



Periodic Review / Retain Regulation Agency Background Document

Agency name	Virginia Department of Transportation/Commonwealth Transportation Board)
Virginia Administrative Code (VAC) citation	24 VAC 30-20
Regulation title	General Rules and Regulations of the Commonwealth Transportation Board
Document preparation date	September 29, 2006

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 21 (2002) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

This regulation sets forth the conditions under which VDOT, on behalf of the Commonwealth Transportation Board (CTB), will grant permits for performing work on state-owned property controlled by the CTB. It also specifies permitted and prohibited activities on state-owned right of way. The Commonwealth Transportation Board has the general authority to promulgate regulations granted by § 33.1-12 (3) of the *Code of Virginia*.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

VDOT is not aware of any alternatives that are less burdensome and less intrusive to achieve the essential purpose of this regulation. The highway rights of way are under the jurisdiction of the

CTB, and regulating access to, and use of, such property is the only way to ensure competing interests of safety, economic development, and functional performance of the highway are simultaneously satisfied.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. 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. Therefore, no response was required. No advisory group was formed to assist in the periodic review

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 21, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation has 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. Ensure integrity of the transportation infrastructure.
3. Is the regulation written clearly and understandably?

Goal 1: This regulation ensures that work performed on state-owned right of way is completed with due consideration to the safety of the worker and the motorist. Unregulated work could lead to personal injury or death, or damage to public and private property. By requiring a permit, VDOT can review the proposed work and advise the applicant on any pertinent factors that might affect safety or the manner in which the work is performed. Therefore, the CTB and VDOT believe that the regulation helps fulfill this goal.

Goal 2: In addition to the safety factors discussed above, the regulation ensures that work within state-owned right of way is done in accordance with accepted principles of civil engineering as set out in the *Land Use Permit Manual (LUPM)* and the *Minimum Standards of Entrances to State Highways* (also filed as regulations). Without this regulation, the CTB and VDOT would be unable to protect the integrity of the highways and bridges, because individuals and businesses could do whatever they desired in any manner, safe or unsafe, on state-owned right of way. Such activities could cause VDOT to incur significant expense to repair highways or bridges. Therefore, the CTB and VDOT believe that the regulation helps fulfill this goal.

Goal 3: The regulation defines pertinent terms. It refers to the permitting process, including circumstances under which a permit may be denied or revoked. It specifies both allowed and forbidden activities that may occur within the right of way. It references manuals with which work performed under permit must comply. 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.

VDOT believes that this regulation is clearly written and easily understandable.

Result

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 at this time. A new *Land Use Permit Manual (LUPM)* is being promulgated to replace the current edition, and some amendment to the *General Rules* will be necessary to accommodate the new regulatory text. However, the replacement regulation is subject to the provisions of Article 2 of the Administrative Process Act, so promulgation of the final regulation cannot be completed until at least one public hearing is held, and the proposed and final versions are reviewed and approved by the Commonwealth Transportation Board, the Secretary of Transportation, the Department of Planning & Budget, and the Governor. These steps will not be completed until sometime next year, at the earliest. VDOT will make any changes to the *General Rules* when the final *LUPM* is processed for publication and posting.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

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