



Virginia Department of Planning and Budget **Economic Impact Analysis**

24 VAC 30-121 Comprehensive Roadside Management Program Regulations
Department of Transportation
Town Hall Action/Stage: 6280 / 10170
February 26, 2024

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

Pursuant to Governor Youngkin's Executive Order 19² (EO 19), the Department of Transportation (VDOT) proposes to eliminate regulatory requirements by 1) removing the restriction that prevents acknowledgment signs that are installed pursuant to this program from remaining in place for more than 10 years, 2) increase the trunk base diameter of vegetation that may be pruned or cut within highway rights-of-way from four inches to six inches, and 3) remove redundant or obsolete language.

Background

This regulation governs the voluntary activities of private businesses, civic organizations, communities, individuals, and local governments that are intended to improve the appearance and safety of the state-maintained right-of-way by participating in project development, establishment, and maintenance of landscaping activities within the right-of-way. Pursuant to EO

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/eo/EO-19-Development-and-Review-of-State-Agency-Regulations.pdf>

19 and after undertaking a comprehensive review of this regulation, VDOT proposes to remove redundant or obsolete language, reduce regulatory requirements, and streamline the regulatory text.

As currently drafted, the regulatory text contains some language that VDOT states is redundant of already existing requirements elsewhere in the Virginia Administrative Code, and some language that is obsolete due to changes in agency practices. VDOT proposes to repeal such language to reduce and/or clarify the text.

Additionally, two of the proposed changes would alter the existing requirements. One of these changes would remove the restriction that prevents acknowledgment signs that are installed pursuant to this program from remaining in place for more than 10 years. VDOT states that the 10-year timeframe in this regulation is in direct conflict with *Section 20(C)* of the same regulation where the relevant time limit specified is 5 years, presenting a potential for confusion among entities participating in roadside landscaping activities and for local governments enforcing this requirement.

The purpose for the second change in the existing requirements is similar, in that VDOT proposes to increase the trunk base diameter of vegetation that may be pruned or cut within highway rights-of-way to improve appearance from four inches to six inches to be consistent with another regulation (i.e., *24VAC30-200, Vegetation Control Regulations on State Rights-of-Way*) which is broader in its application than this regulation.

Estimated Benefits and Costs

The applicability of this regulation appears to be fairly limited. VDOT reports that they rarely receive applications for this program. The last permit issued under this regulation was before 2019. Since then, there have not been any applications for a roadside landscaping project.

The proposed removal of the 10-year maximum limitation for an acknowledgement sign mainly aims to resolve a conflict within the same regulation that states the limit is 5 years. VDOT also reports that enforcement of this limit on the signage falls on the local governments and therefore they do not have any information as to whether and to what extent the 10-year limitation has been enforced in practice. It appears that removing a sign would be fairly easy to accomplish. Additionally, even if the cost of signage removal may be non-negligible, this change only affects the timing of the removal, and not whether it would be removed. For these reasons,

and given the very limited participation in this program, this change is not expected to create a significant economic impact.

Similarly, allowing the pruning or cutting of vegetation that is two inches wider than the current diameter of four inches is also unlikely to create a significant economic impact for the very few applicants for the roadside landscaping projects permitted under this regulation. In addition, the permittee may choose not to prune or cut vegetation between four to six inches of trunk base diameter. However, no data or information exist to indicate the nature and extent of such pruning, and the vegetation that may be affected, and thus it is unclear if this change would impose any other costs.

The changes that remove redundant or absolute language are likely to improve the clarity of the regulatory text with no other significant economic impacts.

Businesses and Other Entities Affected

This regulation applies to applicants who wish to improve the appearance and safety of the state-maintained right-of-way by participating in project development, establishment, and maintenance of landscaping activities within the state right-of-way. The last permit issued under this program was before 2019. No applicant appears to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁴ As noted above, the permits issued for this program appears to be an infrequent occurrence; there does not seem to be significant compliance costs associated with the two specific changes discussed; and the participation is voluntary. Thus, an adverse impact is not indicated.

³ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

⁴ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

Small Businesses⁵ Affected:⁶

The proposed amendments do not appear to adversely affect small businesses.

Localities⁷ Affected⁸

Although local governments enforce the limit on the lifespan of an acknowledgement signage, given the small number of applications for projects under this regulation and there being no apparent significant costs to enforce the relevant requirements, the proposed changes do not appear to introduce any significant costs for them.

Projected Impact on Employment

The proposed amendments do not appear to affect total employment.

Effects on the Use and Value of Private Property

The proposal applies to landscape activities on the state-maintained right-of-way which is public property. While major improvements in the appearance of such land may positively affect the values of neighboring private property or real estate development costs, the proposed changes in this action does not appear to rise to that level. Thus, no significant impact on the use and value of private property nor on real estate development costs is expected.

⁵ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

⁶ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁷ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁸ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.