



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

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**24 VAC 30-200 Vegetation Control Regulations on State Rights of Way**  
**Department of Transportation**  
**Town Hall Action/Stage: 5448 / 8848**  
September 30, 2021

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### **Summary of the Proposed Amendments to Regulation**

As a result of a 2019 periodic review,<sup>1</sup> the Commonwealth Transportation Board (Board) proposes to allow cutting of larger trees (trunk base diameters of less than six inches vs. two inches) and pruning of larger branches (pruning of limbs up to four inches in diameter vs. two inches) to make a business more visible from a highway.

### **Background**

The Virginia Department of Transportation (VDOT) or its contractors are authorized to cut or prune vegetation that may obscure off-premises business signage (almost exclusively billboards under this regulation) along highways, and also vegetation that may obscure businesses that are visible from any VDOT maintained highway; these practices are referred to as “daylighting.” Currently, to make a billboard more visible from a highway trees up to six inches in diameter and branches up to four inches in diameter may be cleared. However, businesses are only allowed to cut trees or branches that are less than two inches in diameter. VDOT has determined that the regulation currently treats business-related vegetation removal differently than that of outdoor advertising signs, thus treating the regulation of outdoor advertising signs and businesses unequally. As a result, the Board proposes to allow businesses to also use the less restrictive cutting and pruning standards currently used for outdoor advertising. VDOT will maintain the requirements for replacing cut vegetation under a landscape plan.

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<sup>1</sup> <https://townhall.virginia.gov/l/ViewPReview.cfm?PRid=1847>

## **Estimated Benefits and Costs**

Increasing the diameter of trees and branches that can be cleared to daylight a business location from two inches to six inches for trunk base and to four inches for branches can spark new interest from owners of businesses alongside the roadways. According to VDOT, the current two inch-diameter standard for trunk bases as well as the branches makes it impractical in many cases to undertake any such effort due to rate of vegetation growth. Thus, an increase in permit applications for daylighting a business may be expected. There were six permits issued by VDOT in 2020 to daylight businesses. However, unlike daylighting billboards which is exclusively handled by VDOT, VDOT delegates its authority to localities for activities pertaining to daylighting businesses in cities. Therefore, it is likely there were more than six business daylighting projects permitted in 2020, but VDOT does not have those statistics.

The main benefit of the proposed change is allowing businesses to make their business frontage more visible from the roadway if they are interested in doing so. VDOT states that daylighting a business is unlikely to distract drivers, in part because a landscape plan will still be required. However, VDOT notes that any cutting and pruning would still require setting up a road-work zone, and may create the usual work road hazard to drivers in that area while the work is being done. Given that the current two-inch diameter standard makes daylighting impractical in some instances, the new standard may result in an increase in road-work zones to the extent that it encourages new daylighting activity.

## **Businesses and Other Entities Affected**

The proposed changes apply to any business wishing to improve their visibility from a highway. There were six permits issued by VDOT in 2020 to daylight a business location. However, localities are delegated authority to issue permits to daylight businesses as well, but information on permits issued by localities is lacking. No adverse impact<sup>2</sup> on businesses is indicated.

### **Small Businesses<sup>3</sup> Affected:**

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

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<sup>2</sup> Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

<sup>3</sup> 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.”

## Localities<sup>4</sup> Affected<sup>5</sup>

The proposed changes could potentially lead to an increase in applications being received by localities, especially cities, to daylight a business location. Localities are authorized to collect \$400 per permit application. Assuming that the permit fee is sufficient to cover administrative costs of the locality, no adverse impact on localities is expected. The proposed regulation does not introduce costs for local governments.

## Projected Impact on Employment

The proposed changes could lead to an increase in tree clearing and landscaping work and demand for such labor, but it does not appear that it would significantly affect total employment.

## Effects on the Use and Value of Private Property

The proposed changes would allow more visibility from highways if a business is interested in daylighting its location. Increased visibility could lead to name recognition, more sales, and higher asset value. The proposed amendments do not appear to directly affect real estate development costs.

## Legal Mandates

**General:** The Department of Planning and Budget 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 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report 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.

**Adverse impacts:** 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 within the 45-day period.

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

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<sup>4</sup> “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.

<sup>5</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

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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.