



Virginia  
Regulatory  
Town Hall

## Periodic Review and Retention of Existing Regulations Agency Background Document

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| <b>Agency Name:</b>        | Virginia Department of Transportation (Commonwealth Transportation Board) |
| <b>VAC Chapter Number:</b> | 24 VAC 30-20-10 et seq.   |
| <b>Regulation Title:</b>   | General Rules and Regulations of the Commonwealth Transportation Board    |
| <b>Action Title:</b>       | Review and Retain   |
| <b>Date:</b>               | September 18, 2002  |

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 conditions under which VDOT, on behalf of the Commonwealth Transportation Board (CTB), will grant permits for performing work on state-owned property controlled by the CTB. It also specifies permitted and prohibited activities on state-owned right of way.

## 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.*

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The Commonwealth Transportation Board has the general authority to promulgate regulations granted by § 33.1-12 (3) of the Code of Virginia.

The regulation covers only activities occurring on right of way owned or controlled by the CTB. It does not exceed minimum requirements of a state or federal 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.*

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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.*

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The regulation has the following 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. Ensure integrity of the transportation infrastructure.
3. Is the regulation written clearly and understandably?

Goal 1: This regulation ensures that work performed on state-owned right of way is done with due consideration to the safety of the worker and the motorist. Unregulated work could lead to personal injury or death, or damage to public and private property. By requiring a permit, VDOT can review the proposed work and advise the applicant on any pertinent factors that might affect safety or the manner in which the work is performed. Therefore, the CTB and VDOT believe that the regulation helps fulfill this goal.

Goal 2: In addition to the safety factors discussed above, the regulation ensures that work within state-owned right of way is done in accordance with accepted principles of civil engineering. Without this regulation, the CTB and VDOT would be unable to protect the integrity of the highways and bridges, because individuals and businesses could do whatever they desired in any manner, safe or unsafe, on state-owned right of way. Such activities could cause VDOT to incur significant expense to repair highways or bridges. Therefore, the CTB and VDOT believe that the regulation helps fulfill this goal.

Goal 3: The regulation defines pertinent terms. It refers to the permitting process, including circumstances under which a permit may be denied or revoked. It specifies both allowed and forbidden activities that may occur within the right of way. It references manuals with which work performed under permit must comply. 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.

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.*

VDOT is not aware of any alternatives that are less burdensome and less intrusive to achieve the essential purpose of this regulation. The highway rights of way are under the jurisdiction of the CTB, and regulating access and use of such property is the only way to ensure competing interests of safety, economic development, and functional performance of the highway are simultaneously satisfied.

## Recommendation

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

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VDOT recommends that this regulation be retained as written, except for correcting two errors. VDOT discovered an incorrect reference to the title and VAC number of another regulation (the Minimum Standards of Entrances to State Highways, 24 VAC 30-71-10 et seq.). The Registrar has advised VDOT that this correction can be made under the authority granted the Code Commission to correct “unmistakable errors in the cross-references to Code of Virginia or Virginia Administrative Code sections and may change cross-references to such sections which have become outdated or incorrect due to subsequent amendment to, revision or repeal of the sections to which reference is made.”

### 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.*

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