



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

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*Agenda item # 7*

### RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

July 17, 2019

#### MOTION

**Made By: Mr. Miller, Seconded By: Mr. Brown**  
**Action: Motion Carried, Unanimously**

#### **Title: Periodic Regulatory Review**

**WHEREAS**, the Virginia Administrative Process Act (the APA), particularly in §§ 2.2-4007.1 and 2.2-4017 of the *Code of Virginia*, requires that all state agencies that adopt regulations periodically review those regulations, including consideration of: 1) the extent to which regulations remain supported by statutory authority and do not duplicate, overlap, or conflict with state or federal law; 2) the nature of complaints or comments received from the public; 3) whether the regulations are necessary for the protection of public health, safety and welfare; 4) whether the regulations are clearly written and easily understandable; 5) whether the regulations' economic impacts on small businesses and families are minimized as much as possible; and 6) the length of time since the regulation has been evaluated; and

**WHEREAS**, Executive Order Number 14 (2018, amended) requires all regulations to be so reviewed every four years and specifies the procedures for conducting such review; and

**WHEREAS**, the Virginia Department of Transportation (VDOT) conducted a periodic review of the regulations listed in the table below, and pursuant to the requirements set forth in the APA and the process established in the Executive Order, notified the public of the regulations' ongoing periodic review on the Virginia Regulatory Town Hall website and solicited comment from the public for a minimum of 21 days; and

**WHEREAS**, VDOT has completed all facets of the regulatory review of the regulations listed in the table below in accordance with the Executive Order 14 and the APA, including the completion of a Periodic Review Report of Findings for each regulation (attached as Exhibits A through G); and

**WHEREAS**, no public comments were submitted regarding the regulations under periodic review and based upon the results of the review, VDOT recommends action for each regulation as determined in the relevant Periodic Review Report of Findings for each regulation and set forth in the table below:

Chapter	Title	Proposed Disposition
24 VAC 30-11	Public Participation Guidelines	Amend
24 VAC 30-91	Subdivision Street Requirements	Retain as is
24 VAC 30-92	Secondary Street Acceptance Requirements	Retain as is
24 VAC 30-160	Regulations to Comply with Setoff Debt Collection Act	Repeal
24 VAC 30-325	Urban Maintenance and Construction Policy	Retain as is
24 VAC 30-380	Public Hearings for Location and Design of Highway Projects	Retain as is
24 VAC 30-610	List of Differentiated Speed Limits	Repeal

; and

**WHEREAS**, the Commonwealth Transportation Board originally adopted the regulations listed in the table below pursuant to its authority in § 33.2-210 of the *Code of Virginia* and other relevant sections of the *Code of Virginia*.

**NOW THEREFORE, BE IT RESOLVED**, that the Commonwealth Transportation Board approves and adopts the respective Periodic Review Report of Findings for each of the regulations listed in the table above, including the proposed disposition for each regulation.

**BE IT FURTHER RESOLVED**, that the Commonwealth Transportation Board directs the Commissioner of Highways or his designees to take all actions necessary to complete the periodic reviews for the regulations listed in the table above, and for those regulations for which repeal is approved, to complete the process necessary to repeal said regulations.

**BE IT FURTHER RESOLVED**, that the Commonwealth Transportation Board directs the Commissioner of Highways or his designees, for the regulation for which amendment is approved, 24 VAC 30-11 (Public Participation Guidelines), to take all actions necessary to amend said regulation such that it substantively conforms to the Model Public Participation Guidelines issued by the Department of Planning and Budget.

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**CTB Decision Brief**  
**Periodic Regulatory Review**

**Issue:** The Administrative Process Act (APA) requires all state agencies that adopt regulations to periodically review those regulations. Executive Order 14 (2018) mandates that these reviews take place every four years to determine if the regulation should be continued with no changes or be amended or be repealed. In accordance with these requirements, the Virginia Department of Transportation (VDOT) has reviewed the regulations listed below and is providing recommendations as to the action to be taken by the Commonwealth Transportation Board (CTB) for each regulation.

