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Exempt Action Final Regulation Agency Background Document

Agency name	Commonwealth Transportation Board (CTB)
Virginia Administrative Code (VAC) citation(s)	24 VAC30-530
Regulation title(s)	Roadway and Structure Lighting
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.

The Commissioner of Highways issued a Departmental Memorandum (DM 9-4) in 1995 that specifies the conditions for when VDOT will pay for the construction and maintenance of roadway lighting, and when those costs should be borne by others, including localities. The CTB adopted DM 9-4 as an official CTB Policy, which is available to the public in the CTB Policy Index on the CTB website. The current regulation merely references, by description, the underlying CTB Policy in DM 9-4, and has no additional substantive obligations. In 2009, the Attorney General's Regulatory Reduction Task Force identified this regulation as unnecessary and recommended its repeal for those reasons.

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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The current regulation merely references, by description, the underlying CTB Policy in DM 9-4, and has no additional substantive obligations. In 2009, the Attorney General's Regulatory Reduction Task Force identified this regulation as unnecessary and recommended its repeal for those reasons. Further, in 2015, the Virginia Code Commission adopted a regulation, 1 VAC 7-10-140, that suggests that "an agency may not incorporate one of its own documents by reference unless the agency establishes that the documents or circumstances are unique and highly unusual." DM 9-4, which specifies the circumstances for which VDOT will fund roadway and structure lighting, does not appear to be unique or highly unusual.

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 CTB adopted a resolution on December 11, 2019, repealing 24 VAC 30-530, Roadway and Structure Lighting, in its entirety.

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.

There will be no effect on the public due to the repeal of this regulation.