Chapter 9 *Periodic Review of Regulations*

This chapter contains detailed instructions that are intended for state agency users.

The Administrative Process Act (APA) requires that all regulations subject to the APA be reviewed at least once every four years (Code § 2.2-4017); this activity is known as a "periodic review."

Note: when using Town Hall, the periodic review of a regulation must be done by itself. Although multiple periodic reviews can be done at the same time, an individual periodic review can only address one regulation.

There are two ways to conduct a periodic review of a regulation:

1. *The stand-alone periodic review process on the Town Hall*. This is the fastest and easiest way to complete a periodic review. This process involves publishing a notice of the periodic review, soliciting public comment, and then subsequently reporting the result of the review.
2. *As part of a standard rulemaking action (per § 2.2-4007.1 D)*. This option is available if, in addition to the planned rulemaking, the agency conducts a comprehensive review of the entire regulation (not just the portion being amended by the action). Under this approach, an agency uses the Notice of Intended Regulatory Action (NOIRA) to publish a notice of the periodic review and to solicit public comment. When the proposed stage is submitted for Executive Branch Review, the Agency Background Document is used to report the result of the periodic review. *When using this process, a periodic review may only be conducted as part of a standard action.*

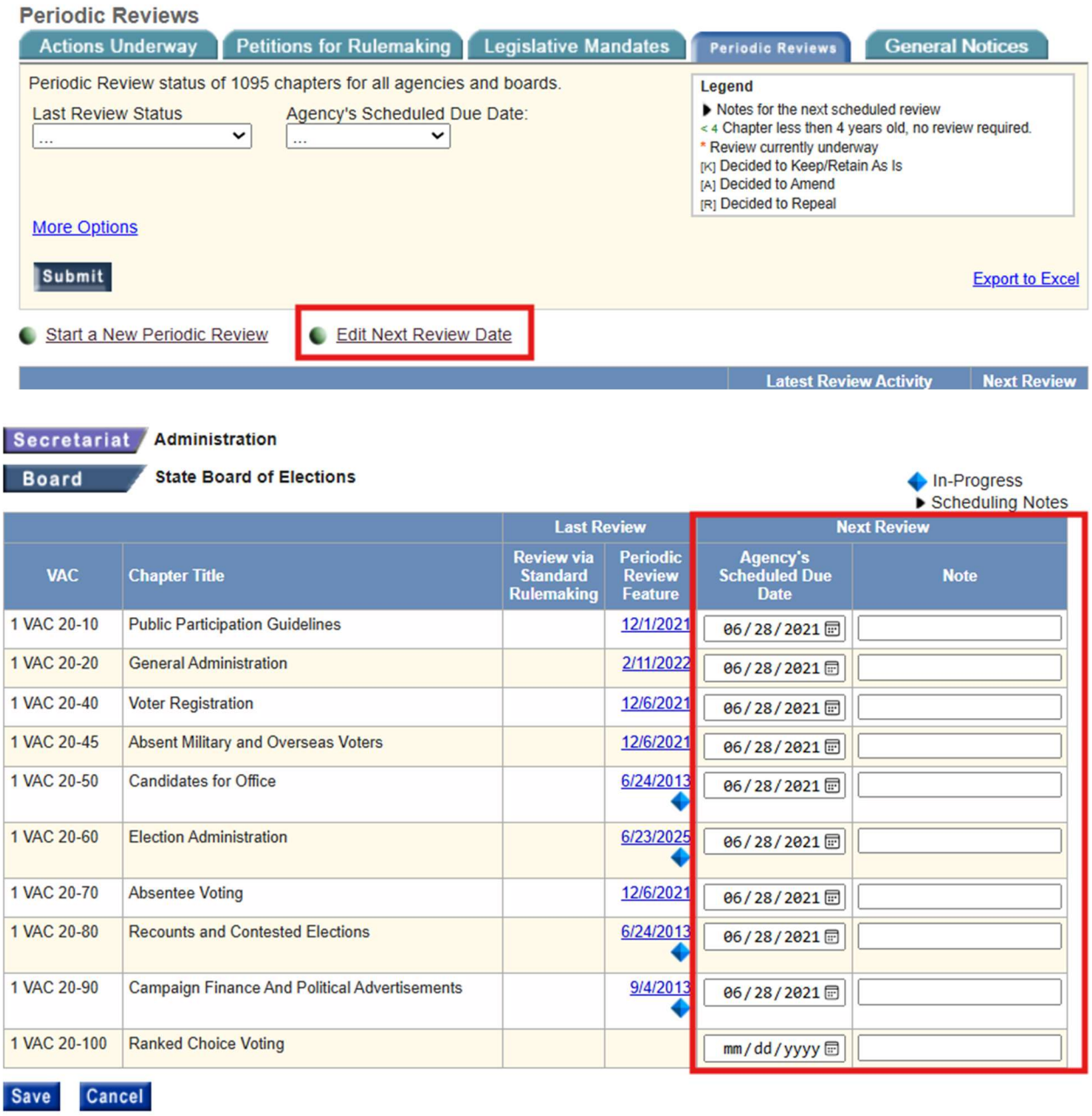
Specific instructions are provided below.

