



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation (Commonwealth Transportation Board)
Virginia Administrative Code (VAC) citation	24 VAC 30 -380
Regulation title	Public Hearings for the Location and Design of Highway Construction Projects
Action title	Revision to Consolidate and Clarify Public Hearing Requirements
Document preparation date	February 12, 2004

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006(A) of the of the Administrative Process Act (APA) (townhall.state.va.us/dpbpages/dpb_apa.htm), 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 (leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-4100), the *Virginia Register Form, Style, and Procedure Manual* (legis.state.va.us/codecomm/register/download/styl8_95.rtf), and Executive Orders 21 (02) and 58 (99) (governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)

Summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The statutory authority citations from the Code of Virginia for this APA-exempt regulation are §§ 33.1-12 and 33.1-18 of the Code of Virginia. The Virginia Department of Transportation (VDOT) has prepared amendments to the regulation to consolidate the types of public hearings required for projects on the interstate, primary, urban, or secondary systems of state highways. This action improves the understandability of the requirements, since the same criteria apply, regardless of the system involved. The provision allowing waivers to the public hearing requirements has been eliminated. These changes are intended to improve the ability of users to understand the regulation; strengthen VDOT's commitment to soliciting public input on its construction projects; and eliminate any loopholes to this underlying commitment. The OAG reviewed the proposed changes, and, by letter (copy attached) dated December 22, 2003, confirmed the following:

- that the APA exemption (§ 2.2-4002 B (3)) has been properly invoked;
- that VDOT has the authority under the cited statutes to amend the regulation as indicated, and
- that the amended regulation comports with applicable state laws.

Statement of agency final 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.

By signature of the Acting Chief of Policy and Organizational Development on February 11, 2004, the Virginia Department of Transportation revised the regulation entitled “Public Hearings for the Location and Design of Highway Construction Projects” (24 VAC 30-380-10 et seq.).

Substance

Please detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10	N/A	Table in D lists project categories and types of public hearing usually held	Table is eliminated in favor of a list of four project categories, each of which has its own type of public hearing requirement. The regulatory revisions have been made to consolidate the types of public hearings required for projects on the interstate, primary, urban, or secondary systems of state highways. This step improves the understandability of the requirements, since the same criteria apply, regardless of the system involved.
10	N/A	List of exclusions are shown in E 1 and 2 for which public hearings are not required or may be waived	Text is revised in E 1 to make the exemption more generally applicable to operational or maintenance projects without naming examples. This same revision also relocates existing conditions in 24 VAC 30-380-10 E 2 to 24 VAC 30-380-10 E 1 under which otherwise exempted projects may be waived from a public hearing, to make a hearing explicitly required in the final text. These conditions include: the acquisition of additional right of way; the effects upon abutting real property; or changes to the layout or function of connecting roads or streets of the facility being improved. The final revision eliminates the provision in existing 24 VAC 30-380-10 E 2 under which waivers to public hearings can be sought, and renumbers 24 VAC 30-380-10 E 3 to 24 VAC 30-380-10 E 2 to accommodate the eliminated or relocated text.

Family impact

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

This regulatory action has no direct impact on the family and family stability.