**Facts:**

- The APA, particularly in §§ 2.2-4007.1 and 2.2-4017 of the *Code of Virginia*, requires that all state agencies that adopt regulations periodically review those regulations, including consideration of: 1) the extent to which regulations remain supported by statutory authority and do not duplicate, overlap, or conflict with state or federal law; 2) the nature of complaints or comments received from the public; 3) whether the regulations are necessary for the protection of public health, safety and welfare; 4) whether the regulations are clearly written and easily understandable; 5) whether the regulations' economic impacts on small businesses and families are minimized as much as possible; and 6) the length of time since the regulation has been evaluated.
- The Governor's Executive Order Number 14 (2018, amended) requires all regulations to be so reviewed every four years and specifies the procedures for conducting such review. Chapter 444 of the 2018 Acts of Assembly requires the Department of Planning and Budget (DPB) to track and report to the General Assembly annually which agencies are complying with the periodic review requirements.
- VDOT conducted a periodic review of the regulations listed in the table below, and pursuant to the requirements set forth in the APA and the process established in the Executive Order, notified the public of the regulations' ongoing periodic review on the Virginia Regulatory Town Hall website and solicited comment from the public for 25 days, satisfying the minimum requirement of 21 days. No public comments were submitted regarding the regulations under periodic review.
- VDOT has completed all facets of the regulatory review of the regulations listed in the table below, and has completed the Periodic Review Report of Findings for each regulation (Attached as Exhibits A-G), which is to be filed with the Virginia Registrar to complete the periodic review process.
- The regulations reviewed are listed in the table below. The table is followed by a description of each regulation and the findings made by VDOT based upon the review.

Chapter	Title	Proposed Disposition
24 VAC 30-11	Public Participation Guidelines	Amend
24 VAC 30-91	Subdivision Street Requirements	Retain as is
24 VAC 30-92	Secondary Street Acceptance Requirements	Retain as is
24 VAC 30-160	Regulations to Comply with Setoff Debt Collection Act	Repeal
24 VAC 30-325	Urban Maintenance and Construction Policy	Retain as is
24 VAC 30-380	Public Hearings for Location and Design of Highway Projects	Retain as is
24 VAC 30-610	List of Differentiated Speed Limits	Repeal

#### **24 VAC 30-11 Public participation guidelines**

- The public participation guidelines promote public involvement in the development, amendment or repeal of the regulations of the CTB, the Commissioner of Highways, or VDOT. They are based upon Virginia’s model public participation guidelines, which were last amended in 2016 to clarify that persons who wish to provide testimony with respect to regulations being promulgated may be represented by counsel. The CTB’s public participation guidelines were last amended in 2011. VDOT is recommending that the regulation be amended to conform to the model guidelines.

#### **24 VAC 30-91 Subdivision Street Requirements**

- In 2005, VDOT worked with external stakeholders to complete a comprehensive revision of the agency’s Subdivision Street Requirements (SSR). The SSR was originally adopted in 1949. The SSR governs the acceptance of subdivision streets into the secondary system of state highways for maintenance by VDOT. Section 33.2-326 of the *Code of Virginia* vests in VDOT the control, supervision, management and jurisdiction over the secondary system of highways, and § 33.2-334 authorizes VDOT to set standards for the acceptance of streets into the secondary system of highways. Although § 33.2-705 grants authority to localities to establish highways, including subdivision streets on land being developed, if the locality or private developer wish to have VDOT assume maintenance of those streets, the design and construction of those streets must meet VDOT’s standards. The design-related provisions of the SSR are part of the department’s Road Design Manual.
- All proposed developments which include roads to be accepted into VDOT’s secondary system of highways and that were initially received by the agency prior to July 1, 2009,

must meet the requirements of the SSR. The consistent construction, review, and acceptance of streets which meet specified requirements promotes the protection of public health, safety, and welfare. The standards ensure access by emergency response vehicles, reduce congestion, and ensure the safe, efficient movement of people and goods. The SSR is written in a manner which is clear and easily understandable. VDOT is recommending that the regulation be retained as is.

