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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) Chapter citation(s)	24VAC30-50 and 24VAC30-100
VAC Chapter title(s)	Rules and Regulations for the Administration of Waysides and Rest Areas and Rules and Regulations for the Administration of Parking Lots and Environs
Action title	Chapters 50 and 100 Regulatory Reform and Periodic Review
Date this document prepared	July 16, 2024

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*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Commonwealth Transportation Board (CTB) is undertaking a comprehensive review of 24VAC30-50, Rules and Regulations for the Administration of Waysides and Rest Areas, and 24VAC30-100, Rules and Regulations for the Administration of Parking Lots and Environs.

Chapter 50 establishes overall policies, procedures, and conditions under which waysides and rest areas under the control of the CTB may be used. Currently, Chapter 50 addresses subjects such as operating hours and prohibited and restricted activities. Chapter 100 establishes the rules and conditions governing the use of, and activities that may be conducted in, parking lots and related environs under the control of the CTB. Currently, Chapter 100 addresses subjects such as restrictions on parking, prohibited activities, and activities that may be performed under a permit from the Commissioner of Highways.

The intent of this action is to remove redundant or obsolete language and identify opportunities for regulatory reduction and streamlining of both regulations in accordance with Governor Youngkin's Executive Order 19.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

CTB means the Commonwealth Transportation Board.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

On July 16, 2024, the CTB approved a Notice of Intended Regulatory Action to review 24VAC30-50 and 24VAC30-100 to potentially amend any overly burdensome requirements, remove any obsolete information, and provide more clarity with streamlined text. The CTB is conducting a review of its regulations in accordance with Governor Youngkin's Executive Order 19.

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.

Authority for these chapters comes from § 33.2-210 of the Code of Virginia and 23 USC § 111 and related federal regulations. The Commonwealth Transportation Board has general authority to adopt regulations "for the protection of and covering traffic on and for the use of systems of state highways" and has "the authority to add to, amend, or repeal such regulations" pursuant to § 33.2-210 of the Code of Virginia. 23 USC § 111 and 23 CFR § 752.5 govern agreements between states and the federal government for the construction of projects on the Interstate System and grant states the ability to acquire, construct, operate, and maintain rest areas along Interstate highways and place restrictions and limitations on the use of the areas.

Additional authority for Chapter 50 is provided under subsection E of § 33.2-246 of the Code of Virginia, which authorizes the CTB to "establish regulations for the use of recreational waysides, including regulations relating to (i) the time, place, and manner of parking of vehicles; (ii) activities that may be conducted within such waysides; (iii) solicitation and selling within the waysides; and (iv) such other matters as may be necessary or expedient in the interest of the motoring public."

Additional authority for Chapter 100 comes from § 33.2-118 of the Code of Virginia, which provides authority for regulation of mobile food vending in commuter parking lots in Planning District 8.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The CTB believes Chapters 50 and 100 are necessary for the protection of public health, safety, and welfare. The safety of users and the integrity of the facilities are preserved through the prohibitions on potentially dangerous conduct and restrictions of other conduct which may negatively interfere with the intended uses of these areas. Potential issues that may be addressed as amendments are developed include removing overly burdensome requirements and obsolete information as well as providing more clarity to the regulations through streamlined text.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

A substantive change under consideration is to combine Chapters 50 and 100 as there are several overlapping requirements which are restated in both. The overlapping requirements could be consolidated into one section within the new regulatory text, thus streamlining the two regulations. The unique provisions of each current chapter could be retained as new standalone sections in a combined regulation to ensure the regulated community can easily find and understand the applicable requirements. Another substantive change which may be considered is establishing permit procedures for allowance of noncommercial activities at rest areas.

During its review of the regulation, the CTB will also consider the following topics:

1. Review to ensure the regulations comport with statute and applicable federal requirements.
2. Focus on making the regulations organized and clear.
3. Review for opportunities to reduce or alleviate regulatory burdens.

The above list is not inclusive of all items that may be considered. Draft regulatory text is not available at this time.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

As a part of the CTB's review, alternatives to the current regulatory text will be considered. The CTB will also consider the burden on individuals and small businesses for achieving the goals set forth by the regulation.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

In addition, pursuant to the ORM procedures and § 2.2-4007.1 of the *Code of Virginia*, the CTB is conducting a periodic review and small business impact review of 24VAC30-50 and 24VAC30-100 to determine whether these regulations should be terminated, amended, or retained in their current forms. Public comment is sought on the review of any issue relating to these regulations, including whether the regulations (i) are necessary for the protection of public health, safety, and welfare; (ii) minimize the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) are clearly written and easily understandable.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The CTB is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulations.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Jo Anne Maxwell, Agency Regulatory Coordinator, 1401 E. Broad St. Richmond, VA 23219, telephone (804) 786-1830, fax (804) 225-4700, JoAnne.Maxwell@VDOT.Virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.