

## CTB Decision Brief

### Adoption of Land Use Permit Regulations and Repeal of Land Use Permit Manual

**Issue:** The *Land Use Permit Manual*, filed in the Virginia Administrative Code as 24 VAC 30-150, defines what uses may be permitted on the right-of-way under control of the Board and VDOT and was last amended in 1983; the *Land Use Permit Regulations*, to be filed as 24 VAC 30-151, will have the same purpose as the *Land Use Permit Manual* and will supersede the *Land Use Permit Manual*, which will be repealed. In addition, several CTB-approved regulations which reference the *Land Use Permit Manual* need to be amended to reference the *Land Use Permit Regulations*.

**Facts:** Section 33.1-12 (3) of the *Code of Virginia* gives the Board the authority to make regulations concerning the use of the system of state highways and § 33.1-206.1 of the *Code of Virginia* requires the Board to establish regulations concerning the erection of roadside memorials.

The *Land Use Permit Regulations* simplify the land use permit requirements, proscribe the use and standards of roadside memorials, adjust permit fees to reflect increases in administrative costs that have occurred over the past two and a half decades, add accommodation fees for utilities within limited access right-of way, and eliminate redundant or obsolete provisions.

This regulatory action is subject to the Administrative Process Act (§2.2-4000 et seq. of the *Code of Virginia*), and VDOT has solicited and considered public comment in the development of this regulation. A Notice of Intended Regulatory Action (NOIRA) was published on March 12, 2001, and a second NOIRA reflecting a change in regulatory scope on February 24, 2004, to solicit public input. Following extensive revisions to the proposed regulation made during the Executive Branch review process, it was published in the *Virginia Register* on July 9, 2007. Three public hearings were held throughout the state, and public comments were received through September 9, 2007. These public comments have been taken into account by VDOT in drafting a final regulation. VDOT has been involved in ongoing issues concerning land use provisions and promulgating access management regulations mandated by the General Assembly that affected the content of the proposed *Land Use Permit Regulations*, thereby making it impractical to proceed with the *Land Use Permit Regulations* as originally intended. The 2007 mandate for the Commissioner to implement comprehensive access management standards, which were originally intended to be addressed in Part IV of the LUPRs concerning entrances, was amended by the General Assembly in 2008 to require that the standards be promulgated in two parts.

**Recommendations:** It is recommended that the CTB adopt the *Land Use Permit Regulations*, and repeal the *Land Use Permit Manual* and the Roadside Memorial Program, and direct VDOT to amend the other regulations listed to reflect the adoption of the LUPRs.

**Action Required by CTB:** The CTB will be presented with a resolution for a formal vote.

**Result, if Approved:** Approval will result in an updated regulation that reflects current practices, procedures, and organizational roles and responsibilities and related regulatory amendments to reflect the most current regulation.

**Public Comments/Reactions:** In addition to the public hearings mentioned above, public comments were also received by U.S. Mail and email. A total of 140 comments from 53 submitters were received by VDOT.