#### **24 VAC 30-92 Secondary Street Acceptance Requirements**

- Chapter 382 of the 2007 Acts of Assembly (SB1181) added § 33.1-70.3 to the *Code of Virginia* (now §33.2-334). The legislation required the CTB to develop Secondary Street Acceptance Requirements (SSAR), promulgated by regulation, to determine the conditions and standards that must be met before secondary streets constructed by developers, localities and entities other than VDOT will be accepted into the state secondary system for maintenance by VDOT. All proposed developments which include roads to be accepted into VDOT's secondary system of highways that were initially received by the agency after July 1, 2009, must meet the requirements of the SSAR. The consistent construction, review, and acceptance of streets which meet specified requirements promotes the protection of public health, safety, and welfare. The standards ensure access by emergency response vehicles, reduce congestion, and ensure the safe, efficient movement of people and goods. The SSAR is written in a manner which is clear and easily understandable. VDOT is recommending that the regulation be retained as is.

#### **24 VAC 30-160 Rules and Regulations to Comply with the Setoff Debt Collection Act**

- The Setoff Debt Collection Act (§ 58.1-520 *et seq.* of the *Code of Virginia*) allows state agencies to collect against delinquent debts through setoff of tax return funds if those state agencies follow the procedures and notice requirements of that Act. Section 33.2-1229 of the *Code of Virginia* authorizes the Commissioner of Highways to use the Setoff Debt Collection Act to collect certain civil penalties set out in § 33.2-1229. Section 58.1-526 of the *Code of Virginia* specifies that if a claimant agency receives a request from the debtor to allow the debtor to contest the debt, the claimant agency shall “grant a hearing according to procedures established by that agency under its operating statutes to determine whether the claim is valid.”
- The CTB originally promulgated the Rules and Regulations to comply with the Setoff Debt Collection Act for VDOT in 1984, and the regulation has not been amended since. However, all of the substantive portions of the regulations that affect citizens are duplicative of provisions in the Setoff Debt Collection Act. Keeping the current regulation would be inefficient, confusing and duplicative. VDOT currently is the only agency that has regulations regarding the Setoff Debt Collection Act. Since the Setoff Debt Collections Act describes the process sufficiently, there is no longer a need for the regulation. VDOT is recommending that the regulation be repealed.

### **24 VAC 30-325 Urban Maintenance and Construction Policy**

- This regulation provides internal and external instructions in the administration of maintenance and construction payments for qualifying cities and towns, including clarifying satisfactory design standards and lane mileage eligibility. The CTB is authorized to approve payments for maintenance, construction, or reconstruction of highways to all cities and towns eligible for funds under § 33.2-319 of the *Code of Virginia*. Such payments, however, shall only be made if those highways functionally classified as principal and minor arterial roads are maintained to a standard satisfactory to VDOT.
- The design standards in this regulation ensure the safety of the public as well as facilitate the efficient movement of people and commercial goods on those highways. The regulation is clearly written and easily understandable. The regulation is not overly complex. There is no overlap, duplication, or conflict with federal or state law or regulation. The regulation does not impact small businesses, other than by promoting the efficient movement of people and commercial goods on urban highways. VDOT is recommending that the regulation be retained as is.

