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Exempt Action: Final Regulation Agency Background Document

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) Chapter citation(s)	24 VAC30-271
VAC Chapter title(s)	Economic Development Access Fund Policy
Action title	Repeal
Final agency action date	December 9, 2020
Date this document prepared	September 20, 2020

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Commonwealth Transportation Board is repealing the Economic Development Access Fund Policy regulation. Pursuant to § 33.2-1509 of the Code of Virginia, the Commonwealth Transportation Board is authorized to make decisions on expending funds for constructing, reconstructing, maintaining, or improving access roads within localities to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed. This regulation sets forth the policy by which the Commonwealth Transportation Board makes those funding decisions.

According to prior guidance from the Office of the Attorney General, this regulation is exempt from the provisions of the Administrative Process Act pursuant to § 2.2-4002(B)(3) and (4) and § 2.2-4006(A)(4)(a) of the Code of Virginia.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The Commonwealth Transportation Board recently completed a periodic review, in which it determined that the regulation was not necessary to protect the health, safety and welfare of the public, because the functions performed by the regulation are those that are adequately performed by a guidance document on the topic that has been adopted by the Commonwealth Transportation Board.

The Commonwealth Transportation Board is authorized by § 33.2-1509 of the Code of Virginia to make decisions on expending funds for constructing, reconstructing, maintaining, or improving access roads within localities to economic development sites. Section 10 of the regulation states the general purpose of the regulation. Subsections A through M of Section 20 set forth the general criteria and conditions the Commonwealth Transportation Board will consider in making such funding decisions for a particular project. The Commonwealth Transportation Board expends funds by voting on a resolution, which specifies the criteria and conditions for the use of such funds on each project, and the terms of the resolution are used to enforce the funding conditions on the locality receiving the funds. The regulation merely provides guidance to the localities to use in preparing a request for funding. In fact, the Commonwealth Transportation Board has adopted a guidance document which specifies, in more detail, all the criteria and conditions that the Commonwealth Transportation Board will consider in making funding decisions for economic development access funds. Therefore, the regulation is not necessary.

Statement of Final Agency Action

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 December 9, 2020, the Commonwealth Transportation Board voted to repeal the Economic Development Access Fund Policy regulation.