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Notice of Intended Regulatory Action (NOIRA)
Agency Background Document

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) citation	24 VAC 30-92
Regulation title	Secondary Street Acceptance Requirements
Action title	Notice of intended replacement of the Subdivision Street Requirements (24 VAC 30-91) with new Secondary Street Acceptance requirements pursuant to legislative mandate. Notice of public comment period and intended process.
Date this document prepared	May 18, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

Chapter 382 of the 2007 Acts of Assembly (SB1181) added § 33.1-70.3 to the *Code of Virginia*. The legislation requires the Commonwealth Transportation Board (Board) to develop Secondary Street Acceptance Requirements, promulgated by regulation, to determine the conditions and standards that must be met before secondary streets constructed by developers, localities and entities other than the Virginia Department of Transportation (VDOT) will be accepted into the state secondary system for maintenance by the Virginia Department of Transportation (VDOT).

The new regulation will replace and supersede the current Subdivision Street Requirements (24 VAC 30-91).

The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to initial regulations promulgated by the Board pursuant to Chapter 382.

Due to a technical error concerning the collection of electronic comments, this NOIRA is filed to re-solicit comments collected pursuant to the Notice of Intended Regulatory Action published in

23:16 VA.R 2591 on April 16, 2007. Interested parties who submitted comments electronically for this earlier NOIRA are requested to re-submit their comments to ensure their input is available for consideration in the drafting of the new regulation.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Chapter 382 of the 2007 Acts of Assembly (SB1181) added § 33.1-70.3 to the *Code of Virginia*. The legislation requires the Commonwealth Transportation Board (Board) to develop Secondary Street Acceptance Requirements, promulgated by regulation, to determine the conditions and standards that must be met before streets constructed by developers, localities and entities other than VDOT will be accepted into the state secondary system for maintenance by VDOT.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

Chapter 382 of the 2007 Acts of Assembly requires the development of the new regulation to replace the existing Subdivision Street Requirements (24 VAC 30-91).

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The intent of the regulation is to ensure that streets accepted into the state system for perpetual public maintenance provide commensurate public benefit. Among such other measures as the Board may deem necessary or appropriate, the regulation shall include, but not be limited to (i) requirements to ensure the connectivity of road and pedestrian networks with the existing and future transportation network; (ii) provisions to minimize stormwater runoff and impervious surface area, and (iii) provisions for performance bonding of new secondary streets and associated cost recovery fees. Note: items (i), (ii), and (iii) shall hereafter be referred to as the "mandatory provisions."

With regard to "requirements to ensure the connectivity of road and pedestrian networks with the existing and future transportation network," the Board will be considering the appropriate

measures, calculations and other requirements necessary and incidental to road and pedestrian network connectivity. This will likely include conditions when sidewalks or other pedestrian accommodation will be required, other provisions related to improvement of conditions for non-motorized transportation. The Board will also be considering methods for ensuring connectivity with existing and planned road networks, and conditions when cul-de-sacs and other street segments that do not provide network connectivity will be accepted into the state system.

With regard to "provisions to minimize stormwater runoff and impervious surface area," the Board will be considering reductions in minimum pavement widths and such other measures and practices as may be available for the improvement of the pedestrian environment and reduction of stormwater runoff.

With regard to "provisions for performance bonding of new secondary streets and associated cost recovery fees," the Board will examine and consider modifications to the current costs associated with the acceptance of subdivision streets into the state system, including administrative costs and other ongoing costs including maintenance, inspection and other costs. The Board will also examine and consider modifications to the current provisions regarding performance bonding.

In the development of this regulation the Board will be informed by approaches to the mandatory provisions above and other matters as applied in other states and jurisdictions. In particular, the Board calls public attention to the following regulatory documents, from which various concepts may be drawn.* These documents may be obtained at http://www.vdot.virginia.gov/projects/ssar/:

A Policy on Geometric Design of Highways and Streets
American Association of State Highway and Transportation Officials
2004

Alachua County Corridor Design Guidelines
Alachua County, Florida
January 2003

Model Sustainable Development Ordinances
Minnesota Environmental Quality Board
September 2000

Neighborhood Street Design Guidelines – An Oregon Guide for Reducing Street Widths
Oregon Department of Transportation, Transportation and Growth Management Program
November 2000

* Note: These documents may contain provisions and requirements beyond the scope and/or jurisdiction of the Board in the promulgation of this regulation.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

There are no alternatives to the promulgation of a new regulation.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

Through this notice the Board is soliciting public comment, with particular and specific emphasis on (i) how to accomplish the specific mandatory provisions as established by § 33.1-70.3 B (as discussed above), (ii) other concepts or requirements that should be addressed in the new regulation, (iii) issues or concepts in the current Subdivision Street Requirements (24 VAC 30-91) that should be modified or eliminated in the new requirements, (iv) comment on approaches to the mandatory provisions and other issues in the other regulatory documents listed above, and (v) comment on other best practices and approaches from other jurisdictions.

The Board encourages those submitting comments to be as specific as possible, including – when applicable – the submission of suggested text for the regulation.

Though exempt from the APA, the Board is publishing this notice to provide opportunity for public input in the development of this regulation. Additional opportunities for public comment will be provided as the development of this regulation proceeds. In addition, the Secretary of Transportation anticipates establishing an implementation advisory committee to provide input in the development of the regulation.

Status, background and other supporting information will be available throughout this regulatory process online at www.vdot.virginia.gov/projects/SSAR. Anyone wishing to submit written comments may do so by email to: http://www.vdot.virginia.gov/projects/ssar/

or by regular mail at:

SSAR Public Comment
c/o VDOT Policy Office
1401 East Broad Street
Richmond, Virginia 23219

All comments must include the name and address of the commenter. In order to be considered during this comment period, comments must be received by 5:00 PM on June 18, 2007.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Secretary of Transportation anticipates establishing an advisory body to provide input in the development of the regulation.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The Secondary Street Acceptance requirements will have a positive impact on the institution of the family and family stability. This regulation will help reduce long-term traffic congestion, support and promote more active and healthy lifestyles, and encourage the development of communities with enhanced quality of life.