



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

W. Sheppard Miller, III
Chairperson

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Agenda item # 16

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

October 25, 2022

MOTION

Made By: Mr. Yates **Seconded By:** Ms. Hynes

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 19 (issued June 30, 2022 and replacing Executive Order Number 14 (2018)) requires all regulations to be so reviewed every four years and requires agencies to follow procedures for conducting such review as developed by the Office of Regulatory Management (ORM); 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 then-effective 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, satisfying the minimum statutory requirement; and

WHEREAS, VDOT has completed all facets of the regulatory review of the regulations listed in the table below in accordance with the Executive Orders, the ORM procedures, and the

APA, including the completion of a Periodic Review Report of Findings for each regulation (attached as Exhibits A through F); and

WHEREAS, three total public comments were submitted, one for 24 VAC 30-91, 24 VAC 30-325, and 24 VAC 30-380 respectively, and no public comments were submitted for the other regulations under review, based upon the results of the review, and after giving the public comments due consideration, 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	Retain as is.
24 VAC 30-41	Rules and Regulations Governing Relocation Assistance	Retain as is.
24 VAC 30-91	Subdivision Street Requirements	Retain as is.
24 VAC 30-92	Secondary Street Acceptance Requirements	Retain as is.
24 VAC 30-325	Urban Maintenance and Construction Policy	Amend.
24 VAC 30-380	Public Hearings for the Location and Design of Highway Projects	Retain as is.

; and,

WHEREAS, the Commonwealth Transportation Board originally adopted the regulations listed in the table above pursuant to its authority in § 33.2-210 of the *Code of Virginia* and other relevant sections of the *Code of Virginia* and is authorized to take action to amend, repeal or retain said regulations.

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 that regulation for which amendment is approved, to complete the process necessary to amend said regulation, submitting to the Board the proposed amendment(s) for approval prior to completing the process to amend the regulation.

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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) and Executive Order 19 (issued June 30, 2022, replacing Executive Order 14) require periodic reviews to take place every four years to determine if the regulation should be continued with no changes or be amended or be repealed and require agencies to follow the procedures developed by the Office of Regulatory Management (ORM) for conducting such review. 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 19 (issued June 30, 2022) replaced Executive Order Number 14 (2018, which governed the initial stages of this review) and created the Office of Regulatory Management (ORM) to, among other things, work with each regulatory agency to review all existing regulations, required once every four years, to reduce the overall regulatory burden on the public. The ORM procedures now outline the specific periodic review requirements. 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 Orders and the ORM procedures, notified the public of the regulations' ongoing periodic review on the Virginia Regulatory Town Hall website and solicited comment from the public for at least 21 days, satisfying the minimum statutory requirement. One public comment was submitted regarding 24 VAC 30-91, 24 VAC 30-325, and 24 VAC 30-380, respectively. No public comments were submitted regarding the other regulations under periodic review by the CTB.
- VDOT has completed all facets of the regulatory review of the regulations listed in the table below, taking into consideration the public comments submitted, and has completed

the Periodic Review Report of Findings for each regulation (Attached as Exhibits A-F), which must be filed with the Virginia Registrar to complete the periodic review process.

- The regulations reviewed and which are to be considered by the CTB are listed in the table below, along with the proposed disposition of the regulation. 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	Retain as is.
24 VAC 30-41	Rules and Regulations Governing Relocation Assistance	Retain as is.
24 VAC 30-91	Subdivision Street Requirements	Retain as is.
24 VAC 30-92	Secondary Street Acceptance Requirements	Retain as is.
24 VAC 30-325	Urban Maintenance and Construction Policy	Amend.
24 VAC 30-380	Public Hearings for the Location and Design of Highway Projects	Retain as is.

- **24 VAC 30-11 Public Participation Guidelines**

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. The 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. The CTB’s public participation guidelines mirror the Department of Planning and Budget’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. VDOT recommends retaining the regulation as is.

- **24 VAC 30-41 Rules and Regulations Governing Relocation Assistance**

This regulation was promulgated by the CTB as authorized by § 25.1-402 of the *Code of Virginia*, which provides assurances to the Federal Highway Administration that VDOT will comply with the Uniform Relocation and Assistance and Real Property Acquisition Policies Act of 1970 (42 USC § 4601 et seq.), as amended, and as required in 49 CFR § 24.4 in order to receive federal financial assistance. The CTB is authorized to comply fully with the

provisions of federal aid acts pursuant to § 33.2-221 of the *Code of Virginia*. The regulation provides for relocation of displaced persons and personal property in a timely manner to meet the needs of those persons and to achieve project schedules. VDOT recommends retaining the regulation as is.

