



Final Regulation Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-420
Regulation title	Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law
Action title	Repeal regulation
Date this document prepared	April 6, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

This regulatory action seeks to repeal 2 VAC 5 - 420, *Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law*. The regulation prescribes certain requirements for the enforcement of the Virginia Motor Fuels and Lubricating Oils Law, Title 59.1, Chapter 12 of the Code of Virginia (Code), including specifications for the inspection and testing of motor fuels. The 2009 session of the Virginia General Assembly amended the Motor Fuels and Lubricating Oils Law (HB 2446) by incorporating by reference certain national inspection and testing specifications for motor fuels. Given that the essential elements of the regulation have now been incorporated by reference into the Virginia Motor Fuels and Lubricating Oils Law, the regulation is no longer needed and can be repealed.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.

At the March 24, 2011 meeting of the Board of Agriculture and Consumer Services, the Board authorized the repeal of 2 VAC 5 - 420, *Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law*.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 59.1-156 of the Code authorizes the Board of Agriculture and Consumer Services to adopt regulations for the efficient enforcement of the Virginia Motor Fuels and Lubricating Oils Law. This authority is discretionary.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The 2009 session of the Virginia General Assembly amended the Motor Fuels and Lubricating Oils Law by incorporating by reference the inspection and testing specifications adopted by the National Conference on Weights and Measures and published by NIST (National Institute of Standards and Technology) in Handbook 130, "*Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality*."

The incorporation by reference of national specifications will help ensure the uninterrupted flow and availability of motor fuels throughout Virginia, will facilitate the introduction to market of new motor fuels such as biodiesel, and will ensure that specifications and methods of testing of motor fuels in Virginia remain current and conform continually to corresponding national standards. Thus, the regulation is no longer needed and can be repealed.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

This action seeks to repeal 2 VAC 5 - 420, *Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law*, because the essential elements of the regulation have been incorporated into the Virginia Motor Fuels and Lubricating Oils Law and the regulation is no longer needed.

Issues

Please identify the issues associated with the proposed regulatory action, 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, please indicate.

The repeal of the regulation will benefit the public because the incorporation by reference of national specifications will help ensure the uninterrupted flow and availability of motor fuels throughout Virginia, will facilitate the introduction to market of new motor fuels such as biodiesel, and will ensure that specifications and methods of testing of motor fuels in Virginia remain current and conform continually to corresponding national standards. This regulatory action poses no disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
NA			

This proposed action seeks to repeal the regulation. No changes were made following the publication of the proposal to repeal.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
NA		

The agency received only one public comment which was not germane to the proposed action.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
NA	NA	NA	NA

Not applicable. The regulation is being repealed in its entirety.

Regulatory flexibility analysis

Please 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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

The only alternative to the repeal of the regulation would be to retain it. The repeal of the regulation will have no impact on small business.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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.

The repeal of this regulation will have no impact on the institution of the family or on family stability.