



Virginia  
Regulatory  
Town Hall

## Periodic Review and Retention of Existing Regulations Agency Background Document

<b>Agency Name:</b>	Virginia Department of Transportation (Commonwealth Transportation Board)
<b>VAC Chapter Number:</b>	24 VAC 30-220-10 et seq.
<b>Regulation Title:</b>	Virginia Alternative Fuels Revolving Fund Regulations
<b>Action Title:</b>	Review and Retain
<b>Date:</b>	January 11, 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 retain an existing regulation.

### 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 was established to administer the Virginia Alternative Fuels Revolving Fund, which was established by the General Assembly in 1992, in response to concerns over air quality and overdependence on gasoline and diesel fuel in the Commonwealth. Municipal and county governments, as well as other entities of the Commonwealth, were eligible to apply for grants or loans to convert public vehicles to alternative fuel use (generally compressed natural gas or electric type). The General Assembly chose not to fund the program after FY 1998 (presumably due to a decrease in perceived need for the Fund), but retained the underlying statute.

The Office of the Attorney General has determined that this regulation is exempt from the APA under the exemption granted by § 9-6.14:4.1 B (4).

## 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.*

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§ 33.1-223.3 *et seq.* (Article 16) of the *Code of Virginia* establishes the Virginia Alternative Fuels Revolving Fund, and sets out how the program was to be administered, including distribution of funds, deposit requirements, and collection of money due the Fund. § 33.1-223.7 (D) directs the Commissioner to adopt regulations to administer the Fund.

The statutes allow some discretion to VDOT, within a defined framework of restrictions. For example, § 33.1-223.7 (A) sets forth the types of purposes for which applicants may use loans; § 33.1-223.7 (B) allows the Commonwealth Transportation Commissioner to determine the terms and conditions of any loan from the Fund.

The regulation addresses some items not covered explicitly in the statute, but necessary to administer the Fund. For example, it stipulates that applications for entities such as school boards, planning districts, etc., must be accompanied by a formal resolution of the appropriate governing body. Furthermore, application requirements include information on the scope of the project; schedule of work; cost savings; assessment of environmental effects; etc. These are all measures to ensure that adequate information is provided to determine the most cost-effective or environmentally beneficial recipients, and ensure that proposed projects have the support of the municipality or governing body.

## 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 formed for purposes of assisting in the periodic review.*

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VDOT received no public comment during the Notice of Periodic Review, so no response was prepared. No advisory group was formed to assist 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. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

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When funded, the program had the following goals:

1. To encourage the use of alternative fuels to improve air quality.
2. To aid Virginia’s economy.
3. To reduce dependence on imported fuels.

These goals implicitly serve the overall goal of protecting the public's health, safety, and welfare with the least possible intrusiveness to the citizens and businesses of the Commonwealth. By facilitating access of municipalities and others to non-polluting energy sources, VDOT believed that the regulation was essential to protect the public's health, safety, and welfare.

Because this regulation is tailored to specific goals related to the use of alternative fuels, there is the regulation has no direct impact on family or family stability.

As to effectiveness, most of the funding was made to areas where compliance with the Clean Air Act and related regulations and laws were a concern, such as the Northern Virginia, Richmond, and Tidewater regions. Other funds were used for research purposes into alternative fuels by Virginia Tech. To the extent that the Fund exists to help municipalities and others implement non-polluting technology, VDOT believes the regulation helped meet that goal.

The regulation includes copies of the applicable statutes, application forms to be completed and submitted for consideration for funding; and sample service agreements. VDOT believes that the regulation is clearly written and understandable by the affected parties.

**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.*

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The statute directed that regulations be adopted to administer the Fund. Therefore, there was no viable alternative to a regulation.

**Recommendation**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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VDOT recommends that this regulation be retained without change. VDOT anticipates that all program activity administered through the Fund will cease by the end of 2001. Currently, activity associated with the Fund is minimal, mostly consisting of follow-up work related to previous loans or grants.

An argument could be made for eliminating the regulation. However, the underlying statute has not been repealed, and a future General Assembly may choose to restore funding for alternative fuels use. Therefore, the most prudent course of action is to retain the regulation as written. Should it be necessary to amend the regulation in the future to accommodate restored funding, VDOT will make any changes at that time.

### Family Impact Statement

*Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.*

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This regulation has no direct effect on the family or family stability, nor does it affect any of the factors listed above.