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**DEPARTMENT OF TRANSPORTATION**

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**Designation of Scenic Roads**

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Section 1: Regulations of Connecticut State Agencies are amended by adding new sections 13b-31c-1 to 13b-31c-5 inclusive, as follows:

**Sec. 13b-31c-1. Definitions**

(a) "Advisory Committee" means the Scenic Road Advisory Committee established pursuant to these regulations.

(b) "Commissioner" means the Commissioner of the Department of Transportation (DOT).

(c) "Department" means the Department of Transportation (DOT).

(d) "Improvement" means actions or activities initiated by the Department of Transportation which alter or improve a designated scenic road in one or more of the following ways: (1) widening of the right-of-way or traveled portion of the highway, (2) installation or replacement of guide railing, (3) paving, (4) changes of grade, and (5) straightening and removal of stone walls or mature trees.

(e) "Scenic Road" means any state highway or portion thereof that (1) passes through agricultural land or abuts land on which is located an historic building or structure listed on the National Register of Historic Places or the state register of historic places, compiled pursuant to section 10-321 of the general statutes, or (2) affords vistas of marshes, shoreline, forests with mature trees or notable geologic or other natural features.

(f) "State Highway" means a highway, bridge or appurtenance to a highway or bridge designated as part of the state highway system within the provisions of chapter 237 of the Connecticut General Statutes, or a highway, bridge or appurtenance to a highway or bridge specifically included in the state highway system by statute.

**Sec. 13b-31c-2. Administration, advisory committee, composition and duties**

(a) The Commissioner shall establish a Scenic Road Advisory Committee. This Committee will include representation from the Departments of Transportation, Environmental Protection and Economic Development.

(b) The Advisory Committee shall meet quarterly, unless there is no business, or as necessary to:

(1) Develop a method to systematically evaluate request for scenic road designation.

(2) Review and evaluate the requests submitted to the Commissioner to designate a State highway, or portion thereof, as a scenic road.

(3) Prepare recommendations to the Commissioner as to those highways, or portion thereof, appropriate for designation as a scenic road.

(4) Review Department proposals to evaluate whether the proposed improvement will have an effect upon or alter the characteristics that qualified the highway as scenic.

(5) Recommend alternate courses of action which could avoid, mitigate or minimize adverse effects of the improvement on the scenic road, without compromising the safety of the traveling public.

(6) When conditions of development, zone change or other local action occur they may review the designated scenic road and recommend to the Commissioner any changes in designation.

### **Section 13b-31c-3. Request to designate a highway as scenic**

(a) Requests to designate a state highway as a scenic road may be made to the Commissioner by any agency, municipality, group or individual.

(1) Requests for consideration must include a report providing pertinent information on the proposed designated highway. This report shall be prepared by the requesting agency, municipality, group or individual and submitted to the Commissioner. The report shall include the following:

(A) Highway segments or areas to be included.

(B) Description of natural and cultural resources and features of scenic interest.

(C) Existing land use.

(D) Photographs of outstanding and representative scenery.

(E) Properties listed on the National Register of Historic Places and/or state register of historic places.

(b) The Advisory Committee shall make a systematic evaluation of the extent and quality of historic or scenic, natural and cultural resources for the proposed designated scenic road.

(c) The Advisory Committee may review any reports, letters, articles, etc. or any other document which it deems necessary to assist in its recommendation. It may also request additional information from the applicant to clarify any information provided in the report.

(d) Within 90 days of its meeting, the Advisory Committee shall, based on the review of the submitted information report and systematic evaluation of the resources, forward recommendations to the Commissioner for approval or denial of designation. This recommendation will include the identification of the specific features or characteristics which would qualify it as scenic or the reasons why a scenic designation is not considered appropriate.

(e) Within 45 days after reviewing the Advisory Committee's recommendation, the Commissioner will approve or deny the request for scenic road designation.

(f) Within 15 days of the Commissioner's determination, the requesting agency, municipality, group or individual shall be informed in writing of the decision and the basis for it.

