



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Shannon Valentine  
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*Agenda item # 12*

### **RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD**

**July 21, 2021**

#### **MOTION**

**Made By: Ms. Hynes, Seconded By: Mr. Johnsen**

**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 H); 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 30-21	General Rules and Regulations of the Commonwealth Transportation Board	Retain as is.
24 VAC 30-50	Rules and Regulations for the Administration of Waysides and Rest Areas	Retain as is.
24 VAC 30-100	Rules and Regulations for the Administration of Parking Lots and Environs	Retain as is.
24 VAC 30-130	Rules Governing Prequalification and Classification	Repeal (but retain policy/procedures).
24 VAC 30-210	Policy on Placing Utilities Underground	Repeal.
24 VAC 30-271	Economic Development Access Fund Policy	Repeal (but retain policy/procedures).
24 VAC 30-420	Operation and Maintenance of Roads in Incorporated Towns Less Than 3500	Repeal (but retain policy).
24 VAC 30-430	Maintenance of Roads Crossing the Interstate System	Repeal (but retain policy/procedures).

; 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 affirms that any current Policies of the Commonwealth Transportation Board relating to those regulations for which repeal is approved shall not be affected by this repeal action, however, the Commonwealth Transportation Board directs the Commissioner of Highways or his designees to begin a review of those Policies and to present any recommendations for further revisions or other action on those Policies to the Commonwealth Transportation Board no later than June 30, 2022.

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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 at least 21 days, satisfying the minimum statutory requirement. No public comments were submitted regarding the regulations under periodic review by the CTB. It is noted, however, that one request for a copy of the policy on placing utilities underground was received and a response provided. No subsequent comments or requests were submitted in response.
- 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-H), which is to 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 30-21	General Rules and Regulations of the Commonwealth Transportation Board	Retain as is.
24 VAC 30-50	Rules and Regulations for the Administration of Waysides and Rest Areas	Retain as is.
24 VAC 30-100	Rules and Regulations for the Administration of Parking Lots and Environs	Retain as is.
24 VAC 30-130	Rules Governing Prequalification and Classification	Repeal (but retain policy/procedures).
24 VAC 30-210	Policy on Placing Utilities Underground	Repeal.
24 VAC 30-271	Economic Development Access Fund Policy	Repeal (but retain policy/procedures).
24 VAC 30-420	Operation and Maintenance of Roads in Incorporated Towns Less Than 3500	Repeal (but retain policy).
24 VAC 30-430	Maintenance of Roads Crossing the Interstate System	Repeal (but retain policy/procedures).

- **24 VAC 30-21 General Rules and Regulations of the Commonwealth Transportation Board**

Under § 33.2-210 of the Code of Virginia, the CTB has authority the power and duty to make regulations that are not in conflict with the laws of the Commonwealth “for the protection of and covering traffic on and for the use of systems of state highways and shall have the authority to add to, amend, or repeal such regulations.” Through this regulation, the CTB regulates generally the activities that occur on highway rights-of-way under its

jurisdiction, dictating that uses other than travel are subject to the land use permit framework and that access/entrances are subject to the access management framework, and providing for regulation of other uses of the highway systems. VDOT recommends retaining the regulation as is.

- **24 VAC 30-50 Rules and Regulations for the Administration of Waysides and Rest Areas**

This regulation establishes rules and conditions governing the use of, and activities that may be conducted in, waysides and rest areas under the control of the CTB. Under § 33.2-210 of the Code of Virginia, the CTB has authority the power and duty to make regulations that are not in conflict with the laws of the Commonwealth “for the protection of and covering traffic on and for the use of systems of state highways and shall have the authority to add to, amend, or repeal such regulations.” In addition, under § 33.2-246 (subsection E) of the Code of Virginia, the CTB is authorized to "establish regulations for the use of recreational waysides, including regulations relating to (i) the time, place, and manner of parking of vehicles; (ii) activities that may be conducted within such waysides; (iii) solicitation and selling within the waysides; and (iv) such other matters as may be necessary or expedient in the interest of the motoring public."

