



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 30-610-10 et seq.
<b>Regulation Title:</b>	List of Differentiated Speed Limits
<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 actually consists of individual documents that identify road segments where the Commonwealth Transportation Commissioner or other appropriate authority has increased or decreased speed limits, including the differentiation of speed limits for daytime and nighttime driving. Such differentiation becomes effective only after a traffic engineering investigation and when indicated on the highway by signs. These limits are effective only when prescribed in writing by the Commissioner and kept on file in the Central Office of VDOT pursuant to the provisions of § 46.2-878 of the *Code of Virginia*. The Office of the Attorney General has determined that this regulation is exempt from the APA under the exemption granted by § 9-6.14:4.1B11 (traffic signs, markers, or control devices.)

The documentation consists of

- A form which describes the existing conditions at the location in question, including existing posted speed, recommended limit, termini and mile markers, and recommendations for approval by the State Traffic Engineer and the District Traffic Engineer. Remarks addressing the identity of the entity requesting the change, and the reasons for the recommendation may also be included.
- A proposal identifying the segment by route number, construction district, road system, termini, length, and speed limit to be enforced; this document includes a space for the Commissioner to sign and date indicating his approval; and
- A memorandum from the State Traffic Safety Engineer to the appropriate member of the Commissioner's Staff (now designated as the Assistant Commissioner for Operations) requesting concurrence with the recommended change in zoning.

Technically speaking, the list does not meet many of the conventions one normally associates with a regulation. It has no definitions, no general or specific provisions, and individual documentation for specific segments may be interpreted without need for other documentation. The Registrar of Regulations has granted VDOT the authority to file this list by description because the way in which it is physically recorded and stored is incompatible with the requirements routinely followed for regulations. The list is actually individual documents retained in VDOT's permanent files.

The *List of Differentiated Speed Limits* was filed with the Registrar of Regulations in 1993, when the Virginia Administrative Code was being created. At that time, the Office of the Attorney General found that the list met the definition of a regulation because the subject addressed had the force of law, even though the list represented the Commissioner's authority under law to revise speed limits.

## 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 statutory basis for this regulation is § 46.2-878 of the *Code of Virginia*. The Commonwealth Transportation Commissioner has the ultimate authority, at his discretion, to revise speed limits on highways under his jurisdiction. Statute requires that such changes be made in writing after completion of a traffic engineering investigation, and that the documentation be kept on file at the Central Office of VDOT. The regulation does not exceed 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, 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.*

---

This regulation's goal is to protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens of the Commonwealth.

This regulation has no direct effect on the institution of the family and family stability, other than those relating to the preservation of motorist safety.

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

**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 alternative to achieve the purpose of this regulation in another form. State statute defines the conditions under which speed limits may be changed, and how these changes are documented. Therefore, VDOT believes that the regulation is the least burdensome alternative available for achieving the regulation's purpose.

## 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. VDOT plans to seek a waiver to the periodic review requirement for the entire list due to the following reasons:

- In form and structure, the *List of Differentiated Speed Limits* does not fit the normal definition of a regulation;
- Individual segments of the System of State Highways are reviewed upon request, or as necessary in the course of routine traffic engineering studies; and
- The information is routinely made available to localities, private citizens, and attorneys in connection with traffic infractions, accident investigations, etc.

Therefore, it is unnecessary to review the entire list as a single regulation.

## 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, other than the obvious beneficial effects on motorist and pedestrian safety.