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Exempt Action: Final Regulation Agency Background Document

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) Chapter citation(s)	24 VAC30-390
VAC Chapter title(s)	Virginia Scenic Highways and Byways
Action title	Repeal
Final agency action date	
Date this document prepared	9/22/20

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.

The Department of Conservation and Recreation and the Virginia Department of Transportation executed a Memorandum of Agreement (MOA) dated July 6, 1995 that outlined the general responsibilities and obligations of each party in recommending Scenic Highways and Virginia Byways to the Commonwealth Transportation Board. That MOA was updated in 2018 to provide clarity to the recommendation process. At the same time that the Commonwealth Transportation Board approved the updates to the MOA, it adopted a set of written goals and policies to guide it in making future decisions on designating Scenic Highways and Byways. The current regulation, 24VAC30-390, Virginia Scenic Highways and Byways, just provides guidance to the Commonwealth Transportation Board when it makes future decisions on designating Scenic Highways and Byways, and therefore is not necessary as a regulation. The purpose of the regulation can be accomplished through the written goals and policies adopted by

the Commonwealth Transportation Board and by the MOA with the Department of Conservation and Recreation.

Section 33.2-405 of the Code of Virginia states that the Commonwealth Transportation Board is authorized to designate any highway as a scenic highway or as a Virginia byway. Section 33.2-405 further requires that the designation be made in cooperation with the Director of the Department of Conservation and Recreation. The Office of the Attorney General has previously determined that the regulation is exempt from the Administrative Process Act pursuant to § 2.2-4002(B)(3).

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."

The Commonwealth Transportation Board has conducted a periodic review of the regulation, and has determined that the regulation is not necessary for the health, safety, and welfare of the public, and recommended that the regulation 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.

The Commonwealth Transportation Board voted on December 9, 2020, to repeal 24VAC30-390, Virginia Scenic Highways and Byways.