



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Virginia Department of Social Services
VAC Chapter Number:	22 VAC 40-685
Regulation Title:	Virginia Energy Assistance Program – Home Energy Assistance Program
Action Title:	Establish Home Energy Assistance Program
Date:	October 16, 2002

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The proposed regulation will replace the emergency regulation mandated by Chapter 676, 2001 Acts of Assembly that established a Home Energy Assistance Program and created a Home Energy Assistance Fund to assist low-income Virginians in meeting their residential energy needs. The emergency regulation is effective September 1, 2002 through August 31, 2003.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Pursuant to §63.2-217 of the Code of Virginia (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+63.2-217>), the State Board of Social Services has authority to promulgate rules and regulations necessary for operation of all assistance programs. The 2001 session of the Virginia General Assembly, directed promulgation of an emergency regulation to establish the Home Energy Assistance Program (Chapter 676, 2001 Acts of Assembly). By law, the emergency regulations are effective for one year. This proposed regulation will replace the emergency regulations. The statutory authority for this program is 63.2-805.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of this regulation is to promulgate a permanent regulation to replace an emergency regulation that established the Home Energy Assistance Program and the Home Energy Assistance Fund, HB 2473, enacted by the 2001 Virginia General Assembly. This regulation is required to protect the health and welfare of low-income Virginians by encouraging the continuation of the Home Energy Assistance Program.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

The planned regulation establishes the Home Energy Assistance Program and the Home Energy Assistance Fund; authorizes the Department of Social Services to receive and disburse monies from the Fund; provides a financial resource for low-income families having difficulty meeting their home energy costs; and provides an opportunity for coordinated efforts between public

agencies, private utility service providers, and charitable and community groups seeking to assistance low-income families with their home energy needs.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 include a sentence to that effect.

The regulation establishes the Home Energy Assistance Program which adds focus to the unmet needs of households requiring energy assistance; creates additional funding mechanisms for low-income assistance; and provides new leveraging opportunities to increase funding for Virginia's Low-Income Home Energy Assistance Program (LIHEAP) grant. The public, businesses, the Department of Social Services, and the Commonwealth benefit from this regulation because it affords an opportunity to provide an energy supplement to low-income citizens which promotes healthy and safe families and reduces customer account terminations by utility companies. Energy providers may benefit by increasing their revenue through payments for services through the Fund.

The disadvantages of the program are the mandated functions for which no additional resources were provided. There is the potential for staffing issues due to increased caseload demands at local departments of social services and new administrative responsibilities at both the regional and central office levels. The program is funded solely by donations and contributions, state income tax refund check-off, or general funds appropriated by the General Assembly. At the present time, the Home Energy Assistance Program is unfunded.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

This regulation establishes a Program and creates a Fund supported solely by contributions and donations, state income tax refund check-off or general funds appropriated by the General Assembly. When funded, up to 12 percent of the funds may be used to reimburse the department's administrative expenses.

Currently, the Home Energy Assistance Program is unfunded. Until contributions to this Fund are received, there will be no fiscal impact. There may be costs to provide information about the program and to solicit contributions. These can be controlled and are partially dependent on the Department's capacity to find available funding. The Department will consider low and no cost alternatives to make the public and potential contributors aware of the Program and the Fund.

When contributions are received, local departments of social services may experience an increase in applications for energy assistance. This increase could lead to additional transaction processing costs, more time dedicated to telephone inquiries, and increased staffing needs. The state will incur additional costs for the collection, processing and distribution of funds and for data collection and reporting. Another possibility is that this additional funding will simply increase the average benefit that is available to households participating in the program. Currently, the amount of benefits that a household receives is far below the actual energy costs for the household.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

This is a new regulation. It creates a state Home Energy Assistance Fund through a new source of funding, a state income tax refund check-off, enacted by the 2002 session of the General Assembly at §58.1-346.19 of the *Code of Virginia*. The Home Energy Assistance Program is established through §63.2-805 et seq. of the *Code of Virginia*.

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

This regulatory action is required by §63.2-805 et seq. of the *Code of Virginia*.

The regulation creates a new program and Fund to collect and disburse funds pursuant to the LIHEAP guidelines. The Department elected to use the LIHEAP eligibility criteria because it would be least burdensome to the state, local departments of social services and energy vendors.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

No comments were received during the public comment period.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The Department reviewed the language of the regulation and determined that it is clearly written and easily understandable.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The Department will review the regulation at the conclusion of the third Home Energy Assistance Program year following the effective date of the regulation. The specific and measurable goals of the proposed regulation are to provide a financial resource for low-income families having difficulty in meeting their home energy costs, and to provide an opportunity for coordinated efforts between public agencies, private utility providers and charitable and community groups seeking to assist low-income families with their home energy needs.

Family Impact Statement

Please provide an 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.

The planned regulation has a positive impact on the family. It could encourage economic self-sufficiency and possibly increase disposable family income. It helps to minimize adverse financial impacts on families by assisting families with unexpected increases in home energy bills. It could prevent a no heat situation and reduce the risk of illness resulting from exposure. It supports commitment to healthy children and elderly persons by assisting with bill payment in an effort to avert negative actions by energy creditors. This regulation will not impact the authority and rights of parents, or marital commitment.