



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 30-120-10 et seq.
Regulation Title:	Rules and Regulations Governing Outdoor Advertising and Directional and Other Signs and Notices
Action Title:	Review and Retain
Date:	February 27, 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 sets forth the policies and procedures VDOT will use in issuing permits for outdoor advertising, including criteria for location, content, and size of signs, and related definitions and prohibitions.

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.

The Commonwealth Transportation Board has the general power under § 33.1-12 to make regulations concerning the use of the system of State Highways (see 3); this same section authorizes the CTB to take action to comply fully with all current and future federal-aid acts (see 5). Federal law (23 USC § 131) addresses the subject of agreements between the U. S. government and states with respect to the regulation and control of signs, advertisements and advertising structures. Federal regulation (23 CFR Part 750 – Highway Beautification) also addresses the following aspects of outdoor advertising: nonconforming signs; sign control in zoned/unzoned commercial and industrial areas; and standards for directional signs..

Furthermore, other state statutes listed below relate specifically to the subject of the regulation:

- § 33.1-12 351; this statute directs that outdoor advertising on highways in the Commonwealth shall be regulated under the terms of Article 1 (§ 33.1-351 et seq.) and regulations promulgated by the CTB under the provisions of this article;
- § 33.1-12 370; this statute deals with special provisions pertaining to interstate, national highway system, and federal aid primary highways, and outlines the responsibilities of the CTB in establishing appropriate criteria, as well as the Commissioner in making determinations as to whether outdoor advertising complies with state statute. The Commissioner is also authorized to acquire and pay compensation for non-conforming signs erected lawfully under state law or regulation. This statute combines mandatory and discretionary elements. For example, it defines the term “official signs,” and specifies how far from the highway right of way they may be displayed; and it sets requirements for “on-premises signs.” The CTB has authority to establish factors such as size, lighting, and spacing of signs in this class, provided that the factors are no more restrictive than valid federal requirements on the same subject.
- § 33.1-12 371: this statute permits the CTB to issue regulations, and enter into agreements with the United States as provided in 23 USC § 131 (see above), with respect to outdoor advertising in conformity with § 33.1-12 370.

The regulation does not exceed specific minimum requirements of a federal or 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, 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.

The regulation has the following goals:

1. To ensure VDOT complies with applicable federal and state policies, procedures, and statutes concerning outdoor advertising.
2. To protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.
3. Is the regulation written clearly and understandably?

This regulation has no direct effect on the family or family stability. There may be some intangible effects on families by improving the aesthetic features of the highways along which they travel, but these cannot be readily quantified.

Goal 1: The regulation helps ensure that VDOT follows statutes concerning outdoor advertising. Monitoring is performed at the field level. VDOT and the CTB have an obligation under §§ 33.1-12 (5), 33.1-370, and 33.1-371 of the *Code of Virginia* to comply fully with the provisions of current or future federal aid acts. If federal statutes and regulations are not followed, the Commonwealth could lose \$67 million dollars in federal transportation funds. Therefore, the regulation also helps preserve access to transportation dollars used to operate the construction and maintenance programs administered by VDOT.

Goal 2: § 33.1-351 of the *Code of Virginia* lists the following reasons as justification for the statute and related regulations concerning outdoor advertising:

- To promote the safety, convenience, and enjoyment of travel on and protection of the public investment in highways within the Commonwealth;
- To attract tourists and promote the prosperity, economic well-being, and general welfare of the Commonwealth; and

- To preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas.

Each of these factors can be considered as contributing to the protection of public, health, safety, and welfare, as outlined in Goal 2.

Goal 3: The regulation is divided into parts, which discuss specific aspects of signs, such as zoning requirements, criteria concerning size, spacing, specialized technical terms; etc. VDOT believes that the lack of public comment received concerning the regulation indicates general satisfaction with the format of the regulation and its clarity and ease of comprehension.

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.

The regulation’s text mirrors that of the federal-state agreement governing outdoor advertising. § 33.1-351 of the *Code of Virginia* is written with the assumption that the CTB will issue regulations concerning outdoor advertising. Furthermore, § 33.1-371 of the *Code of Virginia* clearly authorizes the CTB to issue regulations concerning special provisions for signs on interstate, national highway system, and federal-aid primary highways. In view of these facts, VDOT believes that there is no viable substitute for a regulation addressing outdoor advertising, and that it is the least burdensome alternative available for achieving the purpose of the regulation.

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 cited above. There may be some intangible effects on families by improving the aesthetic features of the highways along which they travel, but these cannot be readily quantified.