



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Transportation (Commonwealth Transportation Board)
<b>Virginia Administrative Code (VAC) citation</b>	24 VAC 30-200
<b>Regulation title</b>	<i>Vegetation Control Regulations on State Rights-of-Way</i>
<b>Action title</b>	Exempt Action Pursuant to Change in State Law - Role of Localities
<b>Final agency action date</b>	September 20, 2007
<b>Document preparation date</b>	September 26, 2007

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 sets forth the policies, criteria, and procedures that VDOT, on behalf of the Commonwealth Transportation Board (CTB), will follow in granting permits to allow vegetation to be removed from the vicinity of signs/structures on state property controlled by the CTB.

Sections 33.1-12(3) and 33.1-351 of the Code of Virginia authorize the CTB to regulate this topic. By letter dated June 27, 2007, the Office of the Attorney General cited the following exemption from Article 2 for this regulation: § 2.2-4006 4 A (a) (Regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved). The 2006 General Assembly enacted changes to § 33.1-371.1 of the *Code of Virginia* through Chapters 512 and 543 concerning the vegetation control permits granted by this chapter of the Virginia Administrative Code. The changes essentially grant a role to localities in the permitting process where the application affected right of way not under the control of the Commonwealth Transportation Commissioner, and provide for an appeals process to the Commonwealth Transportation Commissioner in cases where a locality rejected an application. New provisions also include a fee of \$400 to be filed with each appeal.

Furthermore, revisions were needed to revise the current effective date of the *Road and Bridge Specifications* from 1997 to 2002, to move existing text elsewhere in the regulation for clarity, or to correct a typographical error. All of these changes can be considered non-substantive, technical corrections.

Specific changes to the regulation are discussed below:

Page 1, 24VAC30-200-10: Delete definitions for “boundary of any locality,” “desirable vegetation,” and “environmental manager-field.”

Page 2, 24VAC30-200-10: Replace “environmental manager-field” phrase with that referring to the Commonwealth Transportation Commissioner or local government official in definition for “inspector.” Add text referring to new duties related to the permit application and landscape plan, as well as the work performed.

Page 2, 24VAC30-200-10: Add definitions for “local beautification project” and “local government official.”

Page 3, 24VAC30-200-10: Delete definition for “resident engineer.” Revise effective date for the *Road and Bridge Specifications*. Add reference to local government official to definition for “unsightly.”

Page 3, 24VAC30-200-20: Add phrase “by the department,” reference to provisions of § 33.1-355, and references to §§ 33.1-351 and 33.1-353 in first sentence of subsection A. Add reference to Commonwealth Transportation Commissioner in second sentence of subsection A. Add new third sentence to subsection A.

Pages 4-5, 24VAC30-200-20: Add reference to local government official in fourth sentence of subsection B. Add reference to unsightly vegetation, elimination of roadway hazards, and a local government official in fifth sentence of subsection B. Add reference to local government official in sixth sentence of subsection B. Replace reference to environmental manager-field with one for inspector or local government official in seventh sentence of subsection B. Add reference to local government official in eighth sentence of subsection B. Add reference to local government official in thirteenth sentence of subsection B. Add sentences referring to removal of trees and brush and dogwood relocated from 24 VAC 30-30 G of existing regulation as shown in subsection B. Add sentence referring to use of climbing irons or spurs relocated from 24VAC30-200-30 C as shown in subsection B. Add reference to local government official in first sentence of subsection D. Add reference to local government official in third and fourth sentences of subsection E.

Pages 5-6, 24VAC30-200-30: Add reference to local government official in second sentence of subsection A. Replace “Commonwealth Transportation Board” with “board or local government official” in third sentence of subsection A. Delete references to “Commonwealth Transportation Commissioner or his authorized representative” and replace with “inspector” in third sentence of subsection A. Add references to local government official and local governments in fourth sentence of subsection A, and replace “inspector(s)” with “inspector or inspectors.” Add reference to local government in fifth sentence of subsection A. Delete reference to environmental manager-field and replace it with one for inspector or local government in first sentence of subsection B. Replace “three” in reference to time period for advance notification from with “7” for the number of days.

Page 7, 24VAC30-200-30: Delete reference to environmental manager-field and replace it with one for inspector or local government in fourth sentence of subsection C. Delete sentence in subsection C referring to climbing irons or spurs that was relocated to 24VAC30-200-30 B. Add text referring to local beautification project to first sentence in subsection D. Add new sentence immediately following this sentence referring to plant material in median areas as second sentence in subsection D. Add reference to local government official in fifth sentence of subsection D. Delete reference to environmental manager-field and replace it with one for inspector or local government in fifth sentence of subsection D.

Page 8, 24VAC30-200-30: Add references to local government official in first and second sentences of subsection E. Add reference to local government official in first sentence of subsection F. Add reference to local city or town councils and local boards of supervisors in first sentence of subsection G. Add reference to local government official in fourth sentence of subsection G. Delete sentences referring to cutting of trees and brush and prohibiting removal of dogwoods that was relocated to 24VAC30-200-20 B.

Page 9, 24VAC30-200-30: Add references to local government official in first sentence of subsection H. Add reference to local government official in fourth sentence of subsection I. Add reference to local government official in second sentence of subsection J.

Pages 9-10, 24VAC30-200-30: Replace “owners(s)” with “owner or owners” in second sentence of subsection K. Insert subsection designation “L” in front of existing sentence referring to disturbed landscape (final sentence of existing subsection K). Insert phrase referring to streets not under the jurisdiction of the Commonwealth Transportation Commissioner in sentence for new subsection L.

Pages 10-11, 24VAC30-200-35: Insert new Section 24 VAC 30-200-35 concerning appeals.

Pages 11-12, 24VAC30-200-40: Replace “Maintenance” with “Asset Management.” Replace “1997” with “2002” for *Road and Bridge Specifications* entry. Replace “Nurseymen” with “Nurserymen.” Replace “Construction” with “Scheduling and Contract.”

A revised from TTB is also included as part of the regulatory package.

**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 September 20, 2007, the Commonwealth Transportation Board approved amendments proposed to the *Vegetation Control Regulations on State Rights-of-Way* (24 VAC 30-200). A copy of the resolution may be viewed at <http://www.ctb.virginia.gov/meetings.asp>.

**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.