Determining if a Periodic Review Is Necessary

1. After logging on to the Town Hall as an agency user, click on the AGENCY FUNCTIONS dropdown menu, and select MY PERIODIC REVIEWS.
2. Look at the "Latest Review Activity" column for each regulation. If no activity has occurred in the last four years in either the "Review via Standard Rulemaking" or the "Periodic Review Feature" columns, a periodic review of the regulation should be conducted as soon as possible.

Posting Information about your Agency's Plans for Future Periodic Reviews

You may optionally post notes about your agency's plans to conduct future periodic reviews of each of its regulations. This information will be displayed to all users of the Town Hall in the last column of the periodic review chart with the header "Next Review." To edit the "Next Review" column, click on EDIT NEXT REVIEW DATE near the top of the page as indicated on the screen shot below:



Conducting a Periodic Review using the Stand-Alone Process

A one-page flowchart of this process may be viewed here.

1. After logging on to the Town Hall as an agency user, click on the AGENCY FUNCTIONS dropdown menu, and select MY PERIODIC REVIEWS. This will display your agency's Periodic Review page where you can view the status of all periodic reviews. Click on START A NEW PERIODIC REVIEW link near the top of the page on the left. Next, select the board and then select the chapter.

2. Edit the template announcement text. This text will be published in the *Register* and sent out in an email to any public users who requested email notification regarding this chapter. The next available issue of the *Register* will be displayed as the default, but you can select another issue for publication if you desire. The Town Hall will automatically create a 21-day comment period, as required by Code § 2.2-4007.1(F), but you can extend this period by entering a new end date in the text field.
3. Click on the SUBMIT button to submit the announcement to the Registrar for publication. Information about the periodic review will be submitted to RIS for publication and the periodic review will also be sent electronically via the Town Hall "for a review by the Attorney General to ensure statutory authority for regulations" pursuant to Code § 2.2-4017.

Reviewing Comments Received in the Public Comment Forum

See the chapter of this manual on public comment forums.