### **24 VAC 30-380 Public Hearings for Location and Design of Highway Projects**

- The regulation is necessary to meet current federal and state laws and regulations regarding the requirements for public involvement in publicly funded transportation projects that will or are likely to affect the natural and human environments to include places of employment and businesses. Details of the public involvement process are typically coordinated and align with the level of state or federal environmental documents required by other sections of state and federal law and/or regulations.
- The most recent periodic review of the regulation was conducted in 2000, and the most recent substantive amendment of the regulation was in 2008. These reviews attempted to clarify VDOT's internal processes for administering public involvement activities, streamlining some aspects where possible and without compromising the intent of governing statutes or federal regulations, and providing procedural flexibility where possible. The regulation is clearly written and easily understandable. VDOT is recommending that the regulation be retained as is.

### **24 VAC 30-610 List of Differentiated Speed Limits**

- Section 46.2-870 and §§46.2-873 through 46.2-875 of the *Code of Virginia* specify statutory speed limits on various highways. Section 46.2-878 of the *Code of Virginia* authorizes the Commissioner of Highways to increase or decrease the speed limits on the highways under his jurisdiction from those statutorily prescribed limits based on a traffic engineering study. Section 46.2-878 further requires that for those increased or decreased speed limits to be effective, the Commissioner of Highways must post the new speed limit on appropriate signs and is required to maintain a list of all speed limits increased or decreased in accordance with that section in the VDOT Central Office.

- The regulation is duplicative of the statutory language and notes only the address for VDOT Central Office where the list is maintained. Notifying the public as to the location of the list could be addressed by other means, such as VDOT's website. VDOT is recommending that the regulation be repealed.

**Recommendations:** VDOT recommends that the following regulations: Subdivision Street Requirements, Secondary Street Acceptance Requirements, Urban Maintenance and Construction Policy, and Public Hearings for the Location and Design of Highway Projects be retained as is. VDOT further recommends that Public Participation Guidelines be amended so that they substantively conform to the Model Public Participation Guidelines, and the Rules and Regulations to Comply with the Setoff Debt Collection Act and the List of Differentiated Speed Limits be repealed.

**Action Required by CTB:** A resolution will be presented for CTB approval to complete the periodic review of these regulations by filing the respective Periodic Review Report of Findings for each regulation listed, and to authorize the Commissioner of Highways or his designee to take any actions necessary to amend or repeal the regulations that are recommended to be so amended or repealed.

**Result, if Approved:** The periodic reviews of the noted regulations will be completed, and the regulations will be retained as is, amended or repealed as recommended.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reactions:** There were no comments or other input received from the public.



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## Periodic Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) citation</b>	24VAC30-610-10
<b>Regulation title</b>	List of Differentiated Speed Limits
<b>Date this document prepared</b>	06/28/2019

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

## Acronyms and Definitions

*Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

No acronyms are present in 24VAC30-610-10 or are used in this report. There are no complex technical terms that require a definition.

## Legal Basis

*Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

The Commonwealth Transportation Board is the promulgating entity. Section 46.2-870 and §§46.2-873 through 46.2-875 of the *Code of Virginia* specify statutory speed limits on various highways. Section 46.2-878 of the *Code of Virginia* authorizes the Commissioner of Highways



to increase or decrease the speed limits on the highways under his jurisdiction from those statutorily prescribed limits based on a traffic engineering study. Section 46.2-878 further requires that for those increased or decreased speed limits to be effective, the Commissioner of Highways must post the new speed limit on appropriate signs and is required to maintain a list of all speed limits increased or decreased in accordance with that section in the Central Office of the Virginia Department of Transportation.

### Alternatives

*Please 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.*

Section 46.2-878 requires the Commissioner of Highways to maintain a list of differentiated speed limits on file.

### Public Comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

No public comments were received during the comment period following the publication of the Notice of Periodic Review.

Commenter	Comment	Agency response

### Effectiveness

*Pursuant to § 2.2-4017, please 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.*

24 VAC 30-610-10 is duplicative of the requirement that the Commissioner of Highways maintain a list of differentiated speed limits on file found in §46.2-878, therefore this regulation is not necessary for the protection of public health, safety, and welfare.

