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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 VAC30-570
VAC Chapter title(s)	Procedures for Inclusion of Routes into the Non-Interstate Qualifying Network and Virginia Access Systems (Filed by Description with the Registrar of Regulations)
Date this document prepared	04/28/2020

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*.

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 means the Code of Federal Regulations.
CTB means the Commonwealth Transportation Board.
FHWA means the Federal Highways Administration.
VDOT means the Virginia Department of Transportation.

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.

The Surface Transportation Assistance Act (STAA) (Public Law 97-424), which was originally enacted in 1982, established different networks of highways for access by over-dimensional vehicles. Each state is required by 23 CFR 658.19 to have its access provisions approved by the Federal Highway Administration. However, the federal regulation does not specify that the access provisions need to be in the form of a state law or regulation.

Sections 46.2-1109, 46.2-1112, 46.2-1114, 46.2-1114.1, 46.2-1116, 46.2-1117, and 46.2-1151.1 of the *Code of Virginia* authorize the CTB to designate highways on which over-dimensional vehicles may travel and authorize the Commissioner of Highways to designate highways for reasonable access to terminals, facilities for food, fuel, repairs and rest for those over-dimensional vehicles. The CTB additionally has general authority to regulate the use of highways in the Commonwealth pursuant to § 33.2-210.

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.

The “Procedures for Inclusion of Routes into the Non-Interstate Qualifying Network and Virginia Access System” are maintained in the Traffic Engineering Division in VDOT’s Central office and are approved by FHWA. Any subsequent changes to the procedures requires approval by the FHWA, pursuant to 23 CFR 658.19, however, these procedures are not required to be in the form of a state law or regulation.

Public Comment

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

No comments were received during the public comment period.

Commenter	Comment	Agency response

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, 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 designation of routes accessible for over-dimensional vehicles is necessary in order to maintain compliance with federal law. This regulation’s goal is to protect the public’s health, safety, and welfare with the least possible cost and intrusiveness to the citizens of the

Commonwealth. By establishing procedures whereby commercial trucking firms can gain access to routes not previously designated, the ability of these firms to transact business (e.g., ship cargo) will be enhanced. As a result, goods may reach more markets faster, consumers will have freer access to more goods, and the economic health of the business will benefit.

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).

The CTB recommends repeal of this regulation. As stated above, the procedures previously approved by FHWA per 23 CFR. 658.19 are already maintained in the Traffic Engineering Division of the VDOT Central Office, as is the record of the routes that have been designated for access by over-dimensional vehicles. Although not explicitly stated in 23 CFR 658.19, it is presumed that any subsequent changes to the procedures likewise requires approval by the FHWA. However, neither federal law nor federal regulations require that these procedures be maintained in the form of a state law or regulation. Pursuant to 1 VAC 7-10-140 (D), agencies should not adopt one of their own documents by reference as a 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.

Repealing this regulation does not impact small businesses, as the designated routes will remain, and the procedures for the inclusion of additional routes in the networks will remain, likely as a guidance document, at VDOT.
