

Commonwealth of Virginia		
Christopher Nolen, Chair <hr/> Elizabeth Palen, Commission Director		General Assembly Building 910 Capitol Street, Second Floor Richmond, Virginia 23219 (Phone) 804-786-3591 (Fax) 804-692-0625 EPalen@leg.state.va.us http://legis.state.va.us/codecomm/alac/alac.htm
Administrative Law Advisory Committee		

**APA Exemptions Work Group Summary
 April 10, 2008; 12 PM
 House Room 2, The Capitol
 Richmond, Virginia**

- 1. Call to Order**-John Paul Jones; Work group chair
- 2. Members present were:** John Paul Jones (Chair), Chris Nolen (Ex officio member), Eric Page, Katya Herndon, Phyllis Errico, Angela Bowser, Roger Chaffe, Elizabeth Palen (staff) and Patrick Regan (staff).
- 3. Tasks Assigned to the Work Group**
 - a. Look to changes made in the Code of Virginia where agencies were exempted from the Administrative Process Act and see if they correspond to the APA.
 - b. Look at Emergency rulemaking, specifically to see if there has been abuse.
- 4. Exemptions to the APA**
 - a. Only one example in the past four years, found in 2006, relating to the removal of switches from car batteries, where exemption not noted in the Acts of Assembly.
 - b. There was no corresponding amendment to the APA.
 - c. The above may be an anomaly, excluding enactment clause provisions.
 - d. Is there a search engine which can go beyond four years of Acts of the Assembly?
 - e. A search of the budget bill may be the next step.
 - f. The work group will need to confirm that the Code had been searched as well as the Acts of Assembly.
 - g. If the work group is satisfied with the searches that have been conducted then a draft recommendation can be prepared at the next meeting.
- 5. Emergency Rulemaking**
 - a. Look to handouts which compare emergency rulemaking in other states.
 - b. Should collect a sample of emergency regulations found in the Code and sort through them to see if there are any examples of abuse or overuse.
 - c. There has been no litigation in Virginia claiming that emergency regulations have been abused.
- 6. Conclusions**
 - a. Confirm that the Code was searched sufficiently and prepare a brief report for the Code Commission.
 - b. Compile emergency regulations for review.
 - c. Thanks to Gail Zwirner and Clay Burns for all of their help in preparing this research.

Christopher Nolen (chair)
 Angela P. Bowser
 Cindy Berndt
 Roger L. Chaffe

Jane Chaffin
 James P. Guy, II
 Katya Herndon
 John Paul Jones

Phyllis A. Errico
 Martin Kent
 Eric M. Page
 Alexander F. Skirpan, Jr.

7. Meeting Adjourned at 12:41 pm.

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