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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Virginia Department of Transportation
Virginia Administrative Code (VAC) Chapter citation(s)	24 VAC30-17
VAC Chapter title(s)	Solicitation and Use of VDOT Buildings and Grounds for Non-work Purposes
Date this document prepared	5/1/2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

VDOT means the Virginia Department of Transportation.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Commissioner of Highways, pursuant to his authority as the executive head of the Virginia Department of Transportation in §§ 2.2-603 and 33.2-223, promulgated these regulations concerning the use of VDOT Buildings and Grounds for non-work purposes.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

Prior to implementation of the regulation, VDOT functioned with no written guidelines concerning the use of its facilities for non-work purposes. However, a number of factors combined to make development of a written policy advisable:

- The number of non-profit, voluntary, state employee-related groups, such as VDOT’s Employee Benefit Association and the Virginia Governmental Employees Association (these groups naturally found it more convenient to hold meetings at state-owned facilities);
- Tendency by some individuals to make unannounced visits to VDOT work sites to solicit business from state employees or otherwise contact workers; these practices were detrimental to productivity and the conduct of official state business, and could have created hazardous situations in some areas, such as repair shops;
- The disparity in size, amenities, and function of VDOT-owned or -leased facilities made it advisable to identify those facilities which were suitable for access for non-work gatherings (such as residencies or district offices, which generally have dedicated conference rooms, restroom facilities, and seating), as well as those facilities unsuitable for public access (such as older area headquarters equipment repair shops);
- Research conducted into the subject indicated that many outside groups were using VDOT-owned or –leased facilities, including the American Heart Association and the United Way;
- Written directives in 1993 from the Governor’s Office and the Department of General Services addressing the subject of access to state-owned meeting rooms and use of state employee time and state resources;
- A desire to ensure fair and consistent treatment of requests for access to VDOT-owned or –leased facilities for non-work purposes, regardless of the location.

Although the current regulation has been effective, VDOT believes that a similar effect can be achieved by repealing the regulation and maintaining the written guidelines as an internal agency policy.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comments were received during the public comment period.

Commenter	Comment	Agency response

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation is designed to ensure the effective and efficient use of state government facilities for government purposes. The regulation has been useful in providing guidance to various managers throughout VDOT in considering requests for access to their facilities, so that employee safety and productivity may be preserved, the ability to conduct official state business is unimpeded, and requests are handled fairly and consistently, regardless of location. The regulation is clearly written and easily understandable.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The Commissioner of Highways, on behalf of VDOT, is recommending repealing the regulation, but retaining the underlying policy with amendments to change the position title to which user fees are paid and requests are received for use of VDOT Central Office facilities due to a recent re-organization of several Divisions within the agency. The Commissioner believes that the same effect can be achieved through these less burdensome means.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

The regulation is designed to ensure the effective and efficient use of state government facilities for government purposes. The regulation has been useful in providing guidance to various managers throughout VDOT in considering requests for access to their facilities, so that employee safety and productivity may be preserved, the ability to conduct official state business is unimpeded, and requests are handled fairly and consistently, regardless of location. Therefore, VDOT believes there is a continued need for the written policy underlying the regulation. VDOT is not aware of any complaints concerning the regulation. The regulation is not overly complex, nor is there overlap, duplication, or conflict with federal or state law or regulation. The regulation was adopted in 1996, and has not been amended since.