Currently, the regulation addresses subjects such as operating hours, restrictions on parking, activities prohibited at all times, and those activities that may be performed by permit from the Commissioner. VDOT recommends retaining the regulation as is.

- **24 VAC 30-100 Rules and Regulations for the Administration of Parking Lots and Environs**

The statutory authority for this regulation is found in Code of Virginia §§ 33.2-118 (regulation of mobile food vending in parking lots in Planning District 8), and 33.2-210 (providing that the CTB has authority "to make rules and regulations, from time to time, not in conflict with the laws of this Commonwealth, for the protection or and covering traffic on and the use of systems of state highways”), and 23 U.S.C. § 111. This regulation establishes rules and conditions governing the use of, and activities that may be conducted in, parking lots and related environs under the control of the CTB.

Currently, the regulation addresses subjects such as restrictions on parking, activities prohibited at all times, and those activities that may be performed by permit from the Commissioner of Highways. VDOT recommends retaining the regulation as is.

- **24 VAC 30-130 Rules Governing Prequalification and Classification**

Section 2.2-4317 of the VPPA states that “Prospective contractors may be prequalified for

particular types of supplies, services, insurance or construction, and consideration of bids or proposals limited to prequalified contractors.... Any prequalification of prospective contractors for construction by a public body shall be pursuant to a prequalification process for construction projects adopted by the public body.” Section 33.2-209 of the Code of Virginia states that “The Board shall have the power and duty to let all contracts to be administered by the Department of Transportation or the Department of Rail and Public Transportation for the construction, maintenance, and improvement of the highways comprising systems of state highways and for all activities related to passenger and freight rail and public transportation in excess of \$5 million.” That section further states that “The Board may award contracts for the construction of transportation projects on a design-build basis... pursuant to objective criteria previously adopted by the Board regarding the use of design-build... Such objective criteria shall include requirements for prequalification of contractors and competitive bidding processes.”

The CTB has adopted a written policy on what criteria it will consider and the process to be used for the prequalification of contractors, which can effectively be used as guidelines to govern the process used by VDOT and contractors for prequalification. Therefore, the regulation is not necessary, and VDOT is recommending the regulation be repealed. Going forward, if any revisions to the policy are recommended, the revisions and resulting policy will be presented to the CTB for approval, utilizing more streamlined methods available to the CTB for amending its policies and procedures.

- **24 VAC 30-210 Policy on Placing Utilities Underground**

The Commonwealth Transportation Board adopted this regulation, based on authority in § 33.2-348 of the Code of Virginia, which related to the CTB’s authority to fund construction and improvement projects for the Urban System of State Highways and specifically provided limited funding to urban localities relating to undergrounding utilities. The CTB also has general authority to adopt regulations “for the protection of and covering traffic on and for the use of systems of state highways and shall have the authority to add to, amend, or repeal such regulations” pursuant to § 33.2-210 of the Code of Virginia.

The regulation consists merely of a description of the Underground Utility Policy, describing it as a policy that establishes the conditions under which transportation funds shall be used to reimburse a portion of the additional cost involved to place overhead utility facilities underground in connection with new transportation improvement construction and states that the Policy applies to projects for the urban system of highways that are created and constructed in accordance with § 33.2-348 of the Code of Virginia. However, when § 33.2-348 was repealed, effective July 1, 2016, the specific statutorily authorized program for funding the relocation of aerial utilities underground was also repealed, effective July 1, 2016. Today, the VDOT Utility Manual addresses, among other things, undergrounding of aerial facilities and given the repeal of § 33.2-348, provides that additional costs attributable to undergrounding must be borne by the requesting localities. Therefore, VDOT is recommending that the regulation be repealed.

