



Exempt Action Final Regulation Agency Background Document

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) citation	24 VAC 30-301
Regulation title	Recreational Access Fund Policy
Action title	Repeal of existing Regulation and Replacement with New Regulation
Final agency action date	February 20, 2008
Document preparation date	May 23, 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 summarizes the requirements of the Recreational Access Program as authorized by the Code of Virginia. The Commonwealth Transportation Board (CTB), with the concurrence of the Director of the Department of Conservation and Recreation, is authorized by § 33.1-223 of the Code to make certain regulations to carry out the provisions of the law. The policy is intended to serve as guidance to local jurisdictions and VDOT in the preparation and disposition of applications for program funding.

Chapters 25 and 453 (SB99) of the 2005 Acts of Assembly modified the provisions of the Recreational Access Program Virginia to provide for access roads and bikeways to public recreational areas and historical sites, so a new policy was deemed to be necessary. It was deemed expedient to repeal the existing detailed regulation and replace it with a new regulation with less detail and supplemented by a Guidance Document describing details in the process, forms, and other reference material to assist VDOT staff and applicants in administering the program.

Differences between the prior and new regulations are discussed below:

- The new regulation is a simpler, less detailed discussion of statutory requirements for participation in the program, including a new role for the Director of the Department of Historic Resources in determining whether a site or area is historic, and therefore eligible for an access road or bikeway to be provided or maintained to that area;
- New provisions concerning access roads and bikeways to public recreational areas and historical sites based on changes to the statutes have been included;
- Information previously included in the repealed regulation, such as a description of eligible projects, details on the application process, contact information, sample resolutions, etc. has been included in a Guidance Document. This approach will provide greater flexibility and responsiveness by allowing non-regulatory text to be updated in the Guidance Document without pursuing a formal amendment process.

The Office of the Attorney General has previously determined that 24 VAC 30-300 is exempt from the APA under § 2.2-4002 B 4, and reaffirmed by letter dated June 24, 2008. Statutory authority cited for 24 VAC 30-300 is §§ 33.1-12 (3), and 33.1-223. Statutory authority cited for 24 VAC 30-301 is §§ 33.1-12(3) and 33.1-223.

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 February 20, 2008, the Commonwealth Transportation Board approved the Recreational Access Fund Policy (24 VAC 30-301), and repealed the previous policy set out in the Recreational Access Guide (24 VAC 30-300).

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.