



# Virginia Regulatory Town Hall

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## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Transportation (Commonwealth Transportation Board)
<b>Virginia Administrative Code (VAC) citation</b>	24 VAC 30-380
<b>Regulation title</b>	Public Hearings for Location and Design of Highway Construction Projects
<b>Action title</b>	Revision to Clarify Wording and Update Statutory References
<b>Final agency action date</b>	October 21, 2008
<b>Document preparation date</b>	August 14, 2008

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, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

### 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 regulation establishes the general provisions VDOT will follow when presenting its project-related plans, studies, and technical data for public comment, such as rules for implementing the regulation, types of hearings required for different road systems, and exceptions to public hearing requirements. Generally, the amendments have been made to improve the clarity of the regulation, to update statutory references, and to bring the regulation into line with VDOT public hearing policies. The Office of the Attorney General has found that this regulation is exempt from the APA under Section 2.2-4002 B3.

An existing statutory requirement concerning the holding of public hearings when unpaved secondary roads need emergency paving has been added. A provision concerning the types of public hearings that can be held for projects with insignificant public interest or environmental impacts has been amended to eliminate discretion as to what action can be taken. New text explicitly mentioning notices and conditions satisfying public hearing requirements have been added to 24 VAC 30-380-10 B 4. VDOT has also added new text explicitly stating the agency's commitment to hold a design public hearing in response to a

request related to a notice of willingness, should issues raised in connection with the request be unresolvable through other means.

Specific changes are discussed below:

**Table A**  
**Explanation of Changes to the Regulation**

Existing VAC Section	Change	Remarks
10, catchline	Change “Policy, rules and exclusions from the public hearing process” to “General provisions”	Amendment is less wordy
10, subsection A	Add new sentence, before existing opening sentence, concerning the consideration of factors	New sentence is a revision of a sentence in existing subsection B
10, subsection A, second sentence	Delete reference to § 33.1-18 of the Code of Virginia	Referenced moved elsewhere in regulation
10, subsection A, second sentence	Amend latter part of second sentence to read “. . . for VDOT to present studies and projects . . .” rather than “. . . for VDOT to present its studies and policies . . .”	Reflects possibility that others beside VDOT may assume responsibility for public hearings; term “project” is more accurate
10, subsection A, second sentence	Add “or interested” before “citizens.”	Reflects fact that attendees at a hearing may not be affected by a project
10, subsection A	Delete final sentence referring to § 51.5-40 of the Code of Virginia	Moved to subsection B 3
10, subsection B	Delete existing sentence and existing subsection letter C	Existing subsection B moved to subsection A; existing subsection C now subsection B
10, existing subsection C (now subsection B)	Replace “the policy” with “this regulation”	More accurate reference
10, existing subdivision C 3 (now subdivision B 3)	Add Code of Virginia references	Combination of new and relocated Code sections

Existing VAC Section	Change	Remarks
10, existing subdivision C 3 (now subdivision B 3)	Delete reference to VDOT Public Involvement Policy and Procedure Manual	Public involvement requirements covered in federal and state statutes and regulations cited and in agreements prepared by VDOT with localities; Public Involvement and Procedure Manual intended only as resource to explain and interpret laws and regulations
10, existing subdivision C 4 (now subdivision B 4)	Revise sentence to delete existing text and add new text explicitly mentioning notices and conditions satisfying public hearing requirements	Clearer statement of conditions that satisfy the public hearing requirement
10, existing subsection D (now subsection C)	Replace existing subsection "D" with "C"	Revised order of subsections
10, existing subdivision D 1 (now subdivision C 1)	Delete "predominantly or" from subdivision C 1	More accurate description of requirements
10, existing subdivision D 2 (now subdivision C 2)	Revise sentence to read ". . . existing roadway corridor with a predominant portion of the work on new location . . ."	More accurate description of requirements, and consistent with format of rest of subsection
10, existing subdivision D 3 (now subdivision C 3)	Revise sentence to read ". . . existing roadway corridor that have a significant social, economic or environmental impact require . . ."	Clearer description
10, existing subdivision D 4 (now subdivision C 4)	Revise sentence to read ". . . require publication of a notice of willingness to hold a design public hearing." Add new sentence at end beginning "VDOT will hold a design public hearing if a request . . ."	Eliminates discretion to choose combined location and design public hearing or a posting of a notice of willingness; is consistent with references to notice of willingness earlier in the regulation
10, existing subsection E, catchline (now subsection D)	Replace existing subsection "E" with "D" and replace "exclusions" with "exceptions"	Revised order of subsections; reworded catchline

Existing VAC Section	Change	Remarks
10, existing subdivision E 1, (now subsection D)	Eliminate "1" prior to first sentence in subsection D	Revised format of exceptions
10, existing subdivision E 1, (now subdivision D 1)	Add new subdivision D 1 discussing emergency paving of unpaved secondary roads	New reference to statute
10, existing subdivision E 1, (now subsection D, subdivisions "2," "3" and "4")	Replace subdivisions "a," "b" and "c" with "2," "3" and "4"	Revised order and format of exceptions
10, existing subdivision E 1, (now subdivision D 4)	Replace "roads" with "roadways" and delete "streets" as shown	Consistent reference to those earlier in regulation; clarifies intent that "change in layout or function" refers to both the connecting roadways and the facility
10, existing subdivision E 2, (now subsection D)	Delete existing subdivision E 2	Obsolete requirement
10, new subsection E	Add new sentence concerning authority to establish administrative procedures to ensure compliance with regulation	Allows the Commonwealth Transportation Commissioner or a designee to establish administrative procedures to ensure compliance

**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 October 21, 2008, by signature of the Chief of Policy and Environment, VDOT amended 24 VAC 30-380, Public Hearings for the Location and Design of Highway Construction Projects.

**Family impact**

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

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