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

Section 33.2-326 of the *Code of Virginia* vests in VDOT the control, supervision, management and jurisdiction over 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 Subdivision Street Requirements (SSR) establish the conditions which must be met before certain subdivision streets constructed by entities other than VDOT will be accepted into the state secondary system.

It is noted that in 2007, the General Assembly (in Chapter 382 of the Acts of Assembly) authorized the CTB to adopt new regulations establishing Secondary Street Acceptance Requirements (SSAR), and specified several provisions that must be contained in those regulations. However, Chapter 382 also allowed for subdivision plats and construction plans submitted to VDOT prior to the effective date of the new regulations authorized by that Act to be built to the previously existing standards, which are found in this regulation. Accordingly, proposed developments that include roads to be accepted into the secondary system and that were initially received by VDOT prior to July 1, 2009 may be grandfathered under these requirements.

In order to comply with the intent of Chapter 382 to grandfather those developments that include roads to be accepted into the secondary system, received by VDOT prior to July 1, 2009, VDOT recommends retaining the regulation as is.

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

Chapter 382 of the 2007 Acts of Assembly (SB 1181) added § 33.1-70.3 (now § 33.2-334) to the *Code of Virginia*. 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 streets constructed by developers, localities and entities other than VDOT will be accepted into the state secondary system 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. Further, VDOT is authorized by §33.2-334 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.

This regulation offers guidance on the design and construction features of secondary street development and sets out design parameters deemed appropriate for most land development scenarios. All proposed developments which include roads to be accepted into the secondary system initially received by VDOT on/after July 1, 2009 must meet SSAR requirements. Legislation passed during the 2022 General Assembly session requires VDOT to convene a stakeholder advisory group to provide recommended amendments to the SSAR regarding flexibility to limit the number of connections to adjacent property or highway networks, as deemed appropriate. Any amendments to the SSAR as a result of this legislation will be addressed separately upon completion of the stakeholder advisory group's review. VDOT recommends retaining the regulation as is.

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

Section 33.2-319 of the *Code of Virginia* authorizes payments for maintenance, construction, or reconstruction of highways to all cities and towns eligible for funds. Such payments shall only be made if those highways functionally classified as principal and minor arterial roads were constructed to certain standards and are maintained to a standard satisfactory to VDOT. The 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.

This regulation provides certain details and conditions in order for urban streets to be eligible for maintenance payments as well as conditions for lane mile eligibility and calculations and further provides internal and external instructions in the administration of maintenance and construction payments for qualifying cities and towns. The regulation needs to be updated to reflect the elimination of formula funds, notably the urban construction allocation to localities referenced in the regulation. Chapter 684 of the 2015 Acts of Assembly amended § 33.2-358 of the *Code of Virginia* by changing the previous construction formula distribution – 40% to the primary system, 30% to the secondary system, and 30% to the urban system – to the current process which no longer utilizes an urban construction allocation. This change in the distribution formula applied to funds allocated for fiscal years beginning on and after July 1, 2020. Further, § 33.2-362 of the Code of Virginia, which outlined the allocation of construction funds for urban system highways, was repealed by Chapter 684 of the 2015 Acts of Assembly. VDOT proposes that the regulation therefore be amended to remove the obsolete provisions of the regulation referencing the urban construction allocation.

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

This regulation was promulgated by the CTB based on current Federal and State statutory and regulatory authorities as found in 23 USC § 128, 23 CFR § 771.111, and § 33.2-208 of the *Code of Virginia*. The 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*. This 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. Details of the public involvement process are typically coordinated and align with the level of involvement for state or federal environmental documents required by other sections of state and federal law and/or regulations. 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, and that is expected to continue under this regulation. VDOT recommends retaining the regulation as is.

Recommendations: VDOT recommends that the following regulations be retained as is: Public Participation Guidelines, Rules and Regulations Governing Relocation Assistance, Subdivision Street Requirements, Secondary Street Acceptance Requirements, and Public Hearings for the Location and Design of Highway Projects. VDOT further recommends that the Urban Maintenance and Construction Policy regulation be amended as specified above.

Action Required by CTB: A resolution will be presented for CTB approval authorizing VDOT 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 the regulation that is recommended to be so amended.

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

Options: Approve, Deny, or Defer.

