



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation
Virginia Administrative Code (VAC) citation	24 VAC 30-315
Regulation title	Standards for Use of Traffic Control Devices to Classify, Designate, Regulate, and Mark State Highways
Action title	Consolidation of Existing Traffic Engineering Regulations Into Single Regulation to Comply with OAG Recommendation
Final agency action date	December 7, 2011
Document preparation date	January 3, 2012

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.

In 2008, the Office of the Attorney General (OAG) established a Government and Regulatory Reform Task Force. As part of this effort, the Infrastructure in Virginia Working Group was established to review governmental rules and regulations regarding education and transportation construction infrastructure in order to increase efficiencies, reduce bureaucracy and mitigate adverse impacts on Virginia businesses and individuals.

The Task Force issued a set of recommended actions for those VDOT regulations it believed could be consolidated or eliminated. Three of these are listed below:

- 24 VAC 30-310 - *Virginia Supplement to the Manual on Uniform Traffic Control Devices*: This regulation promulgates state standards for traffic control devices that exceed minimum federal requirements and presents pertinent traffic control device design, installation, and operation details not covered in the National *Manual on Uniform Traffic Control Devices (MUTCD)*, which was adopted by

the CTB as the state standard for traffic signs, signals, markers, and control devices. The *Supplement* includes the *Virginia Work Area Protection Manual (WAPM)*, which is published as a separate document to facilitate its use as a training tool in the field, but is still considered part of the *Supplement*.

- 24 VAC 30-520 - *Classifying and Marking State Highways*: This regulation establishes the rules that the Commonwealth Transportation Commissioner, as authorized by the Commonwealth Transportation Board (CTB), will follow in matters relating to classifying, designating, and marking State highways, and the posting of signs and markings.
- 24 VAC 30-561 - *Adoption of the Federal Manual on Uniform Traffic Control Devices*: This regulation, approved by the Commonwealth Transportation Board, formally adopts the 1988 edition of the *Manual on Uniform Traffic Control Devices (MUTCD)*, and any revisions or rulings to this manual, as the standard for all highways under VDOT jurisdiction.

The Task Force recommended to combine 24 VAC 30-310 (*Virginia Supplement to the Manual on Uniform Traffic Control Devices*), 24 VAC 30-520 (*Classifying and Marking State Highways*), and 24 VAC 30-561 (*Adoption of the Federal Manual on Uniform Traffic Control Devices*) into a single regulation, since all three of these regulations relate to marking highways with respect to the Federal Highway Administration's (FHWA's) *Manual on Uniform Traffic Control Devices (MUTCD)*. Subsequently, the FHWA published a revised edition of the MUTCD in the *Federal Register* on December 16, 2009, as a Final Rule, under which states had up to two years to adopt the new edition of the *MUTCD* and to revise any state Supplements created as companion documents to the *MUTCD*. VDOT determined to revise its state supplement in conjunction with adoption of the new *MUTCD* and combination of the three subject regulations, which will promote efficiency by decreasing the number of transportation regulations in the Virginia Administrative Code (VAC), thereby reducing costs to administer the regulations separately.

The consolidated regulation retains essential parts of the existing regulations, such as:

- Reference to incorporation by reference of the *MUTCD* in the *Code of Federal Regulations*;
- Description of the *Supplement* and *WAPM* and their relationship to the *MUTCD*; and
- Role of the Commissioner of Highways in making revisions to the *Supplement* and the *WAPM*, as well as traffic sign and signal installation and control.

Differences include updated references to the *MUTCD* and *Supplement*, and how the new documents relate to each other, and a provision allowing the Commissioner to delegate responsibilities set out in the consolidated regulation to a designee.

The Office of the Attorney General reviewed the regulations, and concurred that these actions are exempt from Article 2 of the APA under the exemption afforded by § 2.2-4002 (B) (3) and (11) of the *Code of Virginia*, relating to actions concerning (i) the location, design, specifications, or construction of public facilities, and (ii) traffic signs, markers or control devices, as well as § 2.2-4006 (A) (4) (c) of the *Code of Virginia*, relating to actions necessary to meet the requirements of federal laws and regulations, including 23 CFR § 655.03.

The OAG also determined that the CTB was authorized to take the actions discussed above under authority granted to it by §§ 33.1-12 (3), 33.1-47, 46.2-830, and 46.2-1312 of the *Code of Virginia*.

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 December 7, 2011, the Commonwealth Transportation Board promulgated the consolidated *Standards for Use of Traffic Control Devices to Classify, Designate, Regulate, and Mark State Highways* (24 VAC 30-315) and repealed the *Virginia Supplement to the Manual on Uniform Traffic Control Devices* (24 VAC 30-310), *Classifying and Marking State Highways* (24 VAC 30-520), and *Adoption of the Federal Manual on Uniform Traffic Control Devices* (24 VAC 30-561).

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

This regulatory action will not affect the institution of the family and family stability.