PERIODIC REGULATORY REVIEW
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

- **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  - That the regulation will be repealed.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 three years, beginning 7/30/19:
- Review Schedule:
  - 7 Chapters due 7/30/19
  - 7 Chapters due 12/31/2019
  - 3 (previously 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
Periodic Regulatory Review
Three CTB Regulations to be Reviewed by June 30, 2020

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- It is noted that members were emailed three additional regulations in March as regulations needing CTB review. However, after further statutory/historical research, it has been determined that those regulations fall under the purview of VDOT or the Commissioner of Highways and thus, do not warrant CTB review:
  - 24 VAC 30-17 Solicitation and Use of VDOT Buildings and Grounds for Nonwork Purposes
  - 24 VAC 30-73 Access Management Regulations
  - 24 VAC 30-121 Comprehensive Roadside Management Program
The CTB has general authority to make regulations “for the protection of and covering traffic on and for the use of systems of state highways” in § 33.2-210.

- Permit work activities on the right of way for construction, utility installations, entrances, events and other activities.
- Address safety issues such as proper procedures for temporarily closing travel lanes, standards for entrances and access points onto highways, affixing signs and other objects to structures in the right-of-way, and location and protection of utility lines.

- Originally adopted by the CTB in 2010. Last amended in 2018 to allow mobile food vending and to change wireless structure use fees.
- Necessary for the protection of the public; written to be understandable; no negative impact on small businesses.
- No Public Comments received
- Recommendation: Retain As Is.
Periodic Regulatory Review
Procedures for Inclusion of Routes into the Non-Interstate Qualifying Network and Virginia Access Systems (24 VAC 30-570)

- The Surface Transportation Assistance Act (STAA) of 1982 established the National Network of highways for access by over-dimensional vehicles, and allows states to designate additional networks of highways for those vehicles.
- The CTB can designate additional routes in the NIQN and VAS pursuant to 46.2-1112.
- This regulation provides the procedures to be followed in requesting additional routes be included in the NIQN and VAS.
- Current procedures are filed by reference—need not be in the form of a regulation and could appropriately be maintained as an internal directive/guidance document.

- The procedures were approved by FHWA in 1991. The regulation was adopted in 1993 upon the creation of the Administrative Procedures Act.
- The regulation has not been amended.
- No Public Comments received
- Recommendation: Repeal as regulation but maintain procedures in another form.
Periodic Regulatory Review
Rules, Regulations, and Rates Concerning Toll and Bridge Facilities
(24 VAC 30-620)

- Specify the rates for use of non-P3, VDOT-owned toll facilities. (Pursuant to 33.2-1701)
- Also specify authority and procedures for suspension of toll collection on those facilities. (Pursuant to 33.2-613)
- Procedures for suspension of tolls are outdated and should be amended.

  - Necessary for the protection of the public; written to be understandable; no negative impact on small businesses.
  - Last substantive amendment was in 2005. Since then, new VDOT-owned toll facilities have been opened and should be included in this regulation and laws have changed.
  - No Public Comments received
  - Recommendation: Amend.
Periodic Regulatory Review—Next Steps

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

- VDOT will post results on Town Hall

- Next Fall VDOT will repeat the process for the next set of regulations to be reviewed by December 31, 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.