- **24 VAC 30-271 Economic Development Access Fund Policy**

Pursuant to § 33.2-1509 of the Code of Virginia, the Commonwealth Transportation Board is authorized to make decisions on expending funds “for constructing, reconstructing, maintaining, or improving access roads within localities to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed...” This regulation sets forth the policy by which the Commonwealth Transportation Board makes those funding decisions.

The General Assembly passed SB 1253 in its 2021 session, which amended § 33.2-1509 to require the CTB to establish guidelines for the Economic Development Access Fund, and requires that the guidelines consider the number of jobs that will be created by the economic development project, the proposed capital investment by the private sector at the economic development site, and any other relevant criteria related to the economic development project.

The functions performed by the regulation are those that are adequately performed by the existing Economic Development Access Fund guidelines that have been adopted by the Commonwealth Transportation Board as a guidance document. Therefore, VDOT is recommending that the regulation be repealed, but that the guidance document be retained and reviewed for modifications necessary to comply with the requirements of SB 1253.

- **24 VAC 30-420 Operation and Maintenance of Roads in Incorporated Towns Less Than 3500**

Section 33.2-339 of the Code of Virginia states that the “Commissioner of Highways may, subject to the approval of the [CTB], upon request of the governing bodies of towns with a population of less than 3,500, according to the last United States census, select certain streets and highways in such towns for maintenance, improvement, construction, and reconstruction from allocations available from secondary highway funds not to exceed two miles of streets or highways in such towns included in the secondary state highway system....”

Section 33.2-340 of the Code of Virginia states that “[i]f no request is made to the [CTB] by the governing body of any town as provided in § 33.2-339, the Commissioner of Highways, subject to the approval of the [CTB], may maintain, improve, construct, and reconstruct all streets in such town that” meet certain specified criteria and/or standards.

This regulation merely describes or references the CTB’s policy on approving requests for



maintenance of roads under §§ 33.2-339 and 33.2-340. The CTB's policy states that once a locality chooses the funding mechanism between §§ 33.2-339 and 33.2-340, that choice may only be changed with a showing of good cause. The purpose for which this regulation has been adopted may be accomplished through or by means of the CTB Policy. Therefore, VDOT is recommending this regulation be repealed, but that the underlying policy be retained.

- **24 VAC 30-430 Maintenance of Roads Crossing the Interstates**

The regulation specifies the expected responsibilities of various types of localities (cities and towns with populations over 3500 persons, counties, and counties that have withdrawn from the state highway system) and the responsibilities of the Virginia Department of Transportation in the maintenance of various types of highways that cross over or under Interstate Highways.

VDOT has determined that this regulation's purpose may be accomplished through a written CTB Policy and is not necessary as a regulation. Therefore, VDOT is recommending the regulation be repealed, but that the underlying policy be retained.

**Recommendations:** VDOT recommends that the General Rules and Regulations of the Commonwealth Transportation Board, the Rules and Regulations for the Administration of Waysides and Rest Areas and the Rules and Regulations for the Administration of Parking Lots and Environs be retained as is. VDOT recommends that the Rules Governing Prequalification and Classification, the Policy on Placing Utilities Underground, the Economic Development Access Fund Policy, the Operation and Maintenance of Roads in Incorporated Towns Less Than 3500, and the Maintenance of Roads Crossing the Interstates be repealed while any existing policy and procedures relating to such respective topics be retained as CTB policies or guidance documents, as appropriate.

**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 repeal the regulations that are recommended to be so repealed.

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

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24 VAC 30-21
<b>VAC Chapter title(s)</b>	General Rules and Regulations of the Commonwealth Transportation Board
<b>Date this document prepared</b>	03/16/2021

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.

### 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 has general authority to adopt regulations “for the protection of and covering traffic on and for the use of systems of state highways and shall have the authority to add to, amend, or repeal such regulations” pursuant to § 33.2-210 of the Code of Virginia. Through this regulation, the CTB regulates generally the activities that occur on highway rights-of-way under its jurisdiction, dictating that uses other than travel are subject to the land use permit framework and that access/entrances are subject to the access management framework, and providing for regulation of other uses of the highway systems.