### Decision

*Please explain the basis for the rulemaking entity’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

The Commonwealth Transportation Board recommends repeal of this regulation. As stated above, the regulation is duplicative of the requirement in §46.2-878. Further, neither a list of the locations of differentiated speed limits nor a statement that such a list is on file at a specific address appears to meet the definition of a “regulation” under §2.2-4001 of the Code of Virginia, as they are not a “statement of general application, having the force of law, affecting the rights or conduct of any person, adopted by an agency...”.

### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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 the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.*

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Repealing this regulation does not impact small businesses.



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## Periodic Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) citation</b>	24 VAC 30-11
<b>Regulation title</b>	Public Participation Guidelines
<b>Date this document prepared</b>	06/28/2019

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

## Acronyms and Definitions

*Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

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

## Legal Basis

*Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

Section 2.2-4007.2 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. The Commonwealth Transportation Board 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*.

### Alternatives

*Please 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.*

There were no viable alternatives to this regulation that were considered during the periodic review.

### Public Comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

There were no comments received during the public comment period following the publication of the Notice of Periodic Review.


### Effectiveness

*Pursuant to § 2.2-4017, please 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 Commonwealth Transportation Board’s public participation guidelines mirror the Department of Planning and Budget’s model public participation guidelines as those existed at the time Board’s guidelines were last amended in 2011 and are necessary to promote public involvement in the development, amendment or repeal of the regulations. Further, the regulation is clearly written and understandable.

### Decision

*Please explain the basis for the rulemaking entity’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

Section 2.2-4007.02 of the *Code of Virginia* was amended via Chapter 795 of the 2012 Acts of Assembly to allow for interested persons to be accompanied by and represented by counsel or other representative when submitting data, views and information to an agency during the promulgation of regulations. The Department of Planning and Budget’s model public

participation guidelines have accordingly been amended. The Commonwealth Transportation Board is therefore recommending amendment of its public participation guidelines to bring those guidelines into consistency with § 2.2-4007.02 and the most recent version of the Department of Planning and Budget's model public participation guidelines.

### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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 the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.*

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There is a continued need for this regulation because it promotes public involvement in the development, amendment or repeal of the Commonwealth Transportation Board regulations. There is no overlap, duplication, or conflict with federal or state law or regulation. This is a best practice and increased public participation is good for everyone who has an interest in rulemaking. The last review of this regulation occurred in 2008. The Commonwealth Transportation Board does not believe that these regulations will have a significant economic impact on small businesses.



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## Periodic Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) citation</b>	24 VAC 30-91
<b>Regulation title</b>	Subdivision Street Requirements
<b>Date this document prepared</b>	June 28, 2019

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

## Acronyms and Definitions

*Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

SSR - Subdivision Street Requirements

## Legal Basis

*Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

In 2005, the Virginia Department of Transportation (VDOT) worked with external stakeholders to complete a comprehensive revision of the agency's Subdivision Street Requirements (SSR). The SSR was originally adopted in 1949. The SSR governs the acceptance of subdivision streets into the secondary

CTB Exhibit B

system of state highways for maintenance by VDOT. Section 33.2-326 vests in VDOT the control, supervision, management and jurisdiction over the secondary system of highways, and § 33.2-334 authorizes VDOT to set standards for the acceptance of streets into the secondary system of highways. Although § 33.2-705 grants authority to localities to establish highways, including subdivision streets on land being developed, if the locality or private developer wish to have VDOT assume maintenance of those streets, the design and construction of those streets must meet VDOT’s standards. The design-related provisions of the SSR are part of the department’s Road Design Manual (Appendix B of that Manual).

### Alternatives

*Please 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.*

There are no alternatives to the promulgation of this regulation.

