



Periodic Regulatory Review

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Periodic Regulatory Review—APA Requirement

- **The Administrative Process Act requires any agency that adopts regulations to periodically review those regulations, including consideration of:**
 - 1) the extent to which regulations remain supported by statutory authority/do not duplicate/overlap/conflict with state or federal law;**
 - 2) the nature of complaints/comments received from the public;**
 - 3) whether the regulations are necessary for the protection of public health, safety and welfare;**
 - 4) whether the regulations are clearly written and easily understandable;**
 - 5) whether the regulations' economic impacts on small businesses and families are minimized as much as possible; and**
 - 6) the length of time since the regulation has been evaluated.**

Periodic Regulatory Review Process Authorities

- **The Governor's Executive Order 14:**
 - specifies the process for conducting the periodic review
 - requires that the review be performed on all regulations at least once every four years.

- **Chapter 444 of the 2018 Acts of Assembly**
 - requires the Department of Planning and Budget (DPB) to track and report to the General Assembly annually which agencies are complying with the periodic review requirements.

Periodic Regulatory Review Process

- ❑ The agency posts a notice to the public on Virginia Town Hall that it is beginning a periodic review of one or more of its regulations
- ❑ The notice is published in the next edition of the Virginia Register of Regulations
- ❑ The agency collects public comment on the regulations
- ❑ Within 120 days of the end of the public comment period, the agency must report on its review, indicating one of the following:
 - That the regulation will be retained “as is”;
 - That the regulation will be amended; or
 - That the regulation will be repealed.

Summary of Periodic Regulatory Review for CTB Regulations

- ❑ **Thirty-eight Chapters to be reviewed over next three years**

- ❑ **Review Schedule:**
 - 7 Chapters due 7/30/19
 - 7 Chapters due 12/31/2019
 - 6 Chapters due 6/30/2020
 - 6 Chapters due 12/31/2020
 - 7 Chapters due 6/30/2021
 - 5 Chapters due 12/31/2021

- ❑ **Process for each review period**
 - **Workshop presentation describing regulation and proposed action for each regulation (retain, repeal, or amend)**
 - **Resolution approving action and authorizing Commissioner to take all action necessary to implement approved action**

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CTB Regulations to be Reviewed by December 31, 2019

Chapter Number	Title
24 VAC 30-41	Rules and Regulations Governing Relocation Assistance
24 VAC 30-200	Vegetation Control on State Right-of-Way
24 VAC 30-240	Certification Procedures for the Disadvantaged and Women-Owned Business Program
24 VAC 30-401	Change of Limited Access Control
24 VAC 30-530	Roadway and Structure Lighting
24 VAC 30-580	Guidelines for Considering Requests for Restricting Through Trucks on Primary and Secondary Highways
24 VAC 30-590	Policies and Procedures for Control of Residential and Non-Residential Cut-Through Traffic

Periodic Regulatory Review Rules and Regulations Governing Relocation Assistance (24 VAC 30-41)

- ❑ **Guide administration of the relocation program for persons displaced as a result of right of way acquisition in a manner that is equitable, consistent, and cost effective. Ensure effective relocation services, and provide for moving reimbursement, replacement housing payments and other cost reimbursements so that individuals displaced will not suffer disproportionate injuries as a result of VDOT's highway improvement program.**
 - **Necessary for the protection of the public; written to be understandable; no negative impact on small businesses**
 - **Last amended in 2014 (substantive)**
 - **No Public Comments received**
 - **Recommendation: Retain as is**

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Vegetation Control on State Right-of-Way (24 VAC 30-200)

- ❑ **Governs cutting of trees or other vegetation to improve sightlines, visibility of Outdoor Advertising Structures and businesses and for aesthetic purposes.**
- ❑ **Amendment recommended to make diameter of vegetation that may be cut for business visibility consistent with diameter of vegetation that may be cut for outdoor advertising structure visibility.**
- **Previously adopted by the CTB, however, enabling statute authorizes Commissioner to promulgate.**
- **Necessary for the protection of the public; written to be understandable; no negative impact on small businesses.**
- **Last substantive amendment in 2007**
- **No Public Comments received**
- **Recommendation: Amend.**

Periodic Regulatory Review Certification Procedures for the Disadvantaged and Women-Owned Business Program (24 VAC 30-240)

- ❑ Requirements to be followed by firms seeking certification as a Disadvantaged/Women-Owned Business Enterprise (DBE/WBE) as a prerequisite for bidding on contracts awarded by the CTB.
 - Not necessary for the protection of the public, because purpose now governed by Dept. of Small Business and Supplier Diversity.
 - Last amended in 2001
 - No Public Comments received
 - Recommendation: Repeal.

Periodic Regulatory Review Change in Limited Access Control (24 VAC 30-401)

- ❑ **Specifies the conditions and procedures for requesting a change in (typically, shifting, moving, or breaking) limited access for a limited access highway.**
- **Necessary for the protection of the public; written to be understandable; no negative impact on small businesses.**
- **Last amended in 2006.**
- **No Public Comments received**
- **Recommendation: Retain as is.**

Periodic Regulatory Review Roadway and Structure Lighting (24 VAC 30-530)

□ Policy and procedures concerning the responsibility of VDOT and localities in paying for roadway lighting.

- Not necessary for the protection of the public because the regulation merely references a Department Policy Memorandum that was adopted by the CTB in 1995 and constitutes CTB policy, which will remain.
- Last amended in 1995.
- No Public Comments received
- Recommendation: Repeal.

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Guidelines for Considering Requests for Restricting Through Trucks on Primary and Secondary Highways (24 VAC 30-580)

- Set forth limited instances when restricting through trucks from using a segment of a primary/secondary roadway will reduce potential conflicts, create a safer environment and one in accord with the current use of the roadway.**
- Restrictions can apply to any truck, truck and trailer or semitrailer combination, or any combination of those classifications.**
- Proposing amendment to streamline process by allowing VDOT District Administrator or Engineer to deny requests that clearly do not meet CTB's criteria.**
- **Necessary for the protection of the public; written to be understandable; no negative impact on small businesses.**
 - **Last amended in 2003.**
 - **No Public Comments received**
 - **Recommendation: Amend.**

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Policies and Procedures for Control of Residential and Non-Residential Cut-Through Traffic (24 VAC 30-590)

- ❑ Policy and procedures to be followed by VDOT in considering remedial actions necessary to address problems caused by residential cut-through traffic.
 - ❑ Have not been updated in many years (1996); propose amendments to Policy to update and streamline procedures.
 - ❑ § 46.2-809.1 provides for CTB policy/procedure and not regulations
- Filed by description
 - Policy, but not necessarily regulation, is necessary for public safety to reduce dangerous residential cut-through traffic.
 - No Public Comments received
 - Recommendation: Repeal

Periodic Regulatory Review—Next Steps

- ❑ **CTB will be presented with a resolution to approve recommended actions for the seven regulations reviewed this review period.**

- ❑ **VDOT will post results on Town Hall**

- ❑ **Next Spring VDOT will repeat the process for the next set of regulations to be reviewed by June 30, 2020: will present to CTB and seek approval for recommended actions and post results on Town Hall.**

- ❑ **In the ensuing months and years, CTB will be presented with results of scheduled reviews and requests to approve recommended actions.**