



Periodic Review / Retain Regulation Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-350
Regulation title	Rules and Regulations for the Enforcement of the Virginia Commission Merchant Law
Document preparation date	June 22, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Section 3.2-4704 of the Code of Virginia authorizes the Board of Agriculture and Consumer Services to adopt any marketing agreement approved by federal officials under the federal Agricultural Adjustment Act and similar acts of Congress.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

In the absence of these regulations, Virginia tobacco producers would have no practical recourse against a commission merchant who does not properly pay or account for tobacco handled for the producer.

Retaining the current regulation represents the least burdensome alternative for commission merchants while retaining a mechanism to assure tobacco producers that they will be paid. As such, repealing these regulations is not a viable alternative.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comments were received. An informal advisory group was not formed for the purpose of assisting this periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

These regulations protect the public's health, safety, and welfare and are clearly written and easily understandable.

Result

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

The agency recommends that these regulations stay in effect without change.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

Tobacco auction warehouses that serve as agents for tobacco farmers on the basis of a fee or commission are required to obtain a license under the Commission Merchants Law. The licensing and bonding of commission merchants and the requirements of these regulations by which commission merchants must abide provide protection to tobacco farmers by assuring prompt and accurate payment for their tobacco.

The previous periodic review of these regulations was completed on September 12, 2001. No significant changes to technology, economic conditions, or other factors have occurred that would necessitate modifications to these regulations. The agency recommends that the regulations stay in effect without change.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

These regulations have no impact on the institution of the family and family stability.