



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Shannon Valentine
Chairperson

1401 East Broad Street
Richmond, Virginia 23219

(804) 786-2701
Fax: (804) 786-2940

Agenda item # 5

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

June 17, 2020

MOTION

**Made By: Mr. Rucker., 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 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, 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 Order 14 and the APA, including the completion of a Periodic Review Report of Findings for each regulation (attached as Exhibits A through C); 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 30-151	Land Use Permit Regulations	Retain as is.
24 VAC 30-570	Procedures for Inclusion of Routes into the Non-Interstate Qualifying Network and Virginia Access Systems	Repeal (but retain procedures internally within VDOT)
24 VAC 30-620	Rules, Regulations, and Rates Concerning Toll and Bridge Facilities	Amend

; 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*.

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(s) for which amendment is approved, to take all actions necessary to begin the process of amending said regulation(s), submitting to the Board the proposed amendment(s) for approval prior to completing the process to amend the regulation(s).

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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 21 days, satisfying the minimum statutory requirement. No public comments were submitted regarding the regulations under periodic review by the CTB .
- 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-C), which is to be filed with the Virginia Registrar to complete the periodic review process.
- The regulations reviewed which are to be considered by the CTB 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 30-151	Land Use Permit Regulations	Retain as is
24 VAC 30-570	Procedures for Inclusion of Routes into the Non-Interstate Qualifying Network and Virginia Access Systems	Repeal (but retain procedures document)
24 VAC 30-620	Rules, Regulations, and Rates Concerning Toll and Bridge Facilities	Amend

- **24 VAC 30-151 Land Use Permit Regulations**

The Land Use Permit Regulations were promulgated by the CTB pursuant to its general authority to make regulations “for the protection of and covering traffic on and for the use of systems of state highways” in § 33.2-210 of the *Code of Virginia*. The regulation permits work activities on the right of way for construction, utility installations, entrances, events and other activities. Pursuant to the Land Use Permit Regulations, VDOT shall review and analyze permit applications, in order to mitigate any potential adverse impacts on state-controlled highways, to protect VDOT assets, and to ensure the safety of the traveling public. The Land Use Permit Regulations were adopted in 2010 to replace the Highway Access Management Regulations for Principal Arterials, 24 VAC 30-150. They have been amended several times for various reasons since then, including in 2011, 2014, 2015, and 2018. VDOT is recommending that the regulation be retained as is.

- **24 VAC 30-570 Procedures for Inclusion of Routes into the Non-Interstate Qualifying Network and Virginia Access Systems**

The Surface Transportation Assistance Act (STAA) (Public Law 97-424), which was originally enacted in 1982, established different networks of highways for access by over-dimensional vehicles. Each state is required by 23 CFR 658.19 to have its access provisions approved by the Federal Highway Administration. However, the federal regulation does not specify that the access provisions need to be in the form of a state law or regulation. Sections 46.2-1109, 46.2-1112, 46.2-1114, 46.2-1114.1, 46.2-1116, 46.2-1117, and 46.2-1151.1 of the *Code of Virginia* authorize the CTB to designate highways on which over-dimensional vehicles may travel and authorize the Commissioner of Highways to designate highways for reasonable access to terminals, and facilities for food, fuel, repairs and rest for those over-dimensional vehicles. The current regulation, which was adopted in 1993 and has not been amended since then, incorporates by reference procedures that are maintained

by VDOT's Traffic and Engineering Division and set forth the process for evaluating and designating routes for inclusion in the Non-Interstate Network (NIQN) and/or the Virginia Access Systems (VAS).

Although VDOT is recommending repeal of the regulation, the procedures, (which, consistent with the law, call for CTB approval of routes recommended for inclusion in the NIQN), will continue to be maintained by VDOT and will still be used for the review of requests for inclusion of new routes into these systems.

- **24 VAC 30-620 Rules, Regulations, and Rates Concerning Toll and Bridge Facilities**

The Rules, Regulations and Rates Concerning Toll and Bridge Facilities specify the toll rates for certain VDOT-owned and operated toll facilities. The regulation also delegates authority for the suspension of tolls at those facilities from the Commissioner of Highways to the facility's administrator, as authorized by § 33.2-613. The regulation additionally specifies the general conditions and criteria under which the suspension of tolls can occur, as authorized by § 33.2-613.

New VDOT-owned and operated toll facilities have opened, or are likely to open in the near future, that are not included in the existing regulation. Further, § 33.2-613 has been amended in recent years, changing the Commissioner of Highways' authority regarding the suspension of tolls on toll facilities in the Commonwealth. VDOT is proposing that the regulation therefore be amended. The amendments to the regulation are anticipated to address the additional toll facilities covered by the regulation and the change in procedures and criteria to be considered for the suspension of tolls. The amendments are not anticipated to amend existing toll rates specified in the regulation. The CTB will be apprised of and will need to approve proposed amendments.

