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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 VAC30-420
VAC Chapter title(s)	Operation and maintenance of roads in incorporated towns less than 3,500
Date this document prepared	March 25, 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*.

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.

"CTB" means the Commonwealth Transportation Board.

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 Commonwealth Transportation Board (CTB) has “the power and duty 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” pursuant to *Code of Virginia* § 33.2-210.

Section 33.2-339 of the *Code of Virginia* states that the “Commissioner of Highways may, subject to the approval of the [CTB], upon request of the governing bodies of towns with a population of less than 3,500, according to the last United States census, select certain streets and highways in such towns for maintenance, improvement, construction, and reconstruction from allocations available from secondary highway funds not to exceed two miles of streets or highways in such towns included in the secondary state highway system.”

Section 33.2-340 of the *Code of Virginia* states that “[i]f no request is made to the [CTB] by the governing body of any town as provided in § 33.2-339, the Commissioner of Highways, subject to the approval of the [CTB], may maintain, improve, construct, and reconstruct all streets in such town that” meet certain specified criteria.

This regulation specifies the CTB’s policy on approving requests for maintenance of roads under §§ 33.2-339 and 33.2-340. The CTB’s policy states that once a locality chooses the funding mechanism between §§ 33.2-339 and 33.2-340, that choice may only be changed with a showing of good cause.

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 purpose for which this regulation has been adopted may be accomplished through a similar guidance document or CTB Policy.

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 comment was 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.

Although the regulation is clearly written and easily understandable, its purpose can be accomplished through other means, so it is therefore not necessary for the protection of public health, safety and welfare.

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 repealing the regulation, and maintaining the underlying policy as a CTB Policy and/or guidance document.

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.

Although the regulation is not complex and does not overlap or conflict with other law, it is not necessary to be maintained as a regulation. The regulation was last reviewed in 2010.
