



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Dept. of Transportation (Commonwealth Transportation Board)
<b>Virginia Administrative Code (VAC) citation</b>	24 VAC 30-121
<b>Regulation title</b>	<i>Comprehensive Roadside Management Program Regulations</i>
<b>Action title</b>	Update references to current regulations
<b>Final agency action date</b>	October 15, 2009
<b>Document preparation date</b>	February 17, 2011

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This action amends the regulation to correct citations and reflect the current organizational structure of the Virginia Department of Transportation (VDOT). Specifically:

- References to the *Land Use Permit Manual* (24 VAC 30-150), which has been repealed, have been replaced with references to the new *Land Use Permit Regulations* (24 VAC 30-151).
- The VAC citation for the *General Rules and Regulations of the Commonwealth Transportation Board* has been changed from 24 VAC 30-20 to 24 VAC 30-21 to reflect the new replacement regulation.
- Division names have been removed in order to accommodate changes in division names and transfer of responsibilities within VDOT.
- Minor typographical errors not noticed previously have been corrected.

VDOT's statutory authority for promulgating this regulation is §§ 33.1-12 and 33.1-223.2:9 of the *Code of Virginia*. The Office of the Attorney General has certified that this action is exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq. of the *Code of Virginia*) pursuant to § 2.2-4006 A 3.

### **Regulatory Flexibility Analysis (§ 2.2-4007.1 of the *Code of Virginia*)**

**Economic impact on small businesses.** The economic impact of the regulation on a business is not determined by the business size. The regulation establishes a program under which private sector organizations of any size are permitted to fund landscaping or maintenance along highways.

**Continued need for the rule.** The Comprehensive Roadside Management Program (CRMP) has been popular and has resulted in benefits for travelers (who experience a more visually pleasing drive), taxpayers (who do not have to pay for landscape maintenance along highway segments in the program), and private sector organizations (who receive recognition for their efforts). It was promulgated pursuant to § 33.1-223.2:9 of the Code of Virginia, enacted in 2004, which required VDOT to establish regulations for a comprehensive roadside management program.

**Nature of complaints or comments received concerning the regulation from the public.** In January 2010, VDOT received a petition for rulemaking concerning this regulation, requesting that (i) the VDOT District Administrator or designees review issues arising from a permit application, and make recommendations and decisions for resolution; and (ii) certain criteria be changed to allow for more locations for gardens. Public comments were overwhelmingly in support of this petition. VDOT denied the first item of the petition in order to maintain consistent application of the regulation across the state but plans a regulatory action to amend the regulation to address the second item.

**Complexity of the regulation.** The regulation is intended to be as clear as possible without compromising public safety and benefit.

**Extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation.** There are federal requirements related to signage on interstate and controlled access highways. VDOT has worked with the Federal Highway Administration to ensure that the CRMP does not conflict with those requirements. In addition, there are state laws (§ 33.1-351 et seq. of the Code of Virginia) and a CTB regulation concerning outdoor advertising along state highways. When this regulation was promulgated, VDOT worked to ensure that it did not conflict with those laws or the outdoor advertising regulation.

**Length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.** The regulation was initially promulgated in 2006. There have been no significant changes in landscape maintenance principles since that time, and changes in economic conditions have not given rise to a need to change the regulation.

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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On October 15, 2009, the Commonwealth Transportation Board amended *Comprehensive Roadside Management Program Regulations* (24 VAC 30-121).

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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The amendments to this regulation will have no impact on the family or family stability.