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Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation
Virginia Administrative Code (VAC) Chapter citation(s)	24 VAC 30-500
VAC Chapter title(s)	Roads in the Grounds of State Parks
Action title	Repeal Regulation
Final agency action date	
Date this document prepared	September 4, 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.

Section 33.2-311 of the Code of Virginia states that all highways in state parks that provide connections between highways outside such parks shall continue to be portions of the primary state highway system. Some highways in state parks do not provide connections between highways outside of the parks, and those highways would instead be part of the secondary system of state highways.

Section 33.2-312 of the Code of Virginia states that the Commissioner of Highways may maintain all highways within the boundaries of any state park established by and under the control of the Department of Conservation and Recreation and may maintain those highways by expending funds under his control and available for expenditure upon the maintenance of highways in the secondary state highway system in the county or counties in which such state park is located. Where VDOT maintenance of a secondary highway is no longer necessary, VDOT may discontinue maintenance of such highway pursuant to § 33.2-908 of the Code of Virginia. A discontinuance usually results in maintenance responsibility being assumed by the locality in which the highway is located.

This regulation states that if the entity that controls the parks requests to be allowed to maintain the secondary highways, and the Board of Supervisors of that locality approves, the maintenance responsibility may be transferred to the entity that controls the park. The Department of Conservation and Recreation has authority to maintain highways in state parks pursuant to § 10.1-200 of the Code of Virginia.

VDOT recommends repeal of the regulation because the regulation gives discretionary guidance to the CTB and Commissioner of Highways concerning future actions of the CTB or Commissioner of Highways. The purpose of the regulation therefore can be accomplished through VDOT's existing guidance document and the CTB's policy and the Commissioner of Highways' Department Memorandum on the subject. The Office of the Attorney General has previously determined that this regulation is exempt from the APA under *Code of Virginia* § 2.2-4002 B3.

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."

A periodic review of this regulation was conducted by VDOT and was the basis for the determination that this regulation should be repealed.

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 MONTH, DATE, 2020, the Commissioner of Highways approved the repeal of 24 VAC 30-500, Roads in the Grounds of State Parks, on behalf of the Virginia Department of Transportation.