



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 30-420-10 et seq.
Regulation Title:	Operation and Maintenance of Roads in Incorporated Towns of Less than 3,500
Action Title:	Review and Retain
Date:	September 21, 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 establishes the policy the Commonwealth Transportation Board follows concerning road maintenance, improvement, construction, or reconstruction within incorporated towns of less than 3,500 population. The Office of the Attorney General has determined that this regulation is exempt from the APA as provided for by § 9-6.14:4.1 B (4). It appears in VDOT's Department Policy Memoranda Manual.

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 (CTB) has general duties outlined in § 33.1-12, which include the authority to administer, distribute, and allocate funds for transportation purposes. The specific statutory cited for this regulation are §§ 33.1-79 and 33.1-82 of the *Code of Virginia*, which permit the Commissioner and the CTB to maintain, improve, construct, and reconstruct roads within incorporated towns of less than 3,500 population.

- § 33.1-79 permits the Commissioner, with the consent of the CTB, and upon request of the governing bodies of these incorporated towns, to select certain roads and streets in the towns for maintenance and improvement, construction, or reconstruction from secondary road allocations. The statute mandates a specific limitation: no more than two miles of streets or roads included in the secondary system may be selected. In addition to this mileage, however, the Commissioner, with the approval of the CTB, may increase the street and road mileage in such towns by an amount not to exceed one-fourth mile. This extra mileage excludes any primary system mileage.
- § 33.1-82 outlines the authority under which the Commissioner and the CTB may maintain, improve, construct, and reconstruct roads when no request for allocation has been made. In this circumstance, the statute mandates specific criteria concerning which streets in the incorporated town may be maintained, improved, constructed, or reconstructed; these include right of way and hard surface widths; dates of establishment; functional classifications; and compliance with the *Subdivision Street Requirements* (filed as a regulation under 24 VAC30-90-10) effective on January 1, 1996.

The regulation only addresses the method by which the Commissioner and the CTB make allocations, and provides that, once either of the methods outlined above has been chosen by the governing body, no change shall be allowed until the town shows good cause to the contrary. The CTB will decide on the merits of the proposed change. Since the CTB is exercising its authority to make decisions under the statutes, the mandate is not exceeded.

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.

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The goals are as follows:

1. To protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens of the Commonwealth.
2. Is the regulation written clearly and understandably?

This regulation has no effect on the family or family stability.

Goal 1: VDOT believes that this regulation has been effective in meeting the first goal. It is reasonable to cede ultimate authority to the CTB for deciding on the most appropriate method for operating and maintaining roads, since it has authority to distribute and allocate funds under § 33.1-12 (11). These decisions should be made consistently and fairly, according to established precedent, unless there is a compelling reason to change the method used. Therefore, VDOT and the CTB believe that the public welfare has been protected by having the rules set forth.

Goal 2: The regulation provides citations for each of the relevant citations, and states that the CTB will decide on the merits of any changes in methods used to determine allocations. 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.

There is no alternative for an official policy statement outlining the role of the CTB in determining which statutory method will be used in operating and maintaining roads in incorporated towns of less than 3,500.

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 effect on the family or family stability, nor does it affect any of the other factors listed above.