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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Virginia Dept. of Transportation
Virginia Administrative Code (VAC) Chapter citation(s)	__24VAC30-540__
VAC Chapter title(s)	Conveyance of Lands and Disposal Of Improvements
Date this document prepared	9/23/20

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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.

NONE

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.

Section 33.2-1010 states that the Commissioner of Highways may lease, sell, or exchange such residue parcels of land upon such terms and conditions as in the judgment of the Commissioner of Highways may be in the public interest. Section 33.2-1005 provides authority for the Commissioner of Highways to

dispose of residue or surplus land that is suitable for independent development. The regulation specifies the criteria for determining what the public interest may be in relation to any parcel.

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.

VDOT is unaware of any viable alternatives for achieving the purposes of the regulation.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency 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.

No comments were received during the public comment period.

Commenter	Comment	Agency response
NONE		

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), 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 regulation sets forth policy and procedures for the Commissioner of Highways to recommend transfer or conveyance of residue and surplus land that had been acquired in contemplation of a highway construction project based upon highest and best use. The regulation is necessary for the protection of public health, safety and welfare, and is clearly written 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).

VDOT recommends retaining the regulation as is. The regulation is an effective mechanism in helping to ensure that the agency’s resources are used effectively, and clearly articulates policy and protocol for the transfer or conveyance of residue and surplus land with an emphasis on highest and best use.

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.

A periodic review of this regulation was last performed in September 2001 and the regulation was amended effective June 2001. This regulation helps to ensure effective use of highway resources by setting forth the policy and procedures for the conveyance of land no longer needed by VDOT. Typically, the original landowner is offered right of first refusal, with exceptions to that policy clearly articulated in the regulation. The regulation also emphasizes the importance of conveying surplus VDOT right of way based on its highest and best use.

This regulation is clearly written and easily understandable. VDOT is unaware of any undue burden placed on small business due to the regulation. VDOT has received no complaints concerning the regulation and the regulation is not overly complex. The regulation is consistent with federal and state law.