### 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 alternatives are viable that meet the essential purpose of the regulation, which is to preserve the integrity of the state system of highways, as well as to facilitate the safe and convenient transportation of goods and people.

### 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 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.*

Pursuant to its authority granted by § 33.2-210, it is reasonable and appropriate for the CTB to regulate the activities that occur on highway rights-of-way under its jurisdiction through the land use permit framework. It is also reasonable and appropriate for the CTB to establish rules concerning the use of highway rights-of-way. Both of these situations involve the safety of the traveling public, cargo carriers, anyone performing work on the highways or adjacent areas, as well as the integrity and soundness of the highway network itself.

This regulation works in complement to the detailed regulations concerning land use, access management, and administration of facilities such as parking lots, waysides, and rest areas that the CTB has also established. The regulation is therefore necessary for the protection of public health, safety, and welfare. Additionally, 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).*

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The existing regulation serves a necessary purpose and is not overly burdensome on the public. The CTB recommends 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.*

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The regulation continues to be necessary for the safety and protection of the travelling public and workers performing tasks on or near the highways. The CTB has received no complaints concerning this regulation. The regulation is not complex, and does not duplicate, or conflict with other state or federal laws. The regulation was last amended in 2009.



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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24 VAC30-50
<b>VAC Chapter title(s)</b>	Rules and Regulations for the Administration of Waysides and Rest Areas
<b>Date this document prepared</b>	March 18, 2021

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.  
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 promulgating agency for this regulation is the Commonwealth Transportation Board (CTB). The statutory authority for this regulation is found in *Code of Virginia* §§ 33.2-210 and 33.2-246 (subsection E), and 23 U.S.C. § 111. This regulation establishes overall policies, procedures, and conditions under which waysides and rest areas under the control of the CTB may be used. Under § 33.2-210 of the *Code of Virginia*, the CTB has authority the power and duty to make regulations that are not in conflict with the laws of the Commonwealth for the protection of and covering traffic on and for the use of systems of state highways and shall have the authority to add to, amend, or repeal such regulations."

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

Currently, the regulation addresses subjects such as operating hours, restrictions on parking, activities prohibited at all times, and those activities that may be performed by permit from the Commissioner.

**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.*

State statutes explicitly authorize the CTB to make regulations at waysides, and include possible topics that may be addressed. Without some written directives concerning the operation of such facilities, users would not be aware of prohibited and permitted activities. Therefore, VDOT and the CTB believe that a regulation is the least burdensome alternative available for achieving the purpose of 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.*

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 CTB believes that this regulation is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. Safety of the users is preserved by prohibiting potentially dangerous conduct at waysides and rest areas, such as using threatening language or littering. The integrity of the facilities is protected by prohibiting conduct such as disturbing animals and birds, or posting signs and other advertisements, so that all users may have the benefits of the facilities.

The regulation clearly states prohibited conduct, as well as activities that may be performed with permission of the Commissioner.

### 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).*

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The CTB recommends that the regulation should be retained without change.

### 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.*

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This regulation is necessary because state law has specifically authorized the CTB to make regulations at waysides, and describe topics that may be addressed. Furthermore, without written directives concerning their operation, users of these facilities would not be aware of prohibited and permitted activities. This regulation is not complex, nor does it overlap, duplicate, or conflict with federal or state law or regulation. The last time this regulation was subjected to periodic regulatory review was in 2013, at which time the CTB decided to retain the regulation without amendment. The CTBs decision regarding this regulation will minimize the economic impact on small businesses because this regulation has been in existence for decades without change. As a result of The CTB's recommendation to retain this regulation without change, there will be no new burdens placed on any small businesses.