### **Sec. 13b-31c-4. Reconsideration of requests to designate a highway**

(a) State highways which do not receive a recommendation for designation or are recommended for deletion will receive no further consideration until additional information is presented to the Commissioner. This additional data is limited to the specific item or items which resulted in the denial or deletion of scenic designation. Within 60 days of its meeting to reconsider, the Advisory Committee shall forward its recommendation to the Commissioner for a final decision.

(b) Within 45 days after receiving the Advisory Committee's recommendation, the Commissioner shall render a final decision on the requested designation.

(c) Within 15 days of the Commissioner's final determination, the requesting agency, municipality, group or individual shall be informed in writing of the final decision and the basis for it.

**Sec. 13b-31c-5. Qualifications for a scenic road**

(a) In order to qualify for scenic road designation, the state highway under consideration must have significant natural or cultural features along its borders such as agricultural land, an historic building or structure which is listed on the National Register of Historic Places or the state register of historic places or affords vistas of marches, shoreline, forests with mature trees or notable geologic or other natural features which singly or in combination set this highway apart from other highways as being distinct.

(b) The proposed scenic road shall have a minimum length of 1 mile.

(c) The proposed scenic road shall have development which is compatible with its surroundings and must not detract from the scenic, natural character and visual quality of the highway area.

Section 2: The Regulations of Connecticut State Agencies are amended by adding new sections 13b-31e-1 to 13b-31e-4 inclusive, as follows:

**Section 13b-31e-1. Determination of effect upon designated scenic roads**

(a) **Determination of effect:** Improvements proposed to scenic roads shall be reviewed by the Advisory Committee to evaluate whether the improvements will have a significant effect upon or alter the specific features or characteristics that qualified it to be designated as scenic.

(1) No adverse effect: If the Advisory Committee finds that the proposed improvement will not significantly affect these features or characteristics, the undertaking may proceed as proposed.

(2) Adverse effect: If the Advisory Committee finds that the proposed improvement will have a significant adverse impact on the features or characteristics of the scenic road, it shall:

(A) Notify the Commissioner of their finding.

(B) Return the project to the designer with recommended alternate courses of action that could avoid, mitigate or minimize adverse effects of undertaking on the scenic road. These recommendations could include, but are not limited to, consideration of a waiver of Department or Federal standards, the use of tinted pavements, stone wall replacements and tree or shrub replacements.

(C) If alternatives or waivers are not considered to be feasible by the designer, the Advisory Committee shall make recommendations to the Commissioner as to whether the project should be constructed as proposed.

(D) In all cases, the Commissioner shall make the final determination as to whether to approve or deny the proposed improvements or alternations.

**Sec. 13b-31e-2. Public notification of proposed improvements or alterations to a designated scenic road**

(a) For those highway construction or maintenance activities that a majority of the Advisory Committee determines to constitute an "improvement" to a designated scenic road within the meaning of Section 1(d) of this regulation, the Department shall publish, in a newspaper of general circulation in the area of the proposed improvements, a notice

describing the alteration or improvement. There shall be a thirty (30) day comment period following this notice during which interested persons may submit written comments.

(b) The Advisory Committee shall review and evaluate all written comments. A report of findings will be prepared outlining the resolution of the various comments and forward to the Commissioner.

(c) In all cases, the Commissioner shall make the final determination as to whether to approve or deny the proposed improvements or alterations.

### **Sec. 13b-31e-3. Special improvement and maintenance standards for scenic roads**

(a) At the time a highway is officially designated as scenic, the characteristics responsible for this designation shall be clearly identified and recorded. Any alteration to a scenic road shall maintain these characteristics, if practical.

(b) Improvements to scenic roads shall be developed in conformity with current Department design and/or maintenance standards for the type road unless it is determined that using such standards will have a significant adverse impact upon the roadway's scenic characteristics. In which case, exemption from Department or Federal standards may be considered to preserve the roadway's scenic qualities.

(c) In designing improvements to and/or preparing for maintenance on a designated scenic road, special consideration should be given to the following:

(1) **Widening of the Right of Way:** The Department may not purchase additional property along a designated scenic road unless the Commissioner has first determined that property acquisition is necessary. The area purchased should be kept to a minimum with the need and use outlined in a detailed report to the Commissioner.