### Public Comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please 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, please 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 SSR establishes the conditions and standards that must be met before subdivision streets constructed by developers, localities and entities other than VDOT will be accepted into the state secondary system for maintenance by VDOT. All proposed developments which include roads to be accepted into VDOT’s Secondary System of Highways, that were initially received by the agency prior to July 1, 2009, must meet the requirements of the SSR. The consistent construction, review, and acceptance of streets which meet specified requirements promotes the protection of public health, safety, and welfare. The standards ensure access by emergency response vehicles, reduce congestion, and ensure the safe, efficient movement of people and goods. The SSR is written in a manner which is clear and easily understandable.

### Decision

*Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

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The Subdivision Street Requirements should be retained and not amended at this time. The regulation promotes public health, safety, and welfare as well as accepting only qualified roads into the state's highway systems.

### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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 the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.*

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The Subdivision Street Requirements have a positive impact on state resources as well as small businesses. This regulation helps reduce long-term traffic congestion, support and promote more economic activity and better transportations systems.





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## Periodic Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) citation</b>	24 VAC 30-92
<b>Regulation title</b>	Secondary Street Acceptance Requirements
<b>Date this document prepared</b>	April 19, 2019

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

## Acronyms and Definitions

*Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

SSAR - Secondary Street Acceptance Requirements

## Legal Basis

*Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

Chapter 382 of the 2007 Acts of Assembly (SB1181) added § 33.1-70.3 (now §33.2-334) to the *Code of Virginia*. The legislation required the Commonwealth Transportation Board to develop Secondary Street Acceptance Requirements, promulgated by regulation, to determine the conditions and

standards that must be met before streets constructed by developers, localities and entities other than VDOT will be accepted into the state secondary system for maintenance by VDOT.

### Alternatives

*Please 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.*

There are no alternatives to the promulgation of this regulation.

### Public Comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

No comments were received following publication of the Notice of Periodic Review.

Commenter	Comment	Agency response

### Effectiveness

*Pursuant to § 2.2-4017, please 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.*

Chapter 382 of the 2007 Acts of Assembly (SB1181) added § 33.1-70.3 to the *Code of Virginia* (now §33.2-334). The legislation required the Commonwealth Transportation Board to develop Secondary Street Acceptance Requirements, promulgated by regulation, to determine the conditions and standards that must be met before secondary streets constructed by developers, localities and entities other than the Virginia Department of Transportation (VDOT) will be accepted into the state secondary system for maintenance by the Virginia Department of Transportation (VDOT). All proposed developments which include roads to be accepted into VDOT’s Secondary System of Highways, which were initially received by the agency after June 2009, must meet the requirements of the SSAR. The consistent construction, review, and acceptance of streets which meet specified requirements promotes the protection of public health, safety, and welfare. The standards ensure access by emergency response vehicles, reduce congestion, and ensure the safe, efficient movement of people and goods. The SSAR is written in a manner which is clear and easily understandable.

### Decision

*Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

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The Secondary Street Acceptance Requirements should be retained and not amended at this time. The regulation promotes public health, safety, and welfare as well as accepting only qualified roads into the state's highway systems.

### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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 the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.*

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The Secondary Street Acceptance Requirements have a positive impact on state resources as well as small businesses. This regulation helps reduce long-term traffic congestion, support and promote more economic activity and better transportation systems.



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## Periodic Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) citation</b>	24 VAC 30-160
<b>Regulation title</b>	Rules and Regulations to Comply with the Setoff Debt Collections Act
<b>Date this document prepared</b>	June 28, 2019

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

## Acronyms and Definitions

*Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

**VDOT** – Virginia Department of Transportation

## Legal Basis

*Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

The Setoff Debt Collection Act (§ 58.1-520 *et seq.* of the *Code of Virginia*) allows state agencies to collect against delinquent debts through setoff of tax return funds if those state agencies follow the procedures and notice requirements of that Act. Section 33.2-1229 of the *Code of Virginia* authorizes the Commissioner of Highways to use the Setoff Debt Collection Act to collect certain civil penalties set out in § 33.2-1229. Section 58.1-526 of the *Code of Virginia* specifies that if a claimant agency receives a request from the debtor to allow the debtor to contest the debt, the claimant agency shall “grant a hearing according to procedures established by that agency under its operating statutes to determine whether the claim is valid.” The Commonwealth Transportation Board promulgated the Rules and Regulations to comply with the Setoff Debt Collection Act for VDOT. Section 33.2-210 of the *Code of Virginia* authorizes the Commonwealth Transportation Board, to develop regulations relating to traffic and the use of systems of state highways.

