



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 30-500-10 et seq.
Regulation Title:	Roads in the Grounds of State Parks
Action Title:	Review and Retain
Date:	June 25, 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 under which State Secondary System routes located completely within state parks, government parks, reservations, and recreational areas may be closed or turned over for maintenance and construction to the various authorities in charge of such parks, areas, etc., if they so request. The Office of the Attorney General has found that this regulation is exempt from the APA under Section 9-6.14:4.1 B 3.

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.

Under the provisions of § 33.1-12(3), the Commonwealth Transportation Board (CTB) has general authority to make regulations concerning use of the system of state highways. However, the specific authority for this regulation is from §§ 33.1-69 of the Code of Virginia. Under §33.1-69, the “control, supervision, management and jurisdiction over the secondary system of state highways shall be vested in the Department of Transportation and the maintenance and improvement, including construction and reconstruction, of such secondary system of state highways shall be by the Commonwealth under the supervision of the Commonwealth Transportation Commissioner.” Furthermore, the statute states that the CTB has jurisdiction over the secondary system in cities and towns of the Commonwealth.

The regulation provides that authorities in charge of state parks, government parks, reservations, and recreational areas may request the CTB to close or turn over secondary mileage to them in such facilities.

Since the regulation does not specify what criteria or factors should be considered, the CTB and VDOT have wide discretion in deciding whether such requests may be granted. The regulation does stipulate that the board of supervisors of the county in which the facility is located must approve the action.

This regulation does not exceed the minimum requirements of the state 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.

VDOT received no public comment during the Notice of Periodic Review period, 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.

Goals: VDOT seeks public comment regarding the following question: Does the regulation meet 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. Is the regulation written clearly and understandably?

Goal 1: This particular regulation is associated with a CTB resolution dating back to 1937, soon after the State Secondary System was created. It helps preserve the maximum amount of flexibility in deciding whether affected secondary routes will be closed, and whether VDOT or some other entity will assume responsibility for maintenance and construction of such routes. It is conceivable that those in charge of a given facility (e.g., state parks, government parks, reservations and recreational areas) might wish to close a given route due to construction activity at the facility, changes in land use, or some other reason. Likewise, those in charge of a given facility might wish to perform maintenance and construction of the affected route themselves. The regulation establishes the rules the CTB will follow in considering such requests, including a provision that the local board of supervisors must concur in the action taken. This stipulation ensures that a consensus is reached, and that the viewpoints of all affected officials are solicited. Therefore, the regulation helps the CTB and VDOT carry out an important part of the agency's mission – to provide safe, convenient, and efficient transportation programs and services – while ensuring that appropriate public input is collected for consideration.

Goal 2: The regulation clearly states that the CTB may close or turn over state secondary routes entirely within the confines of given facilities (e.g., state parks, government parks, reservations and recreational areas), to the entities in charge of those facilities if they make such a request. The regulation also specifies that the local board of supervisors in the affected county must approve of the action.

VDOT believes that the lack of public comment received concerning the regulation indicates broad satisfaction with the format of the regulation, the manner in which it is implemented, its clarity and ease of comprehension, and its effectiveness.

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.

There is no viable substitute for a document that sets forth the criteria to carry out the statutory authority discussed previously. Such a document ensures that the public has access to the design standards used, and that they help ensure that decisions on additions to the Primary System from mileage on the grounds of state institutions are made consistently and fairly.

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