



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	Agriculture and Consumer Services (Board of)
VAC Chapter Number:	2 VAC 5-460
Regulation Title:	Rules and Regulations for the Enforcement of the Virginia Petroleum Products Franchise Act
Action Title:	Review
Date:	February 4, 2000

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 the conditions under which a petroleum producer/refiner may temporarily operate a franchise retail petroleum outlet; rebuild or relocate retail petroleum outlets; and outlines the criteria for reporting the locations of retail petroleum outlets.

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.

This regulation is mandated by §59.1-21.16:2 (D) of the Code of Virginia (1950), as amended. This regulation mandates the establishment of criteria for circumstances under which a refiner may temporarily operate a previously dealer-operated retail outlet; criteria for rebuilding or relocating a retail outlet operated by a producer or refiner prior to July 1, 1979; requires each refiner to file a list of retail outlets operated by the refiner; and requires each franchise dealer to file a listing of retail outlets operated by the franchise dealer. The regulation as currently written meets 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 formed for purposes of assisting in the periodic review.

The Department published its notice in The Virginia Register of Regulations on November 8, 1999 advertising the opportunity to comment on this regulation pursuant to Executive Order Number Twenty-five (98). The Department received no comment from the public regarding this regulation in response to this notice. 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. 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.

The goal of this regulation is to assure that franchised petroleum product outlets are extended minimal protection of market areas from the encroachment by refiners operating petroleum product outlets. Since the agency's main role under this regulation is to serve as a records office,

the agency is not in a position to determine the level of effectiveness of the regulation in achieving its goal of protecting operators of franchised petroleum products outlets.

In the 1970's, the Organization of Petroleum Exporting Countries-OPEC, an alliance of petroleum-exporting nations, instituted an oil embargo, and as a consequence, shortages of gasoline occurred in the U. S. The state law is said to have been a reaction to the oil embargo and gasoline shortages because some feared that petroleum refiners would supply their own gas stations with gasoline, but cut-off supply to independents. This regulation limits the presence of retail petroleum outlets operated by the major petroleum refiners. This limitation is intended to assure the unimpeded supply of petroleum products to independents during periods of reduced petroleum supplies.

The regulation is clearly written and easily understood by the 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.

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. While the code is restrictive in nature, the regulation requires only that petroleum outlet operators register the location of their operation.

The agency's only role in the administration of this regulation is to serve as a records office. If Virginia's statute continues to require partial divorcement, some sort of registration process appears to be necessary to provide the petroleum industry with easily accessible information regarding the nature of ownership and operation of registered retail petroleum outlets. Due to the nature of the state mandate for this regulation an alternative measure does not exist.

Recommendation

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

It is the agency's recommendation that this regulation be retained in its current form. The continuation of this regulation will provide minimal protection of market areas for franchised petroleum product outlets from the encroachment by refiners operating petroleum product outlets.

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.

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