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Periodic Review Report of Findings

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| Agency name | Commonwealth Transportation Board |
| Virginia Administrative Code (VAC) citation | 24 VAC 30-530 |
| Regulation title | Roadway and Structural Lighting |
| Date this document prepared | 09/10/2019 |

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.

"VDOT" means the Virginia Department of Transportation.

"CTB" means the Commonwealth Transportation Board.

There are no complex technical terms used in this document that require a definition.

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.

Section 33.2-210 of the *Code of Virginia* authorizes the CTB to make regulations that are not in conflict with the laws of the Commonwealth for the protection of and covering traffic on and for

the use of systems of state highways. Additionally, the CTB has the power and duty to review and approve policies and transportation objectives of VDOT and the Department of Rail and Public Transportation, to assist in establishing such policies and objectives, to oversee the execution thereof, and to report on these policies and objectives to the Commissioner of Highways and the Director of the Department of Rail and Public Transportation, respectively, pursuant to § 33.2-215 of the *Code of Virginia*.

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.

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.

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.

There were no comments received during the public comment period following the publication of the Notice of Periodic Review.

| Commenter | Comment | Agency response |
|-----------|---------|-----------------|
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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.

This regulation is not necessary for the protection of public health, safety and welfare, because the objectives of the regulation can be achieved through other means, such as the CTB Policy. 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..

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).

The CTB is proposing to repeal this regulation while maintaining the underlying policy as it had previously adopted.

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.

This regulation is not necessary, as its objectives may be met through other means, however repeal of this regulation but continued reliance on the underlying CTB Policy does not impact small businesses.