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Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation
Virginia Administrative Code (VAC) citation(s)	24 VAC 30-45
Regulation title(s)	Appraisal Fee Regulations
Action title	Repeal of Regulation Due to Sunset of Authorizing Statute
Final agency action date	May 4, 2015
Date this document prepared	March 12, 2015

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) or an agency's basic statute, the agency is not required, however, 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, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulation was promulgated by the Virginia Department of Transportation (VDOT) in response to a legislative mandate (Chapter 895 of the 2007 Acts of Assembly) to address partial reimbursements of costs to a landowner who obtains a written appraisal report in cases where the landowner and VDOT cannot reach an agreement as to the price of property needed for public purposes pursuant to § 25.1-417.1 of the *Code of Virginia*. In addition to the schedule of allowable fees, it describes the requirements landowners must follow to receive payments, how payments will be made, as well as VDOT's role in explaining the entitlement.

This regulation is being repealed because the authorizing legislation expired on July 1, 2009. According to VDOT records, VDOT reimbursed 3 landowners a total of \$18,000 to cover their appraisal costs during from October 1, 2007 (the effective date of the regulation) through the sunset date.

The Office of the Attorney General (OAG) confirmed that VDOT has authority to repeal this regulation by a letter dated April 20, 2015. Chapter 895 required that regulations be promulgated, but also provided that the regulations would expire on July 1, 2009. The General Assembly failed to re-enact Chapter 895 (HB3199) of the 2007 Acts of Assembly, or to provide any additional authority for the regulation to continue. Thus, because of the statutory guidance document creating the regulation, the OAG found that VDOT now has authority under Chapter 895 (HB3199) of the 2007 Acts of Assembly to repeal its regulations concerning appraisal fees.

Furthermore, these regulations were filed as APA-exempt regulations pursuant to the fourth enactment clause of Chapter 895. Since the fourth enactment clause provided the APA exemption until repealed by the fifth enactment clause, the OAG determined that the same APA waiver applies to an action to repeal the regulations at this time. The repeal of the regulations is in conformance with the enactment clauses.

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.

The Commissioner of Highways approved repeal of the regulation *Appraisal Fee Regulations* (24 VAC 30-45) on May 4, 2015.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulatory action has no effect on the institution of the family and family stability.