### Alternatives

*Please 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 alternative to continuing to use 24 VAC 30-160 is to repeal 24 VAC 30-160 and follow the procedures and notice requirements in the Setoff Debt Collections Act. The Commonwealth Transportation Board originally adopted the regulation in 1984, and the regulation has not been amended since. However, all of the substantive portions that affect citizens are duplicative of provisions in the Setoff Debt Collection Act. Keeping the current administrative sections would be inefficient, confusing and duplicative. VDOT currently is the only agency that has regulations regarding the Setoff Debt Collection Act. Since the Setoff Debt Collections Act describes the process sufficiently, there is no longer a need for 24 VAC 30-160.

### Public Comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

No comments were submitted during the public comment period.

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### Effectiveness

*Pursuant to § 2.2-4017, please 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.*

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The regulation set out in 24 VAC 30 -160 is inefficient, confusing and duplicative of the statutory requirements, and is therefore unnecessary for the protection of public health, safety or welfare.

### Decision

*Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

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As stated above, the Commonwealth Transportation Board originally adopted the regulation in 1984, and the regulation has not been amended since. However, all of the substantive portions of the regulation that affect citizens are duplicative of provisions in the Setoff Debt Collection Act. Keeping the current regulation would be inefficient, confusing and duplicative. VDOT currently is the only agency that has regulations regarding the Setoff Debt Collection Act. Since the Setoff Debt Collections Act describes the process sufficiently, there is no longer a need for 24 VAC 30-160. Therefore, it is recommended that 24 VAC 30-160 be repealed.

### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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 the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.*

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The Rules and Regulations to Comply with the Setoff Debt Collection Act is not needed, as the regulation duplicates the procedural and notice provisions in the Setoff Debt Collection Act. The regulation was adopted in 1984 and has not been amended since. VDOT is unaware of any complaints from the public regarding 24 VAC 30-160. In addition, VDOT published a Notice of Public Review, and as stated earlier, VDOT received no comments during the public comment period.

VDOT has no knowledge as to the impact on small businesses, if any, if 24 VAC 30-160 is repealed.



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## Periodic Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) citation</b>	24 VAC30-325
<b>Regulation title</b>	Urban Maintenance and Construction Policy
<b>Date this document prepared</b>	06/28/2019

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

## Acronyms and Definitions

*Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

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

## Legal Basis

*Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

This regulation was promulgated by the Commonwealth Transportation Board and provides internal and external instructions in the administration of maintenance and construction payments for qualifying cities and towns, including clarifying satisfactory design standards and

lane mileage eligibility. The Commonwealth Transportation Board is authorized generally to adopt 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 is specifically authorized to approve payments for maintenance, construction, or reconstruction of highways to all cities and towns eligible for funds under § 33.2-319 of the *Code of Virginia*. Such payments, however, shall only be made if those highways functionally classified as principal and minor arterial roads are maintained to a standard satisfactory to the Virginia Department of Transportation.

### Alternatives

*Please 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.*

No viable alternatives were considered as part of this periodic review.

### Public Comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

There were no comments received during the public comment period following the publication of the Notice of Periodic Review.


### Effectiveness

*Pursuant to § 2.2-4017, please 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 regulation is necessary for the protection of the public health, safety, and welfare, as it is needed to specify the appropriate design standards to which urban highways should be constructed and maintained in order for the cities and towns in which those urban highways are located to be eligible for certain state funds. The design standards ensure the safety of the public as well as to facilitate the efficient movement of people and commercial goods on those highways. The regulation is clearly written and easily understandable.