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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24 VAC30-100
<b>VAC Chapter title(s)</b>	Rules and Regulations for the Administration of Parking Lots and Environs
<b>Date this document prepared</b>	March 18, 2021

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.  
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 promulgating agency for this regulation is the Commonwealth Transportation Board (CTB). The statutory authority for this regulation is found in *Code of Virginia* §§ 33.2-118 (regulation of mobile food vending in parking lots), 33.2-210 (providing that the CTB has authority "to make rules and regulations, from time to time, not in conflict with the laws of this Commonwealth, for the protection or and covering traffic on and the use of systems of state highways"), and 23 U.S.C. § 111. This regulation establishes rules and conditions governing the use of, and activities that may be conducted in, parking lots and related environs under the control of the CTB.

Currently, the regulation addresses subjects such as restrictions on parking, activities prohibited at all times, and those activities that may be performed by permit from the Commissioner of Highways.

### Alternatives to Regulation

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

State statutes explicitly authorize the CTB to make regulations concerning the use of the system of state highways. Without some written directives concerning their operation, users would not be aware of prohibited and permitted activities. Therefore, VDOT and the CTB believe that a regulation is the least burdensome alternative available for achieving the purpose of 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.*

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.*

This regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018). The CTB believes that this regulation is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. Safety of the users is preserved by prohibiting potentially dangerous conduct, such as setting fires. The integrity of the facilities is protected by prohibiting conduct such as disturbing animals and birds, or posting signs and other advertisements, so that all users may have the benefits of the facilities. The regulation clearly states prohibited conduct, as well as activities that may be performed with permission of the Commissioner.

## 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).*

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The CTB recommends the regulation be retained without making changes.

## 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.*

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There is a continued need for this regulation. Without some written directives concerning their operation, users would not be aware of prohibited and permitted activities in VDOT parking lots. This regulation is not complex, nor does it overlap, duplicate, or conflict with federal or state law or regulation. The last time this regulation was subjected to periodic regulatory review was in 2013, and the regulation was last amended in 2018, when the regulation was amended in response to legislation passed by the General Assembly to allow mobile food vending in certain areas of the parking lots. VDOT's decision to retain this regulation will minimize the economic impact on small businesses because the regulation will remain in place without change as a result of this periodic regulatory review.



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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24 VAC30-130
<b>VAC Chapter title(s)</b>	Rules Governing Prequalification and Classification
<b>Date this document prepared</b>	03/18/2021

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.*

VPPA means the Virginia Public Procurement Act.  
CTB means the Commonwealth Transportation Board.

## 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 this regulation. Section 2.2-4302 of the Virginia Public Procurement Act states that the VPPA "may be implemented by ordinances, resolutions or

regulations consistent with this chapter and with the provisions of other applicable law promulgated by any public body empowered by law to undertake the activities described in this chapter.” Section 2.2-4317 of the VPPA states that “Prospective contractors may be prequalified for particular types of supplies, services, insurance or construction, and consideration of bids or proposals limited to prequalified contractors.... Any prequalification of prospective contractors for construction by a public body shall be pursuant to a prequalification process for construction projects adopted by the public body.” Section 33.2-209 of the *Code of Virginia* states that “The Board shall have the power and duty to let all contracts to be administered by the Department of Transportation or the Department of Rail and Public Transportation for the construction, maintenance, and improvement of the highways comprising systems of state highways and for all activities related to passenger and freight rail and public transportation in excess of \$5 million.” That section further states that “The Board may award contracts for the construction of transportation projects on a design-build basis... pursuant to objective criteria previously adopted by the Board regarding the use of design-build... Such objective criteria shall include requirements for prequalification of contractors and competitive bidding processes.”

**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 has adopted a written policy on what criteria it will consider for the prequalification of contractors, which can act as a guidance document which prospective contractors can follow. Therefore, the regulation is not necessary.

**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.*

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.*

Although the regulation is clearly written and easily understandable, its purpose can be accomplished through other means, so it is therefore not necessary for the protection of public health, safety and welfare.

**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).*

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The CTB recommends repealing the regulation, and maintaining the underlying policy as a CTB Policy and/or guidance document.

### **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.*

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Although the regulation is not complex and does not overlap or conflict with other law, it is not necessary to be maintained as a regulation. The regulation was last reviewed in 2010.

