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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24 VAC 30-92
<b>VAC Chapter title(s)</b>	Secondary Street Acceptance Requirements
<b>Date this document prepared</b>	10/25/2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

SSAR – Secondary Street Acceptance Requirements

## Legal Basis

*Identify (1) the promulgating agency, 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 agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

Chapter 382 of the 2007 Acts of Assembly (SB1181) added § 33.1-70.3 (now § 33.2-334) to the *Code of Virginia*. The legislation required the Commonwealth Transportation Board to develop Secondary

Street Acceptance Requirements, promulgated by regulation, to determine the conditions and standards that must be met before streets constructed by developers, localities and entities other than VDOT will be accepted into the state secondary system for maintenance by VDOT.

Section 33.2-326 of the *Code of Virginia* vests in VDOT the control, supervision, management and jurisdiction over the secondary system of highways. Further, VDOT is authorized by §33.2-334 to set standards for the acceptance of streets into the secondary system of highways. Although § 33.2-705 grants authority to localities to establish highways, including subdivision streets on land being developed, if the locality or private developer wish to have VDOT assume maintenance of those streets, the design and construction of those streets must meet VDOT’s standards. The design-related provisions of the SSAR are part of the department’s Road Design Manual (Appendix B of that Manual).

**Alternatives to Regulation**

*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.*

At the recommendation of the Office of Regulatory Management (ORM), due to the advanced stage of this periodic review at the time new procedures were issued, this form has been prepared with consideration of the regulation in its current form as the only alternative. However, Chapter 425 of the 2022 Acts of Assembly required VDOT to convene a stakeholder advisory group 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 SSAR. The CTB expects that alternatives to the existing SSAR may be considered as a result of those recommendations in 2023.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

Commenter	Comment	Agency response

**Effectiveness**

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, 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 SSAR establishes the conditions and standards that must be met before secondary streets constructed by developers, localities and entities other than VDOT will be accepted into the state secondary system for maintenance by VDOT. All proposed developments which include roads to be accepted into VDOT’s Secondary System of Highways, which were initially received by the agency on/ after July 1, 2009, must meet the requirements of the SSAR. The consistent construction, review, and acceptance of streets which meet specified requirements promotes the protection of public health, safety,

and welfare. The standards ensure access by emergency response vehicles, reduce congestion, and ensure the safe, efficient movement of people and goods. The SSAR is written in a manner which is clear and easily understandable.

### Decision

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

*If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.*

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The Commonwealth Transportation Board is proposing to retain this regulation without making any changes. The regulation promotes public health, safety, and welfare as well as accepting only qualified roads into the state's highway systems. Legislation passed during the 2022 General Assembly session requires VDOT to convene a stakeholder advisory group to provide recommended amendments to the SSAR regarding flexibility to limit the number of connections to adjacent property or highway networks, as deemed appropriate. Any amendments to the SSAR as a result of this legislation will be addressed separately upon completion of the stakeholder advisory group's review.

### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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 applicable law, will minimize the economic impact of regulations on small businesses.*

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The SSAR has a positive impact on state resources as well as small businesses. This regulation is needed to reduce long-term traffic congestion, support and promote more economic activity and better transportations systems. VDOT believes the regulation is not overly complex, and there is no overlap, duplication, or conflict with federal or state laws or regulations. There have been no complaints received from the public nor have there been any amendments to the regulation since it was last reviewed in 2019.

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