Public Comments/Reactions: There were three public comments received in total, one for each of the following regulations: Subdivision Street Requirements, Urban Maintenance and Construction Policy, and Public Hearings for the Location and Design of Highway Projects. The public comment received for the Subdivision Street Requirements requested or sought changes relating to bicycle and pedestrian facilities, changes that were included in the 2011 Secondary Street Acceptance Requirements, which followed the Subdivision Street Requirements. The public comment received regarding Public Hearings for the Location and Design of Highway Projects was supportive of the regulation and its retention. The public comment received for the Urban Maintenance and Construction Policy recommended standardizing the required widths for determining street maintenance eligibility and calculating lane mileage eligibility to a narrow width that was included in a specific exception in the regulation; however, VDOT's provided response explained the special circumstance under which the narrower width applies and the reason why it should not be adopted more broadly as proposed. For the other regulations under review, there were no comments or other input received from the public.



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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	/ /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.



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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 30-41
VAC Chapter title(s)	Rules and Regulations Governing Relocation Assistance
Date this document prepared	___/___/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.

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

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.

This regulation was promulgated by the Commonwealth Transportation Board (CTB) as authorized by § 25.1-402 of the *Code of Virginia*, which provides assurances to the Federal Highway Administration that the Virginia Department of Transportation will comply with the Uniform Relocation and Assistance and Real Property Acquisition Policies Act of 1970 (42 USC § 4601 *et seq.*), as amended, and as required in 49 CFR § 24.4 in order to receive federal financial assistance. The CTB is authorized to comply fully with the provisions of federal aid acts pursuant to § 33.2-221 of the *Code of Virginia*.

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 is required to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC § 4601 *et seq.*) in order for the Virginia Department of Transportation to receive federal financial assistance. 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.

This regulation is necessary for the protection of public health, safety and welfare by providing relocation benefits and advisory assistance to persons displaced by a highway construction project and ensuring they are treated fairly and equitably. The regulation provides for relocation of displaced persons and personal property in a timely manner to meet the needs of those persons and to achieve project schedules. 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 ensure fair and equitable treatment of persons displaced by highway construction projects.

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 is required to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC § 4601 *et seq.*) in order for the Virginia Department of Transportation to receive federal financial assistance. It provides a system of benefits with the following objectives: "To ensure that persons displaced as a direct result of Federal or federally-assisted projects are treated fairly, consistently, and equitably so that such displaced persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and to ensure that Agencies implement these regulations in a manner that is efficient and cost effective." (49 CFR § 24.1(b) & (c))

This regulation is not overly complex and is consistent with the federal law codified at 42 USC § 4601 *et seq.* and the related federal regulations in 49 CFR, part 24. The last review of this regulation occurred in 2019 and there have been no amendments or public comments since then. The regulation provides eligible relocation benefits and advisory assistance to small businesses when affected by a state project, thereby minimizing the economic impact of these projects on small businesses.



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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 30-91
VAC Chapter title(s)	Subdivision Street Requirements
Date this document prepared	___/___/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.

SSR – Subdivision Street Requirements

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 Subdivision Street Requirements (SSR) govern the acceptance of subdivision streets into the secondary system of state highways for maintenance by the Virginia Department of Transportation (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. 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 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.

In 2007, the General Assembly (in Chapter 382 of the Acts of Assembly) authorized the CTB to adopt new regulations establishing Secondary Street Acceptance Requirements, and specified several provisions that must be contained in those regulations. However, Chapter 382 also allowed for subdivision plats and construction plans submitted to VDOT prior to the effective date of the new regulations authorized by that Act to be built to the previously existing standards, which are found in this regulation, 24 VAC 30-91.

Streets which may be considered for acceptance in accordance with this regulation include: 1) streets where the street layout has been proffered pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303 of the *Code of Virginia* if the requirements of 15.2-2307 are met prior to July 1, 2009; 2) streets that are part of a recorded plat or final site plan valid pursuant to § 15.2-2261 of the *Code of Virginia* and approved in accordance with §§ 15.2-2241 through 15.2-2245 and 15.2-2286 of the *Code of Virginia* prior to July 1, 2009; 3) streets that are part of a preliminary subdivision plat valid pursuant to § 15.2-2260 of the *Code of Virginia* approved in accordance with §§ 15.2-2241 through 15.2-2245 and 15.2-2286 of the *Code of Virginia* prior to July 1, 2009; 4) streets that are part of a street construction plan approved by VDOT prior to July 1, 2009; and 5) if requested by the local governing body, the SSR shall apply if the conceptual sketch was submitted to the agency prior to July 1, 2009.

Therefore, no alternatives to the SSR can be considered.