### Decision



*Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

The Commonwealth Transportation Board is proposing to retain this regulation without making changes.

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### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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 the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.*

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There is a continued need for this regulation because it specifies the appropriate design standards to which urban highways should be constructed and maintained in order for the cities and towns in which those urban highways are located to be eligible for certain state funds and provides internal and external instructions in the administration of maintenance and construction payments for qualifying cities and towns. The regulation is not overly complex. There is no overlap, duplication, or conflict with federal or state law or regulation. The regulation does not impact small businesses, other than by promoting the efficient movement of people and commercial goods on urban highways.



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## Periodic Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) citation</b>	24 VAC 30-380-10
<b>Regulation title</b>	General Provisions, Public Hearings for Location and Design of Highway Construction Projects
<b>Date this document prepared</b>	June 28, 2019

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

## Acronyms and Definitions

*Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

CFR – Code of Federal Regulations  
USC – United States Code  
VAC – Virginia Administrative Code

## Legal Basis

*Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

No proposed changes are being offered at the time of this reporting. The existing regulation was promulgated by the Commonwealth Transportation Board based on current Federal and State statutory

and regulatory authorities as found in 23 USC 128, 23CFR Part 771.111 (h), § 33.2-208 of the Code of Virginia, and 33.2-338.

### Alternatives

*Please 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.*

No alternatives were considered or are being proposed at this time.

### Public Comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

No informal advisory group was formed for purposes of assisting in the periodic review. No public comment was received as a result of the Town Hall announcement.


### Effectiveness

*Pursuant to § 2.2-4017, please 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 origins of the regulation are more than two decades old. The most recent periodic review of the regulation was conducted in 2000, and the most recent substantive amendment of the regulation was in 2008. These reviews attempted to clarify the Virginia Department of Transportation’s internal processes for administering public involvement activities, streamlining some aspects where possible and without compromising the intent of governing statutes or federal regulations, and providing procedural flexibility where possible. To date, the Commonwealth Transportation Board is not aware of public or other governmental concerns regarding understanding or interpretation of the regulation. The regulation is clearly written and easily understandable. In the Commonwealth Transportation Board’s judgment the regulation is necessary to meet current Federal and State laws and regulations regarding the requirements for public involvement in publicly funded transportation projects that will or are likely to affect the natural and human environments to include places of employment and businesses. Details of the public involvement process are typically coordinated and align with the level of state or federal environmental documents required by other sections of state and federal law and/or regulations.

### Decision

*Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

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Having received no public comments on the matter, and because the procedures for the consideration and participation by public and private interests in determining the location and design of highway projects have had a history of producing successful outcomes in the public interest, the Commonwealth Transportation Board is proposing retaining the regulation as is.

### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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 the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.*

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The regulation is needed for purposes of complying with state and federal laws and regulations regarding public involvement in transportation projects that are developed using public funds and where there are impacts to the natural and human environment resulting from these. The longevity of the regulation and the general awareness of its nature and purpose lead the Commonwealth Transportation Board to determine that it is sufficiently narrow and not overly complex. The regulation is seamlessly interwoven with federal and state laws and regulations and is structured to support their policy goals and objectives. In 2008, the regulation received a review resulting in some significant substantive changes, but the most recent periodic review was conducted in 2000. Technology that impacts the implementation and execution of activities required to comply with this regulation is constantly evolving and, in turn, may sometimes modify discrete public involvement procedures. These technology changes and improvements can make public involvement processes and activities easier to administer and more accommodating and meaningful to the public constituency that participates in them. However, in and of themselves, technology changes do not and should not serve as substitutes for the requirement to conduct said public involvement activities for publicly funded transportation projects as required by underlying Federal and State laws and regulations.