



Virginia
Regulatory
Town Hall

Periodic Review and Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Department of Agriculture and Consumer Services
VAC Chapter Number:	2 VAC 20-30
Regulation Title:	Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services under the Virginia Pesticide Control Act
Action Title:	Amend
Date:	May 10, 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 amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

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 establishes fees to be collected by the Virginia Department of Agriculture and Consumer Services for the registration of pesticide products, certification of commercial pesticide applicators and registered technicians, and the licensing of pesticide businesses.

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.

Section 3.1-249.30 of the Code of Virginia (1950), as amended, provides the legal authority of the Pesticide Control Board to establish a fee structure for licensure, registration and certification. The authority is discretionary. In addition, other sections of the statute, 3.1-249.35, 3.1-249.36, 3.1-249.47 and 3.1-249.52 C, provide the Board mandatory legal authority to promulgate regulations in support of Section 3.1-249.30. The regulation does not exceed the minimum requirements of the state mandate.

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 or will be formed for purposes of assisting in the periodic review or development of a proposal.

The Department published its notice in The Virginia Register of Regulations on February 12, 2001 advertising the opportunity to comment on this regulation pursuant to Executive Order Number Twenty-five (98). The agency did not receive any public comments concerning this regulation. An informal advisory group was not formed for the purpose of assisting with this 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. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The specific and measurable goals of the regulation are to (1) protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth; (2) register and collect the fee for each pesticide product offered for sale in the Commonwealth; (3) license and collect the fee for each commercial pesticide applicator providing services to citizens of the Commonwealth; (4) license and collect the fee for each registered technician applicator providing services to citizens of the Commonwealth; and (5) identify, license and collect the fee for each pesticide business operating in the Commonwealth.

The regulation is effective in that 11,398 pesticide products were registered in calendar year 2000, 10,285 commercial pesticide applicators and registered technicians were certified in fiscal year 99-00 and 2,096 pesticide business were licensed in calendar year 2000.

The regulation is necessary to protect the health, safety or welfare of citizens because (1) registration of pesticide products protects against improperly labeled pesticides which can lead to human health problems, including death, if application, mixing, storing and disposal instructions are ambiguous or misleading, (2) certification of pesticide applicators and registered technicians are properly trained so they may apply pesticides in a manner that will not harm the public or environment, and (3) licensing of pesticide businesses assures the business is aware of pesticides potential hazard to people and the environment. The costs for administering these programs to assure the protection of the citizens and environment are paid by the fees collected under this regulation and not supported by general fund tax dollars.

Several sections of the regulation need to be amended to ensure clarity of purpose and ease of understanding.

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.

One alternative to the existing regulation would be to not charge a fee for (1) registering pesticide products, (2) certifying pesticide applicators and registered technicians, and (3) licensing pesticide businesses. In lieu of fees, the administration of these program would require support from general fund tax dollars. This alternative was rejected because it would place a burden on all Virginia citizens by reducing the general fund tax dollars available to other programs while benefiting only those registering pesticides or applying pesticides. The existing regulation is the least burdensome alternative requiring those benefiting from these programs to wholly support the administration of these programs.

Recommendation

Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.

The agency recommends the regulation be amended to clarify the fee of \$160 for registering pesticide products removing references to earlier product registration periods.

The agency also recommends the regulation be amended to state a commercial pesticide applicator certificate and registered technician certificate are valid for two years and collecting the fees, \$70 and \$30 respectively, at the time of initial certification and certificate renewal time.

Amending the regulation to extend the certification period and collection of subsequent fees will reduce the regulatory burden on the regulated community as well as the administrative costs for the agency. The amendment would not change the cost to the regulated community.

In addition, the agency recommends the fee for adding categories to an existing commercial applicator certificate be clarified in the regulation.

Substance of Proposed Action

Please detail any changes that would be implemented.

2 VAC 20-30-20 establishes pesticide product registration fees. The agency proposes to delete the references to earlier product registration periods and fees. The current product registration fee of \$160 will be clarified.

2 VAC 20-30-30 establishes commercial applicator certificate fees and certification periods. The agency proposes to change the certification period to two years with the fee of \$70 paid biennially. In addition, the agency proposes to charge a fee of \$35 for adding a category or subcategory to an existing certificate.

2 VAC 20-30-40 establishes registered technician certificate fees and certification periods. The agency proposes to change the certification period to two years with the fee of \$30 paid biennially.

Family Impact Statement

Please provide a preliminary 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.

Unless otherwise discussed in this report, the amendments to this regulation will have no impact upon families.