



Virginia  
Regulatory  
Town Hall

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

<b>Agency Name:</b>	Agriculture and Consumer Services
<b>VAC Chapter Number:</b>	2 VAC 5-80
<b>Regulation Title:</b>	Rules and Regulations Governing the Branding of Cattle
<b>Action Title:</b>	Retain
<b>Date:</b>	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 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.*

The regulation establishes procedures for the registration by the Virginia Department of Agriculture and Consumer Services of brands used to identify ownership of cattle in Virginia. The regulation contains specifics on the numbers, letters, and characters that may be used as a part of the brand, as well as to where on the animal's body the brand may be placed. The regulation contains the safeguard that a buyer obtain a bill of sale when purchasing already-branded cattle and authorizes his branding of the cattle, so long as the brand does not deface a previous owner's brand.

### 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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Sections 3.1-796.29 through 3.1-796.36 of Chapter 27.2 of the Code of Virginia (1950), as amended, provides that the Commissioner, with the approval of the Virginia Board of Agriculture and Consumer Services, shall have authority to promulgate such rules and regulations as are reasonably necessary to facilitate the tracing and identification of cattle and afford protection against stealing and unlawful dealing in cattle. This law indicates the requirements for the registration of brands for identification, the renewal of such registration, and the maintenance of a register of brands by the Department of Agriculture and Consumer Services, as well as penalties for altering or defacing such brands.

### 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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The agency did not receive any public comment in response to the Notice of Periodic Review that was 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 purpose of assisting 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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Specific and measurable goals:

1. The protection of the public's safety and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.
2. To establish a means of identifying and tracing cattle, and thereby afford protection against stealing of and unlawful dealing in cattle.

Effectiveness of the regulation in achieving such goals: The regulation by creating a means to permanently identify Virginia cattle has reduced the incidence of cattle theft in the Commonwealth.

The regulation governing an effective program for permanently identifying cattle through registered branding protects the Commonwealth's safety because a brand on cattle will deter the stealing of such animals and prevents the possible involvement (armed confrontation with thieves) of cattle owners trying to protect their property from theft.

The regulation also protects the public welfare by minimizing economic losses to Virginia's cattle industry due to theft of cattle and consequently ensures a low cost, plentiful milk and beef supply for consumers.

The regulation helps ensure family stability and the family institution by minimizing severe economic losses to families that derive incomes from the cattle industry and by protecting families from a potentially diminished or more costly food supply.

The regulation is clearly written and easily understandable 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.*

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Two alternatives were considered which (1) would allow the application of a brand to more than one authorized site on the animal, and (2) would allow for registration of any brand, without restriction as to the letters, numbers, and symbols that may be used, so long as the brand is not currently registered. These alternatives were rejected by the agency because such changes confused cattle owners and market operators relative to determining the validity of a Virginia registered brand because there would not be a consistent site for the placement of the brand or consistent requirement for the makeup of the brand. Consistent requirements prevent errors in determining ownership and reduces the ability to change or disfigure a brand to look like another brand in order to hide stolen cattle from being identified to the original owner.

**Recommendation**

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

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The regulation should stay in effect without change.

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