



# Virginia Department of Planning and Budget **Economic Impact Analysis**

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**24 VAC 30-92 Secondary Street Acceptance Requirements**  
**Department of Transportation**  
**Town Hall Action/Stage: 6276/10253**  
March 20, 2024

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB’s best estimate of the potential economic impacts as of the date of this analysis.<sup>1</sup>

## **Summary of the Proposed Amendments to Regulation**

As a result of a 2022 legislative mandate,<sup>2</sup> the Commonwealth Transportation Board (Board) proposes to add greater flexibility to the *Secondary Street Acceptance Requirements* that governs whether and how the Virginia Department of Transportation (VDOT) can incorporate new streets into the secondary state highway system. The proposed amendments would expand the situations when the district administrator’s designee is required to waive or modify certain connectivity requirements and add a provision that would allow the designee to modify the requirements under certain conditions.

## **Background**

Developers of subdivisions build most of Virginia's new roads.<sup>3</sup> This regulation (specifically, 24 VAC 30-92-60 *Public benefit requirements*) states that, “A street or network addition may only be accepted by the department for maintenance as part of the secondary

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<sup>1</sup> Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

<sup>2</sup> See <https://lis.virginia.gov/cgi-bin/legp604.exe?221+ful+CHAP0425>.

<sup>3</sup> See <https://www.vdot.virginia.gov/projects/roads-qualify/#d.en.44478>.

system of state highways if it provides sufficient public benefit to justify perpetual public maintenance as defined by this chapter.” The specific requirements that determine whether or not a street provides sufficient public benefit, as well as waivers and variances for those requirements, are delineated under “public service requirements” (subsection B) and “connectivity requirements” (subsection C). For the purposes of subsection C, “connection” means “a street connection to an adjacent property or a stub out that will allow for future street connection to an adjacent property.” The connectivity requirements are intended to provide redundant vehicle routes, alternate routes for emergency response vehicles, and more direct connections for pedestrians.<sup>4</sup>

Chapter 425 of the 2022 *Acts of Assembly* required that the connectivity requirements be amended to “include flexibility to limit the number of connections to adjacent property or highway networks as deemed appropriate.”<sup>5</sup> The legislation also required VDOT to convene a stakeholder advisory group (SAG) composed of representatives from VDOT, local government, environmental advocacy organizations, and the residential and commercial land development and construction industry for the purpose of developing and providing recommended amendments to the regulation. Accordingly, VDOT convened a SAG with members from the Virginia Association of Commercial Real Estate, Home Builders of Virginia, Virginia Association of Counties, Virginia Fire Chiefs Association, Southern Environmental Law Center, Virginia Conservation Network, and VDOT. The SAG met five times between September 2022 and February 2023 and VDOT reports that the proposed amendments reflect a broad consensus amongst these stakeholders.<sup>6</sup>

VDOT proposes to amend two of the four connectivity standards under 24 VAC 30-92-60(C): the “multiple connections in multiple directions standard” and the “additional connections standard.” The regulation currently directs the district administrator’s designee to waive or modify the standard if “there is no reasonable connection possible ... due to a factor outside the

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<sup>4</sup> See [https://townhall.virginia.gov/L/GetFile.cfm?File=meeting\78\36935\Agenda\\_VDOT\\_36935\\_v1.pdf](https://townhall.virginia.gov/L/GetFile.cfm?File=meeting\78\36935\Agenda_VDOT_36935_v1.pdf).

<sup>5</sup> See <https://lis.virginia.gov/cgi-bin/legp604.exe?221+ful+CHAP0425>.

<sup>6</sup> See the agendas and minutes of the stakeholder group at <https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=36935>, <https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=36975>, <https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=37050>, <https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=37283>, and <https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=37539>.

control of the developer” and include identical examples of such factors in each standard. In both instances, the language would be identically amended to (a) specify that factors “including but not limited to” the specific factors listed in the regulatory text would be considered by the designee, and (b) add an “underground utility trunk easement not put in place by the developer of the network addition” as a specific example of such factors.<sup>7</sup> A definition of “underground utility trunk easement” would also be added to the definitions section of the regulation.<sup>8</sup>

In addition, each standard would be identically amended to add a possible circumstance where the district administrator’s designee shall waive or modify the standard as it pertains to network additions.<sup>9</sup> Specifically, a modification or waiver would apply when, “The network addition was constructed in accordance with an overall plan of development approved by the department and the locality as meeting all the requirements of this chapter, and the additional phase of the development allowing the network addition to meet connectivity is under construction.” VDOT reports that these changes would add extra flexibility regarding to the splitting of multi-phased developments into network additions that may differ from those additions originally planned. This would allow for changes in phasing as driven by market forces while still preserving ultimate connectivity.<sup>10</sup>

The “additional connections standard” would also be amended to add a sub-paragraph providing for a locality-led process which provides flexibility to achieve local planning goals.<sup>11</sup> The proposed language would allow (but not require) the district administrator’s designee to grant a waiver or modification if the applicant (developer) and the locality’s Chief Executive or designee submit a written opinion that the additional connections standard is impracticable or unwarranted due to one of six factors, including if it would impact the developer’s ability to comply with local ordinances related to preservation of trees or open space.

