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Periodic Review Report of Findings

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

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Acronyms and Definitions

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

VDOT – Virginia Department of Transportation

Legal Basis

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

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

Alternatives

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

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

Public Comment

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

No comments were submitted during the public comment period.

Effectiveness

Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

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

Decision

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

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

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.

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

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