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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 30-11
VAC Chapter title(s)	Public Participation Guidelines
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.

There are no acronyms used in this report or any technical terms that are used in this document to be defined.

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.

Section 2.2-4007.02 of the *Code of Virginia* requires each agency that promulgates regulations to adopt public participation guidelines for soliciting the input of interested parties in the formation and

development of its regulations. Furthermore, §§ 2.2-4007, 2.2-4007.01, 2.2-4007.03 (A) and (B), 4007.1(D)-(F), 2.2-4012(E), 2.2-4012.1, 2.2-4013(C) and (D), and 2.2-4017 of the *Code of Virginia* provide additional requirements for agency solicitation of public participation in the regulatory process.

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*, and therefore is required to adopt public participation guidelines.

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 CTB’s public participation guidelines mirror the Department of Planning and Budget’s (DPB) model public participation guidelines. 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

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 CTB’s public participation guidelines mirror DPB’s model public participation guidelines as those existed at the time the Board’s guidelines were last amended in 2021. The guidelines, having the status of a regulation, are necessary to promote public involvement in the development, amendment or repeal of regulations. Further, the regulation is clearly written and 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 regulation continues to mirror the model public participation guidelines from the DPB.

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.

There is a continued need for this regulation because it promotes public involvement in the development, amendment or repeal of CTB regulations. There is no overlap, duplication, or conflict with federal or state law or regulation. There have been no complaints received from the public to date. This is a best practice, and increased public participation is beneficial to the public, both to those who are interested in and choose to participate in a particular rulemaking as well as to those who decline to participate but may benefit from the participation of others. The last review of this regulation occurred in 2019 and the regulation was last amended in 2021 to align it with the most recent model public participation guidelines from the DPB. The CTB does not believe that this regulation has a significant economic impact on small businesses.