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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)	24VAC30-580
VAC Chapter title(s)	Guidelines for Considering Requests for Restricting Through Trucks on Primary and Secondary Highways
Date this document prepared	October 18, 2023

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.

"CTB" means the Commonwealth Transportation Board.

"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.

Section 46.2-809 of the Code of Virginia provides that the CTB, in response to a formal request by a local governing body may, after due notice and a proper hearing, prohibit or restrict through truck traffic on a primary or secondary highway. More generally, § 33.2-210 of the Code of Virginia authorizes the CTB 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.

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.

This regulation specifies the criteria and procedures by which a prohibition or restriction on through truck traffic may be established as provided under § 46.2-809. Section 46.2-809 authorizes the CTB to delegate this authority to a designee, which it has done in this regulation by delegating the authority to impose such through truck restrictions to the Commissioner of Highways on secondary highways after consideration of certain criteria. The CTB retains this authority on primary highways. In order to streamline the process, in 2020, the CTB amended the regulation to allow VDOT District Administrators/Engineers to deny requests without presenting those requests to the Commissioner of Highways or CTB, respectively, only where the request clearly and objectively does not meet the required criteria. Additionally, the regulation outlines the requirements for reasonable alternate routing to be provided. As such, the CTB believes the present version of the regulation is the least burdensome 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 regulation provides for the restriction of trucks from using a segment of highway where they pose a safety risk or are incompatible with the character of the roadway environment. The regulation continues to be necessary for the protection of public health, safety, and welfare. 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 regulation continues to promote the health, safety and welfare of the citizens of the Commonwealth without creating an undue hardship on any of the users of the transportation system.

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 continued need for the regulation because it provides for the protection of public health, safety, and welfare. No complaints have been received. The regulation is not overly complex, nor does it duplicate or conflict with federal or state laws. The regulation was adopted in 2003 and was amended in 2020 as a result of the last periodic review conducted. Trucking companies which are small businesses could be affected by the process provided by this regulation through the additional time and fuel necessary for a truck to drive an alternative route. Other small businesses which rely on trucks to transport and deliver goods could also be impacted if delivery times are delayed or if shipping costs increase due to the rerouting. However, the regulation requires that the termini of the proposed restriction be identical to the alternate routing to allow a time and distance comparison to be conducted, and that the alternate routing not create an undue hardship for trucks in reaching their destination. These requirements ensure that the potential economic impacts to small businesses from any restriction imposed under the regulation are considered and minimized.
