

Periodic Reviews of Regulations --
Scheduling and Governor's Office Determination
September 2018

SCHEDULING A PERIODIC REVIEW

Why do I need to schedule my Periodic Reviews?

Executive Order 14 (as amended July 16, 2018) continues the practice of previous rulemaking executive orders by stating that, “[e]xisting state regulations shall be reviewed every four years to determine whether they should be continued without change or be amended or repealed...”

Additionally, Chapters 444 and 445 of the 2018 Acts of Assembly require the Department of Planning and Budget (DPB) to, “track and report on the extent to which agencies comply with existing requirements to periodically review all regulations every four years.” Those Chapters also require agencies to, “provide to [DPB] a schedule listing each regulation that shall be reviewed in each of the four years, to be published on the Regulatory Town Hall.”

How do I figure out when the next periodic review of a regulation is due?

If the last Periodic Review was completed using the Periodic Review feature on Town Hall and the decision was to:

1. Retain the regulation as is without change, then your next Periodic Review is due to begin four years after the review result (including the TH-07 form) was posted on Town Hall.
2. Amend the regulation, then your next Periodic Review is due to begin four years after the effective date of the regulatory action submitted to amend the regulation.

If the last Periodic Review was completed during a standard regulatory action where there was a comprehensive review of the entire regulation, then your next Periodic Review is due to begin four years after the effective date of that regulatory action. (Code of Virginia Section 2.2-4007(D))

What is considered to be the date a Periodic Review starts?

When the Periodic Review feature is used, it is the date the Notice of Periodic Review is filed on Town Hall. When the Notice is posted on Town Hall, it is also automatically sent to the *Virginia Register of Regulations (Register)* for publication in its next issue.

If a Periodic Review occurs during a standard rulemaking action, it is the date the Notice of Intended Regulatory Action (NOIRA) is submitted to DPB for review.

For agencies, what is considered to be the date a Periodic Review is completed?

If the result of a Periodic Review is a regulatory action or if the Periodic Review occurs during a regulatory action, then it is the date that action becomes effective.

If the result of a Periodic Review is to retain the regulation as is, then it is when the agency posts the TH-07 Periodic Review Report of Findings on Town Hall.

Please note that going forward, the TH-07 Periodic Review Report of Findings must be posted on Town Hall no matter what the review result is.

What if it is not possible to tell when the last Periodic Review of a regulation was completed or it does not appear that the regulation has ever been subject to a periodic review?

You are encouraged to start a Periodic Review as soon as possible.

If a Periodic Review of a regulation occurs during a standard regulatory action, how do I indicate that on Town Hall and where is this information reflected?

The Town Hall has been programmed recently to include the following question on a regulatory action information page, "Will this action be used to satisfy the requirement that this regulation be reviewed every four years?" If your plan is satisfy your periodic review requirement using this method, please be sure to indicate "yes."

As you begin the process of scheduling your future periodic reviews and identify past actions during which a periodic review was completed, you can now go on to the action page for those past actions, and click "yes" to the periodic review question and then click "save."

How do I add or change the date for the next Periodic Review of a regulation?

Log into the Town Hall and on the drop down list under “Agency Functions,” select “My Periodic Reviews.” Once this page appears, you will see a list of your regulations along with a column at the end of each row titled, “Next Review Date.” In order to add or change information in this column, select the “Edit Next Review Date” link near the top of the page. Once you complete your changes, be sure to click the “Save” button at the bottom of the page.

What if we miss the deadline for starting the next Periodic Review of a regulation?

If this happens, strive to start the Periodic Review as soon as possible.

GOVERNOR’S OFFICE REVIEW OF PERIODIC REVIEWS

What is the role of the Governor’s Office in the Periodic Review process?

As part of the periodic review, the Governor is required by [Code of Virginia 2.2-4017](#) to make a determination as to whether the regulations are (a) necessary for the protection of public health, safety and welfare and (b) clearly written and easily understandable. Governor Northam’s Executive Order 14 (as amended July 16, 2018) permits the Governor’s designee to make this determination.

How will this determination be documented on Town Hall?

1. Where the Periodic Review feature is used and the decision is to retain the regulation as is, the Governor’s determination will be made after the review result has been posted on Town Hall and after the Office of the Attorney General (OAG) has completed its review. (You will receive an auto-generated email notification from Town Hall when the OAG has completed its review and also after the Governor’s Office has completed its review.) The status of the Governor’s determination will appear at the bottom of the periodic review page underneath the OAG review.
2. For Periodic Reviews that result in a regulatory action or that are completed during a standard regulatory action, the Governor’s determination will be made as the regulatory action undergoes executive branch review. The Governor’s approval of a regulatory action for publication in the *Register* will also signify that the periodic review determination has been completed.

How will periodic reviews currently underway on Town Hall be affected?

This change will affect only those periodic reviews filed on or after July 16, 2018 where the Periodic Review feature is used and the decision is to retain the regulation as is. Periodic reviews completed during a standard rulemaking will continue as before.

What if I have questions about the Governor's Office review of my Periodic Review?

The best thing to do is to contact the Governor's Counsel office.

How will I know that the Governor's Office has completed its determination when the Periodic Review feature was used and the decision is "retain as is"?

You will receive an auto-generated email notification from Town Hall.

Prepared by DPB on September 18, 2018