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<sup>7</sup> VDOT reports that these changes were specifically requested by the SAG due to difficulties frequently encountered by developers in obtaining quitclaims or subordination of rights agreements for the placement of public streets over existing underground transmission lines. See page 9 of the Agency Background Document (ABD): [https://townhall.virginia.gov/l/GetFile.cfm?File=78\6276\10253\AgencyStatement\\_VDOT\\_10253\\_v1.pdf](https://townhall.virginia.gov/l/GetFile.cfm?File=78\6276\10253\AgencyStatement_VDOT_10253_v1.pdf).

<sup>8</sup> Underground utility trunk easement would be defined as, “an easement for the accommodation of a utility which has an existing underground utility trunk or transmission line (cable, pipeline, or similar facility); such lines are not used for distribution of the utility’s services to individual customers, but rather for long distance carrying or transmission purposes.”

<sup>9</sup> Per 24VAC30-92-10, a “network addition” is a group of interconnected street segments and intersections shown in a plan of development that are connected to the state highway system. Also see 24VAC30-92-40.

<sup>10</sup> See ABD, page 9.

<sup>11</sup> See the minutes of the SAG’s fourth meeting for additional context.

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## **Estimated Benefits and Costs**

The proposed amendments are intended to benefit developers by expanding the acceptable grounds for waivers from the connectivity requirements, thereby reducing their road construction costs while still meeting the regulation's connectivity standards. VDOT anticipates that the regulatory changes would reduce the length of the overall review process for VDOT and localities. Each waiver that is granted allows the developer to remove approximately 150 to 500 feet of road from their plans. This will save VDOT and locality plan reviewers time as they will no longer have to review those connecting road segments. Additionally, since such roadway segments will not be built, they will not be accepted into the state highway system and require maintenance by VDOT, thereby avoiding current and future maintenance costs.

VDOT processed 33 waivers or modifications each year in 2022 and 2023 and expects the number of waiver requests to increase slightly under the regulatory changes. However, the agency anticipates that the increased workload can be absorbed by current VDOT staff. Thus, the cost savings are expected to exceed any cost increases from processing additional waiver applications.

The proposed changes would also benefit localities by creating a channel for them to request waivers or modifications under certain circumstances. Although the number of localities with ordinances pertaining to preservation of trees or open space is unknown, more localities may be willing to adopt such ordinances if they know that they would not necessarily be overruled by road connectivity requirements.

Lastly, VDOT does not anticipate that granting more waivers and thus allowing fewer connections would disadvantage individuals or businesses that move to these developments. To the extent that the proposed changes lead to additional locality-led waivers to protect trees and open green spaces, local residents and businesses may benefit from this preservation. Similarly, avoiding an increase in the amount of impermeable surface via new road connections could also reduce possible flooding and other impacts on storm water systems.

## **Businesses and Other Entities Affected**

As described above, the proposed changes would benefit developers, localities and VDOT. The Code of Virginia requires DPB to assess whether an adverse impact may result

from the proposed regulation.<sup>12</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.<sup>13</sup> The proposed regulation would not increase net costs, including for VDOT. Thus, an adverse impact is not indicated.

### **Small Businesses<sup>14</sup> Affected:<sup>15</sup>**

The proposed amendments would not adversely affect small businesses.

### **Localities<sup>16</sup> Affected<sup>17</sup>**

Localities that have road construction, such that those roads would be included in Virginia's secondary system of highways under the regulation, would be affected. As described previously, these localities would likely benefit from the proposed amendments. It should be noted that Arlington and Henrico maintain their own roads; thus, these localities would not be affected.<sup>18</sup>

### **Projected Impact on Employment**

The proposed regulation does not appear to affect total employment.

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<sup>12</sup> Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

<sup>13</sup> Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

<sup>14</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>15</sup> If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

<sup>16</sup> "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>17</sup> Virginia Code § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

<sup>18</sup> See <https://www.vdot.virginia.gov/about/districts/>.

**Effects on the Use and Value of Private Property**

By expanding the possible waivers for connectivity requirements, the proposed amendments would reduce real estate development costs, thereby increasing their expected profits, which would also increase the value of property development firms.