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Exempt Action Final Regulation Agency Background Document

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) citation(s)	24 VAC30-240
Regulation title(s)	Certification Procedures for the Disadvantaged and Women-Owned Business Program
Action title	Repeal
Final agency action date	12-11-2019
Date this document prepared	12-13-2019

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulation sets forth the requirements to be followed by firms seeking certification as a Disadvantaged/Women-Owned Business Enterprise (DBE/WBE) as a prerequisite for bidding on contracts awarded by the Commonwealth Transportation Board (CTB). However, since the time that this regulation was adopted, the Department of Small Business and Supplier Diversity (SBSD) has been created, and SBSD now performs this certification function. Therefore, 24 VAC 30-240 is no longer necessary and should be repealed.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, board decision, etc.). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

This regulation is not necessary, because the function that the regulation implements is now performed by a separate state agency. No business's or individual's rights will be affected by the repeal of this regulation.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Commonwealth Transportation Board adopted a resolution on December 11, 2019 approving the repeal of this regulation.

Periodic Review Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the proposed stage, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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.

The Department of Transportation and the Department of Rail and Public Transportation use certified small businesses and direct their contractors to use certified small business to the greatest extent possible. However, the certification process is now administered by SBSD. Therefore, 24 VAC 30-240 is no longer necessary and should be repealed.