Recommendations: VDOT recommends that the Land Use Permit Regulations be retained as is. VDOT further recommends that Rules, Regulations and Rates Concerning Toll and Bridge Facilities be amended as specified above. Finally it is recommended that the Procedures for Inclusion of Routes into the Non-Interstate Qualifying Network and Virginia Access Systems be repealed and that the procedures relating to the inclusion of routes in the NIQN and VAS continue to be maintained by VDOT.

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 and Small Business Impact Review Report of Findings

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) Chapter citation(s)	24 VAC30-151
VAC Chapter title(s)	Land Use Permit Regulations
Date this document prepared	4/21/2020

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 (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

CTB means the Commonwealth Transportation Board.
 Department or VDOT means the Virginia Department of Transportation.
 CFR means the Code of Federal Regulations.

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 Commonwealth Transportation Board promulgated the Land Use Permit Regulations

pursuant to its general authority to make regulations “for the protection of and covering traffic on and for the use of systems of state highways” in § 33.2-210 of the *Code of Virginia*. Federal law requires states to restrict access to and use of certain highway right-of-ways, including 23 U.S.C. 111 and 23 CFR 710.203.

Additional Code sections authorize certain sections or aspects of the Land Use Permit Regulations. Section 33.2-118 authorizes the Department to issue permits for mobile food vending in certain parking areas. Section 33.2-216 requires the CTB to “establish regulations regarding size, distance from the roadway, and other safety concerns to govern the installation, maintenance, and removal of roadside memorials, plaques, and other devices placed within the right-of-way that commemorate the memory of persons killed in vehicle crashes within the right-of-way of any state highway.” Sections 33.2-240, 33.2-241, and 33.2-245 of the *Code of Virginia* authorize the Department and the CTB to regulate access to and entrances onto the state highway system. Section 33.2-1238 authorizes the Department to issue permits to allow outdoor advertising structures, in accordance with 23 U.S.C. 131. Section 46.2-1149 authorizes the Department to issue permits for use of the highways by certain oversize or overweight loaders or haulers.

Section § 2.2-1151.1 authorizes the department to issue permits for a person providing utility service solely for his own agricultural or residential use, provided that the utilities are located on property owned by the person, or (ii) the owner of a private residence or business for water or sewer service to cross the Department's right-of-way when no viable alternative exists to provide potable water or to transfer sewer effluent to a qualified drain field. Several additional sections of the *Code of Virginia* authorize the CTB and the Department to regulate the access to and use of the highway right-of-way by various Utilities, including §§ 56-458 and 56-484.28.

Additionally, federal regulations authorize or mandate regulation of the use of highway right-of-way, including 23 CFR Part 645, Subpart B (Accommodation of Utilities).

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 regulation permits work activities on the right of way for construction, utility installations, entrances, events and other activities. VDOT shall review and analyze permit applications, in order to mitigate any potential adverse impacts on state-controlled highways and to protect VDOT assets. In the interests of ensuring the safety of the traveling public, VDOT believes there are no viable alternatives to this regulation and that the current regulation is the least burdensome approach for achieving the purposes set forth by the regulation.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency 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.

No Public comment was received during the public comment period.

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 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.

All occupation of state highway right of way, including occupation by utilities and other proprietary functions of localities, is to be under the authority granted by a land use permit issued in accordance with the Virginia Department of Transportation's Land Use Permit Manual. The Land Use Permit Regulations set out the requirements that must be met in order to occupy state highway right of way. The permits address safety issues such as proper procedures for temporarily closing travel lanes, standards for entrances and access points onto highways, affixing signs and other objects to structures in the right-of-way, and location and protection of utility lines. The Land Use Permit Regulations are necessary for the protection of the public health, safety and welfare of the public travelling on or near public highways, and are 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).

The Commonwealth Transportation Board is recommending retaining the regulation as is.

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.

As noted above, retention of the Land Use Permit Regulations is necessary for the health, safety, and welfare of the travelling public. No comments were received concerning the regulation. The regulation is not complex, and does not overlap, duplicate or conflict with any other laws or regulations. The Land Use

Permit Regulations, 24 VAC 30-151, were adopted in 2010 to replace the Highway Access Management Regulations for Principal Arterials, 24 VAC 30-150. They have been amended several times for various reasons since then, including in 2011, 2014, 2015, and 2018.



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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 VAC30-570
VAC Chapter title(s)	Procedures for Inclusion of Routes into the Non-Interstate Qualifying Network and Virginia Access Systems (Filed by Description with the Registrar of Regulations)
Date this document prepared	04/28/2020

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 (1VAC7-10), 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 means the Code of Federal Regulations.
 CTB means the Commonwealth Transportation Board.
 FHWA means the Federal Highways Administration.
 VDOT means the Virginia Department of Transportation.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Surface Transportation Assistance Act (STAA) (Public Law 97-424), which was originally enacted in 1982, established different networks of highways for access by over-dimensional vehicles. Each state is required by 23 CFR 658.19 to have its access provisions approved by the Federal Highway Administration. However, the federal regulation does not specify that the access provisions need to be in the form of a state law or regulation.

