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Periodic Review Report of Findings

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) citation	24 VAC 30-380-10
Regulation title	General Provisions, Public Hearings for Location and Design of Highway Construction Projects
Date this document prepared	June 28, 2019

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Acronyms and Definitions

Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

CFR – Code of Federal Regulations

USC – United States Code

VAC – Virginia Administrative Code

Legal Basis

Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

No proposed changes are being offered at the time of this reporting. The existing regulation was promulgated by the Commonwealth Transportation Board based on current Federal and State statutory

and regulatory authorities as found in 23 USC 128, 23CFR Part 771.111 (h), § 33.2-208 of the Code of Virginia, and 33.2-338.

Alternatives

Please 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.

No alternatives were considered or are being proposed at this time.

Public Comment

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

No informal advisory group was formed for purposes of assisting in the periodic review. No public comment was received as a result of the Town Hall announcement.

Effectiveness

Pursuant to § 2.2-4017, please 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 origins of the regulation are more than two decades old. The most recent periodic review of the regulation was conducted in 2000, and the most recent substantive amendment of the regulation was in 2008. These reviews attempted to clarify the Virginia Department of Transportation’s internal processes for administering public involvement activities, streamlining some aspects where possible and without compromising the intent of governing statutes or federal regulations, and providing procedural flexibility where possible. To date, the Commonwealth Transportation Board is not aware of public or other governmental concerns regarding understanding or interpretation of the regulation. The regulation is clearly written and easily understandable. In the Commonwealth Transportation Board’s judgment the regulation is necessary to meet current Federal and State laws and regulations regarding the requirements for public involvement in publicly funded transportation projects that will or are likely to affect the natural and human environments to include places of employment and businesses. Details of the public involvement process are typically coordinated and align with the level of state or federal environmental documents required by other sections of state and federal law and/or regulations.

Decision

Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

Having received no public comments on the matter, and because the procedures for the consideration and participation by public and private interests in determining the location and design of highway projects have had a history of producing successful outcomes in the public interest, the Commonwealth Transportation Board is proposing retaining the regulation as is.

Small Business Impact

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. Also, discuss why the agency's decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.

The regulation is needed for purposes of complying with state and federal laws and regulations regarding public involvement in transportation projects that are developed using public funds and where there are impacts to the natural and human environment resulting from these. The longevity of the regulation and the general awareness of its nature and purpose lead the Commonwealth Transportation Board to determine that it is sufficiently narrow and not overly complex. The regulation is seamlessly interwoven with federal and state laws and regulations and is structured to support their policy goals and objectives. In 2008, the regulation received a review resulting in some significant substantive changes, but the most recent periodic review was conducted in 2000. Technology that impacts the implementation and execution of activities required to comply with this regulation is constantly evolving and, in turn, may sometimes modify discrete public involvement procedures. These technology changes and improvements can make public involvement processes and activities easier to administer and more accommodating and meaningful to the public constituency that participates in them. However, in and of themselves, technology changes do not and should not serve as substitutes for the requirement to conduct said public involvement activities for publicly funded transportation projects as required by underlying Federal and State laws and regulations.