(2) **Widening of the Traveled Portion:** Wherever possible and as safety allows, roadway widening should be kept to a minimum width and accomplished within the existing highway right-of-way. The Department may not widen or issue a permit to allow others to widen any portion of a designated scenic road unless the Commissioner has first determined, after review and approval of a traffic engineering report, that such an improvement is necessary to improve an existing or potential traffic problem.

(3) **Guide Rails (Guardrails):** Guide rails should be replaced in-kind in accordance with current Department standards unless the Commissioner determines after review and approval of a traffic engineering report, that a safety problem exists and another type of guard rail system is necessary for more positive protection.

(4) **Paving:** Paving is to be accomplished in accordance with current Department standards. The pavement type, drainage appurtenances and curbing installation will be accomplished as required with consideration given to the characteristics of the scenic road. The width of paving should not extend more than 12 inches beyond the existing shoulder.

(5) **Changes of Grade:** Wherever possible, proposed changes in grade should be designed to a minimum to restrict the impact on the scenic features. Changes of grade must be approved by the Commissioner after review and approval of a traffic engineering report where it has been determined that such an improvement is necessary to improve an existing or potential traffic problem.

(6) **Straightening or Removal of Stone Walls:** The Commissioner may approve the straightening or removal of a stone wall after review and approval of a traffic engineering report that has determined that such action is necessary to improve an existing or potential safety hazard, improve a sight line restriction, for installation of drainage appurtenances or for other sound reason. The Department will attempt, if practical, to relocate the stone wall within the highway right-of-way or on private property of the abutting property owner. The stone wall should be reconstructed in a manner consistent with its former appearance.

(7) **Removal of Mature Trees:** Wherever possible and as safety allows, mature trees within the highway right-of-way should not be removed. If roadway widening is approved, the alignment should be such as to restrict its impact on mature trees. The Commissioner may approve the removal of mature trees after review of an engineering report which outlines the need.

(8) **General Maintenance:** All scenic roads shall receive the level of maintenance necessary for safe public travel.

(9) **Road Bed Maintenance:** Necessary improvements, as determined by the Director of Maintenance, may be made to improve safety, drainage or reduce a maintenance problem, but shall not disturb the scenic characteristics for which the roadway was designated.

(10) **Cross Drainage Maintenance:** Cross drainage shall be maintained where necessary to prevent damage to the highway, possible washouts and other problems which may be detrimental to the safety of the traveling public.

(11) **Vegetation Maintenance:** Where necessary for the safety and protection of the traveling public, tree branches and shrubs may be trimmed. Mowing shall be performed as necessary in accordance with Department standards for health and safety requirements.

(12) **Sign Maintenance:** All information, regulatory, warning and identification signs shall be erected and maintained as necessary or provided for by the State Traffic Commission.

(13) **Winter Maintenance:** Winter maintenance procedures shall be conducted in accordance with standard Department policy. Snow and ice control shall be performed in accordance with the latest Department policy.

#### **Sec. 13b-31e-4. Emergency repairs**

Should the Commissioner declare an emergency, as specified under Section 13b-26(f) of the General Statutes, repairs will be made in a manner which will minimize, as much as reasonably possible, the effect upon the features for which the highway was designated as scenic.

**Statement of purpose:** To provide regulations for the designation of State highways as scenic roads in accordance with Public Act No. 87-280.

Be it known that the foregoing regulations are adopted by the aforesaid agency pursuant to Public Act No. 87-280 of the Public Acts, after publication in the Connecticut Law Journal on March 8, 1988, of the notice of the proposal to adopt such regulations.

Wherefore, the foregoing regulations are hereby adopted, effective when filed with the Secretary of the State.

In Witness Whereof: March 28, 1989, J. William Burns, Commissioner.

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, General Statutes: March 31, 1989.

Approved by the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes: April 18, 1989.

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Sec. 4-172, as amended, of the General Statutes, Secretary of State: May 1, 1989.