Sections 46.2-1109, 46.2-1112, 46.2-1114, 46.2-1114.1, 46.2-1116, 46.2-1117, and 46.2-1151.1 of the *Code of Virginia* authorize the CTB to designate highways on which over-dimensional vehicles may travel and authorize the Commissioner of Highways to designate highways for reasonable access to terminals, facilities for food, fuel, repairs and rest for those over-dimensional vehicles. The CTB additionally has general authority to regulate the use of highways in the Commonwealth pursuant to § 33.2-210.

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 “Procedures for Inclusion of Routes into the Non-Interstate Qualifying Network and Virginia Access System” are maintained in the Traffic Engineering Division in VDOT’s Central office and are approved by FHWA. Any subsequent changes to the procedures requires approval by the FHWA, pursuant to 23 CFR 658.19, however, these procedures are not required to be in the form of a state law or regulation.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency 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.

No comments were received during the public comment period.

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 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 designation of routes accessible for over-dimensional vehicles is necessary in order to maintain compliance with federal law. This regulation’s goal is to protect the public’s health, safety, and welfare with the least possible cost and intrusiveness to the citizens of the

Commonwealth. By establishing procedures whereby commercial trucking firms can gain access to routes not previously designated, the ability of these firms to transact business (e.g., ship cargo) will be enhanced. As a result, goods may reach more markets faster, consumers will have freer access to more goods, and the economic health of the business will benefit.

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).

The CTB recommends repeal of this regulation. As stated above, the procedures previously approved by FHWA per 23 CFR. 658.19 are already maintained in the Traffic Engineering Division of the VDOT Central Office, as is the record of the routes that have been designated for access by over-dimensional vehicles. Although not explicitly stated in 23 CFR 658.19, it is presumed that any subsequent changes to the procedures likewise requires approval by the FHWA. However, neither federal law nor federal regulations require that these procedures be maintained in the form of a state law or regulation. Pursuant to 1 VAC 7-10-140 (D), agencies should not adopt one of their own documents by reference as a 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.

Repealing this regulation does not impact small businesses, as the designated routes will remain, and the procedures for the inclusion of additional routes in the networks will remain, likely as a guidance document, at VDOT.



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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 VAC30-620
VAC Chapter title(s)	Rules, Regulations and Rates Concerning Toll and Bridge Facilities
Date this document prepared	4/21/2020

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 (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

CTB means the Commonwealth Transportation Board.
P3 means facilities built pursuant to the Public Private Transportation Act.

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 Commonwealth Transportation Board adopted the Rules, Regulations and Rates Concerning Toll and Bridge Facilities, 24 VAC 30-620, pursuant to its general authority to adopt regulations governing the

use of highways in § 33.2-210, and more specific authority found in §§ 33.2-604, 33.2-613 and 33.2-1701, which say that toll rates may be charged as set by law or as fixed by the CTB and specify when tolls may not be charged.

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.

No viable alternatives were considered for achieving the goals of establishing rules and regulations and collecting tolls on non-P3, VDOT-owned toll facilities. The CTB is the legal entity assigned for making policy for all transportation matters in the Commonwealth, and is charged with fixing toll rates. The procedures for the suspension of toll collection during emergencies are designed for quick and appropriate action. As such, these are the least burdensome means to regulate policy and toll rates for toll roads established and operated by the Commonwealth of Virginia.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency 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.

No public comment was received during the public comment period.

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 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 welfare because it ensures that toll rates charged at toll facilities are fixed by a process that allows for public input, and that toll collection may be suspended during emergencies or other events where it is in the public interest to allow for free, efficient movement of vehicles through toll facilities. The regulations are 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).

The number and location of toll facilities in the Commonwealth has changed since these regulations were last amended. Therefore, the CTB recommends amending the regulations.

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. The CTB approves transportation policy for the Commonwealth; this includes policy related to toll facilities and tolling in the Commonwealth. The public has been given ample opportunity to comment on board actions related to the Tolling Program. This can be done during the public input portion of Board Meetings, or through written comments at public hearings. The regulation is not overly complex. Regulations are required to set rates on VDOT owned toll facilities, and to specify procedures for the suspension of toll collection.

This state regulation does not overlap with Federal regulation. Federal legislation also governs how toll revenue can be used. The regulation has not been amended substantively since 2005. The regulation needs to be updated to reflect the use of technology in regards to the use of an electronic device to facilitate free passage for certain individuals as noted in the *Code of Virginia*, and to reflect the changed number and locations of toll facilities in the Commonwealth.
