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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 VAC30-50
VAC Chapter title(s)	Rules and Regulations for the Administration of Waysides and Rest Areas
Date this document prepared	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).

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.

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.
