



Periodic Review and Retention of
Existing Regulations
Agency Background Document

Agency Name:	Virginia Department of Transportation (Commonwealth Transportation Board)
VAC Chapter Number:	24 VAC 30-290-10 et seq.
Regulation Title:	Guide for Additions, Abandonments, and Discontinuances
Action Title:	Review and Retain
Date:	February 23, 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 document was prepared by the Secondary Roads Division to serve as a reference for Virginia Department of Transportation (VDOT) personnel throughout the Commonwealth who are called upon to handle additions, abandonments, and discontinuances of secondary roads in Virginia's counties. Its creation was a major effort to bring together many statutes and Commonwealth Transportation Board policies, with a few legal interpretations. No policy changes are included in this guide.

While there may be some information of value to persons outside of VDOT, this document is intended primarily to guide the VDOT user through the administrative procedures to accomplish three major categories or changes to the secondary system:

1. Additions to the system of (i) new subdivision streets (this guide supplements VDOT's *Subdivision Street Requirements*); (ii) rural additions governed by the Rural Addition Policy of the CTB and §33.1-72.1 of the Code of Virginia; (iii) school bus roads; and (iv) streets in towns under 3,500 population.
2. Abandonments.
3. Discontinuances.

An additional category, using some or all three of the above, is:

4. Adjustments due to road relocation.

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 (4), and re-confirmed its status as a regulation by correspondence dated February 6, 2001.

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 of the *Code of Virginia*, the Commonwealth Transportation Board (CTB) has general authority to make regulations concerning the use of systems of state highways. However, the *Guide* is primarily concerned with actions taken pursuant to Articles 6, 11, 12, 13, 14, and 15 of Chapter 1 and Article 2 of Chapter 2 of Title 33.1 (Highways, Bridges, and Ferries) of the *Code of Virginia*. These articles deal with

- The Secondary System of State Highways;
- Abandonments and Discontinuances of Roads in the Secondary System;
- Abandonments of Roads not in the State Highway System or the Secondary System
- Abandonment of Roads due to Flooding;
- Roads Over Dams;
- Miscellaneous provisions (e.g., closure of highways, improvements to certain private roads, etc.); and
- Establishment, Alteration, and Discontinuance of Highways.

The *Guide* also references parts of Title 15.2 (Counties, Cities, and Towns) that refer to vacating plats after a lot is sold.

For example, with respect to the Secondary Road System, § 33.1-69 of the *Code of Virginia* provides that control, supervision, management, and jurisdiction over the secondary system of state highways is vested in the Department of Transportation, and that the maintenance and improvement of this system shall be the responsibility of the Commonwealth under the supervision of the Commonwealth Transportation Commissioner. In addition, the statute vests the Commonwealth Transportation Board with the same power, authority and control as to the secondary system of state highways as is vested in the Board in connection with the State Highway System.

Decisions concerning additions, abandonments, and discontinuances covered by the *Guide* are made subject to criteria established in the *Code of Virginia*, CTB policy, a VDOT regulation (e.g., the *Subdivision Street Requirements*), or some discretionary judgment by the Commissioner or the CTB, and commonly involve collaboration with the local county authorities.

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, 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 cost and intrusiveness to the citizens of the Commonwealth.
2. To provide guidance to VDOT users and the CTB in making major categories of changes to the secondary system:
 - additions to subdivision streets;

- rural additions; and
- additions at the request of certain towns under 3,500 or for facilities that serve as primary access to public schools;
- abandoning roads; and
- discontinuing roads.

3. Is the regulation written clearly and understandably?

Goal 1: This regulation serves many purposes. VDOT has a responsibility to ensure that changes (such as additions) to the system do not compromise the integrity of the system. For instance, roads taken into the System of State Highways must be designed and built in accordance with acceptable civil engineering standards. Otherwise, excessive public funds would be spent to bring these roads up to acceptable standards. In addition, substandard roads pose a safety hazard to the public.

Other decisions relate to circumstances under which roads become eligible for construction or maintenance funding, or are formally removed from the State System of Highways. These decisions affect the amount of money spent on the system, as well as the size of the system. The CTB and VDOT have statutory authority under Title 33.1 concerning various activities for administration of the State Highway System, and this regulation's existence helps these entities fulfill their assigned responsibilities. Finally, VDOT and the CTB must follow statutory provisions in making decisions pursuant to the *Guide*. Therefore, VDOT and the CTB believe that this regulation serves the public interest.

Goal 2: Policies and statutes are presented in a way intended to explain them better. Decision trees, flow charts, and administrative process charts guide users through the steps to make changes to the system. Also included are sample resolutions for Boards of Supervisors, surety forms, standard agreements for crossings of dams, standard agreements for stormwater management, standard quitclaim deeds, updated submission forms, and reprints of policies and selected statutes from the *Code of Virginia*. Information presented in this manner helps ensure that changes are made in compliance with statute.

Goal 3: See response for Goal 2 above. 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 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 the existence of a reference document for VDOT personnel located in field offices throughout the Commonwealth who are called upon to handle additions, abandonments, and discontinuances of secondary roads in Virginia's counties. Consolidating various statutes and Commonwealth Transportation Board policies, with legal interpretations from the courts and the Office of the Attorney General helps ensure that the proper administrative procedures are followed consistently in all nine construction districts and field offices throughout the Commonwealth.

As mentioned previously, the document also serves as a supplement to the *Subdivision Street Requirements*, which is filed as a regulation under the Administrative Process Act in its own right. Therefore, the *Guide* provides the least burdensome alternative available for achieving the regulation's purpose.

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 effect on the family or family stability, nor does it affect any of the factors listed above.