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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24 VAC30-210
<b>VAC Chapter title(s)</b>	Policy on Placing Utilities Underground
<b>Date this document prepared</b>	3/11/2021

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.

## 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 this regulation based on authority in § 33.2-348 of the Code of Virginia, which related to the CTB's authority to fund construction and improvement projects for the Urban System of State Highways. The CTB also has general authority to adopt regulations "for the

protection of and covering traffic on and for the use of systems of state highways and shall have the authority to add to, amend, or repeal such regulations” pursuant to § 33.2-210 of the Code of Virginia. However, § 33.2-348 was repealed, effective July 1, 2016.

**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 consists merely of a description of the Underground Utility Policy, describing it as a policy that establishes the conditions under which transportation funds shall be used to reimburse a portion of the additional cost involved to place overhead utility facilities underground in connection with new transportation improvement construction and states that the Policy applies to projects for the urban system of highways that are created and constructed in accordance with § 33.2-348 of the Code of Virginia. However, when § 33.2-348 was repealed, effective July 1, 2016, the specific statutorily authorized program for funding the relocation of aerial utilities underground was also repealed, effective July 1, 2016. Today, the VDOT Utility Manual addresses, among other things, undergrounding of aerial facilities and given the repeal of § 33.2-348, provides that additional costs attributable to undergrounding must be borne by the requesting localities.

**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.*

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.*

Although the regulation was clearly written and easily understandable, it is no longer necessary for the protection of public health safety and welfare. Future decisions on relocation of aerial utility facilities underground in connection with highway construction or maintenance projects should be made in accordance with the VDOT Utility Manual.

**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 recommends repeal of the regulation, because the statute that set forth the program which the regulation governed has been repealed.

### 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.*

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There is no continued need for the regulation.

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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24 VAC30-271
<b>VAC Chapter title(s)</b>	Economic Development Access Fund Policy
<b>Date this document prepared</b>	September 20, 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.

## 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 CTB is authorized generally to make 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 more specifically, pursuant to § 33.2-1509 of the Code of Virginia, is authorized to make decisions on

expending funds for constructing, reconstructing, maintaining, or improving access roads within localities to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed. This regulation sets forth the policy by which the CTB makes those funding decisions.

According to prior guidance from the Office of the Attorney General, this regulation is exempt from the provisions of the Administrative Process Act pursuant to § 2.2-4002(B)(3) and (4) and § 2.2-4006(A)(4)(a) 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.*

The CTB is authorized by § 33.2-1509 of the Code of Virginia to make decisions on expending funds for constructing, reconstructing, maintaining, or improving access roads within localities to economic development sites. Section 10 of the regulation states the general purpose of the regulation. Subsections A through M of Section 20 set forth the general criteria and conditions the CTB will consider in making such funding decisions for a particular project. The CTB expends funds by voting on a resolution, which specifies the criteria and conditions for the use of such funds on each project, and the terms of the resolution are used to enforce the funding conditions on the locality receiving the funds. The regulation merely provides guidance to the localities to use in preparing a request for funding. In fact, the CTB has adopted a guidance document which specifies, in more detail, all the criteria and conditions that the CTB will consider in making funding decisions for economic development access funds. Therefore, the regulation is not necessary.

### 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 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.*

Although the regulation is clearly written and easily understandable, it is not necessary for the protection of public health, safety and welfare, as it serves the same purpose as a guidance document, which the CTB has adopted and which provides guidance for any locality that wishes to request economic development access funds for a particular project.

### 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).*

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The General Assembly passed SB 1253 in its 2021 session, which amended § 33.2-1509 to require the CTB to establish guidelines for the Economic Development Access Fund, and requires that the guidelines consider the number of jobs that will be created by the economic development project, the proposed capital investment by the private sector at the economic development site, and any other relevant criteria related to the economic development project.

