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## Final Regulation Agency Background Document

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24 VAC 30-200
<b>VAC Chapter title(s)</b>	Vegetation Control Regulations on State Rights-of-Way
<b>Action title</b>	Chapter 200 Regulatory Reform and Periodic Review
<b>Date this document prepared</b>	April 14, 2025

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The Vegetation Control Regulations, 24VAC30-200, enable the Virginia Department of Transportation (VDOT) to permit vegetation removal, set forth the standards for which vegetation removal shall be permissible, and analyze proposed vegetation removal applications in order to mitigate any potential adverse impacts on the aesthetics and health of vegetation along state-controlled highways. The Commonwealth Transportation Board (CTB) undertook a comprehensive review of 24VAC30-200. The intent of this action is to remove redundant or obsolete language and to achieve regulatory reduction and streamlining in accordance with Governor Youngkin's Executive Order 19.

### Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

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“CTB” means the Commonwealth Transportation Board.

“DIBR” means Documents Incorporated by Reference.

“Department” or “VDOT” means the Virginia Department of Transportation.

### Statement of Final Agency Action

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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On January 16, 2024, the CTB approved amendments to 24VAC30-200, Vegetation Control Regulations on State Rights-of-Way.

### Mandate and Impetus

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.*

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There are no changes to previously reported information.

### Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

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VDOT has the authority to promulgate this regulation pursuant to § 33.2-1221(B)(3) of the Code of Virginia, which states in part, “[t]he Commissioner of Highways shall promulgate such regulations as he deems necessary or desirable to carry out the provisions of this section.” The CTB originally adopted this regulation in 1991 and amended the regulation in 1998, 2007, 2011, and 2014.

### Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

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The proposed regulatory changes are intended to remove redundant or obsolete language, add clarity, and achieve regulatory reduction and streamlining in accordance with EO 19. Several changes will add administrative updates and bring the text in line with current practice. The proposed regulatory amendments are essential to protecting public health, safety, and welfare as they advance improved maintenance of vegetation within the state highway right-of-way and ensure that regulants follow the

guidance contained within appropriate documents by incorporating them into the terms and conditions of the required land use permit which must be secured before work may be conducted in the right-of-way.

Substantive amendments include removing the Documents Incorporated by Reference (DIBR) from the regulation and allowing for cutting and pruning in front of businesses to be consistent with that for outdoor advertising signs. The CTB proposes to remove the DIBR and instead reference those documents in the terms of the land use permit secured by regulated entities. These documents include standards and specifications with which regulated entities are required to comply. This change will ensure the most relevant versions of the documents are being followed by regulated parties, more narrowly tailor requirements to the specific type of permit and associated activity, and ease burdens on permittees in determining applicability.

The CTB also proposes to amend the regulation to allow cutting and pruning in front of businesses to be consistent with that for outdoor advertising signs, by changing the limitation for cutting or pruning vegetation from vegetation with a trunk base diameter or limb diameter of 2 inches to vegetation with a trunk base diameter of less than six inches and limbs up to four inches in diameter. As a result of the periodic review conducted on this regulation in 2019, it was determined that the inconsistency between the requirements for cutting and pruning in front of businesses and outdoor advertising made enforcement inconsistent. VDOT has also determined through surveying VDOT roadside managers that the less than two inch in diameter limitation for cutting and pruning vegetation in front of businesses is too restrictive and impractical in many cases due to the rate of vegetation growth. The CTB approved amendments to resolve the inconsistency and pursued these changes via the fast-track regulatory process. In 2022, the fast-track process was abandoned due to the number of objections received. The CTB contends that the amendments to allow the consistent treatment and regulation of both outdoor advertising signs and businesses are still necessary, and those amendments are included in this proposal.

## Substance

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

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In addition to administrative updates, eliminating redundancy, adding clarifying language, and bringing the text in line with current practice, the CTB proposes to remove the DIBR from this regulation and instead include the relevant documents in the terms of the land use permit. To ensure consistent treatment and regulation of both outdoor advertising signs and businesses, application of the restriction on cutting vegetation in front of businesses will be amended from trunks two inches in diameter to trunks six inches in diameter, and application of the restriction on pruning vegetation in front of businesses will be amended from limbs two inches in diameter to limbs four inches in diameter.

Other changes include changing the definition of "Unightly" to "Undesirable" and including invasive species and trees that pose a safety threat in the definition, removing the protection for non-native flowering trees, eliminating language on creating a picture frame effect around signs, removing the requirement for the submission of 8" x 10" glossy photographs with permit applications, and eliminating "chipped and beneficially used" verbiage to discourage leaving wood chips on site.

## Issues

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

The primary benefit to both the public and the CTB and VDOT of the removal of the DIBR section is improved clarity for regulated entities, ensuring they are aware of the specific documents relevant to them by including the documents in the terms of the land use permit. This change will also ensure the most updated version of each document is clearly specified for compliance. There are no disadvantages to this proposed change, as the permit forms will be updated to correspond with this change and all permit documents are publicly available on VDOT’s website.

