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Final Regulation Agency Background Document

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| Agency name | Commonwealth Transportation Board |
| Virginia Administrative Code (VAC) Chapter citation(s) | 24 VAC30-620 |
| VAC Chapter title(s) | Rules, Regulations and Rates Concerning Toll and Bridge Facilities |
| Action title | Amend |
| Date this document prepared | 5/4/2021 |

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 (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

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 Commonwealth Transportation Board is proposing amendments to the existing Rules, Regulations and Rates Concerning Toll and Bridge Facilities. This regulation specifies the toll rates for certain VDOT-owned and operated toll facilities. The regulation also delegates authority for the suspension of tolls at those facilities from the Commissioner of Highways to his designee, as authorized by § 33.2-613. The regulation additionally specifies the general conditions and criteria under which the suspension of tolls can occur, as authorized by § 33.2-613.

New VDOT-owned and operated toll facilities have opened, or are likely to open in the near future, that are not included in the existing regulation. Further, § 33.2-613 has been amended in recent years, changing the Commissioner of Highways' authority in the suspension of tolls on toll facilities in the Commonwealth. The amendments to the regulation address the additional toll facilities covered by the regulation and the change in procedures and criteria to be considered for the suspension of tolls. The amendments do not amend existing toll rates specified in the regulation.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

VDOT means the Virginia Department of Transportation.

P3 means the Public Private Transportation Act.

U.S.C. means the United States Code.

Statement of Final Agency Action

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 voted to adopt the final amendments to 24 VAC 30-620, the Rules, Regulations and Rates Concerning Toll and Bridge Facilities, on July 21, 2021.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

New VDOT-owned and operated toll facilities have opened, or are likely to open in the near future, that are not included in the existing regulation. Further, § 33.2-613 has been amended in recent years, changing the Commissioner of Highways' authority in the suspension of tolls on toll facilities in the Commonwealth. A periodic review of this regulation, completed in June 2020, identified the need for such amendments.

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 and 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.

The Commonwealth Transportation Board adopted the Rules, Regulations and Rates Concerning Toll and Bridge Facilities, 24 VAC 30-620, pursuant to its general authority to adopt regulations governing the use of highways in § 33.2-210, and more specific authority found in §§ 33.2-604, 33.2-613 and 33.2-1701, which say that toll rates may be charged as set by law or as fixed by the CTB and specify when tolls may not be charged.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The regulation is necessary for the protection of the public welfare because it ensures that toll rates charged at toll facilities are fixed by a process that allows for public input, and that toll collection may be suspended during emergencies or other events where it is in the public interest to allow for free, efficient movement of vehicles through toll facilities.

New VDOT-owned and operated toll facilities have opened, or are likely to open in the near future, that are not included in the existing regulation. Further, § 33.2-613 has been amended in recent years, changing the Commissioner of Highways' authority in the suspension of tolls on toll facilities in the Commonwealth. The amendments to the regulation address the additional toll facilities covered by the regulation and the change in procedures and criteria to be considered for the suspension of tolls. The amendments do not amend existing toll rates specified in the regulation.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

Will specify the category of facilities generally that the chapter applies to, i.e., VDOT-owned and – operated toll facilities for which there is no agreement or law authorizing another entity to establish toll rates and operate the toll facilities. Additional facilities, like the I-66 and I-64 Express Lanes, have been built or are being built since the last time this chapter was amended. Additionally, VDOT has an agreement with the Metropolitan Washington Airport Authority (MWAA) that authorizes MWAA to establish toll rates and operate toll facilities on the Dulles Toll Road. In the future, regional transportation authorities, such as HRTAC, RMTA, and NVTA, may be authorized by law to establish toll rates and operate toll facilities on highways that are otherwise owned and operated by VDOT. In order to avoid having to amend the regulations every time a facility is constructed or toll facility operation is transferred, the regulation will be amended to specify the common characteristics of facilities that the chapter applies to instead of specifying each facility by name.

