  - 3. whether or not the proposal is consistent with state government policy.
- C. If, in the Secretary's judgement, additional information or consultation with the agency is required and additional time for review is necessary, the Secretary will so inform the agency.
- D. The Secretary will provide recommendations to the Governor for action. The Secretary's package will include:
  - 1. a copy of the Regulation Review Summary signed by the Secretary;



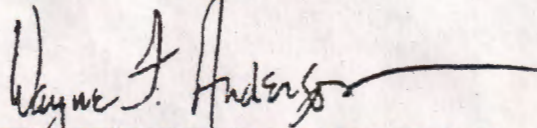
2. a copy of the agency's briefing paper and the analysis of the proposed regulation;
  3. a copy of the regulation and any forms required by the proposed regulation; and
  4. any additional information received by the Secretary which in his/her judgement the Governor would require.
- E. Upon receipt of the Governor's action on a proposed regulation, the Secretary will provide the affected agency with the executed Regulation Review Summary and any modifications suggested.
- F. Upon receipt of a Modified Submission package, including the agency's response to modifications suggested by the Governor and/or the Secretary, the Secretary, within 14 days of receipt, will convene a meeting of representatives of the agency to discuss the issues prior to forwarding a recommendation to the Governor for action. Subsequent to the meeting, the Secretary will forward a recommendation package to the Governor. The recommendation package will include the Regulation Review Summary signed by the Secretary, and a narrative summarizing the discussion and the rationale for the recommendation provided.
- G. Upon notification by an agency of an emergency condition requiring the issuance of emergency regulations, the Secretary will determine if a waiver to this directive is warranted and will notify the Governor of the action taken.

### III. Governor's Responsibility

- A. The Governor will review the proposed regulation and recommendations for action within 14 days of receipt.
- B. The Governor may request the Governor's Regulatory Reform Advisory Board to review the proposed regulation and provide recommendations for action.
- C. The Governor may request the affected agency to appear before the Governor's Regulatory Reform Advisory Board to present the proposed regulation and provide information to the Board for its deliberations.



- D. Upon completion of the review, the Governor will provide the responsible Secretary with the executed Regulation Review Summary and comments, if any, for final action.



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Wayne F. Anderson

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**Distribution:**

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