



# 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: 6275 / 10446**  
September 27, 2024

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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.<sup>1</sup>

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

The Commonwealth Transportation Board (Board) proposes to 1) increase the maximum allowable diameters of vegetation that can be cut or pruned to make a business more visible from the roadway, and 2) remove the Documents Incorporated by Reference (DIBR) section from the regulatory text and instead incorporate the relevant documents within the terms of the land use permit applications.

## **Background**

This regulation provides the regulatory requirements for individuals applying for a permit to remove vegetation when it obscures the view of an existing outdoor advertising structure (a billboard, sign, etc.) or a business that is visible from a Virginia Department of Transportation (VDOT) maintained highway. The current regulation specifies that:

All cutting to make an outdoor advertising structure more visible from the roadway shall be limited to vegetation with trunk base diameters of less than six

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<sup>1</sup> 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.

inches. 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.

Additionally, the current regulation specifies that:

No pruning of vegetation to make an outdoor advertising sign more visible from the roadway will be permitted if the cut at the point of pruning will exceed four inches in diameter. 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.

As a result of a periodic review conducted on this regulation in 2019,<sup>2</sup> VDOT determined that the inconsistency between the requirements for cutting and pruning in front of businesses and outdoor advertising made enforcement inconsistent. The agency 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. Consequently, the Board proposes to amend the regulation to make the maximum diameters for cutting and pruning vegetation to make a business more visible from the roadway consistent with the maximum diameters for outside advertising: six inches for cutting and four inches for pruning.

The current and proposed regulation both require that there be replacement vegetation. A certified arborist and a VDOT official or when applicable, a local government official must agree on the size and species of replacement vegetation in a landscape plan.

### **Estimated Benefits and Costs**

Increasing the diameter of trees and branches that can be cleared for a business location from two inches to six inches for trunk base, and to four inches for branches, could spark new attention for businesses alongside roadways due to increased visibility. Thus, the proposed increase in allowable diameter for cutting and trimming may increase the number of permit applications for such work. From 2020 to 2023 there were on average 19.5 permits issued by VDOT to perform cutting and/or trimming for business locations. The agency delegates its authority to issue such permits to cities or towns when the relevant public right-of-way is within their jurisdictional limits. Therefore, it is likely there were more than the average of 19.5 businesses permitted annually from 2020 to 2023, but VDOT does not have these data.

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<sup>2</sup> See <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=1847>

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The main benefit of this proposed change is allowing businesses to make their frontage more visible from the roadway if they are interested in doing so; and consequently, potentially increasing their number of customers. However, VDOT notes that any cutting and pruning would still require setting up a road-work zone, and may create a work road hazard to drivers in that area while the work is being done. Given that the current diameter standards make cutting and pruning impractical in some instances, the new proposed standards may result in an increase in road-work zones to the extent that it encourages new cutting and pruning activity.

According to the United States Environmental Protection Agency, “Trees are increasingly recognized for their importance in managing runoff. Their leaf canopies help reduce erosion caused by falling rain. They also provide surface area where rainwater lands and evaporates. Roots take up water and help create conditions in the soil that promote infiltration.”<sup>3</sup> Thus, cutting down trees without replacement could lead to increased flooding and other problems related to runoff such as pollution. The current and proposed regulations do require that there be replacement vegetation in a landscape plan approved by a certified arborist and a VDOT or local official. Thus, if the vegetation is replaced in a timely fashion and according to the approved plan, potential runoff risk may be largely mitigated.

Removing the DIBRs from the regulation and incorporating the relevant documents within the terms of the land use permits does not change the applicability of the requirements, but it changes how they are enforced by shifting from administrative (i.e., regulatory) to contractual compliance. Some, but not all of the requirements reiterate or clarify requirements from Virginia Code or regulation. To the extent that VDOT is able to enforce these requirements contractually instead of administratively, by treating each permit as a contract, there is not likely to be a substantial economic impact.

### **Businesses and Other Entities Affected**

The proposed changes potentially apply to any business wishing to improve their visibility from a highway by cutting or pruning vegetation. From 2020 to 2023 there were on average 19.5 permits issued by VDOT for this work. An unknown additional number of permits were likely issued by local governments. The proposed changes would likely increase the demand for permits.

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<sup>3</sup> See <https://www.epa.gov/soakuptherain/soak-rain-trees-help-reduce-runoff>

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>4</sup> 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.<sup>5</sup> The proposed amendments may be substantially beneficial for some businesses wishing to increase their visibility. Nevertheless, the proposal is likely to increase road-work zones, which may cause some delays for motorists. Since an adverse impact is indicated if there is any increase in net cost for any entity, even if the benefits exceed the costs for all entities combined, an adverse impact is indicated.

### **Small Businesses<sup>6</sup> Affected:<sup>7</sup>**

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

### **Localities<sup>8</sup> Affected<sup>9</sup>**

The proposed amendments could potentially lead to an increase in permit applications received by localities, especially cities. Localities are authorized to collect \$400 per permit application. Assuming that the permit fee is sufficient to cover the administrative costs of the locality, no adverse impact on localities is expected.

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<sup>4</sup> 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.

<sup>5</sup> 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.

<sup>6</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.”

<sup>7</sup> 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.

<sup>8</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>9</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

**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 substantively affect total employment.

**Effects on the Use and Value of Private Property**

By allowing increased visibility, the proposed amendments may lead to increased business for some firms, which could increase their value. The likely increase in tree clearing and landscaping work may moderately increase the value of some firms that provide such services. Certified arborists and their firms may have increased work and a moderate increase in firm value as well. No other impact on real estate development costs is expected.