Section 33.2-613 of the Code of Virginia was amended recently to allow for the temporary suspension of tolls for a mandatory evacuation during a state of emergency. Section 20 of the regulation is therefore proposed to be amended to reflect this additional condition for the temporary suspension of tolls. The provisions in existing section 30 of the regulation that address the Commissioner's ability to delegate the assessment of risk and determination that tolls should be suspended to a designee are proposed to be moved to section 20, for consistency with the general topics of the two sections. The delegation of suspension authority is also proposed to be re-written to be more general, instead of repeating the same procedures for each individually named facility, in order to avoid having to amend the regulations every time a facility is constructed or toll facility operation is transferred.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The proposed amendments are designed to reorganize the existing regulatory provisions for easier readability and to allow for additional flexibility in adding or removing toll facilities from the regulations.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other State agencies are affected by the proposed amendments.

Localities Particularly Affected

This regulation applies to VDOT-owned and –operated toll facilities, so no local governments are affected by the proposed amendments.

Other Entities Particularly Affected

No other entities are particularly affected by the proposed amendments.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

No public comment was received during the proposed stage comment period.

| Commenter | Comment | Agency response |
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Detail of Changes Made Since the Previous Stage

List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

| Current chapter-section number | New chapter-section number, if applicable | New requirement from previous stage | Updated new requirement since previous stage | Change, intent, rationale, and likely impact of updated requirements |
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No changes have been made to the amendments as posted during the proposed stage.

Detail of All Changes Proposed in this Regulatory Action

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

| Current chapter-section number | New chapter-section number, if applicable | Current requirements in VAC | Change, intent, rationale, and likely impact of updated requirements |
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| 24VAC30-620-10 | | Lists the specific facilities by name that the chapter applies to: the Dulles Toll Road, Powhite Parkway Extension Toll Road, and the George P. Coleman Bridge. | *Will specify the category of facilities generally that the chapter applies to, i.e., VDOT-owned and –operated toll facilities for which there is no agreement or law authorizing another entity to establish toll rates and operate the toll facilities. Additional facilities, like the I-66 and I-64 Express Lanes, have been built or are being built since the last time this chapter was amended. Additionally, VDOT has an agreement with the Metropolitan Washington Airport Authority (MWAA) that authorizes MWAA to establish toll rates and operate toll facilities on the Dulles Toll Road. In the future, regional transportation authorities, such as HRTAC, RMTA, and NVTA, may be authorized by law to establish toll |

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| | | | <p>rates and operate toll facilities on highways that are otherwise owned and operated by VDOT. In order to avoid having to amend the regulations every time a facility is constructed or toll facility operation is transferred, the regulation will be amended to specify the common characteristics of facilities that the chapter applies to instead of specifying each facility by name.</p> |
| 24VAC30-620-20 | | <p>Specifies the general conditions and criteria for the temporary suspension of tolls.</p> | <p>*Section 33.2-613 of the Code of Virginia was amended recently to allow for the temporary suspension of tolls for a mandatory evacuation during a state of emergency. This section 20 is therefore proposed to be amended to reflect this additional condition for the temporary suspension of tolls. The provisions in existing section 30 that address the Commissioner’s ability to delegate the assessment of risk and determination that tolls should be suspended to a designee are proposed to be moved to section 20, for consistency with the general topics of the two sections. The delegation of suspension authority is also proposed to be re-written to be more general, instead of repeating the same procedures for each individually named facility, for the same reasons as the amendments in section 10 are being proposed.</p> |
| 24VAC30-620-30 | | <p>Separately specifies the Commissioner’s delegation of authority for the assessment of risk and determination that tolls should be suspended for each of the named toll facilities. Establishes toll rates for each of the named facilities.</p> | <p>As noted above, the delegation of authority provisions are proposed to be moved to section 20. The establishment of the fixed toll rate facility toll rates are not being amended. *A new subsection is being added to specify that tolls for High Occupancy Toll facilities will be charged variable toll rates to manage demand on the facility, which is required by 23 U.S.C. 166.</p> |