

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

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 - That the regulation will be repealed.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

<u>Chapter Number</u>	<u>Title</u>
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24 VAC 30-151	Land Use Permit Regulations
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24 VAC 30-570	Procedures for Inclusion of Routes into the Non-Interstate Qualifying Network and Virginia Access Systems
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24 VAC 30-620	Rules, Regulations, and Rates Concerning Toll and Bridge Facilities
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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**

Periodic Regulatory Review

Land Use Permit Regulations(24 VAC 30-151)

- ❑ 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.
 - Originally adopted by the CTB in 2010. Last amended in 2018 to allow mobile food vending and to change wireless structure use fees.
- ❑ Permit work activities on the right of way for construction, utility installations, entrances, events and other activities.
 - Necessary for the protection of the public; written to be understandable; no negative impact on small businesses.
- ❑ 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.
 - 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.**