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
Nicole Keller	Hello Ms. Maxwell, I am writing to submit a public comment as part of the periodic review of the Subdivision Street Requirements [24 VAC 30-91], I believe that it is necessary for the protection of public health, safety,	The CTB agrees with the commenter regarding the importance of bicycle and pedestrian accommodations. More substantial accommodations were included in the 2011 Secondary Street Acceptance Requirements, which replaced the Subdivision Street Requirements.

	<p>and welfare and for the economic performance of newly built streets that a requirement for some form of active transportation accommodation is added to this Chapter. Newly constructed streets under state management should from this point forward be required to include either a sidewalk and/or bike lane. By requiring this, Virginia will continue to build a multi-modal transportation network that serves all people and encourages healthier and cleaner transportation. Thank you for registering my comment.</p>	
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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 SSR establishes the conditions and standards that must be met before certain subdivision streets constructed by entities other than VDOT will be accepted into the state secondary system for maintenance by VDOT. Proposed developments that include roads to be accepted into the secondary system and that were initially received by VDOT prior to July 1, 2009 may be grandfathered under these requirements. 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

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 Commonwealth Transportation Board is proposing to retain this regulation without making any changes. 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, 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 the 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.

The SSR has 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. VDOT believes the regulation is not overly complex, and there is no overlap, duplication, or conflict with federal or state laws or regulations. The SSR was originally adopted in 1949. In 2005, VDOT worked with external stakeholders to complete a comprehensive revision of the SSR. There have been no complaints received from the public, and the one public comment received during the periodic review was supportive of changes which were included in the 2011 Secondary Street Acceptance Requirements, which followed the SSR. There have been no amendments to the regulation since it was last reviewed in 2019.



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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 30-92
VAC Chapter title(s)	Secondary Street Acceptance Requirements
Date this document prepared	/ /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.

SSAR – Secondary Street Acceptance Requirements

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.

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.

Section 33.2-326 of the *Code of Virginia* vests in VDOT the control, supervision, management and jurisdiction over the secondary system of highways. Further, VDOT is authorized by §33.2-334 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 SSAR are part of the department’s Road Design Manual (Appendix B of that Manual).

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.

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. However, Chapter 425 of the 2022 Acts of Assembly required VDOT to convene a stakeholder advisory group composed of representatives from VDOT, local government, environmental advocacy organizations, and the residential and commercial land development and construction industry for the purpose of developing and providing recommended amendments to the SSAR. The CTB expects that alternatives to the existing SSAR may be considered as a result of those recommendations in 2023.

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 SSAR establishes 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, which were initially received by the agency on/ 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.

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 Commonwealth Transportation Board is proposing to retain this regulation without making any changes. The regulation promotes public health, safety, and welfare as well as accepting only qualified roads into the state's highway systems. Legislation passed during the 2022 General Assembly session requires VDOT to convene a stakeholder advisory group to provide recommended amendments to the SSAR regarding flexibility to limit the number of connections to adjacent property or highway networks, as deemed appropriate. Any amendments to the SSAR as a result of this legislation will be addressed separately upon completion of the stakeholder advisory group's review.

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.

The SSAR has a positive impact on state resources as well as small businesses. This regulation is needed to reduce long-term traffic congestion, support and promote more economic activity and better transportations systems. VDOT believes the regulation is not overly complex, and there is no overlap, duplication, or conflict with federal or state laws or regulations. There have been no complaints received from the public nor have there been any amendments to the regulation since it was last reviewed in 2019.



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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 30-325
VAC Chapter title(s)	Urban Maintenance and Construction Policy
Date this document prepared	/ /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 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.

This regulation was promulgated by the Commonwealth Transportation Board (CTB) 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 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 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 (VDOT).

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.

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
Anonymous	As the governor's office desires to remove unnecessary regulation, I propose that 24VAC30-325-10 A. 3 be modified to better match 24VAC30-325-10 B. 4 , where the former requires 16 feet of constructed way with 40 feet of ROW while the latter only deems 14 feet necessary when calculating lane mileage. Adjusting 24VAC30-325-10 A. 3 to 14 feet (and analyzing if 40 feet of ROW is necessary) would lower costs by requiring a smaller amount of constructed product and reduce the confusion of mentioning multiple widths.	<p>This regulation should be read in the context of § 33.2-319 of the <i>Code of Virginia</i>. Section 33.2-319 B specifies nine types/configurations of highways in cities and towns that can be eligible for urban maintenance payments. Section 33.2-319 B also states that the "Commissioner of Highways may waive the requirements as to hard-surface pavement or right-of-way width for highways where the width modification is at the request of the governing body of the locality and is to protect the quality of the affected locality's drinking water supply or, for highways constructed on or after July 1, 1994, to accommodate some other special circumstance where such action would not compromise the health, safety, or welfare of the public. The modification is subject to such conditions as the Commissioner of Highways may prescribe."</p> <p>24 VAC 30-325-10-B-4 is intended to address the type/configuration of highway in § 33.2-319 B (iv), which states: "...(iv) either (a) has been paved and has constituted part</p>

