

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.**

See § 2.2-4007.1 and § 2.2-4017 of the *Code of Virginia*

Periodic Regulatory Review Process Authorities

- ❑ **Executive Order 19 – Issued June 30, 2022**
 - **Creates new Office of Regulatory Management (ORM) to, among other things, work with each regulatory agency to review all existing regulations, required once every four years, to reduce the overall regulatory burden on the public.**

- ❑ **NEW ORM Procedures**
 - **Will outline the periodic review requirements, including a new economic analysis comprised of a benefit-cost analysis, consideration of local government impact and economic impacts on families and small businesses, and the count of regulatory requirements embedded in the regulation.**

- ❑ **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 - That the regulation will be repealed.
- ❑ 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

Summary of Periodic Regulatory Review for CTB Regulations

During the past 3-year regulatory review period, **338 sections** of regulations have been reviewed by VDOT and/or the CTB.

38 Sections Repealed

VDOT – 13
CTB - 25

6 Sections Amended

VDOT – 0
CTB - 6

294 Sections Retained

VDOT – 39
CTB - 255

Of the **31 chapters** of CTB regulations reviewed, **13 chapters** have been **repealed**, leaving **only 18 chapters**

Results of 2018-2022 Periodic Reviews

REPEALED REGULATIONS		
Chapter	Title	Year
24 VAC 30-160	Setoff Debt Collection Act	2019
24 VAC 30-240	Cert. for Dis. And Women-owned Bus.	2019
24 VAC 30-530	Roadway and Structure Lighting	2019
24 VAC 30-590	Residential Cut-Through Traffic	2019
24 VAC 30-570	Inclusion of Routes in the NIQN and VAS	2020
24 VAC 30-340	Debarment or Suspension of Contr.	2020
24 VAC 30-390	Scenic Highways and Byways	2020
24 VAC 30-130	Prequal. And Classification of Bidders	2021
24 VAC 30-210	Underground Utility Policy	2021
24 VAC 30-420	Maintenance of Roads in Towns <3500	2021
24 VAC 30-271	Economic Development Access Fund	2021
24 VAC 30-430	Maintenance of Roads Crossing the Intst.	2021
24 VAC 30-451	Airport Access Fund	2021

REMAINING REGULATIONS			
Chapter	Title	Action	Year
24 VAC 30-11	Public Participation Guidelines	Amend	2019
24 VAC 30-91	Subdivision Street Requirements	Retain	2019
24 VAC 30-92	Secondary Street Acceptance Req.'s	Retain	2019
24 VAC 30-325	Urban Maintenance and Constr. Policy	Retain	2019
24 VAC 30-380	Location and Desgin of Hwy. Projects	Retain	2019
24 VAC 30-41	Relocation Assistance	Retain	2019
24 VAC 30-200	Vegetation Control on State ROW	Amend	2019
24 VAC 30-401	Change in Limited Access Control	Retain	2019
24 VAC 30-580	Restricting Through Trucks	Amend	2019
24 VAC 30-151	Land Use Permits	Retain	2020
24 VAC 30-620	Toll and Bridge Facilities	Amend	2020
24 VAC 30-61	Trans. Of Haz. Mat. Through Bridge/Tun.	Retain	2020
24 VAC 30-315	Traffic Control Devices	Retain	2020
24 VAC 30-21	General Rules and Reg.'s of the CTB	Retain	2021
24 VAC 30-50	Admin. Of Waysides and Rest Areas	Retain	2021
24 VAC 30-100	Admin. Of Parking Lots and Environs	Retain	2021
24 VAC 30-120	Outdoor Advertising and Dir. Signs	Retain	2021
24 VAC 30-551	IDSP	Retain	2021

Periodic Regulatory Review

❑ **Eighteen** Chapters to be reviewed over the next four years (2022-2025)

❑ **Review Schedule:**

- **6** Chapters due 12/16/2022*
- **5** Chapters due 12/15/2023
- **5** Chapters due 12/20/2024
- **2** Chapters due 12/19/2025

❑ ***Six Chapters to be reviewed for this periodic review (Due 12/16/2022):**

- **24 VAC 30-11** **Public Participation Guidelines**
- **24 VAC 30-41** **Rules and Regulations Governing Relocation Assistance**
- **24 VAC 30-91** **Subdivision Street Requirements**
- **24 VAC 30-92** **Secondary Street Acceptance Requirements**
- **24 VAC 30-325** **Urban Maintenance and Construction Policy**
- **24 VAC 30-380** **Public Hearings for the Location and Design of Highway Projects**

Periodic Regulatory Review Public Participation Guidelines (24 VAC 30-11)

- Section 2.2-4007.02 of the *Code of Virginia* requires each agency that promulgates regulations to adopt public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations.
- The CTB is authorized to promulgate regulations for the protection of and covering traffic on and for the use of systems of state highways pursuant to § 33.2-210.
- Originally adopted by the CTB in 2008. Amended in 2021 as a result of the CTB's previous regulatory review to conform with the Department of Planning and Budget's model public participation guidelines.
- Promotes public involvement in the development, amendment, or repeal of regulations; written to be understandable; no negative impact on local partners/families/small businesses.
- No public comment received.
- Recommendation: Retain As Is.

