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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) Chapter citation(s)	24 VAC 30-380
VAC Chapter title(s)	Public Hearings for the Location and Design of Highway Projects
Date this document prepared	10/25/2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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.

CFR – Code of Federal Regulations
USC – United States Code
VAC – Virginia Administrative Code

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.

This regulation was promulgated by the Commonwealth Transportation Board (CTB) based on current Federal and State statutory and regulatory authorities as found in 23 USC § 128, 23 CFR § 771.111, and § 33.2-208 of the *Code of Virginia*.

The Commonwealth Transportation Board (CTB) is authorized to promulgate regulations for the protection of and covering traffic on and for the use of systems of state highways pursuant to § 33.2-210 of the *Code of Virginia*.

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.

At the recommendation of the Office of Regulatory Management (ORM), due to the advanced stage of this periodic review at the time new procedures were issued, this form has been prepared with consideration of the regulation in its current form as the only alternative.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s 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.

Commenter	Comment	Agency response
Nicole Keller	Hello Ms. Maxwell, I am writing to submit my public comment as part of the periodic review of the Public Hearings for the Location and Design of Highway Projects chapter [24 VAC 30-380]. The public deserves to have a voice in response to major transportation projects. It is my opinion that this requirement is critical and should be retained. Thank you for recording my comment.	The CTB agrees with the commenter regarding the importance of this regulation and will retain the regulation as-is.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, 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 nearly three decades old, and in the CTB’s judgment, the regulation continues to be 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. Details of the public involvement process are typically coordinated and align with the level of involvement for state or federal environmental documents required by other sections of state and federal law and/or regulations. 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).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The CTB is proposing to retain this regulation without making any changes. 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, and that is expected to continue under this regulation.

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.

This 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. The one public comment received during this periodic review was supportive of the regulation. The longevity of the regulation and the general awareness of its nature and purpose lead the CTB 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. The CTB does not believe that this regulation has a significant economic impact on small businesses.

In 2008, the regulation received a review resulting in significant substantive changes, but the most recent periodic review was conducted in 2019 and there have been no amendments to the regulation since then. 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.