The functions performed by the regulation are those that are adequately performed by the existing Economic Development Access Fund guidelines that have been adopted by the Commonwealth Transportation Board as a guidance document. Therefore, VDOT is recommending that the regulation be repealed, but that the guidance document be retained and reviewed for modifications necessary to comply with the requirements of SB 1253.

### 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.*

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Although the regulation is not complex, and the CTB has received no complaints concerning the regulation, there is no continued need for the regulation because the CTB has adopted a guidance document to serve the same purpose in providing assistance to localities in requesting funding pursuant to § 33.2-1509 of the Code of Virginia. The most recent substantive amendment of the regulation was in 2012.

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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24 VAC30-420
<b>VAC Chapter title(s)</b>	Operation and maintenance of roads in incorporated towns less than 3,500
<b>Date this document prepared</b>	March 25, 2021

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.

## 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 (CTB) has “the power and duty to make regulations that are not in conflict with the laws of the Commonwealth for the protection of and covering traffic on and for the use of systems of state highways” pursuant to *Code of Virginia* § 33.2-210.

Section 33.2-339 of the *Code of Virginia* states that the “Commissioner of Highways may, subject to the approval of the [CTB], upon request of the governing bodies of towns with a population of less than 3,500, according to the last United States census, select certain streets and highways in such towns for maintenance, improvement, construction, and reconstruction from allocations available from secondary highway funds not to exceed two miles of streets or highways in such towns included in the secondary state highway system.”

Section 33.2-340 of the *Code of Virginia* states that “[i]f no request is made to the [CTB] by the governing body of any town as provided in § 33.2-339, the Commissioner of Highways, subject to the approval of the [CTB], may maintain, improve, construct, and reconstruct all streets in such town that” meet certain specified criteria.

This regulation specifies the CTB’s policy on approving requests for maintenance of roads under §§ 33.2-339 and 33.2-340. The CTB’s policy states that once a locality chooses the funding mechanism between §§ 33.2-339 and 33.2-340, that choice may only be changed with a showing of good cause.

**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.*

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The purpose for which this regulation has been adopted may be accomplished through a similar guidance document or CTB Policy.

**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.*

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No 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.*

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Although the regulation is clearly written and easily understandable, its purpose can be accomplished through other means, so it is therefore not necessary for the protection of public health, safety and welfare.

### 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).*

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The CTB recommends repealing the regulation, and maintaining the underlying policy as a CTB Policy and/or guidance document.

### 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.*

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Although the regulation is not complex and does not overlap or conflict with other law, it is not necessary to be maintained as a regulation. The regulation was last reviewed in 2010.

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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24 VAC 30-430
<b>VAC Chapter title(s)</b>	Maintenance of Roads Crossing the Interstates
<b>Date this document prepared</b>	March 31, 2021

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.

## 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 (CTB) has "the power and duty to make regulations that are not in conflict with the laws of the Commonwealth for the protection of and covering traffic on and for the use of systems of state highways" pursuant to *Code of Virginia* § 33.2-210.

This regulation specifies the responsibilities of various types of localities (cities and towns with populations over 3500 persons, counties, and counties that have withdrawn from the state highway system) and the responsibilities of the Virginia Department of Transportation in the maintenance of various types of highways that cross over or under Interstate Highways.

### Alternatives to Regulation

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

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The regulation describes the policy of the CTB in determining which maintenance activities on roads crossing over or under the Interstate Highways are eligible for funding by the CTB. Its purpose may be accomplished through a written CTB Policy and/or a guidance document, and is not necessary as a 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.*

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No 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.*

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Although the regulation is clearly written and easily understandable, its purpose can be accomplished through other means, so it is therefore not necessary for the protection of public health, safety and welfare.

### 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).*

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The CTB recommends repealing the regulation, and maintaining the underlying policy as a CTB Policy and/or guidance document.

### 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.*

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Although the regulation is not complex and does not overlap or conflict with other law, it is not necessary to be maintained as a regulation. The regulation was last reviewed in 2010.

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