Periodic Regulatory Review

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

- ❑ Regulation promulgated by the CTB as authorized by § 25.1-402 of the *Code of Virginia*, which provides assurances to the FHWA that VDOT will comply with the Uniform Relocation and Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601 et seq.), as amended, and as required in 49 CFR 24.4 in order to receive federal financial assistance for highway construction projects.
- ❑ The CTB is authorized to comply fully with the provisions of federal aid acts pursuant to § 33.2-221 of the *Code of Virginia*.
- ❑ Originally adopted by the CTB in 2001. Last substantive amendments in 2014. Last periodic review in 2019.
- ❑ Protects public by providing for relocation benefits and advisory assistance to persons/entities displaced by highway construction projects, ensuring they will not suffer disproportionate injuries as a result of VDOT's highway improvement program; written to be understandable; no negative impact on local partners/families/small businesses.
- ❑ No public comment received.
- ❑ Recommendation: Retain As Is.

Periodic Regulatory Review Subdivision Street Requirements (24 VAC 30-91)

- ❑ Section 33.2-326 of the *Code of Virginia* vests in VDOT control, supervision, management, and jurisdiction over the secondary system of highways.
- ❑ Although § 33.2-705 grants authority to localities to establish highways, including subdivision streets, if the locality or private developer wishes to have VDOT assume maintenance of those streets, the design and construction must meet VDOT's standards.
- ❑ Establishes conditions which must be met before subdivision streets constructed by entities other than VDOT will be accepted into the state secondary system. Proposed developments which include roads to be accepted into the secondary system initially received by VDOT prior to July 1, 2009 may be grandfathered under these requirements.
- ❑ Requirements originally became effective in 1949. Last substantive amendments in 2005 when 24 VAC 30-91 was established to replace 24 VAC 30-90. Last periodic review in 2019.
- ❑ Protects public by ensuring access by emergency response vehicles, reducing congestion, and ensuring the safe, efficient movement of people and goods; written to be understandable; no negative impact on local partners/families/small businesses.
- ❑ One public comment received.
- ❑ Recommendation: Retain As Is.

Periodic Regulatory Review

Secondary Street Acceptance Requirements (24 VAC 30-92)

- ❑ Section 33.2-326 of the *Code of Virginia* vests in VDOT control, supervision, management, and jurisdiction over the secondary system of highways.
- ❑ VDOT is authorized by § 33.2-334 to set standards for the acceptance of streets into the secondary system of highways.
- ❑ Although § 33.2-705 grants authority to localities to establish highways, including subdivision streets, if the locality or private developer wishes to have VDOT assume maintenance of those streets, the design and construction must meet VDOT's standards.
- ❑ Offers guidance on the design and construction features of secondary street development and sets out design parameters deemed appropriate for most land development scenarios. All proposed developments which include roads to be accepted into the secondary system initially received by VDOT on/after July 1, 2009 must meet SSAR requirements.
- ❑ Originally implemented in 2009 as a result of legislation passed in 2007. Last substantive amendments in 2011. Last periodic review in 2019.
- ❑ Protects public by ensuring consistent construction, review, and acceptance of streets; written to be understandable; no negative impact on local partners/families/small businesses.
- ❑ No public comment received.
- ❑ Recommendation: Retain As Is.

Periodic Regulatory Review

Urban Maintenance and Construction Policy

(24 VAC 30-325)

- ❑ Section 33.2-319 of the *Code of Virginia* authorizes payments for maintenance, construction, or reconstruction of highways to all cities and towns eligible for funds. Such payments shall only be made if those highways functionally classified as principal and minor arterial roads were constructed to certain standards and are maintained to a standard satisfactory to VDOT.
- ❑ The CTB is authorized to promulgate regulations for the protection of and covering traffic on and for the use of systems of state highways pursuant to § 33.2-210.
- ❑ Originally implemented in 2007. No substantive amendments. Last periodic review in 2019.
- ❑ Amendments to § 33.2-358 regarding the way funds are allocated to localities and the repeal of § 33.2-362 and related statutes have made provisions of the regulation referencing the urban construction allocation obsolete.
- ❑ Protects public by setting design standards to which urban highways should be constructed and maintained; written to be understandable; no negative impact on local partners/families/small businesses.
- ❑ One public comment received.
- ❑ Recommendation: Amend.

Periodic Regulatory Review

Public Hearings for the Location and Design of Highway Projects (24 VAC 30-380)

- ❑ Promulgated by the CTB based on current Federal and State statutory and regulatory authorities as found in 23 USC 128, 23 CFR 771.111, and § 33.2-208 of the *Code of Virginia*.
- ❑ The CTB is authorized to promulgate regulations for the protection of and covering traffic on and for the use of systems of state highways pursuant to § 33.2-210.
- ❑ Policy originally adopted by the CTB in 1966, regulation established in 1993. Last substantive amendments in 2008. Last periodic review in 2019.
- ❑ Promotes public involvement in the development of highway construction projects; written to be understandable; no negative impact on local partners/families/small businesses.
- ❑ One public comment received.
- ❑ Recommendation: Retain As Is.

Periodic Regulatory Review – Next Steps

- ❑ **CTB will be presented with a resolution in October to approve recommended actions for the six CTB regulations reviewed this year.**
- ❑ **VDOT will post results on Town Hall.**
- ❑ **VDOT will develop and obtain CTB approval for proposed amendment(s) to the Chapter (24 VAC 30-325) recommended for amendment prior to a final regulatory action.**
- ❑ **In the ensuing years, CTB will be presented with results of scheduled reviews and requests to approve recommended actions.**

Questions?

