



Periodic Review / Retain Regulation Agency Background Document

Agency name	Department of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-675
Regulation title	Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services
Document preparation date	December 21, 2012

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 3.2-3906(7) of the Virginia Pesticide Control Act (VPCA) authorizes the Board of Agriculture and Consumer Services (Board) to adopt regulations establishing a fee structure for any licensure, registration, or certification issued pursuant to the VPCA in order to defray the costs of its implementation.

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.

The agency determined that the repeal of this regulation is not a viable alternative. Section 3.2-3906(7) of the VPCA authorizes the Board to adopt regulations establishing a fee structure for any licensure, registration, or certification issued pursuant to the VPCA in order to defray the costs of its implementation. As such, this regulation is the appropriate mechanism for establishing the fees to obtain (i) a pesticide product registration, (ii) a commercial applicator or registered technician certification, or (iii) a pesticide business license.

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.

The agency did not receive any comments during the public comment period following the publication of the Notice of Periodic Review. The agency did not form an informal advisory group for the purpose of assisting in the 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.

This regulation establishes fees to obtain (i) a pesticide product registration, (ii) a commercial applicator or registered technician certification, or (iii) a pesticide business license. The licensure, registration, and certification requirements of the VPCA are necessary for the protection of the public health, safety, and welfare as they assist in ensuring the proper labeling of pesticide products and the proper training of individuals applying or recommending the use of pesticide products. This regulation is 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 this regulation should 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 nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) 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.

The agency has determined that this regulation continues to be necessary, as the fees established in the regulation are a significant source of the nongeneral funds that support the program that administers the VPCA. This regulation does not unduly burden small businesses. The fees established in this regulation were last increased in 1999. The agency has not received any complaints or comments that the established fees are unreasonable. This

regulation is not unnecessarily complex and is easily understood by the regulated industries. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The agency has determined that no changes in technology, economic conditions, or other factors have occurred that necessitate amending the regulation at this time.

Family impact

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

This regulation has no impact on the institution of the family and family stability.