The inconsistency between the requirements for cutting and pruning in front of businesses and in front of outdoor advertising has made enforcement of this regulation inconsistent. VDOT has determined through surveying VDOT roadside managers that the less than two inch in diameter limitation for cutting and pruning vegetation in front of businesses is too restrictive and is impractical in many cases due to the rate of vegetation growth. The proposed amendments will relax restrictions on vegetation control in front of businesses, allowing such businesses to be more visible from highways, while maintaining the requirements for replacing cut vegetation under a landscape plan. Since replacement vegetation is required for trees that are removed, no negative impact to the environment or landscape is anticipated from these amendments.

The other proposed changes to the regulation benefit the public through removing redundant or outdated language or providing additional clarity and are not anticipated to present a disadvantage to the public or the Commonwealth.

**Requirements More Restrictive than Federal**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

There are no applicable federal requirements.

**Agencies, Localities, and Other Entities Particularly Affected**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.*

Other State Agencies Particularly Affected

No other state agencies are particularly affected by the regulatory changes.

Localities Particularly Affected

Cities or towns where the relevant public right-of-way is within the jurisdictional limits of the city or town on a highway or street not within the jurisdiction of the Commissioner of Highways are delegated authority for activities pertaining to making billboards and business locations in those localities more visible and could see an increase in applications from businesses under the proposed amendments.

Other Entities Particularly Affected

Businesses visible from highways and entities with outdoor advertising along highways for which vegetation control operations and subsequent maintenance activities are required are affected by the proposed changes.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.*

No public comment was received following the publication of the proposed stage.

Commenter	Comment	Agency response

**Detail of Changes Made Since the Previous Stage**

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

No changes have been made to the text since the previous stage was published in the Virginia Register of Regulations.

**Detail of All Changes Proposed in this Regulatory Action**

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
200-10	N/A	Section 10 defines the words and terms used in the regulation.	References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on

			<p>regulated entities to determine the applicability of specific documents.</p> <p>* The definitions of “Daylighting” and “Federal-aid primary highway” will be removed as they are no longer used in or relevant for the regulation.</p> <p>“Inspector” and “Local beautification project” will be amended to clarify and streamline the definitions.</p> <p>* “Unsightly” will be updated to “Undesirable” to clarify the qualities of a tree included in this category. Benefits of this change include the addition of invasive species and trees which pose a safety risk, which will more easily allow for these types of trees to be removed.</p>
200-20	N/A	<p>This section describes the requirements for permits; cutting, pruning, and tree removal; replacement vegetation; and violations.</p> <p>Currently, subsection B states that all cutting to make a business more visible from the roadway shall be limited to vegetation with trunk base diameters of less than two inches, and no pruning of vegetation to make a business more visible from the roadway will be permitted if the cut at the point of pruning will exceed two inches in diameter. This subsection also states, “Dogwood or other small flowering trees on the site shall not be removed.”</p> <p>Subsection C currently requires that every effort shall be made to form a picture frame when daylighting signs and specifies how the picture frame will be achieved.</p>	<p>References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.</p> <p>* In subsection B, the CTB proposes to remove the distinction between cutting related to outdoor advertising structures and that related to businesses. This will make the regulation more equitable while continuing to protect public health, safety, and welfare. “Unsightly” will also be updated to “undesirable” to correspond to the changes in section 10.</p> <p>* The amendments would preserve the prohibition on removing native flowering trees but remove the protection for other flowering trees. This change is due to the high frequency of encounters with flowering trees included in the Department of Conservation and Recreation’s Virginia Invasive Plant Species List.</p> <p>* The CTB proposes to remove subsection C regarding creating a picture frame effect around signs as</p>

			<p>the current terminology has proven misleading for the regulated community and may result in unintended negative outcomes in which the pruning creates hard edges in a rectangular shape. This leads to irregular and improper pruning cuts/techniques that may have detrimental impacts to the tree. A picture frame effect is still required under § 33.2-1221, but the method to achieve it is not specified.</p> <p>Formatting updates will also be made.</p>
200-30	N/A	<p>This section describes the special provisions relating to permits, notification requirements, treatment of trees or other plants not covered by this chapter, and access and work requirements.</p> <p>Permittees are required to “attach two each 8” x 10” color glossy photographs (a closeup and a distant view) with the permit application showing the vegetation to be controlled, the highway, and the sign or business.”</p> <p>The first paragraph of subsection C requires that, “No trees, shrubs, vines, or plant material, except as covered by this chapter, shall be cut or disturbed. Stubs and dead wood in trees covered by this chapter must be removed, whether occasioned by present requirements or not.” This subsection also requires wood to be chipped and beneficially used or removed and disposed of.</p>	<p>References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.</p> <p>* The amendments would remove the requirement that a permittee attach 8” x 10” color glossy photographs with their application. This change will allow for electronic submission of photographs.</p> <p>* In subsection C, the amendments would remove the redundant first paragraph and “chipped and beneficially used or” from the third paragraph. Presently, the inclusion of “chipped and beneficially used” encourages leaving of the chips on site, which may damage turf or vegetation.</p> <p>Formatting updates will also be made.</p>
200-40	N/A	<p>This section contains the DIBR for the regulation.</p>	<p>* This section will be repealed and the relevant documents incorporated within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed by regulated parties and remove confusion as to the applicability of specific documents.</p>
FORMS	N/A	<p>This section contains the land use permit form relevant to vegetation control.</p>	<p>The form included in this section will be updated to reflect the removal of the DIBR from the regulation and the inclusion of the relevant manuals and specifications within the terms of the</p>

			land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.
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