Completing a Periodic Review once the Comment Period Is Over

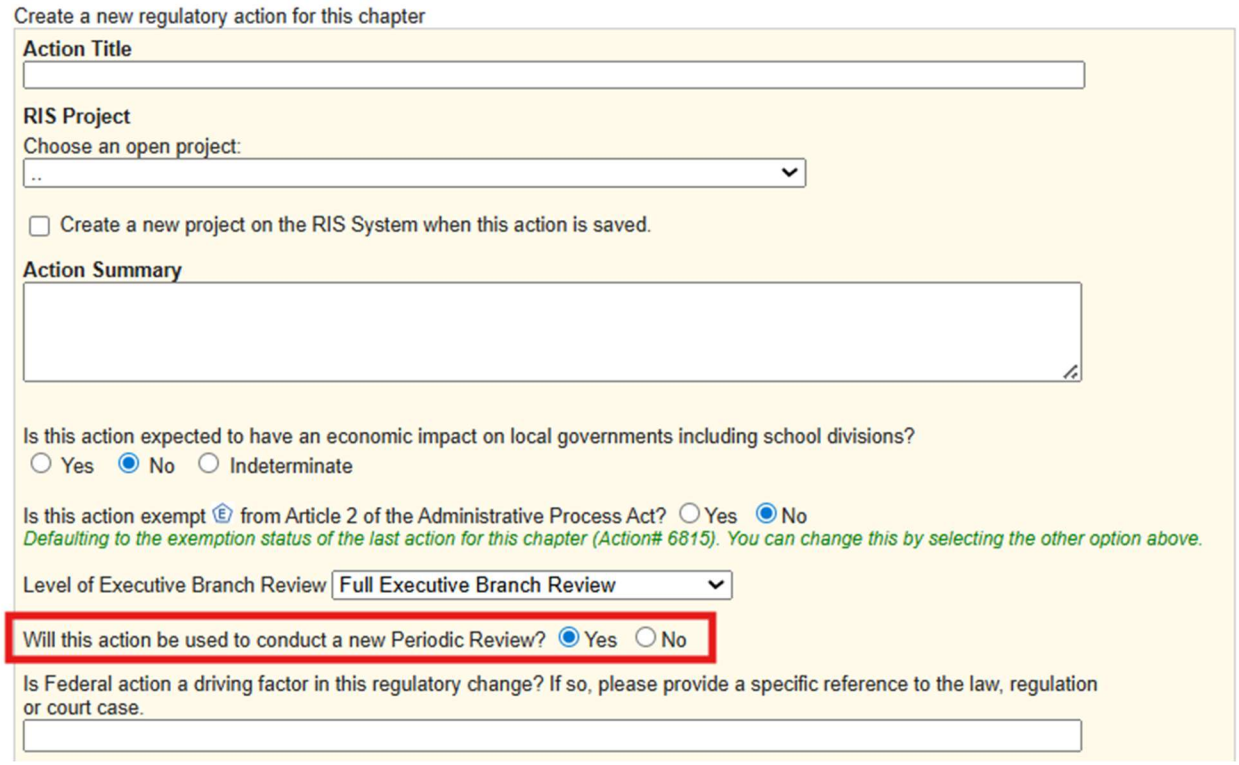
After the public comment period is complete, and no later than 120 days after your notice of periodic review is published in the Register, you must complete your review.

1. After logging on to the Town Hall as an agency user, click on the AGENCY FUNCTIONS dropdown menu, and select MY PERIODIC REVIEWS to locate the desired periodic review.
2. Select the periodic review by choosing the link with the date of the most recent periodic review activity. Click on the EDIT REVIEW link.
3. Look for REVIEW RESULT section, and select one of the three choices for the review result (Retain / Amend / Repeal).
4. Upload the completed "TH-07" form. (To locate the form from the Town Hall Home page, click on Regulatory forms and templates link.) After the review result has been posted on the Town Hall, the website will reflect that the periodic review has been completed by the agency. If you selected to amend or repeal the regulation, you can click EDIT REVIEW to specify in the pull down list which action will implement this change. You can also link this periodic review to the regulatory action used to implement this change when you create that action on the Town Hall.
5. After the Attorney General's Office completes its review of the regulation, the Town Hall routes the periodic review to the Governor, pursuant to Code § 2.2-4017.

Conducting a Periodic Review Using a Standard Rulemaking Action

When using this process, a periodic review may only be conducted as part of a standard action. A one-page flowchart of this process may be viewed here.

1. In setting up the action on the Town Hall, check YES for the question, "Will this action be used to conduct a new Periodic Review?"



2. At the NOIRA stage, complete the section in the Agency Background Document titled, "Periodic Review and Small Business Impact Review Announcement."

Reviewing Comments Received in the Public Comment Forum

At the proposed stage, complete the section in the Agency Background Document titled, "Periodic Review and Small Business Impact Review Report of Findings."

After the Report of Findings is published in the *Register*, your work on this periodic review has concluded. Another periodic review of this regulation is not due until four years after the effective date of this standard rulemaking action.