



Virginia  
Regulatory  
Town Hall

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

<b>Agency Name:</b>	Virginia Department of Transportation (Commonwealth Transportation Board)
<b>VAC Chapter Number:</b>	24 VAC 30-17-10 et seq.
<b>Regulation Title:</b>	Solicitation and Use of VDOT Buildings and Grounds for Non-Work Purposes
<b>Action Title:</b>	Review and Retain
<b>Date:</b>	January 23, 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 appears in VDOT's Department Policy Memoranda Manual. It establishes criteria and procedures VDOT follows in granting access to, and use of, VDOT facilities for purposes other than transacting official state business.

The Office of the Attorney General has determined that this regulation is exempt from the APA under the exemption granted by § 9-6.14:4.1 C (2).

## 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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Under § 33.1-12, the Commonwealth Transportation Board has authority for oversight of VDOT operations. However, this regulation is based on the following:

- A 1991 memo from William E. Porter, the Governor's Deputy Chief of Staff, (Restrictions on State Employees' Time and Use of State Facilities and Equipment), which reminded managers to observe rules against the use of state resources for purposes other than state business, refrain from personal or organizational involvement in any non-state business while on state government time, and to refrain from non-routine exchange of information, except pursuant to the Freedom of Information Act.
- An Executive Order issued by the Governor (Executive Order 2-93 – Use of State Agencies' and Institutions' Meeting Rooms by State Employee Associations) requiring executive branch state agencies and institutions to develop policies and procedures for the use of state-owned or –leased meeting rooms by state employee associations. Pursuant to this order, the Department of General Services issued guidelines (Directive 13-93 on the Use of State Meeting Rooms by State Employee Associations) to assist affected organizations in developing these policies and procedures.

In addition, the Administrative Services Division (ASD) determined that the Division of Engineering and Buildings had a policy of “no solicitations” for the buildings in the Capitol Square Area that it manages. ASD also determined that a similar policy for land and facilities that VDOT owns would be appropriate, given the adverse impacts on the conduct of official state business from unregulated access for non-work purposes. Therefore, the scope of the regulation was expanded to address use of VDOT-owned or –leased facilities by groups other than state employee associations, and for purposes not related to the conduct of official state business. The Office of the Attorney General reviewed the text of the policy and found that it was exempt from the Administrative Process Act (APA), but was subject to the Virginia Register Act.

The regulation is limited in that it covers only VDOT-owned or –leased facilities. Likewise, it does not cover access for those groups or individuals engaged in official state business; only non-work activities are covered. Decisions concerning access are at the discretion of the individual responsible for the facility, generally a district administrator or facility manager. Criteria to be considered in reviewing applications are specified in the regulation, as are user fees, and terms and conditions of written authorization. Persons engaged in unauthorized solicitation on VDOT-owned or –leased property may be asked to leave the area under § 18.2-119 of the *Code of Virginia* which addresses the subject of “trespass to realty.”

## 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:

- To ensure the efficient and effective operation of state facilities; and
- To protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens of the Commonwealth.
- Is the regulation written clearly and understandably?

The regulation has been useful in providing guidance to various managers throughout VDOT in considering requests for access to their facilities, so that employee safety and productivity may be preserved, the ability to conduct official state business is unimpeded, and requests are handled fairly and consistently, regardless of location.

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

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.*

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Prior to implementation of the regulation as DPM 1-19, VDOT functioned with no written guidelines concerning the use of its facilities for non-work purposes. However, a number of factors combined to make development of a written policy advisable:

- The number of non-profit, voluntary, state employee-related groups, such as VDOT’s Employee Benefit Association and the Virginia Governmental Employees Association (these groups naturally found it more convenient to hold meetings at state-owned facilities);
- Tendency by some individuals to make unannounced visits to VDOT work sites to solicit business from state employees or otherwise contact workers; these practices were detrimental to productivity and the conduct of official state business, and could have created hazardous situations in some areas, such as repair shops;
- The disparity in size, amenities, and function of VDOT-owned or -leased facilities made it advisable to identify those facilities which were suitable for access for non-work gatherings (such as residencies or district offices, which generally have dedicated conference rooms, restroom facilities, and seating), as well as those facilities unsuitable for public access (such as older area headquarters equipment repair shops);
- Research conducted into the subject indicated that many outside groups were using VDOT-owned or –leased facilities, including the American Heart Association and the United Way;
- Written directives previously discussed from the Governor’s Office and the Department of General Services addressing the subject of access to state-owned meeting rooms and use of state employee time and state resources;
- A desire to ensure fair and consistent treatment of requests for access to VDOT owned or – leased facilities for non-work purposes, regardless of the location.

VDOT believes that the current regulation is the least burdensome alternative available for achieving the purpose of the regulation.

**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 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.*

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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.