



Virginia
Regulatory
Town Hall

Periodic Review and Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Department of Agriculture and Consumer Services
VAC Chapter Number:	2 VAC 5-420
Regulation Title:	Rules and Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law
Action Title:	Amend
Date:	September 5, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

This regulation establishes the following mandates relating to the sales and distribution of gasoline and other motor fuels in this state: (1) specifies minimum standards for motor fuel quality; (2) requires gasoline and other motor fuels have specific pump labeling; (3) specifies methods of sampling and testing; (4) requires the registration of all retail motor fuels; and (5) specifies means of compliance and methods of enforcement.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The regulation is authorized by §59.1-156 of the Code of Virginia (1950), as amended. While the wording of this section appears to be discretionary, the section does authorize the Board of Agriculture and Consumer Services to promulgate such regulations as may be necessary to give the full intent and meaning of this chapter. Hence, §59.1-153 of the Code of Virginia mandates (shall) the Commissioner to follow the specifications for inspection and testing of that motor fuel or for the lubricating oil established by the American Society for Testing and Materials. In order for the agency to properly carry out this mandate, regulations to adopt said specifications are deemed necessary in order to give the full intent and meaning of the Virginia Motor Fuels and Lubricating Oils Law.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.

The agency received no public comment on this regulation as the result of the Notice of Periodic Review published in *The Virginia Register of Regulations* on June 18, 2001, to provide notice of opportunity to comment on this regulation pursuant to Executive Order Number Twenty-five (98). No informal advisory group was formed for the purposes of assisting in the periodic review

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The specific and measurable goals of this regulations are (1) to protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth; (2) to assure that all gasoline and other motor fuels sold in Virginia meets minimum quality standards; and (3) to assure that all distributors of motor fuels are properly

registered in order to establish responsible parties in the instance where substandard products are detected.

This regulation is effective in achieving these goals through the monitoring of industry compliance to ensure (1) that motor fuel products regulated under the Virginia Motor Fuels and Lubricating Oils Law are properly formulated and labeled accordingly; (2) the manufacturer's intended use for a specific motor fuel is not jeopardized while in the distribution channel or upon offering for sale, (3) the distribution for use of a motor fuel is in accordance with the manufacturer's specifications within the region of the state where the fuel is being offered for sale; and (4) that regional restrictions placed on certain motor fuels for the enhancement of the safety and health of humans and environmental quality are not violated.

This regulations is clearly written and easily understood by individuals and entities affected.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

One alternative considered by the agency was the adoption of model regulations. The National Institute of Standards and Technology (NIST) has suggested model regulations for the enforcement of motor fuel quality standards in all states. The NIST Handbook 130, Uniform Engine Fuels, Petroleum Products, and Automotive Lubricants Regulation, specifies a large range of fuel specifications. However, it is the agency's opinion that specific state regulations will be less burdensome to industry than the suggested NIST model. The regulation serves to clarify provisions within the Code of Virginia and provides guidance to individuals affected. Due to the nature of the state mandate for this regulation, an alternative measure does not exist.

Recommendation

Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.

It is the agency's recommendation that this regulation be amended. However, since the amendments would be extensive, it is recommended that the existing regulation be repealed and a new regulation adopted concurrently.

Substance of Proposed Action

Please detail any changes that would be implemented.

Proposed amendments/additions to the regulation would:

Amend the definitions and general provisions to address changes in the marketplace and technology now in use in the petroleum industry.

Amend the specifications for gasoline and diesel fuel to update all product specifications and testing methods of the American Society of Testing and Materials. The necessary sections to establish minimum standards for all gasoline and diesel fuel sold in the Commonwealth would also be added.

Delete the labeling requirements, handling of condemned gasoline and diesel fuels requirements, and the requirement to publish information filed in connection with registration and results of tests of official samples to comply with the 1992 amendments to the Motor Fuels and Lubricating Oils Law (Title 59.1, Chapter 12 of the Code of Virginia). These requirements are outdated and no longer needed.

Amend the registration requirements of gasoline and diesel fuel to comply with the 1992 amendments to the Motor Fuels and Lubricating Oils Law.

The notation for documents incorporated by reference will be updated to reflect all documents incorporated by the aforementioned actions.

Family Impact Statement

Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Unless otherwise discussed in this report, this regulation has no impact upon families.