



Periodic Review / Retain Regulation Agency Background Document

Agency name	Department of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2 VAC 5-460
Regulation title	Rules and Regulations for the Enforcement of the Virginia Petroleum Products Franchise Act
Document preparation date	March 30, 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.

The Virginia Petroleum Products Franchise Act (§ 59.1-21.8 et seq. of the Code of Virginia) ("Act") establishes certain provisions for agreements between petroleum product refiners and franchised motor fuel dealers, including a prohibition for refiners from operating a retail outlet less than 1.5 miles from a retail outlet operated by a franchise dealer.

Section 59.1-21.16:2 (D) of the Act requires the Commissioner of Agriculture and Consumer Services to adopt regulations (i) defining the circumstances under which a refiner may temporarily operate a previously dealer-operated retail outlet; (ii) providing for the rebuilding or relocation of retail outlets which were producer or refiner operated on July 1, 1979; (iii) requiring each refiner to file a list of retail outlets operated by such refiner and to keep such listing current; and (iv) requiring each franchise dealer to file a listing of any retail outlets operated by such franchise dealer, and to keep such list current.

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.

This regulation addresses the minimum mandates of §59.1-21.16:2 (D) of the Code of Virginia (1950), as amended. This regulation serves to clarify provisions within the code and provides guidance to individuals affected. Due to the nature of the state mandate for this regulation an alternative measure does not exist.

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 received no comments during the public comment period.

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.

Section § 59.1-21.9 of the Act provides that "...the distribution and sales through franchise arrangements of petroleum products in the Commonwealth of Virginia vitally affect the economy of the Commonwealth, the public interest, welfare, and transportation, and since the preservation of the rights, responsibilities, and independence of the small businesses in the Commonwealth is essential to economic vitality, it is necessary to define the relationships and responsibilities of the parties to certain agreements pertaining thereto." Accordingly, this regulation is necessary for the protection of public health, safety, and welfare and 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 remain 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.

This regulation is required by statute. It addresses the minimum mandates of § 59.1-21.16:2(D) of the Code of Virginia and does not overlap, duplicate, or conflict with federal or state law or regulation. The previous periodic review for this regulation was completed on February 15, 2000. No significant changes to technology, economic conditions, or other factors have occurred that would necessitate modifications to this regulation. Furthermore, refiners and franchised dealers can submit the required information to VDACS at no cost. VDACS recommends that this regulation 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.

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