		<p>of the primary or secondary state highway system prior to annexation or incorporation...”.</p> <p>So, if an older highway in the state system of highways is annexed into a city/town that is eligible to receive urban maintenance payments, and that highway is a two lane highway with a paved width of 14 feet (which would typically occur in more rural counties), then the city/town that annexed the highway may still be eligible to receive urban maintenance payments for that highway, but VDOT will make such payments as though the highway were one lane, not two.</p> <p>But for that one exception, 24 VAC 30-325-10-A-3 provides that any local one way streets, loop roads, school bus entrances, service roads and frontage roads may be eligible for receiving urban maintenance payments, but only if they have a paved width of at least 16 feet and a right-of-way width of at least 40 feet. Note that none of the configurations in § 33.2-319 specify that combination of 16 ft./40 ft. So this would likely count as a waiver of the width requirements due to those types of highways being special circumstances.</p>
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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 is necessary for the protection of the public health, safety, and welfare as 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. The design standards ensure the safety of the public and facilitate the efficient movement of people and commercial goods on those highways. 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 amend this regulation. The allocation of funding for urban construction has changed since the regulation was last amended, and amendments are now needed to conform the regulation with current requirements.

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 provides certain details and conditions in order for urban streets to be eligible for maintenance payments as well as conditions for lane mile eligibility and calculations and further provides internal and external instructions in the administration of maintenance and construction payments for qualifying cities and towns. There was one comment received during the public comment period for the periodic review, and the comment and response can be found in the "Public Comment" section above.

There have been no amendments to the regulation since it was last reviewed in 2019. 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.

The regulation needs to be updated to reflect the elimination of formula funds, notably the urban construction allocation to localities referenced in the regulation. Chapter 684 of the 2015 Acts of Assembly amended § 33.2-358 of the Code of Virginia by changing the previous construction formula distribution – 40% to the primary system, 30% to the secondary system, and 30% to the urban system – to the current process which no longer utilizes an urban construction allocation. This change to the distribution formula applied to funds allocated for fiscal years beginning on and after July 1, 2020. Further, § 33.2-362 of the Code of Virginia, which outlined the allocation of construction funds for urban system highways, was repealed by Chapter 684 of the 2015 Acts of Assembly. The current programs for funding projects in the urban system of highways are outlined in Chapter 3.4 of the Urban Construction and Maintenance Manual. This Manual, adopted by VDOT, can be found by the public on Virginia's Regulatory Town Hall (www.townhall.virginia.gov) under VDOT's Guidance Documents and on the VDOT website (www.virginiadot.org) on the Local Assistance Division's Urban Highways page.



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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 30-380
VAC Chapter title(s)	Public Hearings for the Location and Design of Highway Projects
Date this document prepared	___ / ___ / 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.

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

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.

This regulation was promulgated by the Commonwealth Transportation Board (CTB) based on current Federal and State statutory and regulatory authorities as found in 23 USC § 128, 23 CFR § 771.111, and § 33.2-208 of the *Code of Virginia*.

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*.

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.

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
Nicole Keller	Hello Ms. Maxwell, I am writing to submit my public comment as part of the periodic review of the Public Hearings for the Location and Design of Highway Projects chapter [24 VAC 30-380]. The public deserves to have a voice in response to major transportation projects. It is my opinion that this requirement is critical and should be retained. Thank you for recording my comment.	The CTB agrees with the commenter regarding the importance of this regulation and will retain the regulation as-is.

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 origins of the regulation are nearly three decades old, and in the CTB’s judgment, the regulation continues to be 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. Details of the public involvement process are typically coordinated and align with the level of involvement for state or federal environmental documents required by other sections of state and federal law and/or regulations. 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 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, and that is expected to continue under this regulation.

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.

This 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. The one public comment received during this periodic review was supportive of the regulation. The longevity of the regulation and the general awareness of its nature and purpose lead the CTB 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. The CTB does not believe that this regulation has a significant economic impact on small businesses.

In 2008, the regulation received a review resulting in significant substantive changes, but the most recent periodic review was conducted in 2019 and there have been no amendments to the regulation since then. 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.
