



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	Virginia Department of Transportation (Commonwealth Transportation Board)
VAC Chapter Number:	24 VAC 30-470-10 et seq.
Regulation Title:	Criteria for Transferring Secondary Roads to the Primary System
Action Title:	Review and Retain
Date:	June 25, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

This regulation establishes the criteria that recommendations must be based upon prior to being submitted to the Commonwealth Transportation Board (CTB) when considering additions to the State Primary System from the State Secondary System. The Office of the Attorney General has determined that this regulation is exempt from the APA under the exemption granted by § 9-6.14:4.1 B (3).

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

Under the provisions of 33.1-12(3), the Commonwealth Transportation Board (CTB) has general authority to make regulations concerning use of the system of state highways. However, the specific authority for this regulation is from § 33.1-34 of the Code of Virginia. The statute authorizes the Commonwealth Transportation Board (CTB) to transfer streets, bridges, or roads from the Secondary System to the Primary System. The statute does not establish any criteria or procedures to be followed. Therefore, the CTB has a high degree of discretion in making such decisions. The only limitation imposed by statute is one limiting the total mileage transferred to fifty or fewer miles in any single year.

This regulation does not exceed the minimum requirements of the state mandate.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

VDOT received no public comment during the Notice of Periodic Review period, so no response was prepared. No advisory group was formed to assist in the periodic review.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

Goals:

1. To protect the public's health, safety, and welfare with the least possible intrusiveness to the citizens and businesses of the Commonwealth
2. Is the regulation written clearly and understandably?

Goal 1: Under § 33.1-25 of the Code of Virginia, primary roads are officially part of the “State Highway System.” Primary routes serve a variety of purposes: where there are no interstate or arterial roads, they serve the traffic mainstream; some are feeder routes to these networks, or to urban centers. However, under § 33.1-25, secondary roads are not part of this system. Commonly known as “county roads,” they were once the responsibility of counties, until the Commonwealth assumed responsibility for their improvement and maintenance in 1932. Both types of roads are distinguished by different design characteristics, varying amounts of traffic volumes and types of traffic, and meet differing needs according to their location. Furthermore, they are financed and administered in different ways.

From time to time, as characteristics of the location change (e.g., population density increases, changes in land use, etc.) or traffic characteristics change (e.g., road design is altered, traffic volumes or related characteristics change), it may become necessary to transfer a given road segment from the Secondary System to the Primary System. The Commonwealth Transportation Board has been granted authority under § 33.1-34 to make such transfers by statute, but the statute does not set forth the criteria or procedures. Due to the differences between the two types of roadways, VDOT and the CTB believe that the regulation serves the public interest by establishing the criteria to be used in making such transfers, to facilitate the ability of the entire system to change as travel patterns and other factors change.

Goal 2: The regulation defines specific vehicle types. It lists the criteria concerning road characteristics and traffic characteristics that the CTB may consider in deciding whether to transfer a road from the Secondary System to the Primary System. Finally, the regulation provides some flexibility by noting that not all the criteria have to be met to make a transfer.

VDOT believes that the lack of public comment received concerning the regulation indicates broad satisfaction with the format of the regulation, the manner in which it is implemented, its clarity and ease of comprehension, and its effectiveness.

This regulation has no direct effect on the family or family stability.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

There is no viable substitute for a document that sets forth policies and criteria to carry out the statutory authority. Such a document ensures that the public has access to the criteria used by the CTB, and that the criteria help ensure that decisions are made consistently and fairly, but with enough flexibility to take specific road characteristics into consideration.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

VDOT recommends that this regulation be retained without change.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

This regulation has no direct effect on the family or family stability, nor does it affect any of the factors listed above.