



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation (Commonwealth Transportation Board)
Virginia Administrative Code (VAC) citation	24 VAC 30-271-10 et seq.
Regulation title	<i>Industrial Access Policy</i>
Action title	Change of Regulatory Title and Provisions to Comply with Changes in State Law
Final agency action date	June 15, 2006
Document preparation date	September 7, 2006

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 21 (02) 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 deals with the requirements established by the Commonwealth Transportation Board (CTB) in administering funding under the Industrial Access Program, which is established in § 33.1-221 of the *Code of Virginia*. It was established by the General Assembly so that counties, cities and towns could assist new or expanding industries in obtaining access to their sites, without expending substantial portions of the localities' traditional highway funds. By letter dated September 5, 2006, the Office of the Attorney General cited the following exemptions for this regulation: § 2.2-4002 (B) (3) and (4); § 2.2-4006 (A) (4) (a).

The 2005 General Assembly, through Item 492.D.6 of the 2005 Appropriation Act, directed the Virginia Department of Transportation (VDOT) to work with local, regional and state economic development agencies to revise the definition of businesses and industry that qualify for industrial access road funding, and to present findings and recommendations to the Governor and the General Assembly prior to the 2006 General Assembly Session. House Document # 4, *Definition of Businesses and Industry that Qualify for Industrial Access Road Funding*, summarized those findings and recommendations.

A group representing the prescribed constituencies was formed to study the issue and provide recommendations. This group recommended an amendment to § 33.1-221 of the Code of Virginia that names additional eligible business activities, with the qualification that they meet "basic employer" criteria as determined by the Virginia Economic Development Partnership and the Virginia Department of Business Assistance. The intent of this action was to broaden the definition of eligible uses for the Industrial Access Roads Program, while maintaining its primary goal of assisting localities in attracting businesses that provide significant amounts of private capital investment, employment opportunity and assurance of long-term presence in the Commonwealth. Chapters 147 and 473 of the 2006 Acts of Assembly amended § 33.1-221 to address the recommendations set out in the report.

Specific changes made by the CTB to comply with statutory changes are listed below:

Pages 1-7, Title: Substitute "Economic Development" for "Industrial" and include "Fund".

Page 1, 24 VAC 30-271-10: Substitute "economic development" for "industrial" in first sentence.

Page 1, 24 VAC 30-271-20 A: Substitute "economic development" for "industrial" as shown.

Page 1, 24 VAC 30-271-20 A : Substitute description of economic development sites" for "industrial facilities," and add text referring to criteria developed by the Virginia Economic Development Partnership in consultation with the Virginia Department of Business Assistance in subdivision A 1.

Page 1, 24 VAC 30-271-20 A: delete text referring to "new industry or substantially expanding . . ." " Add "the" before "establishments" and "as described in subdivision A 1 of this section" in subdivision A 2.

Page 2, 24 VAC 30-271-20 B: Substitute "economic development" for "industrial," and add "eligible" in first sentence as shown.

Page 2, 24 VAC 30-271-20 C: Substitute "economic development" for "industrial" in first sentence.

Page 2, 24 VAC 30-271-20 D: Substitute "economic development" for "industrial" in first and second sentences. Substitute text referring to the "economic development establishment as listed or meeting the criteria as described" for "manufacturing, processing or other establishment" in second sentence.

Pages 2-3, 24 VAC 30-271-20 E: Substitute "economic development" for "industrial" in first sentence. Substitute "economic development" for "industrial" in second sentence. Add text "voluntarily by the locality or" in second sentence. Delete third sentence referring to the bonded period for 1996-1999 projects, and add final sentence referring to reimbursement and refunds.

Page 3, 24 VAC 30-271-20 F: Delete introductory text referring to list of restrictions, and delete number "1." Substitute "economic development" for "industrial" in first sentence. Substitute "which" for "that" and substitute "economic development" for "industrial" in second sentence. Substitute "economic development" for "industrial" and "eligible establishment" for "industrial facility" in third sentence.

Page 4, 24 VAC 30-271-20 F: Delete number "2" and substitute "economic development" for "industrial" in first sentence. Delete "industrial" appearing before "traffic," and substitute "eligible establishment" for "industry" in first sentence.

Pages 4-5, 24 VAC 30-271-20 G: Delete introductory text referring to list of restrictions, and delete number "1." Substitute "economic development" for "industrial" and "which" for "that" in first sentence. Substitute "eligible establishments" for "industry or industries" in third sentence. Substitute "economic development" for "industrial" and "eligible establishments as previously described" for "industry or industries" in fifth sentence. Substitute "economic development" for "individual" in final sentence.

Page 5, 24 VAC 30-271-20 G: Delete number “2” and text “Chapter 64” and “of Title 15.2.”

Page 5, 24 VAC 30-271-20 H: Add text referring to CTB and state policies and standards in first sentence. Delete second sentence. Add “or other features” as shown in final sentence.

Page 5, 24 VAC 30-271-20 I: Substitute “economic development” for “industrial” in first sentence.

Pages 5-6, 24 VAC 30-271-20 J: Add text referring to the Virginia Economic Development Partnership and the Virginia Department of Business Assistance in first sentence. Substitute “economic development” for “industrial,” “will” for “may,” and “the VDEP and the DBA” for “this department” in first sentence. Substitute “VDEP and DBA” for “Department of Business Assistance” in second sentence. Delete final sentence.

Page 6, 24 VAC 30-271-20 K: Substitute “economic development” for “industrial,” “eligible establishments” for “industries,” and “by” for “of the engineers of” in first sentence. Substitute “VDOT” for “the engineers,” add “the location and as it relates to the” as shown, and substitute “eligible” for “industrial” in second sentence.

Page 6, 24 VAC 30-271-20 L: Substitute “eligible economic development establishment” for “industry” in first sentence. Substitute “eligible establishment” for “industries” in first sentence.

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 June 15, 2006, the Commonwealth Transportation Board approved the *Economic Development Access Fund Policy*, formerly titled the *Industrial Access Policy* (24 VAC 30-271-10 et seq.)

Family impact

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

This regulation will not affect the institution of the family or family stability.