



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation (Commonwealth Transportation Board)
Virginia Administrative Code (VAC) citation	24 VAC30-73, 24VAC30-155
Regulation title	Access Management Regulations, Traffic Impact Analysis Regulations
Action title	Updating Statutory References in VDOT Regulations due to Recodification of Title 33.1 (Chapter 805, 2014 Acts of Assembly)
Final agency action date	November 7, 2014
Document preparation date	November 7, 2014

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.

Both the Virginia Department of Transportation (VDOT) and the Commissioner of Highways, the chief executive officer of VDOT, have been granted authority by the *Code of Virginia* to promulgate regulations. In some cases, authority may be granted to VDOT or the Commissioner specifically for a particular regulatory purpose (such as for promulgation of regulations concerning parking), or authority may be granted by specific Acts of Assembly (such as for promulgation of regulations concerning access management). For those regulations that contain references to specific sections of Title 33.1 of the *Code of Virginia*, amendment of these regulations is necessary to bring them up to date due to the recodification of Title 33.1 to Title 33.2, pursuant to Chapter 805 of the 2014 Acts of Assembly.

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.

On May 14, 2014, the Commonwealth Transportation Board approved a resolution authorizing the Commissioner or his designees to take actions necessary to update to revise/update as appropriate and on behalf of the CTB, "all regulations . . ." approved by the CTB to reflect changes rendered necessary by recodification of Title 33.1 and other portions of the *Code of Virginia* pursuant to Chapter 805 of the 2014 Acts of Assembly. On July 7, 2014, the Commissioner issued a delegation of authority to VDOT Division Administrators to revise/update the regulations under their jurisdiction to reflect any changes to the Code of Virginia pursuant to Chapter 805 of the 2014 Acts of Assembly.

By letter dated October 22, 2014, the Office of the Attorney General (OAG) determined that the Virginia Department of Transportation and the Commonwealth Transportation Board have the authority to change references in their regulatory provisions from Title 33.1 of the *Code of Virginia* to the now re-codified Title 33.2. of the *Code of Virginia*. Section 33.2-210 of the *Code of Virginia* provides that the Commonwealth Transportation Board has the power and duty to make regulations that are not in conflict with the laws of the Commonwealth for the protection of and covering traffic on and for the use of systems of state highways, and shall have the authority to add to, amend, or repeal such regulations.

The OAG also determined that the other regulatory changes in this action to be made by the Commissioner with regard to new references to the now re-codified Title 33.2 of the *Code of Virginia* are able to be undertaken due to the Commissioner having the authority to undertake action under the various statutes affected. They include §§ 33.2-223, 33.2-240, 33.2-241, 33.2-242, and 33.2-245 of the *Code of Virginia*. The OAG also opined that the suggested changes to the Title 33.2 references in the VDOT regulations have been reviewed and appear appropriate with regard to these statutes.

Finally, the OAG confirmed that, under § 2.2-4006 A (4) (a) of the *Code of Virginia* these regulatory changes are exempt from the requirements of the Virginia Administrative Process Act as actions necessary to conform to changes in Virginia statutory law.

Family impact

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

This action will have no effect on the institution of the family and family stability.